

NOTICE OF FIRST MEETING OF EMPLOYEES' REPRESENTATIVES HELD IN TERMS OF SECTION 148 OF THE COMPANIES ACT, 2008

Date: 1 June 2017

Time: Scheduled Time - 10h00
Commencement Time: 10h15
Closed: 10h58

Venue: Hostel Canteen for Shift A and Shift B workers Saxendrift Farm No.20 Annex Saxendrift No.21

1. Jerry Mpisekhaya ("Mpisekhaya") (the acting HR manager for HC van Wyk ("HCVW")) acted as the translator for Peter van den Steen ("van den Steen") for the duration of the meeting.
2. van den Steen explained that Trevor Murgatroyd ("Murgatroyd") (the other business rescue practitioner) tendered his apologies for not being able to attend the meeting, as he was dealing with urgent matters in Johannesburg in relation to the business rescue.
3. van den Steen explained that HCVW was placed in business rescue by order of the court and explained what business rescue proceedings are and the principals that govern it.
4. van den Steen explained that the business rescue practitioners had been presented with a turnaround plan for HCVW which has been in effect for a few months and that the plan appeared to be workable and realistic but that van den Steen and Murgatroyd would be testing the plan to make sure that it works.
5. van den Steen advised that him and Murgatroyd believed that, on the basis of the information available to them, there is a reasonable prospect of rescuing the company.
6. van den Steen advised that if a final liquidation order was granted by the court the company would lose its mining rights and all employees would probably lose their jobs.
7. van den Steen advised that he and Murgatroyd intended, through the business rescue, to keep as much employment intact as possible.
8. van den Steen advised that all of the rights that the employees have in terms of the Labour Relations Act, 66 of 1995, remain intact during business rescue.
9. van den Steen advised that business rescue is beneficial to the company as it affords it the breathing space to enable it to reposition itself.
10. van den Steen explained that he and Murgatroyd will utilise the resources and knowledge of the existing directors and management of the company in their efforts to rescue the company.
11. van den Steen advised that another employees meeting was held on 31 May 2017.
12. van den Steen explained that his and Murgatroyd's appointment was interim and that at the first meeting of creditors of the company, on 31 May 2017, their appointment was ratified by the creditors and made final.
13. van den Steen explained that employees have the option to appoint a committee of employees' representatives with whom the business rescue practitioners can interact and communicate.
14. van den Steen suggested at the first meeting of employees on 31 May 2017 that the employees form a committee of no more than 5 or 6 people who are representative of the entire body of employees, including unionised and non-unionised employees. van den Steen proposed that once the meeting is concluded, the employees nominate and appoint the members of the committee and notify van den Steen and Murgatroyd through Mpisekhaya of the members of the committee. van den Steen advised that when he visits the mine in the future he can then meet with

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the committee and they can inform the body of employees about what was discussed at the meeting. van den Steen advised that the committee enables the effective disbursement of information, especially in a work environment which involves many shift changes which can make communication with individual employees challenging.

15. The following questions were asked by the employees -

Q1: What is the time period for business rescue?

A1: van den Steen explained that –

- the business rescue practitioners have to publish a business rescue plan within 25 business days after their appointment;
- once the plan is published the creditors must vote on the plan;
- if the plan is passed (adopted) the business rescue practitioners must implement the plan;
- once the plan is implemented (and if the company is rescued) the business rescue practitioners must go to court to take the company out of business rescue;
- because the company is a large business, which employs a lot of people and has various issues to deal with, the business rescue practitioners asked the creditors on 31 May 2017 to extend the date for publication of the business rescue plan to 30 September 2017 and the creditors granted the extension;
- the business rescue practitioners will do their best to publish the business rescue plan on or before 30 September 2017;
- if business rescue practitioners cannot meet the date for publication of the plan, they can ask the creditors for a further extension or failing the support of creditors, they can approach the court;
- van den Steen advised that if there is good reason for requesting an extension of the business rescue plan, the creditors are likely to agree to an extension if it is required; and
- van den Steen advised that if the business rescue process lasts for longer than 3 months, the business rescue practitioners will be required to circulate a monthly status report to all affected persons;

Q2: Now that Saxendrift Mine Proprietary Limited ("Saxendrift") is under business rescue, what is the status of the employees who have been transferred as a going concern to Nelesco 318 Proprietary Limited ("Nelesco")?

A2: van den Steen stated that Saxendrift does not have any employees and the employees who were transferred in terms of section 197 of the Labour Relations Act, 66 of 1995 ("LRA") to Nelesco are now working for a company which is not in business rescue.

Q3: A section 11 transfer of the mining rights has not yet occurred. How does business rescue affect this?

