



GOVERNMENT GAZETTE

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STATE PRESIDENT'S OFFICE

No. 935.

24 April 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 50 of 1985: Electricity Amendment Act, 1985.

KANTOOR VAN DIE STAATSPRESIDENT

No. 935.

24 April 1985

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 50 van 1985: Wysigingswet op Elektrisiteit, 1985.

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Electricity Act, 1958, so as to provide for the continued existence, under the name of Escom, of the juristic person known as the Electricity Supply Commission; and to provide for the exercise of control over Escom by a body to be known as the Electricity Council, for the management of the affairs of Escom by a board known as the Management Board; and to provide for ters connected therewith.

(English text signed by the State President.)
(Assented to 17 April 1985.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 40 of 1958, as amended by section 1 of Act 10 of 1964, section 3 of Act 21 of 1976, section 5 of Act 102 of 1977 and section 1 of Act 85 of 1980.

1. Section 1 of the Electricity Act, 1958 (hereinafter referred to as the principal Act), is hereby amended—
 - (a) by the deletion of the definitions of “board” and “commission”, respectively;
 - (b) by the insertion after the definition of “corporation” of the following definitions:

“‘Electricity Council’ means the Electricity Council established by section 3 (1);” 10

“‘Escom’ means the juristic person referred to in section 2 (1);”;
 - (c) by the substitution for the definition of “licence” of the following definition:

“‘licence’ means a licence granted by the **[board]** Electricity Control Board under this Act for the supply, in any manner, of electricity;” 15
 - (d) by the insertion after the definition of “licensee” of the following definition:

“‘Management Board’ means the Management Board referred to in section 3 (4);”;
 - (e) by the substitution for the definition of “Minister” of the following definition:

“‘Minister’ means the Minister of **[Economic]** Mineral and Energy Affairs;” 25
 - (f) by the substitution for the definition of “permit” of the following definition:

“‘permit’ means a permit granted by the **[board]** Electricity Control Board under this Act to supply electricity;” and 30
 - (g) by the substitution for the definition of “undertaking” of the following definition:

“‘undertaking’ means any undertaking for the supply of electricity within a defined area, with all the assets and liabilities appertaining thereto, whether carried on under the authority of a licence or a permit or otherwise, and whether under the con-

ALGEMENE VERDUIDELIKENDE NOTA:

- I** **J** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die bepalings van die Elektrisiteitswet, 1958, ten einde voorsiening te maak vir die voortbestaan, onder die naam Evkom, van die regspersoon bekend as die Elektrisiteitsvoorsieningskommissie; en voorsiening te maak vir die uitoefening van beheer oor Evkom deur 'n liggaam bekend as die Elektrisiteitsraad, en vir die bestuur van die sake van Evkom deur 'n raad bekend as die Bestuursraad; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 April 1985.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 1 van die Elektrisiteitswet, 1958 (hieronder die Hoofwet genoem), word hierby gewysig—
 - 5 (a) deur voor die omskrywing van "gemagtigde onderne-
mer" die volgende omskrywings in te voeg:
"Bestuursraad" die Bestuursraad vermeld in artikel
3 (4);
"Elektrisiteitsraad" die Elektrisiteitsraad ingestel by ar-
10 tikel 3 (1);
"Evkom" die regspersoon vermeld in artikel 2 (1);";
 - (b) deur die omskrywing van "kommissie" te skrap;
 - (c) deur die omskrywing van "lisensie" deur die volgende
omskrywing te vervang:
15 "lisensie" 'n lisensie deur die **[raad]** Elektrisiteitsbe-
heerraad kragtens hierdie Wet toegestaan vir die
voorsiening, op enige wyse, van elektrisiteit;";
 - (d) deur die omskrywing van "Minister" deur die volgende
omskrywing te vervang:
20 "'Minister" die Minister van **[Ekonomiese Sake]** Mine-
raal- en Energiesake;";
 - (e) deur die omskrywing van "onderneming" deur die vol-
gende omskrywing te vervang:
25 "'onderneming" 'n onderneming vir die voorsiening van
elektrisiteit binne 'n bepaalde gebied, met al die
daarby behorende bates en laste, hetsy dit uit
hoofde van 'n lisensie of 'n permit al dan nie ge-
dryf word, en hetsy onder die beheer van **[die**
30 **kommissie]** Evkom, die Regering, met inbegrip
van die Suid-Afrikaanse **[Spoorweg- en Hawensad-
ministrasie]** Vervoerdienste, 'n stedelike plaaslike
bestuur, 'n maatskappy of ander vereniging van
persone of 'n natuurlike persoon; en het 'onder-
nemer' 'n ooreenstemmende betekenis;";

Wysiging van
artikel 1 van
Wet 40 van 1958,
soos gewysig deur
artikel 1 van
Wet 10 van 1964,
artikel 3 van
Wet 21 van 1976,
artikel 5 van
Wet 102 van 1977
en artikel 1 van
Wet 85 van 1980.

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

trol of **[the commission]** Escom, the Government, including the South African **[Railways and Harbours Administration]** Transport Services, an urban local authority, a company or other association of persons or a natural person; and 'undertaker' bears a corresponding meaning;".

Substitution of heading to Chapter 1 of Act 40 of 1958.

