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THE PRESIDENCY

No. 5050 23 July 2024

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 22 of 2024: Climate Change Act, 2024

VHUPRESIDENDE

No. 5050 23 July 2024

Zwi khou divhadziwa henefha uri mupresidende o tendelana na uyu mulayo une wa khou andadziwa hu u itela ndivhadzo kha tshitshavha:—

Nom 22 ya 2024: Mulayo wa Tshanduko ya Kilima, 2024

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 18 July 2024)

ACT

To enable the development of an effective climate change response and a long-term, just transition to a low-carbon and climate-resilient economy and society for South Africa in the context of sustainable development; and to provide for matters connected therewith.

PREAMBLE

WHEREAS everyone has the constitutional right to an environment that is not harmful to their health and well-being, and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that secure ecologically sustainable development and the use of natural resources while promoting justifiable economic and social development;

AND WHEREAS anthropogenic climate change represents an urgent threat to human societies and the planet and requires an effective, progressive and incremental response;

AND WHEREAS the Republic—

- (a) has a role to play in the global effort to reduce the greenhouse gas emissions identified by the international community as the primary drivers of anthropogenic climate change, and for which the implementation of appropriate mitigation responses is urgently required;
- (b) is especially vulnerable to those impacts of climate change which require urgent and appropriate adaptation responses; and
- (c) has made international commitments and obligations, including to communicate and implement an effective nationally determined climate change response, encompassing mitigation and adaptation actions, that represents the Republic's fair contribution to the global climate change response;

AND WHEREAS climate variability in the Republic, including the increased frequency and intensity of extreme weather events, will affect, amongst other things, human health, access to food and water, biodiversity, habitats and ecosystems, the coast and coastal infrastructure and human settlements;

AND WHEREAS anticipated impacts arising as a result of climate change have the potential to undermine achieving the Republic's developmental goals;

AND WHEREAS implementing an effective climate change response is a national sustainable development priority as set out in the National Climate Change Response White Paper, while the Republic's Nationally Determined Contribution under the Paris Agreement, as may be varied from time to time, anticipates—

- (a) the realisation of significant socio-economic and environmental benefits in a manner that is driven and customised in the light of national circumstances, developmental, transformational, empowering and participatory, dynamic and evidence-based, balanced, cost-effective, integrated and aligned; and
- (b) support for a just transition to a climate-resilient, equitable and internationally competitive low-carbon economy and society, that takes into account the risks and opportunities that are expected to arise as a consequence of implementing the national climate change response;

AND WHEREAS responding to climate change raises unique challenges to effective governance as its impact transcends and challenges traditionally sectoral governance approaches, which require a nationally driven, coordinated and cooperative legal and administrative response that acknowledges the significant role of the provincial and municipal spheres taking into account the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005);

AND WHEREAS climate change policy needs to be implemented in the context of sustainable development objectives and the achievement of national development goals, it is desirable to develop a legal and institutional framework for the implementation of the Republic's national climate change response, in order to address these matters,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 1	5
INTERPRETATION, OBJECTS AND APPLICATION	
1. Definitions	
2. Objects of Act	
3. Principles	
4. Application of Act	10
5. Application of National Environmental Management Act	
6. Conflict with other legislation	
CHAPTER 2	
POLICY ALIGNMENT AND INSTITUTIONAL ARRANGEMENTS	
7. Alignment of policies	15
8. Provincial Forums on Climate Change	
9. Municipal Forums on Climate Change	
10. Presidential Climate Commission	
11. Functions of Presidential Climate Commission	
12. Process of appointment	20
13. Appointment of Executive Director	
14. Financial administration	
15. Reporting to government	
16. Administrative and secretariat support	

CHAPTER 3**CLIMATE CHANGE RESPONSE: PROVINCES AND MUNICIPALITIES**

- 17. Climate change response
- 18. Finance mechanism

CHAPTER 4

5

NATIONAL ADAPTATION TO IMPACTS OF CLIMATE CHANGE

- 19. Adaptation objectives
- 20. Adaptation scenarios
- 21. National Adaptation Strategy and Plan
- 22. Sector Adaptation Strategy and Plan 10
- 23. Adaptation Information and Synthesis Adaptation Report

CHAPTER 5**GREENHOUSE GAS EMISSIONS AND REMOVALS**

- 24. National greenhouse gas emissions trajectory
- 25. Sectoral emissions targets 15
- 26. Listed greenhouse gases and activities
- 27. Carbon budgets
- 28. Phase-down and phase-out of synthetic greenhouse gas emissions and declaration
- 29. National Greenhouse Gas Inventory 20

CHAPTER 6**GENERAL MATTERS AND TRANSITIONAL ARRANGEMENTS**

- 30. Regulations
- 31. Consultation
- 32. Public participation 25
- 33. Delegation
- 34. Access to information
- 35. Offences and penalties
- 36. Appeals
- 37. Savings, transitional provisions and amendment of laws 30
- 38. Short title and commencement

SCHEDULE 1**Functions relevant to the development of Sectoral Emissions Targets****SCHEDULE 2**

- National Departments and State-Owned Entities responsible for certain functions required to develop a Sector Adaptation Strategy and Plan 35**

SCHEDULE 3**Amendment of laws**

CHAPTER 1

INTERPRETATION, OBJECTS AND APPLICATION

Definitions

1. In this Act, unless the context indicates otherwise—
- “**adaptation**” means any adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities; 5
- “**adaptive capacity**” means the ability of systems, institutions, humans and other organisms to adjust to potential damage, to take advantage of opportunities, or to respond to consequences; 10
- “**carbon budget**” means an assigned amount of greenhouse gas emissions allocated to a person in terms of section 27 for direct emissions arising from the operations of that person over a defined time period; 10
- “**Carbon dioxide equivalent or CO₂e**” means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas; 15
- “**carbon sink**” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere; 20
- “**climate change**” means a change of climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods; 20
- “**commissioner**” means a commissioner of the Presidential Climate Commission appointed in terms of section 10(4);
- “**Department**” means the national department responsible for environmental affairs; 25
- “**direct greenhouse gas emissions**” means greenhouse gas emissions from sources that are owned or controlled by a person;
- “**Disaster Management Act**” means the Disaster Management Act, 2002 (Act No. 57 of 2002); 30
- “**district municipality**” means a district municipality established in terms of the Local Government: Municipal Structures Act;
- “**ecosystem**” means a dynamic system of plant, animal and micro-organism communities and their non-living environment, interacting as a functional unit;
- “**environment**” has the meaning assigned to it in section 1 of the National Environmental Management Act; 35
- “**Gazette**”, when used in relation to—
- (a) a Minister, means the *Government Gazette*;
- (b) an MEC, means the *Provincial Gazette* of the province concerned; and
- (c) a municipality, means the *Provincial Gazette* of the province in which the municipality is situated; 40
- “**greenhouse gas**” means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation;
- “**greenhouse gas mitigation plan**” means the mitigation plan contemplated in section 27(4) which contains mitigation measures prepared specifically for the mitigation of greenhouse gas emissions; 45
- “**indirect greenhouse gas emissions**” means emissions that are a consequence of the activities of a person, but occur at sources owned or controlled by another person;

