



01 March 2022

CRITICAL INFRASTRUCTURE COUNCIL (CIC)

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1. INTRODUCTION

The Critical Infrastructure Protection Act, 2019 (No. 08 of 2019) (CIPA) was assented to by the President on 20 December 2019. The CIPA provides for the establishment of a Critical Infrastructure Council (CIC) to, amongst others, consider any application for declaration of infrastructure as critical infrastructure and make recommendations on such applications to the Minister of Police. The CIC consists of 13 individuals appointed by the Minister of Police, of which eight members are from the public sector and five members from the private sector and/or civil society. The five members from the private sector members are chosen by the Minister of Police from a list of 10 candidates recommended by the Portfolio Committee on Police. On 05 August 2021, the Committee referred its list of recommended candidates to the Minister of Police and on 06 December 2021, the Minister confirmed the names of the CIC Members.

This paper is in preparation for a meeting of the Portfolio Committee on Police scheduled for 02 March 2022 to consider the members appointed to serve on the CIC.

2. PROCESSING OF THE CRITICAL INFRASTRUCTURE PROTECTION ACT, 2019 (CIPA)

The Critical Infrastructure Protection Bill, 2017 [B22-2017] was introduced in Parliament in 2017 and took three years to progress through Parliament. The Bill was signed into law by the President in 2020.

The following key events and dates should be noted:

- The Critical Infrastructure Protection Bill, 2017 [B22-2017] was introduced by the Minister of Police in the National Assembly on 29 September 2017.
- The Portfolio Committee on Police started deliberations and public hearings on the Bill on 30 January 2018 and concluded deliberations on 14 August 2018.
- The National Assembly passed the Bill on 28 August 2018 after which it was sent to the National Council of Provinces (NCOP) for concurrence.
- The Select Committee on Security and Justice started public hearings and deliberations on 12 September 2018.



- The NCOP passed the bill on 04 December 2018 and returned it to the National Assembly for consideration.
- The Portfolio Committee on Police started deliberations (on amendments made by the NCOP) on 19 February 2019.
- The Bill was passed by the NA and NCOP on 05 March 2019 and was sent to the President for assent.
- On 20 December 2020, the President signed the Bill into law, becoming the Critical Infrastructure Protection Act, 2019 (No. 08 of 2019).

The Committee should take special note of Section 27 of the CIPA relating to **Regulations**. The CIPA provides that:

- The Minister must table any proposed regulations in Parliament for scrutiny before promulgation.
- Any regulation necessary for the immediate implementation of this Act must be promulgated to coincide with the coming into operation of the CIPA.
- Before making any regulation, the Minister must publish a notice in the Gazette setting out the draft regulations and invited written comments to be submitted on the proposed regulations within a specified period. These must be considered by the Minister.
- The Minister may thereafter decide whether or not to amend the Regulations based on the submissions.
- The Minister must publish the final regulations in the Gazette.

The CIPA further provides that the Minister of Police must, by notice in the Gazette and within a period of 60 days after the coming into operation of the CIPA, publish a list containing the names of National Key Points or National Key Point Complexes which are deemed to be critical infrastructure.

3. APPOINTMENT OF THE CRITICAL INFRASTRUCTURE COUNCIL (CIC)

3.1. Composition of the CIC

The CIC consists of senior members of the public service (at the level of Chief Director or equivalent) and members from the private sector and/or civil society with an expertise and experience that will contribute to the functioning of the CIC (including fields such as infrastructure protection, engineering, disaster management and security policy). The senior members of the public service are appointed by the Minister of Police after consultation with the Ministers of the relevant departments as required by the CIPA (see below). The members from the private sector and/or civil society are also appointed by the Minister of Police from an approved list of recommended candidates by Parliament.

In total, the CIC consists of 13 individuals, eight of which are from the public service and five from the private sector and/or civil society. The Council members serve a term of five-years, which can be extended only one time.

The composition of the CIC is as follows:

- The Secretary for the Police Service;
- Official (at the level of at least Chief Director or an equivalent level) from each of the following institutions:
 - Department of Defence;



- Department of Home Affairs;
- Department of Public Works;
- National Disaster Management Centre;
- South African Local Government Association;
- South African Police Service; and
- State Security Agency; and
- Five members from the private sector and civil society (qualifications apply).

3.2. CIC Members appointed

On 06 December 2021, the Minister of Police, directed a communique to the Speaker of the National Assembly, submitting the members of the inaugural CIC that will serve for a five-year term. These members include:

Table 1: Members of the CIC

No.	Department	Designation in Department	Member	Designation in CIC
1	Civilian Secretariat for Police Service	Secretary of Police	Acting Secretary of Police ¹	Chairperson
2.	Department of Defence	Chief of Logistics	Lt Gen JS Mbuli	Member
3.	Department of Home Affairs	Chief Director: Property and Facilities	Mr. V Nxasana	Member
4.	Department of Public Works (DPW)	Chief Director: Real Estate Investment Services	Mr P Chiapasco	Member
5.	National Disaster Management Centre (NDMC)	Head: National Disaster Management Centre	Dr. M Tau (PhD)	Member
6.	South African Local Government Association (SALGA)	Chief Officer: Infrastructure Delivery, Spatial Transformation Services and Sustainability	Mr M Kolisa	Member
7.	South African Police Service (SAPS)	Component Head: Government Security Regulator	Maj Gen JJ Skosana	Member
8.	State Security Agency (SSA)	Policy Coordinator	Mr Z Mshunqane	Member
9.	Private Sector/Civil Society	Private Sector/Civil Society	Ms Keletso Lefothane	Member
10.	Private Sector/Civil Society	Private Sector/Civil Society	Mr Willie Renier Du Preez	Member
11.	Private Sector/Civil Society	Private Sector/Civil Society	Mr Grant Son	Member
12.	Private Sector/Civil Society	Private Sector/Civil Society	Mr. Richard Zita	Member
13.	Private Sector/Civil Society	Private Sector/Civil Society	Adv. Lufuno Khorommbi	Deputy Chairperson

¹ The employment contract of the former Secretary for Police Service, Mr. Rapea came to an end on 20 December 2021.



