

# Provincial Gazette Extraordinary

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#### DEPARTMENT OF THE PREMIER

#### DEPARTEMENT VAN DIE PREMIER

#### ISEBE LENKULUMBUSO

Disaster Management Act, 2002 (Act 57 of 2002) Draft regulations under section 41(2) of the Disaster Management Act, 2002: publication for public comment

Wet op Rampbestuur, 2002 (Wet 57 van 2002) Konsepregulasies ingevolge artikel 41(2) van die Wet op Rambestuur, 2002: publisering vir openbare kommentaar

UmThetho ka-2002 woLawulo lweNtlekele, (umThetho 57 ka-2002) Imiqathango eyiliweyo phantsi kwecandelo 41(2) lomThetho ka-2002 woLawulo lweNtlekele: upapashelwa amagqabantshintshi oluntu.

The Premier of the Province of the Western Cape intends to make the following regulations under section 41(2) of the Disaster Management Act, 2002. Interested parties are invited to submit written comments on these draft regulations before or on 10 July 2008:

Die Premier van die Wes-Kaap is van voorneme om die volgende regulasies uit te vaardig ingevolge artikel 41(2) van die Wet op Rampbestuur, 2002. Belanghebbende partye word uitgenooi om geskrewe kommentaar te lewer voor of op 10 Julie 2008:

INkulumbuso yePhondo leNtshona Koloni ineenjongo zokwenza le miqathango ilandelayo phantsi kwecandelo 41(2) lomThetho ka-2002 woLawulo lweNtlekele. Abantu abanomdla bayamenywa ukuba mabangenise amagqabantshintshi abhaliweyo malunga nale miqathango iyiliweyo phambi okanye ngomhla we-10 kuJulayi ka-2008:

- (a) by posting it to:  
Ms A Vosloo  
P.O. Box 659  
Cape Town  
8000; or
- (b) by e-mail to:  
[avosloo@pgwc.gov.za](mailto:avosloo@pgwc.gov.za); or
- (c) by fax to:  
Ms A Vosloo  
(021) 483 5637.

- (a) deur dit te pos aan:  
Me. A Vosloo  
Posbus 659  
Kaaipstad  
8000; of
- (b) deur dit te e-pos aan:  
[avosloo@pgwc.gov.za](mailto:avosloo@pgwc.gov.za); of
- (c) deur dit te faks aan:  
Me. A Vosloo  
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**PROVINCE OF THE WESTERN CAPE**

**REGULATIONS UNDER SECTION 41(2) OF THE DISASTER MANAGEMENT ACT, 2002**

**WHEREAS** the National Disaster Management Centre in terms of section 23 of the Disaster Management Act, 2002 (Act 57 of 2002), classified the xenophobic attacks on foreign nationals and their displacement as a provincial disaster in the Province of the Western Cape;

**WHEREAS** a provincial state of disaster was declared in the Province on 3 June 2008 in terms of section 41(1) of the said Act;

**WHEREAS** under the Constitution of the Republic of South Africa, 1996, the State must respect, protect, promote and fulfil the rights in the Bill of Rights, and all spheres of government and organs of state must co-operate with one another in mutual trust and good faith and co-ordinate their actions with one another;

**WHEREAS** the Guiding Principles on Internal Displacement published by the United Nations High Commissioner for Human Rights requires that authorities in member states endeavour to facilitate the reintegration of internally displaced persons;

**WHEREAS** the aforementioned provincial disaster affects more than one municipality in the province, and demands urgent integration and co-ordination of disaster relief efforts among the provincial and local government in the province, with a view to mitigating the effects of the disaster, and rapid and effective response thereto;

**AND WHEREAS** the scale and severity of the disaster may warrant extraordinary steps being taken for the duration thereof,

I, Ebrahim Rasool, Premier of the Province of the Western Cape, acting under section 41(2) of the Disaster Management Act, 2002, hereby make the regulations in the Schedule.