- “**Intergovernmental Relations Framework Act**” means the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005);
- “**just transition**” means a shift towards a low-carbon, climate-resilient economy and society and ecologically sustainable economies and societies which contribute toward the creation of decent work for all, social inclusion and the eradication of poverty; 5
- “**Local Government: Municipal Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “**mayor**”, in respect of the different types of municipalities, means—
- (a) a mayor elected in terms of section 48 of the Local Government: Municipal Structures Act; or 10
- (b) an executive mayor elected in terms of section 55 of the Local Government: Municipal Structures Act;
- “**MEC**” means the member of the Executive Council to whom a Premier has assigned responsibility for the environment; 15
- “**metropolitan municipality**” means a metropolitan municipality established in terms of the Local Government: Municipal Structures Act;
- “**Minister**” means the Cabinet Minister responsible for environmental affairs;
- “**mitigation**” means a human intervention to reduce the sources or enhance the carbon sinks of greenhouse gases; 20
- “**Municipal Forum on Climate Change**” means a Municipal Forum on Climate Change contemplated in section 9;
- “**National Climate Change Response White Paper**” means the White Paper on the National Climate Change Response published under Government Notice No. 757 in *Gazette* No. 34695 of 19 October 2011; 25
- “**national department**” means a department listed in Schedule 1 to the Public Service Act, 1994 (Proclamation No. 103 of 1994);
- “**Nationally Determined Contribution**” means the Nationally Determined Contribution, as amended from time to time, prepared in terms of Article 4(2) of the Paris Agreement and submitted by the Republic to the Secretariat of the United Nations Framework Convention on Climate Change in terms of Article 4(12) of the Paris Agreement; 30
- “**National Environmental Management Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- “**national greenhouse gas emissions profile**” means the latest trends in national greenhouse gas emission totals with and without sinks; 35
- “**national greenhouse gas emissions trajectory**” means the national greenhouse gas emissions trajectory contemplated in section 24;
- “**National Greenhouse Gas Inventory**” means the National Greenhouse Gas Inventory contemplated in section 29; 40
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;
- “**Paris Agreement**” means the Paris Agreement adopted by the Twenty-First Conference of the Parties to the United Nations Framework Convention on Climate Change in Paris, France, on 12 December 2015, and ratified by the Republic on 1 November 2016; 45
- “**policies and measures**” means the manner in which an organ of state exercises a power or performs a function in response to climate change through implementing planning instruments, policies and programmes to mitigate emissions relating to the requirements stipulated by the United Nations Framework Convention on Climate Change, the Paris Agreement or any other global climate change agreement under the United Nations Framework Convention on Climate Change; 50
- “**prescribe**” means prescribe by regulation;
- “**Presidential Climate Commission**” means the Presidential Climate Commission referred to in section 10; 55

- “**Provincial Forum on Climate Change**” means a Provincial Forum on Climate Change contemplated in section 8;
- “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**regulation**” means a regulation made, and includes a notice issued, under this Act; 5
- “**Resilience**” means the capacity of social, economic and environmental systems to cope with a hazardous event or trend or disturbance, responding and re-organising in ways that maintain their essential function, identity and structure, while also maintaining the capacity for adaptation, learning and transformation; 10
- “**sector**” means a collective term for a group of activities with similar characteristics which either emit greenhouse gases or are vulnerable to climate change;
- “**sectoral emissions targets**” means quantitative or qualitative goals informed by sectoral policies and measures that may lead to greenhouse gas emission reductions, for the sector or sub-sector, over a defined time period as determined in terms of section 25; 15
- “**sub-sector**” means, in respect of mitigation, a further subdivision of a group of greenhouse gas emitting activities as defined by the latest version of the guidelines of the Intergovernmental Panel on Climate Change, established by the World Meteorological Organisation and the United Nations Environment Programme in 1988; 20
- “**sustainable development**” has the meaning assigned to it in section 1 of the National Environmental Management Act;
- “**synthetic greenhouse gas**” means an artificial greenhouse gas as declared by the Minister in terms of section 28; 25
- “**this Act**” includes the Schedules to this Act and any regulations or notices issued under this Act;
- “**United Nations Framework Convention on Climate Change**” means the United Nations Framework Convention on Climate Change adopted by the United Nations General Assembly in New York in 1992, and ratified by the Republic on 29 August 1997; and 30
- “**vulnerability**” means the degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including climate variability and extremes. 35

Objects of Act

2. The objects of this Act are to—
- (a) provide for a coordinated and integrated response by the economy and society to climate change and its impacts in accordance with the principles of cooperative governance; 40
 - (b) provide for the effective management of inevitable climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to building social, economic and environmental resilience and an adequate national adaptation response in the context of the global climate change response; 45
 - (c) make a fair contribution to the global effort to stabilise greenhouse gas concentrations in the atmosphere at a level that avoids dangerous anthropogenic interference with the climate system;
 - (d) to ensure a just transition towards a low carbon economy and society considering national circumstances; 50
 - (e) give effect to the Republic’s international commitments and obligations in relation to climate change; and
 - (f) protect and preserve the planet for the benefit of present and future generations of humankind.

Principles

3. The interpretation and application of this Act must be guided by—
- (a) the national environmental management principles set out in section 2 of the National Environmental Management Act where applicable in this Act;
 - (b) the principle that the climate system must be protected for the benefit of present and future generations of humankind; 5
 - (c) the principle that acknowledges international equity and each country's common but differentiated responsibilities and respective capabilities, in light of different national circumstances;
 - (d) a contribution to a just transition towards low-carbon, climate-resilient and ecologically sustainable economies and societies which contribute to the creation of decent work for all, social inclusion and the eradication of poverty; 10
 - (e) the need for integrated management, in the context of climate change, which requires climate change considerations to be integrated into the making of decisions which may have a significant effect on the Republic's ability to mitigate or which exacerbate its vulnerability to climate change; 15
 - (f) the need for decision-making to consider the special needs and circumstances of localities and people that are particularly vulnerable to the adverse effects of climate change, including vulnerable workers and groups such as women, especially poor and rural women, children, especially infants and child-headed families, the aged, the poor, the sick and persons with disabilities; 20
 - (g) the need for a risk-averse and cautious approach to be adopted, which takes into account the limits of current knowledge about causes and effects of climate change and the consequences of decisions and actions in relation thereto; 25
 - (h) the need for climate change mitigation and adaptation responses to be informed by evolving climate change scientific knowledge and decisions which must be based on the best available science, evidence and information;
 - (i) an effective climate change response which requires preventative measures to mitigate the causes of climate change and to strengthen resilience through the adoption of adaptation measures; 30
 - (j) the costs of responding to the adverse impacts of climate change and of mitigation which must be paid for by those responsible for causing the adverse impacts;
 - (k) an integrated climate change response which requires the enhancement of public awareness of climate change causes and impacts and the promotion of participation and action at all levels; and 35
 - (l) a recognition that a robust and sustainable economy and a healthy society depends on the services that well-functioning ecosystems provide, and that enhancing the sustainability of the economic, social and ecological services is an integral component of an effective and efficient climate change response. 40

Application of Act

4. (1) This Act applies to the Republic, including—
- (a) its internal waters, territorial waters, exclusive economic zone and continental shelf of the Republic as referred to in sections 3, 4, 7 and 8 of the Maritime Zones Act, 1994 (Act No.15 of 1994), respectively; and 45
 - (b) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948).
- (2) This Act binds all organs of state.

