



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

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MINISTER OF WATER AND SANITATION

NATIONAL ASSEMBLY: QUESTION 777 FOR WRITTEN REPLY

A draft reply to the above mentioned question asked by Mr L J Basson (DA) is attached for your consideration.

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

ACTING DIRECTOR-GENERAL

DATE: 12/04/2019

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

**NKWINTI GE, MP
MINISTER OF WATER AND SANITATION**

DATE: 22/04/2019

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION NO 777

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 20 MARCH 2019
(INTERNAL QUESTION PAPER NO. 9)

777. Mr L J Basson (DA) to ask the Minister of Water and Sanitation:

What (a) number of cases did the Water Tribunal hear (i) in each of the past five financial years and (ii) since 1 April 2018, (b) number of the specified cases were finalised and (c) issues were under review in each case?

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THE MINISTER OF WATER AND SANITATION

The term of the Water Tribunal came to an end in August 2012 and it was then re-established on 1 June 2015. Refer to the table below for the number of cases in the past five financial years.

YEAR	(a)(i) 2015-16	(a)(i) 2016-17	(a)(i) 2017-18	(a)(ii) 2018-19	Total
	Total received 319	Total received 45	Total received 23	Total received 112	499
	Total Heard 1	Total Heard 1	Total Heard 8	Total Heard 2	12
	Total Withdrawals 62	Total Withdrawals 08	Total Withdrawals 23	Total Withdrawals 17	110
	The total number of case withdrawn and heard appeals is				122

(b) The total numbers of specific cases finalized are 122 for the past five financial years.

(c) No. There are no issues under review for each case.

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ADDITIONAL NOTES ON WATER TRIBUNAL APPEALS FOR THE YEARS IN QUESTION

YEAR	(a)(i) 2015-16	(a)(i) 2016-17	(a)(i) 2017-18	(a)(ii) 2018-19
	<p>1.The term of the Tribunal came to an end in 2012 and was only re-constituted in June 2015 is contributing factor to the less number of appeals prepared for readiness for hearing.</p> <p>2. A Ministerial Directive dated 2012/09/09 was issued in terms of section 150 of National Water Act 36 of 1998 advising the parties to the appeal to attempt to settle the appeals in terms the provisions of the Act as the Water Tribunal was the placed in abeyance pending the legislative amendments of the National Water Act 36 of 1998 and the fact that the term of the term of the Water Tribunal came to an end.</p> <p>3. Following this directive by the Minister, appeals were only prepared for the purposes of mediation and due process of preparations of appeals for the purposes of appeal hearing by the Water Tribunal was not conducted as its term came to the end.</p> <p>This has led to the accumulation of appeals and a resultant backlog, both of appeals lodged and the making of appeals ready for hearing</p>	<p>1.In 2016 the Tribunal members together with the Registrar had embarked on auditing the Tribunal files. This involved inter alia:</p> <ul style="list-style-type: none"> • Communication with the Appellants with view of determining if they still interested in pursuing 5th Appeal. • This process involved the time frames given to the parties for compliance and exchange of papers amongst the parties and this process took longer to set matters down 	<p>1. The process of capacitating the newly appointed Water Tribunal was underway.</p> <p>2. The process of finalising the audits of previous years during which the Water Tribunal was not constituted and the following issues were discovered and were being dealt with:</p> <ul style="list-style-type: none"> • Matters waiting for replying affidavit; • Matters waiting for the reasons and records; • Matters waiting for supplementary Appeal; • Matters waiting for supplementary; • Matters ready for set down; and • Withdrawn matters. 	<p>1. In August 2018 the process of dealing with the backlog was underway.</p> <p>2. The challenge with the current rules of the Tribunal is that they don't strictly prescribe timeframes upon which the Participants to the Appeal should file papers. Consequently Parties took longer to file the papers in preparation for set-down of the matter. There is currently a discussion for the need to review the rules of the Tribunal.</p> <p>3. The appointed Chairperson of the Water Tribunal resigned in March 2018 causing further delays as the Chairperson in terms of the act assigned to evaluate and allocate the matters to the members. The Department is currently in the process of appointing a new Water Tribunal as the term of the current Tribunal ends on the 01 June 2019.</p> <p>4. Interviews respectively for the Chairperson, Deputy Chairperson and members of the Water Tribunal in this regard have been finalised in terms of the National Water Act and the whole process of appointments is aimed at being finalised by the end of May 2019.</p>

