

COPY

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No 185, 1933

SEGREGATION OF NATIVES IN THE URBAN AREA
OF JOHANNESBURG, TRANSVAAL.

(Signed by the Officer Administering the Government
in Afrikaans)

Under and by virtue of the powers vested in me by section five of the Natives (Urban Areas) Act, 1923, as amended by section three of Act No. 25 of 1930, I do hereby proclaim, declare and make known that from and after the first day of September, 1933, all Natives within the limits of the portions of the urban area of Johannesburg, Transvaal, specified in the accompanying Schedule, other than those exempted under sub-section (2) of the said section five shall subject to the provisions of the said section, reside in a location, Native village or Native hostel.

GOD SAVE THE KING.

Given under my Hand and the Great Seal of the Union of South Africa at Pretoria this Twenty-first day of August One Thousand Nine hundred and Thirty-three.

JOHN S. CURLEWIS,

Officer Administering the Government.

By Command of His Excellency the Officer Administering the
Government-in-Council.

P. GROBLER.

SCHEDULE

The Townships of:-

Sophtown,
Martindale,
Newclare.

Sir,

PROCLAMATION OF THE WHOLE OF JOHANNESBURG UNDER
SECTION FIVE OF THE URBAN AREAS ACT, No. 21 OF 1923

With reference to the meetings which have taken place between representatives of your Council and of various vested interests in Sophiatown, Martindale and Newclare, with the Hon. E.G. Jansen, Minister of Native Affairs, at which general agreement has been reached in regard to the principal difficulties attending the proposed proclamation of the whole of Johannesburg under section five of the Urban Areas Act, I am directed to state that the Minister is prepared to proceed with the issue of the proclamation upon the conditions set out hereafter. I shall be glad if your Council will kindly intimate as early as possible its acceptance of these conditions.

The conditions are as follows:-

- (1) The townships of Sophiatown, Martindale and Newclare will be included with the rest of Johannesburg in the area to be proclaimed.
- (2) Any Native on obtaining registered title to land in either of these townships will be granted exemption under section 5 (2)(j) of Act No. 21 of 1923, as amended by Act No. 25 of 1930, during such time as he retains his title and continues to reside in the township.
- (3) Any Native furnishing satisfactory proof to the Manager of Native Affairs of having acquired or of acquiring in the future any interest in land or buildings (other than a tenancy terminable by him on the giving of one month's notice, or any shorter notice) will be granted exemption as above for a period not less than the currency of his interest in such land or buildings.
- (4) The bona fide dependents and members of the families of the Natives referred to in conditions (2) and (3) will be included in the exemptions granted to such Natives during such time as they continue to live in or share such accommodation.
- (5) Native tenants approved by the Manager of Native Affairs as being persons of suitable character to live in these townships shall be permitted to occupy such accommodation therein as may be licensed under the provisions of section 5(4) of Act No. 21 of 1923, as amended.

(6) Such other Natives and their bona fide dependents and members of their families as may be approved by the Manager of Native Affairs will be exempted or licensed at the discretion of the Manager under the relative provision of section 5 of Act No. 21 of 1923, as amended by Act No. 25 of 1930.

(7) Licences to harbour Natives will be issued free of charge by the City Council in respect of existing buildings to property owners in Sophiatown, Martindale and Newclare.

(8) Licensing regulations for the three townships mentioned will be framed in agreement between the City Council and the property owners concerned.

(9) Nothing in these conditions is to be understood as affecting the steps which may be taken for dealing with idle, dissolute or disorderly Natives under the provisions of section 17 of the Urban Areas Act, No. 21 of 1923, as amended, or otherwise in accordance with law.

The form of these conditions is not identical with that of the draft provisions discussed between the deputations, but the endeavour has been to preserve the true sense of the settlement, and such minor departures as have been made are considered necessary in order to harmonise the drafts with the requirements of policy.

I have the honour to be,

Sir,

Your obedient servant

SECRETARY FOR NATIVE AFFAIRS

The Town Clerk,
Municipality of Johannesburg,
JOHANNESBURG.

THE URBAN AREAS ACT, AND SEGREGATION.

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This Act provided for improved conditions of residence for natives in Urban Areas.

An Urban Local Authority may, and if required by the Minister must :-

1. Define a location for the reasonable requirements of natives.
2. Define land in a location for a native village;
3. Provide native hostels in locations for natives not living under conditions of family life;
4. Require employers of more than twenty-five natives to provide accommodation in locations, native hostels, or elsewhere;

Where inadequate accommodation is provided for natives in Urban Areas the Minister, after reference to the Administrator, and after local public enquiry, may require the local authority to make provision as above. Upon failure of the local authority to comply as above, the minister may, after reference as above, carry out the works.

For the purpose of these locations, villages, or hostels, the local authority may acquire land, borrow money for dwellings, and advance money to natives for the construction of dwellings.

The local authority may let sites for trade purposes to a native.

NATIVE REVENUE ACCOUNT.

The Local authority must open a native revenue account, into which shall be paid fines, pass and registration fees, moneys from the sale of Kaffir Beer, rentals, and trading

*See further
compulsions on
natives to build for*

profits (i.e. of the local authority).