Application of National Environmental Management Act

5. (1) This Act must, in relation to climate change, be read, interpreted and applied in conjunction with the National Environmental Management Act.

(2) This Act must be regarded as a specific environmental management Act as defined in section 1 of the National Environmental Management Act.

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Conflict with other legislation

6. In the event of any conflict between a provision of this Act and other legislation specifically relating to climate change, this Act prevails.

CHAPTER 2**POLICY ALIGNMENT AND INSTITUTIONAL ARRANGEMENTS**

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Alignment of policies

7. (1) Every organ of state that exercises a power or performs a function that is affected by climate change, or is entrusted with powers and duties aimed at the achievement, promotion and protection of a sustainable environment, must review and if necessary revise, amend, coordinate and harmonise their policies, laws, measures, programmes and decisions in order to—

15

- (a) ensure that the risks of climate change impacts and associated vulnerabilities are taken into consideration; and
- (b) give effect to the principles and objects set out in this Act.

(2) In order to give effect to the principles and objects set out in this Act, organised labour, civil society, business, traditional leaders and other relevant stakeholders may advise on the Republic's climate change response, the mitigation of climate change impacts and adaptation to the effects of climate change towards the attainment of the just transition to a climate resilient and low carbon economy and society.

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Provincial Forums on Climate Change

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8. (1) Every Premier's intergovernmental forum, established in terms of section 16 of the Intergovernmental Relations Framework Act, also serves as a Provincial Forum on Climate Change.

(2) Sections 17 and 19 of the Intergovernmental Relations Framework Act apply to a Provincial Forum on Climate Change.

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(3) A Provincial Forum on Climate Change must—

- (a) coordinate climate change response actions in the relevant province in accordance with this Act; and
- (b) provide a report to the President's Coordinating Council in terms of section 20(a) of the Intergovernmental Relations Framework Act, which report must include climate change considerations.

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(4) A Provincial Forum on Climate Change may establish an intergovernmental technical support structure in terms of section 30 of the Intergovernmental Relations Framework Act if there is a need for formal technical support to the Provincial Forum on Climate Change.

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Municipal Forums on Climate Change

9. (1) Every district intergovernmental forum, established in terms of section 24 of the Intergovernmental Relations Framework Act, also serves as a Municipal Forum on Climate Change.

(2) Sections 25 and 27 of the Intergovernmental Relations Framework Act apply to a Municipal Forum on Climate Change.

(3) A Municipal Forum on Climate Change must—

- (a) coordinate climate change response actions for those activities within the operational control of the relevant municipality in accordance with this Act; 5
and
- (b) provide a report on such actions to the relevant Provincial Forum on Climate Change.

(4) A Municipal Forum on Climate Change may establish an intergovernmental technical support structure in terms of section 30 of the Intergovernmental Relations Framework Act if there is a need for formal technical support to the Municipal Forum on Climate Change. 10

Presidential Climate Commission

10. (1) (a) The Presidential Climate Commission which existed immediately before the commencement of this Act continues to exist. 15

(b) A person who was a commissioner of the Presidential Climate Commission immediately prior to the commencement of this Act will, subject to subsection (6), continue to serve as a commissioner for the remainder of the term for which such commissioner was appointed.

(2) The Presidential Climate Commission will, upon being listed as a public entity in Schedule 3 to the Public Finance Management Act, be a national public entity for purposes of the Public Finance Management Act and will be subject to the provisions of the said Act. 20

(3) The Presidential Climate Commission is independent, impartial and will have the full legal capacity of a juristic person once it is listed as a national public entity in Schedule 3 to the Public Finance Management Act. 25

(4) (a) The President must appoint not more than 25 members who will serve as commissioners of the Presidential Climate Commission, comprising representatives of, including but not limited to, a fair representation of government, organised labour, civil society, traditional leaders, the South African Local Government Association and business, to advise on the Republic's climate change response, the mitigation of climate change impacts and adaptation to the effects of climate change towards the attainment of the just transition to a low-carbon and climate-resilient economy and society. 30

(b) A serving member of Parliament, as well as a member of a provincial legislature and a member of a municipal council, except a member of a municipal council who has been nominated by the South African Local Government Association, may not be appointed as a commissioner of the Presidential Climate Commission. 35

(5) Ministers, whose portfolios are affected by the work of the Presidential Climate Commission, must be invited to attend the meetings of the Presidential Climate Commission. 40

(6) The commissioners of the Presidential Climate Commission are appointed for a period of five years, renewable for one further period not exceeding five years.

(7) The Presidential Climate Commission is chaired by the President.

(8) The President must appoint a deputy chairperson.

(9) In the absence of the chairperson, the deputy chairperson must perform all functions of the chairperson. 45

(10) The Presidential Climate Commission may—

- (a) determine its own procedures to be followed at its meetings;
- (b) adopt a code of conduct for the commissioners of the Presidential Climate Commission; and 50
- (c) adopt rules which list the circumstances under which a commissioner may be removed, as well as the process for such removal.

Functions of Presidential Climate Commission

- 11.** (1) The functions of the Presidential Climate Commission are to—
- (a) advise on the Republic's climate change response to ensure realisation of the vision for effective climate change response and the long-term just transition to a low-carbon and climate-resilient-economy and society; 5
 - (b) advise government on the mitigation of climate change impacts, including through the reduction of emissions of greenhouse gases, and adapting to the effects of climate change; and
 - (c) advise government on any socio-economic matter related to the just transition.
- (2) The Presidential Climate Commission may establish committees to assist it in the performance of its functions and may delegate or assign such functions to such committees. 10
- (3) The committees established in terms of subsection (2) must be composed of persons suitably qualified in environmental management, climate change mitigation, finance, law and related fields. 15

Process of appointment

- 12.** (1) Before appointing the commissioners in terms of section 10(4), the President must—
- (a) invite nominations by notice in the *Gazette* and in at least two nationally circulated newspapers; and 20
 - (b) in the notice referred to in paragraph (a), specify the period within which nominations must be submitted and stipulate the procedure to be adopted regarding such nominations.
- (2) The composition of the Presidential Climate Commission must—
- (a) broadly reflect the demographics and gender composition of the Republic; and 25
 - (b) be appropriately qualified and have expertise in the socio-economic, environmental and broader sustainability field.
- (3) The role of a commissioner is to provide advice to the Presidential Climate Commission on the Republic's climate change response, the mitigation of climate change impacts and adaptation to the effects of climate change towards the attainment of the just transition to a low-carbon and climate-resilient economy and society. 30
- (4) No person shall be appointed as a commissioner unless he or she is a South African citizen.
- (5) Commissioners who are not in the employment of the state are eligible for remuneration. 35
- (6) The remuneration of commissioners must be determined by the Minister in consultation with the Minister of Finance.

