

## CHAPTER 10:06

# CIVIL PROTECTION ACT

*Acts 5/1989, 3/1992, 22/2001 (s. 4).*

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**AN ACT to establish a civil protection organization and provide for the operation of civil protection services in times of disaster; to provide for the establishment of a fund to finance civil protection; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement: 1st August, 1989.]

PART I  
PRELIMINARY

**1 Short title**

This Act may be cited as the Civil Protection Act [*Chapter 10:06*].

**2 Interpretation**

In this Act—

“area civil protection officer” means an area civil protection officer referred to in section *seventeen*;

“assistant area civil protection officer” means an assistant area civil protection officer referred to in section *seventeen*;

“assistant provincial civil protection officer” means an assistant provincial civil protection officer referred to in section *thirteen*;

“civil protection” means any service provided or measure taken for the purpose of preparing for, guarding against or dealing with any actual or potential disaster;

“civil protection area” means a civil protection area established in terms of section *sixteen*;

“civil protection organization” means an organization established for the provision and implementation of civil protection in any civil protection province or civil protection area;

“civil protection province” means a civil protection province declared in terms of section *twelve*;

“Committee” means the National Civil Protection Committee established in terms of section *four*;

“Director” means the Director of Civil Protection referred to in section *three*;

“disaster” means any—

- (a) natural disaster, major accident or other event howsoever caused; or
- (b) destruction, pollution or scarcity of essential supplies; or
- (c) disruption of essential services; or
- (d) influx of refugees; or
- (e) plague or epidemic of disease; that threatens the life or well-being of the community;

“Fund” means the National Civil Protection Fund established by section *twenty-nine*;

“local authority” means—

- (a) a municipal council, town council, rural district council or local board; or
- (b) in relation to a local government area for which no local board has been established, any person in whom or authority in which the administration, control or management of such area has been vested;

“Minister” means the Minister of Local Government, Rural and Urban Development or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“planning committee” means a planning committee appointed in terms of section *nine*;

“provincial civil protection officer” means a provincial civil protection officer referred to in section *thirteen*;

“Secretary” means the Secretary of the Ministry for which the Minister is responsible;

“state of disaster” means a disaster declared in terms of section *twenty-seven*;

“statutory body” means—

- (a) any Commission established by the Constitution; or
- (b) any body corporate established directly by or under any Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President or a Minister;

“volunteer” means a person who has applied to be a volunteer and whose name is entered in a register of volunteers in terms of section *twenty*.

## PART II

### DIRECTOR OF CIVIL PROTECTION

#### 3 Director of Civil Protection

(1) There shall be a Director of Civil Protection whose office shall be a public office and form part of the Public Service.

(2) Subject to this Act, the Director shall have the following functions—

- (a) directing the establishment of civil protection organizations in civil protection provinces and civil protection areas;
- (b) controlling and directing personnel, materials and services for the purposes of this Act;
- (c) advising and assisting provincial civil protection officers and area civil protection officers in the performance of their duties in terms of this Act;
- (d) co-ordinating the training of personnel for civil protection purposes;
- (e) co-ordinating the planning and execution generally of civil protection;
- (f) promoting research into matters relating to civil protection and disseminating information on matters relating to civil protection to civil protection provinces and civil protection areas;
- (g) advising the Minister on all matters relating to civil protection;
- (h) performing any other function relating to civil protection that may be assigned to him by this Act or by the Minister.

## PART III

### NATIONAL CIVIL PROTECTION COMMITTEE

#### 4 National Civil Protection Committee

(1) For the purposes of this Act, there shall be a National Civil Protection Committee.

(2) The Committee shall consist of—

- (a) the Director, who shall be the chairman; and
- (b) the Secretary for Health; and
- (c) the Commissioner of Police; and
- (d) the Commanders of the various branches of the Defence Forces; and
- (e) the Secretary-General of the Zimbabwe Red Cross Society; and
- (f) the Director of Prisons; and
- (g) the Director of Civil Aviation; and
- (h) a representative of fire brigades established by local authorities, appointed by the Minister for such period as the Minister may fix; and
- (i) three other members appointed by the Minister for their experience in matters of civil protection, who shall hold office for such periods and on such terms and conditions as the Minister may fix.

