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OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1893.

4 September 1987

No. 1893.

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

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

No. 40 of 1987: Eskom Act, 1987.

No. 40 van 1987: Eskomwet, 1987.

ACT

To provide for the continued existence, functions and the management of the affairs of, and control over, Eskom; and for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 25 August 1987.)*

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

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) “consumer” means any person supplied with electricity by Eskom; (xi) 5
 - (ii) “Electricity Control Board” means the Electricity Control Board referred to in section 2 of the Electricity Act, 1987; (ii)
 - (iii) “Electricity Council” means the Electricity Council referred to in section 4 (1); (iii) 10
 - (iv) “Eskom” means the juristic person referred to in section 2 (1); (iv)
 - (v) “local authority” means any institution or body contemplated in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes— 15
 - (a) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
 - (b) any local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927);
 - (c) any local authority as defined in the Black Local Authorities Act, 1982 (Act No. 102 of 1982); (viii)
 - (vi) “Management Board” means the Management Board referred to in section 4 (4); (i) 25
 - (vii) “Minister” means the Minister of Economic Affairs and Technology; (vi)
 - (viii) “rule” means a rule made and in force under section 29; (ix) 30
 - (ix) “security” means any bill of exchange, promissory note or instrument issued by Eskom as security for any loan negotiated by it; (x)
 - (x) “supply” means the provision or distribution of electricity or both; (xii) 35
 - (xi) “this Act” includes the rules; (v)
 - (xii) “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 otherwise, and whether under the control of Eskom, the Government, 40

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Om voorsiening te maak vir die voortbestaan, werksaamhede en bestuur van sake van, en beheer oor, Eskom; en vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 25 Augustus 1987.)

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

1. In hierdie Wet, tensy uit die samehang anders blyk, Woordomskrywing.
beteken—
- 5 (i) “Bestuursraad” die Bestuursraad bedoel in artikel 4 (4); (vi)
- (ii) “Elektrisiteitsbeheerraad” die Elektrisiteitsbeheerraad bedoel in artikel 2 van die Elektrisiteitswet, 1987; (ii)
- 10 (iii) “Elektrisiteitsraad” die Elektrisiteitsraad bedoel in artikel 4 (1); (iii)
- (iv) “Eskom” die regs persoon bedoel in artikel 2 (1); (iv)
- (v) “hierdie Wet” ook die reëls; (xi)
- (vi) “Minister” die Minister van Ekonomiese Sake en Tegnologie; (vii)
- 15 (vii) “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 andersins, en hetsy dit onder die beheer van Eskom, die Regering (met inbegrip van die Suid-Afrikaanse Vervoerdienste), ’n plaaslike owerheid, ’n maatskappy of ander vereniging van persone of ’n natuurlike persoon gedryf word; (xii)
- 20 (viii) “plaaslike owerheid” enige instelling of liggaam beoog in artikel 84 (1) (f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), en ook—
- (a) ’n bestuursraad of raad soos bedoel in artikel 1 van die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet No. 9 van 1987);
- 30 (b) ’n plaaslike bestuursliggaam ingestel uit hoofde van die bepalings van artikel 30 (2) (a) van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927);
- (c) ’n plaaslike owerheid soos omskryf in die Wet op Swart Plaaslike Owerhede, 1982 (Wet No. 102 van 1982); (v)
- 35 (ix) “reël” ’n reël wat kragtens artikel 29 gemaak en van krag is; (viii)
- (x) “sekuriteit” enige wissel, promesse of instrument uitgereik deur Eskom as sekuriteit vir enige lening deur hom aangegaan; (ix)
- 40 (xi) “verbruiker” iemand aan wie elektrisiteit voorsien word deur Eskom; (i)

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(including the South African Transport Services), a local authority, a company or other association of persons or a natural person. (vii)

Continued existence of Eskom.

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, which continued to exist as a juristic person known as Escom under section 2 of the Electricity Act, 1958 (Act No. 40 of 1958), shall continue to exist as a juristic person known as Eskom notwithstanding the repeal of the latter Act by section 31 of the Electricity Act, 1987. 5 10

(2) Notwithstanding anything to the contrary contained in any other law, the Electricity Supply Commission Pension and Provident Fund shall, from the date of commencement of this Act, be known as the Eskom Pension and Provident Fund. 15

(3) The registrar of deeds concerned shall 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 subsections (1) and (2), and no office fee or other charge shall be payable in respect of any such entry or endorsement. 20

Objects of Eskom.

3. The objects of Eskom are, subject to the provisions of this Act, to provide the system by which the electricity needs of the consumer may be satisfied in the most cost-effective manner, subject to resource constraints and the national interest, and to perform such other functions as may be assigned to it by or under this Act or the Electricity Act, 1987. 25

Control over, and management of affairs of, Eskom.

4. (1) The body known as the Electricity Council established by section 3 (1) of the Electricity Act, 1958 (Act No. 40 of 1958), shall continue to exist notwithstanding the repeal of that Act by section 31 of the Electricity Act, 1987, and shall on a continuous basis, but subject to the provisions of subsection (3)— 30

(a) in connection with the functions, powers and duties of Eskom, determine policy and objectives and do the necessary planning; and 35

(b) exercise control, generally, over the performance of its functions, the exercise of its powers and the fulfilment of its duties by Eskom.

(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. 40

(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. 45

(4) The management of the affairs of Eskom shall be conducted by a board, in this Act referred to as the Management Board, which shall manage the affairs of Eskom in accordance with the policy and objectives determined and planning done by, and subject to the directions of, the Electricity Council. 50

Constitution of Electricity Council.

5. (1) The Electricity Council shall consist of—

(a) a chairman appointed by the Minister;

(b) the chairman of the Management Board; 55

(c) the Director-General: Finance;

(d) an officer who is in the employment of the Department of Economic Affairs and Technology and who shall be designated by the Minister;

(e) a member nominated by the South African Transport Services and appointed by the Minister; 60

(f) eight members appointed by the Minister, of whom—

(i) one shall be so appointed from among four per-

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(xii) "voorsiening" die lewering of verspreiding van elektrisiteit of albei. (x)

2. (1) Die regspersoon ingestel kragtens artikel 1 saamgelees met artikel 2 van die "Elektrisiteit Wet, 1922" (Wet No. 42 van 5 1922), en bekend as die Elektrisiteitsvoorsieningskommissie, wat kragtens artikel 2 van die Elektrisiteitswet, 1958 (Wet No. 40 van 1958), voortbestaan het as 'n regspersoon bekend as Evkom, bly voortbestaan as 'n regspersoon bekend as Eskom ondanks die herroeping van laasgenoemde Wet deur artikel 31 van die 10 Elektrisiteitswet, 1987.

Voortbestaan van Eskom.

(2) Ondanks andersluidende wetsbepalings staan die Elektrisiteitsvoorsieningskommissie-pensioen-en-voorsieningsfonds met ingang van die datum van inwerkingtreding van hierdie Wet bekend as die Eskom-pensioen-en-voorsieningsfonds.

15 (3) Die betrokke registrateur van aktes moet die inskrywings of aantekeninge wat hy nodig ag ten einde aan die bepalinge van subartikels (1) en (2) gevolg te gee, maak in of op enige betrokke register, titelbewys of ander stuk in sy kantoor of aan hom voorgelê, en geen kantoorgelde of ander gelde is ten op- 20 sigte van so 'n inskrywing of aantekening betaalbaar nie.

3. Die oogmerke van Eskom is om, behoudens die bepalinge van hierdie Wet, die stelsel te voorsien deur middel waarvan aan die elektrisiteitsbehoefte van die verbruiker voldoen kan word op die mees koste-effektiewe wyse, behoudens middele- 25 beperkinge en die nasionale belang, en om die ander werksaamhede te verrig wat by of kragtens hierdie Wet of die Elektrisiteitswet, 1987, aan hom opgedra word.

Oogmerke van Eskom.

4. (1) Die liggaam bekend as die Elektrisiteitsraad ingestel by artikel 3 (1) van die Elektrisiteitswet, 1958 (Wet No. 40 van 30 1958), bly voortbestaan ondanks die herroeping van daardie Wet deur artikel 31 van die Elektrisiteitswet, 1987, en moet op 'n deurlopende grondslag, maar behoudens die bepalinge van subartikel (3)—

Beheer oor, en bestuur van sake van, Eskom.

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

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

40 (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 45 neem.

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

55 5. (1) Die Elektrisiteitsraad bestaan uit—

Samestelling van Elektrisiteitsraad.