Appointment of Executive Director

- 13.** (1) The Minister must appoint a person with appropriate qualifications, experience and expertise as the Executive Director of the Presidential Climate Commission following a competitive recruitment process. 40
- (2) The Executive Director is the accounting authority who must perform the functions of office in accordance with this Act.
- (3) A person appointed as Executive Director holds office—
- (a) for an agreed term not exceeding five years, but which is renewable for one further period of no longer than five years; and 45
 - (b) on terms and conditions determined by the Minister, which must include salary, allowances, benefits and performance standards after taking into consideration the recommendations of the Minister of Finance.

Financial administration

- 14.** (1) The Presidential Climate Commission must comply with the provisions of the Public Finance Management Act.
- (2) The Presidential Climate Commission must be funded from moneys—
- (a) appropriated by Parliament for that purpose through its respective departmental vote in terms of the Public Finance Management Act; and 5
 - (b) received by way of grants, donations or inheritance from any of the social partners or any source, whether inside or outside the Republic, in accordance with a fundraising strategy to be adopted by the Presidential Climate Commission from time to time. 10
- (3) Monies appropriated by Parliament for this purpose—
- (a) constitutes earmarked funds on the Minister's departmental vote; and
 - (b) may not be used by the Presidential Climate Commission for any other purpose without the approval of Parliament.
- (4) The fundraising strategy contemplated in subsection (2)(b) shall provide that such funding, amongst others— 15
- (a) must be unconditional other than that it will be used towards the fulfilment of the functions of the Presidential Climate Commission;
 - (b) will not result in a conflict of interests for the Presidential Climate Commission or any commissioner; and 20
 - (c) must be disclosed in full in accordance with this Act and any other applicable legislation.
- (5) All grants, donations and inheritances must be disclosed in the annual report of the Presidential Climate Commission and all material grants, donations and inheritance must be itemised. 25

Reporting to government

- 15.** (1) The Presidential Climate Commission must submit its reports, studies, strategies, recommendations and related information to the National Assembly and to the Ministers whose Portfolios may be affected, for information purposes, within 30 days of the finalisation thereof. 30
- (2) The Presidential Climate Commission must furnish the National Assembly with such additional information and particulars as the National Assembly may from time to time require in writing in connection with the activities or functions of the Presidential Climate Commission.
- (3) The National Assembly may require the Presidential Climate Commission to provide a report on any advice and guidance it has provided to government in terms of section 11. 35
- (4) The reports of the Presidential Climate Commission must be made available to the public by publication on the Presidential Climate Commission's website.
- (5) The Executive Director of the Presidential Climate Commission must submit to the Minister— 40
- (a) at the end of every quarter, a report on the Presidential Climate Commission's activities, the performance of its functions and expenditure, including the implementation of its approved strategic plan; and
 - (b) annually, within six months after the end of each financial year, the Presidential Climate Commission's financial statements and the audit report on such financial statements. 45
- (6) The Minister must table, in the National Assembly, the reports and financial statements submitted in terms of subsection (3)—
- (a) within 15 business days after receiving the reports and financial statements from the Executive Director of the Presidential Climate Commission; or 50
 - (b) if the National Assembly is not then sitting, within 15 business days after the commencement of the next sitting.

Administrative and secretariat support

16. (1) The Executive Director must appoint the secretariat of the Presidential Climate Commission in consultation with National Treasury.

(2) The secretariat is responsible for the management of the administrative affairs of the Presidential Climate Commission, the preparation of meetings and the running of the day-to-day operations, communications and research of the Presidential Climate Commission. 5

CHAPTER 3**CLIMATE CHANGE RESPONSE: PROVINCES AND MUNICIPALITIES****Climate change response 10**

17. (1) An MEC and a mayor of a metropolitan or district municipality, as the case may be, must—

- (a) at least within one year of the publication of the National Adaptation Strategy and Plan contemplated in section 21, undertake a climate change needs and response assessment for the province, metropolitan or district municipality, as the case may be; 15
- (b) for the purposes of paragraph (c), assess the extent to which its constitutionally mandated functions are affected by climate change and formulate steps to address these effects in the performance of its functions;
- (c) review and, to the extent necessary, amend and publish in the *Gazette* the climate change needs and response assessment at least once every five years; 20
- (d) at least within two years of undertaking the climate change needs and response assessment contemplated in paragraph (a), develop, implement and publish in the *Gazette* a climate change response implementation plan as a component of, and in conjunction with, provincial, metropolitan or district municipal planning instruments, policies and programmes; and 25
- (e) review and, to the extent necessary, amend and publish in the *Gazette* the climate change response implementation plan at least once every five years.

(2) The climate change needs and response assessment, contemplated in subsection (1)(a), must— 30

- (a) identify climate change response considerations and options;
- (b) analyse the nature and characteristics of the province or metropolitan or district municipality, as the case may be, and the particular and unique climate change needs and risks that arise as a result of such nature and characteristics;
- (c) identify and spatially map, within the sphere of operations of the province, district or metropolitan municipality, as the case may be, risks, vulnerabilities, areas, ecosystems and communities that will arise, or that are vulnerable to the impacts of climate change; 35
- (d) be based on the best available science, evidence and information; and
- (e) identify and determine measures and mechanisms to manage and implement the required climate change response. 40

(3) A climate change response implementation plan, contemplated in subsection (1)(d), must—

- (a) be informed by the climate change needs and response assessment contemplated in subsection (1)(a); 45
- (b) include measures or programmes relating to both adaptation and mitigation in line with the constitutional mandate of the province, or the metropolitan or district municipality; and
- (c) comply with any requirements as may be prescribed by the Minister inclusive of the relevant technical guidelines. 50

(4) A provincial climate change response implementation plan, contemplated in subsection (1)(d), must form a component of the province's environmental implementation plan developed in terms of section 11(1) of the National Environmental Management Act.

(5) A metropolitan or district municipal climate change response implementation plan, contemplated in subsection (1)(d), must form a component of the relevant municipality's integrated development plan adopted in terms of section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). 5

Finance mechanism

18. The Minister must prescribe a mechanism to support and finance the Republic's climate change response, planning and implementation by national, provincial and local government in consultation with the Minister of Finance. 10

CHAPTER 4

NATIONAL ADAPTATION TO IMPACTS OF CLIMATE CHANGE

Adaptation objectives 15

19. (1) The Minister must, within one year of the coming into operation of this Act, determine by notice in the *Gazette*—

- (a) national adaptation objectives which will guide the Republic's adaptation to climate change impacts, the development of resilience and sustainable development; 20
- (b) indicators for measuring progress towards achieving the national adaptation objectives; and
- (c) a date by which the national adaptation objectives must be incorporated into all relevant national planning instruments, policies and programmes which address, or are affected by, the actual and potential impacts of climate change. 25

(2) The Minister must, periodically, review and amend the national adaptation objectives contemplated in subsection (1)(a).