A3: Tjaart Willemse ("Willemse") stated that there is no link between the transfer of the employees in terms of section 197 of the LRA and section 11 approval from the Department of Mineral Resources ("DMR"). He stated that section 11 approval and transfer normally takes approximately two years or later, but that this does not mean that Nelesco as a company does not exist. He stated that if section 11 approval does not go through it merely means that Nelesco is not be the owner of the mining right.

Q4: What is the impact of the whole business rescue process on the status of the mining right if you are successful or not in rescuing the business? What is the status of the mining right given that Nelesco who is currently operating off the premises of the company? Surely if Nelesco does not get the mining right in a year or so there will not be an impact?

A4: van den Steen advised that from previous business rescue matters, section 11 approval has been granted after the company went into business rescue. van den Steen stated that over time he has built up a good line of communication with the DMR. van den Steen advised that if business rescue fails, the company will go into liquidation. He stated that it is possible, however, for a company to be placed in liquidation during the process of applying for ministerial consent in terms of section 11 of the Mineral and Petroleum Resources Development Act, 28 of 2002. van den Steen stated that he does not believe that the DMR would allow the mining right to lapse due to the fact that many jobs would be lost if that were to happen. In addition, van den Steen stated that if the mining

right was allowed to lapse it could result in the mining right being removed from the transaction and Nelesco would find itself in a very dire financial situation. van den Steen stated that part of his job is to endeavour to have the transaction with Nelesco, and all of its conditions finalised, including section 11 approval. However, he stated that the business rescue practitioners will need to study the facts of the matter further as the business rescue practitioners have not had a chance to delve into the affairs of the company in detail but that at this stage this is his understanding of the facts. van den Steen stated that it is in everyone's interests to ensure that section 11 transfer approval is granted and that everything happens according to plan.

Q5: Have all employees been transferred to Nelesco in terms of section 197?

A5: van den Steen referred the question to Willemse. Willemse stated that the union (the National Union of Mineworkers ("NUM")) is aware that all meetings required by the Companies Act were held and all parties involved were aware of the fact that the transfer of employees was occurring and which of the employees were being transferred. He stated that those employees who were transferred have been on the payroll of Nelesco since February 2017. Willemse confirmed that the section 197 transfer had occurred.

Mpisekhaya reminded the employees of the meeting where it was explained that Nelesco was buying the business as a going concern which meant that the employees' conditions of employment relating to their benefits remained intact, and which was confirmed by Mr Braam van Greunen of Nelesco

van den Steen stated that he had no reason to believe that the section 197 transfer of employees did not take place and was not technically correct.

Q6: NUM's attorney stated that the employees need a clear idea of what is happening. He stated that there has been occurrences where the transaction was questioned. The employees wanted to know if the transaction itself was actually concluded as there were concerns relating to organised labour. NUM's attorney stated that the employees have concerns and would like to know what the position is concerning organised labour. NUM's attorney requested clarification on the situation regarding organised labour. NUM's attorney stated that the agreement was not signed by one of the parties - although he was not certain about the validity of that statement and it was requested that the situation be clarified.

A6: van den Steen stated that he often finds that there are uncertainties created in the business rescue environment for employees. van den Steen stated that many of the questions employees have are valid. However, he stated that sometimes employees' questions are also fuelled by rumours. van den Steen confirmed that he did not have all of the facts before him but that once he did, he would revert to the employees.

Willemse stated that the employees must not cloud the matters concerning the Nelesco transaction with the business rescue proceedings. He stated that there may be a dispute between NUM and Nelesco about whether NUM is honouring what it should be honouring but it does not detract from the fact that the company has transferred the employees in terms of section 197.

Willemse asked Natalie Harten ("Harten") of Falcon & Hume to confirm whether the section 197 transferred had occurred.

Harten confirmed that the section 197 transfer had occurred together with the transfer of the business as a going concern to Nelesco. She stated that the rumours may have arisen as a result of the fact that other matters pertaining to the sale had not yet been fulfilled. She stated that the transfer of the mining right (requiring section 11 approval) is one of the outstanding matters. However, she stated that this has had no impact on the transfer of the employees and that the employees had been transferred in accordance with section 197. She further stated that the business rescue process that is currently underway has had no effect on the transfer of those employees.

Q7: NUM have been left with uncertainty following a meeting with Nelesco. NUM's attorney stated that it may have been a mistake but that they would like confirmation as to whether the transaction occurred or not. If section 197 did not occur the reality is that there will be unpaid annual leave unpaid and the current employer would have to pay that money.

A7: Willemse stated that there were utterances made which were definitely not statements of fact. He stated that the employees must rely on legal opinion and not on incorrect statements. He stated that he can supply a letter confirming that the section 197 transfer has in fact occurred.

16. van den Steen stated that he looked forward to meeting with the employees committee and giving them information as it becomes available throughout the process.

17. van den Steen stated that that all parties need to be aware that everyone needs to work as a team as “without the employees there is no company and without the company there are no employees”.