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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

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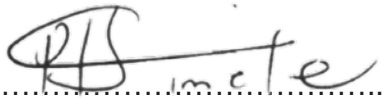
### DEPARTMENT OF HUMAN SETTLEMENTS

#### NOTICE 3896 OF 2026

### REQUEST FOR COMMENTS ON THE DRAFT PREVENTION OF ILLEGAL EVICTION FROM AND UNLAWFUL OCCUPATION OF LAND AMENDMENT BILL, 2026

1. I, Thembisile Simelane, acting in my capacity as Minister of Human Settlements, in terms of sections 2, 3(1), and 3(2)(f) and (g), and 4 (j) of the Housing Act No.107 of 1997 as amended, hereby gives notice of the publication of the draft Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill, 2026, and request written public comments.
  
2. The comments on Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill, 2026 may be submitted via:
  - 2.1 **Email:** [PIE.AmendmentBill@dhs.gov.za](mailto:PIE.AmendmentBill@dhs.gov.za)
  - 2.2 **Hand:** delivered at 240 Justice Mohammed, Sunnyside Pretoria,0001, For attention: Ms Lisa Masilo
  - 2.3 **Post:** The Director- Department of Human Settlements, Private Bag X644, Pretoria
  
3. Comments should be submitted not later than 60 days after publication of this notice.
  
4. For further information contact:
  - 4.1 Mr. Paul Masemola: Chief Director Legal Services on 066 475 9260.
  - 4.2 Ms. Judgemore Tshikomba: Senior Legal Admin Officer on 071 385 8693

5. The Department will publish a schedule of consultations to engage with stakeholders in public venues.

A handwritten signature in black ink, appearing to read 'MS T.P. Simelane', written over a horizontal dotted line.

**MS T.P. SIMELANE (MP)**

**DATE: 15 APRIL 2026**

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REPUBLIC OF SOUTH AFRICA

**PREVENTION OF ILLEGAL EVICTION FROM AND UNLAWFUL  
OCCUPATION OF LAND AMENDMENT BILL, 2026**

—————  
*(As introduced in the National Assembly (proposed section 76); explanatory  
summary of Bill published in Government Gazette No.  
(The English text is the official text of the Bill)*  
—————

(MINISTER OF HUMAN SETTLEMENTS)

[B —2026]

**GENERAL EXPLANATORY NOTE:**

[            ]        Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_            Words underlined with a solid line indicate insertions in existing enactments.

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**BILL**

**To amend the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998, so as to insert and substitute certain definitions; to provide for the prohibition of certain acts and to create certain offences; to further regulate the granting of a court order for eviction; to amend the procedures for the eviction of unlawful occupiers; to delete any stipulated period of unlawful occupation to be considered by a court; to provide for mandatory joinder of relevant provincial department of human settlements, relevant municipality, or any other organ of state having interest in the proceedings; to provide for mandatory mediation by the member of the Executive Council for a province if the municipality is the owner of the land; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 19 of 1998**

1. Section 1 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (hereinafter referred to as the principal Act), is hereby amended—
  - (a) by the insertion before the definition of “building or structure” of the following definition:

“**alternative accommodation**’ means temporary accommodation provided by the owner, organ of state or person in charge that prevents persons from being rendered homeless by an eviction order and that is reasonable in the circumstances, taking into account minimum standard as prescribed in the National Housing Code - 2009, location, and availability of land and resources;”
  - (b) by the substitution for the definition of “evict” of the following definition:

“**evict**’ means to deprive a person of occupation of [**a building or structure, or the land on which such building or structure is erected,**]land against his or her will, and ‘eviction’ has a corresponding meaning;”
  - (c) by the substitution for the definition of “land” of the following definition:

“ **‘land**’ includes a portion of land and buildings or structures on such portion of land;”
  - (d) by the substitution for the definition of “Minister” of the following definition:

“ **‘Minister**’ means the Minister responsible for human settlements;”
  - (e) by the substitution for the definition of “municipality” of the following definition:

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“ **‘municipality’** means a municipality **[in terms of section 10B of the Local Government Transition Act, 1993 (Act No. 209 of 1993)]** contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);”;

- (g) by the substitution for the definition of “person in charge” of the following definition:

“ **‘person in charge’** means a person who has or at the relevant time had legal authority to **[give permission to a person to enter or reside upon the]** administer or control the land in question;”;

- (h) by the substitution for the definition of “unlawful occupier” of the following definition:

“ **‘unlawful occupier’** means a person who occupies land without the express or tacit consent of the owner or person in charge, or without any other right in law to occupy such land, excluding a person who is an occupier in terms of the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997), and excluding a person **[whose informal right to land, but for the provisions of this Act, would be protected by the provisions of the Interim Protection of Informal Land Rights Act, 1996 (Act No. 31 of 1996)]** who is a labour tenant in terms of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996).”.