Adaptation scenarios

20. (1) The Minister must, within one year of the coming into operation of this Act, develop adaptation scenarios which anticipate the likely impacts of climate change in the Republic and associated vulnerabilities over the short, medium and longer term. 30

(2) The adaptation scenarios must—

- (a) be based on best available science, evidence and information;
- (b) include climate monitoring infrastructure for the climate system and early warning systems; 35
- (c) include a consideration of the potential impacts of climate change on the environment of the Republic and associated vulnerabilities; and
- (d) contain available adaptation response options to reduce identified vulnerabilities by building adaptive capacity and resilience, in the context of actual or anticipated social, economic and environmental costs. 40

(3) The Minister must, periodically, review and amend the national adaptation scenarios contemplated in subsection (1).

National Adaptation Strategy and Plan

21. (1) Climate change adaptation within the Republic must be managed in a coherent and coordinated manner and in accordance with a National Adaptation Strategy and Plan.

(2) The Minister must, in consultation with the Ministers responsible for the functions listed in Schedule 2, develop and publish a National Adaptation Strategy and Plan by notice in the *Gazette* within two years of the coming into operation of this Act. 5

(3) The Minister must review and amend the National Adaptation Strategy and Plan at a five-yearly interval to take into account—

- (a) monitoring and evaluation results; 10
- (b) technological advances;
- (c) the best available science, evidence or information; or
- (d) the Republic's international commitments and obligations.

(4) The purpose of the National Adaptation Strategy and Plan is to—

- (a) achieve a reduction in the vulnerability of society, the economy and the environment to the effects of climate change, strengthen the resilience of the socio-economic and environmental system and enhance the adaptive capacity of society, the environment and economy to the impacts of climate change; 15
- (b) reduce the risk and vulnerabilities from current and future climate scenarios;
- (c) achieve the national adaptation objectives contemplated in section 19; 20
- (d) provide a strategic and policy directive for adaptation to the impacts of climate change; and
- (e) provide an integrated and coordinated approach to the management of adaptation measures in response to the impacts of climate change by organs of state in all spheres of government, and where relevant it must also include non-governmental organisations, the private sector and local communities. 25

(5) The National Adaptation Strategy and Plan must include—

- (a) the national adaptation objectives contemplated in section 19;
- (b) a consideration of the Republic's climate change scenarios as informed by the adaptation scenarios contemplated in section 20; 30
- (c) an assessment of the Republic's vulnerability to climate change and related risks at sectoral, cross-sectoral and geographic levels, including a consideration of relevant disaster risk assessments in terms of the Disaster Management Act;
- (d) available adaptation response options to reduce identified vulnerabilities by building adaptive capacity and resilience, in the context of actual or anticipated social, economic and environmental costs; and 35
- (e) a plan that details the implementation of adaptation responses informed by the objectives and indicators contemplated in section 19.

Sector Adaptation Strategy and Plan

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22. (1) A Minister responsible for functions listed in Schedule 2 must—

- (a) at least within one year of the publication of the National Adaptation Strategy and Plan, and in alignment with such National Adaptation Strategy and Plan, conduct and publish in the *Gazette* an assessment of the functions under the Minister's operational control which— 45
 - (i) identifies and spatially maps risks and vulnerabilities, areas, ecosystems and communities that will arise and that are vulnerable to the impacts of climate change; and

- (ii) determines measures and mechanisms to manage and implement the required adaptation response;
 - (b) at least within two years of the publication of the National Adaptation Strategy and Plan, develop and implement a Sector Adaptation Strategy and Plan which must be informed by the assessment undertaken in terms of paragraph (a)(i) and serve to implement the measures and mechanisms determined in terms of paragraph (a)(ii); and 5
 - (c) at least every five years, review a Sector Adaptation Strategy and Plan and, if required, amend the Sector Adaptation Strategy and Plan to take into account— 10
 - (i) monitoring and evaluation results;
 - (ii) technological advances;
 - (iii) the best available science, evidence or information; and
 - (iv) the Republic's international commitments and obligations.
- (2) A Minister responsible for functions listed in Schedule 2 must, at least within five years of the publication of a Sector Adaptation Strategy and Plan and at five-yearly intervals thereafter, submit reports to the Minister on the progress made in relation to the implementation of the relevant Sector Adaptation Strategy and Plan. 15

Adaptation Information and Synthesis Adaptation Report

23. (1) The Minister may by notice in the *Gazette*, or in writing, require any person to provide, within a reasonable time or on a regular basis, data, information, documents, samples or materials to the Minister that are reasonably required for the purposes of the fulfilment of the objectives of this Act. 20
- (2) A notice under subsection (1) must indicate the manner and time-frames in which the information must be furnished and, if required, how the information must be verified. 25
- (3) The Minister must collate, compile and synthesise information relevant to the achievement of the national adaptation objectives and the objectives of this Act and thereafter publish a Synthesis Adaptation Report for consideration by Cabinet and to be used in the Republic's national and international reporting processes. 30

CHAPTER 5

GREENHOUSE GAS EMISSIONS AND REMOVALS

National greenhouse gas emissions trajectory

24. (1) The Minister must, in consultation with Cabinet, by notice in the *Gazette* determine a national greenhouse gas emissions trajectory for the Republic. 35
- (2) The national greenhouse gas emissions trajectory must—
- (a) specify a national greenhouse gas emissions reduction objective represented by a quantitative description of the total amount of greenhouse gas emissions projected to be emitted during a specified period in the Republic;
 - (b) be informed by relevant evidence-based and latest information regarding the total current and projected amounts of greenhouse gas emissions in the Republic; and 40
 - (c) be consistent with the principles and objectives of this Act and the Republic's international obligations.
- (3) Until such time as the Minister publishes the national greenhouse gas emissions trajectory in terms of subsection (1), the latest updated Nationally Determined Contribution serves as the trajectory. 45
- (4) The Minister, in consultation with Cabinet—
- (a) must review the national greenhouse gas emissions trajectory every five years from the coming into operation of this Act; and 50

