



## **water & sanitation**

Department:  
Water and Sanitation  
**REPUBLIC OF SOUTH AFRICA**

---

Enquiries: CX Zwane  
Telephone: 060 542 1108  
Reference: 6/2/2/6

**NATIONAL ASSEMBLY**

**FOR ORAL REPLY**

**QUESTION NO 679**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 07 NOVEMBER 2023**  
**(INTERNAL QUESTION PAPER NO. 42)**

**679. Mr S J Moore (DA) to ask the Minister of Water and Sanitation:**

With reference to sewage spewing down the streets and at times into people's homes (details furnished) and given the Green Drop Report which found 334 Wastewater Treatment works were in critical condition and consequently now subject to legal proceedings, what are the reasons his department only opened seven cases from the 334 identified?

NO4875E

---0000---

## MINISTER OF WATER AND SANITATION

The Green Drop report found 334 wastewater systems, belonging to 90 municipalities to be in a critical state of performance. It is important to note that where the Department of Water and Sanitation (DWS) approaches the Prosecuting Authority for criminal cases or Court for civil relief it is done on an entity or in this case a municipal basis. Reporting on criminal and civil cases will be on a municipal level, compared to where the Department reports on its administrative action (pre-directives and directives) on wastewater systems level.

Not all 90 municipalities are facing criminal charges as there is a process to be followed. The National Water Act makes provision for two types of enforcement actions namely administrative and criminal. Common law provides a third option of approaching a civil court for relief where there is imminent threat to life, property or the environment.

Upon the release of the Green Drop report all 90 municipalities was issued with a non-compliance letter for the development and submission of corrective action plans (see Table 1 below). To date the department has received 195 such plans. If an action plan is received and it is being implemented no further enforcement action is taken. Where municipalities fail to provide or to implement these action plans and where pollution or other non-compliances with the National Water Act is detected through compliance monitoring, the department will exercise its administrative regulatory authority by the issuing of Pre-Directives and where these are not adhered to the issuance of Directives.

The Department has issued, for these 90 municipalities, over the last two years, 184 pre-directives and 94 Directives (see Table 1) for its non-compliant systems. Some of these pre-dates the release of the Green Drop Report. One of the offences listed in the National Water Act is the non-adherence to an issued directive (administrative action) which is used as the basis for laying criminal charges.

Therefore the 12 criminal cases highlighted with the release of the Green Drop Watch report in June 2023 (as a measure of progress of addressing the results of the Green Drop) was as a result of the Department already having issued directives against those municipalities and not succeeding in securing compliance with its administrative tools (they remained non-compliant) and the necessity to then proceed to criminal charges and investigations with the assistance of the National Prosecuting Authority, who decides on the prosecution.

Currently, 22 municipalities are facing criminal charges for various offenses, including but not limited to, non-compliance to a directive, the unlawful commission of acts or omissions that result in water resource pollution or the likelihood thereof (the dockets for these cases are being managed by DWS and Department of Forestry, Fishery and the Environment).

Eighteen (18) of these 22 municipalities have systems that were identified as critical in the Green Drop Report. The number of cases therefore has increased from 12 in June 2023 to 18 municipalities with systems in a critical state of performance. The investigations are in various stages and upon completion of the case dockets, they are submitted to the Prosecuting Authority for prosecutorial decisions. To date, the Department has also approached the courts for civil interdicts for 17 municipalities, 9 of which were systems identified as critical in the Green Drop Report (see Table 1).

**Table 1:** Administrative, civil and criminal cases against the 90 municipalities with systems identified as critical in the Green Drop Report

Province	Municipalities (Water Service Authorities) (WSA)	Number of Wastewater Treatment Works (<31% Green Drop score)	# (%) Corrective Action Plans Received	Non-Compliance Letters Issued	Pre-Directives	Directive	Civil Cases against WSA linked to 334 critical Systems	Current Criminal cases against WSA linked to 334 critical systems
Eastern Cape	10	48	45 (94%)	48	23	3	1	0
Free State	17	64	28(44%)	64	33	15	1	5
Gauteng	4	9	8 (89%)	9	8	8	0	2 <sup>1</sup>
KwaZulu Natal	4	20	0 (0%)	20	8	7	0	0
Limpopo	10	50	50 (100%)	50	30	27	1	4
Mpumalanga	8	33	17 (51%)	33	31	21	3	4
Northern Cape	23	59	14 (24%)	59	26	4	1	1
Northwest	7	33	15 (45%)	33	17	6	2 <sup>2</sup>	1 <sup>3</sup>
Western Cape	7	18	18 (100%)	18	8	3	0	1
<b>National Totals</b>	<b>90</b>	<b>334 (90 WSAs)</b>	<b>195 (58%)</b>	<b>334</b>	<b>184</b>	<b>94</b>	<b>9<sup>4</sup></b>	<b>18<sup>5</sup></b>

Thus far, the Department has obtained 3 Plea Sentencing Agreements against Rand West City LM, Thaba Chweu LM and Lekwa LM for contravening NWA provisions. Fines were imposed against each Local Municipality. The Department is currently monitoring compliance with the plea sentencing agreements. Furthermore, the Department obtained one (1) court order against Msukaligwa LM. The Department will continue to monitor the implementation of the court order.

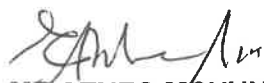
---00000---

DRAFT REPLY: RECOMMENDED/ NOT RECOMMENDED/ AMENDED



**MR RISIMATI MATHYE**  
**DIRECTOR-GENERAL (ACTING)**  
**DATE: 15.11.2023**

DRAFT REPLY: APPROVED/ ~~NOT APPROVED~~/ AMENDED



**MR SENZO MCHUNU, MP**  
**MINISTER OF WATER AND SANITATION**  
**DATE: 21/11/23**

<sup>1</sup> Merafong Local Municipality is facing criminal charges for four of its wastewater systems which are part of the identified critical systems.

<sup>2</sup> The Department is seeking civil relief for 2 wastewater systems for Ngaka Modiri Molema District Municipality in the Northwest province.

<sup>3</sup> Ngaka Modiri Molema District Municipality is facing further criminal charges for 4 of its wastewater systems. These investigations are being led by the Department of Forestry, Fisheries and the Environment

<sup>4</sup> Further civil cases against WSAs not relating to these 334 systems include 2 in Gauteng and Limpopo each, and one each in Mpumalanga, Northern Cape, Eastern Cape, and KwaZulu Natal.

<sup>5</sup> Further 3 criminal cases against WSAs not relating to these 334 systems include two in Gauteng and one in the Northern Cape province.