

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 715 [NW830E]
DATE OF PUBLICATION: 11 MARCH 2016

715. Mr M G P Lekota (Cope) to ask the Minister of Finance:

Whether, in view of the fact that the National Treasury in its section 71 report for the period 1 July to 31 December 2015 had calculated that municipalities were owed R64,4 billion in outstanding debt, the Government was (a) giving all necessary support to municipalities to help them collect the money that was owing to them and (b) using all legal measures available to it to help correct inefficiencies and failures within municipal government to prevent such debts from arising in the first place and then piling up; if not, why not in each case; if so, what are the details in each case?

NW830E

REPLY:

In terms of the National Treasury's Section 71 report for the period 1 July to 31 December 2015, it was reported that the metros are owed R64.4 billion. This information, pertaining to the metros debt was provided by each of the metros; consolidated and reported by the National Treasury.

In response to both questions (a) and (b) the legal framework provides for municipal and ultimately council accountability to charge for services, issue correct bills and collect all monies due. This is provided for in the Local Government Municipal Systems Act, Act 32 of 2000 (MSA), Chapter 9: Credit Control and Debt Collection, which provides for the following municipal debt collection mechanisms:

S96 (a) a municipality must collect all money due and payable ...

S96 (b) for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariffs policies and complies with the provisions of this Act.

S98 (1) A municipal council must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

S95 (e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due.

S95 (l) provide accessible pay points and mechanisms for settling accounts or for making pre-payments for services.

In addition, the MSA, s118: Restraint of Transfer of Property, makes provision for municipalities to collect arrears from the property owners at the time of sale. s118 relates to the clearance certificate whereby a municipality confirms that all monies due and payable on a property, at the time of sale, have been settled, as this is legally required to facilitate the transfer of property ownership at the Registrar of Deeds. In recent years the municipality

would insist on recovering a minimum of two years arrears when issuing clearance and then obtain commitment from the transferring attorney to recover the balance when the proceeds of the property sale are paid.

The most recent court ruling is that the municipality can recover from the buyer should the seller not honour the arrears on the property where it extends beyond two years. Municipalities have not utilised this legal instrument to collect arrears.

While the National Treasury strives to support municipalities to improve their operational management capability in municipal expenditure and revenue management it is evident that even among the metros which are owed R64.4 billion as at 31 December 2015, the institutions are not fully utilising the provisions of the law to maximise on revenue collection.

Furthermore, the local government governance structures afford only advisory and guidance contributions from the National Treasury as the Council is legally responsible to enforce the provisions of Chapter 9 of the MSA.