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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1669.

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No. 1669.

18 Desember 1998

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

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

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

No. 126 van 1998: Eskomwysigingswet, 1998.

GENERAL EXPLANATORY NOTE:

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

ACT

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

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

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

Insertion of section 2A in Act 40 of 1987

1. The following section is hereby inserted in the Eskom Act, 1987 (hereinafter referred to as the principal Act), after section 2: 5

“Ownership of Eskom's equity

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

(2) For the purposes of subsection (1), Eskom shall be deemed to be a company and its 'owner's equity' shall be the claim which the shareholders of a company have on its assets as contemplated in the Companies Act, 1973 (Act No. 61 of 1973). 10

(3) The Minister shall take the necessary action to incorporate Eskom as a limited liability company with a share capital as contemplated in the Companies Act, 1973 (Act No. 61 of 1973). 15

(4) The State shall, upon the incorporation of the Company, be the only member and shareholder of the Company.”. 20

Amendment of section 4 of Act 40 of 1987

2. Section 4 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 20

“(3) The Minister may from time to time after consultation with the Minister of Minerals and Energy reserve matters, including matters relating to—
 (a) national policy in connection with the generating and supply of electricity in the Republic; and
 (b) the funding of electrification by Eskom in the Republic,
 and in respect of such matters issue directives to be followed by the Electricity Council.”. 25

Repeal of section 24 of Act 40 of 1987

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

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

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

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

Laws amended

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

Short title

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

SCHEDULE
LAWS AMENDED
(Section 4)

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