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Shutting the Back Door: Can South Africa's New PIE Amendment Fix What's Broken?

For nearly three decades, South Africa's Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (PIE) has tried to balance two constitutional rights that often pull in opposite directions: property rights (section 25) and the right to access adequate housing (section 26). In theory, that is noble. In practice, the balance has tipped heavily in favour of occupiers. Landowners have faced eviction proceedings dragging on for years, while organised land invasions have flourished because the law offered almost no deterrent.

That may finally change. On 16 April 2026, Cabinet approved the Prevention of Illegal Eviction from and Unlawful Occupation of Land Amendment Bill. Minister of Human Settlements, Thembu Simelane, positioned this measure as a direct response to growing pressure. In an address to the media, Minister Simelane remarked: "The proposed amendment seeks to empower municipalities, state entities, and private property owners to respond more decisively to illegal occupations and evictions. It will strengthen our ability to address individuals and organized groups who are responsible for orchestrating these invasions." This Bill is necessary and long overdue, but without a few targeted adjustments, it may not fully achieve its aims, particularly on agricultural land.

Closing the incitement gap

Under the current PIE Act, actually occupying land unlawfully is a crime, but encouraging, organising, or profiting from such occupation is not. That gap has been ruthlessly exploited by syndicates, and at times by traditional leaders or local officials. The Bill fixes this by creating specific offences for incitement or organisation of unlawful occupations, with penalties up to 2 million rand or two years in prison. However, to avoid chilling legitimate land reform advocacy, the definition of "incitement" should require intent to facilitate unlawful occupation rather than mere political expression. At the same time, the definition ought to explicitly capture syndicates targeting agricultural land, social media driven coordination, and officials or traditional leaders who actively enable invasions.

Who deserves PIE's protections?

Under the current Act, even a shack or tent triggers PIE's full procedural protections. This has allowed "professional occupiers", meaning people who own or rent homes elsewhere, to abuse the system. The Bill should therefore disqualify anyone with access to adequate alternative accommodation or sufficient financial means to secure housing. Further, the definition of "reside" ought to be clarified as a permanent, primary abode, a refinement that appeared in a 2022 private member's draft but whose fate in the current text remains uncertain. These changes would refocus PIE on its intended vulnerable beneficiaries.

Making the courts move faster

The Bill introduces mandatory joinder of municipalities where alternative accommodation is in issue. To prevent state induced delays, state respondents should be bound by strict filing timelines, courts must be empowered to proceed if the state defaults, and cost orders ought to issue against state organs causing unreasonable delay. On mediation, the Bill mandates it only where the municipality owns the land, a supportable provision. However, any extension of mandatory mediation to private agricultural land would be unwise; mediation should remain by consent only in that context, never a precondition to accessing court.

Taking the profit out of invasions

The Bill's provision for court ordered forfeiture of assets derived from incitement offences is strongly endorsed. A further improvement would be to provide that where land unlawfully occupied is subsequently sold by syndicates, the land itself must be forfeited and revert to the lawful owner without compensation for any unlawful improvements. This would close a significant financial incentive for organised invasions.

Recognising the Irreversible Harm to Agriculture

Agricultural land suffers irreversible harm from invasions, including damage to crops, livestock, and infrastructure, that ordinary eviction timelines cannot remedy. The Bill should explicitly recognise agricultural land as a strategic national asset warranting expedited eviction procedures. Two clarifications are essential here. First, alternative accommodation obligations must not displace lawful farmworkers protected under the Extension of Security of Tenure Act (ESTA). Second, landowners should not be liable for the costs of demolishing or removing unlawful structures; the lawful owner ought not to pay to clean up a crime.

A Balanced but Incomplete Fix

The Bill is a welcome and overdue intervention. As Minister Simelane stated, this is "a necessary and long overdue intervention." But without the refinements suggested above, particularly regarding definitional precision, exclusion of non-vulnerable occupiers, strict state timelines, and an expedited regime for agricultural land, its objectives may remain partly unrealised. The Department of Human Settlements has invited further public input, and Minister Simelane has announced public consultation sessions. The final shape of the law will signal whether South Africa can genuinely balance property rights, housing justice, and the urgent need to deter organised land invasions.