



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

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Reference: 6/2/2/6

NATIONAL COUNCIL OF PROVINCES

FOR WRITTEN REPLY

QUESTION NO 52

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 17 FEBRUARY 2023
(INTERNAL QUESTION PAPER NO. 2)

52. Mr G Michalakis (Free State: DA) to ask the Minister of Water and Sanitation:

With reference to his reply to Question 1044 on 22 December 2022, (a) why have there never been any consequences for the Matjhabeng Local Municipality for ignoring the directives that were issued, (b) what should the consequences be of ignoring such directives, (c) what is the purpose of such directives if there are no following consequences and (d) why there have not been any consequences to the rest of the municipalities for ignoring the directives?

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MINISTER OF WATER AND SANITATION

- (a) The Department of Water and Sanitation took Matjhabeng Local Municipality to court in 2012 for non-responsiveness to Directives. However, the Department lost the court case against the municipality. It should be noted that the municipality has submitted action plans to respond to some of the directives which the Department of Water and Sanitation has been monitoring implementation thereof.
- (b) In terms of section 151 (1) (d) of the National Water Act, 1998, failure to comply with a directive issued in terms of Section 19,20,53 and 118 of the same Act is a criminal offence. Any person who contravenes any provision of sub-section (1) of Section 151 of the National Water Act,1998 is guilty of an offence and liable, on first conviction, to a fine or imprisonment for a period not exceeding five years, or both a fine and such imprisonment. In the case of a second conviction or subsequent convictions, contravention can result in a fine or imprisonment for a period not exceeding ten years or to both a fine and imprisonment.

- (c) The Directives that were issued were intended to address the contraventions of Section(s) 19 (1) and 19 (2) of the National Water Act, 1998 for prevention and remedying effects of pollution.

While the department can take further action as part of consequence management for disregard of Directives by municipalities in terms of its role as a Regulator, it is also expected to provide support to municipalities to enable them to comply with the requirements. In addition, for the Department to take legal action against municipalities, the courts require the department to demonstrate as to whether the parties have exhausted the intergovernmental dispute resolution processes as per Section 40 of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005) (IRFA). The IGR framework stipulates amongst others that before declaring a formal intergovernmental dispute the organ of state in question must, in good faith, make every reasonable effort to settle the dispute, including the initiation of direct negotiations with the other party or negotiations through an intermediary.

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DRAFT REPLY: RECOMMENDED/ ~~NOT RECOMMENDED~~/ AMENDED


DR SEAN PHILLIPS
DIRECTOR-GENERAL

DATE: 23/07/23 ✓

DRAFT REPLY: APPROVED/ NOT APPROVED/ AMENDED


MR SENZO MCHUNU, MP
MINISTER OF WATER AND SANITATION

DATE: 06/03/2023