(3) Where a member of the Committee referred to in paragraphs (b) to (g) of subsection (2) is unable to attend any meeting thereof, he may direct the person who normally deputises for him to attend in his place and such deputy may exercise all the functions of the member concerned.

(4) The functions of the Committee shall be—

- (a) to advise and assist the Director in the planning and implementation of measures for the establishment, maintenance and effective operation of civil protection;
- (b) to review from time to time the measures referred to in paragraph (a);
- (c) to consider plans prepared by planning committees in terms of section *eleven*.

#### 5 Meetings and procedure of Committee

(1) The Committee shall hold its first meeting on such date and at such place as the Minister shall fix and thereafter the Committee shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.

(2) The chairman of the Committee may himself at any time convene a meeting, and shall at the request in writing of not fewer than two members, convene a special meeting of the Committee, which special meeting shall be convened for a date not sooner than seven days nor later than thirty days after receipt of such request.

(3) If at a meeting of the Committee the chairman is absent, the members present may elect one of their number to preside at that meeting as chairman.

(4) A majority of members shall form a quorum at a meeting of the Committee.

(5) All acts, matters or things authorized or required to be done by the Committee may be decided by a majority vote at a meeting of the Committee at which a quorum is present.

(6) At all meetings of the Committee each member present shall have one vote on each question before the Committee and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(7) Any proposal circulated among all members and agreed to in writing by a majority of all members shall be of the same effect as a resolution passed at a duly constituted meeting of the Committee and shall be incorporated in the minutes of the next succeeding meeting of the Committee:

Provided that, if a member requires that such proposal be placed before a meeting of the Committee, this subsection shall not apply to such proposal.

## **6 Subcommittees of Committee**

(1) For the better exercise of its functions the Committee may establish one or more subcommittees in which may be vested and on which may be imposed such of the functions of the Committee as the Committee may direct:

Provided that—

(i) the vesting or imposition of any functions in a subcommittee shall not divest the Committee of such functions; and

(ii) the Committee may amend or withdraw any decision of any such subcommittee in the exercise of its functions.

(2) The procedure of a subcommittee of the Committee shall be fixed by the Committee.

(3) The chairman of the Committee may at any time and place convene a meeting of a subcommittee of the Committee.

(4) The Committee—

(a) shall appoint to any subcommittee established in terms of subsection (1) at least one member of the Committee who shall be chairman of the subcommittee;

(b) may appoint as members of any subcommittee established in terms of subsection (1), on such terms and conditions as the Committee may fix, persons who are not members of the Committee.

## **7 Remuneration and expenses of members of Committee and members of subcommittees**

A member of the Committee or of a subcommittee of the Committee shall be paid from moneys appropriated to the purpose by Parliament—

(a) such remuneration, if any, as the Minister, with the approval of the Minister responsible for finance, may fix for members generally; and

(b) such allowances as the Minister, with the approval of the Minister responsible for finance, may fix to meet any reasonable expenses incurred by him in connection with the business of the Committee or that subcommittee, as the case may be.

## **8 Minutes of proceedings of Committee and subcommittees**

(1) The Committee shall cause minutes of all proceedings of and decisions taken at a meeting of the Committee or of a subcommittee of the Committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Committee or the subcommittee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

## **PART IV**

### **PLANNING COMMITTEES AND CIVIL PROTECTION PLANS**

## **9 Planning committees**

(1) The Director may from time to time appoint such planning committees as he considers necessary for the purpose of preparing plans in respect of any aspect of civil protection, in any civil protection province or in any civil protection area.

(2) A planning committee shall consist of persons from government ministries, local authorities, statutory bodies and such non-governmental organizations as the Director, after consultation with the Minister, considers have a general responsibility for carrying out functions associated with or related to civil protection or which have resources and services for carrying out civil protection measures.

(3) The Director shall designate one of the members of a planning committee as chairman.