(a) 'n voorsitter deur die Minister aangestel;

(b) die voorsitter van die Bestuursraad;

(c) die Direkteur-generaal: Finansies;

60 (d) 'n beampte wat in die diens van die Departement van Ekonomiese Sake en Tegnologie 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—

65 (i) een aldus aangestel word uit vier persone wie se

- sons 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; 5
- (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; 10
- (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;
- (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; 15
- (vi) one shall be so appointed from among four persons whose names have been submitted for that purpose by the Chamber of Mines; 20
- (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 25
- (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
- (g) subject to the provisions of paragraph (f), so many 30 members appointed by the Minister, but not exceeding seven, 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 economic, financial or legal matters, the generation, supply or distribution of electricity, or charges for the supply of electricity: Provided that if any institution referred to in paragraph (f) fails to submit the names of four persons within the period which the Minister by written notice to such institution may 40 determine, the Minister may, subject to the provisions of this paragraph with regard to special knowledge of the matters mentioned therein, appoint as many persons as are necessary to complete the number of members mentioned in paragraph (f). 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 employment 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
- (4) Any person who was appointed or designated in terms of section 3A (1) of the Electricity Act, 1958 (Act No. 40 of 1958), and holding office at the repeal of that Act by section 31 of the Electricity Act, 1987, shall be deemed to have been appointed or designated in terms of subsection (1). 60

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

6. (1) Any person shall be disqualified from being appointed as a member of the Electricity Council if he is of unsound mind or if he has at any time been convicted of any offence involving dishonesty, or has been sentenced for any other offence to a period of imprisonment without the option of a fine. 65
- (2) Any appointed member of the Electricity Council shall vacate his office if—
- (a) he submits his resignation to the Minister in writing;

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- 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) behoudens die bepalings van paragraaf (f), soveel lede deur die Minister aangestel, maar nie meer as sewe nie, as wat die Minister goeddink, en wat persone moet wees wat, na die oordeel van die Minister, op grond van hul opleiding of ervaring beskik oor besondere kennis met betrekking tot ekonomiese, finansiële of regsangeleenthede, die ontwikkeling, voorsiening of verspreiding van elektrisiteit, of vorderings vir die voorsiening van elektrisiteit: Met dien verstande dat indien enige instelling bedoel in paragraaf (f) nalaat om binne die tydperk wat die Minister by skriftelike kennisgewing aan sodanige instelling bepaal, die name van vier persone voor te lê, die Minister, behoudens die bepalings van hierdie paragraaf met betrekking tot besondere kennis van die aangeleenthede daarin genoem, soveel persone kan aanstel as wat nodig is om die getal lede bedoel in paragraaf (f) te voltooi.

(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 heelydse 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.

(4) Iemand wat ingevolge artikel 3A (1) van die Elektrisiteitswet, 1958 (Wet No. 40 van 1958), aangestel of aangewys is en by die herroeping van daardie Wet deur artikel 31 van die Elektrisiteitswet, 1987, sy amp beklee, word geag ingevolge subartikel (1) aangestel of aangewys te wees.

6. (1) Iemand is onbevoeg om as lid van die Elektrisiteitsraad aangestel te word indien hy geestelik versteurd is of te eniger tyd skuldig bevind is weens 'n misdryf waarvan oneerlikheid 'n element is, of weens 'n ander misdryf tot 'n tydperk van gevange-
nisstraf sonder die keuse van 'n boete veroordeel is.

(2) 'n Aangestelde lid van die Elektrisiteitsraad ontruim sy amp indien—

(a) hy sy bedanking skriftelik aan die Minister voorlê;

Onbevoegdheid vir lidmaatskap van Elektrisiteitsraad, ontruiming van amp en vul van vakatures.

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- (b) he becomes disqualified from being appointed as a member of the Electricity Council;
- (c) 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 withdraws his appointment on the ground thereof that in the opinion of the Minister he is incompetent or unfit to fulfil his duties.

(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 10, 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 5 (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.

7. (1) The meetings of the Electricity Council and the conduct of the business at meetings shall be as prescribed by rules made under section 29, if any.

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

(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.

- (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.

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- (b) hy onbevoeg raak om as 'n lid van die Elektrisiteitsraad aangestel te word;
- (c) hy sonder verlof van die Elektrisiteitsraad vir meer as twee agtereenvolgende vergaderings van daardie raad afwesig is of, in die geval van 'n waarnemende lid, hy aldus afwesig is tydens die afwesigheid of onvermoë om as 'n lid op te tree van die lid vir wie hy waarneem; of
- (d) die Minister sy aanstelling intrek op grond daarvan dat hy, na die oordeel van die Minister, onbevoeg of nie in staat is nie om sy pligte na te kom.

(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 10 te staan kom, kan die Minister iemand aanstel om in die plek van so 'n afwesige of buite staat gestelde lid waar te neem.

(4) (a) Wanneer die voorsitter van die Elektrisiteitsraad tydelike 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 neem as voorsitter.

(b) Iemand wat uit hoofde van die bepalings 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 voorsitter.

(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 paragrawe, 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 geword 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 bepalings 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 geregtig was om as lede sitting te neem en op te tree.

7. (1) Die vergaderings van die Elektrisiteitsraad en die werksaamhede by vergaderings geskied soos voorgeskryf by reëls kragtens artikel 29 gemaak, as daar is.

Vergaderings van
Elektrisiteitsraad.

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

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

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(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.

Committees of Electricity Council.

8. The Electricity Council may appoint one or more committees from among its members to assist it with the performance of its functions and the exercise of its powers. 5

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

9. (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. 10

(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), make use of— 15

(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);

(b) persons in the employment 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. 20

(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, for 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. 30

(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, suitable to execute such a task or to furnish such services. 35

Constitution of Management Board.

10. (1) 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. 40

(2) Any person who was appointed in terms of section 3E of the Electricity Act, 1958 (Act No. 40 of 1958), and holding office at the repeal of that Act by section 31 of the Electricity Act, 1987, shall be deemed to have been appointed in terms of subsection (1). 45

Generation and supply of electricity by Eskom.

11. Eskom is hereby authorized to generate or supply or to generate and supply electricity within the Republic of South Africa, subject to the rights of local authorities and holders of licences under the provisions of the Electricity Act, 1987. 50

Functions, powers and duties of Eskom.

12. (1) Eskom shall have power—

(a) to investigate, establish, acquire, maintain, co-ordinate, amalgamate and carry on undertakings to provide an efficient and cost-effective supply of electricity to any body or person in the Republic;

(b) to purchase or acquire in any way stock-in-trade, plant, machinery, land, buildings, agencies, shares, debentures, mineral rights and every other kind or description of movable and immovable property including electricity; 60

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(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.

5 8. Die Elektrisiteitsraad kan een of meer komitees uit sy lede aanstel om hom by te staan met die verrigting van sy werksaamhede en die uitoefening van sy bevoegdhede.

Komitees van
Elektrisiteitsraad.

9. (1) Die Elektrisiteitsraad kan van tyd tot tyd en op die voorwaardes, met inbegrip van voorwaardes betreffende besol-
10 diging en die verskaffing van voordele, wat die Elektrisiteitsraad bepaal, die beamptes en werknemers aanstel wat hy nodig ag om hom behulpsaam te wees by die verrigting van sy werksaamhede.

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

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

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

(b) persone in diens van enige ander liggaam of persoon (hieronder in hierdie artikel die werkgewer genoem) wat ingevolge 'n ooreenkoms tussen die Elektrisiteitsraad en die werkgewer tot die beskikking van die Elek-
25 trisiteitsraad 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 werkgewer, na gelang van die geval, vergoed vir elke bedrag deur die Staat of die werkgewer, na gelang van die geval, ingevolge die
30 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 ver-
35 rigting 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 geskik is om sodanige taak te verrig of sodanige dienste
40 te lewer.

10. (1) Die Bestuursraad bestaan uit 'n voorsitter deur die Elektrisiteitsraad aangestel en soveel ander lede as wat die Elek-
45 trisiteitsraad nodig ag en wat deur hom aangestel word.

Samestelling van
Bestuursraad.

(2) Iemand wat ingevolge artikel 3E van die Elektrisiteitswet, 1958 (Wet No. 40 van 1958), aangestel is en by die herroeping van daardie Wet deur artikel 31 van die Elektrisiteitswet, 1987, sy amp beklee, word geag ingevolge subartikel (1) aangestel te wees.

11. Eskom word hierby gemagtig om binne die Republiek van Suid-Afrika elektrisiteit te ontwikkel of te voorsien of te ontwikkel en te voorsien, behoudens die regte van plaaslike owerhede en die houters van lisensies kragtens die bepalings van die Elektrisiteitswet, 1987.

Ontwikkeling en
voorsiening van
elektrisiteit
deur Eskom.