.....  
**E RASOOL Premier**

.....  
**Q R DYANTYI**  
**Provincial Minister of Local Government and Housing**

**SCHEDULE**

**Definitions**

1. In these regulations a word or expression defined in the Act has the same meaning as in the Act and, unless the context requires otherwise—
  - “**disaster**” means the disastrous event classified as a provincial disaster in the Province by the National Disaster Management Centre in terms of section 23 of the Act, namely the xenophobic attacks on foreign nationals and their displacement;
  - “**disaster management centre**” means the disaster management centre of the Province envisaged in section 29 of the Act;
  - “**displaced person**” means a person who, as a result of the disaster, is homeless or had to leave his or her home or other place of residence and cannot return thereto in safety;
  - “**Minister**” means the provincial Minister of Local Government and Housing;
  - “**premises**” means any building capable of providing shelter to displaced persons in need of shelter for the duration of the disaster;
  - “**Province**” means the Province of the Western Cape;
  - “**the Act**” means the Disaster Management Act, 2002 (Act 57 of 2002).

**Co-ordination and management of disaster**

2. (1) The disaster management centre must without delay, after consultation with the heads of all relevant provincial departments and the municipal disaster management centres of all municipalities affected by the disaster, prepare a plan to co-ordinate and manage the disaster.
- (2) The plan must include the following:
  - (a) arrangements for suitable temporary accommodation for displaced persons for the duration of the disaster;
  - (b) provisions for rehousing at the earliest practicable time of displaced persons who have been accommodated in the immediate aftermath of the disaster in tents or other shelters, to other more suitable temporary accommodation as contemplated in paragraph (a);
  - (c) provision of humanitarian assistance and basic needs to displaced persons, including food, clothing, blankets and health care and sanitation services;
  - (d) measures to ensure the safety and security of displaced persons; and
  - (e) the reintegration as soon as possible of displaced persons into the various communities, subject to their safety and security, and mindful of the need to minimise disruption and social unrest.
- (3) The plan must be presented to the Minister for approval.

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**Temporary accommodation for displaced persons**

3. (1) To the extent necessary under the Act, and for the purposes of providing accommodation for the duration of the disaster to displaced persons, with a view to, if possible, accommodating such persons proximately to their places of employment or previous places of residence, and in order to facilitate the reintegration of displaced persons into the community at the earliest practicable time, the disaster management centre may —
    - (a) direct any person or organ of state to make available premises under the control of that person or organ of state for the purpose of providing temporary accommodation for the duration of the disaster to displaced persons; and
    - (b) take possession and control of the premises and allow occupation thereof by displaced persons for the duration of the disaster.
  - (2) No measures or steps shall be taken in terms of subregulation (1) without due regard to the rights of all affected persons, the constitutional obligations of all spheres of government and organs of state, and the principles of co-operative government established under the Constitution and legislation promulgated pursuant thereto.
  - (3) No person may hinder or obstruct the disaster management centre or any of its staff in the exercise of their powers under these regulations.
  - (4) The provincial government shall take whatever steps are necessary to immediately restore occupation and control of the premises referred to in subregulation (1) to its owner or lawful occupier after the end of the disaster period.
  - (5) The provincial government must compensate the owner or lawful occupier of any premises used to temporarily accommodate displaced persons for any damage or loss suffered by such owner or lawful occupier in consequence of any steps taken under this regulation.
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**PROVINSIE WES-KAAP**

**REGULASIES KRAGTENS ARTIKEL 41(2) VAN DIE WET OP RAMPBESTUUR, 2002**

**AANGESIEN** die Nasionale Rampbestuursentrum ingevolge artikel 23 van die Wet op Rampbestuur, 2002 (Wet 57 van 2002), die xenofobiese aanvalle op buitelandse burgers en hul ontworteling as 'n provinsiale ramp geklassifiseer het;

