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OFFICE OF THE PRESIDENT

No. 1669.

18 December 1998

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

No. 126 of 1998: Eskom Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1669.

18 Desember 1998

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

No. 126 van 1998: Eskomwysigingswet, 1998.

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the Eskom Act, 1987, so as to vest the ownership of Eskom's owner's equity in the State and to remove the exemption of Eskom from the payment of income tax, stamp duty, levies or fees; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 24 November 1998.)*

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

Insertion of section 2A in Act 40 of 1987

1. The following section is hereby inserted in the Eskom Act, 1987 (hereinafter referred to as the principal Act), after section 2:

“Ownership of Eskom's equity

2A. (1) The ownership of Eskom's owner's equity shall vest in the State.

(2) For the purposes of subsection (1), Eskom shall be deemed to be a company and its 'owner's equity' shall be the claim which the shareholders of a company have on its assets as contemplated in the Companies Act, 1973 (Act No. 61 of 1973).

(3) The Minister shall take the necessary action to incorporate Eskom as a limited liability company with a share capital as contemplated in the Companies Act, 1973 (Act No. 61 of 1973).

(4) The State shall, upon the incorporation of the Company, be the only member and shareholder of the Company.”

Amendment of section 4 of Act 40 of 1987

2. Section 4 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister may from time to time after consultation with the Minister of Minerals and Energy reserve matters, including matters relating to—

(a) national policy in connection with the generating and supply of electricity in the Republic; and

(b) the funding of electrification by Eskom in the Republic, and in respect of such matters issue directives to be followed by the Electricity Council.”

ALGEMENE VERDUIDELIKENDE NOTA:

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Eskomwet, 1987, ten einde die eiendomsreg van Eskom se eienaaraandeel in die Staat te vestig en die vrystelling van Eskom van die betaling van inkomstebelasting, seëlreg, heffings of gelde te verwyder; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 24 November 1998.)*

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

Invoeging van artikel 2A in Wet 40 van 1987

1. Die volgende artikel word hierby na artikel 2 van die Eskomwet, 1987 (hierna die Hoofwet genoem), ingevoeg:

“Eiendomsreg van Eskom se aandeel

2A. (1) Die eiendomsreg van Eskom se eienaaraandeel berus by die Staat.

(2) By die toepassing van subartikel (1) word Eskom geag 'n maatskappy te wees en sy 'eienaaraandeel' is die eis wat die aandeelhouders van 'n maatskappy op sy bates het, soos in die Maatskappywet, 1973 (Wet No. 61 van 1973), beoog.

(3) Die Minister doen die nodige stappe vir die inlywing van Eskom as 'n maatskappy met beperkte aanspreeklikheid en met 'n aandeelkapitaal, soos beoog in die Maatskappywet, 1973 (Wet No. 61 van 1973).

(4) Die Staat is by inlywing van die Maatskappy die enigste lid en aandeelhouer van die Maatskappy.”

Wysiging van artikel 4 van Wet 40 van 1987

2. Artikel 4 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die Minister kan van tyd tot tyd na oorlegpleging met die Minister van Minerale en Energie aangeleenthede voorbehou, met inbegrip van aangeleenthede betreffende—

(a) nasionale beleid in verband met die ontwikkeling en voorsiening van elektrisiteit in die Republiek; en

(b) die befondsing van elektrifisering deur Eskom in die Republiek, en ten opsigte van daardie aangeleenthede opdragte uitreik wat deur die Elektrisiteitsraad gevolg moet word.”

Repeal of section 24 of Act 40 of 1987

3. (1) Subject to subsections (2) and (3), section 24 of the principal Act is hereby repealed.

(2) The Minister of Finance, after consultation with the Minister and the Minister of Minerals and Energy, shall determine the tax values of Eskom's capital assets for the purpose of calculating attributable wear and tear allowances as contemplated in the Income Tax Act, 1962 (Act No. 58 of 1962). 5

(3) (a) In granting any special tax allowances to Eskom, the Commissioner for the South African Revenue Service shall obtain the prior approval of the Minister of Finance. 10

(b) The Minister of Finance shall only grant such approval after consultation with the Minister and the Minister of Minerals and Energy.

Laws amended

4. The laws mentioned in the Schedule are hereby amended to the extent indicated in the third column thereof. 15

Short title

5. This Act is called the Eskom Amendment Act, 1998.

Herroeping van artikel 24 van Wet 40 van 1987

3. (1) Artikel 24 van die Hoofwet word hierby behoudens subartikels (2) en (3) herroep.

5 (2) Die Minister van Finansies bepaal na oorlegpleging met die Minister en die Minister van Minerale en Energie die belastingwaardes van Eskom se kapitaalbates vir die doeleinde van berekening van toeskryfbare slytasie-toelae soos beoog in die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962).

10 (3) (a) Die Kommissaris van die Suid-Afrikaanse Inkomstediens moet by die verlening van enige spesiale belastingtoelae aan Eskom vooraf die goedkeuring van die Minister van Finansies verkry.

(b) Die Minister van Finansies verleen daardie goedkeuring slegs na oorlegpleging met die Minister en die Minister van Minerale en Energie.

Wette gewysig

15 4. Die wette in die Bylae vermeld word hierby gewysig in die mate in die derde kolom daarvan uiteengesit.

Kort titel

5. Hierdie Wet heet die Eskomwysigingswet, 1998.

SCHEDULE**LAWS AMENDED**

(Section 4)

No. and year of law	Short title	Extent of amendment
Act No. 32 of 1948	Marketable Securities Act, 1948	The amendment of paragraph (c) of subsection (3) by the deletion of subparagraph (vii).
Act No. 40 of 1949	Transfer Duty Act, 1949	The amendment of subsection (1) by the deletion of paragraph (bA).
Act No. 77 of 1968	Stamp Duties Act, 1968	The amendment of paragraph (b) of subsection (1) by the deletion of subparagraph (iv).

BYLAE
WETTE GEWYSIG
(Artikel 4)

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 32 van 1948	Handelseffektebelastingwet, 1948	Die wysiging van paragraaf (c) van subartikel (3) deur subparagraaf (vii) te skrap.
Wet No. 40 van 1949	Wet op Hereregte, 1949	Die wysiging van subartikel (1) deur paragraaf (bA) te skrap.
Wet No. 77 van 1968	Wet op Seëlregte, 1968	Die wysiging van paragraaf (b) van subartikel (1) deur subparagraaf (iv) te skrap.

