

Section 74 of the Constitution

THE RIGHT TO FREEDOM FROM ARBITRARY EVICTION

What is arbitrary eviction?

Arbitrary eviction is when a person (or people) is/are evicted in a manner that is not right or fair. This usually happens when the eviction is done without following court procedures and allowing those affected to be heard.



The Constitution on freedom from arbitrary eviction

- Section 74 of the Constitution provides that no person may be evicted from their home or have their home demolished, without an order of court made after considering all the relevant circumstances
- Freedom from arbitrary eviction is therefore a right in the Constitution

The Constitution also has national objectives that guide the state and all institutions in making policies and laws to contribute to establishing, enhancing and promoting a sustainable, just, free, and democratic society.

- Section 28 of the Constitution is the national objective on Shelter
- It calls on all institutions and agencies of government at every level to take reasonable measures including putting in place laws within limits of available to enable every person to have access to adequate shelter

The Constitution does advance to a limited extent provisions of human rights instruments that Zimbabwe has accepted such as the International Covenant on Economic Social and Cultural Rights which calls on the government to provide adequate housing



What must the government do to protect freedom from arbitrary eviction?

- The government must respect the right to housing by not arbitrarily evicting people from their homes
- The government must not lead forced evictions or leave forced evictions carried out by non-state actors against each other unattended
- The government must stop any forced evictions done without a court order issued after the court has considered all relevant circumstances

What are the responsibilities of councils and local authorities?

- The provincial and metropolitan councils and local authorities must be guided by section 28 of the constitution which takes all measures to enable every person access to shelter
- Ensure that all policies enable every person to access shelter

What should be done before a demolition?

- Demolition of properties are also covered in section 32 of the Regional, Town and Country Planning Act. This law requires the authorities to issue an enforcement order giving all persons likely to be affected by such demolitions at least one month notice of the intended demolitions
- Where a local planning authority seeks to take any administrative action that affects the rights, interests or legitimate expectations of any person that authority must act lawfully, reasonably and in a fair manner
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What to do if house has been or is about to be demolished?

You must approach the courts of law!

For further information please contact:

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