

# Auditor-general finds Sars bonuses illegal

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The South African Revenue Service (Sars) has failed to comply with legislation by unlawfully paying bonuses to staff without the approval of Finance Minister Malusi Gigaba, the auditor-general has found.



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The conclusion is contained in the long-delayed Sars annual report, which will be tabled in Parliament on Thursday.

A dispute over the bonus payments held up the tabling of the report.

In the 2016-17 financial year Sars paid R561m in performance bonuses relating to the 2015-16 financial year, of which R3m was paid to members of the executive committee.

DA deputy finance spokesman Alf Lees said that these bonuses were "unreasonable" and he would be asking questions about them.

The auditor-general's finding did not affect the overall audit opinion on Sars, which was not qualified. The auditor-general said the noncompliance represented a significant internal control deficiency that resulted in material noncompliance.

"In line with section 18(3) of the Sars Amendment Act of 2002, [the] management [has] in the prior years obtained the

approval for the bonus payment from the minister of finance," the report read. "Performance bonuses relating to the 2015-16 financial year were paid in the 2016-17 financial year and Sars could not provide evidence that an approval was obtained, as specified in the bonus approval framework, from the minister prior to payment being effected to employees who fall within the management structure."

Sars said that to put the legal opinions beyond interpretative doubt, it was seeking a declaratory order from the High Court in Pretoria on the powers of the commissioner to pay performance bonuses.

Meanwhile, Sars said on Wednesday it had received legal advice not to release the reports on the investigation into suspicious and unusual transactions into the account of its second-in-charge, Jonas Makwakwa. The Makwakwa saga has been dragging on for more than a year after it emerged that the Financial Intelligence Centre had flagged R1.2m in suspicious and unusual transactions into Makwakwa's account and that of his girlfriend, Kelly-Anne Elskie.

Sars appointed law firm Hogan Lovells to investigate the matter and earlier in November announced that Makwakwa, who had been on suspension for over a year, had been cleared of all charges and would return to work. Sars had said Hogan Lovells had recommended that disciplinary action be taken against Makwakwa, which had been done. The committee had cleared him of all charges.

Hogan Lovells said it "did not directly" investigate the dodgy transactions because Sars had given it a limited mandate.

*Source: Business Day*

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