



**national treasury**

Department:  
National Treasury  
**REPUBLIC OF SOUTH AFRICA**

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## **MEDIA STATEMENT**

### **ESKOM HOLDINGS EXEMPTION**

On 31<sup>st</sup> March 2023, the Minister of Finance granted a partial exemption to Eskom Holdings SOC Ltd (“Eskom”) from section 55(2)(b)(i) of the Public Finance Management Act (PFMA) and Treasury Regulation 28.2.1 for a period of three years whilst declining exemptions under sections 55(2)(b)(ii) and (iii) of the PFMA.

This exemption still requires Eskom to disclose financial and non-financial information on irregular, fruitless and wasteful expenditure but only in its annual report. All other institutions are required, by law, to report irregular as well as fruitless and wasteful expenditure in the annual report and the annual financial statements as set out in the PFMA section mentioned above. Whilst the historical (i.e. previous year) information was also reflected in the annual financial statements, a separation in the reporting of irregular and fruitless and wasteful expenditure across the annual report and annual financial statements was made for all institutions from the 2022/2023 financial year.

This new approach to reporting on irregular and fruitless and wasteful expenditure is in line with the response of President Ramaphosa to state capture and corruption, which noted in point 6.1.8 some of the challenges facing State-Owned Entities and departments in government: “The National Treasury and the Auditor-General of South Africa (AGSA) are working together to review the usefulness of the concept of irregular expenditure, and to focus on identifying corrupt or suspicious expenditure, or expenditure made in bad faith. This is part of an effort to address the Commission’s recommendation cited in paragraph 5.3.2.3” and return to the original intent of the PFMA to let managers manage, while holding them accountable

By allowing Eskom to report on irregular and fruitless and wasteful expenditure in its annual report and not in its financial statements, the National Treasury ensures that reporting transparency and accountability is not compromised and still made public as currently required, while mitigating the risks that could arise if these transactions are reported in the annual financial statements. The exemption also gives Eskom additional time to comply with the new reporting requirements on irregular and fruitless and wasteful expenditure. Eskom is not exempted from ensuring that it takes effective and appropriate steps to prevent irregular and fruitless and wasteful expenditure. Furthermore, it is not exempt from taking appropriate criminal or disciplinary steps because of any losses incurred to date. All material losses through criminal conduct and any losses recovered or written off from irregular expenditure will still need to be reported in the annual financial statements.



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A major risk of having non-material, non-corrupt transactions reported in the annual financial statements include a higher likelihood of qualified audit opinion (which other listed companies do not face) that triggers loan covenants, which will likely further increase Eskom's cost of borrowing and may result in additional fiscal pressure from Eskom's debt burden should the entity be unable to negotiate lender waivers for these covenants. The exemption granted to Eskom will enable it to continue to fund its balance sheet and still maintain accountability, transparency and reporting requirements in its annual reports and annual financial statements. If the exemptions were not considered, it would place pressure on the fiscus and limit borrowing powers of the SOE.

Eskom continues to be bound by more onerous reporting requirements of International Financial Accounting Standards (IFRS) as well as JSE Debt Listing Requirements. In addition, as part of the Eskom debt relief arrangement, the Minister of Finance instituted various additional reporting obligations onto Eskom, which the entity will be required to report regular updates to parliament and oversight structures. It should be noted that the actual conditions are not set out in the gazette, but in a letter from the Minister of Finance to the Chairperson of Eskom.

In addition, as was the case with a similar exemption provided to Transnet last year, the National Treasury's Office of the Accountant-General (OAG) which sets the accounting standards in government, also engages with the Auditor-General, to ensure that any information on irregular and fruitless and wasteful expenditure not published in the financial statements is still reviewed, but not as part of the financial statements.

As indicated, the National Treasury remains committed to publish further terms of conditions of the loan under the Eskom debt relief arrangement, which is currently still being finalised and will also publish a more detailed explanatory note to outline the process of reporting on irregular and fruitless and wasteful expenditure and its approach to PFMA disclosure requirements as they apply to SOEs, and to do so in a way that protects the fiscus.

For enquires, please contact National Treasury Head of Communications, Cleo Mosana 0636868413

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