

REPUBLIC OF SOUTH AFRICA

---

# CLIMATE CHANGE BILL

---

*(As introduced in the National Assembly (proposed section 76); explanatory summary of  
Bill and prior notice of its introduction published in Government Gazette No. 45299 of  
11 October 2021)  
(The English text is the official text of the Bill)*

---

(MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT)

[B 9—2022]

ISBN 978-1-4850-0773-9

No. of copies printed .....250

**GENERAL EXPLANATORY NOTE:**

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

---

---

# BILL

**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) supports 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,

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

## **ARRANGEMENT OF SECTIONS**

### **CHAPTER 1**

#### **INTERPRETATION, OBJECTS AND APPLICATION** 5

- |    |  |    |
|----|--|----|
| 1. | Definitions  |    |
| 2. | Objects of Act                                       |    |
| 3. | Principles   |    |
| 4. | Application of Act                                   |    |
| 5. | Application of National Environmental Management Act | 10 |
| 6. | Conflict with other legislation                      |    |

### **CHAPTER 2**

#### **POLICY ALIGNMENT AND INSTITUTIONAL ARRANGEMENTS**

- |     |  |    |
|-----|--|----|
| 7.  | Alignment of policies                        |    |
| 8.  | Provincial Forums on Climate Change          | 15 |
| 9.  | Municipal Forums on Climate Change           |    |
| 10. | Presidential Climate Commission              |    |
| 11. | Functions of Presidential Climate Commission |    |
| 12. | Process of appointment                       |    |
| 13. | Reporting to government                      | 20 |
| 14. | Administrative and secretariat support       |    |

### **CHAPTER 3**

#### **CLIMATE CHANGE RESPONSE: PROVINCES AND MUNICIPALITIES**

- |     |                         |  |
|-----|-------------------------|--|
| 15. | Climate change response |  |
|-----|-------------------------|--|

### **CHAPTER 4** 25

#### **NATIONAL ADAPTATION TO IMPACTS OF CLIMATE CHANGE**

- |     |  |    |
|-----|--|----|
| 16. | Adaptation objectives                                  |    |
| 17. | Adaptation scenarios                                   |    |
| 18. | National Adaptation Strategy and Plan                  |    |
| 19. | Sector Adaptation Strategy and Plan                    | 30 |
| 20. | Adaptation Information and Synthesis Adaptation Report |    |

## CHAPTER 5

### GREENHOUSE GAS EMISSIONS AND REMOVALS

21.	National greenhouse gas emissions trajectory	
22.	Sectoral emissions targets	
23.	Listed greenhouse gases and activities	5
24.	Carbon budgets	
25.	Phase-down and phase-out of synthetic greenhouse gas emissions and declaration	
26.	National Greenhouse Gas Inventory	

## CHAPTER 6 10

### GENERAL MATTERS AND TRANSITIONAL ARRANGEMENTS

27.	Regulations	
28.	Consultation	
29.	Public participation	
30.	Delegation	15
31.	Access to information	
32.	Offences and penalties	
33.	Appeals	
34.	Savings, transitional provisions and amendment of laws	
35.	Short title and commencement	20

## SCHEDULE 1

### Functions relevant to the development of Sectoral Emissions Targets

## SCHEDULE 2

<b>National Departments and State-Owned Entities responsible for certain functions required to develop a Sector Adaptation Strategy and Plan</b>	25
--	----

## SCHEDULE 3

### Interim National Greenhouse Gas Emissions Trajectory

## SCHEDULE 4

### Amendment of laws

## CHAPTER 1 30

### 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; 35
  - “**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;
  - “**carbon budget**” means an assigned amount of greenhouse gas emissions allocated to a person in terms of section 25 for direct emissions arising from the operations of that person over a defined time period; 40
  - “**Carbon dioxide equivalent or CO<sub>2</sub>e**” means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas; 45

**“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;

**“Carbon Tax Act”** means the Carbon Tax Act, 2019 (Act No. 15 of 2019);

**“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;

**“Department”** means the national department responsible for environmental affairs;

**“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);

**“district municipality”** means a district municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“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;

**“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;

**“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 24(4) which contains mitigation measures prepared specifically for the mitigation of greenhouse gas emissions;

**“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;

**“mayor”**, in respect of the different types of municipalities, means a mayor elected in terms of section 48 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and may include—

(a) an executive mayor elected in terms of section 55 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); or

(b) a speaker who is called a mayor elected in terms of section 36(5) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“MEC”** means the member of the Executive Council to whom a Premier has assigned responsibility for the environment;

**“metropolitan municipality”** means a metropolitan municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“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;

**“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;

**“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