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Date: 8 June 2016

The Civilian Secretariat for Police Service  
Attention: Adv Dawn Bell – Chief Director: Legislation  
Private Bag X922  
PRETORIA  
0001

Email: [dawn.bell@csp.gov.za](mailto:dawn.bell@csp.gov.za)

Dear Sir/Madam

**COMMENTS BY THE NATIONAL ENERGY REGULATOR ON CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016 (the Bill)**

On 13 May 2016 the Critical Infrastructure Protection Bill, 2016 was published in Government Gazette No. 39985, inviting members of the public wishing to comment of the Bill to provide written comments by no later than 15 June 2016, to the Civilian Secretariat for Police Service.

The National Energy Regulator values and appreciates the opportunity given to submit written comments, attached hereto market **Annexure "A"** and trust that they will receive your favourable consideration.

Yours sincerely

Paseka Nku  
Acting Chief Executive Officer

Date: 09/06/2016

Regulator Members: Mr JRD Modise (Chairperson) Ms MMD Nkomo (Deputy Chairperson)  
\*Mr T Bukula \*Dr RD Crompton \*Ms N Maseti Ms KR Mthimunya Mr FK Sibanda  
\*Full-time Regulator Members

NERSA is a Regulatory Authority established in terms of the National Energy Regulator Act, 2004 (Act No 40 of 2004)

# ANNEXURE A

**COMMENTS BY THE NATIONAL ENERGY REGULATOR TO THE  
CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016**

**1. COMMENTATOR DETAILS**

<b>Organization Name</b>	<b>NATIONAL ENERGY REGULATOR</b>		
<b>Department</b>		<b>Private Individual</b>	
<b>Organization Type (Please indicate with a X)</b>	<b>Constitutional Institution</b>	<b>Private Organization / Company</b>	
	<b>Public Entity</b>	<b>X Other</b>	
<b>Telephone Number</b>	012 401 4600		
<b>Email Address</b>	info@nersa.org.za		

ANALYSIS ON THE CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016

Section	DESCRIPTION	OBLIGATION / REQUIREMENT	COMMENT (IF APPLICABLE)
General note	Critical Infrastructure Protection Bill, "the Bill"		The Bill has been extensively enhanced from the Protection of Crucial Infrastructure Bill, 2014, published in Government Gazette No. 37403.
Definitions	Critical Infrastructure complex	One or more critical infrastructure grouped together for practical or administrative reasons	Delete the definition, it has a potential to create challenges or confusion as to the type of grouping of the infrastructure. The definition of "Critical Infrastructure" is sufficient without reference to "critical infrastructure complex".  If the above proposal is accepted, reference to "critical infrastructure complex" should be deleted wherever it appears in the Bill, particularly from the following sections:  <ul style="list-style-type: none"> <li>• Section 16(3) – page 29;</li> <li>• Section 26(2)(d) and (e) – page 45.</li> <li>• Arrangements of sections, Chapter 3, heading and sub-heading – page 5, again on point 16 same page;</li> <li>• Chapter 3 Heading and sub-heading – page 28;</li> <li>• Section 20(6)(a) – page 35;</li> <li>• Section 27(1)(s) - page48;</li> </ul>
5(2)	Procedure for appointment of members of council and disqualification.	Disqualification from appointment	An additional disqualification: Subsection 5(2)(g) – has been removed from a position or an office of trust."
6	Funding and remuneration	Expense of the Council	The Council should be allocated its budget, approved by Parliament to enhance its independence.

