

Guidelines on how to deal with incidents of trespassing and illegal land occupation.

Riglyne oor hoe om insidente van betreding en onwettige grondbesetting te hanteer.

Rural
Safety



Facilitated by
AgriSA



AgriCulture
SOUTH AFRICA / SUID-AFRIKA

Guidelines on how to deal with incidents of trespassing and illegal land occupation

INTRODUCTION

South African farmers are burdened with various issues related to land ownership. Land ownership remains an emotional matter for South Africans and infringement upon the rights of private landowners is not uncommon.

This document is intended to provide the farming community with practical guidelines on how to deal with incidents of trespassing and illegal land occupation and is not intended as legal advice.

REGULATORY FRAMEWORK

A trespasser is someone who accesses land without the consent of the owner. If a court finds that the trespasser is guilty of an offence in terms of section 1(1) of the Trespassing Act, the presiding officer may order that such person be removed from the land immediately. This power does not include an order for the removal of structures. To remove structures, the court must be requested to include such an instruction.

An illegal occupier is someone who lives on the land without the express permission of the owner. It is a criminal offence to demand or receive, directly or indirectly, money or any other form of payment for the arrangement or organisation of illegal land occupations, or to issue a permit for a person to occupy land without the consent of the owner or person in charge of such land. An illegal occupier may only be evicted in terms of an order issued by a magistrate's court or high court. The owner can obtain such order by applying for it to the court and in terms of National Instruction 7 of 2017, as amended, issued by the police.

Irrespective of the rights enjoyed by landowners in terms of the South African Constitution, inflammatory statements by politicians in recent years have given momentum to the land invasion problem, exacerbated by the fact that both the South African Police Service (SAPS)

and many farmers are unsure how to deal with trespassing, illegal land occupations and evictions.

The need to provide SAPS members – and farmers indirectly – with guidelines has led to various discussions with the police and instructions in this regard. These include comprehensive guidelines for SAPS members, followed by National Instruction 7 of 2017, as amended, dealing with trespassing, illegal occupation of land and evictions, which was revised the previous year to provide more clarity. AgriSA has held discussions with the SAPS over the past two years, which gave rise to several amendments to National Instruction 7 of 2017, including the inclusion of various definitions and confirmation that the police have to accept and investigate all complaints lodged with the police service centre relating to trespassing or land invasions without the landowner having to prove ownership at the time of lodging the complaint. The amended instruction came into effect on 29 September 2023.

National Instruction 7 of 2017 deals with, among other things, different legal positions, practical guidelines, and responsibilities.

As background to the problem and the need for National Instruction 7 of 2017, which has been amended and has been in operation since 27 July 2017, the following introductory remarks should provide some insight: “Illegal occupation contrary to the landowner’s wishes is a matter often caused by socio-economic, socio-historical or socio-political factors. Evictions, the resulting litigation, and disputes surrounding such matters, are often emotional in nature and the police service is usually involved in some capacity – as a party who is expected to play an active role during an eviction or subsequent litigation or to maintain law and order during the eviction”.

This is followed by a warning that the SAPS must avoid any over-zealous or illegal intervention. The police service runs the risk of civil claims resulting from the injury of persons or damage to property where members are involved, but also negative publicity and loss of trust among the public.

Police officers are therefore requested to address cases in accordance with the instruction issued to them and the relevant legislation.



LEGISLATIVE FRAMEWORK

The policing of land invasions and evictions involves various pieces of legislation:

- The Constitution of the Republic of South Africa, 1996;
- The Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997), also known as Esta;
- The Land Reform Act (Labour Tenants Act), 1996 (Act No. 3 of 1996), better known as the LTA;
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No. 19 of 1998), also known as PIEA;
- Trespassing Act, 1959 (Act No. 6 of 1959);
- Magistrates' Courts Act, 1944 (Act No. 32 of 1944);
- Sheriffs Act, 1986 (Act No. 90 of 1986);
- The Rental Housing Act, 1999 (Act No. 50 of 1999); and
- The Fencing Act, 1963 (Act No. 31 of 1963).

Police officers are also led by the rules regulating proceedings at magistrate's courts of South Africa (GNR.740 of 23 August 2010).

Farmers should note that some residents are protected by a number of these acts.

