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INFLUX CONTROL IN JOHANNESBURG.

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As Johannesburg is the Mecca of Native labour, it follows that it is the centre which has the biggest problems in regard to Influx Control. Whilst the influx of Natives into urban and proclaimed areas is today controlled by Section 10 of Act 25 of 1945, as amended, together with the relevant regulations contained in the Regulations for the Establishment and Control of Native Labour Bureaux - G.N. 2495 of 31st October, 1952, I feel that a satisfactory picture cannot be painted unless cognisance is taken of the Registration Regulations framed under Section 38(1) of the Natives (Urban Areas) Consolidation Act, 1945, as amended - G.N. 1032 of 1st May, 1949, together with the Amendment of the Registration Regulations - G.N. 2860 of 12th December, 1952. Consequently, in order to give the clearest possible picture of Influx Control in Johannesburg, I shall deal briefly with the more important aspects of all the legislative measures referred to above.

1. Section 10 of Act 25 of 1945, as amended.

This section deals with the restriction of the right of Natives to remain in certain areas. The provisions of this section do not apply to the following Natives:-

- a. Natives born and permanently residing in the area; and
- b. Natives who have worked continuously in the area for one employer for a period of not less than ten years, or have lawfully remained continuously in such area for a period of not less than 15 years and have not during either period been convicted of any offence in respect of which they have been sentenced to imprisonment without the option of a fine for a period of more than seven days, or with the option of a fine for a period of more than one month.
- c. Natives who are the wives, unmarried daughters, or sons under 18 years of age, of Natives mentioned in (a) and (b) above, and who ORDINARILY RESIDE WITH SUCH NATIVES.

All other Natives, including those already lawfully in the area, but excluding those falling within the classes mentioned in (a), (b) and (c) above, must obtain permission from the Registering Officer should they remain in the area for more than 72 hours.

It will be noted that Native females also have to comply with the provisions of this section. Furthermore, it is not generally realised that Natives who are exempted from the Pass Laws, and also those exempted from the provisions of Chapter II of the Registration Regulations (by Section 23 of Act 25 of 1945, as amended) are NOT exempted from Section 10 unless they fall within one of the classes specified in (a) or (b) above.

As the section reads, it would appear that once a Native qualifies for exemption from the provisions of Section 10, this qualification endures permanently, and is not lost as the result of any subsequent change in his circumstances. ~~as the result of any subsequent change in his circumstances.~~
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It is necessary to point out at this stage that Regulations 9(4) and 9(5) of the Regulations for the Establishment and Control of Native Labour Bureaux - G.N. 2495 of 31st October, 1952, require that before a Native workseeker can leave a non-prescribed area with a view to entering a prescribed area such as Johannesburg, he must:-

- a. Register with the Native labour bureau for the area he wishes to leave, and
- b. Only the Native labour bureau for the area he wishes to leave may grant him permission to enter a prescribed area, provided that the said bureau is authorised thereto by the regional labour bureau.

As the Secretary for Native Affairs states in paragraph 3 of File No. 289/280:-

"Once again attention is invited to the fact that Natives who intend to enter and work in a prescribed area, must obtain permission from the urban local authority - see section 10(1)(d) of Act 25 of 1945 - as well as from the district labour bureau concerned - see regulation 9(5).

The one permission without the other is insufficient and exposes the Native to prosecution."

Regulation 3(1) of the Registration Regulations - G.N. 1032 of 1st May, 1949, requires every male Native who is not exempted from the provisions of Chapter II of these regulations to report his arrival in the proclaimed area to the Registering Officer within 3 days after having entered such area. When the Native has satisfied the Registering Officer in regard to:-

- a. His identity,
- b. The purpose of his presence in the proclaimed area, and
- c. Provided suitable accommodation is available,

he shall be issued with whatever document is applicable.

Referring back to Section 10, the following subsections are of interest:-

10(2)(a) states that any permit issued in terms of 10(1)(d) shall indicate the purposes for which and the period during which the Native concerned may remain in the area: Provided that:-

- (a) Where a Native has been permitted to remain for the purpose of taking up employment, the period of validity of the permit shall be limited to the period during which he remains in the service of the employer by whom he has been engaged;
- (b) Where a Native has been permitted to remain in the area for the purpose of seeking work, the period of validity of the permit issued to such native shall be not less than 7 nor more than 14 days, unless such native finds employment before the expiration of his permit, in which case the permit shall remain valid until the expiration of the period during which such Native remains in the service of the employer by whom he is engaged.

In Johannesburg, a fourteen-day permit is always granted.

10(3): Any Native who, having obtained employment, has been refused permission to remain in the area, may appeal against such refusal to the Chief Native Commissioner, whose decision on any such appeal shall be final.