12. (1) Eskom is bevoeg—

55 (a) om ondernemings te ondersoek, op te rig, te verkry, te onderhou, te koördineer, te amalgameer en te dryf ten einde doeltreffende en koste-effektiewe toevoer van elektrisiteit aan enige liggaam of persoon in die Republiek te voorsien;

60 (b) om op enige wyse handelsvoorraad, bedryfsuitrusting, masjinerie, grond, geboue, agentskappe, aandele, skuldbriewe, minerale regte en roerende en onroerende goed van enige ander soort of beskrywing te koop of te verkry, met inbegrip van elektrisiteit;

Werksaamhede, be-
voegdhede en pligte
van Eskom.

- (c) to manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with all or any part of its property and assets;
- (d) to apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trade marks, concessions or other rights and to deal with and alienate them;
- (e) to borrow money internally or externally;
- (f) to secure in any manner the payment of moneys owing by it, including by the mortgaging and pledging of property to secure the payment of the purchase price or any part thereof and, without detracting from the generality thereof, in particular by the issue or re-issue of any kind of debenture or debenture stock or other security, with or without security;
- (g) to lend money to any person or company to further the interests of Eskom;
- (h) to invest money in any manner;
- (i) to open and operate on banking accounts and to overdraw such accounts;
- (j) to make, draw, issue, execute, accept, endorse and discount promissory notes, bills of exchange and any other kind of negotiable or transferable instruments;
- (k) to enter into indemnities, guarantees and suretyships and to secure payment thereunder in any way;
- (l) to enter into agreements to facilitate or secure the payment of commitments and to this end to indemnify any person and to cede, exchange and cancel agreements;
- (m) to form and have an interest in any company or companies for the purpose of acquiring the business or all or any of the assets or liabilities of any company or for any other purpose which may seem, directly or indirectly, calculated to benefit Eskom;
- (n) to take part in the management, supervision and control of the business or operations of any company or business and to enter into partnerships;
- (o) to remunerate any person or persons, either in cash or by any other means, for services rendered in the operation and development of Eskom's business;
- (p) to make donations to further the interests of Eskom;
- (q) to undertake and execute any trust;
- (r) to act as principals, agents, contractors or trustees;
- (s) to pay gratuities and pensions and establish and manage pension schemes, medical aid schemes and other incentive schemes in respect of its officers and employees and to appoint trustees and other officials;
- (t) to enter into contracts within or outside the Republic with persons, financial institutions, banks or governments of foreign countries, and to execute any contract, deed or document in the Republic or any foreign country;
- (u) to have a seal and to use such seal for any purpose in the Republic or in any foreign country;
- (v) to appoint officers and employees at such remuneration and on such conditions as it may deem fit and to dismiss them;
- (w) to enter upon any land for the purpose of making plans and surveys thereof;
- (x) to make and recover charges for electricity supply and other services;
- (y) to produce and sell by-products;

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- (c) om al of enige deel van sy goed en bates te bestuur, te verseker, te verkoop, te verhuur, met verband te beswaar, te vervreem, in ruil te gee, te bewerk, te ontwikkel, te bebou, te verbeter, voordelig te benut of op 'n ander wyse daarmee te handel;
- 5 (d) om aansoek te doen om patente, patenteregte, lisensies, handelsmerke, konsessies of ander regte of om dit te koop of op enige ander wyse te verkry, te beskerm, te veiling en te hernuwe en om daarmee te handel en dit te vervreem;
- 10 (e) om binnens- of buitenslands geld te leen;
- (f) om die betaling van gelde deur hom verskuldig op enige wyse te sekureer, met inbegrip van die verhipotekering en verpanding van eiendom om die betaling van die koopprys of enige gedeelte daarvan te sekureer en, sonder om afbreuk te doen aan die algemeenheid daarvan, in besonder deur die uitreiking of heruitreiking van enige soort skuldbrief of skuldbriefeffekte of ander sekuriteit, met of sonder sekuriteit;
- 15 (g) om geld aan enige persoon of maatskappy te leen ten einde die belange van Eskom te dien;
- (h) om geld op enige wyse te belê;
- (i) om bankrekenings te open en daarmee te werk en sodanige rekenings te oortrek;
- 20 (j) om promesses, wissels en enige ander soort verhandelbare of oordraagbare dokumente te maak, te trek, uit te reik, te verly, te aksepteer, te endorseer en te verdiskonteer;
- (k) om vrywarings, waarborge en borgstellings aan te gaan en betaling daarkragtens op enige wyse te sekureer;
- 30 (l) om ooreenkomste te sluit ten einde die betaling van verpligtinge te vergemaklik of te sekureer en om vir hierdie doel enige persoon te vrywaar en om ooreenkomste te sedgeer, uit te ruil en te kanselleer;
- 35 (m) om 'n maatskappy of maatskappye op te rig en daarin 'n belang te hê met die doel om die besigheid of al of enige van die bates of laste van enige maatskappy te verkry of vir enige ander doel wat regstreeks of onregstreeks skyn bereken te wees om Eskom te bevoordeel;
- 40 (n) om deel te neem aan die bestuur, toesig en beheer van die sake of bedrywighede van enige maatskappy of besigheid en om tot vennootskappe toe te tree;
- (o) om 'n persoon of persone te vergoed òf in kontant òf op enige ander wyse, vir dienste in die dryf en ontwikkeling van Eskom se sake gelewer;
- 45 (p) om skenkings te maak ten einde die belange van Eskom te bevorder;
- (q) om 'n trust te onderneem en uit te voer;
- (r) om as prinsipale, agente, kontrakteurs of trustees op te tree;
- 50 (s) om gratifikasies en pensioene te betaal en pensioenskemas, mediese skemas en ander aansporingskemas ten opsigte van sy amptenare en werknemers op te rig en te bestuur en om trustees en ander beamptes aan te stel;
- 55 (t) om kontrakte binne of buite die Republiek aan te gaan met persone, finansiële instellings, banke of regerings van vreemde lande, en om enige kontrak, akte of dokument in die Republiek of in 'n vreemde land te verly;
- 60 (u) om 'n seël te hê en om sodanige seël vir enige doel in die Republiek of in 'n vreemde land te gebruik;
- (v) om beamptes en werknemers aan te stel teen die besoldiging en op die voorwaardes wat hy goedvind, en om hulle te ontslaan;
- 65 (w) om grond te betree ten einde planne en opnames daarvan te maak;
- (x) om vorderings vir die voorsiening van elektrisiteit en ander dienste vas te stel en te verhaal;
- (y) om neweprodukte te produseer en te verkoop;

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- (z) to undertake research associated with the generation, conducting, distribution or utilization of electricity;
- (aa) generally, to enter into any contract or perform any act, whether within the Republic or outside, as will in the opinion of the Electricity Council contribute towards the attainment of Eskom's objectives.

(2) At least seven days' notice shall be given to the owner of the land in question of the exercise of the powers conferred upon Eskom by subsection (1) (w), and in the exercise of such powers compensation shall be paid by Eskom for any damage done by its officers or employees.

Supply of electricity for use in adjoining territories.

13. (1) Eskom shall, in addition to the powers conferred upon it by section 12, have power with the prior approval of the Minister to—

- (a) supply electricity in bulk to any body or person (including any government or administration) at any point on the border between the Republic and any territory adjoining it, for use by that body or person in such territory or for the purpose of making it available to others for use therein;
- (b) supply and distribute electricity in any territory outside the Republic, or to generate, supply and distribute electricity in any such territory which has requested such supply and distribution, or generation, supply and distribution, as the case may be.

(2) The provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* in connection with the supply of electricity in terms of subsection (1) (a) at any point on the borders of the Republic as if such point were an area within the Republic and as if any electricity so supplied were intended for use in such an area.

(3) The Minister may with the concurrence of the Minister of Finance indemnify Eskom against any losses it may incur consequent on any act or omission of the government or administration of any territory outside the Republic.

Defrayment of expenditure.

14. All expenditure incurred by Eskom under this Act, including 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 Eskom under this Act.

Prices to be charged for electricity supplied by Eskom.

15. (1) The prices to be charged by Eskom for electricity supplied by it to consumers—

- (a) shall, from the date of commencement of this Act, be as contained in its schedule of standard prices in force immediately before the date of commencement of this Act: Provided that Eskom may deviate from such schedule of standard prices in respect of any consumer if, in Eskom's opinion, special circumstances arise justifying it; and
- (b) may from time to time be revised and amended by Eskom in general in order to ensure a sound financial structure.

(2) Subject to the provisions of subsection (3) Eskom shall decrease or increase, as the case may be, its standard tariffs in respect of its various classes of consumers contained in its schedule of standard prices referred to in subsection (1) (a), in equal proportions when effecting an amendment to prices in general under subsection (1) (b).

