

OFFICE OF THE PRESIDENT

No. 1532.
6 October 1995

NO. 69 OF 1995: ESKOM AMENDMENT ACT, 1995

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

GENERAL EXPLANATORY NOTE:

** ** Words between asterisks indicate omissions from existing enactments.

<< >> Words between pointed brackets indicate insertions in existing enactments.

ACT

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

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

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

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

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

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

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

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

"Constitution of Electricity Council

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

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

Federation of South Africa;

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

Amendment of section 6 of Act 40 of 1987

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

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

"(3) Whenever, owing to the absence, or inability to act as a member, of any member, including the ****chairman**** <<chairperson, and the vice-chairperson (if any),>> of the Electricity Council for a continuous period <<of three months or longer>>, the number of members of the Council becomes reduced to less than ****10**** <<12>>, the Minister may appoint any person to act in the place of such an absent or incapacitated member.";

(b) by the substitution for subparagraph (a) of subsection (4) of the

following subparagraph:

"(a) Whenever the **chairman** <<chairperson>> of the Electricity Council is temporarily absent or for any other reason unable to perform his <<or her>> functions as **chairman** <<chairperson, the vice-chairperson (if any) shall act as chairperson and, if the vice-chairperson is also temporarily absent or for any reason unable to act as chairperson>>, the Minister may designate another member of the said Council to act as **chairman** during the said chairman's absence or incapacity" <<chairperson until the said chairperson or vice-chairperson is available>>.";

(c) by the substitution for subsection (5) of the following subsection:

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

Substitution of certain word

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

Transitional provision

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

Short title

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