DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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CLIMATE CHANGE ACT, 2024 (ACT NO. 22 OF 2024)

REGULATIONS ON THE ADMINISTRATION AND OPERATION OF THE PRESIDENTIAL CLIMATE COMMISSION

I, David Maynier, Minister of Forestry, Fisheries and the Environment, hereby, in terms of section 30(1)(e) of the Climate Change Act, 2024 (Act No. 22 of 2024), publish the Regulations on the Administration and Operation of the Presidential Climate Commission, as set out in the Schedule hereto.



MR DAVID MAYNIER

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION OF THESE REGULATIONS

Definitions

1. In these regulations, unless the context indicated otherwise, a word or expression that is defined in the Act bears the same meaning, and in addition—

"Accounting authority" has the meaning assigned to it in section 1 of the Public Finance Management Act;

"Basic Conditions of Employment Act" means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), as amended;

"Commission" means the Presidential Climate Commission as defined in the Act;

"Confidential information" means sensitive information disclosed to a commissioner or by a commissioner in the discharge of their official capacity in the Commission, which is not publicly available and may be commercially sensitive if disclosed without authorisation;

"Conflict of interests" means any direct or indirect financial or other material interest or benefit of an economic nature or to which a monetary value may be attributed that a commissioner may have, which results or could be reasonably perceived to result in a commissioner being unable to perform the roles and responsibilities in an impartial proper manner;

"Distributive justice", when used in relation to just transition, means the risks and opportunities resulting from the transition must be distributed fairly, cognisant of gender, race, and class inequalities;

"Financial year" has the meaning assigned to it in section 1 of the Public Finance Management Act;

"Financial statements" has the meaning assigned to it in section 1 of the Public Finance Management Act;

"Fruitless and wasteful expenditure" has the meaning assigned to it in section 1 of the Public Finance Management Act;

"Incapacity" means inability to perform the roles and responsibilities expected of a commissioner at the appropriate or expected work standard set out in the Act;

"Irregular expenditure" has the meaning assigned to it in section 1 of the Public Finance Management Act;

"Just transition framework" means A Framework for a Just Transition in South Africa developed and published by the Commission from time to time;

"Labour Relations Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995), as amended;

"Misconduct" means improper, inappropriate, or unlawful conduct of a commissioner which is contrary to the conduct expected of a commissioner set out in the Act;

"National Archives and Records Service of South Africa Act" means the National Archives and Records Service of South Africa Act, 1996 (Act No. 43 of 1996), as amended;

"Procedural justice", when used in relation to just transition, means workers, communities, and small businesses must be empowered and supported in the transition, with them defining their own development and livelihoods;

"Promotion of Access to Information Act" means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), as amended;

"Protection of Personal Information Act" means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), as amended;

"Public Audit Act" means the Public Audit Act, 2004 (Act No. 25 of 2004), as amended;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended;

"Restorative justice", when used in relation to just transition, means the historical damages against individuals, communities, and the environment must be addressed, with a particular focus on rectifying or ameliorating the situations of harmed or disenfranchised communities;

"Secretariat" means the Secretariat of the Commission as provided for in section 16 of the Act;

"Social partners" means government, organised business, organised labour, civil society and community;

"Treasury Regulations" means the Treasury Regulations developed and published under the Public Finance Management Act;

"Unauthorised expenditure" has the meaning assigned to it in section 1 of the Public Finance Management Act'; and

"The Act" means the Climate Change Act, 2024 (Act No. 22 of 2024).

Purpose of these Regulations

2. The purpose of these Regulations is to provide for the administration and operation of the Commission to ensure the achievement of its purpose, functions and responsibilities.

Application of these Regulations

3. These Regulations apply to the Commission and its Secretariat.

CHAPTER 2

OBJECT AND GOVERNING PRINCIPLES OF THE COMMISSION

Object of the Commission

4. The primary object of the Commission is to facilitate dialogue between social partners and provide advice towards a long-term just transition through a just transition framework, and an inclusive, transparent, action-oriented process informed by the best available science.