**AANGESIEN** 'n provinsiale ramptoestand op 3 Junie 2008 verklaar is ingevolge artikel 41(1) van genoemde Wet;

**AANGESIEN**, volgens die Grondwet van die Republiek van Suid-Afrika, 1996, die Staat die regte in die Handves van Regte moet eerbiedig, beskerm, bevorder en verwesenlik, en alle regeringsfere en alle staatsorgane in wedersydse vertroue en goeie trou met mekaar moet saamwerk en hulle optrede met mekaar moet koördineer;

**AANGESIEN** die *Guiding Principles on Internal Displacement* wat deur die Verenigde Nasies se Hoë Kommissaris vir Menseregte gepubliseer is, vereis dat owerhede in ledestate poog om die reïntegrasie van binnelandse ontwortelde persone te fasiliteer;

**AANGESIEN** genoemde provinsiale ramp meer as een munisipaliteit in die provinsie raak, en dringende integrering en koördinering van ramplening tussen die provinsiale en plaaslike regering in die Provinsie vereis, met die doel om die uitwerking van die ramp te verlig, en spoedige en doeltreffende reaksie daarop;

**EN AANGESIEN** die omvang en felheid van die ramp mag vereis dat daar vir die duur daarvan buitengewone maatreëls getref word, vaardig ek, Ebrahim Rasool, Premier van die Provinsie Wes-Kaap, die regulasies in Bylae vervat uit ingevolge artikel 41(2) van die Wet op Rampbestuur, 2002.

.....  
**E RASOOL** Premier

.....  
**Q R DYANTI**  
Provinsiale Minister van Plaaslike Regering en Behuising

**BYLAE**

**Woordomskrywing**

1. In hierdie regulasies het 'n woord of uitdrukking wat in die Wet omskryf is dieselfde betekenis en, tensy uit die samehang anders blyk, beteken—
  - “**die Wet**” die Wet op Rampbestuur, 2002 (Wet 57 van 2002);
  - “**Minister**” die provinsiale Minister van Plaaslike Regering en Behuising;
  - “**perseel**” 'n gebou wat in staat is om skuiling aan ontwortelde persone te bied vir die duur van die ramp;
  - “**Provinsie**” die Provinsie Wes-Kaap;
  - “**ontwortelde persoon**” iemand wat as gevolg van die ramp dakloos is of sy of haar woning of ander verblyfplek moes verlaat het en nie in veiligheid daarheen kan terugkeer nie;
  - “**ramp**” die rampspoedige gebeurtenis wat deur die Nasionale Rampbestuursentrum ingevolge artikel 23 van die Wet as 'n provinsiale ramp geklassifiseer is, naamlik, die xenofobiese aanvalle op buitelandse burgers en hul ontworteling;
  - “**rampbestuursentrum**” die Provinsie se rampbestuursentrum beoog in artikel 29 van die Wet.

**Koördinering en bestuur van ramp**

2. (1) Die rampbestuursentrum moet sonder versuim, na raadpleging van die hoofde van alle tersaaklike provinsiale departemente en die rampbestuursentrums van alle munisipaliteite wat deur die ramp geraak word, 'n plan opstel om die ramp te koördineer en te bestuur.
- (2) Die plan moet die volgende insluit:
  - (a) reëlins vir geskikte tydelike huisvesting vir ontwortelde persone vir die duur van die ramp;
  - (b) voorsiening vir hervestiging, so vroeg doenlik, van ontwortelde persone wat in die onmiddellike nasleep van die ramp in tente of ander skuilings gehuisves is, in ander meer geskikte tydelike huisvesting;
  - (c) voorsiening van humanitêre bystand en basiese noodsaaklikhede aan ontwortelde persone, met inbegrip van kos, klere, komberse, en gesondheid en sanitêre dienste;
  - (d) maatreëls om die veiligheid en sekuriteit van ontwortelde persone te verseker;
  - (e) die herintegrering van ontwortelde persone in die onderskeie gemeenskappe so gou moontlik, behoudens hulle veiligheid en sekuriteit en gedagtig aan die noodsaaklikheid om ontwrigting en maatskaplike onrus te minimaliseer.
- (3) Die plan moet aan die Minister voorgelê word vir goedkeuring.