National Instruction 7 of 2017 explains the various legal positions in terms of such legislation

- **Legal residents:** These are people who reside on the land with the permission of the owner (written, oral or even implicit). Residents are regulated by Esta, and labour tenants by the LTA.

Esta protects the rights of the resident, who may only be evicted in terms of an order issued by a magistrate's court, land claims court or high court. The LTA protects the rights of labour tenants and their 'associates', including family members. They may only be evicted in terms of an order issued by the land claims court.

- **Illegal residents:** These people live on the land without the owner's consent. Their rights are protected in terms of the PIEA. They are mostly squatters and may only be evicted in terms of an order issued by the magistrate's court or high court.

It is very important that landowners act without delay. Once a structure or building has been erected on the land and is occupied by or under the control of a person, such person is regarded as a resident on such land and the relevant court must decide in this regard.

- **Trespassers:** A trespasser is someone who has accessed the land without the owner's consent. In terms of the Trespassing Act, he or she is guilty of an offence unless there is a legitimate reason for his/her presence.

Trespassers must be arrested by the police and brought before a court as soon as possible after a complaint is lodged.

As a general principle, police officers should ascertain whether the rights of a person charged under the Trespassing Act are not protected by other legislation, including Esta or PIEA. They are, however, also reminded of the following provision in the March 2017 guidelines: "Members shall not abuse the said legislation and instructions to circumvent compliance with their responsibilities in terms of the Trespassing Act. Where applicable, members should not hesitate to take the necessary steps under the Trespassing Act".

- **Arrests:** As defined in chapter 5 of the Criminal Procedure Act, 51 of 1977, the arrest of a suspect (during or **after** the commission of an offence) is intended to ensure his/her appearance as an accused in a court of law.

A clear distinction is made between *eviction* and *arrest* for trespassing. A person who accesses property without the consent of the owner or person in charge (whether the person is in the process of erecting a structure or has already erected it) can be arrested for trespassing. Only Esta and LTA occupiers are exempt from eviction in terms of section 2(2) of the Trespassing Act. An illegal occupier in terms of PIEA can still be prosecuted in terms of the Trespassing Act. SAPS members may not refuse to open a trespassing case on the basis that PIEA applies.

A SAPS member, although obliged by law to do so, should not arrest someone if he/she is of the opinion that the person will appear in court if summonsed to do so in terms of section 54 of the Criminal Procedure Act, 51 of 1977 unless the person continues to commit the offence in his/her presence.

A court that finds a person guilty in terms of section 1 of the Trespassing Act may order that the person be removed from the property immediately.

PRACTICAL GUIDELINES

In the March 2017 guidelines as well as National Instruction 7 of 2017, SAPS members are provided with practical guidelines on how to deal with trespassing, squatting and other offences.

It is clearly stated that “South African legislation protects the rights of owners and persons in charge of land, premises and buildings, as well as the occupants thereof under certain circumstances, as prescribed by such legislation. A member of the police service may be requested to investigate a complaint that a person is illegally occupying the land, premises or building by someone else. Members must ensure that they address complaints of this nature strictly in terms of the National Instruction as well as the relevant legislation”.

Only a sheriff and persons authorised by a court to assist the sheriff may execute an eviction order, provided that the sheriff is always present during such eviction or actions authorised by the court, for example, the demolition and removal of structures. However, in situations where there is sufficient information to indicate that a sheriff and his/her employees may be exposed to injury, death or damage to property, SAPS members may be requested to assist the sheriff in maintaining law and order and providing protection.

Police officers are also reminded that it is important to act as soon as possible when dealing with land invasions. Land invasions are usually associated with the occupation of land by way of violence or threats. It is important that a case of trespassing be filed with the police immediately after the landowner, rightful occupier, or person in charge of the property becomes aware of trespassers. Such cases can be opened even after trespassers have erected and occupied structures.

Station commanders and operational commanders must manage the entire process, according to SAPS top management. They must ensure that police officers are familiar with

the provisions of legislation concerning trespassing and illegal occupation of property, including the rights of all the parties involved. This is to ensure that members follow the correct procedures when confronted with land-related situations.

The station commander must also inform the provincial chief: operational response services and the provincial commissioner immediately when he or she becomes aware of an impending land invasion. The relevant provincial public order policing unit or national intervention unit will then be able to assist, depending on the severity of the incident.