(3) If any intended amendment to prices in general under subsection (1) (b) will have the effect that any decrease or increase

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- (z) om navorsing in verband met die ontwikkeling, geleiding, verspreiding of gebruik van elektrisiteit te onderneem;
- 5 (aa) in die algemeen, om kontrakte aan te gaan of om hande-linge te verrig, hetsy binne die Republiek of daar-
buite, wat na die oordeel van die Elektrisiteitsraad sal
bydra tot die bereiking van die doelwitte van Eskom.
- (2) Minstens sewe dae kennis moet aan die eenaar van die be-
trokke grond gegee word van die uitoefening van die bevoegd-
10 hede by subartikel (1) (w) aan Eskom verleen, en by die uitoe-
fening van sodanige bevoegdhede moet vergoeding deur Eskom
betaal word vir skade deur sy beamptes of werknemers aangerig.

13. (1) Benewens die bevoegdhede wat by artikel 12 aan Es-
kom verleen is, het hy die bevoegdheid om met die voorafver-
15 kreë goedkeuring van die Minister—

- (a) aan enige liggaam of persoon (met inbegrip van enige
regering of administrasie) elektrisiteit in groot maat te
voorsien by enige punt op die grens tussen die Repu-
20 blik en enige gebied wat daaraan grens, vir gebruik
deur daardie liggaam of persoon in sodanige gebied of
ten einde dit vir ander vir gebruik daarin beskikbaar te
stel;
- (b) in enige gebied buite die Republiek elektrisiteit te
voorsien en te versprei, of elektrisiteit te ontwikkel, te
25 voorsien en te versprei in so 'n gebied wat sodanige
voorsiening en verspreiding, of ontwikkeling, voorsie-
ning en verspreiding, na gelang van die geval, versoek
het.

(2) Die bepalings van hierdie Wet is, vir sover hulle toegepas
30 kan word, *mutatis mutandis* van toepassing in verband met die
voorsiening van elektrisiteit ingevolge subartikel (1) (a) by enige
punt op die grense van die Republiek asof sodanige punt 'n ge-
bied binne die Republiek is en asof enige elektrisiteit wat aldus
voorsien word vir gebruik in so 'n gebied bestem is.

35 (3) Die Minister kan met die instemming van die Minister van
Finansies Eskom vrywaar teen verliese wat Eskom mag ly as ge-
volg van 'n handeling of versuim van die regering of administra-
sie van 'n gebied buite die Republiek.

14. Alle uitgawes deur Eskom kragtens hierdie Wet aange-
40 gaan, met inbegrip van 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 be-
soldiging en die verskaffing van ander diensvoordele aan lede
45 van die Bestuursraad, moet bestry word uit die inkomste van Es-
kom kragtens hierdie Wet.

15. (1) Die pryse deur Eskom gevra te word vir elektrisiteit
deur hom aan verbruikers voorsien—

- (a) is, vanaf die datum van inwerkingtreding van hierdie
50 Wet, soos vervat in sy lys van standaardpryse van krag
onmiddellik voor die datum van inwerkingtreding van
hierdie Wet: Met dien verstande dat Eskom van soda-
nige lys van standaardpryse kan afwyk ten opsigte van
55 enige verbruiker indien, na Eskom se oordeel, beson-
dere omstandighede ontstaan wat dit regverdig; en
- (b) kan van tyd tot tyd deur Eskom in die algemeen her-
sien en gewysig word ten einde 'n gesonde finansiële
struktuur te verseker.

(2) Behoudens die bepalings van subartikel (3) moet Eskom
60 sy standaardtariewe ten opsigte van sy verskillende klasse van ver-
bruikers vervat in sy lys van standaardpryse in subartikel (1) (a)
bedoel, in gelyke verhoudings verminder of verhoog, na gelang
van die geval, wanneer hy 'n wysiging van pryse in die algemeen
kragtens subartikel (1) (b) aanbring.

65 (3) Indien 'n beoogde wysiging van pryse in die algemeen
kragtens subartikel (1) (b) tot gevolg sal hê dat 'n vermindering

Voorsiening van
elektrisiteit vir
gebruik in
aangrensende
gebiede.

Bestryding van
uitgawes.

Pryse gevra te word
vir elektrisiteit deur
Eskom voorsien.

of the said standard tariffs, as the case may be, will not be applicable to all classes of consumers in equal proportions, Eskom shall by notice in the *Gazette* and at least two newspapers with a country-wide circulation, make the following information known in both official languages:

- (a) The particulars of the relevant amendment;
 - (b) the date, which shall be a date not less than 30 days after the date of the publication of such notice, on which the relevant amendment shall come into operation; and
 - (c) the period, which shall be at least 60 days from the date of the publication of such notice, during which, and the address where, objections to the relevant amendment may be lodged in writing with the Electricity Control Board.
- (4) If any objections referred to in subsection (3) (c) have been lodged with it in writing within the said period, the Electricity Control Board shall—
- (a) as soon as practicable make arrangements for the public hearing of such objections and of Eskom's reasons for the relevant amendment;
 - (b) give Eskom and every objector who has lodged such objections in writing within the period referred to in subsection (3) (c), at least 30 days' notice of the time and place where the said objections and reasons will be heard by it.
- (5) At such time and place the Electricity Control Board shall hear such objections and reasons in public and as soon as practicable thereafter confirm, vary or set aside such amendment.
- (6) (a) Subject to the provisions of paragraph (b) any amendment to prices referred to in subsection (3) shall come into operation on the date fixed by Eskom in accordance with paragraph (b) of that subsection.
- (b) If any such amendment to prices in terms of subsection (3) is varied or set aside in terms of subsection (5), and any consumer has in respect of such amendment to prices at that stage already made payments to Eskom in relation to charges for electricity, Eskom shall—
- (i) repay the over-recovered sums, if any, to the relevant consumers; or
 - (ii) recover the under-recovered sums, if any, from the relevant consumers, as the case may be.

Borrowing powers of Eskom.

16. (1) Eskom may from time to time borrow money to the total amount and for the purposes which the Minister shall in respect of each year approve on the conditions which he may determine.

(2) Subject to the provisions of section 35 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), the Minister may, with the concurrence of the Minister of Finance, for the period and on the conditions which he may determine, guarantee due performance by Eskom of any contractual obligation incurred or to be incurred by Eskom towards any party whether within or outside the Republic.

Borrowings secured by Eskom's revenue and assets.

17. All borrowings effected by Eskom and any interest or other costs due or to become due in respect thereof shall be a first charge against all the revenues and assets of Eskom and on all moneys recovered or to be recovered by it.

Default in payment of interest.

18. (1) If any interest due in respect of any securities remains unpaid for three months after demand therefor in writing has been lodged with Eskom, the holder thereof may apply to a superior court having jurisdiction for the appointment of a receiver of the revenues and assets referred to in section 17.

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of verhoging van bedoelde standaardtariewe, na gelang van die geval, nie in gelyke verhoudings op alle klasse van verbruikers van toepassing sal wees nie, moet Eskom by kennisgewing in die *Staatskoerant* en in ten minste twee nuusblaaie met 'n landwyse 5 sirkulasie, die volgende inligting in beide amptelike tale bekend maak:

- (a) Die besonderhede van die betrokke wysiging;
 - (b) die datum waarop die betrokke wysiging in werking tree, wat 'n datum ten minste 30 dae na die datum van die publikasie van sodanige kennisgewing moet wees; en
 - (c) die tydperk, wat ten minste 60 dae vanaf die datum van die publikasie van sodanige kennisgewing moet wees, waarbinne, en die adres waar, skriftelike besware teen die betrokke wysiging by die Elektrisiteitsbeheerraad ingedien kan word.
- (4) Indien enige skriftelike besware bedoel in subartikel (3) (c) binne bedoelde tydperk by hom ingedien is, moet die Elektrisiteitsbeheerraad—
- (a) so spoedig doenlik reëlings tref vir die openbare aanhoor van sodanige besware en van Eskom se redes vir die betrokke wysiging;
 - (b) aan Eskom en aan elke beswaarmaker wat binne die tydperk in subartikel (3) (c) bedoel, sodanige skriftelike besware ingedien het, ten minste 30 dae kennis gee van die tyd en plek waar bedoelde besware en redes deur hom aangehoor sal word.
- (5) Op sodanige tyd en plek moet die Elektrisiteitsbeheerraad sodanige besware en redes in die openbaar aanhoor en so spoedig doenlik daarna sodanige wysiging bekragtig, wysig of tersyde stel.
- (6) (a) Behoudens die bepalings van paragraaf (b) tree 'n wysiging van pryse in subartikel (3) bedoel, in werking op die datum wat Eskom ooreenkomstig paragraaf (b) van daardie subartikel bepaal.
- (b) Indien sodanige wysiging van pryse ingevolge subartikel (3) ingevolge subartikel (5) gewysig of tersyde gestel word en verbruikers op daardie stadium reeds ten opsigte van sodanige wysiging van pryse met betrekking tot vorderings vir elektrisiteit aan Eskom betalings gedoen het, moet Eskom—
- (i) die bedrae wat oorverhaal is, as daar is, aan die betrokke verbruikers terugbetaal; of
 - (ii) die bedrae wat onderverhaal is, as daar is, op die betrokke verbruikers verhaal,
- na gelang van die geval.

