



civilian secretariat
for police service

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA



COMMISSION 4:

Presentation to the
Ministerial Rural Safety
Summit

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TOP THREE (03) PRIORITIES

COGTA to have pounds in all District Municipalities. The National pound Act and its regulations must be finalised.	COGTA	One (1) year
<p>All farmers must register their employees with the Department of Employment and Labour as already required by law, the department they must ensure that none are not registered within one (1) year (proposed time-frame by the commission) from the date the employee sign the employment contract with the employer.</p>	<p>Farmers/ Department of Employment and Labour</p>	<p>Within a year</p>
<p>A proposal for Provincial Summit within a year with all the stakeholders was agreed upon by the Commission whereby all decisions taken will be disseminated to District level for implementation</p>	<p>Provincial Commissioners</p>	<p>Within a year</p>

INTRODUCTION

- Illegal land evictions/invasions, conflict resolutions and Labour Rights (Farm workers).
- Maj Gen Dyantyi; Chairperson of the commission and Mr Ntuli of Civilian Secretariat for Police co-chaired the meeting.

REGULATORY FRAMEWORK

- Extension of Security Tenure Act, 1997 (Act No. 62 of 1997) (ESTA);
- Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996); (LTA);
- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998) (PIEA);
- Trespass Act, 1959 (Act No. 6 of 1959);
- Magistrates Court Act, 1944 (Act No. 32 of 1944);
- Rules regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa (GNR.740 of 23 August 2010);
- Sheriffs Act, 1986 (Act No 90 of 1986);
- National Instruction 7 of 2017 : *Unlawful Occupation of Land and Evictions*;
- Basic Conditions of Employment Act No. 75 of 1997;
- Labour Relations Act;
- GNR.149 of 17 February 2006: Sectoral Determination 13: Farm Worker Sector, South Africa (*Government Gazette* No. 28518).

REGULATORY FRAMEWORK

- The Constitution of the Republic of South Africa, 1996 is the Supreme Law of the country and it protects the rights of all people in SA. Human rights are applicable to all people, by virtue of being human and everyone is born with these rights. Chapter 2 of the Constitution contains the 27 rights that are collectively called the Bill of Rights and are inherent to all human beings. Farm workers and their families are entitled to the human rights in the Bill of Rights, including all rights that are applicable to workers.
- Section 25(6) of the Constitution provides a right to tenure security: “A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.” To give effect to this constitutional Mandate, the Extension of Security of Tenure Act and the Labour tenants Act were promulgated.
- **The Extension of Security of Tenure Act, 62 of 1997 and the Land Reform (Labour Tenant) Act, 3 of 1996**, both make provision for the Department to make funds available for the acquisition of land for tenure security of farm dwellers.

SUMMARY OF PRESENTATIONS AND DISCUSSION

- The overview of Acts related to illegal land evictions/invassions
- Owner described as someone who has title deeds papers and trespasser as someone who enters the land without the permission of the owner.
- Misconceptions that Police Officials are asking occupants to provide proof that they are Legal Owners, the affidavit can be used as a form of proof in this instance.
- Members of the SAPS cannot demolish structures as its not their mandate. The SAPS can render protection to the sheriff and his or her staff upon consultation with the Station Commander before they can act.

PUBLIC ORDER POLICING AND IMPOUNDING OF LIVESTOCK

- The Public Order policing can be activated to deal with issues of public violence during evictions since they are trained to deal with such incidents.
- The impounding of trespassing livestock by the Farm owners.
- The Owner of livestock must be alerted of livestock that trespassed, and impounding should take place within 72 hours and costs associated must be paid by the livestock owner.
- Both livestock owner and the farmer must report to the Police the loss of Livestock and impounding of the livestock.

MORAL REGENERATION AND DDM

- Moral Regeneration Movement to lead and start workshops focusing in strengthening Moral Regeneration and getting people in farming community thru workshops which will be done Nationally and escalated to Provinces in two (2) month. The process to identify the leading agents to follow. Also review of the ESTA Act even thou it was not properly implemented.
- COGTA to have pounds in all District Municipalities. The National pound Act and its regulations must be finalised.

FARM WORKERS REGISTRATION AND LAND INVASION

- All farmers must register their employees with the Department of Employment and Labour as already required by law, the department they must ensure that none are not registered within one (1) year (proposed time-frame by the commission) from the date the employee sign the employment contract with the employer.
- Land Invasion must not be allowed invasion of land. In the event of possible land invasion, they must approach the Court for an urgent interdict as per PIE Act Section 5. Municipality, Provincial/National and Private Land owners responsibility must activate to remove land Invasion within 72 hours . The Commission agreed upon a period of three month whereby all processes of removal of land invasion must be finalised.

GOVERNMENT PARTICIPATION AND HUMAN RIGHTS

- To address the non-participation of Departments must be escalated to the highest level of that particular department
- A proposal for Provincial Summit within a year with all the stakeholders was agreed upon by the Commission whereby all decisions taken will be disseminated to District level for implementation
- (Conflict resolution committees must be established to address amongst others, Land Right Management Facilities, illegal impoundment of Farm Dwellers livestock).
- The Burial protocol to be followed when burying people on the farm (only the people who are living on the farm have the right to be buried there).

RECOMMENDATIONS TOWARDS THE FORMULATION OF RESOLUTIONS OF THE SUMMIT

- The District Development Model (DDM) must be used as a concept whereby all the Departments and Traditional Leaders engage and clarify issues.
- Farmers must hire South Africans and train them to execute the farm related duties as most duties performed such as driving are not scare skills. The screening of all employees must be done on all employee by the farmer.
- The Department of DALRRD to provide ESTA training to SAPS and all relevant stakeholders Bi-annually.
- The DAFF to draft Memorandum of Understanding (MOU) on evictions to enforce participating departments such as Local Governments, SAPS, Civilian Secretariat for Police to participate in all forums. The roles and responsibilities of every stakeholder must be clear. A period of eight (08) month was agreed for the finalisation of MOU.

RECOMMENDATIONS TOWARDS THE FORMULATION OF RESOLUTIONS OF THE SUMMIT

- The Agricultural Community to give inputs on the 1st of September 2022 on the DALRRD regulation to be published for public comment on issues such as;
- How does one get the dispute arising on the farms gets help, Which forms of measures are available to them,
- How does one apply for sec 4 of ESTA grants from land, alternative land, for accommodation and services and for development of land owned by former farm dwellers, workers and labour tenants,
- What must the court consider before granting an eviction of the farm dwellers, worker and labour tenants in addition to what is already regulated.

RECOMMENDATIONS TOWARDS THE FORMULATION OF RESOLUTIONS OF THE SUMMIT

- Agricultural Agro-Processing Master Plan and agreements between Governments, Agricultural Sector for job creation to be implemented
- The Provincial and National Legal Officers to write proposal to National Commissioner on trespassers to discuss with upper structures and Ministers in the Criminal Justice System within in one (1) year.



THANK YOU