The police may not refuse to open a case of trespassing, even in cases where illegal occupiers already occupy the land. However, it is important that a case of trespassing is immediately filed with the SAPS once the landowner, rightful occupier or person in charge becomes aware of the trespassers.

LANDOWNER'S ACTIONS

- In terms of National Instruction 7 of 2017, landowners or persons in charge of property must lodge a formal complaint with the police. A sworn statement with the following information must be provided before the police can act:
 - The capacity of the complainant (owner, legitimate resident or person in charge of the relevant property);
 - Particulars of the suspects who accessed the property;
 - Whether the owners, legitimate residents or person in charge had granted permission to the suspects to access the property; and
 - Whether the suspects had any legitimate reason to access the property.

When a specific person who is planning or inciting others to occupy a piece of land can be identified, it is important that an interdict be obtained to prevent the land occupation. The police can only act against a respondent who is guilty of contempt of court. To this end, the SAPS needs statements indicating that the respondent had failed to comply with the conditions set out in the interdict. A warrant of arrest is required before such person may be arrested.

It is common knowledge that both private property and state-owned land can be illegally occupied. Also, bear in mind that the state has an obligation to help private landowners protect their land. So, be aware of your rights and act as soon as possible.

Landowners must immediately report to the station or district commander any failure by the police to respond fully to such complaints. It is recommended that such lack of response be



reported to the provincial organisation as well. The latter will then notify the office of the provincial commissioner.

PRACTICAL GUIDELINES FOR THE LANDOWNER

The following guidelines can be considered when dealing with legislation relating to trespassing and illegal occupation of land:

- Implement AgriSA 's *Protocol for Farm Access* and place the necessary notices at farm entrances and on boundary fences.
- Use the local priority committee to develop action plans in consultation with the police in order to deal effectively with trespassing and illegal land occupation so that all parties know exactly what is expected of them in such situations.
- Identify unused land within the farmer association's service area where there is a risk of trespassing or illegal occupation.
- Identify uninhabited farms and develop an action plan in conjunction with the police on how to deal with trespassing on and illegal occupation of such properties.
- Report all incidents of trespassing and illegal occupation immediately at the nearest police station.
- Proper records must be kept for purposes of evidence in all cases of trespassing and illegal occupation, for example, photos, eyewitnesses' statements, case numbers, as well as the date and time when incidents occurred.
- Make sure that you know what is happening on your property and act immediately in the event of illegal activities.
- Give a neighbour or legal representative the necessary power of attorney to act on your behalf in order to open a case of trespassing or illegal land occupation when you are not available. An example of such a document is available at the offices of AgriSA 's provincial affiliates.
- Have a copy of the title deed available as proof of ownership when a case of trespassing or land occupation is opened, although it is not a requirement for opening a case.
- Ask the workers to immediately report any unknown person they spot within the boundaries of the farm.



REFERENCES

- Implementation guidelines: Rural Safety Strategy.
- National Instruction 7 of 2017: Illegal land occupation and evictions, July 2017, as amended.
- Trespassing, squatting and contravention of legislation regulating ownership of and control over land: The role and responsibilities of the South African Police Service in dealing with evictions and trespassing: 30 March 2017.
- AgriSA 's information document on how to deal with incidents of trespassing and land invasion.



Riglyne oor hoe om insidente van betreding en onwettige grondbesetting te hanteer

INLEIDING

Suid-Afrikaanse boere is belas met verskeie vraagstukke wat verband hou met grondbesit. Grondbesit bly 'n emosionele besprekingspunt vir Suid-Afrikaners en word daar dikwels inbraak gemaak op die regte van privaat grondeienaars.

Hierdie dokument is bedoel om die boerderygemeenskap te voorsien van praktiese riglyne oor hoe om insidente van betreding en onwettige grondbesetting te hanteer en is nie bedoel as regsadvies nie.

REGULATORIESE RAAMWERK

'n Betreder is iemand wat grond betree sonder die toestemming van die eienaar. Indien 'n hof bevind dat die betreder skuldig is aan 'n oortreding ingevolge artikel 1(1) van die Betredingswet, mag die voorsittende beampte gelas dat sodanige persoon onmiddellik van die grond verwyder moet word. Hierdie bevoegdheid sluit nie 'n bevel vir die verwydering van strukture in nie. Om strukture te verwyder, moet die hof versoek word deur die hofbevel om sodanige instruksie in te sluit.