ANALYSIS ON THE CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016

Section	DESCRIPTION	OBLIGATION / REQUIREMENT	COMMENT (IF APPLICABLE)
7(b)	Functions of Critical Infrastructure Council	Receive and consider applications for the declaration as critical infrastructure	Delete the highlighted word. "receive and consider applications for the declaration as critical infrastructure, as well as any evaluation or resilience report of physical security risk assessment and any other relevant information [redacted] from the National Commissioner,"
7(g)		Compile and submit report to the minister	The Council should be given at least three (3) months after the end of its financial year to compile and submit a report to the Minister. Therefore, section 7(g) should be amended to read: "compile and submit a report to the Minister at <u>least within three (3) months</u> after the end of each financial year"
8	Meetings of Critical Infrastructure Council	Quorum of the meeting of the Critical Infrastructure Council	This section provides for convening Council meetings, amongst others. It is silent on quorum. The quorum of the meeting can be fifty percent plus one of Council members.

ANALYSIS ON THE CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016

Section	DESCRIPTION	OBLIGATION / REQUIREMENT	COMMENT (IF APPLICABLE)
9(3)(a)	Functions of National Commissioner	The National Commissioner must -	Add the following phrase after the word "consider": "and recommend to the Council"
9(3)(c)		Recommendations to the Council	Delete the word "such" in line 2 just before the word "critical".
9(3)(h)(ii)		Quarterly Reports	Insert the phrase "for declaration of infrastructure" after the word "applications"
11(3)(b)	Functions of inspector	Use of reasonable force	This section should be amended to read as follows, "An inspector who is in possession of a warrant contemplated in paragraph (a), may use such force as may be reasonably necessary, proportional to all the circumstance, to enter into the critical infrastructure for the purpose of an inspection."
11(7)(a)	Notice to extend powers	Extent and conditions of powers	Delete both commas (,) from the section.

**ANALYSIS ON THE CRITICAL INFRASTRUCTURE PROTECTION BILL, 2016**

Section	DESCRIPTION	OBLIGATION / REQUIREMENT	COMMENT (IF APPLICABLE)
27(1)(b)	Regulations	Factors to be taken into account for any recommendation	The factor to be taken into account for any recommendation, must be determined in the Bill; and not left to be in the Regulations.

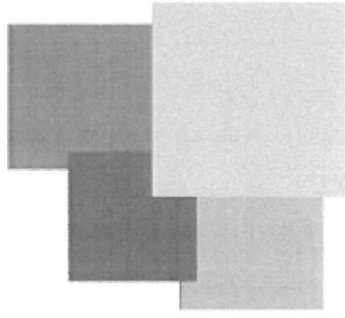
**2. SIGN OFF PAGE**

Signature of organization representative responsible for comments:

Name: MOLEFE BOIYANE

Designation: LEGAL ADVISOR

Date: 08 JUNE 2016  
012 401 4773



THE BANKING  
ASSOCIATION  
SOUTH AFRICA

Presentation to The National Assembly  
Portfolio Committee on Police

CRITICAL INFRASTRUCTURE PROTECTION BILL

30 JANUARY 2018





## Introduction

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BASA supports the tenor of the Bill which is aimed at ensuring that South Africa maintains a robust and sustainable approach to the protection of South Africa's critical infrastructure in the interests of the state and all citizens.





## Declaration of banks as critical infrastructure

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- BASA supports the Bill in general

The Bill does not explicitly include banks as they fall outside the definition of 'basic public service'

However, banks can be declared 'critical infrastructure' by the Minister of Police, if the Commissioner makes an application for such in terms of Clause 16 of the Bill.





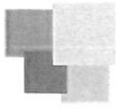
## Declaration of banks as critical infrastructure

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We propose that if the Minister declares a 'financial institution' as defined in the Financial Sector Regulation Act, 9 of 2017 (FSR Act), a critical infrastructure that ***it should be done in consultation with the Financial Stability Oversight Committee as defined in the FSR Act.***





## Section 9 Functions of National Commissioner

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- Members of the 'cyber response committee' established in section 53 of the Cybercrimes and Cybersecurity Bill, include representatives from the South African Reserve Bank, National Treasury and the Financial Intelligence Centre.
- This consultation process provides assurance that banking industry supervisory bodies will be consulted with respect to cyber matters.

