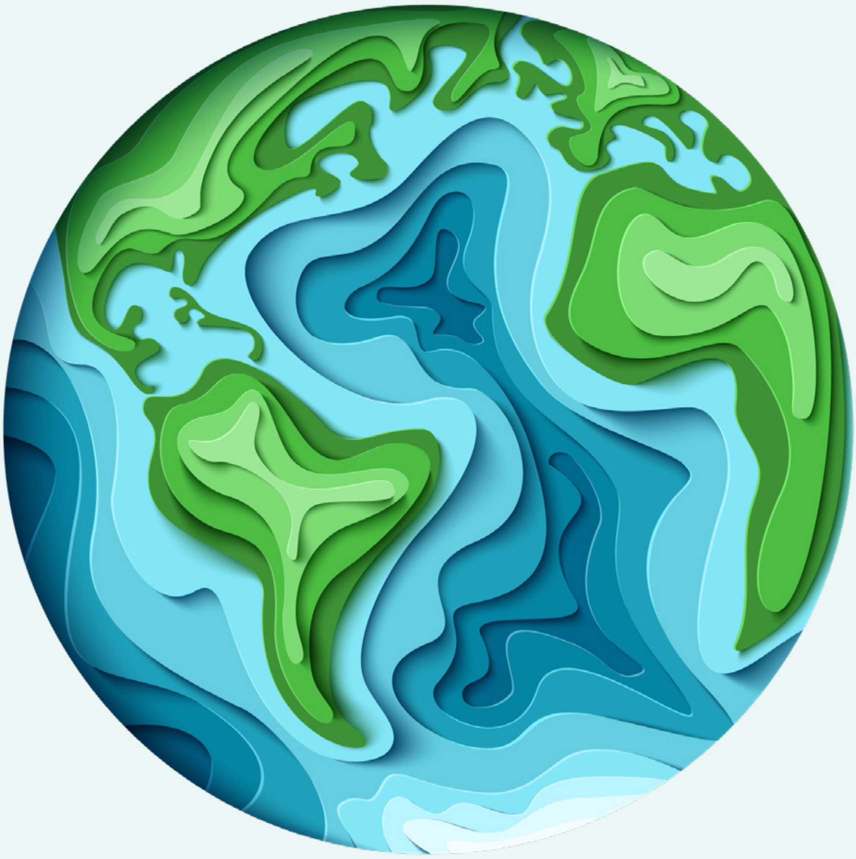


Climate Change Act 2024

Putting South Africa on the path to a Just Energy Transition

Point of view

The Climate Change Act (CCA)[1] has been assented and is a significant milestone for South Africa as it directs organisations to appropriately address their respective climate change and net zero actions in relation to their activities, products and services.
The CCA is inextricably linked to the National Constitution, specifically Section 24 (a) and (b) which promotes an environment that is both safe and environmentally sustainable for current and future generations through the prevention of pollution, promotion of conservation and advancement of sustainable development.[2] It is important to note that the CCA integrates other legislation which enhances the validity and influence that this Act brings.

In particular, the National Environmental Management Act 107 of 1998,[3] as amended forms the foundation of the CCA construct and is supported by various national legislative acts and regulations. For ease of reference, we use the term 'emitters' throughout this Point of View to mean any entity that is the source of emission namely, provincial and/or local government and/or private sector industries. The introduction of a carbon budget process is a watershed moment for South Africa in its fight against climate change. Emitters will need to monitor their emissions against their agreed carbon budgets making them collaborators in the goal of lowering the country's emissions. Ultimately, the CCA seeks to achieve an integrated and co-operative governance framework that supports adequate adaptation measures to stabilise greenhouse gas emissions (GHG), whilst achieving a just energy transition to a low carbon economy to ensure a sustainable future. The CCA will help position South Africa to meet its international commitments, it employs the use of twelve key principles to support its objectives, and establishes provincial and municipal forums to coordinate and implement climate change response plans.[4]

If left unchecked, we can anticipate significant infrastructure and service delivery impacts as a result of climate change which will undermine social wellbeing, economic functionality and environmental sustainability. The CCA provides an important framework approach to enhance domestic ambition and align South Africa's contribution to meeting the Paris Agreement commitments.

