

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN REVENUE SERVICE BILL, 1997

Cabinet approved in principle that the South African Revenue Service (SARS) may become an administratively autonomous revenue service with its own Act and a certain level of control over its own resources.

The Bill therefore proposes the reorganisation of the South African Revenue Service. SARS is established as an organ of state within the broad public administration, but as an institution outside the public service. Although SARS will not be subject to the provisions of the Public Service Act, 1994, it remains subject to the basic values and principles governing public administration as outlined in section 195 of the Constitution.

The basic functions of SARS are—

- * to collect—
 - * all national taxes, duties and levies;
 - * flat-rate surcharges which may be imposed by Provinces on national taxes;
 - * revenue that may be collected under any other legislation, as is agreed upon between SARS and the institution entitled to the revenue; and
- * to advise the Minister on all revenue-related matters.

The functions of SARS are performed under the policy control of, and subject to the directives and guidelines issued by, the Minister of Finance.

SARS may exercise a wide range of powers to enable it to perform these functions, such as the appointment of employees and the acquisition of property within the guidelines set by the Minister of Finance. These powers will enable SARS to exercise better and a greater degree of control over its financial and human resources.

The Bill makes provision for the appointment of a Commissioner for SARS for a period of five years, which period is renewable. The Commissioner is responsible for the performance and exercise of SARS's functions and powers, the management of SARS and, as the accounting officer, for all income and expenditure of, and revenue collected by, SARS.

The Bill establishes a SARS Advisory Board which consists of the Commissioner, not more than two senior employees of SARS and not more than eight persons appointed by the Minister. The Board acts as an advisory and consultative body for the Minister and the Commissioner on various issues including—

- * the management of SARS;
- * the improvement of efficiency and performance in revenue collecting efforts;
- * the terms and conditions of employment of employees of SARS;
- * the budget of SARS; and
- * the implementation of the proposed Act.

The terms and conditions of service of employees are determined in accordance with directives issued by the Minister of Finance. Certain transitional arrangements relating to the secondment and transfer from the Department: South African Revenue Service to the new SARS apply to the existing staff of the Department. Employees will remain members of the Government Employees' Pension Fund. The transitional arrangements include provisions relating to the terms and conditions of employment, membership of, and employer contributions to, the pension fund and medical aid fund.

The chief source of income of SARS will be money appropriated by Parliament. Such income will be determined in accordance with estimates of income and expenditure and must make adequate provision for SARS to perform its functions. Once approved by the Board, the Minister and Parliament, the funds will be made available to SARS in accordance with an agreement between SARS and the Minister. SARS may also collect revenue on behalf of other levels of government and, for such service, may charge the institution concerned a rate as may be agreed upon. Unless otherwise agreed with the Minister, SARS will refund any unused appropriated funds to the state at the end of each financial year.

The accounts of SARS must be audited annually by the Auditor-General. The Commissioner must also submit a comprehensive annual report to the Minister on the activities of SARS, and such report must be tabled in the National Assembly and submitted to the National Council of Provinces.

The following parties have also been consulted:

Department of Finance

Department of State Expenditure

Financial Services Board

The Office of the Auditor-General

Department of Public Service and Administration

Department of Justice