

LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER ASSISTANCE ESWATINI

Mapping of Domestic Laws and Policies

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This mapping has been extracted from the report, [Legal Preparedness for International Assistance in Southern Africa: Regional Assessment and Country Profiles](#), which examines the legal frameworks of ten countries in Southern Africa to determine legal preparedness for international assistance should a disaster exceed national capacities, and proposes recommendations to strengthen international disaster response law (IDRL) in the region. A [summary version](#) of the report is also available.

This mapping seeks to chart the International Disaster Response Law Framework (IDRL) in the Kingdom of Eswatini (Eswatini) as provided in domestic laws and policies, and is the result of a desktop review of information publicly available online. This mapping has been conducted using the ten guiding questions from the [Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#) (the IDRL Checklist). The IDRL Checklist is based on the [Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#) (the IDRL Guidelines).¹ The IDRL Guidelines, which were unanimously adopted by the 30th International Conference of the Red Cross and Red Crescent in 2007, are a set of recommendations concerning domestic legal preparedness for international disaster assistance.

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¹ IFRC, *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2008) (IDRL Guidelines). Note that the IDRL Guidelines have been re-issued with new forewords in 2011 and 2017.

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Eswatini

Political Framework

Eswatini is an absolute monarchy. The head of state is the King or iNgwenyama.² The system of government in Eswatini is a participatory, *tinkhundla* based system,³ which emphasises devolution of state power from central government to *tinkhundla* areas and individual merit as a basis for election or appointment to public office.⁴

The head of the government is the Prime Minister, who is appointed by the King.⁵ The Prime Minister serves a five-year term and cannot serve more than two consecutive terms.⁶ The Prime Minister is a member of Parliament and chairman of Cabinet.⁷ The Cabinet of the Eswatini Government is appointed by the King on advice from the Prime Minister.⁸ The Parliament of Eswatini consists of a Senate and a House of Assembly, and elections are held every five years.⁹

Eswatini has a dual legal system comprising of common law, which is based on Roman Dutch law, and customary law, based on Swazi law.¹⁰ Eswatini adopts a dualist approach to international law in terms of which, unless an international agreement is self-executing, it only becomes law once enacted by Parliament.¹¹

DRM Framework

The Disaster Management Act of 1 of 2006 (DM Act)¹² provides the framework for disaster management in Eswatini. Disaster management is defined in the DM Act as a collective term encompassing all aspects of planning for and responding to disasters, including both pre-and post-disaster activities. It also encompasses the management of both the risks and the consequences of disasters.¹³ The purpose of the DM Act is to provide for the integrated and coordinated disaster management in Eswatini and for the establishment of a Disaster Management Fund. Eswatini is currently in the process of reviewing its DRM legislation and has developed the Disaster Risk Management Bill, 2018 (2018 DRM Bill), which aims to repeal the DM Act. A review of the 2018 DRM Bill is not included in this study, as it has not yet been passed into law. In terms of policies governing

² Constitution of the Kingdom of Swaziland Act 2005 (Constitution of Eswatini), section 4.

³ For purposes of political organisation and popular representation of the people in Parliament, Eswatini is divided into several areas called *tinkhundla* (section 80 of the Constitution of Eswatini).

⁴ Constitution of Eswatini, section 79.

⁵ Constitution of Eswatini, section 66.

⁶ Constitution of Eswatini, section 68.

⁷ Constitution of Eswatini, section 66.

⁸ Constitution of Eswatini, section 66.

⁹ Constitution of Eswatini, section 93.

¹⁰ Constitution of Eswatini, section 252.

¹¹ Constitution of Eswatini, section 238.

¹² Disaster Management Act 1 of 2006 (DM Act).

¹³ DM Act, section 2.