3.3. Remuneration of CIC Members

Section 4(17) of the CIPA provides that Members of the Council may be paid such remuneration and allowances as the Minister of Police may, with the written concurrence of the Minister of Finance, determine.

Section 6 of the CIPA states that the expenses incurred in connection with the exercise of the powers, the carrying out of the duties and the performance of the functions of the CIC, including the remuneration and expenses (as above), must be defrayed from the budget allocation of the Civilian Secretariat for the Police Service.

3.4. Parliamentary process: Interviews and recommendations

In accordance with the CIPA, the Portfolio Committee on Police interviewed prospective candidates to serve on the CIC from 8 to 10 June 2021. The Committee's report, in which 10 individuals from the private sector were recommended for appointment to the Council (by the Minister of Police), was published on 05 August 2021 (ATC No. 102 – 2021). The table below shows the candidates that were recommended for appointment and those the Minister of Police appointed to the CIC.

Table 2: Recommendations from the Portfolio Committee

No.	Name	Appointed/Not appointed
1.	Ms Keletso Lefothane	Appointed
2.	Mr Willie Renier Du Preez	Appointed
3.	Mr Grant Son	Appointed
4.	Mr. Richard Zita	Appointed
5.	Adv. Lufuno Khorommbi	Appointed (Deputy Chairperson)
6.	<i>Dr Vincent Mello</i>	<i>Not appointed</i>
7.	<i>Mr Nkhangweni Rambau</i>	<i>Not appointed</i>
8.	<i>Dr Patience Mbava</i>	<i>Not appointed</i>
9.	<i>Mr Eugene Van Rooyen</i>	<i>Not appointed</i>
10.	<i>Ms Nomabandla Silinyana</i>	<i>Not appointed</i>

4. KEY AREAS FOR CONSIDERATION

Members could consider the following key issues during the upcoming engagements:

- 1) When will the CIPA come into operation?
- 2) What is the status of the CIPA Regulations?
- 3) The CIPA Regulations must be tabled in Parliament for consideration, meaning that the Committee has an opportunity to scrutinise the regulations and make amendments. The Committee should ensure that the Regulations are within the intended purpose of the CIPA to ensure greater transparency and accountability in critical infrastructure (national key points) oversight.



- 4) The CIPA Regulations (necessary for the immediate implementation of this Act) must be promulgated to coincide with the coming into operation of the CIPA. Before the Regulations can be implemented, the Minister must publish a notice in the Gazette setting out the draft regulations and invite written comments to be submitted on the proposed regulations within a specified period. The submissions must be considered, but amendments remain the prerogative of the Minister. Only after complying with these, the Minister may publish the Regulations in its final form in the Gazette. The Minister should provide the Committee with the relevant timeframes associated therewith.
- 5) Does the SAPS have an updated list of all National Key Points or National Key Point Complexes? The list must be published within 60 days of the CIPA coming into operation.
- 6) Was the names of the Council members gazetted as per section 4(8) of the CIPA? The Minister should provide relevant details.
- 7) What selection criteria did the Minister use to select candidates from the names recommended by the Portfolio Committee on Police.
- 8) Has the Minister of Police decided on the remuneration and allowances for the CIC Members? Was this done with the written concurrence of the Minister of Finance (as stipulated in the CIPA)? Could the Minister provide details in this regard? Can the Minister share a copy of the letter by the Minister of Finance on the remuneration of CIC Members?
- 9) Did the Civilian Secretariat for Police Service budget for the expenses incurred in connection with the exercise of the powers, the carrying out of the duties and the performance of the functions of the CIC, including the remuneration and expenses of the Members, in the 2022/23 budget? What amount is allowed?
- 10) Will CIC Members from the private sector and/or civil society receive remuneration in terms of a 'salary' or 'stipend' to cover travel-related expenses?
- 11) Will the CIC Members receive any induction relating to their roles and functions (including the Members from the private and public sectors)?
- 12) The CIC has no functions or role until such time as the CIPA Regulations are finalised, implemented and the CIPA comes into operation. What is the current role of the CIC? If the CIPA comes into operation only towards the end of 2022 (time delay due to the processes associated with the Regulations that must be finalised before the Act comes into operation), will a portion of the Council's term not be essentially wasted?
- 13) The Minister of Police should provide a gender breakdown of the CIC Members, as the Council seems very much male dominated.
- 14) When will a permanent Secretary for Police be appointed to assume the role of Chairperson of the CIC? (The previous Secretary's employment contract came to an end on 20 December 2021).



5. REFERENCES

Critical Infrastructure Protection Act, 2019 (No. 08 of 2019).

Minister of Police (2021). Letter to the Speaker of the National Assembly titled, Members of the Critical Infrastructure Council, dated 05 December 2021.

Parliament of RSA (2021). Announcements, Tabling and Committee Reports (ATC) Number 102 of 2021, dated 05 August 2021.