

AN ANALYSIS OF NEMA S30A DIRECTIVES ISSUED TO ETHEKWINI MUNICIPALITY – APRIL 2022 FLOODS



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By 2030 eThekweni will be Africa's Most Caring and Liveable City



SOUTH AFRICA - KWAZULU NATAL CONTEXT



APRIL 2022 FLOODS

- *Around the 8th of April 2022, heavy rainfalls began and persisted for about 4 days consistently across the province of KZN*
- *During this period, coastal areas recording between 200 mm to 450 mm of precipitation in 24 hours*
- *The SAWS issued a level 5 warning for the coast and later changed to a level 8/9 warning once they had a better understanding of the scale of the rainfall*
- *The torrential rains destroyed dozens of homes, washed away roads, and triggered mudslides mostly in coastal areas, damage to critical infrastructure such as roads, schools, and health centers and services were disrupted*
- *The damage to sewage treatment infrastructure led to the closure of most Durban beaches due to concerning levels of E. Coli detected in water.*
- *About 443 human lives lost and at least +/- 48 are still not accounted for.*

APRIL 2022 FLOODS





President Cyril Ramaphosa: Declaration of a national state of disaster to respond to widespread flooding

18 Apr 2022

My Fellow South Africans,

Over the last week, communities along parts of our eastern coast have been devastated by catastrophic flooding.

On the 11th and 12th of April, parts of KwaZulu-Natal received between 200 and 400 mm of rainfall in a 24 hour period.

All parts of the province were affected by the rainfall, with the entire EtheKwini metro and the districts of iLembe, Ugu, King Cetshwayo and uMgungundlovu being most affected.



NEMA S30A DIRECTIVES

NEMA S30A DIRECTIVES

- *The City had to put measures in place to ensure that repairs are done, ensure restoration and mitigation of the impacts of the floods*
- *Requests for Emergency Authorisations were made to the KZN EDTEA and this resulted in the issuance of 59 NEMA S30A directives*
- ***41 – Coastal Stormwater & Catchment Management, – 11 Roads Provision, 5 – Ethekewini Water and Sanitation, 1 – Cleansing and Solid Waste, 1 – Roads and Stormwater***
- *Stormwater Infrastructure Upgrades, Remedy damage to WTW, WWTW, Repairs to bridges, roads, pedestrian crossings, fencing.*

QUESTIONS?

- *Were the NEMA S30A directives able to assist the City to repair infrastructure speedily?*
- *Was the City able to comply with the conditions of the NEMA S30A directives?*
- *Could the conditions of the NEMA S30A be enforced by the authorities?*
- *To determine practicality of the validity period of the NEMA S30A directives?*

ASSISTANCE PROVIDED BY NEMA S30A DIRECTIVES

- *Municipalities are governed in terms of the Municipal Systems Act, 32 of 2000 (MSA) and in terms of financial management municipalities have to comply with the Municipal Financial Management Act, 83 of 2003 (MFMA).*
- *The MFMA makes it mandatory for municipalities to comply with the Supply Chain Regulations as prescribed by National Treasury.*
- *SCM Function falls under the finance department in government with BSC, BEC, BAC for the process to be fully satisfied.*
- *Being a tedious and long process which can also be political and may have some form of favoritism in certain instances.*
- *Therefore; resulting in delays in the appointment of service providers, thus delayed repairs or restoration.*

CONDITIONS OF NEMA S30A DIRECTIVES

3. Work on the registered project may commence in accordance with the conditions of the pro-active Directive DM/S30A/0003/2022 and in adherence with the associated Impact Mitigation Measures.
4. Any changes to, or deviations from, the project description submitted with the request to Register the project with the Department, must be approved in writing by this Department before such changes or deviations may be effected.
5. You are reminded of your obligations to comply with the provisions for *Duty of Care and remediation of environmental damage* contained in Section 28 of the National Environmental Management Act, Act 107 of 1998.
6. The Registration of this project does not grant authorisation or exemption from compliance with any other relevant and applicable legislation and the Department retains its right to inspect the property at any time during its development.

Yours sincerely

CONDITIONS OF NEMA S30A DIRECTIVES

IMPACT MITIGATION MEASURES	NEMA S28
MITIGATION HIERACHY	DUTY OF CARE AND REMEDIATION OF ENVIRONMENTAL DAMAGE

DIRECTIVE IN TERMS OF SECTION 28(4) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (NEMA)



VALIDITY PERIOD OF NEMA S30A DIRECTIVES



ANSWERS TO THE QUESTIONS

- *Were the NEMA S30A directives were able to assist the City to repair infrastructure speedily? Yes&No*
- *Was the City's able to comply with the conditions of the NEMA S30A directives? No*
- *Could the conditions of the NEMA S30A directives be enforced by the authorities? Yes*
- *To determine practicality of the validity period of the NEMA S30A directives? No*

RECOMMENDATIONS

- *Declaration of a state of disaster should provide a platform for alignment of all legislative requirements to allow for repairs infrastructure speedily when S30A directives are issued*
- *For the municipality to increase capacity of environmental management inspectors so that they are able to monitor compliance with the conditions of the NEMA S30A directives*
- *NEMA S28 (4) provides for administrative enforcement action to be undertaken by authorities, however I recommend lenience when a City is recovering from natural disasters.*
- *NEMA S30A directives should have a validity period in order to avoid the use of discretion when projects cannot commence sooner than anticipated*

Let's continue the conversation!

Post questions and comments in the IAIA24 app.



#iaia24

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