



MINISTRY
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

**NATIONAL ASSEMBLY
QUESTIONS FOR WRITTEN REPLY**

**QUESTION NUMBER 245
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QUESTION:

245. Ms A M Siwisa (EFF) to ask the Minister of Cooperative Governance and Traditional Affairs:

In light of the fact that in 2021 councillors of the Nquthu Local Municipality took a case of irregular appointment of senior municipal officials to the High Court in Pietermaritzburg, which found that indeed the appointments were irregular, and noting that at present an Acting Municipal Manager has been appointed at Newcastle Local Municipality in KwaZulu-Natal without any resolutions of the full council sitting, (a) how is her department going to ensure that municipalities do not continue with illegal appointments in future and (b) what steps will be taken against those who are involved in such illegal activities?

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REPLY:

- a) To circumvent this and similar situations, a number of plans aimed at strengthening administrative systems, governance and improving accountability in local government were unveiled including the enactment of the Local Government: Municipal Systems Amendment Act, 2011, (Act No 7 of 2011) [herein referred to as the "2011 Amendment Act"]. The 2011 Amendment Act comes as a policy response to institutional and administrative challenges of municipalities. It outlined government's resolve to professionalise local public administration to ensure fair, efficient, effective and transparent municipal administration. It also empowered the Minister and MEC responsible for local government to take appropriate steps as may be necessary to enforce compliance with the appointment requirements, where an appointment has been made in contravention with these requirements, including an application for a declaratory order to the court. As the Honourable Member maybe aware, the Constitutional Court declared the 2011 Amendment Act unconstitutional and invalid in its entirety in March 2019, as the Bill preceding the 2011 Amendment Act was incorrectly tagged by Parliament

2011 which has negatively impacted government's resolve to professionalise the sector. The Local Government: Municipal Systems Amendment Act [herein referred to as the "Amendment Bill"] was re-introduced to Parliament in February 2019 with the same provisions as enacted in 2011. Parliament is hard at work to finalise the Amendment Bill. In the interim municipalities will continue to be monitored and supported to adhere to the legislation in respect of the appointment of senior managers, and to ensure that municipalities comply with key recruitment and selection statutory provisions.

- b) Where a councillor(s) knowingly took an unlawful action or decision, which invariably results in instability in municipalities that councillor(s) will be held liable for any fruitless and wasteful expenditure that the municipality may incur as result of voting in favour of resolutions before the council or a committee of the council which conflicts with legislation applicable to local government. It introduces a liability clause in the Code of Conduct for Municipal Councillors contained Municipal Structures Act, 1998.