

Submission to the Portfolio Committee on Environment, Forestry and Fisheries on the Climate Change Bill [B9-2022]

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Presentation to Portfolio Committee on Environment, Forestry and Fisheries

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Overview*

- 1. Definition of the ‘just transition’**
- 2. Inappropriate powers vested in Minister responsible for environmental affairs**
- 3. Costing of adaptation plans**
- 4. Omission in requirements for members of Presidential Climate Commission**

* Order has been adjusted from written submission for presentation purposes

1. Definition of the ‘just transition’

Current definition: “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;

Problem: omits who pays for the transition – as does PCC definition

- Local: wealthy citizens versus poorer ones, big businesses versus small businesses, rural versus urban, large versus small municipalities, current versus future generations, etc
- International: countries that have made larger contributions to global warming should incur more costs and wealthier countries should pay more

Proposed solution:

“just transition” means a shift towards a low-carbon, climate-resilient economy and society and ecologically sustainable economies and societies - the costs of which are equitably distributed across and within countries - which contribute toward the creation of decent work for all, social inclusion and the eradication of poverty;

2. Inappropriate powers vested in the Minister responsible for Environmental Affairs

Problem: Bill inappropriately allocates climate change powers to the Cabinet Minister responsible for Environmental Affairs

- Conflict of interest, inherent in section 25.b of the Constitution, between protection of the environment for which Minister of Environmental Affairs is responsible and ‘promoting justifiable social and economic development’ which is primarily the competence of other Ministers
- DFFEA is not structured and does not have the role or competences to lead the identification, evaluation and prescription of the alternative social, economic and technological interventions required to support ‘justifiable social and economic development’.
- powers proposed would enable Ministers responsible for Environmental Affairs to intervene in areas beyond the competence of their Department without adequate oversight
 - Requirement (s.28) to “follow such consultative processes as may be appropriate” lacks any precision or force

2. Inappropriate powers vested in the Minister responsible for environmental affairs

Solution: Ministerial responsibility for Climate Change mitigation and promotion of a 'just transition' should be allocated to a Minister in the Presidency tasked to coordinate economic, social, technical and environmental departments

- will help to counter-balance the influence of external groups that use environmental issues to lobby MFFEA for sub-optimal public policy responses in support of their private interests
- separation of environment and climate would reflect USA, UK and European Union practice

Practical proposal: Amend Bill to include an additional definition for a 'Minister in the Presidency' or 'Coordinating Minister' and amend relevant sections of the Bill

3. Costing of adaptation plans

Problem: no provision for costing

Standard principle of good practice in policy making: policy changes and interventions should be costed whenever possible and consider distributional implications

“In South Africa, Cabinet decided on the need for a consistent assessment of the socio-economic impact of policy initiatives, legislation and regulations in February 2007” (GTAC website)

“A challenge for SEIAS is that in a deeply unequal society like South Africa any policy will have unequal impacts. It is therefore not possible simply to compare estimates of costs and benefits. Rather, impact assessments must analyse costs and benefits to different groups.” (SEIAS guidelines 2015)

3. Costing of adaptation plans

Solutions

Proposed addition to section 15 (pertaining to provinces and municipalities):

15. (2) (a) identify climate change response considerations and options and estimated costs based on the best available evidence and information;

Proposed addition to section 17 (pertaining to national strategy):

17. (2) The adaptation scenarios must—

(e) include estimates of the costs of implementing the adaptation policies underlying the scenarios

4. Omission of requirements for members of the Presidential Climate Commission

Principle: those who advise on, and make decisions about, South Africa's approach to climate change must have the public and national interest as their sole priority in the provision of such advice or making of such decisions

Concern: numerous experts who have informed the country's strategy have material, undeclared conflicts of interest that call into question their suitability to advise on matters of public and national interest

It would be remiss of legislation to not address this.

4. Omission of requirements for members of the Presidential Climate Commission

Proposed addition:

(2) The composition of the Presidential Climate Commission must—

(a) broadly reflect the demographics and gender composition of the Republic; and

(b) be appropriately qualified and have expertise in the socio-economic, environmental and broader sustainability field.

(c) ensure that appointees publicly declare all potential conflicts, including funding from industry, domestic and foreign non-governmental organisations as well as foreign governments and multi-lateral agencies, and, where appropriate, exclude individuals whose conflicts may compromise their ability to prioritise the public and national interest in a credible manner.
