Amendment to the Trespass Act NO 6 Of 1959

(1) Section 1 (b) of the Act must be amended to place the onus upon the state to prove that a person had no lawful right to be on the land or in such building.

after person.

who is upon such land or enters or is in such building, shall be deemed to be there lawful means unless it is proved that he has no lawful reason to enter or to be upon such land or to enter or be in such building or part of a building.

further amend the section to read

(2) for the purpose of sub-section (1) the expression "lawful occupier" in relation to a building or part of a building shall include a servant of the lawful occupier of the land on which the building is situated.

The Illegal Squatting Act No 52 of 1951

(2) Amendment to section 3 of the Act.

Scrap section 3(1)(c) and section 3(2) and replace with.

(2) Whenever a court makes an order for the ejectment of a person and or his dependants in terms of sub-section (1) or in terms of any other law, it shall issue such orders, give such instruction and confer such authority as may be reasonably necessary to effect the transfer of such person and his family and dependants to a transit area as designated in terms 6 or to a designated residential area in terms of section 6A of the Act.

(3) Section 3B of the Act must be scrapped in its entirety.

(4) Section 3C no longer has any relevance.

(5) In my last working paper I suggested that consideration should be perhaps be given to the possibility of recognizing informal settlements and housing along the lines of customary land tenure, land holding ie use and enjoyment of land rather than ownership. If that were to be recognised then amendments would have to be made to the provisions of section 4 and to section 6A of the Act. However, I wonder if this is not something which needs to be sounded out in the community. One does not want to be

seen to be acting in a paternalistic manner, if land ownership rather than land holding is what the people actual want and desire.

(6) Section 6F must be scrapped in its entirety.