2. The following heading is hereby substituted for the heading to Chapter 1 of the principal Act:

"[ELECTRICITY SUPPLY COMMISSION] ESCOM"

Substitution of section 2 of Act 40 of 1958, as amended by section 1 of Act 9 of 1962 and section 1 of Act 117 of 1979.

3. The following section is hereby substituted for section 2 of 10 the principal Act:

"Continued existence of certain juristic person.

2. (1) The juristic person established under section 1, read with section 2 of the Electricity Act, 1922 (Act No. 42 of 1922), and known as the Electricity Supply Commission, shall continue to exist as a juristic person and shall with effect from the date of commencement of the Electricity Amendment Act, 1985, be known as Escom.

(2) The registrar of deeds concerned shall, as soon as practicable after the date mentioned in subsection (1), make such entries or endorsements in or on any relevant register, title deed or other document in his office or submitted to him, as he may deem necessary in order to give effect to the provisions of subsection (1), and no office fee or other charge shall be payable in respect of any such entry or endorsement."

Substitution of section 3 of Act 40 of 1958, as amended by section 2 of Act 9 of 1962.

4. The following section is hereby substituted for section 3 of the principal Act:

"Control over, and management of affairs of, Escom.

3. (1) In order to ensure the most efficient performance of its functions, exercise of its powers and fulfilment of its duties by Escom, there is hereby established a body, to be known as the Electricity Council, which shall on a continuous basis, but subject to the provisions of subsection (3)—

(a) in connection with the said functions, powers and duties of Escom, determine policy and objectives and do the necessary planning; and
(b) exercise control, generally, over the performance of its functions, the exercise of its powers and the fulfilment of its duties by Escom.

(2) The Electricity Council shall perform, in addition to the functions assigned to it by subsection (1), such other functions as may be assigned to it by this Act.

(3) The Minister may from time to time reserve matters, including matters relating to the formulation of a national policy in connection with the generating and supply of electricity in the Republic, in respect of which the Electricity Council shall consult with the Minister before taking a decision in the matter.

(4) The management of the affairs of Escom shall be conducted by a board, in this Act referred to as the Management Board, which shall manage the affairs of Escom in accordance with the policy and objectives determined and planning done by, and subject to the directions of, the Electricity Council."

Insertion of sections 3A, 3B, 3C, 3D and 3E in Act 40 of 1958.

5. (1) The following sections are hereby inserted in the principal Act after section 3:

"Constitution of Electricity Council.

3A. (1) The Electricity Council shall consist of—

(a) a chairman appointed by the Minister;

60

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

(f) deur die omskrywing van "permit" deur die volgende omskrywing te vervang:

"permit" 'n permit deur die **[raad]** Elektrisiteitsbeheerraad kragtens hierdie Wet toegestaan om elektrisiteit te voorsien;" en

(g) deur die omskrywing van "raad" te skrap.

2. Die opskrif by Hoofstuk 1 van die Hoofwet word hierby deur die volgende opskrif vervang:

**"[ELEKTRISITEITSVOORSIENINGSKOMMISSIE]
EVKOM"**

3. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

"Voortbestaan van sekere regs-persoon.

2. (1) Die regspersoon ingestel kragtens artikel 1 saamgelees met artikel 2 van die "Elektrisiteit Wet, 1922" (Wet No. 42 van 1922), en bekend as die Elektrisiteitsvoorsieningskommissie, bly as regspersoon voortbestaan en staan met ingang van die datum van inwerkingtreding van die Wysigingswet op Elektrisiteit, 1985, bekend as Evkom.

(2) Die betrokke registrateur van aktes moet, so gou doenlik na die datum in subartikel (1) vermeld, die inskrywings of aantekeninge wat hy nodig ag ten einde aan die bepalings van subartikel (1) gevolg te gee, in of op enige betrokke register, titelbewys of ander stuk in sy kantoor of aan hom voorgelê, maak, en geen kantoorgelde of ander gelde is ten opsigte van so 'n inskrywing of aantekening betaalbaar nie."

4. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

30 "Beheer oor, en bestuur van sake van, Evkom.

3. (1) Ten einde die mees doeltreffende verrigting van sy werksaamhede, uitoefening van sy bevoegdhede en nakoming van sy pligte deur Evkom te verseker, word daar hierby 'n liggaam bekend as die Elektrisiteitsraad ingestel, wat op 'n deurlopende grondslag, maar onderworpe aan die bepalings van subartikel (3)—

(a) in verband met bedoelde werksaamhede, bevoegdhede en pligte van Evkom, beleid en doelwitte moet bepaal en die nodige beplanning moet doen; en

(b) in die algemeen beheer moet uitoefen oor die verrigting van sy werksaamhede, die uitoefening van sy bevoegdhede en die nakoming van sy pligte deur Evkom.

(2) Die Elektrisiteitsraad verrig, benewens die werksaamhede by subartikel (1) aan hom opgedra, die ander werksaamhede wat by hierdie Wet aan hom opgedra word.

(3) Die Minister kan van tyd tot tyd aangeleenthede voorbehou, met inbegrip van aangeleenthede betreffende die formulering van 'n nasionale beleid in verband met die ontwikkeling en voorsiening van elektrisiteit in die Republiek, ten opsigte waarvan die Elektrisiteitsraad met die Minister oorleg moet pleeg voordat die Elektrisiteitsraad 'n besluit oor so 'n aangeleentheid neem.