(4) A planning committee shall hold its first meeting on such date and at such place as the Director may fix and thereafter the planning committee shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.

(5) If at a meeting of a planning committee the chairman is absent, the members present may elect one of their number to preside at that meeting as chairman.

#### **10 Remuneration and expenses of members of planning committees**

A member of a planning committee shall be paid from moneys appropriated to the purpose by Act of Parliament—

- (a) such remuneration, if any, as the Minister, with the approval of the Minister responsible for finance, may fix for members generally; and
- (b) such allowances as the Minister, with the approval of the Minister responsible for finance, may fix to meet any reasonable expenses incurred by him in connection with the business of the planning committee.

#### **11 Civil protection plans**

(1) A planning committee shall prepare a civil protection plan for the civil protection province or civil protection area for which it was appointed, in which the planning committee shall specify the civil protection measures to be undertaken and the functions to be exercised by government ministries, local authorities, statutory bodies and non-governmental organizations in contemplation of or in the event of a disaster.

(2) The chairman of a planning committee shall submit a plan prepared in terms of subsection (1) to the Director who shall submit it for consideration by the Committee.

(3) The Committee may adopt a plan submitted to it in terms of subsection (2), in which case the Director shall submit the plan to the Minister for his approval.

(4) Where the Committee does not adopt a plan in terms of subsection (3), the Director shall return the plan, together with any directions the Committee may wish to give, to the appropriate planning committee for a review of the plan or for a new plan to be prepared and the planning committee shall comply with such directions.

(5) Where a plan has been approved by the Minister, any government Ministry, local authority, statutory body or non-governmental organization which is required in terms of the plan to undertake civil protection measures, shall take necessary steps to undertake or effect those measures.

(6) Any person who is dissatisfied with the duties he may have to perform under a plan may, within a period of thirty days after he has been notified of such duties, apply to the Administrative Court for a determination of whether or not he should comply with the plan.

### **PART V**

#### **PROVINCIAL ORGANIZATION OF CIVIL PROTECTION**

#### **12 Civil protection provinces**

(1) Subject to subsection (2), the Minister may, by statutory instrument, declare civil protection provinces for the purposes of this Act with such boundaries and names as he thinks fit:

Provided that in declaring any civil protection province the Minister shall pay due regard to—

- (a) the boundaries of local authorities within the proposed province; and
- (b) the boundaries of provinces which are established in terms of the Provincial Councils and Administration Act [*Chapter 29:11*]; and ensure that wherever practicable no local authority is included in two or more civil protection provinces.

(2) The Minister may amend or revoke a declaration made by him in terms of subsection (1).

#### **13 Provincial civil protection officers and assistant provincial civil protection officers**

Subject to the law relating to the Public Service, the Minister shall appoint a provincial civil protection officer for each civil protection province and such number of assistant provincial civil protection officers as may be necessary.

#### **14 Functions of provincial civil protection officers and assistant provincial civil protection officers**

(1) Subject to this Act, a provincial civil protection officer shall, within the civil protection province for which he has been appointed, be responsible for—

- (a) co-ordinating the planning of civil protection measures; and
- (b) co-ordinating the training of personnel for civil protection purposes; and
- (c) advising and assisting area civil protection officers in the execution of their duties; and
- (d) preparing reports on civil protection in his civil protection province whenever he is required to do so by the Director.

(2) Subject to any instructions given to him by the provincial civil protection officer for his province, an assistant provincial civil protection officer may exercise all the powers conferred, and shall perform all the duties imposed, upon a provincial civil protection officer in terms of this Act.

## **15 Appointment of committees and delegation of powers by provincial civil protection officers**

(1) A provincial civil protection officer— (a) may; and

(b) shall, if so directed by the Director; appoint one or more committees to advise and assist him in the performance of his functions in terms of this Act.

(2) A provincial civil protection officer— (a) may, with the consent of the Director; and

(b) shall, if so directed by the Director; delegate all or any of his powers to any committee appointed by him in terms of subsection (1) or to any other person.

