



ESKOM DEBT RELIEF BILL	Comments
Direct charges for requirements of Eskom	<p>General Comments:</p> <ul style="list-style-type: none">• The purpose of the envisaged debt relief (which will be provided in a form a loan and converted into equity once certain conditions are met) is not clearly stated in the Bill.• Our understanding was that the proceeds of the debt relief was intended to repay/prepay the Eskom debt but that is not contemplated in the Bill.• We also understood that the purpose of the loan was to assist Eskom to be able to spend on transmission and distribution, but that is also not captured in the Bill.• Accordingly, we suggest it be clarified that the borrowing

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	<p>for new transmission or strengthening of the existing transmission to be allowed when conditions are finalised.</p> <ul style="list-style-type: none"> The National Treasury recently briefed Parliament that Eskom may not borrow for three years and must fund repair and refurbishment of the power stations (including existing life extension of Koeberg) from its own tariffs. However, it is not clear in the Bill if Eskom will still be allowed to borrow more money for Capex and its operational requirements unless it is intended to be part of the convention conditions.
<p>2. (1) The following amounts for the requirements of Eskom are direct charges against the National Revenue Fund and attributed to the vote of the National Treasury:</p>	
<p>(a) R78 billion for the 2023/24 financial year;</p>	
<p>(b) R66 billion for the 2024/25 financial year; and</p>	
<p>(c) R40 billion for the 2025/26 financial year.</p>	
<p>(2) (a) The National Treasury must advance</p>	<ul style="list-style-type: none"> Due to the fact that the intention is to provide this debt

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<p>the amounts envisaged in subsection (1) as a loan to Eskom on the dates determined by the Minister.</p>	<p>relief in the form of a loan, we propose that the financial and liquidity/solvency impact on Eskom 's balance sheet (i.e. additional loans) be assessed and to also ensure that it will not result in breach of any financial covenants in Eskom's existing loan arrangements.</p> <ul style="list-style-type: none"> • It is requested that further consideration is given to subordinating these loans in favour of the existing loans with external lenders.
<p><i>(b)</i> The Minister must determine conditions for the conversion of a portion or portions of the amount of the loan for each financial year into ordinary shares issued by Eskom to the State.</p>	<p>Propose that the conditions for the conversion be agreed with Eskom to ensure that these conditions are achievable, to avoid a situation where Eskom is not able to meet the prescribed conditions despite their reasonable endeavours.</p> <p>It appears on the reading of this provision that the cabinet minister responsible for Finance will have sole discretion to determine conditions to determine the conversion of a portion or portions of the loan. We are of the view that certain criteria should be taken into consideration when making such determination. As such, we believe provision should be made for such condition in regulations to the Bill, once promulgated. As such, we propose the provision</p>

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	<p>be amended as follows –</p> <p><i>The Minister must consider the factors as prescribed when determining the conditions for the conversion of a portion or portions of the amount of the loan for each financial year into ordinary shares issued by Eskom to the State.</i></p> <p>The criteria mentioned above to take into consider the following which we propose as conditions -</p> <ul style="list-style-type: none">• priority spend over transmission and distribution.• long term strategy on Eskom’s future borrowings to ensure that the Eskom’s debt always remain managed <p>We furthermore propose that the Bill should allow the Minister some discretion to amend or waive any of the conditions as required.</p>

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<p>(c) When the Minister informs Eskom, in writing, that he or she is satisfied that Eskom has met the conditions for the conversion of any portion of the amount of the loan for a financial year, Eskom must issue ordinary shares to the State equal to the value of the portion of the amount.</p>	
<p>(d) The Minister and Eskom must, in writing, agree on—</p>	
<p>(i) the implementation of paragraphs (a) to (c); and</p>	
<p>(ii) other arrangements to give effect to subparagraph (i).</p>	
<p>(e) The National Treasury must, in its next quarterly report to the relevant Parliamentary Committees, report on compliance with the conditions and disclose the amounts of the conversion.</p>	
<p>(3) In addition to the amount envisaged in subsection (1)(c), for the 2025/26 financial year, R70 billion of the debt of Eskom is a direct charge against the National Revenue Fund through a debt takeover arrangement as</p>	<ul style="list-style-type: none"> • Propose that the details of debt takeover arrangement be clarified in the Bill. • It is not clear if the Borrower would remain the Borrower under the loan agreement or if Government contemplates being the direct Borrower.

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determined by the Minister.	<ul style="list-style-type: none"> The impact of the contractual loan arrangements with the Lenders (if any) to be assessed including if the Lenders' consent is to be required.
Delegations and authorisations	
3. (1) The Minister may—	
(a) delegate to an employee of the National Treasury any power conferred on the Minister in terms of this Act; and	
(b) authorise an employee of the National Treasury to perform any duty imposed on the Minister in terms of this Act.	
(2) A delegation or authorisation in terms of subsection (1)—	
(a) must be in writing;	
(b) is subject to any limitations or conditions that the Minister may impose;	
(c) may authorise the employee contemplated in subsection (1) to sub-delegate, in writing, the	

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delegated power or authorised duty to another suitable employee of the National Treasury;	
<i>(d)</i> does not divest the Minister of the responsibility concerning the exercise of the delegated power or the performance of the authorised duty; and	
<i>(e)</i> may be withdrawn by the Minister in writing.	
(3) The Minister may vary or revoke any decision taken by an employee as a result of a delegation or authorisation in terms of subsection (1), subject to any rights that may have vested as a result of the decision.	
Short title	
This Act is called the Eskom Debt Relief Act, 2023.	