Governing principles

5. The Commission must—

(1) provide sound, objective and independent advice to government informed by the best available science;

(2) be efficient, effective, economic and transparent in utilising its human and capital resources;

(3) be open and transparent in the performance of its functions;

(4) consider the principles of distributive justice, restorative justice and procedural justice in conducting its work and activities related to the just transition;

(5) conduct its work and activities in a manner that allows meaningful and effective public participation with affected persons or stakeholders, with a particular objective of including the voices of the people in the Republic that are most affected by climate change and the just transition; and

(6) be accountable to Parliament.

CHAPTER 3
ADMINISTRATION MATTERS

Administration

6. The Commission has a secretariat consisting of—
(1) the Executive Director and any staff members referred to in regulation 13 of these Regulations.
(2) the Executive Director is the head of the Secretariat who must perform the functions of the office of the Secretariat in accordance with the Act.

Framework for recruitment of the Executive Director

7. As contemplated in section 13(1) of the Act, the appointment of the Executive Director will consist of—

(1) a competitive recruitment process by the department supported by the Commission; and appointment made by the Minister.

(2) The recruitment and selection process must include−

(a) advertisement of the vacant position in at least two nationally circulated newspapers; and

(b) the pre-selection, shortlisting, interview, competency assessment process and method must follow employment practices that are justifiable, competitive, equitable and fair, and compatible with labour legislation.

(3) Following the recruitment process, the Minister must appoint the Executive Director in terms of section 13(1) of the Act.

Roles and responsibilities of the Executive Director

8. As head of Secretariat, the Executive Director—

(1) is responsible for the management of the administration, including the−

(a) formation and development of an efficient Secretariat staff;

(b) organisation, maintenance of discipline and management of all Secretariat staff;

(c) compliance with all legislation applicable to the Commission by Secretariat staff; and

(d) management of the development and periodic review of the Just Transition Framework as contemplated in section 11(1)(c) of the Act.

(2) is responsible for−

(a) managing the financial administration of the Commission;

(b) all income and expenditure of the Commission; and

(c) all assets and the discharge of all liabilities of the Commission.

(3) must establish and follow employment practices that are equitable, fair and compatible with labour legislation;

(4) must comply with section 15(5) and section 16(1) of the Act, the provisions of the Public Finance Management Act and regulation 20 of these Regulations.

(5) must carry out the decisions of the Commission, subject to regulation 22(2) of these Regulations;

(6) must exercise such powers and perform such duties as the Commission may delegate to the Executive Director;

(7) must report to the Commission, Minister and Parliament on aspects of management of the administration, financial responsibilities in accordance with the provisions of the Public Finance Management Act, and the exercise of powers and duties, at such frequency and in such manner, as may be required; and

(8) must exercise the responsibilities, duties and powers of office subject to the direction and oversight of the Commission.

Roles and responsibilities of the Secretariat

9. As administrative and secretariat support to the Commission, the Secretariat, under the supervision, control and direction of the Executive Director, is responsible for—

(1) the management of the administrative affairs of the Commission, including−

(a) secretarial and administrative services to the Commission, and its committees; and

(b) causing all records of matters dealt with by the Commission and its committees to be safeguarded in line with the National Archives and Records Service of South Africa Act.

(2) the preparation of meetings and the running of the day-to-day operations, including−

(a) organising meetings of the Commission and its committees;

(b) all logistical arrangements for all commissioners and for collating an agenda and documents relating to all matters to be dealt with by the Commission and its committees;

(c) managing and facilitating the work of the Commission throughout the year, and liaising with members of the committees on matters delegated to the committees by the Commission; and

(d) undertake consultations and arrange dialogue sessions as directed by the Commission.

(3) research, including−

(a) research on threats and emerging climate change issues that may affect the Republic;

(b) engage with stakeholders to identify and synthesize research questions that the Commission needs to address in respect of climate change;

(c) analyse global climate change research with recommendations for national consideration;

(d) publish a state of climate change assessment research report including recommendations for policy making every five (5) years; and

(e) produce a bi-annual independent state of climate change response report producing the first report by end of 2027.