(3) The delegation of any power by a provincial civil protection officer in terms of subsection (2) shall not divest him of that power, and he may at any time revoke or amend any order given by any committee or person in the exercise of that power:

Provided that, where the provincial civil protection officer has been directed by the Director to delegate any power to a committee or person, he shall not revoke or amend an order given by any such committee or person except with the consent of the Director.

(4) A provincial civil protection officer who has delegated any power in terms of subsection (2) shall, as soon as possible thereafter, forward to the committee or person to whom the power has been delegated a written notice specifying the power that has been so delegated.

## **PART VI**

### **AREA ORGANIZATION OF CIVIL PROTECTION**

## **16 Civil protection areas**

The Minister may by statutory instrument and on the advice of the Director establish civil protection areas in civil protection provinces for the purposes of this Act with such names as he thinks fit. **17 Area civil protection officers and assistant area civil protection officers**

Subject to the laws relating to the Public Service, the Minister shall appoint an area civil protection officer for each civil protection area and such number of assistant area civil protection officers as may be necessary.

## **18 Functions of area civil protection officers and assistant area civil protection officers**

(1) Subject to this Act, an area civil protection officer shall, within the civil protection area for which he has been appointed, be responsible for—

- (a) the establishment, maintenance and command of civil protection organizations;
- (b) the provision, operation and co-ordination of all civil protection services and activities connected with civil protection;
- (c) giving such orders and taking such measures, during a state of disaster, as in his opinion are reasonably necessary in order to deal with such state of disaster;
- (d) co-ordinating the use of materials and services made available by government ministries, local authorities, statutory bodies and other organizations during a state of disaster;
- (e) the preparation of reports on civil protection generally in his civil protection area whenever he is required to do so by the provincial civil protection officer.

(2) In the exercise of his functions, an area civil protection officer may—

- (a) enter into arrangements other than financial arrangements with any person whereby that person makes available or undertakes to make available his services or those of his staff, whether individually or in units under the control of that person, for the purpose of carrying out such civil protection measures as may be agreed upon;
- (b) cause personnel to be trained for civil protection purposes within the civil protection area under his jurisdiction;
- (c) disseminate information and advice on matters relating to civil protection to local authorities or to the public generally.

(3) Whenever it is possible to do so, an area civil protection officer shall exercise his powers in terms of this Act after consultation and in co-operation with the commanding officers of the Police Force and the Defence Forces within the civil protection area.

(4) Subject to any instructions given to him by the area civil protection officer for his area, an assistant area civil protection officer may exercise all the powers conferred, and shall perform all the duties imposed, upon an area civil protection officer in terms of this Act.

## **19 Appointment of committees and delegation of powers by area civil protection officers**

(1) An area civil protection officer— (a) may; and

(b) shall, if so directed by the Director; appoint one or more committees to advise and assist him in the performance of his functions in terms of this Act.

(2) An area civil protection officer— (a) may, with the consent of the Director and;

(b) shall, if so directed by the Director; delegate all or any of his powers to any committee appointed by him in terms of subsection (1) or to any other person.

(3) The delegation of any power by an area civil protection officer in terms of subsection (2) shall not divest him of that power, and he may at any time revoke or amend any order given by any committee or person in the exercise of that power:

Provided that where the area civil protection officer has been directed by the Director to delegate any power to a committee or person, he shall not revoke or amend an order given by any such committee or person except with the consent of the Director.

(4) An area civil protection officer who has delegated any power in terms of subsection (2) shall, as soon as possible there after, forward to the committee or person to whom the power has been delegated a written notice specifying the power that has been so delegated.

## **20 Volunteers**

(1) Any person may, by applying to the area civil protection officer for the civil protection area concerned, volunteer—

(a) to serve in a civil protection organization for the protection area; or

(b) to provide or assist in the provision of any civil protection service within the civil protection area;

or

(c) to perform within the civil protection area any function connected with civil protection; and the area civil protection officer may cause his name to be entered in the register kept in terms of subsection (4).

(2) A volunteer may resign upon giving thirty days' notice to the area civil protection officer for the civil protection area concerned, who shall remove the volunteer's name from the register.