DRM, Eswatini has prepared the National Emergency Response, Mitigation and Adaptation Plan (NERMAP), which covers the period January 2016 to March 2022.¹⁴

With regards to the institutional framework for DRM at national level, the DM Act establishes and outlines the roles and responsibilities of the following institutions:

- the Ministerial Disaster Management Team (the Team), an inter-governmental advisory body, whose objective is to ensure a sound policy and institutional framework for sustainable disaster management that will assist the country to reduce disaster risk through the creation of a resilient society;¹⁵
- the National Disaster Management Council (NDM Council), whose objective is to support the development of a sustainable, integrated and coordinated system of disaster management in the country based on a consultative approach and partnerships between role-players. The Baphalali Eswatini Red Cross Society (BERCS) is included as a member of the NDM Council, together with representatives of organised labour, community-based organisations, NGOs, and others;¹⁶ and
- the National Disaster Management Agency (the NDMA), whose objective is to promote an integrated and coordinated system of disaster management in Eswatini focused on decreasing vulnerability and increasing preparedness and mitigation capacity.¹⁷ The NDMA was established in 2008 and is the national institution responsible for coordinating DRM programmes in the country. The Disaster Management Department, under the Deputy Prime Minister's Office, oversees and works in conjunction with the NDMA as well as NGOs and other development partners whose mandate is to prevent and reduce the impact of disasters.¹⁸ The DM Act also makes provision for the establishment of various technical working groups to assist the NDMA with its functions.

The DM Act further makes provision for the establishment of Regional Disaster Management Committees which serve as the principal interface for disaster management at regional, *inkhundla*, and community level.¹⁹ BERCS is included a member of the Regional Disaster Management Committees.

Emergency management structures are established under Part IV of the DM Act, at the national and regional level, in the event of a disaster being declared. At national level, the Prime Minister shall constitute the Team as the National Emergency Committee (NE Committee), and a sub-committee thereof, the National Emergency Management Task Force will also be constituted.²⁰ Provision is also made for the

¹⁴ UNDRR Country Reports on Public Investment Planning for Disaster Risk Reduction: Kingdom of Eswatini Risk-sensitive Budget Review, page 11. This document was unfortunately not available for review.

¹⁵ DM Act, section 5(2). See section 6 (1) for the functions of this team.

¹⁶ DM Act, section 8(2). See section 9(1) for the functions of this Council.

¹⁷ DM Act, section 14(2). The functions of the NDMA are listed under section 15.

¹⁸ See the website of the Deputy Prime Minister's Office available at <http://www.gov.sz/index.php/ministries-departments/the-deputy-prime-minister-s-office/disaster-management-agency> (accessed 11 February 2021).

¹⁹ DM Act, section 17. The functions of the regional committees are listed under section 18.

²⁰ DM Act, sections 21 and 22.

establishment of a Regional Emergency Management Task Force. The National Emergency Management Secretariat and National Emergency Coordinator are also created to serve as the operational unit of the task forces and are responsible for serving as the coordinating centre for emergency response management.

IDRL Assessment

Question 1: Does Eswatini have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

The DM Act is the main DRM statute of Eswatini. Although it does not contain detailed provisions on international disaster assistance, there are a few provisions which reference international disaster assistance either directly or indirectly.

As a starting point, the DM Act provides that one of the outcomes of Eswatini's national policy on DRM is to strengthen partnerships and coordination among various role-players, including at the international level.²¹ In addition, one of the functions of the Team includes making recommendations to the Prime Minister regarding compliance with international obligations and regional cooperation in disaster management with other Southern African countries.²² The DM Act also provides that the functions and duties of the NE Committee include facilitating the exercise of the emergency powers of the Prime Minister, coordinating national and regional emergency management measures at the Cabinet level as well as acting as the interface between the government and the international community regarding emergency management and assistance matters.²³ Lastly, the DM Act provides that regulations can be made on any matter as considered necessary to achieve its objectives.²⁴ This provision allows for regulations on international disaster assistance to potentially be developed in the future.