'n Onwettige bewoner is iemand wat op die grond woon sonder die uitdruklike toestemming van die eienaar. Dit is 'n kriminele oortreding om direk of indirek geld of enige ander vorm van betaling te eis of te ontvang vir die reël of organisering van onwettige grondbesettings, of 'n permit uit te reik vir 'n persoon om grond te bewoon sonder die toestemming van die eienaar of persoon in beheer van sodanige grond. Onwettige bewoners mag slegs uitgesit word ingevolge 'n bevel uitgereik deur 'n landdros- of hoërhof. Die eienaar kan sodanige bevel verkry deur aansoek daarvoor te doen by die hof en ingevolge die Nasionale Instruksie 7 van 2017, soos gewysig, en uitgereik deur die polisie.

Ongeag die regte wat grondeienaars geniet ingevolge die Suid-Afrikaanse Grondwet, het opruiende stellings deur politici die afgelope jare momentum verleen aan die probleem van grondbesettings. Dit is vererger deur die feit dat beide die Suid-Afrikaanse Polisie (SAPS) en verskeie boere onseker is oor hoe betreding, onwettige grondbesettings en uitsettings hanteer moet word.

Die behoefte om SAPD-lede – en indirek boere – van riglyne te voorsien, het aanleiding gegee tot verskeie samesprekings met die polisie en instruksies in dié verband. Dit sluit in omvattende riglyne aan SAPD-lede, gevolg deur die Nasionale Instruksie 7 van 2017, soos gewysig, wat handel oor betreding, onwettige besetting van grond en uitsettings wat hersien is om meer duidelikheid te verleen. AgriSA het gedurende die afgelope twee jaar gesprekke gevoer met die SAPD, wat aanleiding gegee het tot verskeie wysigings aan Nasionale Instruksie 7 van 2017, insluitend die invoeg van verskeie definisies en die bevestiging dat, wanneer 'n klagte by die polisie se dienssentrum ingedien word teen 'n betreding of grondbesetting, moet die polisie die klagte aanvaar en ondersoek sonder dat die grondeenaar ten tyde van die lê van die klagte bewys van eienaarskap moet lewer. Die gewysigde instruksie het in werking getree op 29 September 2023.

Nasionale Instruksie 7 van 2017 handel oor, onder meer, verskillende regsposisies, praktiese riglyne en verantwoordelikhede.

As agtergrond tot die probleem en die behoefte aan Nasionale Instruksie 7 van 2017 wat gewysig is en sedert 27 Julie 2017 in werking is, behoort die volgende inleidende opmerkings 'n mate van insig te bied: “Onwettige bewoning wat strydig is met die grondeenaar se wense is 'n aangeleentheid wat dikwels veroorsaak word deur sosio-ekonomiese, sosio-historiese of sosio-politieke faktore. Uitsettings, die gevolglike litigasie en dispute rondom sodanige aangeleenthede, is dikwels emosioneel van aard en die polisie is meestal in een of ander hoedanigheid betrokke – as 'n party van wie verwag word om 'n aktiewe rol tydens 'n uitsetting of die daaropvolgende litigasie te speel, of om wet en orde te handhaaf tydens die uitsetting”.

Hierna volg 'n waarskuwing dat die SAPD enige oorywerige of onwettige ingryping moet vermy. “Die polisie loop die risiko van siviele eise as gevolg van die besering van persone of skade aan eiendom waar lede betrokke is, maar ook negatiewe publisiteit en verlies aan vertroue by die publiek”.

Polisielede word dus versoek om sake volgens die instruksie wat aan hulle gegee is en die betrokke wetgewing aan te spreek.