- (b) may periodically review the national greenhouse gas emissions trajectory when national circumstances require such a review, including when such requirement is demonstrated by—
- (i) monitoring and evaluation results;
 - (ii) technological advances; 5
 - (iii) the best available science, evidence or information;
 - (iv) the Republic's international commitments and obligations; or
 - (v) constraints and opportunities to implementation of policies and measures.
- Sectoral emissions targets** 10
- 25.** (1) (a) The Minister must, within one year of the coming into operation of this Act, by notice in the *Gazette*, list the greenhouse gas emitting sectors and sub-sectors that are subject to sectoral emissions targets.
- (b) The list contemplated in paragraph (a) must appropriately reflect the national greenhouse gas emissions profile. 15
- (2) The Minister may vary the list of sectors and sub-sectors that are subject to sectoral emissions targets guided by the national greenhouse gas emissions profile.
- (3) The Minister must, in consultation with the Ministers responsible for each sector and sub-sector listed in terms of subsections (1) and (2), determine by notice in the *Gazette* the prescribed framework and the sectoral emissions targets for sectors and sub-sectors. 20
- (4) Sectoral emissions targets must—
- (a) be implemented by the Ministers responsible for the administration of sectors or sub-sectors listed in terms of subsections (1) and (2) through the relevant planning instruments, policies and programmes; 25
 - (b) be aligned with the national greenhouse gas emissions trajectory, noting that the cumulative amount of greenhouse gas emission reductions which the sectoral emissions targets represent, ensures that the national greenhouse gas emissions profile is kept within the national greenhouse gas emissions trajectory; and 30
 - (c) include quantitative and qualitative greenhouse gas emission reduction goals for the first five years, the subsequent five to 10 years and for a 10 to 15 year period thereafter. 30
- (5) When determining the sectoral emissions targets, the Minister must take all relevant considerations into account, including, amongst others— 35
- (a) the socio-economic impacts of introducing the sectoral emissions targets; and
 - (b) the best available science, evidence and information.
- (6) The Minister responsible for each sector or sub-sector for which sectoral emissions targets have been determined, in accordance with subsection (3), must adopt policies and measures towards the achievement of the sectoral emissions targets. 40
- (7) The Minister, in consultation with the Ministers responsible for each sector and sub-sector listed in terms of subsections (1) and (2), must, every five years, review the sectoral emissions targets and, when the outcome of the review or national circumstances require it, revise and amend the sectoral emissions targets, including when the need for such revision and amendment is demonstrated by— 45
- (a) monitoring and evaluation results;
 - (b) technological advances;
 - (c) the best available science, evidence or information;
 - (d) the Republic's international commitments and obligations;
 - (e) the strategic importance of the sector or sub-sector as a catalyst for growth and job creation in the economy; or 50
 - (f) the agreed approach to the just transition.

(8) An amended sectoral emissions target must contain quantitative and qualitative mitigation targets for the first five years, for the subsequent five to 10 years and for a 10 to 15 year period thereafter.

(9) The Minister responsible for each sector and sub-sector for which sectoral emissions targets have been determined, within one year of the publication of the sectoral emissions targets, must— 5

- (a) develop or amend the relevant sectoral and sub-sectoral policies and measures for which that Minister is responsible in terms of the achievement of the sectoral emissions targets; 10
- (b) publish such amendment in the *Gazette*;
- (c) implement the policies and measures within the relevant sectors and sub-sectors; and
- (d) monitor the effectiveness of implementing such policies and measures in achieving the relevant sectoral emissions target.

(10) The Minister responsible for each sector and sub-sector for which sectoral emissions targets have been revised and amended in terms of subsection (7) must— 15

- (a) within six months of the publication of the revised and amended sectoral emissions targets and to the extent required by such revision and amendment, revise and amend the policies and measures provided for in subsection (9);
- (b) publish such revisions and amendments by notice in the *Gazette*; and 20
- (c) ensure that the duly revised and amended policies and measures are implemented and monitored for effectiveness.

(11) The Minister responsible for each sector and sub-sector for which sectoral emissions targets have been determined in terms of subsection (3), or for which revised and amended sectoral emissions targets have been determined in terms of subsection (7), must annually report to the Presidency on progress towards the achievement of the relevant sectoral emissions targets. 25

(12) The Minister must collate, compile and synthesise the reports provided in terms of subsection (11) and submit progress reports on the implementation of the sectoral emissions targets to Cabinet on an annual basis. 30

Listed greenhouse gases and activities

26. (1) The Minister must, by notice in the *Gazette*, publish a list of greenhouse gases which the Minister reasonably believes cause or are likely to cause or exacerbate climate change.

(2) The Minister must, by notice in the *Gazette*, publish a list of activities which emit, or has the potential to emit, one or more of the greenhouse gases listed in terms of subsection (1). 35

(3) A notice published in terms of subsection (2)—

- (a) must apply to greenhouse gas emitting activities which have already commenced and new greenhouse gas emitting activities; 40
- (b) must determine quantitative greenhouse gas emission thresholds expressed in carbon dioxide equivalent to identify persons to be assigned a carbon budget, in terms of section 27(1), and who are required, in terms of section 27(4), to submit greenhouse gas mitigation plans to the Minister;
- (c) must specify that the notice does not apply to listed activities which emit quantities of greenhouse gases below the quantitative greenhouse gas emission thresholds determined in terms of paragraph (b); 45
- (d) may contain transitional provisions and other special arrangements in respect of the activities contemplated in paragraph (a); and
- (e) must determine the date on which the notice takes effect. 50

- (4) The thresholds contemplated in subsection (3)(b)—
- (a) must be expressed in carbon dioxide equivalents for carbon budgets and greenhouse gas mitigation plans and shall be applicable at company level based on operational control;
 - (b) must be based on the availability of feasible mitigation technology; and 5
 - (c) must take into account any opportunities and constraints to implementation of policies and measures.
- (5) The Minister may review the lists published in terms of subsections (1) and (2) in line with the requirements of national and international mitigation goals for the purposes of determining whether such lists require revision and amendment, including when the need for such review is demonstrated by— 10
- (a) monitoring and evaluation results;
 - (b) technological advances;
 - (c) the best available science, evidence or information;
 - (d) the Republic's international commitments and obligations; or 15
 - (e) opportunities and constraints to implementation of policies and measures.
- (6) In the event that a review undertaken in terms of subsection (5) indicates the need for revision and amendment of one or both of the lists, the Minister may, by notice in the *Gazette*, revise and amend the relevant list, by—
- (a) adding or removing greenhouse gases from the greenhouse gases list; 20
 - (b) adding or removing activities from the activities list; or
 - (c) making other changes to the particulars on the list, such as the applicability of greenhouse gases to certain activities.

Carbon budgets

27. (1) The Minister must allocate a carbon budget to any person that conducts an activity listed in terms of section 26(2). 25
- (2) When allocating carbon budgets, the Minister must take all relevant considerations into account, including but not limited to—
- (a) the socio-economic impacts of imposing the carbon budget;
 - (b) the best available science, evidence and information; 30
 - (c) the best practicable environmental options available and alternatives that could be taken to mitigate the emission of greenhouse gases;
 - (d) national strategic priorities;
 - (e) the alignment of the carbon budgets with the national greenhouse gas emissions trajectory, noting that the cumulative amount of greenhouse gas emissions which the carbon budgets represent are not equivalent thereto; and 35
 - (f) progress on the implementation of the greenhouse gas mitigation plans.
- (3) A carbon budget—
- (a) must have a duration of at least three successive five-year periods; and
 - (b) must specify the maximum amount of greenhouse gas emissions that may be emitted during the first five-year period. 40
- (4) (a) A person to whom a carbon budget has been allocated in terms of subsection (1) must prepare and submit to the Minister, for approval, a greenhouse gas mitigation plan.
- (b) A greenhouse gas mitigation plan must— 45
- (i) describe the mitigation measures that the person, to whom a carbon budget is allocated, proposes to implement in order to remain within the person's allocated carbon budget; and
 - (ii) comply with the content requirements of such plans as may be prescribed by the Minister in terms of section 30, including requirements pertaining to processes, procedures and reporting. 50

