# NATIONAL ASSEMBLY QUESTION FOR WRITTEN REPLY

**PARLIAMENTARY QUESTION NO: 1831 DATE OF QUESTION: 21 AUGUST 2020**

**DATE OF SUBMISSION: 04 SEPTEMBER 2020**

**Ms NP Sonti (EFF) to ask the Minister of Justice and Correctional Services:**

What (a) total number of persons defaulted on paying their maintenance orders during the lockdown to curb the spread of Covid-19 and (b) steps has his department taken to ensure that maintenance orders are enforced, even during the lockdown.

# NW2225E

**REPLY**:

1. Thus far **631 cases** have been recorded for failure to comply with maintenance orders during the lockdown period, and these are based on requests made at courts by maintenance beneficiaries. These matters have been enrolled for hearing on different trial dates. It should be noted that these are not first or initial applications for maintenance. Only once a maintenance order is not honoured or defaulted upon, does the beneficiary come back to court.

The enforcement of maintenance court orders is provided for in the Maintenance Act, 1998 (Act No 99 of 1998) (“the Act”). In terms of section 26 of the Act, whenever a person against whom a maintenance order has been made fails to make a payment in accordance with the order, the order shall be enforceable by way of execution against property as contemplated in section 28, or by the attachment of any debt as contemplated in section 30. In terms of section 31 of the Act, any person who fails to make a particular payment in accordance with a maintenance order shall be guilty of an offence.

Therefore, the Department of Justice and Constitutional Development only captures information regarding default payments in instances where an application for enforcement of the original court order has been made because of non- compliance with the court order by the defendant.

These 631 cases are therefore not necessarily the total number of defaulters during the lockdown period, as we anticipate that from Alert Level 2, many more maintenance beneficiaries will be approaching the courts to report non-compliance. The statistics thereof will be kept for analysis purposes. Furthermore, given the fact Covid-19 has caused many persons to lose their employment or face reduced incomes, we can anticipate that this will have an effect on default maintenance payments as well.

1. Courts were sitting on a rotation basis during the different levels of the lockdown. The Department ensured that child maintenance functions were regarded as emergency work/essential services so as to ensure that courts continue to process maintenance complaints and applications. Courts therefore remained operational in respect of maintenance matters, with due adherences to the Covid-19 regulations and prescripts.

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