(4) Die bestuur van die sake van Evkom word waargeneem deur 'n raad, in hierdie Wet die Bestuursraad genoem, wat die sake van Evkom moet bestuur ooreenkomstig die beleid en doelwitte bepaal en die beplanning gedoen deur, en onderworpe aan die voorskrifte van, die Elektrisiteitsraad."

5. (1) Die volgende artikels word hierby in die Hoofwet na artikel 3 ingevoeg:

65 "Samestelling van Elektrisiteitsraad.

3A. (1) Die Elektrisiteitsraad bestaan uit—
(a) 'n voorsitter deur die Minister aangestel;

Vervanging van opskrif by Hoofstuk 1 van Wet 40 van 1958.

Vervanging van artikel 2 van Wet 40 van 1958, soos gewysig deur artikel 1 van Wet 9 van 1962 en artikel 1 van Wet 117 van 1979.

Vervanging van artikel 3 van Wet 40 van 1958, soos gewysig deur artikel 2 van Wet 9 van 1962.

Invoeging van artikels 3A, 3B, 3C, 3D en 3E in Wet 40 van 1958.

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

- (b) the chairman of the Management Board;
- (c) the Director-General: Finance;
- (d) an officer who is in the service of the Department of Mineral and Energy Affairs and who shall be designated by the Minister; 5
- (e) a member nominated by the South African Transport Services and appointed by the Minister;
- (f) eight members appointed by the Minister, of whom— 10
- (i) one shall be so appointed from among four persons whose names have been submitted for that purpose by the 'Afrikaanse Handelsinstituut';
- (ii) one shall be so appointed from among four persons whose names have been submitted for that purpose by the Association of Chambers of Commerce of South Africa; 15
- (iii) one shall be so appointed from among four persons whose names have been submitted for that purpose by the South African Federated Chamber of Industries; 20
- (iv) one shall be so appointed from among four persons whose names have been submitted for that purpose by the National African Federated Chamber of Commerce; 25
- (v) one shall be so appointed from among four persons whose names have been submitted for that purpose by the Steel and Engineering Industries Federation of South Africa; 30
- (vi) one shall be so appointed from among four persons whose names have been submitted for that purpose by the Chamber of Mines;
- (vii) one shall be so appointed from among four persons whose names have been submitted for that purpose by the South African Agricultural Union; and 35
- (viii) one shall be so appointed from among four persons whose names have been submitted for that purpose by the Association of Municipal Electricity Undertakings; and 40
- (g) so many members appointed by the Minister, but not exceeding five, as the Minister may deem fit, and who shall be persons who, in the opinion of the Minister, on account of their training or experience have special knowledge with regard to economical or financial matters, the generating, supply or distribution of electricity, or charges for the supply of electricity. 45
- (2) The chairman of the Electricity Council and the members referred to in paragraphs (e), (f) and (g) of subsection (1) shall each hold office for such period, but not exceeding five years, as the Minister may determine at the time of the appointment of each, but shall be eligible for reappointment. 50
- (3) A member of the Electricity Council, excluding such a member who is in the full-time service of the State, shall be appointed on such conditions, including conditions relating to the payment of remuneration and allowances, as the Minister may determine with the concurrence of the Minister of Finance. 55
- 3B.** (1) A person shall be disqualified from being appointed to, or remaining a member of, the Electricity Council— 60
- (a) if he is an unrehabilitated insolvent;
- (b) if he has been convicted of an offence and sentenced to imprisonment without the option of a fine; or
- (c) if he has any interest, direct or indirect, in an undertaking, otherwise than as a ratepayer of an

Disqualifications for membership of Electricity Council, vacating of office and filling of vacancies.

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

- (b) die voorsitter van die Bestuursraad;
- (c) die Direkteur-generaal: Finansies;
- (d) 'n beampte wat in die diens van die Departement van Mineraal- en Energiesake is en deur die Minister aangewys word;
- (e) 'n lid benoem deur die Suid-Afrikaanse Vervoerdienste en deur die Minister aangestel;
- (f) agt lede deur die Minister aangestel, van wie—
- (i) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Afrikaanse Handelsinstituut;
- (ii) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die 'Association of Chambers of Commerce of South Africa';
- (iii) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Suid-Afrikaanse Gefedereerde Kamer van Nywerhede;
- (iv) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die 'National African Federated Chamber of Commerce';
- (v) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Suid-Afrikaanse Federasie van Staal- en Ingenieursbedrywe;
- (vi) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Kamer van Mynwese;
- (vii) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Suid-Afrikaanse Landbou-unie; en
- (viii) een aldus aangestel word uit vier persone wie se name vir dié doel voorgelê is deur die Vereniging van Munisipale Elektrisiteitsondernemings; en
- (g) soveel lede deur die Minister aangestel, maar nie meer as vyf nie, as wat die Minister goedvind, en wat persone moet wees wat, volgens die oordeel van die Minister, op grond van hul opleiding of ervaring beskik oor besondere kennis met betrekking tot ekonomiese of finansiële aangeleenthede, die ontwikkeling, voorsiening of distribusie van elektrisiteit, of vorderings vir die voorsiening van elektrisiteit.
- (2) Die voorsitter van die Elektrisiteitsraad en die lede bedoel in paragrawe (e), (f) en (g) van subartikel (1) beklee elk hul amp vir die tydperk, maar hoogstens vyf jaar, wat die Minister ten tyde van die aanstelling van elk bepaal, maar kan weer aangestel word.
- (3) 'n Lid van die Elektrisiteitsraad, uitgesonderd so 'n lid wat in die heeltidse diens van die Staat is, word aangestel op die voorwaardes, met inbegrip van voorwaardes betreffende die betaling van besoldiging en toelaes, wat die Minister met die instemming van die Minister van Finansies bepaal.

