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CIRCULAR 33 / 2022

TO : MUNICIPAL MANAGER

CC : EXECUTIVE MAYOR  
SPEAKER  
CHIEF WHIP

DATE : 5 SEPTEMBER 2022

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INVITATION TO COMMENT ON THE UNLAWFUL ENTRY ON PREMISES BILL 2022

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1. BACKGROUND

The Department of Justice and Constitutional Development, hereafter referred to as "the department" is in the process of drafting a Section 75 Bill (the Unlawful Entry on Premises Bill, 2022) to govern unlawful entry into private premises.

The Bill aims to repeal and replace the Trespass Act, No. 6 of 1959. It aims to prohibit unlawful entry on premises and, provides for matters connected therewith.

A draft copy of the Bill attached hereto has been issued by the department through a gazette notice (dated 12 August 2022). The department is inviting comments from affected and interested parties on or before 16 September 2022.

## 2. DISCUSSION

The Unlawful Entry on Premises Bill, 2022 is an attempt to address important issues that impact on local government. These issues relate to the management of the unlawful occupation of land (i.e. land invasions), eviction processes and the implementation of municipal bylaws on planning, development control and unlawful occupation of land.

The provisions of the Bill have a direct impact on how municipalities manage the unlawful occupation of land in their respective areas of jurisdiction. It is important that municipalities understand the implications of the provisions of the Bill on their respective processes and bylaws. It is, therefore, important for municipalities to consider the following:

- In terms of jurisdiction, is the Department of Justice and Constitutional Development the correct custodian of the Bill?
- Is the definition of a lawful occupier in the Bill all inclusive? This definition may need to be refined with a view to avoid disempowering municipalities in managing all unlawful occupation of land in their respective areas of jurisdiction. Recommendations in this regard will be welcomed.
- Within the context of the need for an all-encompassing definition of unlawful entry, it is essential to ensure that municipalities are unincumbered in discharging their duties to develop and implement their respective bylaws on the unlawful occupation of land? Comment on the implications of the Bill on municipal bylaws would be welcomed
- How does the lack of reference to the Prevention of Illegal Evictions Act in the Bill impact on how unlawful occupations of land and unlawful entries to premises are

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managed as required in the PIE Act? How does this lack of reference impact on how municipalities manage land invasions and evictions as may be directed by the Unlawful Entry onto Premises Bill?

Noting the above-mentioned issues that need to take into account when providing comments on the Bill, municipalities are requested to reflect on these and to add further issues as they deem appropriate.

Municipalities are hereby requested to submit their comments to SALGA in order be consolidated into a collective local government submission. This may be followed by further lobbying and advocacy should the need arise.

Comments must be submitted to Mr. Zanoxolo Futwa at [zfutwa@salga.org.za](mailto:zfutwa@salga.org.za) and copied to Ms. Lebogang Sebone at [Lsebone@salga.org.za](mailto:Lsebone@salga.org.za) on or before 12 September 2022.

Municipalities are further invited to a webinar scheduled for Wednesday 14 September 2022 from 09:00 to 11:00 to discuss the comments received and a draft submission. Confirmation of attendance may be sent to Mr. Zanoxolo Futwa at [zfutwa@salga.org.za](mailto:zfutwa@salga.org.za) and copied to Ms. Lebogang Sebone at [Lsebone@salga.org.za](mailto:Lsebone@salga.org.za) on or before 12 September 2022.

Yours Truly,

  
LANCE JOEL  
ACTING CHIEF EXECUTIVE OFFICER