There are also several sectoral laws which include provisions relating to international disaster assistance in Eswatini, such as the Biosafety Act, which requires international information sharing with the Biosafety Clearing House, established by the Cartagena Protocol.²⁵ In addition, the Environmental Management Act states that government shall cooperate with international organisations to protect the regional and global environment.²⁶

As mentioned above, Eswatini is currently in the process of reviewing its DRM legislation and has developed the 2018 DRM Bill, which aims to replace the DM Act. A review of the 2018 DRM Bill is not included in this study, as it has not yet been passed into law. However, it presents an opportunity for more detailed IDRL provisions to be incorporated into Eswatini law.

²¹ DM Act, section 4(4)(d).

²² DM Act, section 6(1)(d).

²³ DM Act, section 26(a), (b) and (d).

²⁴ DM Act, section 43.

²⁵ Biosafety Act 7 of 2012, section 26.

²⁶ Environmental Management Act 5 of 2002, section 49(2).

Question 2: Do Eswatini's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

The focal point for the coordination of international disaster assistance (including governmental and non-state actors) is not explicitly identified in the DM Act. However, one of the functions of the NE Committee is to act as the interface between the government and the international community regarding emergency management and assistance matters during disasters.²⁷ In addition, the DM Act makes provision for the establishment of various technical working groups to assist the NDMA with its functions and one of these include a working group on inter-country coordination.²⁸ Therefore the coordination of international assistance would likely be conducted through these bodies.

Question 3: Do Eswatini's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?

The institutional structure for DRM in Eswatini has been outlined in the introduction above. Some of the functions of the various institutions relate to international disaster response, although they are not provided in detail. For example, one of the functions of the Team is to make recommendations to the Prime Minister regarding compliance with international obligations and regional cooperation in disaster management with other Southern African states.²⁹

The role of the UN Resident Coordinator in disaster response is not specifically stated in the DM Act. However, the representatives from appropriate UN Agencies may be invited to serve on the NDM Council in an *ex-officio* capacity.³⁰ The role of local or civil society actors in disaster response is not stated in detail in the DM Act. However, representatives of traditional Chiefs, religious and welfare groups, community-based organisations, and others are included as members of the NDM Council as well as Regional Disaster Management Committees.

Question 4: Do Eswatini's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?

The DM Act does not specifically assign responsibility for requesting international disaster assistance or accepting offers to a particular government entity. The DM Act also does not contain provisions detailing the process on acceptance, refusal, or coordination of international disaster assistance.

²⁷ DM Act, section 26.

²⁸ DM Act, section 15(5).

²⁹ DM Act, section 6 (1)(d).

³⁰ DM Act, section 10(4).

Question 5: Do Eswatini's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?

The DRM framework in Eswatini does not provide specific facilities for international assisting actors. The sections below analyse whether the relevant sectoral laws provide for necessary legal facilities to be provided to international assisting actors.

Landing rights and general customs arrangements

The Civil Aviation Authority Act domesticates the Chicago Convention and provides the framework for the regulation of civil aviation in Eswatini.³¹ The Civil Aviation Authority Act does not contain any specific provisions relating to airplanes carrying humanitarian assistance personnel or supplies into Eswatini, although it does make provision for regulations to be made on the control of aircraft in emergencies.³² If developed in the future, such regulations could potentially provide landing rights for international relief flights.

The Customs and Excise Act³³ regulates customs and excise in Eswatini. The Customs and Excise Act does not provide simplified or expedited procedures in respect of goods imported for humanitarian purposes in disasters. However, Item 41211 of Schedule 4 provides that goods imported for the relief of distress of persons in cases of famine or other national disaster may be imported under a rebate of customs duty provided they have an International Trade Administration Commission (ITAC) certificate. Schedule 4 further provides that goods imported by international organisations and diplomatic and consular missions, goods imported under any technical assistance agreement, and goods imported in terms of an obligation under any multilateral international agreement to which Eswatini is a party may similarly be imported under a rebate of customs duty.³⁴ The Customs and Excise Act does not, however, provide details on what type of goods may enjoy a rebate of duties under this item.

Furthermore, under the Import Control regulations, no goods may be imported into Eswatini from any place outside the Common Customs Area except under the authority of a valid import permit.³⁵ However, certain goods, including goods imported by diplomatic missions, goods imported for the relief of distress of persons in cases of famine or other national disaster and goods imported under any technical assistance agreement are exempted from requiring an import permit.³⁶ Any imported products would, however, need to comply with any standards applicable in Eswatini.

