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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1112.

30 June 1976.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 92 of 1976: Prevention of Illegal Squatting Amendment Act, 1976.

No. 1112.

30 Junie 1976.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 92 van 1976: Wysigingswet op die Voorkoming van Onregmatige Plakkery, 1976.

Wet No. 92, 1976

WYSIGINGSWET OP DIE VOORKOMING VAN ONREGMATIGE
PLAKKERY, 1976

WET

Tot wysiging van die Wet op die Voorkoming van Onregmatige Plakkery, 1951, ten einde 'n verbod te plaas op die oprigting of bewoning van, of die aanwesigheid in bepaalde omstandighede van persone in, geboue of bouwerke indien bouplanne ten opsigte daarvan nie deur 'n plaaslike owerheid goedgekeur is nie; om voorsiening te maak vir die sloping van sodanige geboue of bouwerke, asook van geboue of bouwerke wat sonder die toestemming van die eienaar van die grond opgerig is; om die binnekoms van werknemers in plaaslike owerheidsgebiede met betrekking tot verblyfplek te reël; om verdere voorsiening te maak vir die oprigting van noodkampe vir daklose persone en om die bevoegdheid om regulasies in dié verband uit te vaardig, vanaf 'n plaaslike owerheid op Ministers oor te dra; om sekere misdrywe uit te brei; om vir verhoogde strawwe voorsiening te maak; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Junie 1976.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Vervanging van
artikel 2 van
Wet 52 van 1951.

1. Artikel 2 van die Wet op die Voorkoming van Onregmatige Plakkery, 1951 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang:

„Strawwe.

2. (1) Iemand wat die bepalings van artikel 1 oortree, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens twee-honderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel sodanige boete as sodanige gevangenisstraf.

(2) Iemand wat veroordeel is weens 'n oortreding ingevolge subartikel (1) en wat na so 'n veroordeling volhard met die gedrag ten opsigte waarvan hy aldus veroordeel is, is aan 'n voortdurende misdryf skuldig en strafbaar met 'n boete van hoogstens tien rand of met gevangenisstraf vir 'n tydperk van hoogstens sewe dae of met sowel sodanige boete as sodanige gevangenisstraf ten opsigte van elke dag wat hy aldus volhard.”

Invoeging van
artikels 3A, 3B en
3C in
Wet 52 van 1951.

2. Die volgende artikels word hierby na artikel 3 van die Hoofwet ingevoeg:

„Verbod op
oprigting of
bewoning
van onge-
magtigde
gebou of
bouwerk.

3A. (1) (a) Die eienaar of huurder van grond—
(i) mag nie 'n gebou of bouwerk wat vir okkupasie deur persone bedoel is, op sy grond of die verhuurde grond, na gelang van die geval, oprig, laat oprig of toelaat dat dit opgerig word nie indien 'n plan of beskrywing van die gebou of bouwerk krag-

PREVENTION OF ILLEGAL SQUATTING AMENDMENT
ACT, 1976

Act No. 92, 1976

ACT

To amend the Prevention of Illegal Squatting Act, 1951, in order to prohibit the erection or occupation of, or the presence in certain circumstances of persons in, buildings or structures if building plans in respect thereof have not been approved by a local authority; to provide for the demolition of such buildings or structures, as well as of buildings or structures erected without the consent of the owner of the land; to regulate with regard to residence the entry of employees into areas of local authorities; to make further provision for the erection of emergency camps for homeless persons and to transfer the power to make regulations in this connection from a local authority to Ministers; to extend certain offences; to provide for increased penalties; and to provide for incidental matters.

(Afrikaans text signed by the State President.)

(Assented to 18 June 1976.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. The Prevention of Illegal Squatting Act, 1951 (hereinafter referred to as the principal Act), is hereby amended by the substitution for section 2 of the following section:

Substitution of section 2 of Act 52 of 1951.