(3) A volunteer shall comply with every reasonable order or instruction given to him by the area civil protection officer for the civil protection area concerned or by any person authorized thereto by such area civil protection officer.

(4) Every area civil protection officer shall maintain a register of all volunteers in his civil protection area.

## **PART VII**

### **GENERAL POWERS OF CIVIL PROTECTION OFFICERS**

## **21 Interpretation in Part VIII**

In this Part—

“civil protection officer” includes a provincial civil protection officer, an assistant provincial civil protection officer, an area civil protection officer and an assistant area civil protection officer.

## **22 Orders by civil protection officers**

(1) Subject to this Act, a civil protection officer may, by order in writing, direct any person—

(a) to supply him with information relating to the existence and availability of any service, facility or thing whatsoever which may be used for or in connection with civil protection and which is under the control or in the possession of such person;

(b) to maintain such specified stocks of fuel, food, water or medical supplies for use during a state of disaster as he may reasonably be expected to maintain;

(c) while a declaration of a state of disaster is in force in terms of section *twenty-seven*, to perform any work or render any service which, as a result of the disaster, is reasonably necessary for the purpose of dealing with the situation.

(2) Every civil protection officer and person employed in a civil protection organization shall keep secret and aid in keeping secret any information supplied in compliance with an order given in terms of paragraph (a) of subsection (1).

(2a) A civil protection officer employed in a civil protection organisation who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

(3) Any person aggrieved by an order given in terms of paragraph (a), (b) or (c) of subsection (1) may appeal in writing against it to the Minister.

(4) In any appeal in terms of subsection (3), the Minister, after inviting the civil protection officer concerned to submit written representations in the matter and considering any representations so submitted, may confirm, vary or set aside the order appealed against or give such other directions in the matter as he thinks appropriate.

## **23 Power of civil protection officers to requisition land and property**

(1) Subject to this section, a civil protection officer may, while a declaration of a state of disaster is in force in terms of section *twenty-seven*, take possession or control of any land or other property whatsoever for the purpose of dealing with the situation.

(2) As soon as possible after taking possession or control of any land or property in terms of subsection (1), a civil protection officer shall cause written notice of such taking to be served on any person owning or possessing such land or property:

Provided that, if it is expedient to do so, the civil protection officer shall cause such notice to be served before taking possession or control of the land or property concerned.

(3) Any person from whom possession or control of any land or property has been or is about to be taken in terms of this section may, if he objects to such taking, notify the civil protection officer concerned accordingly.

(4) Where a civil protection officer is notified in terms of subsection (3), he shall, within thirty days thereafter, apply to the Administrative Court for a determination of his entitlement to exercise his powers in terms of subsection (1).

(5) On an application in terms of subsection (4) the Administrative Court shall, unless it is satisfied that the exercise of the power by the civil protection officer concerned in terms of subsection (1) was reasonably justifiable, in the circumstances of the situation arising or existing as a result of the disaster concerned or giving rise to the declaration of the state of disaster, for the purpose of dealing with that situation, order the civil protection officer to return any land or property which he has taken into his possession or control or to cancel his notice of intention to take possession or control thereof, as the case may be.

(6) When the continued possession or control by a civil protection officer of any land or property taken in terms of subsection (1) is no longer reasonably justifiable as referred to in subsection (5), that land or property shall, wherever possible, be promptly returned in the condition in which it was at the time of such taking of possession or control.

(7) Adequate compensation shall be paid promptly for—

- (a) the taking of possession or control of any land or property in terms of subsection (1); and
- (b) where appropriate, any failure to return any land or property in accordance with subsection (5) or (6); and
- (c) any damage to any land or property taken in terms of this section.

(8) The owner or any other person entitled to the return of any land or property in terms of subsection (6) or entitled to compensation in terms of subsection (7) may apply to the Administrative Court for the return of the land or property or for the determination of his right to or the amount of such compensation, as the case may be, and the Administrative Court shall make such order in respect thereof as it thinks fit.