16. (1) Eskom kan van tyd tot tyd geld leen tot die totale bedrag en vir die doeleindes wat die Minister ten opsigte van elke jaar goedkeur op die voorwaardes wat hy bepaal. Leningsbevoegdheid van Eskom.
- 50 (2) Behoudens die bepalings van artikel 35 van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), kan die Minister, met die instemming van die Minister van Finansies, vir die tydperk en op die voorwaardes wat hy bepaal, behoorlike nakoming deur Eskom waarborg van enige kontraktuele verpligting aange-
- 55 gaan deur, of aangegaan staan te word deur, Eskom teenoor enige party hetsy binne of buite die Republiek.

17. Alle lenings aangegaan deur Eskom en enige rente of ander koste verskuldig of wat verskuldig staan te word ten opsigte daarvan, maak 'n preferente vordering uit teen al die inkomste 60 en bates van Eskom en teen alle gelde deur hom verhaal of verhaal te word. Lenings gesekureer deur Eskom se inkomste en bates.

18. (1) Indien rente betaalbaar ten opsigte van sekuriteite onbetaald bly vir drie maande nadat 'n eis daarom skriftelik by Eskom ingedien is, kan die houer daarvan by 'n hooggeregshof wat 65 regsbevoeg is, aansoek doen om die aanstelling van 'n ontvanger van die inkomste en bates in artikel 17 bedoel. Wanbetaling van rente.

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(2) The court may make such order and give such directions as in the circumstances it may deem expedient for the raising and payment of the moneys due, and in particular may order that any prices for electricity supplied or to be supplied shall be increased to meet the deficit, and for this purpose the receiver referred to in subsection (1) shall exercise all such powers as Eskom might have exercised under this Act in respect of amending its prices for electricity: Provided that the exercise of such powers shall not require the sanction of any authority. 5

(3) When such default in payment of interest in whole or in part continues for a further period of three months, the holder of the securities may apply to a superior court having jurisdiction for a declaration that the principal sum for the time being outstanding has become due, and the court may make such declaration, together with any consequential order or declaration, unless satisfied that in the interests of the holders of securities it would be advisable to deal otherwise with the application, and in such case the court may postpone the hearing of the application and may ultimately make or refuse an order according to circumstances. 10 15 20

Default in payment of capital value of security.

19. (1) In the event of default in payment of the principal sum of any security for one month after the date on which it is repayable, the provisions of section 18 shall *mutatis mutandis* apply.

(2) The court may also make such order as it deems fit, directing a sale of any asset of Eskom. 25

Accounting records.

20. Eskom shall keep such accounting records as are necessary fairly to present the state of its affairs and functions and to explain its transactions and financial position.

Audit.

21. (1) The Minister shall five-yearly appoint two or more firms of auditors of which the partners are engaged in public practice as defined in section 1 of the Public Accountants and Auditors Act, 1951 (Act No. 51 of 1951) (hereinafter referred to as the auditors), to examine the financial statements of Eskom. 30

(2) Eskom shall produce and submit to the auditors all its accounting records with all vouchers in support thereof, and all books and documents in its possession or control relating thereto. 35

(3) For the purposes of the audit, any such auditor may hear and receive evidence upon oath or affirmation (which oath or affirmation he is hereby empowered to administer), and may by summons under his hand require such persons as he may think fit, to appear personally before him at a time and place to be stated in the summons and to produce all such books and papers as may be necessary for such audit. 40

(4) Any person so required who, without lawful excuse, fails to attend in accordance with such summons or who, having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation or, having taken such oath or affirmation, to answer such questions as may be put to him, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to a period of imprisonment not exceeding 12 months or to both such fine and such imprisonment. 50

(5) The auditors shall—

(a) disallow every unauthorized payment made and surcharge it against the person who made or authorized such payment; 55

(b) surcharge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but has not been brought into account by that person; and 60

(c) in every case certify the amount due by such person.

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- (2) Die hof kan 'n bevel uitreik en die opdragte gee wat hy in die omstandighede dienstig ag ten einde die verskuldigde gelde te laat bekom en betaal, en kan in besonder gelas dat pryse vir elektrisiteit voorsien of voorsien te word, verhoog moet word om die tekort te dek, en vir dié doel oefen die ontvanger in subartikel (1) bedoel, al die bevoegdhede uit wat Eskom kragtens hierdie Wet sou kon uitoefen ten opsigte van die wysiging van sy pryse vir elektrisiteit: Met dien verstande dat die bevoegdhede sonder verloop van enige gesag uitgeoefen kan word.
- 10 (3) Wanneer die wanbetaling van rente in die geheel of ten dele vir 'n verdere tydperk van drie maande voortduur, kan die houer van die sekuriteite by 'n hooggeregshof wat regsbevoeg is, aansoek doen om 'n verklaring dat die hoofsaaklik wat op daardie tydstip uitstaande is, verskuldig geword het, en die hof kan so 'n
- 15 verklaring, asook 'n bevel of verklaring wat daaruit voortvloei, uitreik tensy hy oortuig is dat dit in die belang van die houers van sekuriteite raadsaam sou wees om op 'n ander wyse in verband met die aansoek te handel, en in so 'n geval kan die hof die beregting van die aansoek uitstel en uiteindelik 'n bevel na gelang van omstandighede uitreik of weier.
- 20
19. (1) By versuim van een maand vanaf die datum waarop dit terugbetaalbaar is, om die hoofsaaklik van 'n sekuriteit te betaal, is die bepaling van artikel 18 *mutatis mutandis* van toepassing. Wanbetaling van kapitale waarde van sekuriteit.
- (2) Die hof kan ook na goeë dinge die verkoping van enige
- 25 bate van Eskom gelas.
20. Eskom moet die rekeningkundige aantekeninge hou wat nodig is om die toestand van sy sake en werksaamhede redelik weer te gee en om sy transaksies en finansiële toestand te verduidelik. Rekeningkundige aantekeninge.
- 30 21. (1) Die Minister moet vyfjaarlik twee of meer ouditeursfirmas waarvan die vennote openbare praktyk beoefen soos omskryf in artikel 1 van die Wet op Openbare Rekenmeesters en Ouditeure, 1951 (Wet No. 51 van 1951) (hieronder die ouditeurs genoem), aanstel om die finansiële state van Eskom na te
- 35 sien. Oudit.
- (2) Eskom moet al sy rekeningkundige aantekeninge tesame met alle bewysstukke ter staving daarvan, en alle boeke en dokumente in sy besit of onder sy beheer met betrekking daartoe, aan die ouditeurs toon en voorlê.
- 40 (3) Vir die doeleindes van die oudit kan so 'n ouditeur getuie-nis onder eed of bevestiging aanhoor en afneem (en hy word hierby gemagtig om so 'n eed of bevestiging af te neem), en deur middel van 'n dagvaarding deur hom onderteken na goeë dinge persone aansê om op 'n tyd en plek in die dagvaarding vermeld,
- 45 persoonlik voor hom te verskyn en om alle boeke en stukke wat vir die oudit nodig mag wees, te toon.
- (4) Iemand aldus aangesê wat sonder wettige verskoning versuim om ooreenkomstig so 'n dagvaarding te verskyn of wat, nadat hy verskyn het, weier om onder eed of bevestiging ondervra
- 50 te word of om so 'n eed of bevestiging af te lê of, nadat hy so 'n eed of bevestiging afgelê het, om op die vrae wat aan hom gestel word, te antwoord, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande of met so-
- 55 danige boete sowel as sodanige gevangenisstraf.
- (5) Die ouditeurs moet—
- (a) elke ongemagtigde betaling wat gedoen is, afkeur en 'n vergoedingsvordering daarvoor instel teen die persoon wat die betaling gedoen of gemagtig het;
- 60 (b) teen die persoon wat daarvoor verantwoordelik is, 'n vergoedingsvordering instel vir die bedrag van 'n tekort of verlies te wyte aan sy nalatigheid of wangedrag, of enige bedrag wat deur hom in rekening gebring moes word maar nie is nie; en
- 65 (c) in elke geval die bedrag deur so iemand betaalbaar, sertifiseer.