Global energy transition and global goals

In 2024, climate science observed the hottest year on record with global average temperature reaching 17.16°C.[5] Responding to the announcement, United Nations Secretary General Antonio Guterres noted the significant impact extreme heat is having on both people and the planet and called on the international community to rise to the challenge and deliver on Nationally Determined Contributions (NDCs) to ameliorate the impacts faced by the climate vulnerable nation.[6]

These findings come on the heels of the 2023 report produced by the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (AR6) noting global temperature is already 1.2°C above pre-industrial levels, emphasising significant and widespread adverse impacts due to anthropogenic climate change, and stressing the need for rapid, deep and immediate reductions in greenhouse gas emissions.[7]

If all current NDCs were fully implemented global temperature rise would be around 2.5°C which would cause serious disruptions to food systems, highly problematic increases in extreme events such as drought, storms, and wildfires, and risks wholesale disruption to global economy.[8]

Undoubtably, greater and more ambitious climate action is needed across all levels of government.

South Africa impact

Africa has suffered from increasingly severe impacts of climate change. Across the continent, mean surface temperature has been rising faster than that of the rest of the world.[9] Unless addressed timeously, climate change will continue to pose various risks but also growing costs to Africa. According to Deloitte research and economic modelling, if climate change continues unchecked this could see the world suffer losses of around US$178 trillion in net present value (NPV) from 2020-2070.[10] While every region would be adversely impacted, Africa is likely to experience some of the worst effects with the continent projected to lose US$16 trillion in NPV terms between 2021 and 2070, relative to a world without climate change.[11]

In 2070 alone, 14% of GDP (or US$2.1 trillion) could be lost. A loss of this scale exceeds the current combined economies of South Africa, Egypt, Kenya, Morocco and Nigeria.[12] Inadequate response measures will result in Africa experiencing an increase in physical impacts from climate change. Impacts linked to an increase in the frequency and severity of heatwaves, droughts, cyclones and flooding are increasingly present and felt across countries and industries, and are having far-reaching socio-economic impacts – so too in South Africa.[13]

The CCA, under the Preamble, clearly articulates that "*climate variability in the Republic, including the increased frequency and intensity of extreme weather events et al (CCA)"* is set to affect human health, access to food, and water, biodiversity, habitats and ecosystems, the coast and coastal infrastructure and human settlements.

National Determined Contributions (NDCs) goals and targets

South Africa submitted their first NDC in 2016, followed by an updated and enhanced first NDC in September 2021. Mitigation targets set include annual emissions target ranges of 398-510 MtCO2-eq by 2025 and 350-420 MtCO2-eq by 2030.[14] Representing a 17% and 32% reduction in emissions compared to the targets included in the initial NDC, sectors covered include energy, Industrial Processes and Product Use (IPPU), Agriculture, Forestry and Other Land Use (AFOLU), and waste.[15]

As a component of the National Climate Change Adaptation Strategy, South Africa aims to enhance adaptation governance and legal frameworks, understand the implications of 1.5 and 2°C warming pathways, implement and quantify adaption interventions outlined in the National Climate Change Adaptation Strategy (NCCAS), and increase access to adaption-related finance.[16]

Grounded in principles of equality, enhancing capabilities and fostering sustainable development, the South Africa NDC looks to advance both adaptation and mitigation activities and mobilise the requisite finance to enable a just transition.

The CCA, under Chapter 5 (Greenhouse Gas Emissions and Removals), now integrates the NDC as a critical basis for the regulatory framework embedding evaluation, strategic planning and reporting mechanisms through a national GHG emissions trajectory, sectoral targets, an inventory, and a carbon budget.[17]

CCA Key Elements

Scope and objectives

The CCA establishes a comprehensive framework to address climate change by focusing on key areas such as enhancing climate resilience, setting legally binding emission reduction targets, and introducing carbon budgets to limit overall greenhouse gas emissions.[18] It mandates regular emissions reporting and progress tracking and requires the development of a NCCAS.

The CCA also creates institutional structures, including a Climate Change Commission, to oversee and organise efforts[19] while outlining mechanisms for securing financial resources and investment in climate-related projects. This approach aims to ensure a coordinated and accountable response to climate change challenges. The inclusion of imposing fines and potential imprisonment for individuals or companies that breach the CCA conditions will ensure compliance with its regulations.[20] This punitive aspect reinforces the commitment to effective climate action and accountability.