- Onbevoegd- hede vir lid- maatskap van Elektrisiteits- raad, ont- ruiming van amp en vul van vaka- tures.
- 3B.** (1) Iemand is onbevoeg om as lid van die Elektrisiteitsraad aangestel te word of lid van die Elektrisiteitsraad te bly—
- (a) indien hy 'n ongerehabiliteerde insolvent is;
- (b) indien hy aan 'n misdryf skuldig bevind en tot gevangenisstraf sonder die keuse van 'n boete gevonnis is; of
- (c) indien hy 'n direkte of indirekte belang het in 'n onderneming, behalwe as belastingbetaler van 'n

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

urban local authority or as an employee in an undertaking conducted by Escom or by a member of the Association of Municipal Electricity Undertakings referred to in section 3A (1) (f) (vii).

(2) A member of the Electricity Council shall vacate his office if—

- (a) he tenders his resignation in writing to the Minister;
- (b) he becomes disqualified from being appointed a member of the Electricity Council;
- (c) in the case of a member, he has been absent, without the leave of the Electricity Council, from more than two consecutive meetings of that Council or, in the case of an acting member, he has been so absent during the absence or inability to act as a member, of the member for whom he is acting; or
- (d) the Minister terminates his membership because of such member's incompetence or misconduct.

(3) Whenever, owing to the absence, or inability to act as a member, of any member, including the chairman, of the Electricity Council for a continuous period, the number of members of the Council becomes reduced to less than ten, the Minister may appoint any person to act in the place of such an absent or incapacitated member.

(4) (a) Whenever the chairman of the Electricity Council is temporarily absent or for any other reason unable to perform his functions as chairman, the Minister may designate another member of the said Council to act as chairman during the said chairman's absence or incapacity.

(b) Any person acting as chairman of the Electricity Council by virtue of the provisions of subsection (3) or of paragraph (a) of this subsection, shall, while so acting, have all the powers, and perform, while so acting, all the functions, of the chairman.

(5) Every vacancy on the Electricity Council arising from a circumstance referred to in subsection (2), and every vacancy caused by the death of a member, shall be filled by the appointment by the Minister, in the case where such vacancy has so arisen or been caused in the office of a member referred to in paragraph (a), (d), (e), (f) or (g) of section 3A (1), and subject to the provisions of those paragraphs, of another person as a member of the Electricity Council, and every member so appointed shall hold office for the unexpired portion of the period for which the vacating member was appointed.

(6) No decision of the Electricity Council or act performed under its authority shall be invalid by reason only of an interim vacancy on the Electricity Council or of the fact that a person who is disqualified from being a member of that Council, or with respect to whose appointment the provisions of this Act have not been observed, sat or acted as a member at the time when the decision was taken or the act was performed or authorized, if the decision was taken or the act was performed or authorized by the requisite majority of the members of the Electricity Council present at the time and who were entitled to sit and act as members.

Meetings of
Electricity
Council.

3C. (1) The meetings of the Electricity Council and the conduct of the business at meetings shall be as prescribed by by-laws made under section 20.

(2) A quorum for a meeting of the Electricity Council shall be the majority of its members.

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

stedelike plaaslike bestuur of as werknemer in 'n onderneming deur Evkom of deur 'n lid van die Vereniging van Munisipale Elektrisiteitsondernemings bedoel in artikel 3A (1) (f) (vii) bedryf.

5 (2) 'n Lid van die Elektrisiteitsraad ontruim sy amp indien—

- (a) hy skriftelik sy bedanking by die Minister indien;
- (b) hy onbevoeg raak om as 'n lid van die Elektrisiteitsraad aangestel te word;
- 10 (c) in die geval van 'n lid, hy sonder verlof van die Elektrisiteitsraad van meer as twee agtereenvolgende vergaderings van daardie raad afwesig was of, in die geval van 'n waarnemende lid, hy aldus afwesig was tydens die afwesigheid of on-
- 15 vermoë om as 'n lid op te tree, van die lid vir wie hy waarneem; of
- (d) die Minister hom van sy amp onthef weens so 'n lid se onbekwaamheid of wangedrag.

20 (3) Wanneer as gevolg van die afwesigheid of onvermoë om as lid op te tree van 'n lid, met inbegrip van die voorsitter, van die Elektrisiteitsraad vir 'n onafgebroke tydperk, die getal lede van die raad op minder as tien te staan kom, kan die Minister iemand aanstel om in die plek van so 'n afwesige of buite

25 staat gestelde lid waar te neem.

(4) (a) Wanneer die voorsitter van die Elektrisiteitsraad tydelik afwesig is of om 'n ander rede nie in staat is om sy werksaamhede as voorsitter te verrig nie, kan die Minister 'n ander lid van bedoelde raad aanwys om gedurende genoemde voorsitter se afwesigheid of onvermoë waar te

30 neem as voorsitter.