³¹ Civil Aviation Authority Act 10 of 2009.

³² Civil Aviation Authority Act 10 of 2009, section 90 and 104.

³³ Customs and Excise Act, 1971.

³⁴ Customs and Excise Act, 1971, Schedule 4, Items 40300, 40602, and 40605.

³⁵ Import Control Regulations, 1980, regulation 3.

³⁶ Import Control Regulations, 1980, regulation 8.

Customs arrangements for specialised goods and equipment

Communications equipment

Telecommunications in Eswatini are primarily regulated by the Electronic Communications Act³⁷ and the regulations thereto. A licence is required to import and use radio communication equipment in Eswatini.³⁸ The Electronic Communications (Licensing) Regulations of 2016 provide further details on licensing requirements and procedures. The laws do not appear to provide exceptions or simplified procedures for the importation and use of communications equipment in disasters and it is not clear whether communications equipment would fall under Item 41211 of Schedule 4 of the Customs and Excise Act (therefore not requiring an import permit and enjoying a rebate of customs duty).

Food

Although it is not explicitly stated, it is likely that foodstuffs imported for disaster relief operations would fall under Item 41211 of Schedule 4 of the Customs and Excise Act (therefore not requiring an import permit and enjoying a rebate of customs duty).

Medication

It is not clear whether medication would fall under Item 41211 of Schedule 4 of the Customs and Excise Act (therefore not requiring an import permit and enjoying a rebate of customs duty), but it is arguable that it would.

If not, the Medicines and Related Substances Control Act states that an import permit is required to import certain medications into Eswatini, and all imported medications are required to comply with certain labelling requirements.³⁹ The Medicines and Related Substances Control Act does not provide for special procedures or exemptions in respect of the importation of medication in disasters, but it does make provision for exemptions to be made for certain medications from the operation of certain provisions of the Act by the Medicines Regulatory Authority of Eswatini.⁴⁰

Vehicles

It is not clear whether the importation of vehicles would fall under Item 41211 of Schedule 4 of the Customs and Excise Act (therefore not requiring an import permit and enjoying a rebate of customs duty), but it is arguable that it would. If vehicles are not covered by Item 41211, an import permit would be required.

In addition, the Road Traffic Act requires all vehicles in Eswatini to be registered and licensed.⁴¹ There do not appear to be exceptions in respect of vehicles imported for international relief assistance, although provision is made for exemptions to be granted in respect of licensing and registration requirements.⁴² In addition, certain motor

³⁷ Electronic Communications Act 9 of 2013.

³⁸ Electronic Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2016 read with section 41 of the Electronic Communications Act 9 of 2013.

³⁹ Medicines and Related Substances Control Act 9 of 2016, sections 34 and 42.

⁴⁰ Medicines and Related Substances Control Act 9 of 2016, section 74

⁴¹ Road Traffic Act 6 of 2007, sections 13 and 16.

⁴² Road Traffic Act 6 of 2007, section 18.

vehicles, including motor vehicles which are registered and licensed in accordance with the law of a state party to the international Convention Relative to Traffic, the UN Convention on Road Traffic of 1949 or 1968, and in accordance with the terms of these conventions, are deemed to be registered and licensed in Eswatini.⁴³ The Road Traffic Act also provides that foreign issued driving licences and international driving licences are recognised in Eswatini.⁴⁴ However, it stipulates that an international driving permit does not authorise the driving of a vehicle carrying passengers for which an operator must be registered in terms of any other law.

Rescue dogs

It is not clear whether rescue dogs would fall under Item 41211 of Schedule 4 of the Customs and Excise Act (therefore not requiring an import permit) and being eligible for a rebate of customs duty. If not, an import permit is required to import any live animals into Eswatini, and the laws do not appear to make any exceptions for rescue dogs.

