

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
ELECTRICITY REGULATION
AMENDMENT BILL**

[B 20—2006]

*(As agreed to by the Portfolio Committee on Minerals and Energy
(National Assembly))*

[B 20A—2006]

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AMENDMENTS AGREED TO

ELECTRICITY REGULATION AMENDMENT BILL

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CLAUSE 1

1. On page 2, from line 6, to omit paragraph *(a)*.
2. On page 2, from line 9, to omit paragraph *(b)*.
3. On page 2, from line 15, to omit paragraph *(c)*.
4. On page 2, from line 32, to omit the definition of “relevant MEC”.
5. On page 3, from line 1, to omit the definition of “reticulation” and to substitute:

‘reticulation’ means trading or distribution of electricity and includes services associated therewith;

CLAUSE 2

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 4 of Act 4 of 2006

2. Section 4 of the principal Act is hereby amended by the substitution in subparagraph *(a)*(i) for item *(aa)* of the following item:

“(aa) the operation of generation, transmission **[and]** distribution or reticulation facilities;”.

CLAUSE 3

Clause rejected.

NEW CLAUSES

1. That the following be new Clauses:

Amendment of section 8 of Act 4 of 2006

3. Section 8 of the principal Act is hereby amended by the substitution for paragraph *(a)* of subsection (1) of the following paragraphs:

“(a) operate any generation, transmission **[or]** distribution or reticulation facility;”.

Substitution of section 9 of Act 4 of 2006

4. The following section is hereby substituted for section 9 of the principal Act:

“9. The Minister may, after consultation with the Regulator and stakeholders in the advisory forum, determine by notice in the *Gazette* that any activity contemplated in section [8] 7(1) need no longer be a licensed activity from the date set out in such notice.”.

Amendment of section 10 of Act 4 of 2006

5. Section 10 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The Minister may, in consultation with the Regulator, determine by notice in the *Gazette* that any person involved in an activity relating to trading or the generation, transmission or distribution of electricity that does not require licensing in terms of section [8] 7 read with section [9] 8 must register with the Regulator.

“(2) Any person who has to register with the Regulator must do so in the form and in accordance with the prescribed procedure, and an application for registration must be accompanied by the prescribed registration fee: Provided that any person holding a valid licence at the date of a determination contemplated in section [9] 8 must be issued with a registration certificate without complying with the prescribed procedure.”.

Amendment of section 11 of Act 4 of 2006

6. Section 11 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) A person who has to hold a licence in terms of section [8] 7 must apply to the Regulator for such licence in the form and in accordance with the prescribed procedure.”.

Amendment of section 14 of Act 4 of 2006

7. Section 14 of the principal Act is hereby amended by the substitution in subsection (1) of paragraphs (a) and (b) for the following paragraphs:

“(a) after the expiration of the period contemplated in section [12] 11(2)(d), if no objections have been received; or
(b) after receiving the information contemplated in section [13] 12 (b).”

Amendment of section 15 of Act 4 of 2006

8. Section 15 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the period of validity of the licence in accordance with section [21] 20;”.

Amendment of section 16 of Act 4 of 2006

9. Section 16 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) A licence condition determined under section [15] 14 relating to the setting or approval of prices, charges and tariffs and the regulation of revenues—”.

Amendment of section 19 of Act 4 of 2006

10. Section 19 of Act 4 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If the tribunal finds that the allegation contemplated in subsection (3) is correct it may impose a penalty of 10 per cent of the annual turnover of the licensee or R2000 000,00 (whichever is the higher amount) per day [conimencing] commencing on the day of receipt of the notice contemplated in subsection (2).”

CLAUSE 4

1. On page 3, in line 24, to omit “Powers and duties” and to substitute “Duties”.
2. On page 3, from line 25, to omit subsection (1).
3. On page 3, from line 27, to omit “(2) Each municipality must exercise its executive authority and perform its duty by-” and to substitute:

“(1) If a municipality provides a reticulation service, either through the use of a service provider referred to in section 29, or by itself, that municipality must ensure that it provides this service by—”
4. On page 3, from line 36, to omit paragraph “(e)”.
5. On page 3, in line 40 to omit “all domestic end users or certain classes of domestic end users” and to substitute “certain classes of end users”.
6. On page 3, in line 44, to omit “31” and substitute with “46”.
7. On page 3, from line 45, to omit paragraph “(h)”.
8. On page 3, from line 47, to omit paragraph “(i)”.
9. On page 4, in line 3, to omit “or domestic end users”.
10. On page 4, after line 5, to insert:

(i) keeping separate financial statements, including a balance sheet of the reticulation business.
11. On page 4, from line 6, to omit the proposed new subsections (3), (4), (5), (6), (7) and (8).
12. On page 4, from line 45, to omit the proposed new section 29.
13. On page 5, from line 52, to omit the proposed new section 31.
14. On page 6, in line 32, to omit “Minister must, acting in consultation with the Regulator” and substitute with “Regulator must, after consultation with the Minister”.

15. On page 6, from line 41, to omit the proposed new sections 33, 34, 35, 36, 37, 38, 39, 40 and 41.

CLAUSE 5

Clause rejected.

NEW CLAUSE

Amendment of section 44 of Act 4 of 2006

12. Section 44 of the principal Act is hereby amended by the substitution in subsection (5) for paragraph (b) of the following paragraph:

“(b) if a licensee is involved, act on the matter in accordance with section [19] 18(2) [; or].

CLAUSE 7

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of long title of Act 4 of 2006

14. The following long title is hereby substituted for the long title of the principal Act:

“To establish a national regulatory framework for the electricity supply industry; to make the National Energy Regulator of South Africa the custodian and enforcer of the national electricity regulatory framework; to provide for licences and registration as the manner in which generation, transmission, distribution, reticulation, trading and the import and export of electricity are regulated; to regulate the reticulation of electricity by municipalities; and to provide for matters connected therewith.”

CLAUSE 8

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

“Amendment of Arrangement of Sections of Act 4 of 2006

15. The Arrangement of Sections of the principal Act is hereby amended by—

(a) the deletion of the following:

“7. Application of Chapter;”;

- (b) the insertion after the expression of “Chapter IV” of the following:
 - “Reticulation
 - 27. Duties of municipalities
 - 28. Selection and appointment of external service providers
 - 29. Key performance indicators”; and
- (c) by the renumbering of sections 42 to 49 to section 30 to 37, respectively.

NEW CLAUSE

Renumbering of certain sections in Act 4 of 2006

- 16.** The principal Act is hereby amended by—
- (a) the substitution in paragraph (b) of section 4 for subparagraph (iv) of the following subparagraph:
 - “~~[(iv)]~~[(iii)] perform any other act incidental to its functions.”;
 - (b) the renumbering from section 8 up to and including section 27 to become section 7 up to and including section 26; and
 - (c) the renumbering from section 42 up to and including section 49 to become section 30 up to and including section 37.