The above sub-section raises an interesting point as Section 10bis provides that no person shall employ any Native in any urban or proclaimed area unless permission to seek or take up employment has been granted to such Native by the Registering Officer. Furthermore, regulation 11(5) of the labour bureau regulations provides that no employer in a prescribed area may employ any workseeker unless the workseeker is registered at the labour bureau for the area concerned. Regulation 9(9) of the same regulations provide that no workseeker in a prescribed area shall enter into employment or seek employment within such area unless he is registered as a workseeker at the local labour bureau. It is, therefore, difficult to reconcile these legal measures with Section 10(3) and it would seem that, in fact, there are no grounds for appeal whatsoever!

Foreign Natives are dealt with in terms of Section 12 of Act 25 of 1945 - Entry of Foreign Natives into Urban Areas - and this section provides that no Foreign Native shall enter an urban area, or accept employment, or continue in employment without the written permission of the Secretary for Native Affairs, which shall not be granted without the concurrence of the urban local authority. The policy of the Government today is to rid urban areas of all Foreign Natives and consequently all such Natives who are discharged are required to report to the Immigration Section of the Native Affairs Department where they are given the opportunity of taking up employment in non-prescribed areas, or, should they refuse same, they are required to return home.

Natives who wish to take up employment on the Mines are exempted from the provisions of Sections 10, 10bis, 11, and 12 of Act 25 of 1945, as amended, but the provisions of these sections become of full force and effect immediately upon termination of any contract of service in this industry. Such Natives fall within the provisions of Section 13 of Act 25 of 1945, as amended.

REGISTRATION REGULATIONS : G.N. 1032 of 1st May, 1949.
(Framed under Section 38(1) of Act 25 of 1945, as amended.)

The following is a brief summary of these regulations:-

1. The Registration Regulations make provision for the exemption of certain classes of Natives from the registration of contracts of service. The following are examples of such classes of Natives:-
 - a. Advocates, attorneys, notaries, public conveyancers, medical practitioners, dentists, professors of the S.A. Native College, etc.
 - b. Registered owners of immovable property of the value of seventy-five pounds or over, for so long as they continue to be so registered.
 - c. Chiefs and headmen approved in such manner as may be prescribed.
 - d. Ministers of religion who are marriage officers.
 - e. Teachers whose salaries are paid or defrayed directly or indirectly, in whole or in part, by the Government or any provincial administration.
 - f. Interpreters of the various courts of the Union, provided they are approved in such manner as may be prescribed.

There are many other classes and those interested should refer to the following:-

Section 14 (1)(a) to (k) of Proclamation 150 of 1934.
Proclamation No. 101 of 1941.

2. The Regulations provide, however, that an exempted Native may enter into a contract of service and with the assent of such Native, the contract of service may be registered.
3. All male Natives entering the proclaimed area are required to report their arrival within 3 days. When they report to the Registering Officer he is required to:-

- a. Satisfy himself as to the identity of the Native;
- b. Ascertain the purpose of the ^{his} ~~Native's~~ presence in the area; ~~and,~~
- c. Ascertain whether suitable accommodation is available for ~~the Native~~ ^{him}.

Depending upon the outcome of the above investigations, ~~he is required to issue~~ ^{may be issued} the Native with permission to seek work, remain for purposes other than seeking work, or should there be a surplus of labour in the area, or the Native has failed to comply with the law relating to the carrying of passes, or is without a document of identification as prescribed by regulation under the Native Service Contract Act, or IS in possession of such document of identification but is domiciled on land outside a location and has not been released from the obligation of rendering service to the owner of the land on which he is domiciled, etc. etc., the Registering Officer may refuse to issue him with the necessary authority to remain in the area.

4. Every document issued, or endorsement made if the Native is in possession of a Reference Book, has to specify the purpose of the holder's presence and also the period during which it is valid. The period may not exceed 14 days, and may not be less than 7 days.
5. Should the Native be granted permission to seek work and fail to ~~appear~~ ^{find it} within the stipulated 14 days, he is required to report to the Registering Officer within one day of the expiry of the permit.
6. The Registering Officer may renew the permission granted, but should he not do so, he may **require** the Native to depart from the proclaimed area and not to return to it for a period not exceeding two years. The Native is required to depart from the area within three days after having been so instructed.

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Certificates of Registration.

Any Native who is not a togt, casual labourer or independent contractor, or an exempted Native, or a Native who was born and is permanently resident within the proclaimed area, shall not remain in the area unless the Registering Officer issues him with a "Certificate of Registration". Visitors to the area are granted these certificates which are issued for a period not exceeding one month. Should the certificate be issued on the 15th of the month, it would extend up to the end of the month only. The visitor is required to pay 1/- for such a permit if issued after the 15th of the month, and 2/- for it if it was issued before the 15th of the month.