(4) communications, including−

(a) managing and responding to inquiries from the public;

(b) collecting and collating information on the work of the Commission, in accordance with the decisions and instructions of the Commission;

(c) preparing, disseminating and circulating an annual report that synthesise the work, outcome and product of the Commission;

(d) communicating decisions, reports, studies, strategies, recommendations and related information to the public; and

(e) preparing the Commission's approved recommendations to government, in accordance with the decisions and instructions of the Commission.

(5) monitoring the implementation of the just transition function set out in section 11(1)(c) of the Act, including the Just Transition Framework, and the results from the monitoring informing revisions of the Just Transition Framework from time to time.

(6) undertaking such administrative and secretariat support related to the work of the Commission and its committees, as may from time to time be directed by the Commission.

Termination of services, resignation and removal from office of the Executive Director

10. A person appointed as Executive Director ceases to be an Executive Director—

(1) when that person's term of office expires.

(2) if that person—

(a) dies;

(b) resigns, subject to subregulation (3); or

(c) is removed from office in terms of subregulation (4).

(3) A person appointed as Executive Director may resign—

(a) on account of ill health or for any other reason which the Minister considers appropriate; or

(b) by giving at least three month's written notice to the Minister, but the Minister may accept a shorter period.

(4) The Minister may remove an Executive Director from office on the grounds of—

(a) misconduct, incapacity or incompetence;

(b) conviction of a criminal offence without the option of a fine; or

(c) engaging in any activity that may undermine the principles, procedures, credibility, independence or integrity of the Commission and its Secretariat.

(5) An Executive Director may be removed from office on the ground set out in subregulation (4)(a) or (c) only after a finding to that effect by an enquiry appointed by the Minister.

(6) The Minister—

(a) may suspend an Executive Director from office at any time after the start of the proceedings of the enquiry for the removal of that Executive Director; and

(b) must remove an Executive Director from office upon a finding to that effect by the enquiry appointed by the Minister.

Process to fill a vacancy in the office of the Executive Director

11. (1) Whenever necessary to fill a vacancy in the office of the Executive Director, caused by expiry of term of office, death, resignation or removal from office, the Minister must follow the appointment process set out in section 13(1) of the Act to fill such vacancy.

(2) A person appointed to fill a vacancy in the office of the Executive Director holds office on the terms and conditions set out in section 13(3) of the Act.

Transitional procedures and appointment of acting Executive Director

12. Whenever the Executive Director is unable to exercise the responsibilities, duties and powers of office; or there is a vacancy in the office of the Executive Director; or the Executive Director is suspended under regulation 10(6)(a) —

(1) the Minister may, on recommendation of the Commission, appoint a senior staff member of the Secretariat as acting Executive Director for a period not exceeding six (6) months, but the Minister may, on good cause, extend the appointment for a further period not exceeding six (6) months.

(2) If the Executive Director is for any reason absent, the Executive Director may appoint a senior staff member of the Secretariat as acting Executive Director for a period not exceeding six (6) weeks.

(3) When acting in terms of subregulation (1) or (2), the acting Executive Director has all the powers and duties of the Executive Director.

Appointment of Commission staff

13. The Executive Director—

(1) within the administrative and functional limits set by the Act and internal human resource management policy, and financial limits set by the Public Finance Management Act, must —

(a) in consultation with National Treasury, determine and appoint a staff establishment necessary for the work of the Commission; and

(b) may appoint persons in posts on the staff establishment.

(2) A person appointed in terms of this Act is employed subject to the terms and conditions of employment determined by the Commission, and must be paid the remuneration, allowances and benefits determined by the Commission in consultation with National Treasury.

(3) A person seconded to the Secretariat or appointed on contract to perform specific tasks, must perform their duties under the control and directions of the Executive Director in accordance with the secondment or contract.