This account shall be chargeable with all services rendered by the local authority to the location.

RESIDENCE IN THE LOCATION.

The Gov.-Gen. may by proclamation require all or any native to reside in a location, native village, or hostel except :-

1. Any native who at the date of the proclamation is the registered owner of immovable property, and ordinarily resident upon it, or
2. Any native who acquires by succession immovable property, so long as he continues owner and resident thereon.
3. A registered Parliamentary voter at the Cape.
4. Dependents of the preceding (i.e. wife, minor child, &c).
5. Natives in bona fide domestic service.
6. Native residents of a Mission House or private hostel

approved by the Minister.

7. Natives living in areas approved by the Minister for native residence
8. Natives living in licensed portions of the location

ADVISORY BOARD.

An Advisory Board shall be established for every location, consisting of a Chairman who may be a European and three natives resident within the local authority's jurisdiction. The Board must be consulted by the local Authority before the latter can make or withdraw any regulation for the location.

IDLE OR DISORDERLY NATIVES.

In Urban Areas these may be brought before a Magistrate or Native Commissioner, who may order the native to be removed to the place to which he belongs, or to be sent to a farm colony. Two natives may be summoned to sit as assessors.

pass when accompanying his master by train.

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URBAN AREAS ACT 21/1923:-

The Act provides inter alia for the registration and better control of contracts of service with natives in certain areas, and the regulation of the ingress of natives into, and their residence in, such areas. It also exempts coloured persons from the Pass Laws.

Section 12 enables the Governor by Proclamation to declare an Urban Area in which a location has been provided, or in which natives are congregated in large numbers for mining or industrial purposes, to be a proclaimed area. (The ^{the} area under/control of the Municipal Council of Johannesburg was proclaimed by Proclamation 203, Gazette Sept. 5th, 1924). In such proclaimed areas the Governor may require :-

(a) 1. Every employer to register each contract of service with a male native.

2. Every male native to report his arrival, and obtain the required permit (i.e. to reside, or look for work) ^{to obtain under permit on completion}

need to females

3. The entrance of a native under eighteen may be prohibited unless he accompanies his parent or guardian.

from requiring protection by a certificate

4. Natives out of employment may be required to report to a prescribed officer.

5. A native may be required to leave if unsuccessful in finding work.

6. Every male native casual labourer may be ordered to be licensed.

7. Accommodation for natives seeking employment may be established and equipped.

Exempting

(See Govt. Notice 1546, Gazette Sept. 26th, 1924)

Section 17.- Idle, dissolute or disorderly natives in Urban or proclaimed areas may be required to account for themselves, and failing to do so, a Magistrate or Native Commissioner, who may summon two native assessors to his assistance, may order the removal of the natives in the place whence they came, or their detention

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THE NATIVES (URBAN AREAS) ACT. No. 21 of 1923.

Sec 12 (2) The following natives shall be exempt from the provisions of sub-section (1) of this section :-

(a) In the province concerned, natives who hold letters of exemption granted under any law in force in the province of Natal, Transvaal or Orange Free State but not any sons of such natives;

(b) In the province of the Cape of Good Hope, any native who is a registered parliamentary voter;

(c) Those who are registered owners of, or the bona fide purchasers of land in any such township as is defined in paragraph (i) of sub-section (1) of section 8 of Act No. 27. of 1913;

(d) Chiefs and headmen approved in such manner as may be prescribed;

(e) Ministers of religion who are marriage officers, teachers whose salaries are paid or defrayed directly or indirectly, in whole or in part, by the Government or any provincial administration, and interpreters of the various courts of the Union; provided they are approved in such manner as may be prescribed.

GOVERNMENT NOTICE 3546. UNION GAZETTE 26/9/1924.

REGULATIONS FRAMED UNDER SECTION 23(1) OF ACT 21 OF 1923
FOR THE PROCLAIMED AREAS DEFINED IN PROCLAMATION 203 OF 1924.

Sec 16. The following natives shall be exempt from the provisions of Chapter 1 of those regulations. (Regulations for the control and protection of Natives in the Proclaimed Area)

(a) Natives exempted under sub-section 2 of section 12 of the Natives (Urban Areas) Act, 1923, provided that :-

(i) Chiefs and headmen recognized as such by the Government shall be approved for the purposes of exemption for a specified period on production to the registering officer of a letter of introduction from the Magistrate, Native Commissioner, or Native Sub-Commissioner of the District in which such chiefs or headmen exercise their functions;

(ii) Ministers of religion, teachers and interpreters shall be approved for the purpose of exemption for a period specified on production to the registering officer of satisfactory evidence that they hold the necessary qualifications in terms of the Natives (Urban Areas) Act, 1923.

(b) Natives who are enrolled members of the South African Police or of the South African Permanent Force and Prison Warders while in the service of the Government, upon production to the registering officer of proof of their enrolment.

(c) Natives residing on the premises of an employer beyond the limits of the proclaimed area who are in personal attendance on such employer, or who produce a permit or note from any such employer to the effect that they are sent within the proclaimed area upon the service of such employer. Such a permit or note shall not be available for more than twenty-four hours from the date of issue; unless it has been produced to the registering officer and endorsed by him as available for a longer period.