Immigration

Immigration in Eswatini is primarily regulated by the Immigration Act, 1982 and the Immigration Regulations, 1987, which do not provide special procedures for the entry of disaster relief personnel. The Immigration Act does, however, allow for regulations to be made exempting persons from any provisions of the Act,⁴⁵ which may allow for regulations on the entry of disaster assisting actors to be made in the future. In general, expatriates working in Eswatini must hold a valid work permit, and when applying for a work permit, an employer must demonstrate that there is no Swati with adequate qualifications and experience to fill the position, and that the employer has instituted a training plan in terms of which the particular position would eventually be localised.⁴⁶

With regards to diplomats and consular officials, Eswatini is a party to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. The Diplomatic Privileges Act of 1968 gives effect to the Vienna Convention on Diplomatic Relations in Eswatini.⁴⁷

Registration of international assisting actors

There do not appear to be special legal facilities relating to the registration of international assisting actors in Eswatini, and as such, it appears that the normal rules relating to the registration of foreign entities would apply.

Recognition of professional qualifications of foreign personnel

Physicians

The Medical and Dental Practitioners Act does not contain special arrangements for the recognition of the qualifications of foreign personnel in the context of disasters and

⁴³ Road Traffic Act 6 of 2007, sections 14 and 17.

⁴⁴ Road Traffic Act 6 of 2007, section 35.

⁴⁵ Immigration Act, 1982, section 18(1)(g).

⁴⁶ ENS, *Doing Business in Eswatini*, available at <https://www.ensafrica.com/doing-business/download/?termId=57> (accessed 11 February 2021).

⁴⁷ This document was not available for review.

provides that no person shall be entitled to practise as a medical practitioner or as a dentist unless he or she has obtained a certificate of registration issued by the Eswatini Medical and Dental Council.⁴⁸ This may make it challenging for disaster assistance personnel who are foreign qualified physicians to work in the country.

Nurses

The nursing practice in Eswatini is regulated by the Nurses and Midwives Act, 1965, which provides in section 15 that no person may practise as a nurse for gain without being registered with the Nursing Council. The Nurses and Midwives Act does not contain special arrangements for the recognition of the qualifications of foreign personnel in the context of disasters. This may make it challenging for disaster assistance personnel who are foreign qualified nurses to work in the country.

Engineers and Architects

The registration of architects and engineers in Eswatini is regulated by the Registration of Architects, Engineers, Surveyors and Allied Professionals Act, 2013, which does not provide for the expedited registration of architects and engineers in international disaster assistance. However, it does make provision for the temporary registration of architects and engineers who are not ordinarily resident in Eswatini but who are completing specific work in Eswatini.⁴⁹ Such a person is required to become a member of a professional association within two months of arrival in Eswatini and to register with the Architects, Engineers, Surveyors and Allied Professionals Registration Council within four months of arrival in Eswatini.⁵⁰ This may allow for disaster assistance personnel who are foreign qualified engineers and architects to register to work in the country, although it is not clear how long the process would take.

Tax and currency exchange for disaster relief activities

As a general rule, VAT is levied on the supply of goods and services in Eswatini as well as on the importation of goods and services. VAT is regulated in Eswatini primarily through the VAT Act, 2011.⁵¹ Certain goods, including the supply of medical services, social welfare services and the supply of goods and services in a charity arrangement also exempt from VAT.⁵² Furthermore, an import of goods or services are exempt from VAT if they are exempt from customs duty under the Customs and Excise Act 1971, or would be exempt had they been supplied in Eswatini.⁵³ As stated above, under Item 41211 of Schedule 4 of the Customs and Excise Act, 1971, goods imported for the relief of persons during disasters, provided they have an ITAC certificate, may be imported under a rebate of customs duty. Lastly, certain foodstuffs and medications are zero-rated for VAT.⁵⁴ In addition, section 50 makes provision for a VAT refund to be granted to diplomats,

⁴⁸ Medical and Dental Practitioners Act, 1970, section 17.

⁴⁹ Registration of Architects, Engineers, Surveyors and Allied Professionals Act 15 of 2013, section 40.