Two other types of certificates of registration are issued:-

- a. Where any Native satisfies the Registering Officer that he is prevented from working on account of old age, chronic disease or other cause; and
- b. Natives attending school

In both of these cases such Natives are exempted from the payment of fees and, furthermore, such certificates are for periods not exceeding twelve months, and may be renewed for a like period.

8-1. Employers and Payment of Registration Fees.

Employers who take Natives into their service, or who employ Natives in the proclaimed area are required to have the contracts of service of such Natives registered within three days of taking them into their service or employing them in the proclaimed area. This provision does not apply to exempted Natives or togts, casual labourers, independent contractors.

In the case of death, desertion or other cessation of the employment of such Natives, the employers are required to notify the Registering Officer of such death, desertion, or cessation of employment within 6 days thereof.

Employers are required to pay a registration fee of 2/- or 1/- in respect of each contract of service registered, the actual fee depending upon whether the contract was registered up to the 15th or after the 15th of the month.

The regulations require that these fees shall be paid within seven days of the commencement of every month.

It is interesting to note that as exempted Natives do not register contracts of service, the employers are not required to pay registration fees!

Special facilities are provided for the payment of fees in bulk where not less than 20 Natives are in the service of any one employer. The Registering Officer may require such an employer to hand in on or before the 7th day of each month a sworn declaration setting forth the total number of Natives employed by him on the last day of the preceding month.

9 e. Remission of Fees. (Farm labour : Leave.)

The Registering Officer may in his discretion remit the monthly fees payable in respect of contracts of service of Natives employed in farm labour by persons whose sole occupation is farming or who depend upon farming for their main livelihood. Such employers are required to complete an affidavit and submit for review, once in every year, the service contracts of all Natives in respect of whom such remission was granted.

The Registering Officer may also remit the monthly fee payable should a Native proceed on leave. Leave in excess of 6 months, is, however, regarded as termination of contract of service.

10 e. Togts, Casual Labourers, Independent Contractors.

Natives desirous of working as togts, casual labourers, or independent contractors are required to apply for a licence to do so. Fees are payable on the basis of 2/- per month.

Licences can be cancelled if:-

- a. The Native is no longer a fit and proper person to hold such permit; or,
- b. Is no longer pursuing the occupation in respect of which the permit was issued; or,
- c. Fails to renew such permit and pay the requisite fees.

11 e. Medical Treatment.

It is a condition of any contract of service that where a Native incurs any expenditure on account of either medical or hospital treatment to himself in consequence of any sickness or accident which shall not have been occasioned by his own fault and which renders him incapable of performing service to his employer, he shall be entitled to receive from his employer:-

- a. His full wages for the first month of his incapacity and half wages for the second month of such incapacity; or,
- b. The actual amount incurred on account of such medical and hospital treatment.

Such benefits may not be claimed in respect of a period of incapacity exceeding two months, or periods of incapacity totalling more than two months in any calendar year.

Where Natives work on the Mines or are covered by the Workmen's Compensation Act, or are in receipt of benefits under the Unemployment Insurance Act, 1946, or have worked for an employer for less than a month, the above benefits shall not apply.

12 ~~11~~. Medical Examination and Medical Supervision.

Any male Native entering, or employed or residing in the proclaimed area may be ordered by the Registering Officer to present himself for medical examination and vaccination.

Vaccination shall not apply to any Native who is by law or lawful authority exempted from compulsory vaccination.

The Native Commissioner may in his discretion exempt any Native from medical examination or vaccination.

The Registering Officer may refuse to register a contract of service or issue a licence if the Native concerned has not been medically examined, or has been medically examined but has not been passed as healthy and vaccinated.

An Employer of any male Native may at any time request the Registering Officer to have such Native medically examined.

If a Native is found to be suffering from venereal disease or from tuberculosis, or from any other ailment or disease which is dangerous to public health, he may cancel such Natives contract with his employer.

13. General.

There shall be an appeal from any decision of the Registering Officer in terms of these regulations to the Native Commissioner, who may alter, affirm or reverse such decision and issue such instructions as may be necessary to give effect to his finding.

Note that these appeals are treated administratively and not judicially. The appeal is to the Native Commissioner and not to the Court. The ordinary rules of evidence do not apply.

14. Native Females.

Note that the Registration Regulations do NOT apply to Native females.

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Amendment to the Registration Regulations
G.N. 2860 of 12th December, 1952.

These amendments provide for endorsements to be made in Reference Books instead of the provision of documents, ~~as required by the Registration Regulations~~.

