



BRIEFING NOTE OF THE DRAFT AMENDMENT OF

(PIE) ACT 19 of 1998

PREVENTION OF ILLEGAL EVICTION

FROM AND UNLAWFUL OCCUPATION OF LAND



1. Purpose

To provide a briefing note regarding PIE amendment Bill

2. Background and Context

South Africa continues to face deep and persistent socio-economic challenges arising from insecure tenure, unlawful occupation, and the widespread occurrence of forced evictions. Despite the constitutional guarantee of access to adequate housing and protection against arbitrary eviction (Constitution of the Republic of South Africa, 1996, Section 26), millions of households continue to reside in informal settlements, backyard dwellings, makeshift accommodation and other forms of insecure tenure.

Estimates suggest that more than one million households, representing well over four million individuals, live in informal settlements, often on public or peri-urban land (Human Rights Watch, 2020).

These communities remain at constant risk of displacement and hundreds of thousands of people continue to face eviction annually, frequently without meaningful engagement, legal representation, or provision of alternative accommodation (SERI, 2019; SAHRC, 2020).

Forced evictions severely undermine a wide range of civil, political and socio-economic rights. Research shows that eviction, particularly when sudden, violent or procedurally unlawful, results in displacement, household fragmentation, loss of livelihood, loss of schooling for children, deterioration of social support networks and heightened vulnerability to crime, exploitation and poor health outcomes (Tissington, 2011; Müller, 2013).



HOUSES ■ SECURITY ■ COMFORT

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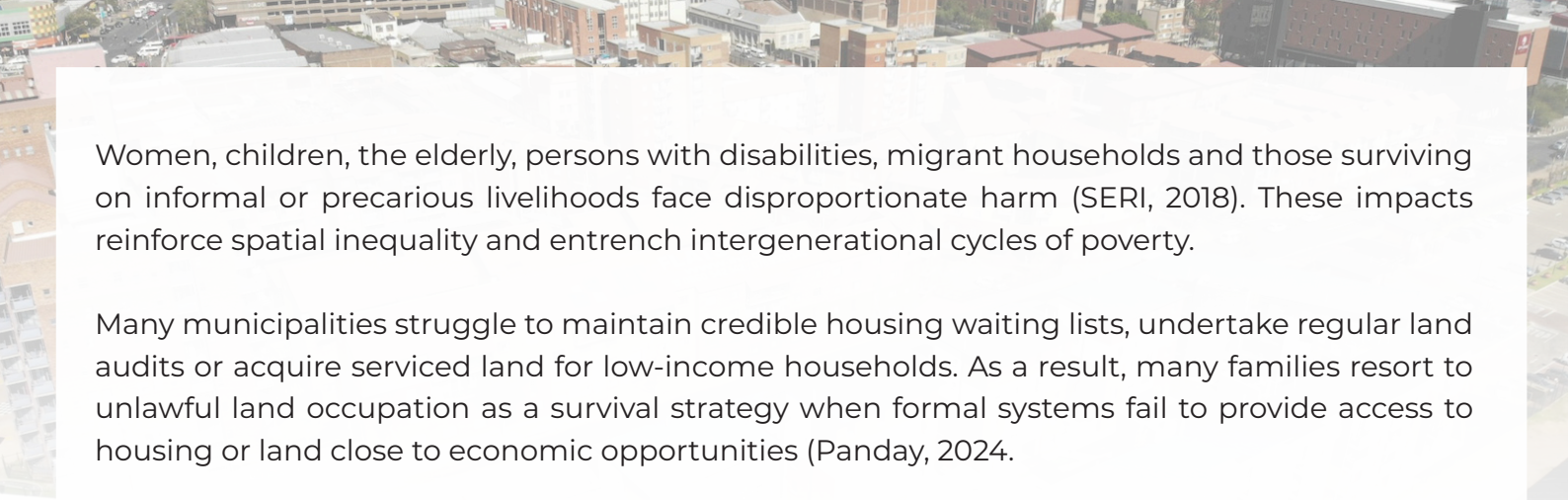


human settlements

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Women, children, the elderly, persons with disabilities, migrant households and those surviving on informal or precarious livelihoods face disproportionate harm (SERI, 2018). These impacts reinforce spatial inequality and entrench intergenerational cycles of poverty.

Many municipalities struggle to maintain credible housing waiting lists, undertake regular land audits or acquire serviced land for low-income households. As a result, many families resort to unlawful land occupation as a survival strategy when formal systems fail to provide access to housing or land close to economic opportunities (Panday, 2024).

Forced evictions carried out without lawful process further exacerbate community tensions and undermine social cohesion. Numerous reports by the South African Human Rights Commission (SAHRC, 2020; 2021) document instances in which evictions were executed during adverse weather conditions, during school exam periods or at times of heightened vulnerability, practices that contradict constitutional and statutory protections. These patterns intensify community and state conflict, perpetuating cycles of distrust, instability and violence.

Although the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE Act) was enacted to break away from the apartheid legacy of evictions and to align eviction law with constitutional standards of justice, dignity and procedural fairness, significant gaps in implementation have emerged.

The PIE Act applies to all land in South Africa and protects unlawful occupiers by requiring courts to consider all relevant circumstances, including the rights and needs of vulnerable groups, before granting an eviction order. However, inconsistent application of PIE across municipalities, courts, law-enforcement agencies and private actors has resulted in uneven protection of constitutional rights (Boggenpoel and Mahomed, 2024).