(b) Iemand wat uit hoofde van die bepalinge van subartikel (3) of van paragraaf (a) van hierdie subartikel as voorsitter van die Elektrisiteitsraad waarneem, het, terwyl hy aldus waarneem, al die bevoegdhede, en verrig, terwyl hy aldus waarneem, al die werksaamhede, van die voor-

40 sitter.

(5) Elke vakature in die Elektrisiteitsraad wat ontstaan as gevolg van 'n omstandigheid in subartikel (2) bedoel, en elke vakature wat veroorsaak word deur die dood van 'n lid, word gevul deur die aanstelling deur die Minister, waar sodanige vakature aldus ontstaan het of veroorsaak is in die amp van 'n lid bedoel in paragraaf (a), (d), (e), (f) of (g) van artikel 3A (1), en behoudens die bepalinge van daardie paragraawe, van iemand anders as 'n lid van die Elektrisiteitsraad, en elke lid wat aldus aangestel word, beklee sy amp vir die onverstreke gedeelte van die tydperk waarvoor die lid wie se amp vakant ge-

55 word het, aangestel was.

(6) Geen besluit van die Elektrisiteitsraad of handeling op sy gesag verrig, is ongeldig bloot vanweë 'n tydelike vakature in die Elektrisiteitsraad of omdat 'n persoon wat onbevoeg is om 'n lid van daardie raad te wees, of met betrekking tot wie se aanstelling die bepalinge van hierdie Wet nie nagekom is nie, as 'n lid sitting geneem of opgetree het toe die besluit geneem of die handeling verrig of gemagtig is nie, indien die besluit geneem of die handeling verrig of gemagtig is deur die vereiste meerderheid van die lede van die Elektrisiteitsraad wat toe aanwesig was en geregig was om as lede sitting te neem en op te tree.

65 Vergaderings van Elektrisiteitsraad. 3C. (1) Die vergaderings van die Elektrisiteitsraad en die werksaamhede by vergaderings geskied soos voorgeskryf by verordenings kragtens artikel 20 uitgevaardig.

(2) 'n Korum vir 'n vergadering van die Elektrisiteitsraad is die meerderheid van sy lede.

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

(3) A decision of the majority of the members of the Electricity Council present at any meeting shall constitute a decision of that Council and, in the event of an equality of votes, the member presiding at the meeting shall have a casting vote in addition to his deliberative vote. 5

(4) (a) Minutes of the proceedings of every meeting of the Electricity Council shall be drawn up and entered in a book kept for that purpose.

(b) The minutes of the proceedings of each meeting shall be submitted at the next ensuing meeting and if then passed as correct, shall be confirmed by the signature of the chairman or other member presiding thereat and shall, when so confirmed, be *prima facie* evidence in all courts of the proceedings of the first-mentioned meeting. 10 15

(5) In the absence from a particular meeting of the Electricity Council of the chairman or the person acting as chairman, the members present at that meeting may elect one of their number to preside at that meeting. 20

Officers and employees of Electricity Council and contracts for rendering of particular services.

3D. (1) The Electricity Council may from time to time and on such conditions, including conditions relating to remuneration and the furnishing of benefits, as the Electricity Council may determine, appoint such officers and employees as it may deem necessary to assist it in the performance of its functions. 25

(2) The Electricity Council may in the performance of its functions, in addition to or instead of the officers and employees referred to in subsection (1), also make use of— 30

(a) officers or employees placed at its disposal in terms of the provisions of section 14 (3) (a) of the Public Service Act, 1984 (Act No. 111 of 1984); 35

(b) persons in the service of any other body or person (hereinafter in this section referred to as the employer), placed at the disposal of the Electricity Council in terms of an agreement between the Electricity Council and the employer. 40

(3) The Electricity Council shall in respect of every officer or employee placed at its disposal in terms of subsection (2) (a) or person placed at its disposal in terms of subsection (2) (b) reimburse the State or the employer, as the case may be, every amount paid in terms of any law, arrangement or contract of service by the State or the employer, as the case may be, to or in respect of such officer, employee or person by virtue of his service, for as long as such officer, employee or person is so placed at the disposal of the Electricity Council. 45 50

(4) The Electricity Council may for the purposes of the performance of any of its functions enter into an agreement for the execution of a particular task or the furnishing of particular services with any person who, on account of his qualifications or special knowledge, is, in the opinion of the Electricity Council, specially equipped to execute such a task or to furnish such services. 55

Constitution of Management Board.

3E. The Management Board shall consist of a chairman appointed by the Electricity Council and so many other members as the Electricity Council may deem necessary and who are appointed by it.”. 60

(2) The term of office of each of the members of the Electricity Supply Commission appointed by the State President under 65

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

(3) 'n Besluit van die meerderheid van die lede van die Elektrisiteitsraad wat op 'n vergadering aanwesig is, maak 'n besluit van die raad uit en in die geval van 'n staking van stemme het die lid wat op die vergadering voorsit benewens sy beraadslagende stem ook 'n beslissende stem.

(4) (a) Notule van die verrigtinge by elke vergadering van die Elektrisiteitsraad moet opgestel word en aangeteken word in 'n boek wat vir die doel gehou word.

(b) Die notule van die verrigtinge by elke vergadering moet op die eersvolgende vergadering voorgelê word en indien dan as juis aanvaar, deur die handtekening van die voorsitter of ander lid wat voorsit, bekragtig word en is, wanneer aldus bekragtig, in alle howe *prima facie*-getuienis van die verrigtinge by eersgenoemde vergadering.

