

BOARD STAKEHOLDER SESSIONS

October 2017

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STATE OF THE W&RSETA

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BACKGROUND - GOVERNANCE

- ❑ Current W&RSETA Board appointed on 1 April 2011 by MHET for 5-year period up to 31 March 2016;
- ❑ 15 Members appointed (12 Organised Labour & Business and 3 Ministerial Appointees incl. Chairperson)
- ❑ Term extended by two years to 31 March 2018 in October 2015;
- ❑ Administration between October 2016 and August 2017 which was challenged by the Board through legal process resulting in leadership instability

LEGAL PROCESS

- **June 2016:** Minister formally raised concerns with the Board over :
 - Appointment of CFO;
 - Anonymous allegations of poor governance (lack of functionality and cohesion) and action plan;
 - Qualified audit opinion by AG for 2015/16 FY;
 - Board's decision to withdraw from Rural and Township Revitalisation Project (RATERP)

LEGAL PROCESS

- ❑ **1 July 2016:** Board submits detailed responses to issues raised and undertaking to investigate allegations

- ❑ **August 2016:** Correspondence between Minister and the Board; Minister informs of intention to apply s 15 of SDA despite detailed responses from the Board.

- ❑ **15 September 2016:** Correspondence continues and DG informs Board that Minister is willing to meet to discuss RATERP;

LEGAL PROCESS

- Letter is received by Board's lawyers and a meeting is proposed for 30 September



LEGAL PROCESS

- ❑ **27 September 2016:** Board's lawyers requests for date of meeting;
- ❑ **3 October 2016:** Board is informed of decision of Minister to implement s 15, placing W&RSETA under administration;
- ❑ **October 2016:** Board applies to court for urgent interdict opposing decision on basis of:
 - Decision is contrary to sections 3 and 6 of PAJA;
 - Decision was irrational and unreasonable as Board was fully cooperative and capable of addressing issues; and that provisions of s 15 were not applicable to W&RSETA

LEGAL PROCESS

- ❑ **23 December 2016:** judgement as follows:
 - Labour Court set aside Minister's decision on administration of W&RSETA;
 - All Notices declared invalid;
 - Board reinstated;
 - Costs awarded to Board Members

- ❑ **10 January 2017:** Minister appealed Labour Court ruling

LEGAL PROCESS

- ❑ **18 January 2017:** Labour Court orders that court ruling of 23 December 2016 be upheld pending outcome of appeal process and Board to remain operative; however; despite court ruling, Administrator remains at W&RSETA and controls the Organisation including making decisions;
- ❑ **21 March 2017:** Labour Court enforces Section 18 of Superior Courts Act in effecting reinstating the Board pending appeal outcome

LEGAL PROCESS

- ❑ **16 May 2017:** Labour Appeals Court upheld the decision of Labour Court and reinstated the Board; however, the Minister appealed the decision to the Constitutional Court;
- ❑ **16 August 2017:** Constitutional Court dismissed the Minister's appeal as application "does not engage the Court's jurisdiction and lacks prospects of success". Appeal dismissed with costs;
- ❑ **21 August 2017:** Board resumes leadership role of the W&RSETA

PRIORITIES UP TO 31 MARCH 2018

Board to provide strategic direction to:

- Stabilise the W&RSETA;
 - Improve staff morale;
 - Address performance
- Rebuild stakeholder confidence;
- Ensure sound corporate governance;
 - Submission of relevant documentation to DHET (Strategic Plan, SSP)
 - Address audit findings

NOMINATIONS FOR NEW BOARD

Constituent Organisations (Organised Business and Labour) to submit nominations by **17 November 2017**.

Organisations to consider the following:

- Nominees must be drawn from senior official ranks of the Organisations;
- Possession of knowledge, skills and experience in corporate governance;
- Representation of designated groups;
- Appropriate blend of knowledge, skills and experience including ethical values of responsibility, accountability, fairness, and transparency.

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NOMINATIONS FOR NEW BOARD

Nominee Requirements:

- Skills development legislation and the NSDS;
- SETA's mandate;
- PFMA and financial management;
- Strategic leadership role of the Board;
- Education, training, skills development and HR development;
- General management and business skills;
- Communication and marketing role of an entity

Thank you to all stakeholders for the unwavering support to skills development during this period.

“All hands on deck to continue developing a skilled, capable, competent and professional workforce of the Wholesale and Retail Sector!”

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