Academic and civil-society research highlights several key gaps in the current legislative and administrative framework. First, ambiguities in PIE's definitions, such as what constitutes a "home" or "alternative accommodation", lead to inconsistent judicial interpretations (ibid.). Second, the lack of a national eviction monitoring system means that government is unable to track eviction trends, assess impacts or plan adequately or emergency or transitional accommodation (SAHRC, 2006). Third, municipalities frequently lack clear funding streams for alternative accommodation, resulting in court-ordered obligations that cannot be met in practice (Tissington, 2011). Finally, insufficient coordination among the South African Police Service (SAPS), municipal law-enforcement officials, sheriffs and provincial human settlements departments contributes to chaotic or unlawful enforcement of eviction orders (SAHRC, 2020).

Given these challenges, the proposed amendments to the PIE Act seek to address the cycle of unlawful occupation of land and the illegal, often violent, evictions that perpetuate poverty, social instability and rights violations. The proposal aims to clarify statutory definitions, strengthen procedural safeguards and institutionalise early engagement, mediation and meaningful consultation. It further seeks to establish clear intergovernmental responsibilities and funding arrangements for alternative accommodation, improve land-management practices and create a national eviction monitoring and reporting system.

Currently, hundreds of thousands of people face evictions without legal recourse or consideration of their socio-economic rights, often during vulnerable times (SAHRC, 2020). These practices undermine constitutional protections, exacerbate urban inequality, and leave low-income households in precarious and unsafe conditions far from economic opportunities. By addressing both legislative gaps and systemic failures in implementation, the proposed amendments aim to create a more equitable, just and predictable human settlements environment aligned with constitutional obligations and international human rights standards.

3. Summary of Changes

The proposal amends the PIE Act to close legislative gaps, standardise definitions, and ensure evictions are carried out fairly, transparently, and in line with constitutional rights.

It seeks to prevent unlawful occupation proactively while requiring meaningful consultation, legal advice, and feasible alternatives before any eviction.

The framework mandates that municipalities, provinces, and national government coordinate on land assembly, emergency housing, and funding to avoid homelessness.

It also strengthens accountability mechanisms for landowners, courts, and state organs involved in eviction proceedings. The overall aim is to balance property rights with human dignity, creating a more just, equitable, and development-friendly human settlements environment.

3.1. Insert the following definition within the amended PIE Act to ensure consistent interpretation by courts,

- a. “home” to align with the Constitution,
- b. “land and building or structures on land to align with existing definition of land (as defined in the Land Use Management and Planning Act, 2013),”
- c. municipality to be aligned with Municipal Systems Act,
- d. temporary accommodation to meet the minimum standards as prescribed in the Code,
- e. Other
- f. Correct the following definition of
 - i. state president Remove word State next to President,
 - ii. Person in charge refined to be a person who has legal authority to administer or control the land,

3.2. **Section 3** – Put deterrent measures/ mechanism for persons who will incite people to occupy land as part of position jogging. And add a fine of 2 million or imprisonment not exceeding 2 years or both such fine and imprisonment. **This harmonises the provisions proposed in the private members Bill which recommended 5-year imprisonment.**

3.3. When the Court convict someone who committed this offense, the Court must order that all assets / money acquired using the proceeds of position jogging

3.4. **Section 4:** Principle of Joinder - When someone is instituting the proceedings for evictions, they must include provincial departments and any other organ of state that have an interest in the proceedings (This may incl National Departments)

3.5. **Section 4** - Insert Section 4.10. The court to considers and order demolition or removal of improvement of structures on the land and this includes harvesting of crops. This is to assist or be beneficial to the evictee.

3.6. **Section 4.13.** Inserted that the Court must determine who qualifies for Alternative accommodation and whether its temporary and define the period.

3.7. **Section 5:** Inserted additional considerations that the Court should consider – Agility and swiftness in granting agent court order as the ace and scale of unlawful occupation is often fast.

3.8. **Section 6** - Insert mediation measures that are mandatory where the organ of state is the owner of land.

4. Other Proactive Measures included in the policy foundation

4.1. Meaningful consultation

4.2. Inclusion of probation Officers report

4.3. Guard the land or property by owners

4.4. Require municipalities to develop mandatory Eviction Preparedness and Response Plans, including pre-eviction social assessments, availability of serviced relocation sites, and transparent consultation processes with affected communities to prevent reactive, crisis-driven interventions.

4.5. Establish an intergovernmental Land Assembly and Rapid Response Unit responsible for identifying, acquiring, and releasing well-located land for emergency and long-term housing, supported by ring-fenced funding to prevent evictees from falling into homelessness.

4.6. Mandate automatic access to free, state-funded legal assistance and mediation services for vulnerable households facing eviction, ensuring that proceedings are fair, rights-based, and aligned with constitutional protections for human dignity.

4.7. Implement a strengthened accountability framework, including compliance audits for municipalities and penalties for landowners or state organs that conduct unlawful or procedurally unfair evictions, to promote transparency, oversight, and responsible land management.

5. Consultation

The Department working together with SALGA intends to host a PIE workshop 24 – 25 March 2026. Draft Program attached.

..... **9 February 2026**