(9) Parts V and VIII of the Land Acquisition Act [*Chapter 20:10*], shall apply, *mutatis mutandis*, in respect of a claim for compensation in terms of subsection (8): Provided that—

- (i) a claim for compensation made in terms of section 22 of that Act shall be submitted not later than thirty days before the hearing of the application in terms of subsection (8) for the determination of the amount of compensation;
- (ii) the Administrative Court, and the Supreme Court in any appeal from a decision of the Administrative Court, may make such order as to costs as it thinks fit.

(10) No land or other property owned or possessed by the State shall be taken in terms of this section without the consent of the Minister responsible for the land or property.

## **24 Drivers permits**

(1) Subject to this Act, a civil protection officer may issue a drivers permit in the form prescribed to any person who is licensed in terms of the Road Traffic Act [*Chapter 13:11*] to drive a passenger motor vehicle having seating accommodation for not more than seven passengers.

(2) Notwithstanding any other enactment, a person to whom a drivers permit has been issued in terms of subsection (1) may, when performing any duty assigned to him by a civil protection officer, drive any vehicle of a class specified in the drivers permit.

## **25 Reimbursement and indemnification of persons employed in civil protection**

The Fund shall reimburse and indemnify, to such extent and in such manner as may be prescribed, every volunteer and other person employed in a civil protection organization established and maintained in terms of this Act for any reasonable expense or liability incurred by such volunteer or other person as a result of— (a) carrying out any order or performing any civil protection service in terms of this Act; or (b) making available for the purposes of civil protection any land or other property.

## **26 Disability benefits**

(1) Any enactment relating to the payment of compensation on death of or injury to officers in the Public Service shall apply, *mutatis mutandis*, in relation to a volunteer or other person performing any duty in terms of this Act as though he were an officer in the Public Service.

(2) Any compensation payable in terms of subsection (1) shall be paid from the Consolidated Revenue Fund, which is hereby appropriated to the purpose.

## **PART VIII**

### **DECLARATION OF STATE OF DISASTER**



## **27 Declaration of state of disaster**

(1) If at any time it appears to the President that any disaster is of such a nature and extent that extraordinary measures are necessary to assist and protect the persons affected or likely to be affected by the disaster in any area within Zimbabwe, or that circumstances are likely to arise making such measures necessary, the President may in such manner as he considers fit declare that, with effect from a date specified by him in the declaration, a state of disaster exists within an area defined by him in the declaration:

Provided that where such declaration has been made in any manner other than by statutory instrument, the President shall, as soon as possible after making it, cause it to be published in a statutory instrument.

(2) The declaration of a state of disaster in terms of subsection (1) shall remain in force for a period of three months from the date that is specified in the declaration as the commencement of the state of disaster, unless the President, in a statutory instrument, withdraws such declaration before the expiry of such period:

Provided that the President may, from time to time, by statutory instrument, extend such declaration before the expiry of such period or any such extension thereof.

## **28 Communication to Parliament**

Where a state of disaster has been declared in terms of section *twenty-seven*, the Minister shall communicate such declaration to Parliament on the day that it next sits after the declaration is made.

## **PART IX**

### **NATIONAL CIVIL PROTECTION FUND**

## **29 Establishment of Fund**

(1) There is hereby established a fund to be known as the National Civil Protection Fund.

(2) The Fund shall consist of—

- (a) such moneys as shall be payable to the Fund from moneys appropriated by Act of Parliament to the purposes of the Fund; and
- (b) advances made to the Fund in terms of section *thirty*; and
- (c) any other moneys to which the Fund may be lawfully entitled, including gifts from any person.

(5) The Fund shall be vested in the Minister and, subject to this Act, shall be administered in accordance with his directions.

## **30 Advances to Fund**

(1) If in any financial year the income of the Fund, together with any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Fund, the Minister responsible for finance may make advances to the Fund out of moneys appropriated to the purpose by Act of Parliament in order to meet the deficiency.

(2) Advances in terms of subsection (1) shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for finance may determine.

## **31 Objects of Fund**

The objects for which the Fund is established shall be the development and promotion of civil protection.

