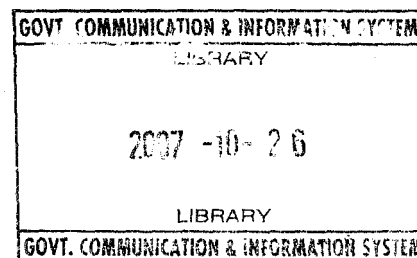


REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
BROADBAND INFRACO BILL**

[B 26—2007]

*(As agreed to by the Portfolio Committee on Public Enterprises
(National Assembly))*



[B 26A—2007]

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AMENDMENTS AGREED TO

BROADBAND INFRACO BILL

[B26—2007]

LONG TITLE

1. On page 2, to omit the long title and to substitute:

“To provide for the transfer of shares, loan accounts, liabilities and guarantees in Broadband Infraco (Proprietary) Limited from Eskom Holdings Limited to the State; to provide for the main objects and powers of Broadband Infraco (Proprietary) Limited; to provide for the borrowing powers of Broadband Infraco (Proprietary) Limited; to provide for servitudes and additional rights in favour of Broadband Infraco (Proprietary) Limited; to provide for the servitudes and additional rights in favour of Broadband Infraco (Proprietary) Limited; to provide for the expropriation of land or any right in land by the Minister for Public Enterprises on behalf of Broadband Infraco (Proprietary) Limited; to provide for the conversion of Broadband Infraco (Proprietary) Limited; into a public company having a share capital incorporated in terms of the Companies Act, 1973; and to provide for matters connected therewith.”

PREAMBLE

2. On page 2, to omit the preamble and to substitute:

“SINCE the State intends to expand the availability and affordability of access to electronic communications networks and services, including but not limited to underdeveloped and underserved areas;

SINCE the State wants to ensure that the bandwidth requirements for specific projects of national interests are met;

SINCE the State intends to acquire Broadband Infraco (Proprietary) Limited and its electronic communications infrastructure to enable the State to provide affordable access to electronic communications networks and services;

AND SINCE Broadband Infraco (Proprietary) Limited will require access to land and rights in land to maintain and expand its network in order to achieve its objects.”

CLAUSE 1

1. On page 2, from line 5, to omit the definition of “Authority”.
2. On page 2, after line 20, to insert the following definition:

“‘electronic communications facility’ means an electronic communications facility as defined in section 1 of the Electronic Communications Act;”.

3. On page 3, after line 5, to insert the following definition:

“ ‘**electronic communications service**’ means an electronic communications service as defined in section 1 of the Electronic Communications Act;”.
4. On page 3, in line 18, to insert “responsible” before “for Public Enterprises”.
5. On page 3, in line 23, to omit “11” and to substitute “10”.

CLAUSE 2

1. On page 3, from line 32, to omit paragraph (b) and to substitute:

“(b) main objects and powers of Infraco;
(c) borrowing powers of Infraco;
(d) servitudes and additional rights in favour of Infraco;
(e) expropriation of land or rights in land by the Minister on behalf of Infraco; and.”.

CLAUSE 3

1. On page 3, in line 37, after “assets,” to insert “excluding any licences required to operate a private telecommunications network,”.

CLAUSE 4

1. On page 3, in line 49, to omit “object” and to substitute “objects”
2. On page 3, in line 50, to omit the following subparagraph, and to substitute:

“The main objects of Infraco are to expand the availability and affordability of access to electronic communications, including but not limited to underdeveloped and under serviced areas, in accordance with the Electronic Communications Act and commensurate with international best practice and pricing, through the provision of—
(a) electronic communications network services; and
(b) electronic communications services”.
3. On page 3, in line 52, to omit “object” and to substitute “objects”.
4. On page 3, in line 55, to omit “With” and to substitute “Subject to section 4(1), with”.

CLAUSE 6

Clause rejected.

CLAUSE 7

1. On page 4, in line 23, to omit “or telecommunications” and to substitute “, telecommunications or electronic communications”.
2. On page 4, in line 24, after “communications” to insert “facilities or”

3. On page 4, from line 27, to omit paragraph (a) and to substitute:

“(a) every servitude is hereby extended so as to include the additional right to enter and use the land to which such servitude relates for the purposes of—

- (i) using and maintaining existing electronic communications facilities and networks; and
 - (ii) constructing, erecting and maintaining further electronic communications facilities and networks, in order to provide electronic communications network services and electronic communications services;”.
4. On page 4, in line 41, after “services” to insert “and electronic communications services”.
 5. On page 4, in line 47, to omit “(i)”.
 6. On page 5, in line 8, to omit “8” and to substitute “6”.
 7. On page 5, after line 13, to add the following subsection:

“(4) All servitudes and additional rights existing in favour of Infraco at the time of any transfer in terms of section 4(4) shall continue to exist in favour of the third party transferee, subject to such terms and conditions as may have been agreed upon between Infraco and Eskom or Transnet, prior to the transfer to the third party transferee, provided that any such third party transferee shall not be entitled to further extend such servitudes as provided for in subsection (2).”.

CLAUSE 8

1. On page 5, in line 15, to omit “8” and to substitute “7”

CLAUSE 9

1. On page 5, in line 44, to omit “9” and to substitute “8”.

CLAUSE 10

1. On page 6, in line 11, to omit “10” and to substitute “9”.
2. On page 6, in line 12, to omit “9” and to substitute “8”.

CLAUSE 11

1. On page 6, in line 18, to omit “11” and to substitute “10”
2. On page 6, in line 20, to omit “8” and to substitute “7”
3. On page 6, in line 22, to omit “8(4)” and to substitute “7(4)”.

CLAUSE 12

1. On page 6, in line 27, to omit “12” and to substitute “11”.

CLAUSE 13

1. On page 6, in line 35, to omit “13” and to substitute “12”.