(5) At the time when the carbon budget is assigned for the first mandatory carbon budget cycle, all approved pollution prevention plans as contemplated in section 29 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), and the National Pollution Prevention Plans Regulations, 2017, published under Government Notice No. 712 of 21 July 2017, must be deemed to be greenhouse gas mitigation plans. 5

(6) A person to whom a carbon budget has been allocated must—

- (a) implement the approved greenhouse gas mitigation plan;
- (b) monitor annual implementation of the greenhouse gas mitigation plan in accordance with the prescribed methodology; 10
- (c) evaluate progress on the allocated carbon budget;
- (d) annually report on the progress against the allocated carbon budget to the Minister in the manner prescribed; and
- (e) in the event that such reporting indicates that the person has failed, is failing or will fail to comply with the allocated carbon budget, provide a description of measures the person will implement in order to remain within the allocated carbon budget. 15

(7) (a) The Minister must review a carbon budget allocated to a person in terms of subsection (1) at the end of the five-year carbon budget commitment period, or upon request by a person subject to a carbon budget. 20

(b) A person to whom a carbon budget has been allocated may apply for a revision or cancellation of the carbon budget under circumstances to be prescribed in the regulations contemplated in section 30(2)(a)(i).

(c) The factors listed in subsection (2) must be taken into consideration when a carbon budget is reviewed. 25

(8) The Minister must, within a reasonable time of the review provided for in subsection (7), revise a carbon budget—

- (a) to ensure that it always has a duration of at least three successive five-year periods; and
- (b) if the National Greenhouse Gas Inventory demonstrates an increase in national greenhouse gas emissions above the national and international climate change mitigation commitments and obligations. 30

(9) An allocated carbon budget may be amended if the activity for which the carbon budget has been issued is transferred or acquired in part or fully and the affected person must request a reallocation of a carbon budget from the Minister in the prescribed manner. 35

Phase-down and phase-out of synthetic greenhouse gas emissions and declaration

28. (1) The Minister, in consultation with the Ministers responsible for the greenhouse gas emitting sectors and sub-sectors contemplated in section 25, must by notice in the *Gazette*— 40

- (a) declare certain greenhouse gases to be synthetic greenhouse gases;
- (b) specify, in respect of each of the gases listed in the declaration contemplated in paragraph (a), whether such gases are required to be phased out or phased down;
- (c) prescribe thresholds for the use of synthetic greenhouse gases in terms of section 26(3)(b); and 45
- (d) contain timeframes for the phase-down or phase-out of synthetic greenhouse gases.

(2) The Minister, in consultation with the Ministers responsible for the greenhouse gas emitting sectors and sub-sectors contemplated in section 25, and any affected party, in the prescribed manner, must— 50

- (a) develop a plan to phase down or phase out synthetic greenhouse gases declared in terms of subsection (1); and

- (b) review and update the plan provided for in paragraph (a) every five years.
- (3) A plan developed in accordance with subsection (2)(a) must—
- (a) address how importers and exporters of synthetic greenhouse gases must account for their emissions of synthetic greenhouse gases;
 - (b) contain measures that facilitate the phase-down or phase-out of synthetic greenhouse gases; and 5
 - (c) be consistent with the Republic's international obligations.
- (4) The Minister may allocate a carbon budget to persons undertaking activities that give rise to emissions of the synthetic greenhouse gases declared pursuant to subsection (1), in which event the Minister must follow the process for the allocation of carbon budgets provided for in section 27. 10

National Greenhouse Gas Inventory

29. (1) The Minister must establish an institutional arrangement to facilitate a national system of data collection for the creation of a National Greenhouse Gas Inventory and the annual compilation of the National Greenhouse Gas Inventory Report. 15
- (2) The National Greenhouse Gas Inventory Report contemplated in subsection (1) must—
- (a) set out and analyse emissions trends, including detailed reports on changes in the greenhouse gas emissions intensity in the economy; and
 - (b) compare actual greenhouse gas emissions against the national greenhouse gas emissions trajectory and national and international climate change mitigation commitments and obligations. 20
- (3) The Minister may by notice in the *Gazette* identify a list of activities and thresholds for which measurements or estimations of greenhouse gas emissions and carbon sinks from stationary, mobile, fugitive, process, agriculture, land use and waste sources must be carried out. 25
- (4) The thresholds stipulated in subsection (3) must be expressed as a function of activity for greenhouse gas emissions reporting and may be different for different activities, taking into account the significance of the contribution of these activities to total national greenhouse gas emissions as well as its completeness. 30
- (5) A notice under subsection (3) must indicate the manner in which the information must be furnished and, if required, how the information must be verified.

CHAPTER 6

GENERAL MATTERS AND TRANSITIONAL ARRANGEMENTS

Regulations 35

30. (1) The Minister may make regulations—
- (a) in relation to any matter necessary to give effect to the Republic's international climate change commitments and obligations;
 - (b) in relation to the management of climate change response including incentives and disincentives to encourage a change in behaviour towards the generation of greenhouse gases amongst all sectors of society; 40
 - (c) that will promote effective monitoring, evaluation and the assessment of national progress in relation to climate change mitigation and adaptation matters, including—

- (i) in relation to the progress made by national departments, provinces and municipalities with the development and implementation of Sector Adaptation Strategy and Plans, climate change needs and response assessments and climate change response implementation plans;
- (ii) in relation to the performance of the departments responsible for the functions contemplated in Schedule 2, as well as provinces and municipalities, in respect of the national adaptation objectives; and 5
- (iii) in relation to the consequences for the failure of the departments responsible for functions listed in Schedule 2 as well as provinces and municipalities, to report in the prescribed manner; 10
- (d) that will promote the effective monitoring, evaluation and assessment of national progress in relation to climate change matters and climate change data and information, including information necessary to determine climate change vulnerability and to foster resilience; and
- (e) in relation to the administration and operation of the Presidential Climate Commission or any committee established in terms of this Act, to ensure the achievement of its purpose, functions and responsibilities. 15
- (2) The Minister must make regulations—
 - (a) in relation to the management of climate change response, including—
 - (i) the determination, review, revision, compliance with and enforcement of an allocated carbon budget, amendment and cancellation of a carbon budget allocation, the content, implementation and operation of a greenhouse gas mitigation plan, and all matters related thereto; and 20
 - (ii) the phasing down or phasing out of synthetic greenhouse gases, including the development of timeframes, inventories and mechanisms for reporting; 25
 - (b) that will promote the effective monitoring, evaluation and assessment of national progress in relation to climate change matters and climate change data and information, including information relating to direct and indirect greenhouse gas emissions, for the purposes of planning, analysis and monitoring and the compilation of the National Greenhouse Gas Inventory, and that will inform how the Republic may comply with any international obligations; and 30
 - (c) in relation to any other matter which the Minister must prescribe in terms of this Act. 35
- (3) A regulation made in terms of this Act may provide that any person who contravenes or fails to comply with a provision thereof commits an offence and will be liable, upon conviction, to the penalties contemplated in section 49B(2) of the National Environmental Management Act.
- (4) Any regulations made in terms of section 18 must, 30 days prior to the publication of the regulations in the *Gazette*, be tabled in Parliament. 40