Principle based approach

The CCA provides for twelve principles which are underpinned by the National Environmental Management Act (NEMA)[21] and therefore need to read in conjunction with one another. Principles of note include: (i) protection of the climate change system for present and future generations, (ii) recognition of intergenerational equity and common but differentiated responsibilities and respective capabilities, (iii) recognition of the special needs of climate vulnerable segments of society, (iv) adoption of an integrated approach, (v) mobilisation of both adaptation and mitigation activities, and (vi) fostering a sustainable economy and health society.[22]

It is clear that the principles support a just energy transition whilst achieving a low carbon economy and this needs to be executed in an integrated and risk conscious manner.

When considering mitigation and adaptation, vulnerable people and communities are of paramount focus and therefore the CCA prioritises awareness and responsiveness to vulnerability in terms of resilience measures. The costs associated with mitigation and adaptation are squarely on responsible parties for causing the adverse impacts.[23] It is important to note that public awareness of climate change response actions forms a cornerstone of the principles and relies on ecosystems to ensure a sustainable future.

Governance and execution framework

Under the CCA, the Presidential Climate Commission (PCC) is formalised. It is composed of a maximum of 25 members representing government, labor, civil society, and business, reflecting demographics and gender balance of the nation. The Commission, equipped with specialist qualifications in socio-economic, environmental and sustainability, advises on the national response to climate change, mitigation and adaptation approaches, and monitoring of progress towards established goals to advance a just and equitable transition to a low-carbon and resilient economy.[24]

Provincial and Municipal government have critical and distinct roles to play in implementing the act. The CCA ensures a coordinated approach with clear roles and responsibilities for Provincial and Municipal government. Provincial and Municipal governments must work together to address climate change, supporting a multi-level governance approach.

By adopting the CCA, South Africa demonstrates its commitment to addressing the global climate crisis. Effective implementation of the CCA relies on collaboration and cooperation across key levels of government ensuring a unified national response to climate change.

Climate change response

Designated members of the Executive Council, municipal authorities, and local mayors must undertake a needs assessment to assess the impacts of climate change on mandated functions, coupled with an implementation plan encompassing both adaptation and mitigation, with each updated every five years.[25] Needs assessments shall identify considerations, analyse characteristics and unique needs, develop a spatial map of risks and vulnerabilities based on best available science, and identify measures and modalities for implementation.[26] The net impact of these Climate Change Response Plans will remain iterative and linked to the changing climate dynamic, especially in terms of local adaptation and resilience measures. Of note, the CCA connects the Integrated Development Plans under the Local Government: Municipal Systems Act as an integrated component of the climate change response.[27]

Carbon budgets

A national GHG trajectory is to be established by the Minister specifying quantitative emission reduction objectives based on current and projected national emission levels and consistent with the principles of the Act.[28] The NDC is utilised as an interim trajectory to be replaced by the approved version developed by the Minister in collaboration with the Cabinet, and updated every five years.[29] Sectoral targets may also be established for sectors and sub-sectors aligned with the national GHG trajectory, taking into account socio-economic impacts, and including both quantitative and qualitative goals for 5, 10 and 15-year milestones.[30]

The CCA also introduces the concept of a carbon budget, which will be the tool in which emitters will be held responsible for their emissions and reduction thereof. A carbon budget is defined as *"an assigned amount of greenhouse gas emissions allocated to a person in terms of section 27 for direct emissions arising from operations of that person over a defined time period"*.[31]

The Minister will publish a list of activities that will be subject to a carbon budget and any emitters conducting the activities will be allocated a carbon budget.[32] The Minister must take all relevant factors into account such as the socio-economic impact of imposing a carbon budget, the best available science, evidence and information, the best practical environmental options, national strategic priorities, and alignment with the greenhouse gas emissions trajectory.[33] A carbon budget must have three consecutive five-year periods and specify the maximum carbon emission an emitter can emit in the first five-year period.[34]

Emitters who have been allocated a carbon budget must submit a greenhouse gas mitigation plan, which must describe the mitigation measures that the person will implement to remain within the allocated carbon budget.[35] Previously submitted approved pollution prevention plans will be deemed greenhouse gas mitigation plans when the initial carbon budgets are allocated.

The Regulations, still to be published, will describe compliance requirements, monitoring procedures and amendments to carbon budgets.

Key Insights: Decarbonisation | Climate Resilience | Scenario Modelling

Implications

The CCA applies pressure on provincial and local government as well as businesses to drive an integrated, co-operative and appropriate ability to ensure adaptation, resilience and a just energy transition to achieve a low carbon economy which will manifest in various forms (e.g. stakeholder and investor activism, new reporting requirements, carbon taxes, extended producer responsibility requirements, building energy performance certificates etc.).