“Penalties. 2. (1) Any person contravening the provisions of section 1 shall be guilty of an offence and liable to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) Any person convicted of an offence in terms of subsection (1) who persists after such conviction in the conduct in respect of which he has been so convicted shall be guilty of a continuing offence and liable to a fine not exceeding ten rand or to imprisonment for a period not exceeding seven days in respect of every day that he so persists or to both such fine and such imprisonment.”.

2. The following sections are hereby inserted in the principal Act after section 3:

Insertion of sections 3A, 3B and 3C in Act 52 of 1951.

“Prohibition of erection or occupation of unauthorized building or structure. 3A. (1) (a) The owner or lessee of land—
(i) shall not erect, cause to be erected or permit the erection of any building or structure intended for occupation by persons, on his land or the leased land, as the case may be, if a plan or description of the building or structure is by virtue of any legal provision

Wet No. 92, 1976 WYSIGINGSWET OP DIE VOORKOMING VAN ONREGMATIGE PLAKKERY, 1976

tens 'n wetsbepaling deur 'n plaaslike owerheid goedgekeur moet word alvorens die gebou of bouwerk opgerig mag word en sodanige plan of beskrywing nie ten opsigte van die betrokke gebou of bouwerk goedgekeur is nie; of

- (ii) mag nie, waar so 'n gebou of bouwerk sonder bedoelde goedkeuring opgerig is—

(aa) toelaat dat die gebou of bouwerk bewoon word nie; of

(bb) die aanwesigheid van persone daarin toelaat nie in omstandighede wat na die mening van die gesondheidsowerheid verbonde aan die plaaslike owerheid die gesondheid of veiligheid van die publiek in die algemeen, of van 'n bepaalde groep of kategorie persone, met inbegrip van die persone aldus in die gebou of bouwerk aanwesig, in gevaar mag stel.

(b) By die toepassing van hierdie artikel beteken 'eienaar van grond' ook iemand wat met die toestemming van die eienaar beheer of toesig oor die betrokke grond uitoefen.

(c) Indien by 'n vervolging ten opsigte van 'n verbod ingevolge paragraaf (a) (ii) bewys word dat persone die betrokke gebou of bouwerk bewoon het of dat persone daarin aanwesig was in die omstandighede in daardie paragraaf genoem, word daardie persone geag met die toestemming van die eienaar of huurder, na gelang van die geval, op die grond te gewees het tensy die teendeel bewys word.

(2) Iemand wat 'n bepaling van subartikel (1) (a) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sodanige boete sowel as sodanige gevangenisstraf.

(3) Tensy die hof anders gelas, word die gebou of bouwerk met betrekking waartoe iemand van 'n oortreding ingevolge subartikel (1) skuldig bevind is, binne sewe dae na verstryking van die tydperk waarin appèl teen die skuldigbevinding aangeteken mag word of, waar 'n appèl aangeteken is, binne sewe dae na afwysing van die appèl, deur die veroordeelde persoon op eie koste gesloop en van die betrokke grond verwyder.

(4) (a) Iemand wat versuim om aan die bepalings van subartikel (3) te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding ten opsigte van elke dag wat hy aldus versuim, strafbaar met 'n boete van hoogstens tien rand of met gevangenisstraf vir 'n tydperk van hoogstens sewe dae of met sodanige boete sowel as sodanige gevangenisstraf.

(b) Waar iemand versuim om aan die bepalings van subartikel (3) te voldoen, kan die betrokke plaaslike owerheid die gebou of bouwerk sloop en die materiaal van die grond verwyder en die koste verbonde aan die sloping en verwydering op die persoon verhaal wat aldus versuim.