Consultation

- 31.** (1) Before exercising a function or power in terms of section 17(1), 19, 20, 21(2), 21(3), 22(1)(b), 22(1)(c), 23(1), 24(1), 24(4), 25(1), 25(2), 25(3), 25(7), 25(9), 25(10), 26(1), 26(2), 26(5), 26(6), 27(1), 27(7), 27(8), 27(9), 28, 29(3) or 30, the Minister, MEC or mayor, as the case may be, must follow such consultative processes as may be appropriate in the circumstances. 45
- (2) When conducting a consultation contemplated in subsection (1), the Minister must—
- (a) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the function or power; and 50
 - (b) in accordance with the principles of cooperative governance as set out in Chapter 3 of the Constitution, consult the MEC in each province that will be affected by the exercise of the power.

- (3) When conducting a consultation contemplated in subsection (1), an MEC must—
- (a) consult all members of the Executive Council whose areas of responsibility will be affected by the exercise of the function or power; and
 - (b) in accordance with the principles of cooperative governance as set out in Chapter 3 of the Constitution, consult the Minister and all other national organs of state that will be affected by the exercise of the function or power. 5
- (4) In respect of the carbon budgets issued in terms of section 27, the Minister must follow a fair procedure prior to the issue of the carbon budget including consultation with the person to whom a carbon budget is allocated.
- (5) When conducting a consultation contemplated in subsection (1), a mayor must follow such consultative processes in accordance with the principles of cooperative governance as set out in Chapter 3 of the Constitution. 10

Public participation

- 32.** (1) Before exercising a function or power in terms of section 17(1), 19(1), 19(2), 20(1), 20(3), 21(2), 22(1)(b), 22(1)(c), 23(1), 23(3), 24(1), 24(4), 25(1), 25(2), 25(3), 25(7), 25(9), 25(10), 26(1), 26(2), 26(5), 26(6), 28 or 30, the Minister, MEC or mayor, as the case may be, must give notice of the proposed exercise of the relevant function or power— 15
- (a) in the *Gazette*; and
 - (b) in at least one newspaper distributed nationally or, if the exercise of the function or power will affect only a specific area, in at least one newspaper distributed in that area. 20
- (2) The notice contemplated in subsection (1) must—
- (a) invite members of the public to submit to the Minister, MEC or mayor, as the case may be, within 30 days of publication of the notice in the *Gazette*, written representations on or objections to the proposed exercise of the function or power; and 25
 - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections.
- (3) The Minister, MEC or mayor may in appropriate circumstances allow any interested person or community to present oral representations or objections in terms of subsection (2) to the Minister, MEC or mayor, or to a person designated by the Minister or MEC or mayor. 30
- (4) The Minister, MEC or mayor must give due consideration to all representations and objections received or presented before exercising the function or power concerned. 35

Delegation

- 33.** (1) The Minister may delegate a power or duty vested in him or her in terms of this Act, excluding the power to make regulations in terms of section 30, in accordance with section 42 of the National Environmental Management Act.
- (2) An MEC may delegate a power or duty vested in or delegated to him or her in terms of this Act in accordance with section 42A of the National Environmental Management Act. 40

Access to information

- 34.** Information provided to the Minister or the Department in terms of this Act must be made available by the Minister subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), and the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). 45

Offences and penalties

- 35.** (1) A person commits an offence if that person—
- (a) fails to provide data, information, documents, samples or materials to the Minister in terms of section 23(1);
 - (b) provides false and misleading data, information, documents, samples or materials to the Minister in terms of section 23(1); 5
 - (c) fails to prepare and submit a greenhouse gas mitigation plan to the Minister in terms of section 27(4);
 - (d) fails to comply with or contravenes the notice of the Minister in terms of section 28(1); and 10
 - (e) fails to comply with the measures contemplated in section 28(3)(b).
- (2) A person convicted of an offence in terms of subsection (1) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years or to both such fine and imprisonment. 15

Appeals

- 36.** (1) Any person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act.
- (2) Any person may appeal to an MEC against a decision taken by any person acting under a power delegated by that MEC under this Act. 20
- (3) An appeal lodged in terms of subsection (1) or (2) must be noted and dealt with in terms of section 43(4) of the National Environmental Management Act.

Savings, transitional provisions and amendment of laws

- 37.** (1) The notice relating to the Declaration of Greenhouse Gases as Priority Air Pollutants, 2017, published under Government Notice No. 710 of 21 July 2017, the National Pollution Prevention Plans Regulations, 2017, published under Government Notice No. 712 of 21 July 2017, and the National Greenhouse Gas Emissions Reporting Regulations, 2016, published under General Notice No. 275 of 3 April 2017, made in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), will serve as regulations and notices published in terms of this Act, as soon as this Act comes into operation and will remain in force and effect until they are amended, replaced or repealed in terms of this Act. 25 30
- (2) The National Environmental Management Act is hereby amended to the extent reflected in Schedule 3.

Short title and commencement

35

- 38.** This Act is called the Climate Change Act, 2024, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

SCHEDULE 1**Functions relevant to the development of Sectoral Emissions Targets**

Agriculture;
Forestry;
Fisheries;
Cooperative Governance;
Traditional Affairs;
Economic Development;
Energy;
Environment;
Health;
Human Settlements;
International Relations;
Mineral Resources;
National Treasury;
Public Enterprises;
Public Works;
Rural Development;
Land Reform;
Science;
Technology;
Trade;
Industry;
Transport;
Water Affairs; and
Sanitation.

SCHEDULE 2**National Departments and State-Owned Entities responsible for certain functions
required to develop a Sector Adaptation Strategy and Plan**

Agriculture;
Education;
Cooperative Governance;
Forestry;
Fisheries;
Disaster Risk Reduction;
Energy;
Environment;
Health;
Human Settlements;
Manufacturing;
Public Enterprises;
Rural Development;
Land Reform;
Science;
Technology;
Tourism;
Traditional Affairs;
Transport;
Water Affairs; and
Sanitation.

SCHEDULE 3

Amendment of laws: Section 34

Act no.	Year	Title	Extent of amendment or repeal
107	1998	National Environmental Management Act	<p>1. The amendment of section 1—</p> <p>(a) by the deletion in the definition of “specific environmental management Act” of the word “or” at the end of paragraph (g);</p> <p>(b) by the deletion in the definition of “specific environmental management Act” of the comma at the end of paragraph (h) and the insertion of a semi-colon and the word “or”; and</p> <p>(c) by the addition to the definition of “specific environmental management Act” of the following paragraph: “(i) the <u>Climate Change Act, 2024.</u>”</p>

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