

# Eskom Special Appropriation Bill and Eskom Subordinated Loan Special Appropriation Amendment Bill

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**national treasury**

Department:  
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REPUBLIC OF SOUTH AFRICA

# Background

- A strong and sustainable electricity generation sector is essential for ensuring that the energy security of the country is maintained so as to support economic growth and development as well as job creation
- Eskom's current build programme has experienced significant delays increasing the costs and resulting in a shortfall in electricity supply
- Inadequate maintenance of the power plants and the transmission and distribution networks has resulted in deteriorating and unreliable performance leading to higher maintenance costs
- Greater use of the expensive gas-fired power stations has been required to meet electricity demand
- Electricity demand has been lower than anticipated resulting in lower revenue being generated
- These factors have resulted in a deterioration in Eskom's financial position which is negatively impacting Eskom's ability to raise the required funding at a reasonable cost

# Eskom Special Appropriation Bill - Background

- During September 2014, Cabinet approved a support package. Key interventions included:
  - Eskom improving efficiency through reducing costs
  - Eskom applying for tariff adjustments in line with the regulatory processes
  - An allocation of R23 billion from government
  - Conversion into equity of the subordinated loan that government had previously provided to Eskom.
- The commitment to allocate R23 billion of funding to Eskom and convert the subordinated loan was reaffirmed in the 2014 Medium Term Budget Policy Statement (MTBPS) and 2015 Budget
- The funds are to be appropriated in three tranches: R10 billion in June 2015, a second R10 billion in December 2015, and R3 billion in 2016/17
- Allocation is to be funded through the sale of non-strategic government assets to ensure there is no increase in the budget deficit
- Significant progress has been made in raising the funds through the sale

# Eskom Special Appropriation Bill

## Provisions of the Bill

- Clause 1(1) of the Bill set as a prerequisite for the appropriation of R23 billion the payment into the NRF of the revenue from the sale of assets during the 2015/16 financial year
- Clause 1(1) further provides that the appropriation is for the requirements of the Department of Public Enterprises in the 2015/16 financial year to enhance electricity generation capacity and security of supply
  - Funds will flow through the budget of the Department of Public Enterprises
- In terms of Clause 1(2), the Minister of Finance (MOF) must, after considering the cash requirements of Eskom (as verified by the National Treasury), determine the amount and date of each transfer
- The accounting officer of Department of Public Enterprises must transfer the money in terms of the PFMA and determinations of the MOF.

# Eskom Special Appropriation Bill

## Provisions of the Bill (cont.)

- Clause 1(3) of the Bill enables the Minister of Finance to impose conditions on any part of the R23 billion appropriation
  - This is similar to the annual Appropriation Act and current Appropriation Bill for the 2015/16 financial year
  - The aim of these conditions must be to promote and enforce transparency and efficient management in respect of revenue, expenditure, assets and liabilities of public entities as required by section 6(1)(g) of the PFMA
  - The Minister of Finance may also stop the use of any part of the appropriation until an imposed condition is met
  - The National Treasury must disclose such stoppage in its next quarterly report to the relevant Parliamentary Committees (i.e. Standing and Selection Committees on Appropriations)
- Clause 2 contains the short title

# Eskom Subordinated Loan Special Appropriation Amendment Bill

- The Eskom Subordinated Loan Special Appropriation (2008/09-2010/11 Financial Years) Act, 2008, provided for R60 billion to be provided to Eskom in the form of a subordinated loan
  - Funding was to support Eskom’s capital expenditure programme
  - R10 billion was appropriated to Eskom during 2008/09, R30 billion in 2009/10 and R20 billion in 2010/11
- In line with the 2008 Act, the subordinated loan agreement between the Minister of Finance and Eskom specifies the terms and conditions:
  - 30 years term
  - Loan is subordinated to any other debts (Eskom would be required to pay all other creditors before using the remaining funds to repay government)
  - Interest is payable but payment is subject to specified credit metrics being sufficiently strong
  - Government charges guarantee fees, and the payment of guarantee fees is subject to the same credit metrics being sufficiently strong
  - To date, Eskom has not been required to make payments for interest or guarantee fees.

# Eskom Subordinated Loan Special Appropriation Amendment Bill

- The conversion to equity of the subordinated loan was one of the interventions that formed part of the support package for Eskom.
- The conversion will strengthen Eskom's balance sheet
  - A portion of the subordinated loan is already recognised as equity on Eskom's balance sheet whilst the remainder is reflected as debt.
  - The conversion will result in the full R60 billion being reflected as equity. Eskom's debt will be reduced by R24.4 billion whilst simultaneously increasing the equity by the same amount.
  - This will result in an improvement in Eskom's debt to equity ratio and other credit metrics
- The conversion will have no direct cash flow impact either for Eskom or government
  - The funds were already appropriated and paid between 2008 and 2011
  - Eskom is currently not paying interest or guarantee fees on the loan, nor was it anticipated to do so over the three year period of the MTEF
- Conversion benefits Eskom by demonstrating government's commitment to supporting the company

# Eskom Subordinated Loan Special Appropriation Amendment Bill

## Provisions of Bill

- Clause 1(1)(a) of the Bill amends section 1(2) of the Eskom Subordinated Loan Special Appropriation Act (2008/09-2010/11), 2008 by:
  - Including of the full name of Eskom
  - Replacing the requirement that the R60 billion appropriation made in the 2008/09 to 2010/11 financial years be subject to a loan agreement with a requirement that Eskom must issue ordinary shares to the State to the value of R60 billion
- Clause 1(1)(b) of the Bill proposes to delete section 1(3) of the 2008 Act, that further regulates the 2008 loan agreement
- Clause 1(2) of the Bill stipulates that the 2008 loan agreement will lapse and have no force and effect from the date that Eskom issue shares to the State to the value of R60 billion
- Clause 2 of the Bill proposes to amend the short title of the 2008 Act by omitting the reference to phrase “Subordinated Loan”.
- Clause 3 of the Bill contains the short title.