Human resource management

14. Human resource management and related issues must be dealt with in terms of a human resources policy adopted by the Commission. The human resource policy must comply with the provisions of Basic Conditions of Employment Act and Labour Relations Act and related legislation.

CHAPTER 4

FINANCIAL MATTERS

Bank account

15 (1) For purposes of existing banking arrangements and opening a bank account, the Commission must comply with section 7(2)(a) of the Public Finance Management Act and regulation 31.2.1 of the Treasury Regulations.

(2) All money received by or on behalf of the Commission must promptly be recorded and promptly deposited into the account contemplated in subregulation (1).

(3) Only the Executive Director or staff members authorised by the Commission, in writing, may make payments from such a bank account, with two signatories.

Budget and strategic plan

16. (1) The affairs of the Commission must be conducted in accordance with a budget and strategic plan prepared by the Commission covering a period of five (5) years which must include—

(a) estimates of revenue and expenditure, for the financial year to which it relates;

(b) projected revenue and expenditure for the two financial years following the year to which the budget and strategic plan relates; and

(c) items set out in regulation 30.1.3 of the Treasury Regulations.

(2) The Commission must submit the budget and strategic plan referred to subregulation (1) to the Minister for approval by the Minister in terms of regulation 30.1.1 of the Treasury Regulations.

(3) The Executive Director must ensure that the expenditure of the Commission is in accordance with the approved budget and Public Finance Management Act.

Auditing of Commission's accounts, financial statements and financial management

17. (1) The Commission must annually appoint the Auditor-General of South Africa to audit the accounts, financial statements and financial management and performance information of the Commission.

(2) A person assigned as auditor by the Auditor-General of South Africa in terms of subregulation (1)—

(a) must be registered as an accountant and auditor in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005); and

(b) may not have any conflict of interest as a result of the assignment by the Auditor-General of South Africa.

Audit committee

18 (1) The Executive Director, as accounting authority of the Commission, must establish an audit committee contemplated in section 51(1)(a)(ii) of the Public Finance Management Act and regulation 27.1 of the Treasury Regulations.

(2) The membership of the audit committee must comply with the requirements set out in regulation 27.1 of the Treasury Regulations.

(3) The audit committee must operate in terms of a written terms of reference which must deal with its membership, authority and responsibilities.

(4) The terms of reference contemplated in subregulation 18(3) must comply with the requirements set out in regulation 27.1 of the Treasury Regulations.

(5) The Commission must prepare and approve the terms of reference for the audit committee including the approval of its reports.

Annual report and financial statements

19. The Executive Director must prepare the Commission's annual report and financial statements referred to in section 15(5)(b) of the Act in accordance with section 55 of the Public Finance Management Act.

Financial responsibilities of the Executive Director

20. As accounting authority of the Commission, the Executive Director must comply with section 51 of the Public Finance Management Act.

Financial responsibilities of Commission staff

21. A staff member of the Secretariat exercising financial management responsibilities must comply with section 57 of the Public Finance Management Act.

Irregular or fruitless and wasteful expenditure

22. (1) Without limiting liability in terms of the common law, Public Finance Management Act or other legislation—

(a) the Executive Director is liable for an irregular expenditure or a fruitless and wasteful expenditure deliberately or negligently incurred or authorised by the Executive Director, subject to subregulation (2); and

(b) a staff member of the Secretariat exercising financial management responsibilities who deliberately or negligently incurred or authorised an irregular expenditure or a fruitless and wasteful expenditure is liable for that expenditure.

(2) If the Executive Director becomes aware that the Commission has taken a decision which, if implemented, is likely to result in irregular or fruitless and wasteful expenditure, the Executive Director is not liable for any ensuing irregular or fruitless and wasteful expenditure provided that the Executive Director has informed the Minister, in writing, that the expenditure is likely to be irregular or fruitless and wasteful expenditure.