The climate risk landscape is still rapidly evolving which means that there is a shifting set of requirements for entities to solve for. This dynamic environment is challenging and can easily distract climate change actions from core priorities.

This challenge requires the formulation of an appropriate response, but also presents a valuable opportunity for emitters who can strategically align present actions, future business plans, processes and services not only to alleviate these climate change pressures, but also to use this change as a catalyst to enhance the services provided and in so doing meet the requirements of the CCA.

Business focus areas

- Net zero roadmap
- Climate scenario analysis
- Renewable energy options analysis
- Emissions target setting

Call to Action

Net zero roadmap will need to be designed or reassessed, considering the country and sector specific targets, as well as performing an energy analysis to understand the available projects to be implemented. Provincial and municipal entities will need to update the Disaster Management Plans, Integrated Management Plans and where applicable, Spatial Development Frameworks (as may apply). Organisations will need to consider all the moving parts of the entire ecosystem which is complex and highly variable; once understood these moving parts need to be optimised to ensure the operational performance matches the climate change ambition (e.g. DecisionOptimizer, Greenlight).

Key Insights: Just Energy Transition

Implications

The Just Energy Transition (JET) aims to achieve a quality life for all South Africans in the context of increasing the ability to adapt to the adverse impacts of climate, fostering climate resilience, and reaching net zero greenhouse gas (GHG) emissions by 2050 in line with best available science. The implementation of JET allows South Africa to take targeted strides towards meeting its decarbonisation commitments in a manner that delivers equitable outcomes for those affected by the energy transition and that contributes to inclusive economic growth, energy security, and employment. The CCA provisions align with and support the principles of a Just Energy Transition in several key ways:

- Emission Reduction Targets and Sectoral Carbon Budgets - The CCA mandates the setting of national and sector-specific greenhouse gas (GHG) emission reduction targets. This aligns with the goals of a Just Energy Transition by prioritising the reduction of emissions from high carbon industries.
- Promotion of Renewable Energy and Energy Efficiency - The promotion of renewable energy aligns with the Just Energy Transition's goals by not only reducing reliance on fossil fuels but also creating new job opportunities in emerging sectors
- Climate Resilience and Adaptation Strategies - Consideration of vulnerable communities when developing Climate Resilience and Adaptation Strategies
- Public Participation and Stakeholder Engagement – Ensuring active participation

Business focus areas

- Enterprise supplier development: job creation, economic impact and integration of country goals
- Social Impact Strategy
- Enhanced Stakeholder Engagement

Call to Action

Your net zero strategy and roadmap will need to include a wholistic impact assessment of each project and decision, ensuring that you are not trading one problem for another,and this assessment will be used to make an informed decision when definingyour roadmap. The CCA requires the need to facilitate local economic development in intermediate cities to improve and diversify municipal revenues, create jobs and increase socio-economic output. Organisationswill need to support provincial and local initiatives to promote and implement inclusive economies and build sub-national capabilities to improve urban management, resilient infrastructure planning and governance in order to ensure climate change resilience.

Key Insights: Integrated Thinking / Collaboration

Implications

The CCA clearly articulates the need for co-operative governance and in particular, integrated environmental management. Integration will manifest across various provincial, local government and private sector initiatives.

To help facilitate integrated thinking and application, best practice methodologies such as integrated management systems can support the activities, products and services required to meet the CCA requirements.

Several forums are proposed in the CCA which will enable integrated thinking, collaboration and action under the auspices of the Presidential Climate Commission (PCC).

Business focus areas

- Eco-system and value chain approach
- Green energy: hydrogen, waste to energy etc.
- Public-private partnerships and opportunities

Call to Action

Solving climate change problems require an integrated approach and cannot be done in isolation. Stakeholder engagement will continue to be important throughout the process and detailed value chain/ supply chain analysis will need to be performed to map out the impacts and opportunities (e.g. establishing integrated management systems). Mechanisms such as green technologies (renewables, hydrogen, biofuels etc) will need to be considered in terms of operational management of provincial, local government and organisations in order to meet the objectives and principles of the CCA (this may include private public partnerships, new investment partnerships and/or sustainable finance mechanisms).