**Tydlike huisvesting vir onwortelde persone**

3. (1) In die mate waarin dit volgens die Wet nodig is, en vir die doeleindes om vir die duur van die ramp aan onwortelde persone huisvesting te verskaf, met die oog daarop om, indien moontlik, daardie persone naby hul werksplekke of vorige woonplekke te huisves, en om die herintegreering van onwortelde persone in die gemeenskap so vroeg doenlik te vergemaklik, kan die rampbestuursentrum—
- (a) gelas dat enige persoon of staatsorgaan persele onder daardie persoon of staatsorgaan se beheer beskikbaar stel vir die doel om tydelike huisvesting vir die duur van die ramp aan onwortelde persone te verskaf;
  - (b) besit en beheer neem van die persele en onwortelde persone toelaat om dit vir die duur van die ramp te bewoon.
- (2) Geen maatreëls of stappe mag ingevolge subregulasie (1) geneem of gedoen word nie sonder behoorlike inagneming van die regte van alle persone wat geraak word, die grondwetlike verpligtinge van alle regeringsfere en staatsorgane, en die beginsels van regering van samewerking kragtens die Grondwet en wetgewing wat na aanleiding daarvan uitgevaardig is.
- (3) Niemand mag die rampbestuursentrum of enige van sy personeel by die uitvoering van hul bevoegdhede kragtens hierdie regulasies hinder of dwarsboom nie.
- (4) Die provinsiale regering moet alle stappe doen wat nodig is om die okkupasie en beheer van die persele in subregulasie (1) bedoel na afloop van die ramptydperk aan die regmatige eienaar of bewoner terug te besorg.
- (5) Die provinsiale regering moet die eienaar of regmatige bewoner van enige persele wat gebruik is om onwortelde persone tydelik te huisves vergoed vir enige skade of verlies wat deur die eienaar of regmatige bewoner gely is as gevolg van enige stappe wat kragtens hierdie regulasie gedoen is.
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**UYILO: OLUYIMFIHLELO IPHONDO LENTSHONA KOLONI****IMIQATHANGO EPHANTSI KWECANDELO 41(2) LOMTHETHO KA-2002 WOLAWULO LWENTLEKELE**

**EKUBENI** iZiko loLawulo lweNtlekele kuZwelonke ngokubhekiselele kwicandelo 23 lomThetho ka-2002 woLawulo lweNtlekele, (umThetho 57 ka-2002), ulucalule uhlaselo lokubukulwa kwabantu abavela kwamanye amazwe nokugxothwa kwabo besuswa kwiindawo ebebehala kuzo, oko kuthathwe njengentlekele yephondo eyenzeke kwiPhondo iNtshona Koloni.;

**KUNJENGOKUBA kwazisiwe ngentlekele yephondo eyenzeke kwiPhondo eli** ngomhla wesithathu, [3], kuJuni ka-2008 ngokumalunga necandelo 41(1) lalo mThetho uxeliweyo;

**KANTI** phantsi komGaqo-siseko ka-1996 weRiphabhlikhi yoMzantsi-Afrika, uRhulumente kufuneka ahloniphe, akhusele, akhuthaze ukuze awazalisekise amalungelo akhoyo emThethweni oYilwayo amaLungelo oLuntu, yaye onke amacandelo, imimandla nemibutho kaRhulumente, indawo nganye kufuneka isebenzisane nanye ngokuthembekileyo, imisebenzi yezo ndawo mayilungelelaniswe neminye;

**EKUBENI imiMiselo esisiKhokelo ngokuSuswa okwenziwa ngaPhakathi** okupapashiweyo ngumKhomishinari oPhezulu weZizwe eziManyeneyo kusenzelwa amaLungelo oLuntu, ifuna ukuba abasemagunyeni abasemazweni angamalungu mabazame ukuncedisa kangako ekudityaniseni kwakhona eluntwini kwabantu abahlala kwalapha abagxothwe kwiindawo zabo.

