



MINISTRY OF FINANCE
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

STATEMENT BY MINISTER NENE ON SARS' GOVERNANCE ARRANGEMENTS

After consultation with the Commissioner of the South African Revenue Service (SARS) and other relevant stakeholders, I have decided to appoint an advisory committee which will be chaired by retired Judge Frank Kroon. Judge Kroon's appointment has been made after consultation with the Minister of Justice and Correctional Services Mr Michael Masutha.

The committee is being appointed in terms of section 11 of the South African Revenue Services (SARS) Act.¹ Other members of the committee will be announced once all the necessary consultations have been concluded.

The committee's primary task will be to guide the direction of long-term strategy at SARS by ensuring that decisions about the revenue and customs authority's operations, personnel, budget and technology support its long-term strategy and plans.

The committee will do this by advising the Minister of Finance on SARS':

- a) Proposed strategic and business plans, goals and measures relating to those plans;
- b) Operational and organisational plans, including modernisation of technology systems, training, and reorganisation of business units, and
- c) Budget to ensure that the budget supports the revenue and customs authority's strategic and business plans.

In addition, the committee will review the events that have been reported on by the media in recent months and advise the Minister and the Commissioner about the best way to prevent such from occurring. On this issue, I would like to inform South Africans that there are processes underway to bring about closure on this matter as soon and as amicably as possible. Further developments in this regard will be announced at an appropriate time.

¹ The Minister may appoint one or more specialist committees to advise the Commissioner and the Minister on any matter concerning the management of SARS' resources, including asset management, human resources and information technology..





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May I therefore appeal to fellow South Africans to allow SARS and all the relevant parties concerned to complete these processes and thus bring an end to this difficult chapter in the history of our most important fiscal institution.

The appointment of the advisory committee will serve to strengthen the Commissioner's powers and responsibilities. The role of the committee is informed by Section 13 of the SARS Act which states that the powers of a specialist committee appointed by the Minister may not be construed as interference with the powers assigned to the Commissioner.²

Background on SARS governance arrangements

From 1997-2002 SARS had an advisory board which was supported by three sub-committees, the Audit, Transformation, and the Human Resources committees. The Advisory Board which was chaired by Justice Corbett (the former Chief Justice of South Africa) met regularly to monitor the performance of SARS and its executive management. It addressed a range of key issues and ensured that debate on matters of policy, strategy and performance was critical, informed and constructive.

The Advisory Board was disbanded in 2002 and the SARS governance arrangements changed as follows:

- The SARS Act (section 11) allowed the Minister of Finance to appoint one or more specialist committees to advise the Commissioner and the Minister on any matter concerning the management of SARS' resources, including asset management, human resources and information technology.
- The Audit Committee was reconstituted in terms of the Public Finance Management Act (PFMA).

In retrospect, the revised governance structured left SARS without an overarching governance structure, a role that had been played by the Advisory Board.

Conclusion

² The powers of a specialist committee to give advice may not be construed as interference with the powers assigned to the Commissioner in terms of any legislation or agreement referred to in section 4 (1) (a), in so far as those powers of the Commissioner relate to—

- (a) the interpretation of that legislation or agreement;
- (b) the exercise of a discretion conferred on the Commissioner by that legislation or agreement; or
- (c) the determination of the liability of a person for any revenue.





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SARS has since inception carried out its mandate with excellence and by so doing, has helped finance South Africa's development agenda. And that is thanks to the commitment, hard work, integrity, and honesty of the nearly 15,000 people who are employed by SARS.

It is doubtful that there is any single agency in government whose operational performance is more critical to the work of government than SARS. The rigorous focus on improving administrative efficiency is the most important policy process in SARS, and its performance in gathering revenues is the most important issue likely to exercise the mind of a Minister of Finance. This means continuous engagement with SARS about its performance and ways to overcome problems in enforcing relevant laws, developing appropriate outreach activities, and improving levels of service received by tax-payers.

While SARS and the Commissioner are reasonably independent of the Minister on operational matters, the SARS Act also provides that SARS is 'under the policy control of the Minister' and 'subject to any directives and guidelines on policy matters issued by the Minister.'

It is against this background that we must ensure at all times that we protect and enhance the organisational integrity of SARS and its employees.

Issued on behalf of the Ministry of Finance

Date: 25 February 2015





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Note to editors

The statutory mandate of SARS is pleasingly clear compared to those given to most government agencies: section 3 of the South African Revenue Services Act, which establishes the institution as a public entity, states that the objective of SARS is ‘the efficient and effective collection of revenue.’

SARS also provides protection against the illegal importation and exportation of goods; facilitates trade; and advises the Minister of Finance on all revenue matters.

Over and above this explicit mandate, SARS is bound by the Constitution of the Republic of South Africa which provides for basic democratic values and principles governing public administration, including the following principles:

- A high standard of professional ethics must be promoted and maintained;
- Service must be provided impartially, fairly, equitably and without bias;
- Transparency must be fostered by providing the public with timely, accessible and accurate information; and
- In its interaction with the taxpayers, traders, SARS employees and the South African public in general, SARS gives effect to provisions of the Bill of Rights, notably the rights of taxpayers, traders and SARS employees to just administrative action and access to information.





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Other relevant extracts from the South African Revenue Services Act

12. Constitution.

(1) A specialist committee established under section 11 must perform its functions impartially and without fear, favour or prejudice.

(2) A specialist committee contemplated in section 11 must consist of:

(a) Not more than eight persons who are independent from SARS and are appointed by the Minister; and

(b) Not more than two senior employees of SARS designated by the Commissioner.

(3) A person appointed as a member of such a committee must:

(a) Be a fit and proper person;

(b) Have appropriate expertise or experience; and

(c) Have the ability to perform effectively as a member of that committee.

(4) The members of such a committee must not:

(a) Act in any way that is inconsistent with subsection (3) or expose themselves to any situation in which the risk of a conflict between their responsibilities and private interests may arise; or

(b) Use their position or any information entrusted to them to enrich themselves or improperly benefit any other person.

(5) A member ceases to be a member if:

(a) He or she resigns from the specialist committee;

(b) The Minister terminates his or her membership because the member no longer complies with subsection (3) or has contravened subsection (4); or

(c) The term for which the member was appointed has expired.

13. Powers.

(1) The Minister may assign specific powers to the members of a specialist committee for the purposes of performing any function contemplated in section 11.