Key Insights: Innovation Drivers

Implications

The CCA is likely to significantly boost green technology investments across various sectors in South Africa, leading to more resources being allocated to low-carbon production processes. This shift will not only reduce carbon footprints but also foster innovation and create new market opportunities for environmentally friendly technologies and services.

However, energy efficiency improvements alone will not suffice in achieving decarbonisation targets. To accelerate the transition to a low-carbon economy, the development and deployment of novel technological solutions are imperative. Historically, recycling and waste management have been at the forefront of technological innovation. While climate tech entrepreneurship and investment have primarily been concentrated in a handful of countries, notably the United States, a global shift is underway.

Climate innovation is now a worldwide phenomenon, with a growing proportion of activity emerging from regions beyond the traditional tech hubs. Financial incentives make green technologies more affordable, stimulating demand and investment.

Business focus areas

- Sustainability / ESG strategy
- Mergers and acquisition opportunities
- Climate opportunities
- Climate technology ecosystems
- Renewable energy opportunities
- Investment and value creation
- Energy strategy

Call to Action

Design anintegrated decarbonisation strategy that allows for collaboration and integration of green technologies. Innovationrequires a step further thanbetter efficiency, it requires a rethink on current operations and may include new ESG strategies, merger and acquisition opportunities and leveraging new innovative green technologies (e.g. Greenspace).

Key Insights: Carbon Budgeting / Trade-Offs

Implications

The Department of Forestry, Fishery and the Environment (DFFE) started developing carbon budgets in 2015 following the promulgation of the National Pollution Plan Regulations with this experience providing a rich source of information on the allocation of carbon budgets for the first five-year period.

Who will be allocated a carbon budget will depend on the activities the Minister lists by Regulation?

Regulations to the CCA are to be issued that will cover the activities subject to a carbon budget and how it will be administered.

It is anticipated that most major industries will be covered, and this coverage will increase as we likely move towards a net zero economy.

Business focus areas

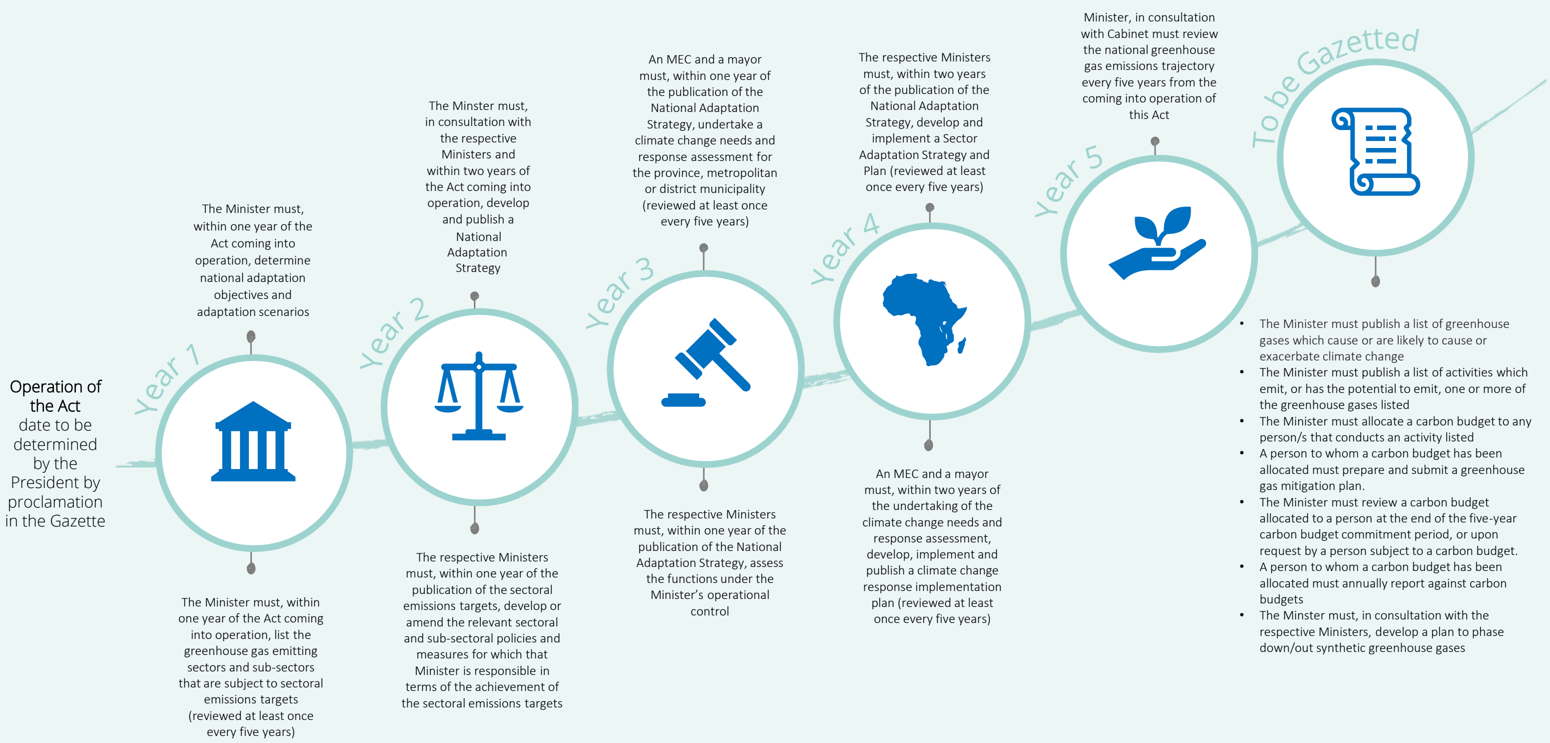
- Global funding
- Mergers and acquisition opportunities
- Incentives: tax and cost saving
- Tax strategy and planning