(5) Indien die voorsitter of die persoon wat as voorsitter waarneem van 'n bepaalde vergadering van die Elektrisiteitsraad afwesig is, kan die lede wat by daardie vergadering aanwesig is een uit hul midde kies om op daardie vergadering voor te sit.

Beamptes en werknemers van Elektrisiteitsraad en kontrakte vir lewering van bepaalde dienste.

3D. (1) Die Elektrisiteitsraad kan van tyd tot tyd en op die voorwaardes, met inbegrip van voorwaardes betreffende besoldiging en die verskaffing van voordele, wat die Elektrisiteitsraad bepaal, die beamptes en werknemers aanstel wat hy nodig ag om hom behulpzaam te wees by die verrigting van sy werksaamhede.

(2) Die Elektrisiteitsraad kan by die verrigting van sy werksaamhede, benewens of in plaas van die beamptes en werknemers bedoel in subartikel (1), ook gebruik maak van—

(a) beamptes of werknemers wat ingevolge die bepalings van artikel 14 (3) (a) van die Staatsdienswet, 1984 (Wet No. 111 van 1984), tot sy beskikking gestel is;

(b) persone in diens van enige ander liggaam of persoon (hieronder in hierdie artikel die werkgever genoem) wat ingevolge 'n ooreenkoms tussen die Elektrisiteitsraad en die werkgever tot die beskikking van die Elektrisiteitsraad gestel is.

(3) Die Elektrisiteitsraad moet ten opsigte van elke beampte of werknemer ingevolge subartikel (2) (a) of persoon ingevolge subartikel (2) (b) tot sy beskikking gestel die Staat of die werkgever, na gelang van die geval, vergoed vir elke bedrag deur die Staat of die werkgever, na gelang van die geval, ingevolge die een of ander wet, reëling of dienskontrak aan of ten opsigte van so 'n beampte, werknemer of persoon uit hoofde van sy diens betaal, vir so lank as wat so 'n beampte, werknemer of persoon aldus tot die beskikking van die Elektrisiteitsraad gestel word.

(4) Die Elektrisiteitsraad kan vir die doeleindes van die verrigting van enige van sy werksaamhede 'n ooreenkoms vir die uitvoering van 'n bepaalde taak of die lewering van bepaalde dienste aangaan met enigiemand wat, op grond van sy kwalifikasies of besondere kennis, volgens die oordeel van die Elektrisiteitsraad spesiaal toegerus is om sodanige taak te verrig of sodanige dienste te lewer.

Samestelling van Bestuursraad.

3E. Die Bestuursraad bestaan uit 'n voorsitter deur die Elektrisiteitsraad aangestel en soveel ander lede as wat die Elektrisiteitsraad nodig ag en wat deur hom aangestel word."

(2) Die ampstermyn van elk van die lede van die Elektrisiteitsvoorsieningskommissie aangestel deur die Staatspresident

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

the provisions of section 2 of the principal Act as it existed prior to the substitution thereof by section 3 of this Act, shall expire on the date of commencement of this Act.

(3) All functions performed by persons in the employ of the Electricity Supply Commission by virtue of their service before the commencement of this Act, shall with effect from the date of the said commencement be continued by those persons by virtue of their service with Escom until such time as their powers and duties in respect of the said functions—

- (a) are terminated by Escom; or
- (b) are altered by Escom, in which event the said functions shall be performed by those persons in accordance with the said powers and duties as so altered.

Substitution of
section 5 of
Act 40 of 1958.

6. The following section is hereby substituted for section 5 of the principal Act: 15

“Execution of contracts. 5. Every contract entered into by **[the commission]** Escom shall be deemed to be duly executed if signed by **[the chairman or by]** one or more **[members of the commission]** persons authorized thereto in accordance with the directions of the Electricity Council or by resolution of the **[commission]** Electricity Council passed at a meeting.” 20

Repeal of
section 6 of
Act 40 of 1958.

7. Section 6 of the principal Act is hereby repealed.

Substitution of
section 11 of
Act 40 of 1958.

8. The following section is hereby substituted for section 11 of the principal Act: 25

“Defrayment of expenditure. 11. All expenditure incurred by **[the commission]** Escom under this Act, including **[the payment of the salaries or other remuneration of the members of the commission]** expenditure incidental to the performance of its functions by the Electricity Council, expenditure incidental to the payment of remuneration and allowances to members of the Electricity Council and expenditure incidental to the payment of remuneration and the furnishing of other service benefits to members of the Management Board, shall be defrayed from the revenues of **[the commission]** Escom under this Act.” 30 35

Substitution of
section 20 of
Act 40 of 1958,
as amended by
section 3 of
Act 49 of 1971,
and saving.

9. (1) The following section is hereby substituted for section 20 of the principal Act:

“By-laws. 20. (1) The **[commission]** Electricity Council may make by-laws relating to—
(a) the proceedings at meetings of, and the business of, the **[commission]** Electricity Council and the Management Board, respectively;
(b) the duties of officers, servants and other persons in **[its]** the employ of Escom, including the delegation of powers of appointment and dismissal to any particular officer;
(c) the scales of salaries, wages or other remuneration of persons in **[its]** the employ of Escom, and the contributions to be paid by **[itself]** Escom or any such person towards any pension or superannuation fund established by **[it]** Escom; 40 45 50

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

kragtens die bepalings van artikel 2 van die Hoofwet soos dit bestaan het voor die vervanging daarvan deur artikel 3 van hierdie Wet, verstryk op die datum van inwerkingtreding van hierdie Wet.

