



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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MEDIA STATEMENT

DECISION ON ESKOM'S PARTIAL EXEMPTION

The Minister of Finance has determined that Eskom not be granted a partial exemption from section 55(2)(b)(i) of the Public Finance Management Act (PFMA), (Act No. 1 of 1999 – the Act) and Treasury Regulation 28.2.1, from disclosing irregular, fruitless and wasteful expenditure and material losses from criminal conduct in its annual financial statements.

The Minister recognises the commitment of the Eskom board and management to fight and expose fraud and corruption, and the additional compliance and reporting burden facing Eskom and other State-Owned Entities (SOEs). However, it is the view of the Minister that Eskom needs to do more operationally to reduce the scope of fraud and corruption before such an exemption can be considered, and for it to be effective and the commitment of the Eskom board and management to fight and expose fraud and corruption. As Eskom attempts to recover from the devastating impact of state capture, and take steps against past and current corruption, it needs to ensure that its anti-corruption strategy is credible and has the support of key stakeholders like investors, lenders, suppliers, customers, and the public.

The National Treasury has engaged with the Auditor-General and considered all public comments received through Government Gazette General Notice No. 3270 of 6 April 2023 which withdrew the Government Gazette General Notice No. 3247 of 31 March 2023 and invited public comments on a proposed exemption for Eskom. In total, fifty-six (56) comments were received, with twenty-three (23) comments received in formal correspondence and thirty-three (33) comments received through emails, covering a broad spectrum of accounting and reporting, auditing, governance, legal principles, and public interest issues have been duly considered. The National Treasury also engaged with audit firms, professional auditing and accounting bodies, a rating agency, and other relevant authorities to discuss the challenges and seemingly onerous compliance reporting requirements applicable to State-Owned Entities such as Eskom.

Although irregular expenditure does not automatically equate to fraud and corruption, many comments submitted view irregular expenditure as an indicator of how SOEs are managing their finances. Accounting and auditing experts noted that SOEs are currently subject to more onerous accounting and reporting standards than commercial companies, as they are required to comply with both the PFMA and the Companies Act, as well as the International Financial Reporting Standards (IFRS) and JSE Debt Listing Requirements. In addition, as part of the Eskom debt relief arrangement, the Minister of Finance has instituted additional reporting obligations on Eskom, which the entity will be required to submit to Parliament and oversight structures. The extensive PFMA reporting requirements makes it more onerous for a State-Owned Entity compared to a listed company to have its financial statements qualified, even when there is no financial mismanagement or corruption.



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This in turn has the perverse effect of making SOEs more likely to require funding, or a guarantee, from the fiscus.

Whilst Treasury remains committed to promoting the principles of stronger accountability and transparency in all financial matters, as it has done since 1994, it also recognises the need to support and strengthen Eskom and other SOEs in reversing the effects of state capture, making them more agile and responsive to their constitutional mandates and begin to play a more significant role in the economy, contributing to economic growth, and reducing their dependency on the fiscus. In doing this, the National Treasury remains committed to upholding the highest standards of financial governance in the management of Eskom's finances and not compromising the ethos of the PFMA. Treasury will continue to assist Eskom to strengthen its mechanisms to prevent, detect and investigate any financial irregularities, and ensure that acts of fraud and corruption are fully and properly reported, regardless of the reporting requirements.

The National Treasury remains of the view that SOEs are facing legitimate technical challenges regarding compliance reporting, and the need to differentiate between corrupt and suspicious transactions and expenditure made in good faith but not necessarily complying with the plethora of financial and non-financial laws and rules. The comments from professional bodies and experts provide the basis for further engagement on the accounting and compliance reporting challenges, and to assist in developing a better framework for compliance reporting in SOEs. The National Treasury is committed to collaborating further with relevant stakeholders and authorities to contribute to these reforms and ensure that the PFMA adequately addresses the complexities of financial reporting in the public sector.

Treasury will also continue to work with the Auditor-General to develop a revised irregular, fruitless and wasteful expenditure framework to form part of the PFMA reforms and address these and other financial and compliance reporting challenges, which will be finalised after an appropriate consultation process, for implementation in 2024 and after. It will be critical for the country that state-owned entities are not dependent on fiscal allocations and guarantees for their capital and operational funding requirements.