Call to Action

A decarbonisation roadmap must be embedded and integrated into the business, including integrated into day to day business decisions. This will require organisations to carefully consider tax implications and/or incentives and may require the need for global funding mechanisms and/or mergers and acquisitions. This is a complex issue but will require action from organisations to ensure CCA requirements are met.

Closing remarks

The CCA will now form the basis for how government and industry in South Africa will respond in a formalised manner to climate change. Aligned to the Paris Agreement, the CCA is also configured to be adaptable to the changing climate context. This flexibility is important when considering the implications of climate change response plans, national adaptation to impacts of climate change especially national and sector specific adaptation strategies and plans and reporting such as adaptation synthesis of information which each require calibration to regional and local dynamics and needs. It should not be underestimated how influential the CCA is given the integrated nature of linking to several pieces of legislation and regulations. This means the CCA carries substantial weight in terms of the magnitude and implications to industries.



The CCA integrates several timelines that apply to strategic planning, and associated reporting and reviews (details of which are specified in the CCA). It is imperative that government, industry and emitters internalise these timelines and incorporate actions into the environmental management of current operations. By way of example, in terms of Carbon Budgets, the DFFE started developing carbon budgets in 2015 following the promulgation of the National Pollution Plan Regulations. A voluntary carbon budget has been in place since 2016 and extended to cover the first phase of Carbon Tax, which has been extended to 2025.[36]

An allowance of 5% is available for those who have submitted voluntary carbon budgets.[37] The voluntary budgets will be a rich source of data for the DFFE in allocating carbon budgets for the first five-year period of the initial carbon budget under the new regime. Regulations to the CCA are to be issued that will cover the activities subject to a carbon budget and how it will be administered. Emitters included in Schedule 1 and 2 of the CCA are anticipated to be included under the scope from the onset.

The Regulations, when released, will need to address various issues, such boundaries, operational control, adjustments due to changes in circumstances, applicability of carbon offsets against the carbon budget if allowed and how new entrants to a sector/industry will be integrated into the regulatory framework. The practicalities of administering a carbon budget process over several sectors/industries will need to be considered carefully. The combination of a GHG mitigation plan places a significant burden on emitters. Careful planning will be required by industry actors given the carbon budget window of 5 years and the required downward emissions trajectory.

Furthermore, the CCA ties in significant penalties for offences that extend to data provided, documents, samples and materials that are deemed to be misleading and/or inaccurate. Consequently, this may result in both a fine and/or imprisonment of between 5 – 10 years and/or ZAR 5 – 10 million and/or both based on the number and extent of the offences. Given that the CCA is underpinned by the National Constitution, National Environmental Management Act and several other elements of the domestic regulatory architecture, careful consideration by government and industry actors will be required on an immediate action basis and further supported by continual refreshers to ensure climate change actions remain accurate and appropriate.

Overall, the CCA provides an updated framework approach to decarbonisation of industry in South Africa advancing climate ambition. Industry will need to adapt to this changing regulatory landscape quickly and with strategic reforms and investments to leverage the opportunities provided.

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