## **32 Application of Fund**

Without derogation from the generality of section *thirty-one*, the Fund may be applied to— (a) research and training which is calculated to promote civil protection;

- (b) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objects of the Fund;
- (c) the cost of any scheme which the Minister considers to be in the interests of civil protection;
- (d) meeting any expenses arising from the establishment and maintenance of the Fund;
- (e) any purpose which the Minister considers to be in the interests of the development and promotion of civil protection.

## **33 Estimates of expenditure**

(1) The Minister shall prepare a statement showing in respect of each financial year the estimated—

- (a) receipts and accruals of the Fund; and
- (b) expenditure of the Fund, the purpose for which such expenditure is to be made and the estimated amount that will be expended on each such purpose; and
- (c) balance of the Fund at the close of such financial year.

(2) The Minister shall, as soon as possible after the, preparation of the statement referred to in subsection (1), lay copies thereof before Parliament.

## **34 Limits on expenditure from Fund**

(1) Subject to this section, the expenditure incurred by the Fund in any financial year shall not exceed such amount as Parliament may by resolution have approved for that financial year and the amount of expenditure on any purpose shall not exceed the amount so approved by Parliament to that purpose:

Provided that the Minister may, with the approval of the Minister responsible for finance, authorize any saving on any purpose so approved by Parliament to be expended to meet excess expenditure on any other such purpose.

(2) Until Parliament has approved the expenditure for a financial year, the Minister may, in anticipation of approval by Parliament, expend such amount as the President may authorize, not exceeding twenty-five *per centum* of the estimated expenditure for that financial year, on purposes approved by Parliament for the previous financial year.

(3) If at any time it appears to the President to be necessary—

- (a) on any purpose to incur unforeseen expenditure of a special character which has not been approved by Parliament and which cannot, without seriously prejudicing the achievement of the objects of the Fund, be postponed until Parliament has approved it; or
- (b) to incur expenditure in excess of the amount already approved by Parliament on a particular purpose; the President may authorize the Minister, in anticipation of the approval of Parliament, to expend such sums as may be required from time to time to meet the expenditure on such purpose: Provided that—
  - (i) the total sum so authorized shall not at any time exceed ten *per centum* of the total expenditure already approved by Parliament for that financial year;
  - (ii) the sums expended in terms of this subsection shall be submitted for approval by Parliament not later than during its next sitting.

### **35 Accounts and audit of Fund**

(1) The Minister shall—

- (a) keep proper accounts and other records relating thereto, in which he shall record all the financial transactions of the Fund; and
- (b) in respect of each financial year prepare—
  - (i) a balance sheet; and
  - (ii) a statement of transactions referred to in paragraph (a).

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him by section 9 of the Audit and Exchequer Act [*Chapter 22:03*] as though the assets of the Fund were public moneys or State property.

### **36 Holding of Fund**

(1) All moneys received on behalf of the Fund shall be paid into a banking account and no money shall be withdrawn therefrom except by means of a cheque signed by such persons as are authorized in that behalf by the Minister.

(2) Any part of the Fund not immediately required for the purposes of the Fund may be invested in such manner as the Minister, with the approval of the Minister responsible for finance, may determine.

### **37 Financial year**

The financial year of the Fund shall be the period of twelve months ending on the 30th June in each year.

## **PART X**

### **GENERAL**

### **38 Minister may take over certain powers and duties during disaster**

(1) Where a state of disaster has in terms of section *twenty-seven* been declared to exist in any area and the Minister considers that the civil protection organization in that area is unable to provide adequate civil protection to meet the disaster, the Minister, after consultation with the Director and the area civil protection officer concerned, may—

- (a) by notice published in such manner as he thinks fit—
  - (i) to such extent and for such purposes as he may specify in the notice, take over any power or duty conferred or imposed by or in terms of this Act upon the area civil protection officer for the civil protection area concerned;
  - (ii) confer or impose upon any person or authority any power or duty conferred or imposed upon an area civil protection officer or other person by or in terms of this Act:

Provided that if such notice has been made in any manner other than by publication in the *Gazette*, the Minister shall, as soon as possible after making it, cause it to be published in the *Gazette*;