(3) Any decision of the Executive Director to proceed with the implementation of the decision in subregulation (2), and the reasons for the decision, must be in writing, and the Executive Director must promptly notify the Minister, Audit Committee, Auditor-General of South Africa and National Treasury in accordance with National Treasury Instruction.

(4) The Executive Director must promptly inform the Minister, in writing, of—

(a) any irregular or fruitless and wasteful expenditure incurred in the management of the administration of the Commission;

(b) whether any person is responsible or under investigation for such irregular or fruitless and wasteful expenditure; and

(c) the steps that have been taken—

(i) to recover such expenditure;

(ii) regarding consequence management; and

(iii) to prevent a recurrence of such expenditure.

Financial misconduct

23 (1) The Executive Director commits an act of financial misconduct, if the Executive Director's wilful or negligent financial action or decision or omission results in any of the acts of financial misconduct set out in section 83(1) of the Public Finance Management Act.

(2) The member of staff of the Commission commits an act of financial misconduct, if that member of staff wilful or negligent financial action or decision or omission results in any of the acts of financial misconduct set out in section 83(3) of the Public Finance Management Act.

(3) A financial misconduct referred to in section 83(1) and (3) of the Public Finance Management Act is subject to the provisions of section 83(4) of the Public Finance Management Act.

Applicable legal regime for disciplinary proceedings

24. A charge of financial misconduct referred to in section 83 of the Public Finance Management Act against the Executive Director or another staff member must be disposed of in terms of section 84 of the Public Finance Management Act.

CHAPTER 5
GENERAL MATTERS

Delegation

25. (1) The Commission may delegate a power or duty vested in it in terms of the Act to—

(a) the Executive Director; or

(b) a committee of the Commission.

(2) A delegation referred to in subregulation (1)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) does not prevent the exercise of the power or the performance of the duty by the Commission;

(d) may include the power to subdelegate by the Executive Director; and

(e) may be withdrawn by the Commission.

(3) A committee of the Commission is not allowed to subdelegate further that power or duty delegated to it by the Commission in terms of subregulation (1)(b).

(4) A subdelegation referred to in subsection (2)(d)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) does not prevent the exercise of the power or the performance of the duty by the Executive Director personally; and

(d) may be withdrawn by the Executive Director.

(5) The Commission may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this regulation, subject to any rights that may have accrued to a person as a result of the decision.

(6) The Commission may not delegate the power to make recommendations to government.

Limitation of liability

26. The Commission, Executive Director or a member of staff of the Commission exercising a power or performing a duty in terms of the Act, is not liable in respect of any loss or damage resulting from the exercise of that power or performance of that duty, or failure to exercise that power or perform that duty, unless the exercise of or failure to exercise that power, or performance of or failure to perform that duty was unlawful, negligent or in bad faith.

Protection of information

27. (1) The Commission must take reasonable steps to guard against the disclosure of secret or classified information obtained in the course of carrying out its functions or duties in terms of the Act.

(2) Steps taken in terms of subregulation (1) may not prevent the disclosure of any report, studies, strategies or recommendation to government on just transition within the meaning of the Act, but any such disclosure may not include facts the disclosure of which would harm the national interest.

(3) The Commission is competent but may not be compelled to disclose information obtained in the course of performing out its functions or duties in terms of the Act in any proceedings in which the Commission is not a party, before—

(a) a court of law; or

(b) any other body or institution established in terms of legislation.

(4) Subregulation (3) does not apply in any proceedings before—

(a) Parliament;

(b) a court in a criminal matter.

Disclosure of information

28. (1) Information in the possession of the Commission may be disclosed to any person on request by such person to the Commission, subject to the provisions of the Promotion of Access to Information Act and the Protection of Personal Information Act.

(2) No person assisting the Commission may, without the permission of the Commission, disclose information obtained in the course of assisting the Commission carrying out its functions or duties in terms of the Act otherwise than in accordance with subregulation (1).

Short title and commencement

29. These Regulations are called the Regulations on the Administration and Operation of the Presidential Climate Commission, 2026 and take effect on the date of publication in the *Gazette* for implementation.