

**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT: RESPONSES TO FOLLOW-UP QUESTIONS FROM THE PORTFOLIO
COMMITTEE ON THE CLIMATE CHANGE BILL
22 AUGUST 2023**

QUESTIONS	DFFE RESPONSES	COMMENTS
<ul style="list-style-type: none"> • With reference to POPI and PAIA, will information on the types of emissions being released by private industries, and Eskom, as well as the ability to track emissions be publicly disclosed considering how important the information is to the public and for accountability? It was said that the PCC can decide on which information to share taking POPI and PAIA into account, but it is important to have provision which forces transparency in data where it does not conflict with POPI and PAIA in the public interest. What does legal say about which information on emissions and tracking can be publicly shared? 	<ul style="list-style-type: none"> • The Department will publish the National Greenhouse Gas Emission Report on an annual basis against the trajectory on the National Greenhouse Gas Inventory. • This National Greenhouse Gas Emission Report will be accessible to the public. This Report will (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. • “Publication” in the Bill is not limited to the National Greenhouse Gas Emission Report but extends to all the other Strategies, Plans and Assessments including the Climate Change Needs and Response Assessment and the Climate Change Response Implementation. The wording “publish” has been inserted to the relevant clauses of the Bill to ensure that these Reports, Plans, Strategies and Assessments are publicly available. Refer 	<ul style="list-style-type: none"> •

	<p>in particular to the proposed amendments to clauses 15(1) and 19(1)(a) where the word “publish” is inserted.</p> <ul style="list-style-type: none"> • The PCC reports are made available to the public. Refer to the proposed clause 13(7) of the Bill which provides that “The reports of the Presidential Climate Commission must be made available to the public by publication on the Commission’s website.”. • It is proposed that the Bill not duplicate or create parallel regimes to POPI and PAIA. POPI and PAIA must be complied with and implemented to the letter. 	
<ul style="list-style-type: none"> • What is the weight of the recommendations from the PCC going to be on various Government Departments? Are they mere recommendations that can be ignored or only considered when convenient or have some binding powers? What happens when the recommendations are ignored or rejected? 	<ul style="list-style-type: none"> • Clause 4(2) of the Bill provides that this Act binds all organs of State. To the extent that the PCC makes recommendations to the State including government at national, provincial and local level, such recommendations must be dully considered and implemented. • Although the role of the PCC is advisory in nature, Organs of State affected by its recommendations/advice must at all relevant times be able demonstrate that they have dully considered the PCC advice and recommendations in their decision making and taken appropriate steps to implement same. • There are existing safeguards and processes to ensure that the PCC recommendations and advice is considered and implemented including processes under the Inter-Governmental Relations Framework Act. 	<ul style="list-style-type: none"> •

	<ul style="list-style-type: none"> • Additionally, Parliament is available to play its oversight role in ensuring that the PCC recommendations and advice are considered and implemented. 	
<ul style="list-style-type: none"> • On the concern of non-implementation of the Act, once enacted, the Department highlights that clause 27(1)(c)(iii) gives the Minister the power to make regulations about consequences for national and provincial departments and municipalities if they are non-compliant with prescribed reporting on climate change adaptation and mitigation. What kind of sanctions will the Minister give her colleagues or other Departments for not complying? 	<ul style="list-style-type: none"> • The details of managing the reporting will be dealt with in the regulations. • These regulations will be consulted with all stakeholders (public, industry, government at national, provincial and local level). • Intergovernmental processes including Mintec, Minmec, processes under the Intergovernmental Relations Framework Act, Cabinet processes, role of the Department of Planning, Monitoring and Evaluation, will be utilised to ensure that the provisions of the Act are implemented. • Parliament is available to play its oversight role in ensuring that the Act is implemented. 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • With regard to the implementation of a finance mechanism in the Bill, what is the feedback from the legal department? 	<ul style="list-style-type: none"> • The following draft clause is proposed: • The Bill is hereby amended by the insertion of the following new clause after clause 15 “XX The Minister must prescribe a mechanism to support and/or finance climate change response, planning and implementation by national, provincial and local government in consultation with the Minister of Finance”. • (“prescribe” in the Bill is defined as “prescribed by regulation”). • To ensure transparency and responsiveness, these regulations will be consulted with all stakeholders (public, industry, government at national, provincial and local level) and be 	<ul style="list-style-type: none"> • The Department is in discussions with National Treasury regarding the proposal.

	<p>tabled in Parliament for approval within a defined timeframe.</p> <ul style="list-style-type: none">• Tabling of the regulations in Parliament is consistent with section 101(3) and (4) of the Constitution which provides that: 101 (3) Proclamations, regulations and other instruments of subordinate legislation must be accessible to the public. 101 (4) National legislation may specify the manner in which, and the extent to which, instruments mentioned in subsection (3) must be— (a) tabled in Parliament; and (b) approved by Parliament.• Wording to be finalised in consultation with the Office of the Chief State Law Advisor and the Office of the Parliamentary Legal Advisor.	
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