(6) Every amount so certified by the auditors shall be paid by such person within 14 days after the said amount has been so certified to the officer appointed by Eskom and may, if not so paid, be recovered from such person as a debt by the auditors, who shall be paid by Eskom their reasonable costs and expenses 5 incurred in such proceedings.

(7) The auditors shall certify at least once a year whether or not—

- (a) they have examined the financial statements of Eskom;
- (b) the financial statements fairly present the financial position of Eskom and the results of its functions in the manner required by this Act;
- (c) the value of the assets and liabilities of Eskom has been correctly stated;
- (d) all their requirements and recommendations as auditors 15 have been complied with and carried out.

(8) The auditors shall once a year audit all books and accounts of Eskom relating to transactions which in terms of any law may not be disclosed and shall report separately in respect of such transactions to the Electricity Council and the Minister without 20 qualifying Eskom's financial statements in respect thereof.

(9) The expenses of and incidental to any audit shall be borne by Eskom.

Annual reports.

22. (1) Eskom shall, on or before the thirtieth day of April of each year, submit to the Minister a report on its affairs and functions during the year ending on the thirty-first day of December last preceding which shall, *inter alia*, include the following:

- (a) An audited balance sheet, including any notes thereon or document annexed thereto providing information required by this Act; 30
- (b) an audited income statement, including any similar financial statement where such form is appropriate and including any notes thereon or document annexed thereto providing information required by this Act;
- (c) an audited statement of the source and application of 35 funds; and
- (d) the report of the auditors.

(2) The financial statements referred to in subsection 1 (a), (b) and (c) shall—

- (a) to such extent as may be determined by the Electricity 40 Council, be in accordance with the applicable requirements in respect of the annual financial statements of companies prescribed by the Companies Act, 1973 (Act No. 61 of 1973);
- (b) be in conformity with generally accepted accounting 45 practice;
- (c) fairly present the state of affairs and functions of Eskom and the results thereof; and
- (d) refer to any material matters not specifically prescribed by this Act which have affected or are likely to affect 50 the affairs of Eskom, both by way of figures and by descriptive report, amplifying and explaining where necessary figures in financial statements.

(3) A report referred to in subsection (1) shall be printed in both official languages. 55

(4) As soon as practicable after a report has been submitted to the Minister in terms of subsection (1), he shall table it in Parliament.

Exemption from provisions of Companies Act.

23. Subject to the provisions of section 22 (2) (a) the provisions of the Companies Act, 1973 (Act No. 61 of 1973), or of any 60 other law on companies shall not apply to Eskom.

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(6) Elke bedrag aldus deur die ouditeurs gesertifiseer, moet binne 14 dae nadat dit aldus gesertifiseer is, deur so iemand aan die beampte deur Eskom aangestel, betaal word en kan, indien dit nie aldus betaal word nie, op so iemand as 'n skuld verhaal word deur die ouditeurs, aan wie Eskom die redelike onkoste en uitgawes deur hulle in verband met sulke stappe aangegaan, moet betaal.

(7) Die ouditeurs moet ten minste een maal per jaar sertifiseer of—

- 10 (a) hulle die finansiële state van Eskom nagesien het;
 (b) die finansiële state die finansiële toestand van Eskom en die resultate van sy werksaamhede op die wyse vereis deur hierdie Wet, redelik weergee;
 15 (c) die waarde van die bates en laste van Eskom korrek opgegee is;
 (d) al hul vereistes en aanbevelings as ouditeurs nagekom en uitgevoer is,

al dan nie.

(8) Die ouditeurs moet een maal per jaar alle boeke en rekeninge van Eskom in verband met transaksies wat kragtens enige wet nie openbaar gemaak mag word nie, nasien en afsonderlik ten opsigte van sodanige transaksies aan die Elektrisiteitsraad en die Minister verslag doen sonder om Eskom se finansiële state in hierdie verband te kwalifiseer.

25 (9) Die onkoste van en verbonde aan 'n oudit moet deur Eskom gedra word.

22. (1) Eskom moet, op of voor die dertigste dag van April van elke jaar, 'n verslag oor sy sake en werksaamhede gedurende die jaar wat op die voorafgaande een-en-dertigste dag van 30 Desember geëindig het, aan die Minister voorlê wat onder meer die volgende insluit:

- (a) 'n Geouditeerde balansstaat, met inbegrip van aantekeninge daarop of 'n dokument daarby aangeheg wat inligting deur hierdie Wet vereis, verstrek;
 35 (b) 'n geouditeerde inkomstestaat, met inbegrip van 'n soortgelyke finansiële staat waar sodanige vorm gepas is en met inbegrip van aantekeninge daarop of 'n dokument daarby aangeheg wat die inligting deur hierdie Wet vereis, verstrek;
 40 (c) 'n geouditeerde staat van die bron en aanwending van fondse; en
 (d) die verslag van die ouditeurs.

(2) Die finansiële state bedoel in subartikel (1) (a), (b) en (c) moet—

- 45 (a) in die mate wat die Elektrisiteitsraad bepaal in ooreenstemming wees met die toepaslike vereistes wat ten opsigte van die finansiële jaarstate van maatskappye deur die Maatskappywet, 1973 (Wet No. 61 van 1973), voorgeskryf word;
 50 (b) in ooreenstemming wees met algemeen aanvaarde rekeningkundige praktyk;
 (c) die toestand van die sake en werksaamhede van Eskom en die resultate daarvan, redelik weergee; en
 55 (d) enige tersaaklike aangeleenthede wat nie uitdruklik deur hierdie Wet voorgeskryf word nie en wat die sake van Eskom raak of waarskynlik sal raak, sowel by wyse van syfers as by wyse van beskrywende verslag vermeld wat, waar nodig, uitbrei op syfers in finansiële state en dit verduidelik.

60 (3) 'n Verslag in subartikel (1) bedoel, word in beide amptelike tale gedruk.

(4) Die Minister lê 'n verslag wat ingevolge subartikel (1) aan hom voorgelê is so spoedig doenlik daarna in die Parlement ter Tafel.

65 23. Behoudens die bepalings van artikel 22 (2) (a) is die bepalings van die Maatskappywet, 1973 (Wet No. 61 van 1973), of van 'n ander wet op maatskappye nie ten opsigte van Eskom van toepassing nie.

Vrystelling van bepalings van Maatskappywet.

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Exemption from income tax, stamp duty, levies or fees.

24. Eskom is hereby exempted from the payment of any income tax, stamp duty, levies or fees which would otherwise have been payable by Eskom to the State in terms of any law (excluding a law regarding customs and excise or sales tax).

Abolition of certain funds.

25. (1) The reserve fund and the capital development fund referred to in section 13 of, and the redemption fund established in terms of paragraph 11 of the First Schedule to, read with section 10 (2) of, the Electricity Act, 1958, shall cease to exist on the date of commencement of this Act. 5

(2) (a) The assets in the said funds shall vest in Eskom on the 10 said date.

(b) Where such assets consist of investments in Escom-registered loans, such investments shall be cancelled and the sums to the credit of the said funds shall be transferred to Eskom's financial statements as a general 15 reserve.

(3) (a) If Eskom has incurred any obligation contractually or otherwise to maintain the redemption fund referred to in subsection (1) or to pay revenue into it, Eskom is hereby exempted from such obligation. 20

(b) No claim for repayment of any loan or otherwise shall be instituted against Eskom merely on account of Eskom's failure by virtue of the provisions of this subsection to meet an obligation referred to in paragraph (a).

Eskom not responsible for fulfilment of trusts attaching to securities.

26. Neither Eskom nor any agent appointed by it shall be 25 under any obligation in relation to the due fulfilment of any trust, whether expressed, implied or constructive, to which securities issued in the Republic may be subject, notwithstanding the fact that Eskom or such agent has had notice that the securities are held subject to a trust. 30

Proceedings by Minister in case of non-compliance with Act by Eskom.

27. (1) If at any time it appears to the Minister that Eskom has failed to comply with any of the requirements of this Act, he may by notice in writing require Eskom to remedy the default within a specified time.

(2) If Eskom fails to comply with the terms of such notice, the 35 Minister may apply to a superior court having jurisdiction for an order compelling Eskom to remedy the default, and the court may make such order thereon as it thinks fit.

Assignment of functions by Electricity Council.