WETGEWENDE RAAMWERK

Verskeie wette is betrokke by die polisiëring van grondbesettings en uitsettings:

- Grondwet van die Republiek van Suid-Afrika, 1996;
- Wet op die Uitbreiding van Verblyfsekerheid, 1997 (Wet 62 van 1997), ook bekend as Esta;
- Wet op Grondhervorming (Huurarbeiders), 1996 (Wet 3 van 1996), beter bekend as die LTA;
- Wet op die Voorkoming van Onwettige Uitsetting en Onregmatige Besetting van Grond, 1998 (Wet 19 van 1998), ook bekend as PIEA;
- Betredingswet, 1959 (Wet 6 van 1959);
- Wet op Landdroshowe, 1944 (Wet 32 van 1944);
- Wet op Balju's, 1986 (Wet 90 van 1986);
- Wet op Huurbehuising, 1999 (Wet 50 van 1999); en
- Omheiningswet, 1963 (Wet 31 van 1963).

Polisielede word ook gelei deur die reëls wat verrigtinge van landdroshowe van Suid-Afrika reguleer (GNR.740 van 23 Augustus 2010).

Dit is belangrik dat boere kennis neem van die feit dat sommige bewoners beskerm word deur 'n aantal van hierdie wette.

Nasionale Instruksie 7 van 2017 verduidelik die verskillende regsposisies van hierdie wette:

- **Wettige bewoners:** Hierdie is mense wat op die grond woon met die toestemming van die eienaar (skriftelik, mondelings of selfs stilswyend). Bewoners word gereguleer deur die Esta- en huurarbeiders deur die LTA-wetgewing.

Esta beskerm die regte van die bewoner wat slegs uitgesit mag word ingevolge 'n bevel uitgereik deur die landdroshof, grondeisefhof of hoërhof. Die LTA beskerm die regte van 'n huurarbeider en hul "assosiate", met inbegrip van familielede. Hulle mag slegs uitgesit word ingevolge 'n bevel uitgereik deur die grondeisefhof.

- **Onwettige bewoners:** Hierdie bewoners woon op die grond sonder die eienaar se toestemming, en hul regte word beskerm ingevolge PIEA. Hulle is meestal plakkers en mag slegs uitgesit word ingevolge 'n bevel uitgereik deur die landdros-of hoërhof.

Hier is dit baie belangrik dat grondeienaars dringend optree. Sodra 'n struktuur of gebou op die grond opgerig is, bewoon word en onder beheer van 'n persoon is, word die persoon beskou as 'n bewoner op sodanige grond en die betrokke hof moet besluit oor die saak.

- **Betreders:** 'n Betreder is 'n persoon wat sonder die eienaar se toestemming die grond betree het. Ingevolge artikel 1 van die Betredingswet is hy of sy skuldig aan 'n oortreding, tensy daar 'n wettige rede vir sy/haar teenwoordigheid is.

Betreders moet so spoedig moontlik nadat 'n klag van betreding gelê is gearresteer word deur die polisie en moet dan voor 'n hof gedaag word.

As algemene beginsel moet polisiebeamptes seker maak dat die regte van 'n persoon wat aangekla word ingevolge die Betredingswet nie deur ander wetgewing beskerm word nie, insluitend Esta of PIEA. SAPD-lede word egter ook herinner aan die volgende bepaling in die Maart 2017-riglyne: "Lede moet nie die gemelde wetgewing en instruksies misbruik om nakoming van hul verantwoordelikhede ingevolge die Betredingswet te omseil nie. Waar van toepassing, moet lede nie huiwer om die nodige stappe ingevolge die Betredingswet te neem nie".

- **Arrestasie:** Soos gedefinieer in Hoofstuk 5 van die Strafproseswet, 51 van 1977 en beteken die inhegtenisname van 'n verdagte (gedurende of **ná afloop** van 'n oortreding) om sy / haar teenwoordigheid as beskuldigde van so oortreding in 'n hof te verseker.

'n Duidelike onderskeid word getref tussen *uitsetting* en *arrestasie* vir betreding. 'n Persoon wat eiendom betree sonder die toestemming van die eienaar of persoon in beheer (hetsy of die persoon in die proses is om 'n struktuur op te rig of dit reeds opgerig het) kan gearresteer word vir betreding. Slegs ESTA- en LTA-okkupeerders word in terme van artikel 2(2) van die Betredingswet vrygestel van uitsettings. 'n Onwettige okkupeerder in terme van PIEA kan steeds in terme van die Betredingswet vervolg word. SAPD-lede



kan nie aanvoer dat 'n betredingszaak nie geopen kan word omdat die PIEA-wet toepassing vind nie.