STATISTICS ON THE BREAKDOWN OF ALL WATER TRIBUNAL APPEALS

1. Northern Cape

- Matters prior the constitution of the Water Tribunal prior June 2015 =03
- Matters waiting for Replying affidavit =07
- Matters waiting for the reasons and records =07
- Matters waiting for supplementary Appeal =0
- **OVERALL TOTAL OF MATTERS ABOVE =17**

2. Kwa-Zulu Natal

- Matters prior the constitution of the Water Tribunal prior June 2015 =03
- Matters waiting for Replying Affidavit =03
- Matters waiting for the reasons and records =06
- Waiting for supplementary =0
- Not requested =01
- Withdrawals =03
- Heard/Finalized =02
- **OVERALL TOTAL OF MATTERS ABOVE =18**

3. Free State

- Matters prior the constitution of the Water Tribunal prior June 2015 =19
- Matters waiting for Replying Affidavit =03
- Matters waiting for the reasons and records =22
- Matters ready for set down =0
- Withdrawals =06
- Heard/Finalized =02
- Not requested = 01
- **OVERALL TOTAL OF MATTERS ABOVE =53**

4. Eastern Cape

- Matters prior the constitution of the Water Tribunal prior June 2015 =02
- Matters waiting for Replying Affidavit =20
- Matters waiting for the reasons and records =134
- Matters waiting for supplementary Appeal =13
- Withdrawn matters =08
- **OVERALL TOTAL OF MATTERS ABOVE =177**

5. Gauteng

- Withdrawals =06
- Heard/Finalized =02

- Matters waiting for supplementary =0
- Reasons not requested =03
- Matters waiting for reasons and records =19
- Matters ready for set down =02
- Waiting for Replying affidavit =16
- **OVERALL TOTAL OF THE MATTERS ABOVE =48**

6. Western Cape

- Withdrawals =77
- Reasons not requested =02
- Waiting for reasons and records =138
- Waiting Replying Affidavit =02
- Waiting for supplement appeal =0
- Matters ready for set down =01
- **OVERALL TOTAL OF THE TRIBUNAL APPEALS ABOVE =220**

7. Mpumalanga

- Matters prior the constitution of the Water Tribunal prior June 2015 =09
- Withdrawals =06
- Heard/Finalized =04
- Waiting for reasons and records =07
- Waiting Replying Affidavit =03
- Matters ready for set down =02
- **OVERALL TOTAL OF THE MATTERS ABOVE =31**

8. North West

- Withdrawn =02
- Heard/Finalized =01
- Waiting for records and reasons =07
- Matters were reasons were not requested =04
- Waiting for the replying affidavit =02
- Waiting for the supplementary appeal =0
- Ready for set down =01
- **OVERALL TOTAL OF THE MATTERS =17**

9. Limpopo

- Matters prior the constitution of the Water Tribunal prior 2015 =01
- Matters reason were not requested =02
- Matters waiting for reasons and records =05
- Matters ready for set down =01

- Waiting for supplementary appeal =02
- Waiting for the replying affidavit =03
- Withdrawals = 02
- **OVERALL TOTAL OF THE MATTERS =16**

BREAK DOWN OF ALL THE ABOVE TOTALS

- ✓ Matters prior the constitution of the Water Tribunal prior June 2015
03+03+19+02+9+1 Total=37
- ✓ Replying Affidavit 7+03+03+20+16+02+03+02+03 Total =59
- ✓ Waiting for records and reasons 07+06+22+134+19+138+07+07+05 Total =345
- ✓ Waiting for supplementary appeal 13+02 Total =15
- ✓ Withdrawals 03+6+8+6+77+6+2+2=110
- ✓ Heard/Finalized Total = 12
- ✓ Ready for set down 02+01+02+01+01 Total =07
- ✓ Not requested 01+01+03+02+2+04= Total 13