- 5 (3) Alle werksaamhede voor die inwerkingtreding van hierdie Wet deur persone in die diens van die Elektrisiteitsvoorsieningskommissie uit hoofde van hul diens verrig, word met ingang van die datum van bedoelde inwerkingtreding deur daardie persone uit hoofde van hul diens by Evkom voortgesit tot tyd en
10 wyl hul bevoegdhede en pligte ten opsigte van bedoelde werksaamhede—

(a) deur Evkom beëindig word; of

- (b) deur Evkom gewysig word, in welke geval bedoelde werksaamhede ooreenkomstig bedoelde bevoegdhede en pligte soos aldus gewysig deur daardie persone verrig word.
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6. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 5 van Wet 40 van 1958.

- 20 "Verlyding van kontrak. 5. Elke kontrak deur **[die kommissie]** Evkom aangegaan, word geag behoorlik verly te wees indien dit onderteken is deur **[die voorsitter of deur]** een of meer **[lede van die kommissie]** persone wat daartoe gemagtig is ooreenkomstig die voorskrifte van die Elektrisiteitsraad of by besluit van die **[kommissie]** Elektrisiteitsraad wat by 'n vergadering geneem is."
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7. Artikel 6 van die Hoofwet word hierby herroep.

Herroeping van artikel 6 van Wet 40 van 1958.

8. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 11 van Wet 40 van 1958.

- 30 "Bestryding van uitgawes. 11. Alle uitgawes deur **[die kommissie]** Evkom in-gevolge hierdie Wet aangegaan, met inbegrip van **[die betaling van die salarisse of ander besoldiging van die lede van die kommissie]** uitgawes verbonde aan die verrigting van sy werksaamhede deur die Elektrisiteitsraad, uitgawes verbonde aan die betaling van besoldiging en toelaes aan lede van die Elektrisiteitsraad en uitgawes verbonde aan die betaling van besoldiging en die verskaffing van ander diensvoordele aan lede van die Bestuursraad, moet bestry word uit die inkomste van **[die kommissie]** Evkom in-gevolge hierdie Wet."
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9. (1) Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 20 van Wet 40 van 1958, soos gewysig deur artikel 3 van Wet 49 van 1971, en voorbehoud.

- 45 "Verordening. 20. (1) Die **[kommissie]** Elektrisiteitsraad kan verordenings uitvaardig betreffende—
(a) die verrigtings by vergaderings van, en die werksaamhede van, die **[kommissie]** Elektrisiteitsraad en die Bestuursraad, onderskeidelik;
(b) die pligte van beamptes, dienaars en ander persone in **[sy]** die diens van Evkom, met inbegrip van die oordrag van bevoegdhede rakende aanstelling en ontslag aan 'n bepaalde beampte;
50 (c) die salarisskale, lone of ander besoldiging van persone in **[sy]** die diens van Evkom, en die bydraes wat deur **[hom]** Evkom of so 'n persoon betaal moet word aan 'n deur **[die kommissie]** Evkom ingestelde pensioen- of superannuasiefonds;
55

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

- (d) the construction, alteration, operation, protection and inspection of works, plant, machinery, apparatus, appliances and equipment required for the transmission, distribution, connection, installation or use of electricity supplied by **[the commission]** Escom;
- (e) the payment and collection of moneys due for electricity supplied and rentals of meters and other apparatus, and the fines for overdue payments;
- (f) the granting of discounts for prompt payment by customers of **[the commission]** Escom or the making of additional charges or the payment of interest in respect of delayed payments;
- (g) the cutting off of any supply of electricity for non-payment of such charges or rentals;
- (h) the fees to be charged by **[it]** Escom under this Act;
- (i) the application of moneys available in the capital development fund referred to in section 13.

(2) No such by-law shall be of force or effect until approved by the Minister and, except in the case of by-laws made under paragraph (a), (b), or (c) of subsection (1), published by the **[commission]** Electricity Council in the *Gazette* and in a newspaper circulating in any district where such by-law is to apply.

(3) The **[commission]** Electricity Council may in the case of any by-law made under paragraph (d), (e) or (g) of subsection (1) prescribe penalties for a contravention thereof or failure to comply therewith, not exceeding a fine of **[fifty pounds]** one hundred rand."

(2) By-laws made by the Electricity Supply Commission under the provisions of section 20 of the principal Act prior to the commencement of this Act, shall be deemed to have been made by the Electricity Council under the said provisions as substituted by subsection (1).

Amendment of section 22 of Act 40 of 1958, as amended by section 2 of Act 21 of 1976 and section 4 of Act 117 of 1979.

10. Section 22 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

"(3) No person who is disqualified from being a member of the **[commission]** Electricity Council under the provisions of subsection **[(6)]** (1) of section **[two]** 3B shall be a member of the **[board]** Electricity Control Board."