- (b) direct any person employed by the State to render such assistance as the Minister may direct to any area civil protection officer or other person upon whom a power or duty is conferred by or under this Act:

Provided that the Minister shall not confer or impose any such power or duty or give any such direction to—

- (i) a police officer, without the consent of the Commissioner of Police; or
  - (ii) a member of the Defence Forces, without the consent of the Commander of the branch of the Defence Forces concerned; or
  - (iii) a prison officer, without the consent of the Director of Prisons; or
  - (iv) any other employee of the State who is not employed in his Ministry, without the consent of the Minister responsible for the Ministry in which that employee is employed.
- (2) Where the Minister has, by notice in terms of subsection (1)— (a) taken over any powers or duties; or

(b) conferred or imposed powers or duties on any person or authority; any reference in this Act to the exercise of such powers or the performance of such duties by any person or authority shall be construed as referring to the exercise of the powers or the performance of the duties by the Minister or the person or authority upon whom he has conferred or imposed them, as the case may be.

### **39 Minister's directions to Director**

The Minister may at any time direct the Director—

- (a) to evaluate from time to time the preparedness of civil protection provinces in matters relating to civil protection and to report thereon to the Minister; and
- (b) to advise civil protection provinces on matters relating to civil protection; and
- (c) in collaboration with the provincial civil protection officer concerned, to activate civil protection within any civil protection area and to co-ordinate all activities connected with civil protection therein; and the Director shall take all necessary steps to comply with any such direction.

### **40 Recovery of expenses incurred by State**

(1) The Minister may recover the whole or any part of any expenses incurred as a result of providing any civil protection for any person from such person by action in any court of competent jurisdiction.

(2) In any action referred to in subsection (1), a certificate purporting to be signed by a provincial civil protection officer and setting forth the amount of the expense which is sought to be recovered and the circumstances in which the expense was incurred shall, on its production by any person, be *prima facie* proof of the facts so stated.

(3) In any proceedings for the recovery of an expense referred to in subsection (1), the court may reduce the amount awarded to the Minister in respect of the provision of any civil protection if, after taking into account—

- (a) the necessity for the civil protection and the cost of providing it; and
- (b) the extent to which the person for whom the civil protection was provided has been enriched as a result of such protection; and
- (c) the ability of the person for whom the civil protection was provided to pay for it; the court considers that it is just to do so.

### **41 Indemnity**

Without prejudice to any defence or limitation which may be available in terms of any law, but subject to sections *twenty-three* and *twenty-five*, no claim shall be made and no set-off shall operate against—

- (a) the Minister;
- (b) a civil protection officer as defined in Part VI;
- (c) a volunteer;
- (d) any person assigned duties by a civil protection officer in terms of paragraph (d) of subsection (1) of section *twenty-two*; in respect of loss or injury caused by or in the course of the exercise or performance or the purported exercise or performance of any power conferred or duty imposed by this Act or the omission to exercise any such power or perform any such duty, unless the act or omission in question was grossly negligent or was done in bad faith.

### **42 Burials during disasters**

Where the Minister, after consulting the Secretary of the Ministry responsible for health is satisfied that persons have died as a result of any disaster, he may, if he considers that it is necessary or expedient to do so, give directions and make such arrangements as he considers appropriate in respect of—

- (a) the removal, safe custody, examination, burial or cremation of the remains of the persons concerned;
- (b) the issue of certificates in respect of the deaths or causes of death of the persons concerned;
- (c) any other related matters; and any such directions or arrangements shall be given effect to or shall have effect, as the case may be, notwithstanding any enactment to the contrary.

### **43 Failure to comply with order or instruction**

If any person, without lawful excuse, contravenes or fails to comply with any order or instruction given to him in terms of this Act□

- (a) within an area in which a declaration of a state of disaster is in force, he shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (b) outside an area referred to in paragraph (a), he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section substituted by section 4 of Act 22 of 2001]

### **44 Regulations**

(1) The Minister may, by regulation, provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to give effect to this Act.

(2) Regulations made in terms of subsection (1) may prescribe penalties for contraventions thereof, but no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]