Reg om ongemagtigde gebou of bouwerk te sloop. 3B. (1) Ondanks andersluidende wetsbepalings—
(a) maar behoudens 'n wetsbepaling waarkragtens hy verplig word om 'n gebou of bouwerk te sloop of te verwyder, kan die eienaar van grond, sonder 'n hofbevel, 'n gebou of bouwerk wat

PREVENTION OF ILLEGAL SQUATTING AMENDMENT
ACT, 1976

Act No. 92, 1976

to be approved by a local authority before the building or structure may be erected and such a plan or description has not been approved in respect of the building or structure in question; or

(ii) shall not, where such a building or structure has been erected without the said approval—

(aa) permit the occupation of the building or structure; or

(bb) permit the presence therein of persons in circumstances which, in the opinion of the health authority attached to the local authority, may endanger the health or safety of the public generally, or of a particular group or class of persons, including the persons thus present in the building or structure.

(b) For the purposes of this section 'owner of land' includes any person who, with the consent of the owner, exercises control over or has charge of the land in question.

(c) If it is proved at a prosecution in respect of a prohibition under paragraph (a) (ii) that persons occupied the building or structure in question or that persons were present therein in the circumstances referred to in that paragraph, such persons shall be deemed to have been on the land with the consent of the owner or lessee, as the case may be unless the contrary is proved.

(2) Any person who contravenes a provision of subsection (1) (a), shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

(3) Unless the court orders otherwise, the building or structure with respect to which any person has been convicted of an offence under subsection (1) shall be demolished and removed from the land in question by the convicted person at his own expense within seven days after expiration of the period allowed for the noting of an appeal against the conviction or, where an appeal has been noted, within seven days after dismissal of the appeal.

(4) (a) Any person who fails to comply with the provisions of subsection (3), shall be guilty of an offence and on conviction be liable in respect of every day that he thus fails to a fine not exceeding ten rand or to imprisonment for a period not exceeding seven days or to both such fine and such imprisonment.

(b) Where any person fails to comply with the provisions of subsection (3), the local authority concerned may demolish the building or structure and remove the material from the land and recover the costs connected with the demolition and removal from the person so failing.

Right to
demolish
unautho-
rized
building or
structure.

3B. (1) Notwithstanding the provisions of any law to the contrary—

(a) but subject to any law under which he is compelled to demolish or remove any building or structure, the owner of land may without an

Wet No. 92, 1976 WYSIGINGSWET OP DIE VOORKOMING VAN ONREGMATIGE PLAKKERY, 1976

sonder sy toestemming op die grond aangebring is, sloop en die materiaal van die grond verwyder;

(b) kan 'n beampte van 'n plaaslike owerheid deur die raad van die plaaslike owerheid vir dié doel aangewys, 'n gebou of bouwerk in paragraaf (a) bedoel wat binne die regsgebied van die plaaslike owerheid op grond geleë is wat nie die eiendom van die plaaslike owerheid is nie, sonder 'n bevel van 'n hof en op koste van die eienaar van die grond sloop en die materiaal van die grond verwyder;

(c) kan 'n beampte van die Departement van Gemeenskapsbou, of die bekleër van 'n bepaalde pos in daardie Departement, deur die Minister van Gemeenskapsbou vir dié doel aangewys, of, in die geval van Bantoes, 'n beampte van 'n Bantoesake-administrasieraad, of die bekleër van 'n bepaalde pos in daardie raad, deur die Minister van Bantoe-administrasie en -ontwikkeling vir dié doel aangewys, 'n gebou of bouwerk in paragraaf (a) bedoel wat op grond geleë is wat nie die eiendom van bedoelde Departement of raad is nie, sonder 'n bevel van 'n hof en op koste van die eienaar van die grond sloop en die materiaal van die grond verwyder.

(2) 'n In subartikel (1) bedoelde gebou of bouwerk word gesloop slegs nadat minstens sewe dae skriftelike kennis van die voorneme om te sloop aan die persoon gegee is wat die gebou of bouwerk opgerig of laat oprig het, indien hy en sy verblyfplek bekend is, en sodanige tydperk verstryk het.

(3) (a) Die in subartikel (1) bedoelde eienaar moet, wanneer dit tot sy kennis kom dat die gebou of bouwerk op sy grond opgerig is, onverwyld die plaaslike owerheid of die Departement van Gemeenskapsbou skriftelik daarvan in kennis stel.