**EKUBENI le ntlekele yephondo** ibikhankanywe kwangaphambili ichaphazela oomasipala abangaphezulu kwesinye apha kwiphondo, ifuna intlanganisela ekhawulezileyo kunye nolungelelaniso lwemizamo yokuthothiswa kwentlekele phakathi kukaRhulumente wephondo nowemimandla kweli phondo, injongo mayibe kukuthomalalisa amandla ale ntlekele, kananjalo kubekho impendulo ekhawulezayo nekwanelelo kulo mbandela;

**UKANTI** inqanaba kunye nobunzima bale ntlekele bungaqinisekisa ngamanyathelo angaqhelekanga anokuthathwa kanye ngeli xesha lale meko, Mna, Ebrahim Rasool oyiNkulumbuso yePhondo leNtshona Koloni, ndisebenza phantsi kwecandelo 41(2) lomThetho ka-2002 woLawulo lweNtlekele, ngoko ke ndibeka le miqathango kwiShedyuli.

.....  
**E RASOOL INkulumbuso**

.....  
**Q. R. DYANTYI**

**UmPhathiswa wePhondo kuRhulumente womMandla nezeziNdlu.**

**ISHEDYULI****Inkcazelo**

1. Kule miqathango igama okanye isaci esicaciswayo emThethweni sinentsingiselo efanayo nephaya njengasemThethweni, ngaphandle kokuba imeko egqubayo iyifuna ngenye indlela—

“**indawo**” ibhekisa kuso nasiphi na isakhiwo esinakho ukuba sisikhundla sokuhlala kwabantu abagxothiweyo bekwafuna indawo ngokwalo mzuzu besathwaxwa yintlekele;

“**intlekele**” ithetha isiganeko esihlazisayo xa ke kubhekiswa kuso njengentlekele yephondo eyenzeke kulo iPhondo ngokokutsho kweZiko loLawulo lweNtlekele kuZwelonke ngokumalunga necandelo 23 lalo mThetho, ekuthiwa luhlaselo nokubukulwa kwabantu bamanye amazwe nokugxothwa besuswa kwiindawo abahlala kuzo;

“**iziko lokulawulwa kwentlekele**” lithetha iziko lolawulo lwentlekele lePhondo ngokweembono zecandelo 29 lalo mThetho;

“**IPhondo**”, kuthethwa ngePhondo leNtshona Koloni;

“**umntu ogxothiweyo esuswa apho ahlala khona**” ngumntu othe ngenxa yentlekele, wazifumana engenakhaya okanye kufuneka ukuba alishiye ikhaya lakhe, okanye ashiye indawo ahlala kuyo, engenakho ukubuyela kuyo ekhuselekile;

“**UmPhathiswa**” ungumPhathiswa wephondo kuRhulumente womMandla nezeziNdlu;

“**UmThetho**” kubhekiswa kumThetho ka-2002 woLawulo lweNtlekele, (umThetho 57 ka-2002).

**Ukulungelelaniswa nokulawulwa kwentlekele**

2. (1) Izikolo lokulawulwa kwentlekele, kungakhange kulityaziswe, kufuneka, emva kokucebisanana neentloko ezichaphazelekayo zawo onke amasebe ephondo namaziko oomasipala olawulo lwentlekele ebachaphazeleyo bonke oomasipala, malilungise isicwangciso sokulungelelaniswa nokulawulwa kwentlekele leyo.
- (2) Isicwangciso eso masiquke oku kulandelayo:
  - (a) amalungiselelo endawo efanelekileyo ekunokuhlalwa kuyo okwexeshana ngabantu abakhutshwe ezindaweni zabo; bangahlaliswa apho ngeli xesha isagqubayo intlekele leyo;
  - (b) ukubonelelwa kwakhona ngezindlu kwabo bagxothiweyo ngexesha elifanelekileyo, abo bafakwe ezintendeni ngexesha lokuthi gqi kwentlekele le, okanye bagcinwa zindaweni zimbi **zizezona zibafaneleyo** nangona bengenakuhlala apho isigxina, ezo ziindawo ekucingwa ngazo emhlathini (a);
  - (c) ukubonelelwa ngeendawo ezinjalo zokuncedwa koluntu ngeemfuno ezisisiseko kwabo bagxothiweyo, izibonelelo zibandakanya ukutya, impahla yokunxiba, iingubo, ukunonophelwa ngokwasempilweni nangeenkonzozokugatywa kwezifo ngococeko;

