

COMPLIANCE WITH THE CONDITIONS IMPOSED ON ESKOM IN TERMS OF SECTION 1(2)(B) OF THE SPECIAL APPROPRIATION ACT, 2019 (ACT NO. 25 OF 2019)



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Special Appropriation Act, 2019

- The Special Appropriation Act, 2019 (Act No. 25 of 2019 - “Act”) was enacted in November 2019 and provide for:
 - additional financial support to Eskom of R26 billion and R33 billion, bringing the total allocations to R49 billion and R56 billion for 2019/20 and 2020/21 respectively.
 - that the money be transferred to Eskom in each financial year to assist Eskom with its financial obligations.
 - that the amount be transferred in portions and on dates that the Minister of Finance determines, taking into account Eskom’s financial position as verified by the National Treasury.

Special Appropriation Act, 2019 (cont.)

- The Act further provides that:
 - to promote transparency and effective management of amount, the Minister of Finance, in writing-
 - may impose conditions to be met by Eskom before any part of amount is transferred.
 - must impose conditions to be met by Eskom after transfer of any part of amount.
 - must stop use of any part of amount iro which conditions imposed, have not been met and report stoppage to Parliamentary committees.
 - any part of amount not transferred to Eskom by end of relevant financial year reverts to National Revenue Fund.

Compliance with the conditions imposed to the Act

- On 26 November 2019, the Minister of Finance approved the conditions to be imposed on the allocation for 2019/20 after consultations with DPE (see ***Annexure A***).
- These conditions were also submitted to the Chairperson of the National Assembly's Standing Committee on Appropriations (SCOA) and the Chairperson of the National Council of Province's Select Committee on Appropriations (SeCOA).
- In reviewing compliance with these conditions, National Treasury identified areas where Eskom and DPE fully complied, not complied and partially complied with the required information:
 - Fully complied means that all the required information was provided.
 - Not complied means the information was not provided or dates were not met.
 - Partially complied means that the information provided did not meet National Treasury's requirements and therefore Eskom has to submit additional supporting information in order to fully comply with the conditions.

Conditions imposed in 2019/20

- In total 32 conditions were imposed on Eskom and DPE and clustered into categories as follows;
- **Eskom conditions**
 - **Financial conditions:** there were 7 out of 10 compliance with 2 partial and 1 non-compliance.
 - **Operational conditions:** there were 2 out of 3 compliance and 1 partial compliance
 - **Governance conditions:** there were 4 out of 5 compliance and 1 non-compliance.
 - **Restructuring conditions:** all 2 conditions were complied with.
 - **General conditions:** there were 3 out of 5 compliance and 2 did not materialise.
 - **Requirements before any individual transfer of funds:** all 3 were complied with.
- **DPE conditions**
 - There were 2 out 4 compliance and 2 non-compliance.

Performance against conditions

- To monitor progress towards complying with these conditions, a weekly monitoring task team comprising officials from National Treasury, DPE and Eskom was established. As at 31 March 2020, Eskom complied with most of these conditions except 3 which were partially met and 2 non-compliance.

Partial Compliance

- Condition 3: Although the information provided was appropriate, it however did not cover the full duration of the loan agreements as required.
- Condition 9: No additional information was provided on the cost, timing and benefit plan to the completion of Kusile and Medupi. Instead Eskom reported that the project teams is revising the business cases for the new build without changing the costs and will share this information once board approval have been granted.
- Condition 12: Eskom provided a brief report on the defects in the new build but did not include the breakdown as required.

Non Compliance

- Condition 6: Eskom did not dispose the Eskom Finance Company on the target date of 31 March 2020. However, Eskom has been providing regular updates on the status of the transaction. Furthermore, National Treasury noted Eskom's commitment to still conclude this transaction in 2020/21.
- Condition 16: Eskom did not implement the remuneration standards as it stated that it is still awaiting DPE's approval of its draft remuneration policy.

Performance against conditions (cont.)

- Despite Eskom not complying with two conditions, the information submitted and the weekly progress updates provided were sufficient to allow the disbursement of the approved equity allocation of R49 billion for 2019/20.

DPE compliance with conditions

- DPE did not comply with two of its four conditions as detailed below:
 - to ensure that the Board is strengthened by 31 December 2019; and
 - to ensure through the Board that Eskom's executive management performance agreement are linked to the Key Performance Indicators as contained in the shareholder compact and the conditions as set out by the Minister of Finance by 31 December 2019.
- DPE has not submitted any progress report or correspondence to National Treasury on the measures they are implementing in order to comply with the remaining unmet conditions.

Proposed conditions for 2020/21

- National Treasury has now developed the proposed conditions for 2020/21 in consultation with DPE.
- Letters have also been submitted to the chairpersons of the SCOA and SeCOA for consideration of these proposed conditions from the Minister of Finance.
- Currently Eskom is still reporting on the 2019/20 conditions and has been diligently reporting on its compliance with these conditions.
- Subsequent to 31 March 2020, Eskom submitted all the outstanding information for all those conditions that were identified as partially complying.
- As at 27 August 2020, R6 billion has already been disbursed with R50 billion remaining for 2020/21.

Thank You