(b) Iemand wat versuim om aan die bepalings van paragraaf (a) te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige boete sowel as sodanige gevangenisstraf.

3C. (1) Die Minister van Gemeenskapsbou kan, na oorlegpleging met 'n plaaslike owerheid, by kennisgewing gepubliseer in die *Staatskoerant* en minstens een keer in albei amptelike tale in 'n nuusblad wat in omloop is in die betrokke distrik, verklaar dat enigiemand wat in 'n gebied omskryf in die kennisgewing 'n ander persoon van 'n bevolkingsgroep wat in die kennisgewing vermeld word, in diens wil neem, wat sal meebring dat die ander persoon in die regsgebied van die betrokke plaaslike owerheid ingebring word, vooraf 'n sertifikaat van daardie plaaslike owerheid moet verkry waarin verklaar word dat behoorlike huisvesting vir die ander persoon beskikbaar is, hetsy in daardie plaaslike bestuur se regsgebied of dié van 'n ander plaaslike bestuur, of deur die werkgewer verskaf sal word.

(2) Iemand wat in stryd met 'n verklaring ingevolge subartikel (1) optree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande of met sodanige boete sowel as sodanige gevangenisstraf."

Sertifikaat deur plaaslike owerheid van beskikbaarheid van behoorlike huisvesting.

PREVENTION OF ILLEGAL SQUATTING AMENDMENT
ACT, 1976

Act No. 92, 1976

order of court demolish any building or structure erected on the land without his consent, and remove the material from the land;

- (b) an officer of a local authority designated by the council of the local authority for this purpose, may without an order of court and at the expense of the owner of the land, demolish any building or structure referred to in paragraph (a) which is situated within the area of jurisdiction of the local authority on land which is not the property of the local authority, and remove the material from the land;

- (c) an officer of the Department of Community Development, or the incumbent of any particular post in that Department, designated by the Minister of Community Development for this purpose, or, in the case of Bantu, an officer of a Bantu Affairs Administration Board, or the incumbent of a particular post in that board, designated by the Minister of Bantu Administration and Development for this purpose, may without an order of court and at the expense of the owner of the land, demolish any building or structure referred to in paragraph (a) which is situated on land which is not the property of the said Department or board, and remove the material from the land.

(2) A building or structure referred to in subsection (1) may be demolished only after at least seven days' written notice of the intention to demolish has been given to the person who erected the building or structure or who caused it to be erected, if he and his whereabouts are known, and such period has expired.

- (3) (a) The owner referred to in subsection (1) shall forthwith, when it is brought to his notice that the building or structure has been erected on his land, notify the local authority or the Department of Community Development in writing thereof.

- (b) Any person who fails to comply with the provisions of paragraph (a), shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Certificate
by local
authority of
availability
of proper
housing.

3C. (1) The Minister of Community Development may, after consultation with a local authority, by notice published in the *Gazette* and at least once in both official languages in a newspaper circulating in the district concerned, declare that any person who, in an area defined in the notice, intends engaging in service a person of a population group referred to in the notice so that such other person will be brought into the area of jurisdiction of the local authority concerned, shall first obtain a certificate from that local authority in which it is stated that proper housing is available to such other person whether within the area of jurisdiction of that local authority or of any other local authority, or will be provided by the employer.

(2) Any person who acts in conflict with a declaration under subsection (1), shall be guilty of an offence and on conviction liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment."

Wet No. 92, 1976 WYSIGINGSWET OP DIE VOORKOMING VAN ONREGMATIGE
PLAKKERY, 1976

Wysiging van
artikel 4 van
Wet 52 van 1951.

3. Artikel 4 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde „honderd pond” deur die woorde „vyfhonderd rand” te vervang.

Wysiging van
artikel 6 van
Wet 52 van 1951.