- (d) iindlela zokuqinisekisa ngokhuseleko nokhuselo lwabo bagxothiweyo; kunye
  - (e) nokuphinda bahlanganiswe eluntwini kwamsinyane abo bebegxothiwe bafakwe kwiindawo ezahlukileyo zabahlali, oko kuxhomekeka kukhuseleko nokhuselo lwabo, nokuqaphela imfuneko yokunciphiswa kwenkohlakalo kunye nonxunguphalo oluphakathi kwabantu.
- (3) Isicwangciso eso masiziswe kumPhathiswa ukuze akwazi ukusamkela.

**Iindawo zokuhlaliswa kwabagxothiweyo okwexeshana**

3. (1) Ngokwendlela efunekayo phantsi kwalo mThetho, nangenjongo yokubonelela ngeendawo zokuhlala ngeli thuba lentlekele kubantu abagxothiweyo, ngeenjongo zokuba, ukuhlaliswa kwabantu abanjalo kufutshane nalapho basebenza khona okanye kwiindawo ababehleli kuzo kwakuqala, nokuze kuncediswane ngale ntlanganisela iphindwayo yabantu abagxothiweyo, bebuyiselwa kwabanye abantu ngexesha elifutshane nelifanelekileyo, iziko lokulawulwa kwentlekelyo linganakho —
- (a) Ukuyalela nabani na okanye nawuphi na umbutho kaRhulumente ukuba makalungise indawo, elawulwa kwangumnini wayo okanye nguloo mbutho kaRhulumente ngeenjongo zokubonelela ngeendawo okwexeshana lokugqaba kwentlekele kusenzelwa abo bagxothiweyo; kunye
  - (b) Nokuyithathela kubo bayilawule indawo leyo, nokuvumela ukuba kuhlalwe kuyo ngabo bagxothiweyo ngeli thuba lentlekele.
- (2) Akukho zindlela namanyathelo aza kuthathwa ngokubhekiselele malunga nomqathangwana (1) kungakhange kuthathelwa ingqalelo amalungelo abo bachaphazelekayo, izibophelelo zomgaqo-siseko wamacandelo onke kunye nemibutho kaRhulumente, nemimiselo kaRhulumente wentsebenziswano osekulwe phantsi komGaqo-siseko kunye nowiso-mthetho olubhengeziweyo olulandela loo nto.
- (3) Akukho mntu uvumelekileyo ukuba makathintele okanye axakekise iziko lokulawulwa kwentlekele, okanye nabani na osebenza apho, efuna ukuba makangawasebenzisi amagunya ake aphantsi kwaloo miqathango.
- (4) URhulumente wephondo uya kuthatha nawaphi na amanyathelo afunekayo ekuzameni kwamsinyane ukuba makuhlalwe kwezo ndawo kunjalo zilawulwe, ndawo ezo kuthethwa ngazo kumqathangwana (1) kumnini wendawo okanye kulowo uhleli kuyo ngokusemthethweni emva kokuba seliphelile ixesha lentlekele.
- (5) URhulumente wephondo kufuneka anikezele ngembuyekezo kumnini-ndawo okanye kulowo uhleli kuyo ngokusemthethweni, kuyo nayiphi na indawo ebihleli abagxothiweyo okwexeshana, ukuba kubekho umonakalo okanye ilahleko kumnini-ndawo okanye kulowo ebihleli ngokusemthethweni, oko kwenzelwa iziphumo zawo nawaphi na amanyathelo athathiweyo phantsi kwalo mqathango.
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