The National Treasury extends its appreciation to all comments, and parties consulted with for their useful comments and engagements regarding the proposed Eskom exemption. The list of commentators is enclosed as Annexure A to this Media Statement.

For any inquiries: send an email to Cleopatra Mosana at media@treasury.gov.za.

Issued by National Treasury

Date: 07 June 2023



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ANNEXURE A

LIST OF COMMENTATORS

	Title	Received	Representation
1	Name and surname not provided	2023/04/18	Individual
2	Trudy Vance	2023/04/17	Individual
3	Dr. Paul Kariuki	2023/04/17	Civil society, Local Government Advocacy and Learning Network (LGALN)
4	Anthony Savides	2023/04/12	Individual
5	Christo van Dyk	2023/04/12	Individual
6	Anthony Eades	2023/04/11	Individual
7	Ntombifuthi Geraldine Sibisi	2023/04/11	Individual
8	Lindo Mavuso	2023/04/07	Individual
9	Martin Brown	2023/04/18	Individual
10	Name and surname not provided	2023/04/18	Individual
11	Dave McGlashan	2023/04/17	Individual
12	Heleen Rossouw	2023/04/17	Individual
13	Laetitia Knoetze	2023/04/17	Individual
14	Name and surname not provided	2023/04/17	Individual
15	Name and surname not provided	2023/04/17	Individual
16	Dawn Baldwin	2023/04/17	Individual
17	Nicolien van Wyk	2023/04/18	Individual
18	Name and surname not provided	2023/04/18	Individual
19	Wayne Duvenage	2023/04/19	Outa
20	Tyla Dallas	2023/04/19	FW de Klerk Foundation
21	Sandra Van Hoogstraten	2023/04/19	Individual
22	Name and surname not provided	2023/04/21	Individual
23	Name and surname not provided	2023/04/21	Individual
24	Name and surname not provided	2023/04/20	Individual
25	Wouter Wessels, MP	2023/04/20	VF Plus
26	Melanie Roy	2023/04/21	Individual
27	Bernard Agulhas	2023/04/21	Individual
28	Khaya Sithole	2023/04/22	Corusca Consulting (Pty) Ltd
29	Benjamin Cronin	2023/04/22	Individual
30	Silindile Kubheka	2023/04/21	Transnet



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	Title	Received	Representation
31	Rina Kersten	2023/04/21	Individual
32	Mxolisi Makhubo	2023/04/21	African Transformation Movement
33	Natashia Soopal	2023/04/21	SAICA
34	Matthew Parks	2023/04/21	COSATU
35	Christopher Fisher	2023/04/21	Helen Suzman Foundation
36	Theuns Du Buisson	2023/04/21	Solidarity
37	Premier Western Cape (Alan Winde)	2023/04/21	Western Cape Provincial Government
38	Bukelwa Nzimande	2023/04/21	Greenpeace
39	Cheri-lee.dlamini	2023/04/21	Individual
40	Kganki Matabane	2023/04/21	Black Business Council
41	Siyabonga Gumede	2023/04/21	Individual
42	Khal Khumalo	2023/04/21	Individual
43	Mohodi Mokoena	2023/04/20	Individual
44	Akhona Zasembo	2023/04/20	Individual
45	Sabelo Sikonela	2023/04/20	Individual
46	Name and surname not provided	2023/04/21	Individual
47	Name and surname not provided	2023/04/21	Individual
48	Sandile Mngadi	2023/04/21	Individual
49	Name and surname not provided	2023/04/19	Individual
50	Sandra van Hoogstraten	2023/04/19	Individual
51	Sky Trek	2023/04/18	Individual
52	Minde Schapiro & Smith Inc.	2023/04/18	Democratic Alliance
53	Shivonne Lloyd	2023/04/18	Individual
54	Gavin Smith	2023/04/18	Individual
55	Imre Nagy	2023/04/21	Public Entity
56	Tsakani Maluleke	2023/05/18 (Discussions held 15 April 2023)	Chapter 9 Institution in terms of the Constitution of SA