Briefly, the amendments allow for the following:-

- a. Any permission given has^s to be recorded in Section "A" of the reference book of a Native.
- b. The Native no longer has to report to the Registration Office with his employer before a contract of service ~~was~~ *can be* registered.
- c. The employer is now required to fill in the relevant particulars in section "B" of the reference book when engaging and discharging a Native. The employer is also required to send in notification of engagement card and the requisite fees within 3 days of having engaged a Native.
- c. The employer is required to notify the Registering Officer of the death, discharge, or desertion of a Native in his employ within three days.
- d. Should a Native proceed on leave, the employer is required to notify the Registering Officer accordingly.
- e. The Registering Officer is required to submit a Monday morning "N" return which reflects new arrivals in the area.

Regulations for the Establishment and Control
of Native Labour Bureaux - G.N. 2495 of
31st October, 1952.

1. Aims of Labour Bureaux.

These regulations have in view the effecting of an even distribution of Native labour and the combatting of wastage and uneconomical use of such labour by means of canalization. They require that workseekers shall be placed in employment for which they are best suited, and generally aim at the promotion of mutual confidence and goodwill between employer and employee.

2. Types of Native Labour Bureaux.

There are 4 distinct types of labour bureaux:-

- a. Local Labour Bureau : Established and administered by local authorities.
- b. District Labour Bureau : Established in the office of each Native Commissioner.
- c. Regional Labour Bureau : Established in the office of each Chief Native Commissioner.
- d. Central Labour Bureau : Established in the office of the Secretary for Native Affairs.

Generally speaking the Local Labour Bureau controls the supply of labour to employers in the prescribed area whilst the Government's District Labour Bureau supplies labour to employers in non-prescribed areas. The Regional Labour Bureau controls the activities of Local and District Labour Bureaux in its area and the Central Labour Bureau controls the activities of Local, District, and Regional Labour Bureaux and regulates the supply of labour on a Union-wide basis.

3. Labour Bureau Fees.

District Labour Bureaux do not charge fees. Local Labour Bureaux are allowed to charge a fee not exceeding 2/6d in respect of each registered workseeker who is placed in employment. No fees are payable by Government Departments, S.A.R. & H., and Provincial Administrations. All fees collected accrue to the Native revenue account of the local authority concerned.

4. Functions of Labour Bureaux.

The main function of labour bureaux is to place workseekers in suitable employment. In addition each bureau is required to render fortnightly and monthly statistical returns giving details of workseekers and number placed in employment. It is also required that each labour bureau should take the necessary action in terms of Section 29 of Act 25 of 1945, against idle and undesirable Natives.

5. Requirements to be observed by Workseekers.

All workseekers in prescribed areas are required to register at the local labour bureau as workseekers within 3 days of having become workseekers.

Unless a workseeker was born and permanently resident in the prescribed area, or has worked for one employer continuously for a period of not less than 10 years, or lawfully remained continuously for a period of not less than 15 years, and has not been convicted of any offence in respect of which he has been sentenced to imprisonment without the option of a fine for a period of more than 7 days, or with the option of a fine for

a period of more than one month, he may not be registered and placed in employment in a prescribed area unless the employment officer is satisfied that there is no other workseeker within the prescribed area who does comply with the above conditions.

Should Natives desire to leave rural areas and enter prescribed areas, they are required to register with the Native labour bureau for the area they wish to leave, and, if the relevant Regional Labour Bureau is prepared to authorise their leaving the area, they may proceed to the prescribed area. Should this permission not be forthcoming, they may not leave.

Should any Native leave a non-prescribed area without having complied with the above, the local labour bureau of the prescribed area is required by law to refer him to the District Labour Bureau of that area. He is, furthermore, liable to prosecution.

6. Medical Examination of Workseekers.

All workseekers may be ordered to submit to medical examination and if unfit for labour, the employment officer may refuse to register him as a workseeker.

7. Requirements to be observed by Employers.

Employers are required to notify the local labour bureau of all vacancies in their services within three days after such vacancies have arisen.

Employers are required to notify the employment officer of all Natives engaged within three days after having so engaged the Natives.

No employer may employ a workseeker unless he is registered at the labour bureau for the area concerned.

8. Exemptions.

The regulations do not apply to Native females.

Mines Natives do not have to obtain permission from Regional Employment Commissioner. They only have to report and register with the labour bureau of the area they wish to leave.

Natives returning to previous employers do not have to have ~~the~~ sanction of ~~the~~ Regional Employment Commissioner, and ~~the conditions mentioned in para two of (5) above do not apply.~~

9. Contraventions.

Failure to comply with the requirements of the regulations constitutes an offence, and any person guilty of an offence shall be liable to a fine not exceeding £10 or imprisonment with or without hard labour for a period not exceeding 1 month for a first offence, and a fine not exceeding £25 or imprisonment with or without hard labour for a period not exceeding 3 months for a subsequent offence.

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C. J. [Signature]
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