**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1972**

**DATE OF QUESTION: 27 AUGUST 2021**

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**DATE OF SUBMISSION: 10 SEPTEMBER 2021**

**Prof C T Msimang (IFP) to ask the Minister of Justice and Correctional Services:**

1. In light of the Legal Aid South Africa Act, Act 39 of 2014: Amendment of Regulations, published in the Government Gazette on 6 August 2021, what is the envisaged budgetary impact of the extension of legal aid by Legal Aid South Africa to civil matters that have a significant impact on the lives of clients, such as civil proceedings involving children, evictions, social, educational and income-related matters in the next 12 months;
2. what steps has the Government taken to ensure that Legal Aid South Africa is equipped with human resources to handle the increased ambit of its work to the specified civil matters?

**NW2205E**

**REPLY:**

There is no additional budgetary impact being brought about by the amendments published in the Government Gazette on 6 August 2021. Legal Aid South Africa re-introduced the provision of Civil Legal Services in about 2004. Currently, the service delivery split between criminal and civil services with 87% on Criminal Defence Services and 13% on Civil Services.

The table below reflects the service delivery split between criminal and civil matters over the last six (6) financial years.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Financial Year** | **Criminal** | | **Civil** | | **Total** |
| **Number of matters** | **%** | **Number of matters** | **%** |
| 2020/21 | 269 388 | 91% | 27 818 | 9% | 297 206 |
| 2019/20 | 351 061 | 87% | 51 177 | 13% | 402 238 |
| 2018/19 | 362 213 | 87% | 53 990 | 13% | 416 203 |
| 2017/18 | 371 202 | 87% | 55 415 | 13% | 426 617 |
| 2016/17 | 385 972 | 87% | 58 990 | 13% | 444 962 |
| 2015/16 | 388 692 | 88% | 52 364 | 12% | 441 056 |

The provision of civil legal aid has always been included in the Regulations since they came into operation on 22 August 2017 but these amendments have been effected to the Regulations to address the following specific aspects:

1. Regulation 9: Implements a waiting period where there are capacity constraints at offices due to the reduction in the Budget and thus the available resources. Priority matters will however not be subject to a waiting period.
2. Regulations 11, 13 and 23: These regulations address technical errors in the wording to align to the intended meaning of the Regulation.
3. Regulation 14: The amended regulation now excludes the enforcement of CCMA awards from legal aid except in circumstances where the client has not been able to enforce the award with the assistance of the CCMA Regulations. This will reduce the instances in which legal aid can be granted to enforce CCMA Awards.
4. Regulation 15: This brings about a limitation to the types of divorce matters that can be assisted on legal aid. This will thus decrease the divorce matters in which legal aid can be granted.
5. Regulation 27: The effect of this amendment is to bring about an automatic increase in the Legal Aid SA means test to keep pace with inflation.
6. Regulation 31 and 32: It will be possible to provide assistance in both criminal and civil cases where applicants exceeds the means test but where the circumstances justify the granting of legal aid but subject to a contribution being paid for such assistance.