

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
SOUTH AFRICAN REVENUE
SERVICE BILL**

[B 51—97]

(As agreed to by the Portfolio Committee on Finance (National Assembly))

[B 51A—97]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP DIE SUID-
AFRIKAANSE INKOMSTEDIENS**

[W 51—97]

(Soos goedgekeur deur die Portefeuljekomitee oor Finansies (Nasionale Vergadering))

[W 51A—97]

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AMENDMENTS AGREED TO

SOUTH AFRICAN REVENUE SERVICE BILL
[B 51—97]

ARRANGEMENT OF SECTIONS

1. On page 4, after line 26, to insert:
 32. Exemption from transfer and stamp duty

CLAUSE 1

1. On page 4, after line 44, to insert:

“recognised trade union” means a trade union registered in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), and recognised by SARS as a collective bargaining agent of SARS employees;
2. On page 4, from line 45, to omit the definition of “revenue” and to substitute:

“revenue” means income derived from taxes, duties, levies, fees, charges, additional tax and any other moneys imposed in terms of legislation, including penalties and interest in connection with such moneys;

CLAUSE 3

1. On page 6, in lines 7 and 8, to omit “to the maximum advantage of the state”.

CLAUSE 4

1. On page 6, from line 13, to omit subparagraph (ii).
2. On page 6, from line 16, to omit subparagraph (iii) and to substitute:
 - (iii) any other legislation concerning the collection of revenue that may be assigned to SARS in terms of either legislation or an agreement between SARS and the organ of state or institution entitled to the revenue; and

CLAUSE 5

1. On page 6, in line 34, to omit paragraph (a) and to substitute:
 - (a) determine its own staff establishment, appoint employees and determine their terms and conditions of employment in accordance with section 18;
2. On page 6, after line 34, to insert the following paragraph:
 - (b) bargain collectively with the recognised trade unions representing SARS employees;

3. On page 6, in line 44, to omit “(f)” and to substitute “(g)”.

CLAUSE 12

1. On page 10, from line 30, to omit subsection (2) and to substitute:
 - (2) The Minister must—
 - (a) consult the Cabinet before appointing a member mentioned in subsection (1)(a); and
 - (b) appoint a chairperson and a deputy chairperson from among the members after having consulted the members.
2. On page 10, from line 35, to omit paragraph (b) and to substitute:
 - (b) have appropriate expertise, skills, knowledge or experience and the ability to perform effectively as a member.

CLAUSE 13

1. On page 10, in line 38, to omit “must advise” and to substitute “advises”.
2. On page 10, in lines 38 and 39, to omit “at the request of the Minister or the Commissioner,”.
3. On page 10, after line 43, to insert the following paragraph:
 - (d) collective bargaining in SARS;
4. On page 10, from line 47, to omit paragraph (a) and to substitute:
 - (a) may examine and comment on any policies, and investigate, evaluate and advise on any practices and decisions, of SARS and the Commissioner under this Act;
5. On page 12, from line 4, to omit subsection (3) and to substitute:
 - (3) The powers and functions of the Board to give advice in terms of this section may not be construed as to interfere with the powers and functions assigned to the Commissioner in terms of any legislation or agreement referred to in section 4(1)(a), in so far as those powers and functions 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.

CLAUSE 18

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 17:

Terms and conditions of employment

18. (1) SARS employees are employed subject to terms and conditions of employment determined by SARS—

(a) after collective bargaining between SARS and the recognised trade unions; and

(b) with the approval of the Minister.

(2) The collective bargaining referred to in subsection (1) must be conducted in accordance with the procedures agreed on between SARS and the recognised trade unions.

CLAUSE 19

1. On page 12, after line 38, to insert the following subsection:

(2) The Commissioner is entitled to the pension and retirement benefits calculated on the same basis as those of a head of department in the public service.

CLAUSE 21

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 20:

Existing staff

21. Items 1 to 5 of Schedule 2 apply to all persons in the public service who occupied posts on, or were additional to, the staff establishment of the Department: South African Revenue Service immediately before this Act took effect, and item 6 applies to both those persons and persons appointed by SARS after this Act took effect.