'n SAPS-lid, alhoewel verplig deur wetgewing, moet nie 'n persoon arresteer indien hy/sy van mening is dat die persoon deur 'n dagvaarding in terme van artikel 54 van die Strafproseswet, 51 van 1977, sy hofverskyning sal verseker, tensy die persoon voortduur om die oortreding in sy/haar teenwoordigheid te pleeg.

'n Hof wat 'n persoon skuldig bevind in terme van artikel 1 van die Betredingswet kan gelas dat die persoon onmiddellik van die eiendom verwyder word.

PRAKTIESE RIGLYNE

In die Maart 2017-riglyne sowel as Nasionale Instruksie 7 van 2017, word SAPD-lede voorsien van praktiese riglyne oor hoe hulle betreding-, plakkery- en ander oortredings moet hanteer.

Dit word duidelik gestel dat “Suid-Afrikaanse wetgewing die regte van eienaars en persone in beheer van grond, persele en geboue, asook die bewoners daarvan onder sekere omstandighede, beskerm soos voorgeskryf deur sodanige wetgewing. 'n Lid van die polisie mag versoek word om 'n klagte dat 'n persoon die grond, perseel of gebou onwettig deur iemand anders bewoon word, te ondersoek. Lede moet verseker dat hulle klagtes van hierdie aard streng ingevolge die Nasionale Instruksie asook die betrokke wetgewing aanspreek” .

Slegs 'n balju en persone gemagtig deur 'n hof om die balju behulpsaam te wees mag 'n uitsettingsbevel uitvoer, met dien verstande dat die balju altyd teenwoordig moet wees tydens sodanige uitsetting of aksies gemagtig deur die hof, byvoorbeeld die sloping en verwydering van strukture. In situasies waar daar egter voldoende inligting is om aan te dui dat 'n balju en sy/haar werknemers blootgestel kan word aan beserings, die dood of skade aan eiendom, mag SAPD-lede versoek word om die balju te help om wet en orde te handhaaf en beskerming te bied.

Polisie-lede word ook daaraan herinner dat, wanneer hulle te doen het met grondbesettings, dit belangrik is om so spoedig moontlik op te tree. Grondbesettings word gewoonlik geassosieer met die betreding van grond deur middel van geweld of dreigemente. Dit is belangrik dat daar onmiddellik nadat die grondeienaar, regmatige okkupeerder of persoon in beheer van die eiendom bewus raak van betreders, 'n saak van betreding by die SAPD gaan

open. Sake van betreding kan selfs gemaak word nadat betreders strukture opgerig en bewoon het.

Stasiebevelvoerders en operasionele bevelvoerders moet die hele proses sorgvuldig bestuur volgens die SAPD se topbestuur. Hulle moet verseker dat polisie-lede vertrouwd is met die bepalinge van wetgewing rondom betreding en onwettige besetting van eiendom, insluitend die regte van al die betrokke partye. Dit is om te verseker dat lede die korrekte prosedures volg wanneer hulle gekonfronteer word met grond-verwante situasies.

Die stasiebevelvoerder moet ook die provinsiale hoof: operasionele reaksiedienste en die provinsiale kommissaris onmiddellik inlig wanneer hy of sy bewus word van 'n dreigende grondbesetting. Die betrokke provinsiale openbare-orde-polisiëringseenheid of nasionale intervensie-eenheid sal dan gereed staan om hulp te verleen, afhangende van die erns van die voorval.

Die polisie mag nie weier om 'n saak van betreding te open nie, selfs in gevalle waar onwettige okkupeerders reeds die grond beset. Dit is egter noodsaaklik om onmiddellik 'n saak van betreding by die SAPD aanhangig te maak sodra die grondeienaar, regmatige okkupeerder of persoon in beheer bewus raak van die betreders.

GRONDEIENAAR SE AKSIES

- Ingevolge Nasionale Instruksie 7 van 2017, moet grondeienaars of persone in beheer van die eiendom 'n formele klag by die polisie indien. 'n Beëdigde verklaring met die volgende inligting moet voorsien word voordat die polisie kan optree:
 - Die hoedanigheid van die klaer (eienaar, wettige bewoner of persoon in beheer van die betrokke eiendom);
 - Besonderhede van die verdagtes wat die eiendom betree het;
 - Of die eienaar, wettige bewoner of persoon in beheer toestemming aan die verdagtes gegee het om die eiendom te betree; en
 - Of die verdagtes enige wettige rede gehad het om die eiendom te betree.