### **Substitution of section 3 of Act 19 of 1998**

2. The following section is hereby substituted for section 3 of the principal Act:

**“Prohibition of [receipt or solicitation of consideration in respect of**

**unlawful occupation of land] certain acts**

3 (1) No person may—

(a) directly or indirectly receive or solicit payment of any money or other consideration as a fee or charge for arranging or organising or permitting a person to occupy land without the consent of the owner, organ of state or person in charge of that land[.]; or

(b) incite, arrange, organise or permit any person to occupy land without the consent of the owner, organ of state or person in charge of that land.

(1A) The money or consideration contemplated in subsection (1)(a) includes, but is not limited to, membership fees of a scheme of unlawful occupiers, legal costs, administration costs, services, services connection fees, payment for any socio-economic infrastructure, or any assets acquired with such money: Provided that the reference to 'legal costs' shall not include money collected solely for the purposes of defraying legal costs associated with the opposition of proceedings for eviction.

(2) Any person who contravenes a provision of subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding R2 000 000.00 or to imprisonment not exceeding two years, or to both such fine and such imprisonment[.], as the court may decide after considering the manner and nature of the unlawful occupation and the value of the portion of land occupied.

(3) [The]Subject to such an order as the court may decide to be just and appropriate in the circumstances, a court which convicts any person of a contravention of [this section]subsection (1), must order any money or any

assets acquired with such money, or other consideration received by that person which have been seized, to be forfeited, and the said money and the proceeds of the sale of such assets or such other consideration **[may]must** be paid—

(a) to the person or persons from whom the money, assets or other consideration was received**[,and];or**

(b) where such person or persons cannot be positively identified, into the National Revenue Fund or, in the case where the land is administered or controlled by a municipality, into the relevant municipal operating account.

(4) **[If]**Subject to such an order as the court may decide to be just and appropriate in the circumstances, if any money has been received in contravention of subsection (1), but has not been seized or made available for purposes of confiscation, the court which convicts any person of a contravention of this section, **[may]must** order the amount proved to the satisfaction of the court to have been received by such person, and the proceeds of the sale of any assets or consideration received with such money to be paid—

(a) to the person or persons from whom the money or other consideration was received**[, and]; or**

(b) where **[such]**the person or persons contemplated in paragraph (a) cannot be positively identified, into the National Revenue Fund or, where the land is administered or controlled by a municipality, into the relevant municipal operating account, and such order has the effect of and may be executed against such person as if it were a civil judgment in favour of that person or persons from whom the money or other consideration was

received or in favour of the State.”.

### **Amendment of section 4 of Act 19 of 1998**

3. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) At least 14 days before the hearing of the proceedings contemplated in subsection (1), the owner, organ of state or person in charge must serve a written notice of the proceedings to—

(a) the unlawful occupier;

(b) the relevant provincial department of human settlements; and

(c) the relevant municipality.”;

(b) by the insertion after subsection (2) of the following subsection:

“(2A) Any of the organs of state contemplated in subsection (2)(b) and (c), and any other organ of state having an interest in the proceedings, must join or be joined as a party in such proceedings.”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) Subject to the provisions of [subsection] subsections (2) and (2A), the procedure for the serving of notices and filing of papers in terms of this section is as prescribed by the rules of the court in question.”;

(d) by the deletion in subsection (5) of the word “and” at the end of paragraph (c) and the insertion after that paragraph of the following paragraph:

“(cA) set out the relief sought; and”;

(e) by the substitution for subsection (6) of the following subsection:

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“(6) A court may grant an order for eviction if it is of the opinion that it is just and equitable to do so, after considering all relevant circumstances, including—

- (a) the circumstances under which the unlawful occupier occupied the land;
- (b) the period of occupation;
- (c) the availability to the unlawful occupier of suitable alternative accommodation or land; and
- (d) the rights and needs of the elderly, children, persons with disability and households headed by women.”;

(f) by the deletion of subsection (7);

(g) by the substitution for subsection (10) of the following subsection:

“(10) (a) A court that orders the eviction of any person in terms of this section may make any order that it considers just and equitable under the circumstances, including an order for—

- (i) the retention or the demolition and removal of improvements or structures on the land;
- (ii) the retention, tending or harvesting of any standing crop; and
- (iii) the payment of compensation for any improvement, structure, materials or standing crops obtained by one party from the other.

(b) In making an order in terms of paragraph

(a), the court must have regard to all relevant factors, including—

- (i) whether the improvements were made, the structures erected or the crops planted with the consent of the owner, organ of state or person in charge;

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- (ii) whether the improvements, structures or crops are necessary or useful to the party required to pay compensation for such improvements, structures or crops;
- (iii) the consequences and the fairness of the terms and conditions of any agreement between the parties relating to liability, or the exclusion of liability, for compensation or the determination of compensation;
- (iv) the hardship caused to each party; and
- (v) the circumstances contemplated in subsection (6).