28. (1) The Electricity Council may by resolution—

(a) delegate to any committee appointed under section 8, 40 the Management Board or any member thereof or any officer or employee of Eskom, any power conferred upon Eskom or the Electricity Council by this Act, excluding the powers referred to in sections 10 and 29, on such conditions as the Electricity Council may deter- 45 mine; or

(b) authorize such committee, the Management Board or such member, officer or employee to perform any duty assigned to Eskom or the Electricity Council by this Act. 50

(2) The Electricity Council may, on such conditions as it may determine, by resolution authorize any committee appointed under section 8, the Management Board or any member thereof or any officer or employee of Eskom—

(a) to which or to whom any power has been delegated 55 under subsection (1) (a), to delegate such power to any officer or employee of Eskom; or

(b) which or who has been authorized to perform any duty under subsection (1) (b), to authorize any officer or 60 employee of Eskom to perform such duty.

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24. Eskom word hierby vrygestel van die betaling van enige inkomstebelasting, seëlregte, heffings of gelde wat andersins ingevolge enige wet (uitgesonderd 'n wet betreffende doeane en aksyns of verkoopbelasting) deur Eskom betaalbaar sou gewees 5 het aan die Staat.

Vrystelling van inkomstebelasting, seëlregte, heffings of gelde.

25. (1) Die reserwefonds en die kapitaalontwikkelingsfonds bedoel in artikel 13 van, en die delgingsfonds gestig ingevolge paragraaf 11 van die Eerste Bylae by, saamgelees met artikel 10 (2) van, die Elektrisiteitswet, 1958, hou op die datum van inwerkingtreding van hierdie Wet op om te bestaan. 10

Afskaffing van sekere fondse.

(2) (a) Die bates in bedoelde fondse gaan op bedoelde datum op Eskom oor.

(b) Waar sodanige bates bestaan uit beleggings in Evkom-geregistreeerde lenings, word sodanige beleggings gekanselleer en word die bedrae tot krediet van bedoelde fondse oorgedra na Eskom se finansiële state as 'n algemene reserwe. 15

(3) (a) Indien Eskom 'n kontraktuele of ander verpligting aangegaan het om die in subartikel (1) bedoelde delgingsfonds in stand te hou of om inkomste daarin te stort, word Eskom hierby van sodanige verpligting onthef. 20

(b) Geen eis om terugbetaling van enige lening of andersins word teen Eskom ingestel bloot vanweë Eskom se versuim om uit hoofde van die bepalings van hierdie subartikel aan 'n verpligting in paragraaf (a) bedoel, te voldoen nie. 25

26. Nòg Eskom nòg 'n agent deur hom aangestel, is aan enige verpligting onderhewig met betrekking tot die behoorlike nakoming van 'n trust, hetsy uitdruklik, stilswyend of afgelei, 30 waaraan sekuriteite in die Republiek uitgereik, onderworpe mag wees, ondanks die feit dat Eskom of so 'n agent kennis ontvang het dat die sekuriteite onderworpe aan 'n trust besit word.

Eskom nie verantwoordelik vir nakoming van trusts verbonde aan sekuriteite nie.

27. (1) Indien dit na die mening van die Minister te eniger tyd blyk dat Eskom versuim het om aan 'n voorskrif van hierdie Wet 35 te voldoen, kan hy by skriftelike kennisgewing Eskom aansê om die versuim binne 'n bepaalde tyd te herstel.

Stappe deur Minister in geval van nienakoming van Wet deur Eskom.

(2) Indien Eskom versuim om te voldoen aan die bepalings van so 'n kennisgewing, kan die Minister by 'n hooggeregshof wat regsbevoeg is, aansoek doen om 'n bevel wat Eskom die 40 verpligting opleë om die versuim te herstel, en die hof kan in verband daarmee 'n bevel na goeëdunke uitvaardig.

28. (1) Die Elektrisiteitsraad kan by besluit—

(a) aan 'n komitee aangestel kragtens artikel 8, die Bestuursraad of 'n lid daarvan of enige beampte of werknemer van Eskom, 'n bevoegdheid by hierdie Wet aan Eskom of die Elektrisiteitsraad verleen, uitgesonderd die bevoegdhede in artikels 10 en 29 bedoel, delegeer op die voorwaardes wat die Elektrisiteitsraad bepaal; of 45

(b) so 'n komitee, die Bestuursraad of so 'n lid, beampte of werknemer magtig om 'n plig by hierdie Wet aan Eskom of die Elektrisiteitsraad opgedra, te verrig. 50

Opdrag van werksaamhede deur Elektrisiteitsraad.

(2) Die Elektrisiteitsraad kan, op die voorwaardes wat hy bepaal, by besluit 'n komitee aangestel kragtens artikel 8, die Bestuursraad of 'n lid daarvan of enige beampte of werknemer van Eskom— 55

(a) aan wie 'n bevoegdheid kragtens subartikel (1) (a) gedelegeer is, magtig om sodanige bevoegdheid aan enige beampte of werknemer van Eskom te delegeer; of 60

(b) wat kragtens subartikel (1) (b) gemagtig is om 'n plig te verrig, magtig om enige beampte of werknemer van Eskom te magtig om sodanige plig te verrig.

(3) The Electricity Council may at any time by resolution withdraw—

- (a) a delegation under subsection (1) (a); or
- (b) an authorization under subsection (1) (b), (2) (a) or (2) (b),

and any such delegation or any such authorization, as the case may be, does not prevent the exercise of the relevant power or the performance of the relevant duty, as the case may be, by the Electricity Council itself.

(4) Any committee appointed under section 8, the Management Board or any member thereof or any officer or employee of Eskom—

- (a) to which or to whom any power has been delegated under subsection (1) (a) and which or who has delegated such power to any officer or employee of Eskom by virtue of an authorization under subsection (2) (a); or
- (b) which or who has been authorized to perform any duty under subsection (1) (b) and which or who has authorized any officer or employee of Eskom to perform such duty by virtue of an authorization under subsection (2) (b),

as the case may be, may—

- (i) at any time withdraw such delegation or such authorization, as the case may be, and such delegation or such authorization, as the case may be, does not prevent the exercise of the relevant power or the performance of the relevant duty, as the case may be, by such committee itself, the Management Board itself or such member, officer or employee himself, as the case may be; and
- (ii) subject to the provisions of subsection (6), set aside or vary any decision by such officer or employee of Eskom made in the exercise of any such power delegated to him.

(5) Subject to the provisions of subsection (6) the Electricity Council may set aside or vary any decision made in the exercise of any power delegated by it under subsection (1) (a) or delegated by virtue of an authorization under subsection (2) (a), including a decision setting aside or varying a decision under subsection (4) (ii).

(6) A decision made in the exercise of any power delegated under subsection (1) (a) or delegated by virtue of an authorization under subsection (2) (a) by which a right has been conferred upon any person shall not be set aside or varied.

(7) Where a power is delegated under subsection (1) (a) or by virtue of an authorization under subsection (2) (a) to the holder of an office, that power may be exercised by the person who for the time being performs the functions attached to such office.

Rules.

29. (1) The Electricity Council may make rules not inconsistent with this Act relating to—

- (a) the proceedings at meetings of, and the business of, the Electricity Council, committees appointed under section 8, and the Management Board, respectively;
- (b) the period for which members appointed to the Management Board in terms of section 10 (1) shall hold office;
- (c) the duties of officers, employees and other persons in the employ of Eskom, including the delegation of powers of appointment and dismissal to any particular officer;
- (d) the salaries, wages or other remuneration of persons in the employ of Eskom, and the contributions to be paid by Eskom or any such person towards any pension, medical aid or other incentive scheme established by Eskom;
- (e) 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 Eskom;