⁵⁰ Registration of Architects, Engineers, Surveyors and Allied Professionals Act 15 of 2013, section 40(6).

⁵¹ Value Added Tax Act, 2011 (VAT Act).

⁵² First Schedule (Exempt Supplies) read with section 19 of the VAT Act.

⁵³ VAT Act, section 20.

⁵⁴ VAT Act, section 24 (4), read with the Second Schedule (Zero-Rated Supplies).

diplomatic and consular missions, and international organisations in respect of tax paid or borne by:

- any person enjoying full or limited immunity, rights, or privileges under any local or international laws applicable in Eswatini or under recognised principles of international law; or
- any diplomatic or consular mission of a foreign country or any public international organisation operating in Eswatini, relating to transactions concluded for its official purposes.

Eswatini has a source-based tax system, in terms of which both residents and non-residents are taxed on income sourced in Eswatini.⁵⁵ Income tax in Eswatini is primarily regulated by the Income Tax Order of 1975, which does not provide explicit exemptions for international disaster assistance. It does, however, allow for certain exemptions in respect of income tax which may be relevant to international assisting actors, this includes, amongst others:

- the income of organisations which have been exempted by the Commissioner (including approved charitable organisations);
- the income of any person entitled to privileges under the Diplomatic Privileges Act;⁵⁶
- the salaries of any person in respect of services rendered to the government of any country other than Eswatini if that person is not ordinarily resident in Eswatini or is ordinarily resident solely for the purpose of performing such services; and
- any amount received by or accrued to any person in respect of services rendered in Eswatini which the government has undertaken shall be exempt from normal tax by the terms of written agreements with the government of another state or with an international or world organisation or body.⁵⁷

Furthermore, in the determination of taxable income of any person, certain deductions are made which includes any contribution made by a taxpayer and actually paid or transferred during the year of assessment to any national disaster scheme or national emergency body established by the government.⁵⁸ Lastly, the Income Tax Order provides for double taxation agreements to be entered into between the Government of Eswatini and any other government with the view of preventing double taxation.⁵⁹ Double taxation

⁵⁵ ENS, *Doing Business in Eswatini*, available at <https://www.ensafrica.com/doing-business/download/?termId=57> (accessed 11 February 2021).

⁵⁶ Further information on this is available in the Income Tax: Taxability of Diplomats and Others Associated with Diplomats Notice, 2006.

⁵⁷ Income Tax Order 21 of 1975 (as amended), section 12.

⁵⁸ Income Tax Order 21 of 1975, section 14.

⁵⁹ Income Tax Order 21 of 1975, section 68.

agreements are in force with Mauritius, South Africa, Seychelles, Taiwan, and the United Kingdom.⁶⁰

Regarding exchange control, Eswatini is a signatory to the Common Monetary Area (CMA) Agreement which allows for the free flow of funds between Eswatini, Lesotho, Namibia, and South Africa.⁶¹ Each country, however, administers exchange control within its borders for transfers with the rest of the world. Exchange control is strictly regulated in Eswatini through the Exchange Control Order, 1974 and the Exchange Control Regulations issued under Legal Notice No.2 of 1975.⁶² Transactions involving the transfer of funds to countries outside the CMA are subject to approval by the Central Bank of Eswatini.⁶³ In addition, the Money Laundering and Financing of Terrorism (Prevention) Act stipulates that all persons entering or leaving Eswatini with cash (whether in one currency or more than one currency) valued at more than fifteen thousand Emalangi or equivalent are required to declare this amount to the police or customs officials at the point of entry/exit to/from the country.⁶⁴ There do not appear to be any exemptions in respect of funds related to international disaster response operations. These provisions may limit the extent to which international assisting actors, especially those outside the CMA, are able to freely bring currencies in and out of the country.

Freedom of movement of international assisting actors during a disaster response

The law does not appear to contain explicit provisions relating to the freedom of movement of international assisting actors in disaster response.