(c) If a court makes an order for eviction, which includes an order for compensation, the order for eviction may not be executed unless the compensation has been paid or guaranteed to the satisfaction of the court.”; and

(h) by the addition after subsection (12) of the following subsections:

“(13) A court that grants an eviction order after considering whether land has been made available or can reasonably be made available by a municipality having jurisdiction, other organ of state or another landowner for the relocation of the unlawful occupier, as contemplated in subsection (6)—

- (a) may make an order, if such municipality, other organ of state or another landowner is joined to the proceedings, that sets as a condition to the order for eviction that such alternative accommodation or land must be made available to the unlawful occupier; and
- (b) must, where reasonable to do so and if the alternative

accommodation or land contemplated in paragraph (a) is only made available temporarily, stipulate the period for which such alternative accommodation or land must be made available to the unlawful occupier by the municipality, other organ of state or another landowner.

(14) if the court determines that the occupier is an unlawful occupier, as defined in this Act, the court may choose to grant an eviction order without requiring the municipality or any organ of state to provide alternative accommodation or land.”.

#### **Amendment of section 5 of Act 19 of 1998**

4. Section 5 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “and” at the end of paragraph (b) and the insertion after paragraph (b) of the following paragraph:

“(bA) it is just and equitable to grant the order, taking into consideration the circumstances of the unlawful occupation, including the pace, scale and frequency of such occupation; and”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) Before the hearing of the proceedings contemplated in subsection (1), the owner, organ of state or person in charge must give written notice of such proceedings to—

- (a) the unlawful occupier;
- (b) the relevant provincial department of human settlements; and
- (c) the relevant municipality.”;

- (c) by the insertion after subsection (2) of the following subsections:

“(2A) Any of the organs of state contemplated in subsection (2)(b) and (c), and any other organ of state having an interest in the proceedings, must join or be joined as a party in such proceedings.

(2B) Subject to subsections (2) and (2A), the procedure for the serving of notices and filling of papers in terms of this section is as prescribed by the rules of the court in question.

(2C) If a court is satisfied that service cannot conveniently or expeditiously be effected in the manner provided for in the rules of the court, service must be effected in the manner directed by the court: Provided that the court must consider the rights of the unlawful occupier to receive adequate notice and to defend the case.”; and

- (d) by the deletion in subsection (3) of the word “and” at the end of paragraph (c) and the insertion after paragraph (c) of the following paragraph:

“(cA) set out the relief sought; and”.

#### **Amendment of section 6 of Act 19 of 1998**

5. Section 6 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) An organ of state may institute proceedings for the eviction of an unlawful occupier from land which **[falls within its area of jurisdiction, except where the unlawful occupier is a**

**mortgagor and the land in question is sold in a sale of execution pursuant to a mortgage]it administers or controls**, and the court may grant such an order if it is just and equitable to do so, after considering all the relevant circumstances, and if—”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) In deciding whether it is just and equitable to grant an order for eviction[, **the court must have regard to—**

- (a) **the circumstances under which the unlawful occupier occupied the land and erected the building or structure;**
- (b) **the period the unlawful occupier and his or her family have resided on the land in question; and**
- (c) **the availability to the unlawful occupier of suitable alternative accommodation or land] in terms of subsection (1), section 4(6) applies, with the necessary changes.”; and**

(c) by the addition after subsection (6) of the following subsection:

“(7) Section 4(10) applies, with the necessary changes, whenever an order for eviction in terms of this section is made.”.

#### **Amendment of section 7 of Act 19 of 1998**

6. Section 7 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) If the municipality in whose area of jurisdiction

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the land in question is situated, is not the owner, organ of state or person in charge of the land, the municipality may[, **on the conditions that it may determine**] appoint one or more persons with expertise in dispute resolution to facilitate meetings of interested parties and to attempt to mediate and settle any dispute in terms of this Act: Provided that the parties may, at any time, by agreement, appoint another person to facilitate meetings or mediate a dispute, on the conditions that the municipality may determine.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) If the municipality in whose area of jurisdiction the land in question is situated, is the owner, organ of state or person in charge of the land in question, the member of the Executive Council designated by the Premier of the province concerned, or his or her nominee, **[may]must**, on the conditions that he or she may determine, appoint one or more persons with expertise in dispute resolution to facilitate meetings of interested parties and to attempt to mediate and settle any dispute in terms of this Act: Provided that the parties may, at any time, by agreement, appoint another person to facilitate meetings or mediate a dispute, on the conditions that the said member of the Executive Council may determine.”.

### **Substitution of long title to Act 19 of 1998**

7. The following long title is hereby substituted for the long title to the principal Act:

**“ACT**

To provide for the prohibition of unlawful eviction; to provide for procedures for the eviction of unlawful occupiers; to list certain acts as prohibited and to create offences relating to such prohibited acts; to provide for the maximum amount for a fine imposed for being found guilty of a prohibited act; to provide courts with criteria for consideration when determining an appropriate order for eviction; to provide for mandatory joinder of relevant provincial department of human settlements, relevant municipality, or any other organ of state having interest in the proceedings; to provide for mandatory mediation if a municipality is the owner of land; to afford unlawful occupiers equal treatment and protection of the law; and to provide for matters incidental thereto.”.

**Short title**

8. This Act is called the Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Act, 2026.