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- (3) Die Elektrisiteitsraad kan te eniger tyd by besluit—
 (a) 'n delegering kragtens subartikel (1) (a); of
 (b) 'n magtiging kragtens subartikel (1) (b), (2) (a) of (2) (b),
 5 intrek, en so 'n delegering of so 'n magtiging, na gelang van die geval, belet nie die uitoefening van die betrokke bevoegdheid of die verrigting van die betrokke plig, na gelang van die geval, deur die Elektrisiteitsraad self nie.
- (4) 'n Komitee aangestel kragtens artikel 8, die Bestuursraad
 10 of 'n lid daarvan of enige beampte of werknemer van Eskom—
 (a) aan wie 'n bevoegdheid kragtens subartikel (1) (a) gedelegeer is en wat sodanige bevoegdheid uit hoofde van 'n magtiging kragtens subartikel (2) (a) aan enige beampte of werknemer van Eskom gedelegeer het; of
 15 (b) wat kragtens subartikel (1) (b) gemagtig is om 'n plig te verrig en wat uit hoofde van 'n magtiging kragtens subartikel (2) (b) enige beampte of werknemer van Eskom gemagtig het om sodanige plig te verrig,
 na gelang van die geval, kan—
 20 (i) te eniger tyd so 'n delegering of so 'n magtiging, na gelang van die geval, intrek, en so 'n delegering of so 'n magtiging, na gelang van die geval, belet nie die uitoefening van die betrokke bevoegdheid of die verrigting van die betrokke plig, na gelang van die geval, deur so 'n komitee, die Bestuursraad of lid daarvan of so 'n beampte of werknemer, na gelang van die geval, self nie;
 25 (ii) behoudens die bepalinge van subartikel (6) 'n besluit deur sodanige beampte of werknemer van Eskom geneem in die uitoefening van so 'n bevoegdheid aan hom gedelegeer, tersyde stel of wysig.
 30 (5) Behoudens die bepalinge van subartikel (6) kan die Elektrisiteitsraad enige besluit geneem in die uitoefening van 'n bevoegdheid kragtens subartikel (1) (a) of uit hoofde van 'n magtiging kragtens subartikel (2) (a) gedelegeer, met inbegrip van 'n besluit wat 'n besluit kragtens subartikel (4) (ii) tersyde gestel of gewysig het, tersyde stel of wysig.
 35 (6) 'n Besluit geneem in die uitoefening van 'n bevoegdheid wat kragtens subartikel (1) (a) of uit hoofde van 'n magtiging kragtens subartikel (2) (a) gedelegeer is waardeur 'n reg aan 'n persoon verleen is, word nie tersyde gestel of gewysig nie.
 40 (7) Waar 'n bevoegdheid kragtens subartikel (1) (a) of uit hoofde van 'n magtiging kragtens subartikel (2) (a) aan 'n ampsbekleër gedelegeer word, kan daardie bevoegdheid uitgeoefen
 45 word deur die persoon wat te eniger tyd die werksaamhede wat aan daardie amp verbonde is, verrig.

29. (1) Die Elektrisiteitsraad kan reëls maak wat nie met hierdie Wet onbestaanbaar is nie, betreffende— Reëls.

- 50 (a) die verrigtings by vergaderings van, en die werksaamhede van, die Elektrisiteitsraad, komitees kragtens artikel 8 aangestel, en die Bestuursraad, onderskeidelik;
 (b) die tydperk waarvoor lede ingevolge artikel 10 (1) in die Bestuursraad aangestel, die poste beklee;
 55 (c) die pligte van beamptes, werknemers en ander persone in die diens van Eskom, met inbegrip van die oordrag van bevoegdhede rakende aanstelling en ontslag aan 'n bepaalde beampte;
 (d) die salarisse, lone of ander besoldiging van persone in die diens van Eskom, en die bydraes wat deur Eskom of so 'n persoon betaal moet word aan 'n deur Eskom opgerigte pensioen-, mediese of ander aansporingskema;
 60 (e) die bou, verandering, werking, beskerming en inspeksie van werke, uitrusting, masjinerie, apparaat, toestelle en toerusting nodig vir die transmissie, verspreiding, verbinding, aanlê of gebruik van elektrisiteit deur Eskom voorsien;
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- (f) the payment and collection of moneys due for electricity supplied and rentals of meters and other apparatus, and fines for overdue payments;
- (g) the granting of discounts for prompt payment by consumers or the making of additional charges or the payment of interest in respect of delayed payments; 5
- (h) the suspension or termination of any supply of electricity for non-payment of such charges or rentals;
- (i) the fees to be charged by Eskom under this Act;
- (j) conditions of tenders for the disposal of securities to be issued by or for Eskom and the procedure to be observed and the forms to be used in connection with such tenders; 10
- (k) the form and conditions of securities or certificates for any securities issued by Eskom; 15
- (l) conditions in respect of transfer of any securities;
- (m) conditions in respect of replacement of any certificates which have been lost, destroyed, worn out or damaged;
- (n) reasonable fees and charges for the performance of services in relation to securities issued by Eskom; 20
- (o) the constitution, quorum, functions, powers and duties of committees appointed by the Electricity Council under section 8.

(2) Any rule made under subsection (1) is of no force until approved by the Minister and, except in the case of rules made under paragraph (a), (b), (c), (d) or (o) of subsection (1), until published in the *Gazette*. 25

(3) The Electricity Council may in the case of any rule made under paragraph (e), (f) or (h) of subsection (1), prescribe penalties for a contravention thereof or failure to comply therewith, not exceeding a fine of R100. 30

(4) All rules made under subsection (1) shall be tabled in Parliament in the same manner and within the same period as if they were regulations made by the Minister.

Savings.

30. (1) At the commencement of this Act anything done in terms of the provisions of the Electricity Act, 1958, prior to such commencement and which could have been done in terms of the provisions of this Act, shall be deemed to have been done in terms of the latter provisions. 35

(2) Any by-law made by the Electricity Council under section 20 of, and any regulation made by Escom under paragraph 21 of the First Schedule to, the Electricity Act, 1958, respectively, and in force at the repeal of that Act by section 31 of the Electricity Act, 1987, shall, notwithstanding such repeal, remain in force after the commencement of this Act in so far as it deals with any matter in respect of which the Electricity Council may make rules under section 29, until it is replaced by a rule made under section 29. 40 45

Short title and commencement.

31. This Act shall be called the Eskom Act, 1987, and shall come into operation on the date on which the Electricity Act, 1987, comes into operation. 50

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- (f) die betaling en invordering van gelde verskuldig vir elektrisiteit voorsien en huurgelde van meters en ander apparaat, en boetes vir agterstallige betalings;
- 5 (g) die toestaan van kortings vir stiptelike betaling deur verbruikers of die heffing van addisionele vorderings of die betaling van rente ten opsigte van laat betalings;
- (h) die opskorting of staking van elektrisiteitsvoorsiening weens wanbetaling van sodanige vorderings of huurgelde;
- 10 (i) die gelde wat ingevolge hierdie Wet deur Eskom gevorder moet word;
- (j) voorwaardes van tenders vir die vandiehandsetting van sekuriteite deur of vir Eskom uitgereik te word en die prosedure wat gevolg moet word en die vorms wat gebruik moet word in verband met sodanige tenders;
- 15 (k) die vorm en voorwaardes van sekuriteite of sertifikate vir sekuriteite deur Eskom uitgereik;
- (l) voorwaardes ten opsigte van die oordrag van sekuriteite;
- 20 (m) voorwaardes ten opsigte van die vervanging van sertifikate wat verloor, vernietig, verslyt of beskadig is;
- (n) redelike gelde en vorderings vir die verrigting van dienste met betrekking tot sekuriteite deur Eskom uitgereik;
- 25 (o) die samestelling, kworum, werksaamhede, bevoegdhede en pligte van komitees kragtens artikel 8 deur die Elektrisiteitsraad aangestel.

(2) 'n Reël kragtens subartikel (1) gemaak, is nie van krag nie totdat dit deur die Minister goedgekeur is en, behalwe in die geval van reëls kragtens paragraaf (a), (b), (c), (d) of (o) van subartikel (1) gemaak, in die *Staatskoerant* gepubliseer is.

(3) In die geval van 'n reël kragtens paragraaf (e), (f) of (h) van subartikel (1) gemaak, kan die Elektrisiteitsraad strawwe van hoogstens 'n boete van R100 voorskryf vir 'n oortreding daarvan of versuim om daaraan te voldoen.

(4) Alle reëls kragtens subartikel (1) gemaak, moet in die Parlement ter Tafel gelê word op dieselfde wyse en binne dieselfde tydperk asof hulle regulasies is wat deur die Minister uitgevaardig is.

40 30. (1) By die inwerkingtreding van hierdie Wet word enigiets wat voor sodanige inwerkingtreding ingevolge die bepalings van die Elektrisiteitswet, 1958, gedoen is en wat ingevolge die bepalings van hierdie Wet gedoen sou kon word, geag ingevolge laasgenoemde bepalings gedoen te gewees het. Voorbehoude.

45 (2) 'n Verordening deur die Elektrisiteitsraad kragtens artikel 20 van, en 'n regulasie deur Evkom kragtens paragraaf 21 van die Eerste Bylae by, die Elektrisiteitswet, 1958, onderskeidelik, uitgevaardig, en van krag by die herroeping van daardie Wet deur artikel 31 van die Elektrisiteitswet, 1987, bly ondanks sodanige herroeping van krag na die inwerkingtreding van hierdie Wet vir sover dit handel oor 'n aangeleentheid ten opsigte waarvan die Elektrisiteitsraad kragtens artikel 29 reëls kan maak, 50 totdat dit deur 'n reël kragtens artikel 29 gemaak, vervang word.

55 31. Hierdie Wet heet die Eskomwet, 1987, en tree in werking op die datum waarop die Elektrisiteitswet, 1987, in werking tree. Kort titel en inwerkingtreding.