4. Artikel 6 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) 'n Plaaslike owerheid of, in die geval van Bantoes, 'n Bantoesake-administrasieraad ingestel by artikel 2 van die Wet op die Administrasie van Bantoesake, 1971 (Wet No. 45 van 1971), kan, en indien daartoe gelas, na raadpleging, deur die Minister van Gemeenskapsbou of 'n beamppte in die Departement van Gemeenskapsbou vir dié doel deur genoemde Minister aangewys, of, in die geval van Bantoes, deur die Minister van Bantoe-administrasie en -ontwikkeling of 'n beamppte in die Departement van Bantoe-administrasie en -ontwikkeling vir dié doel deur laasgenoemde Minister aangewys, moet, benewens die bevoegdhede wat hy kragtens 'n ander wet besit, binne sy regsgebied 'n noodkamp oprig ten einde daklose persone te huisves, en die Minister van Gemeenskapsbou of, in die geval van 'n noodkamp wat ten opsigte van Bantoes opgerig is, die Minister van Bantoe-administrasie en -ontwikkeling kan regulasies uitvaardig wat voorsiening maak vir die administrasie, instandhouding, sanitasie en gesondheid van bedoelde noodkamp, en vir die beheer daaroor, met inbegrip in die besonder van die beheer oor die dryf van handel.”;

(b) deur paragraaf (iii) van subartikel (2) deur die volgende paragraaf te vervang:

„(iii) voorsiening maak vir strawwe ten opsigte van die oortreding van sodanige regulasies, by eerste veroordeling, van hoogstens 'n boete van eenhonderd rand of gevangenisstraf vir 'n tydperk van drie maande of sowel sodanige boete as sodanige gevangenisstraf, en by 'n latere veroordeling van hoogstens 'n boete van tweehonderd rand of gevangenisstraf vir 'n tydperk van ses maande of sowel sodanige boete as sodanige gevangenisstraf.”;

(c) deur die volgende subartikel na subartikel (3) in te voeg:

„(3A) 'n Regulasie wat voor die inwerkingtreding van die Wysigingswet op die Voorkoming van Onregmatige Plakkery, 1976, deur 'n plaaslike owerheid ingevolge hierdie artikel uitgevaardig is en wat onmiddellik voor bedoelde inwerkingtreding van krag was, word geag deur die Minister van Gemeenskapsbou of, in die geval van 'n noodkamp wat ten opsigte van Bantoes opgerig is, deur die Minister van Bantoe-administrasie en -ontwikkeling uitgevaardig te wees.”;

(d) deur subartikel (5) deur die volgende subartikel te vervang:

„(5) Die Minister van Gemeenskapsbou of, in die geval van Bantoes, die Minister van Bantoe-administrasie en -ontwikkeling kan te eniger tyd by kennisgewing in die *Staatskoerant* verklaar dat vanaf 'n datum in so 'n kennisgewing bepaal, 'n noodkamp wat ingevolge hierdie artikel opgerig is, nie meer 'n noodkamp vir die doeleindes van hierdie artikel sal wees nie.”;

PREVENTION OF ILLEGAL SQUATTING AMENDMENT ACT, 1976 Act No. 92, 1976

3. Section 4 of the principal Act is hereby amended by the substitution in subsection (1) for the words "one hundred pounds" of the words "five hundred rand".

Amendment of section 4 of Act 52 of 1951.

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

Amendment of section 6 of Act 52 of 1951.