Dit is ook belangrik wanneer 'n spesifieke persoon wat beplan of ander aanhits om 'n stuk grond te beset geïdentifiseer kan word, dat 'n interdik verkry word om die grondbesetting te verhoed. Die polisie kan slegs optree teen 'n respondent wat skuldig is aan minagting van die hof. Vir hierdie doel benodig die SAPD verklarings wat aandui dat die respondent nagelaat



het om die voorwaardes – soos uiteengesit in die interdik – na te kom. 'n Lasbrief vir inhegtenisneming word benodig voordat sodanige persoon gearresteer mag word.

Soos bekend, kan private eiendom sowel as grond in staatsbesit onwettig beset word. Onthou ook dat die staat verplig is om privaatgrondeienaars te help om hul grond te beskerm. Dus, wees bewus van jou regte en tree so spoedig moontlik op.

Grondeienaars moet enige versuim deur die polisie om behoorlik te reageer op klagtes van grondbesetting onmiddellik aan die stasie- of distriksbevelvoerder rapporteer. Daar word aanbeveel dat sodanige gebrek aan reaksie ook aan die provinsiale organisasie gerapporteer word. Laasgenoemde sal dan die kantoor van die provinsiale kommissaris daarvan in kennis stel.

PRAKTIESE RIGLYNE VIR DIE GRONDEIENAAR

Die volgende riglyne kan oorweeg word wanneer daar gehandel word met wetgewing rondom betreding en onwettige besetting van grond:

- Implementeer AgriSA se *Protokol vir Plaastoegang* en bring die nodige kennisgewings aan by plaasingange en grensheinings.
- Gebruik die plaaslike prioriteitskomitee om aksieplanne in samewerking met die polisie te ontwikkel ten einde doeltreffend met betreding en onwettige grondbesetting te handel en sodat alle partye presies weet wat van hulle verwag word wanneer sodanige situasies voorkom.
- Identifiseer ongebruikte grond in die boerevereniging se gebied waar daar 'n risiko van betreding of onwettige grondbesetting bestaan.
- Identifiseer onbewoonde plase en ontwikkel 'n aksieplan in samewerking met die polisie oor hoe daar met betreding en onwettige besetting van sodanige eiendomme gehandel sal word.
- Rapporteer alle gevalle van betreding en onwettige besetting onmiddellik by die plaaslike polisiekantoor.
- Behoorlike rekords moet vir bewysdoeleindes bygehou word in alle gevalle van betreding en onwettige besetting, byvoorbeeld foto's, ooggetuies se verklarings, saaknommers, asook die datum en tyd van gebeure soos hulle geskied.
- Maak seker dat jy weet wat op jou eiendom aangaan en tree onmiddellik op in geval van onwettige bedrywighede.

- Gee aan 'n buurman of regsverteenwoordiger die nodige volmag om namens die grondeienaar op te tree en om 'n saak van betreding of grondbesetting te open wanneer die grondeienaar nie beskikbaar is nie. 'n Voorbeeld van so 'n volmag is by die provinsiale affiliasies van AgriSA se kantore beskikbaar.
- Hou 'n afskrif van die titelakte byderhand as bewys van eienaarskap wanneer 'n saak van betreding en grondbesetting geopen word, alhoewel dit nie 'n vereiste is om 'n saak te open nie.
- Vra vir die werkers om onmiddellik enige onbekende persoon wat binne die plaasgrense bespeur word, te rapporteer.

VERWYSINGS

- Implementeringsriglyne: Landelike Beveiligingstrategie.
- Nasionale Instruksie 7 van 2017 – Onwettige grondbesetting en uitsettings, Julie 2017 soos gewysig.
- Betreding, plakkery en ander oortredings van wetgewing wat grondbesit reguleer en beheer: Die rol en verantwoordelikhede van die Suid-Afrikaanse Polisie in die hantering van uitsettings en betreding: 30 Maart 2017.
- AgriSA se inligtingsdokument oor hoe om gevalle van betreding en grondbesetting te hanteer.