- (b) by the substitution for subsection (4) of the following subsection:

"(4) The **[board]** Electricity Control Board shall as in this Chapter provided exercise control over the supply of electricity by **[the commission]** Escom or by any private undertaking, and the **[board]** Electricity Control Board shall also have such other powers, and perform such other duties, as are conferred or imposed upon it by this Act and the regulations: Provided that the Minister may from time to time assign the performance of any of the functions entrusted to the Electricity Control Board by this subsection to any other person or body."; and

- (c) by the deletion of subsection (5).

Interpretation of certain expressions.

11. Subject to the other provisions of this Act—

- (a) any reference in the principal Act, including the First Schedule thereto and any by-laws and regulations made thereunder, to the commission and to the board, shall

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

- (d) die bôu, verandering, bestuur, beskerming en inspeksie van werke, uitrusting, masjinerie, apparaat, toestelle en toerusting nodig vir die oorstuur, verspreiding, verbinding, aanlê of gebruik van elektrisiteit deur **[die kommissie]** Evkom voorsien;
- (e) die betaling en invordering van gelde verskuldig vir elektrisiteit voorsien en huurgelde van meters en ander apparaat, en die boetes vir agterstallige betalings;
- (f) die toestaan van kortings vir stiptelike betaling deur klante van **[die kommissie]** Evkom of die heffing van addisionele vorderings of die betaling van rente ten opsigte van vertraagde betalings;
- (g) die staking van elektrisiteitsvoorsiening weens wanbetaling van sodanige vorderings of huurgelde;
- (h) die gelde wat ingevolge hierdie Wet deur **[hom]** Evkom gevorder moet word;
- (i) die aanwending van gelde beskikbaar in die in artikel 13 bedoelde kapitaalontwikkelingsfonds.
- (2) So 'n verordening is nie van krag en regsgeldig nie totdat dit deur die Minister goedgekeur is en, behalwe in die geval van verordenings kragtens paragraaf (a), (b) of (c) van subartikel (1) uitgevaardig, deur die **[kommissie]** Elektrisiteitsraad in die *Staatskoerant* en in 'n nuusblad in omloop in 'n distrik waar so 'n verordening van toepassing staan te wees, gepubliseer is.
- (3) In die geval van 'n verordening kragtens paragraaf (d), (e) of (g) van subartikel (1) uitgevaardig, kan die **[kommissie]** Elektrisiteitsraad strawwe van hoogstens 'n boete van **[vyftig pond]** honderd rand voorskryf vir 'n oortreding daarvan of versuim om daaraan te voldoen."
- (2) Verordenings uitgevaardig deur die Elektrisiteitsvoorsieningskommissie kragtens die bepalings van artikel 20 van die Hoofwet voor die inwerkingtreding van hierdie Wet, word geag uitgevaardig te gewees het deur die Elektrisiteitsraad kragtens genoemde bepalings soos vervang deur subartikel (1).

10. Artikel 22 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (3) deur die volgende subartikel te vervang:
- "(3) Niemand wat uit hoofde van die bepalings van subartikel **[(6)]** (1) van artikel **[twee]** 3B onbevoeg is om lid van die **[kommissie]** Elektrisiteitsraad te wees, mag lid van die **[raad]** Elektrisiteitsbeheerraad wees nie."
- (b) deur subartikel (4) deur die volgende subartikel te vervang:
- "(4) Die **[raad]** Elektrisiteitsbeheerraad moet volgens voorskrif van hierdie Hoofstuk beheer uitoefen oor die voorsiening van elektrisiteit deur **[die kommissie]** Evkom of deur 'n private onderneming, en die **[raad]** Elektrisiteitsbeheerraad besit ook die ander bevoegdhede en moet die ander pligte vervul wat deur hierdie Wet en die regulasies aan hom verleen of opgelê word: Met dien verstande dat die Minister van tyd tot tyd die verrigting van enige van die werksaamhede by hierdie subartikel aan die Elektrisiteitsbeheerraad toegewys, aan enige ander persoon of liggaam kan opdra"; en
- (c) deur subartikel (5) te skrap.

Wysiging van artikel 22 van Wet 40 van 1958, soos gewysig deur artikel 2 van Wet 21 van 1976 en artikel 4 van Wet 117 van 1979.

65 11. Behoudens die ander bepalings van hierdie Wet—

- (a) word 'n verwysing in die Hoofwet, met inbegrip van die Eerste Bylae daarby en enige verordenings en regu-

Uitleg van sekere uitdrukings.

Act No. 50, 1985

ELECTRICITY AMENDMENT ACT, 1985

- be construed as a reference to Escom and to the Electricity Control Board, respectively;
- (b) any reference in any other law or in any document to the Electricity Supply Commission shall be construed as a reference to Escom.

5

Short title
and
commencement.

12. This Act shall be called the Electricity Amendment Act, 1985, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

WYSIGINGSWET OP ELEKTRISITEIT, 1985

Wet No. 50, 1985

- lasies daarkragtens uitgevaardig, na die kommissie en na die raad, onderskeidelik uitgelê as 'n verwysing na Evkom en na die Elektrisiteitsbeheerraad;
- 5 (b) word 'n verwysing in enige ander wet of in enige dokument na die Elektrisiteitsvoorsieningskommissie uitgelê as 'n verwysing na Evkom.

12. Hierdie Wet heet die Wysigingswet op Elektrisiteit, 1985, Kort titel en en tree in werking op 'n datum deur die Staatspresident by pro- inwerkingtreding. klamasie in die *Staatskoerant* bepaal.