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

"(1) Any local authority or, in the case of Bantu, a Bantu Affairs Administration Board established by section 2 of the Bantu Affairs Administration Act, 1971 (Act No. 45 of 1971), may, and if so directed, after consultation, by the Minister of Community Development or an officer of the Department of Community Development designated for this purpose by the said Minister, or, in the case of Bantu, by the Minister of Bantu Administration and Development or an officer of the Department of Bantu Administration and Development designated for this purpose by the last-mentioned Minister, shall, in addition to any powers that it has in terms of any other law, establish within the area over which it has jurisdiction, an emergency camp for the purpose of the accommodation of homeless persons, and the Minister of Community Development or, in the case of an emergency camp established in respect of Bantu, the Minister of Bantu Administration and Development may issue regulations, providing for the administration, maintenance, sanitation and health of the said emergency camp, and the control thereof, including particularly the control of trading.";

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

"(iii) provide penalties in respect of the contravention of such regulations not exceeding on first conviction a fine of one hundred rand or imprisonment for a period of three months or both such fine and such imprisonment, and not exceeding on any subsequent conviction, a fine of two hundred rand or imprisonment for a period of six months or to both such fine and such imprisonment.";

(c) by the insertion after subsection (3) of the following subsection:

"(3A) A regulation issued by a local authority under this section before the commencement of the Prevention of Illegal Squatting Amendment Act, 1976, and which was of force immediately prior to such commencement, shall be deemed to have been issued by the Minister of Community Development or, in the case of an emergency camp established in respect of Bantu, by the Minister of Bantu Administration and Development."; and

(d) by the substitution of the following subsection for subsection (5):

"(5) The Minister of Community Development or, in the case of Bantu, the Minister of Bantu Administration and Development may at any time, by notice in the *Gazette*, declare that as from a date to be stated in such notice, an emergency camp established in terms of this section shall no longer be an emergency camp for the purposes of this section."

Wet No. 92, 1976 WYSIGINGSWET OP DIE VOORKOMING VAN ONREGMATIGE
PLAKKERY, 1976

Vervanging van
artikel 7 van
Wet 52 van 1951.

5. Artikel 7 van die Hoofwet word hierby deur die volgende artikel vervang:

„Verbod op
belemmering
van polisie
en ander
gemagtigde
persone.

7. Iemand wat 'n polisiebeampte of ander persoon, wat handel op gesag van 'n instruksie of bevel deur die hof kragtens artikel 3 of deur 'n landdros of Bantoesakekommissaris kragtens artikel 5 uitgereik, hinder, belemmer of weerstaan wanneer hy so 'n instruksie of bevel uitvoer, of wat 'n eienaar of 'n beampte van 'n plaaslike owerheid, die Departement van Gemeenskapsbou of 'n Bantoesake-administrasieraad by die uitoefening van 'n bevoegdheid by artikel 3B (1) verleen, hinder, belemmer of weerstaan, is aan 'n misdryf skuldig en strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel sodanige boete as sodanige gevangenisstraf.”

Kort titel.

6. Hierdie Wet heet die Wysigingswet op die Voorkoming van Onregmatige Plakkery, 1976.

PREVENTION OF ILLEGAL SQUATTING AMENDMENT
ACT, 1976

Act No. 92, 1976

5. The following section is hereby substituted for section 7 of the principal Act:

Substitution of
section 7 of
Act 52 of 1951.

"Obstruction of
police and
other authorized
persons
prohibited.

7. Any person who hinders, obstructs or resists any police officer or other person, acting under the authority of an instruction or order issued by the Court in terms of section 3, or by a Magistrate or Bantu Affairs Commissioner in terms of section 5 when carrying out such instruction or order, or who hinders, obstructs or resists an owner or an officer of a local authority, the Department of Community Development or a Bantu Affairs Administration Board when exercising any power granted under section 3B (1), shall be guilty of an offence and liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment."

6. This Act shall be called the Prevention of Illegal Squatting Amendment Act, 1976.

PREVENTION OF ILLEGAL SQUATTING AMENDMENT ACT, 1976

2. The following section is hereby substituted for section 7 of the principal Act:

7. Any person who hinders, obstructs or resists any police officer or other person acting under the authority of an instruction or order issued by the Court in terms of section 3, or by a Magistrate or a local authority, the Department of Community Development or a Housing Affairs Administration Board when exercising any power granted under section 38 (1), shall be guilty of an offence and liable to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

3. The Act shall be called the Prevention of Illegal Squatting Amendment Act, 1976.