CLAUSE 22

1. On page 14, in line 13, to omit “recognised” and to substitute “accepted”.

CLAUSE 23

1. On page 14, in line 20, to omit “and (ii)”.

CLAUSE 24

1. On page 14, in line 28, to omit “5(1)(g)” and to substitute “5(1)(h)”.

CLAUSE 25

1. On page 14, in line 36, to omit “and (ii)”.
2. On page 14, from line 43, to omit subsection (3) and to substitute:
 - (3) For services mentioned in section 4(1)(a)(ii) SARS may charge the organ of state or institution concerned at an agreed rate.

CLAUSE 26

1. On page 16, in line 9, to omit “and (ii)”.
2. On page 16, from line 15, to omit subsection (4) and to substitute:
 - (4)(a) The Minister must table the approved estimates in the National Assembly for debate and adoption.
 - (b) The estimates must be tabled a reasonable period before the commencement of the financial year to which the estimates relate.

CLAUSE 29

1. On page 16, in line 36, to omit subparagraph (v) and to substitute:
 - (v) a report of the auditors;
2. On page 16, in line 40, to omit “recognised” and to substitute “accepted”.

CLAUSE 30

1. On page 18, in line 8, to omit “two” and to substitute “10”.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 31:

Exemption from transfer and stamp duty

32. No transfer duty is payable by SARS in respect of the acquisition of any property by SARS, and no stamp duty is payable by SARS in respect of any instrument if the stamp duty thereon would be payable by SARS in terms of the applicable legislation.

ITEM 1 OF SCHEDULE 2

1. In the English text, on page 22, in the fourth line, to omit “content” and to substitute “context”.
2. On page 22, after the fifth line, to insert:

“departmental employee” means a member of the public service who occupied a post on, or was additional to, the staff establishment of the Department immediately before the effective date; and

3. On page 22, in the sixth line, to omit the definition of “effective date” and to substitute:

“effective date” means the date on which this Act took effect.

ITEM 3 OF SCHEDULE 2

1. In the Afrikaans text, on page 23, in the fifteenth line, to omit “subartikel” and to substitute “subitem”.

ITEM 4 OF SCHEDULE 2

1. On page 22, from the sixteenth line, to omit item 4 and to substitute:

Persons in service of Department

4. (1) A departmental employee becomes an employee of SARS on the effective date.

(2) The transfer of departmental employees to SARS must be effected in accordance with—

- (a) section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995); and
- (b) any collective agreement reached between the State and the trade union parties of the Departmental Chamber of the Public Service Bargaining Council: SARS, before the effective date.

ITEM 5 OF SCHEDULE 2

1. On page 22, from the twenty-fourth line, to omit subitem (1) and to substitute:

(1) When a departmental employee becomes an employee of SARS, the Commissioner must appoint that employee in a post on the establishment of SARS.

2. On page 22, from the twenty-sixth line, to omit subitems (2) and (3).

ITEM 6 OF SCHEDULE 2

1. On page 24, from the first line, to omit Item 6 and to substitute:

Collective bargaining

6. (1) There is established a collective bargaining forum for SARS employees on the effective date.

(2) The constitution of the forum is, subject to any changes required by the context, the same as the constitution of the Departmental Chamber of the Public Service Bargaining Council: SARS.

(3) The trade union parties to the forum are those that were parties to the Departmental Chamber of the Public Service Bargaining Council: SARS. The employer representatives must be appointed by the Commissioner.

(4) The constitution may be amended only by agreement of all the parties to the forum.

(5) For the purposes of section 18 of this Act—

- (a) the trade union parties to the forum are regarded as having been recognised by SARS as recognised trade unions; and
- (b) the procedures contained in the constitution of the forum must be applied as if they were the agreed procedures for the negotiations on terms and conditions of employment.

SCHEDULE 3

1. On page 32, in the forty-seventh line, to omit “fiscal”.