

THE PREVENTION OF ILLEGAL SQUATTING AMENDMENT BILL

The Prevention of Illegal Squatting Amendment Bill amends the Prevention of Illegal Squatting Act (No. 52 of 1951), which "provides for the prevention and control of illegal squatting on public or private land" and describes illegal squatters as those present on land without the owner's or lawful occupier's permission.

The amending Bill lays down increased penalties for illegal squatting (from £25 or three months' imprisonment or both to R200 or six months or both); it amplifies the orbit of certain offences; prohibits the erection or continued presence of structures unauthorized by the local authority; and provides for their demolition and the removal of their occupants.

The existing Act is concerned with illegal squatters and persons organizing or deriving profit from them; and it provides certain procedures and offences, to effect their conviction and sentence, their eviction, demolition of their structures and their removal elsewhere. Before the issuance of an order of eviction and removal, there must have been publication, and a public hearing at which the squatters could be legally represented.

The amending Bill, as tabled in Parliament, has three important innovations:

SECTION 3A provides for severe penalties (R500 and/or 12 months' imprisonment) for owners or lessees of land on which illegal squatters are found. Once such an owner has been convicted by the court, the illegal structure must be demolished by him at his expense within seven days, failing which the local authority concerned may demolish without a court order and charge the costs of demolition and removal of material to the owner.

SECTION 3B makes it legal for the owner of land, without an order of court, to demolish any building or structure erected on the land without his consent. A local authority may also demolish any such "Unauthorized structure" without an order of court and at the expense of the owner of the land. The local authority or the Departments of Community Development and of Bantu Administration and Development can exercise this same right even on land not owned by them. All such demolitions may only take place after seven days' written notice has been given to the person who erected the structure. This section also makes it an offence for an owner or lessee to fail to "forthwith" report the presence of illegal squatters on his land, in writing to the Minister of Community Development or the local authority. Failure to do this may incur a fine of R200 or six months' imprisonment or both.

SECTION 3C provides power for the Minister of Community Development to declare that in a certain area specified in the notice (which must be promulgated in the Government Gazette and in local newspapers), employers intending to bring employees of a certain population group (specified in the notice) into the area, shall be obliged first to obtain a certificate from the local authority stating that proper

housing is either available in that area or some other area, or that the prospective employer will provide such housing.

These three sections would constitute a serious attack upon the rights of individual citizens if this Bill were to become law: an owner would be presumed to have knowledge of illegal squatters; he would be obliged to demolish their structures and remove the people irrespective of the nature of their tenancy and the duration of their presence; the squatter could have his dwelling demolished with only seven days' notice and no recourse to a court; the individual owner or lessee would have the onus placed upon him to become an informer to the authorities; employers would have limitations placed upon their selection of employees; the right of South Africans of all race groups to seek employment freely could be restricted by a declaration of the Minister; the local authorities would forfeit some measure of control in their own areas of jurisdiction, and authority would be further concentrated in the hands of the Government Departments.

Apart from these entirely new sections, the Bill proposes further amendments:

SECTION 4 amends the Act by giving the Ministers of Bantu Administration and Development and of Community Development the power to instruct any local authority to establish an emergency camp for the accommodation of homeless persons; only the Ministers will have the right to issue regulations providing for the administration and control of the emergency camps, including particularly the control of trading; the Ministers will have the power to declare the closure of an emergency camp.

SECTION 5 will make it an offence for any person to hinder, obstruct or resist not only a police officer or a person acting under the authority of a court order or of a Magistrate or Bantu Affairs Commissioner (as already laid down in the present Act) but also an owner, or an officer of the Department of Community Development or of a Bantu Affairs Administration Board when exercising any power granted under Section 3B(1).

To sum up, if this Bill becomes law:

- * once more the Courts will have been bypassed and the Ministers of Community Development and of Bantu Administration and Development and their employees will have enormous unrestricted powers;
- * once more local authorities will have lost their autonomy and will have to obey the two Ministers;
- * once more the freedom of the individual will have been curtailed, both that of the owner or lessee of the land and that of the squatter;
- * it will not be enough to obey the law - the onus will be on the owner to find out whether there are illegal squatters on his land and to write in and inform on them forthwith;
- * and worst of all, by application of the Employee clause, it appears that influx control could be applied to all races, not only to the African who has suffered under this law more than any others have.

Whilst we recognise the necessity to obviate housing conditions which might constitute a health hazard, the answer is not more legislation and penalties, but more houses. During the time that it will take to provide more houses, these people must be permitted to remain in their structures and not only human decency but the health of the community requires the provision of water and necessary services.