

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA**NOTICE 1267 OF 2022****MS EMMA POWELL, MP****NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBERS BILL AND INVITATION FOR COMMENT ON THE DRAFT BILL, NAMELY THE PREVENTION OF ILLEGAL EVICTION FROM AND UNLAWFUL OCCUPATION OF LAND AMENDMENT BILL, 2022**

Ms Emma Powell, MP, acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill, 2022 (“the draft Bill”), in the National Assembly of Parliament. An explanatory summary of the draft Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.

The issue of orchestrated and illegal land grabs has become a crisis across South Africa, placing immense financial and logistical burdens on all major Metropolitan Municipalities. The announcement of the National State of Disaster, and the concomitant moratorium placed on evictions, also led to a sharp spike in illegal land invasions across South Africa. Furthermore, due to the costs incurred by safeguarding land, municipalities frequently need to provide additional basic services to newly invaded land parcels that have not been provisioned for in statutory budget and planning processes.

The unlawful occupation of land leads to severe dysfunctionality in cities, including obstruction of sewerage infrastructure, safety hazards due to illegal electricity connections, violations to planning and environmental legislation. The shortage of amenities like clinics and schools close to invaded land parcels further places additional pressure on municipalities. Land invasions also deprive law abiding South Africans of their state-subsidised housing opportunities.

Currently, the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998) (“PIE Act”) creates a rigid set of definitions and requirements that need to be followed in order for a person to be lawfully evicted, despite their intentions or circumstances during such illegal occupation.

In order for South Africa to create inclusive and well managed cities, the endemic of illegal land invasions must be urgently addressed. Therefore, the application of the PIE Act needs to be restricted in certain instances to prevent those unlawful occupiers, who have entered upon a property in bad faith, from using the PIE Act as a defense or delay tactic at the cost of the owner of the property.

The intention of the draft Bill is thus, *inter alia*, as follows:

- Limit the application of the PIE Act;
- Insert and amend certain definitions to give effect to these limitations;
- Create punitive measures for those who incite or promote orchestrated and unlawful invasions;
- Provide explicit criteria that must be satisfied during court proceedings prior to a municipality being ordered to provide alternative accommodation;
- Allow the courts to determine the length of time alternative accommodation would need to be provided for an unlawful occupier;
- Compel the courts to explore the reasons for the invasion, as well as the maintenance obligations of the occupier's family when considering judgement.

The principles that give rise to this draft Bill have already been confirmed in notable court judgments where the courts specifically disapprove of any illegal land invasion.

This draft Bill does not intend to remove any rights of *bona fide* unlawful occupiers in terms of the PIE Act, nor does it intend to in any way negate a person's right to housing in terms of Section 26 of the Constitution. The purpose of the draft Bill is to prevent those who, in bad faith, occupy a property or land without any legal entitlement to do so and rely on the provisions of the PIE Act to either stay on a property for as long as possible or to try and get fast tracked in the queue for low-cost housing projects.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker at PO Box 15, Cape Town 8000; or e-mailed to speaker@parliament.gov.za and copied to legislation@da.org.za.

Copies of the draft Bill may be obtained from the Democratic Alliance's website at www.da.org.za/newsroom