



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuisblad by die Poskantoor Geregistreer

VOL. 364

CAPE TOWN, 6 OCTOBER 1995

KAAPSTAD, 6 OKTOBER 1995

No. 16736

OFFICE OF THE PRESIDENT

No. 1532.

6 October 1995

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

No. 69 of 1995: Eskom Amendment Act, 1995.

KANTOOR VAN DIE PRESIDENT

No. 1532.

6 Oktober 1995

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

No. 69 van 1995: Eskomwysigingswet, 1995.

GENERAL EXPLANATORY NOTE:

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

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

ACT

To amend the Eskom Act, 1987, so as to substitute a certain definition; to provide anew for the constitution of the Electricity Council; to further regulate the disqualification for membership of the Electricity Council, vacating of office and filling of vacancies; and to substitute a certain word; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 28 September 1995.)*

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

Amendment of section 1 of Act 40 of 1987, as amended by section 1 of Act 15 of 1991

1. Section 1 of the Eskom Act, 1987 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Minister" of the following definition: 5

" 'Minister' means the Minister [of Mineral and Energy Affairs and Public Enterprises] to whom the administration of this Act is from time to time assigned;".

Substitution of section 5 of Act 40 of 1987, as amended by section 2 of Act 15 of 1991 10

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

"Constitution of Electricity Council

5. (1) The Electricity Council shall consist of the following members, appointed by the Minister, namely—

- (a) a chairperson;
- (b) three members who represent the Management Board;
- (c) a member who represents Transnet Limited;
- (d) a member who represents the Chamber of Mines;
- (e) a member who represents the Steel and Engineering Industries Federation of South Africa;

15

20

ALGEMENE VERDUIDELIKENDE NOTA:

[] 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 Eskomwet, 1987, ten einde 'n sekere omskrywing te vervang; opnuut vir die samestelling van die Elektrisiteitsraad voorsiening te maak; die onbevoegdheid vir lidmaatskap van die Elektrisiteitsraad, ontruiming van amp en vul van vakatures verder te reguleer; en 'n sekere woord te vervang; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 28 September 1995.)*

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

Wysiging van artikel 1 van Wet 40 van 1987, soos gewysig deur artikel 1 van Wet 15 van 1991

5 1. Artikel 1 van die Eskomwet, 1987 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:

10 " 'Minister' die Minister [van **Mineraal- en Energiesake en Openbare Ondernemings**] aan wie die administrasie van hierdie Wet van tyd tot tyd opgedra word;".

Vervanging van artikel 5 van Wet 40 van 1987, soos gewysig deur artikel 2 van Wet 15 van 1991

2. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

"Samestelling van Elektrisiteitsraad

15 5. (1) Die Elektrisiteitsraad bestaan uit die volgende lede wat deur die Minister aangestel word, naamlik—

- (a) 'n voorsitter;
- (b) drie lede wat die Bestuursraad verteenwoordig;
- (c) 'n lid wat Transnet Beperk verteenwoordig;
- 20 (d) 'n lid wat die Kamer van Mynwese verteenwoordig;
- (e) 'n lid wat die Suid-Afrikaanse Federasie van Staal- en Ingenieursbedrywe verteenwoordig;

- (f) three members who represent organised business within South Africa;
 - (g) a member who represents the investment sector within South Africa;
 - (h) a member who represents the agricultural sector within South Africa;
 - (i) three members who represent organised labour in the electricity industry within South Africa;
 - (j) three members who have special knowledge with regard to economic, financial, accounting or legal matters, the generation, supply or distribution of electricity, or charges for the supply of electricity;
 - (k) three members who represent the community within South Africa.
- (2) In addition to the members contemplated in subsection (1), the Minister may appoint a vice-chairperson to serve on the Electricity Council.
- (3) The Minister shall appoint the members contemplated in subsection (1)(b), (c), (d), (e), (f), (g), (h) and (i) after consultation with the relevant bodies and institutions, and persons representing the particular sectors, organised business, and organised labour in the electricity industry.
- (4) The Minister shall, before he or she appoints a member contemplated in subsection (1)(j) or (k), by notice in the *Gazette* invite all interested persons to submit to him or her, within the period mentioned in the notice, the names of persons who in the opinion of such interested persons are fit to be so appointed, stating the grounds upon which such opinion is based.
- (5) If a suitable person or the required number of persons is not nominated as contemplated in subsection (4), the Minister shall appoint the necessary person or persons.
- (6) The members of the Electricity Council shall each hold office for such period, but not exceeding five years, as the Minister may determine at the time of appointment of each, but shall be eligible for reappointment.
- (7) A member of the Electricity Council, excluding a member who is in the full-time employment of the State or Eskom, 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.”.

Amendment of section 6 of Act 40 of 1987

3. Section 6 of the principal Act is hereby amended—

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

“(3) Whenever, owing to the absence, or inability to act as a member, of any member, including the **[chairman] chairperson, and the vice-chairperson (if any)**, of the Electricity Council for a continuous period of three months or longer, the number of members of the Council becomes reduced to less than **[10] 12**, the Minister may appoint any person to act in the place of such an absent or incapacitated member.”;
- (b) by the substitution for subparagraph (a) of subsection (4) of the following subparagraph:

“(a) Whenever the **[chairman] chairperson** of the Electricity Council is temporarily absent or for any other reason unable to perform his or her functions as **[chairman] chairperson, the vice-chairperson (if any)** shall act as chairperson and, if the vice-chairperson is also temporarily absent or for any reason unable to act as chairperson, the Minister may designate another member of the said Council to act as **[chairman during the said chairman's absence or incapacity] chairperson** until the said chairperson or vice-chairperson is available.”;
- (c) by the substitution for subsection (5) of the following subsection:

“(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 5(1), and]** subject to the provisions of **[those paragraphs]**

- (f) drie lede wat die georganiseerde besigheid in Suid-Afrika verteenwoordig;
- (g) 'n lid wat die beleggingsektor in Suid-Afrika verteenwoordig;
- (h) 'n lid wat die landbousektor in Suid-Afrika verteenwoordig;
- 5 (i) drie lede wat die georganiseerde arbeid in die elektrisiteitsbedryf in Suid-Afrika verteenwoordig;
- (j) drie lede wat oor besondere kennis met betrekking tot ekonomiese, finansiële, rekenkundige of regsangeleenthede, die ontwikkeling, voorsiening of verspreiding van elektrisiteit, of vorderings vir die
- 10 voorsiening van elektrisiteit beskik;
- (k) drie lede wat die gemeenskap in Suid-Afrika verteenwoordig.
- (2) Afgesien van die lede beoog in subartikel (1) kan die Minister 'n vise-voorsitter aanstel om op die Elektrisiteitsraad te dien.
- (3) Die Minister wys die lede beoog in subartikel (1)(b), (c), (d), (e), (f),
- 15 (g), (h) en (i) aan na oorleg met die betrokke liggame en instellings, en persone wat die besondere sektore, die georganiseerde besigheid, en die georganiseerde arbeid in die elektrisiteitsbedryf, verteenwoordig.
- (4) Die Minister moet, voordat hy of sy 'n lid beoog in subartikel (1)(j) of (k) aanstel, by kennisgewing in die *Staatskoerant* alle belangstellende
- 20 persone uitnoui om binne die tydperk in die kennisgewing vermeld die name van persone wat na die oordeel van sodanige belangstellende persone geskik is om aldus aangestel te word, met vermelding van die gronde waarop sodanige oordeel gegrond is, aan hom of haar voor te lê.
- (5) Indien 'n geskikte persoon of die vereiste getal persone nie
- 25 genomineer word soos beoog in subartikel (4) nie, wys die Minister die nodige persoon of persone aan.
- (6) Die lede van die Elektrisiteitsraad 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.
- 30 (7) 'n Lid van die Elektrisiteitsraad, uitgesonder 'n lid wat in die heeltydse diens van die Staat of van Eskom 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."

35 Wysiging van artikel 6 van Wet 40 van 1987

3. Artikel 6 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (3) deur die volgende subartikel te vervang:
- 40 "(3) Wanneer as gevolg van die afwesigheid of onvermoë om as lid op te tree van 'n lid, met inbegrip van die voorsitter, en die vise-voorsitter (indien enige), van die Elektrisiteitsraad vir 'n onafgebroke tydperk van drie maande of langer, die getal lede van die raad op minder as [10] 12 te staan kom, kan die Minister iemand aanstel om in die plek van so 'n afwesige of buite staat gestelde lid waar te neem."
- (b) deur subparagraaf (a) van subartikel (4) deur die volgende subparagraaf te
- 45 vervang:
- "(a) Wanneer die voorsitter van die Elektrisiteitsraad tydelik afwesig is of om 'n ander rede nie in staat is om sy of haar werksaamhede as voorsitter te verrig nie, neem die vise-voorsitter (indien enige) as voorsitter waar en, indien die vise-voorsitter ook tydelik afwesig is of
- 50 om 'n ander rede nie in staat is om as voorsitter waar te neem nie, kan die Minister 'n ander lid van bedoelde raad aanwys om **[gedurende genoemde voorsitter se afwesigheid of onvermoë waar te neem]** as voorsitter waar te neem totdat genoemde voorsitter of vise-voorsitter beskikbaar is."; en
- (c) deur subartikel (5) deur die volgende subartikel te vervang:
- 55 "(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 5(1), en]** behoudens die bepalings van **[daardie paragraawe]** artikel 5, van iemand anders as 'n lid van die
- 60

section 5, 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.”.

Substitution of certain word

4. The principal Act is hereby amended by the substitution in the English text for the word “chairman”, wherever it occurs in sections 6(4)(b), 7(4)(b), 7(5) and 10, of the word “chairperson”. 5

Transitional provision

5. The Electricity Council as it existed prior to the commencement of the Eskom Amendment Act, 1995, shall cease to exist on the day immediately preceding the date of the first meeting of the Electricity Council constituted as contemplated in section 5 of the principal Act. 10

Short title

6. This Act shall be called the Eskom Amendment Act, 1995.

Elektrisiteitsraad, en elke lid wat aldus aangestel word, beklee sy of haar amp vir die onverstreke gedeelte van die tydperk waarvoor die lid wie se amp vakant geword het, aangestel was.”.

Vervanging van sekere woord

- 5 **4.** Die Hoofwet word hierby gewysig deur die woord “chairman” waar dit ook al in die Engelse teks in artikels 6(4)(b), 7(4)(b), 7(5) en 10 voorkom, deur die woord “chairperson” te vervang.

Oorgangsbepaling

- 10 **5.** Die Elektrisiteitsraad soos dit bestaan het voor die inwerkingtreding van die Eskomwysigingswet, 1995, hou op om te bestaan op die dag onmiddellik voor die dag waarop die eerste vergadering van die Elektrisiteitsraad saamgestel soos beoog in artikel 5 van die Hoofwet gehou word.

Kort titel

- 6.** Hierdie Wet heet die Eskomwysigingswet, 1995.