Safety and security of international assisting actors

The laws of Eswatini do not make explicit provision for the safety and security of international assisting actors in disaster situations. However, the Police Service Act provides that the Police Service is mandated to *inter alia* maintain law and order, protect life and property, and prevent, investigate, and detect crime throughout Eswatini, which would presumably extend to actors providing international disaster assistance.⁶⁵

Question 6: Do Eswatini's laws and regulations set out quality standards for international assisting actors?

The documents reviewed for this report make no mention of international quality standards or minimum humanitarian standards of international disaster assistance in Eswatini. International assisting actors would, however, need to comply with relevant

⁶⁰ ENS, *Doing Business in Eswatini*, available at <https://www.ensafrica.com/doing-business/download/?termId=57> (accessed 11 February 2021).

⁶¹ The Central Bank of Eswatini, *A Simple Guide to Exchange Control in Swaziland* available at <https://www.centralbank.org.sz/financialregulation/exchangecontrol/ExchangeControlGuide.pdf> accessed (11 February 2021), page 4.

⁶² These documents were not available for this review.

⁶³ ENS, *Doing Business in Eswatini*, available at <https://www.ensafrica.com/doing-business/download/?termId=57> (accessed 11 February 2021).

⁶⁴ Money Laundering and Financing of Terrorism (Prevention) Act, 2011, section 41.

⁶⁵ Police Service Act 22 of 2018, section 9.

laws and standards relating to goods and services applicable in Eswatini contained in the specific sectoral laws and regulations.

Question 7: Do Eswatini's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

The documents reviewed for this report do not provide eligibility requirements for international assisting actors to receive legal facilities.

Question 8: Do Eswatini's laws and regulations establish a specialised unit for expediting the entry of international disaster assistance?

The law does not establish a specialised unit for expediting the entry of international disaster assistance in Eswatini.

Question 9: Do Eswatini's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

The documents reviewed for this report do not provide for special safeguards and accountability mechanisms for international disaster assistance. However, the DM Act establishes the Disaster Management Fund (DRM Fund) which has the objective of providing funding for the national disaster relief plan, emergency relief operations and the restoration of infrastructure and services in respect of disasters.⁶⁶ Although it is not explicitly stated, the DRM Fund appears to be able to accept donations from international assisting actors in that it consists of *inter alia* "moneys donated from any source for the purpose of disaster management".⁶⁷ The DRM Fund is subject to an annual audit.⁶⁸ In addition, section 38 of the DM Act provides that donations will be taken on charge and accounted for in accordance with any applicable law governing the receipt, issue, and control of public resources and that donations will, when possible, only be used for the purpose for which they were donated. To the extent that international actors donate funds to the DRM Fund, then these funds will be subject to these transparency and accountability measures.

In terms of sectoral legislation, although not directly related to international disaster assistance, the Money Laundering and Financing of Terrorism (Prevention) Act, 2011, which aims to criminalise money laundering and suppress the financing of terrorism as well as the Prevention of Corruption Act, 2006 to prevent, investigate, and punish corrupt activities. Such legislation may indirectly promote transparency and accountability with regards to international disaster assistance operations.

Question 10: Do Eswatini's laws and regulations outline procedures for international disaster assistance sent from and transiting through the country?

The law does not appear to outline special procedures for international assistance sent from, and transiting through, Eswatini and therefore it appears that the normal rules and

⁶⁶ DM Act, section 35(2).

⁶⁷ DM Act, section 36(1).

⁶⁸ DM Act, section 38 read with section 41.

procedures relating to the transit of goods and personnel and the exportation of goods would apply.⁶⁹

⁶⁹ These are set out in the Customs and Excise Act, 1971, Chapter III. The Value Added Tax Act does provide, however, that the supply of goods or services where the goods or services are exported from Eswatini as part of the supply, are zero rated for VAT (Value Added Tax Act, 2011, Schedule Two, section 1(a)). In terms of personnel, the Immigration Regulations, 1987, make provision for a transit pass to be issued to a person who wishes to enter Eswatini for the purpose of travelling to a destination outside Eswatini (Immigration regulations, 1978, regulation 21).



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