(d) Native to whom the registering officer, on being satisfied that there is accommodation available, issues a permit free of charge authorising them to remain in the proclaimed area on account of old age chronic disease, or other cause which prevents them from working. Such permit shall state the period during which a native is so permitted to remain in the proclaimed area.

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- (d) Chiefs and headmen approved in such manner as may be prescribed;
- (e) ministers of religion who are marriage officers, teachers whose salaries are paid or defrayed directly or indirectly, in whole or in part, by the Government or any provincial administration, and interpreters of the various courts of the Union; provided they are approved in such manner as may be prescribed.

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(b) Natives who are enrolled members of the South African Police or of the South African Permanent Force and Prison warders while in the service of the Government, upon production to the registering officer of proof of their enrolment.

(c) Natives residing on the premises of an employer beyond the limits of the proclaimed area who are in personal attendance on such employer, or who produce a permit or note from any such employer to the effect that they are sent within the proclaimed area upon the service of such employer. Such permit or note shall not be available for more than twenty-four hours from the date of issue; unless it has been produced to the registering officer and endorsed by him as available for a longer period.

(d) Native to whom the registering officer, on being satisfied that there is accommodation available, issues a permit free of charge authorizing them to remain in the proclaimed area on account of old age, chronic disease, or other cause which prevents them from working. Such permit shall state the period during which a native is so permitted to remain in the proclaimed area.

INFLUX OF NATIVES INTO TOWNS.

In the paper read by Mr. J.D. Rheinallt Jones on the Economic Aspect of Native Life, the following recommendations are to be found, inter alia, (pp 114, 115) : -

That Agriculture should "safeguard its own supply of labour by providing proper conditions of life and labour on farms." Farm workers should "command a wage that bears a definite relation to their needs and the intrinsic value of their labour; and in all things they must be able to stand on equal terms with their employers or landlords before the law of the land."

"By recognising that the vast bulk of land workers are not and never will be competent to own land or even to cultivate land without supervision or organisation, and that consequently we must ensure that they are given a definite place as hired workers in our Agrarian system."

As far as I could go into the causes of the Native influx into Durban, I found that there was a necessity for giving thought to these recommendations. They are borne out by the facts.

Agriculture is not safeguarding its own supply of labour. The general conditions of Agricultural tenure and labour are unsatisfactory to the Natives. Life under farmers is very often harsh and in some cases cruel; Natives get evicted and imprisoned even for small offences. So long as you are living or working on a farm, or doing both, you never know your position. There is real complaint against a system where the man, his wife and children all become labourers of the farmer.

Farm wages are generally very poor. The majority of workers would be found to earn between 10/- and £1/10/- a month. With due recognition of wages in kind, the Natives complain that farm wages bear no relation to their needs and the intrinsic value of their labour. One can understand that with Native life rapidly changing into a money economy system, the need for money would be great. Perhaps it might be possible to let a tenant or a farm labourer choose between receiving more money wages and less wages in kind, or vice versa.

The hours of work in the farms ought to be more regulated; a 10 hour day is suggested.

In fact, all farm conditions as between the European and the Native require investigation which will result in the whole of South African Agrarian system being put on a more satisfactory basis. There is needed a definite legal and economic status for all land workers. At present, much depends on the whim of the farmer.

As a consequence of prevailing conditions on the farms, Natives who are dissatisfied with the rates of wages leave the farms and go to town to look for work which is more regulated and which is relatively more paying.

Those who get evicted from the farms or leave of their own accord, flock to Durban, or move to near-by Crown lands and Reserves. When they arrive at these rural areas the population becomes increased and more land becomes necessary. (See Page 116, Resolutions 1, 2, 3 and 4 at least - Report of the General Missionary Conference held at Lovedale, 1923).

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In addition, I would like to say that the system of planting Demonstrators in rural districts is going to and should do a lot in teaching Natives extensive and more economic Agriculture. The Native Areas with this system of Agriculture could give more living to many more Natives and hence the exodus of Natives in the towns could be mitigated. (Natives say they move into towns because there is not sufficient land for a living.

Mr. Thornton has the Native Agriculture Development at hand, one is glad to say.

At present we can agree that there is not sufficient land for the Natives; which fact accounts for their influx into towns.

The boys from Pondoland, where European farms are very, very few, if present at all, as I understood, and from Basutoland and the Transkei, which is easily the most heavily recruited part of the country, on their way to work centres, pass through Durban and get attracted by its fast moving and seemingly good life. After their terms of service are over they come in numbers back into Durban. These areas therefore are contributing to the inflow of Natives into Durban.

An interesting investigation would be to consult official records, see the number of Natives there - those living and working on the farms and those working only - 5 years ago, and now; and also over the same period see the population in the rural areas other than European farms. I should not be surprised if, in the first case, there is a decrease of population. Farm labour shortage in fact points to this, and if in the second case there is an increase.

The pity of it is that the Government Economic Commission is restricted by its terms of reference to urban conditions; otherwise, the whole of the farm question could have come under review, and it is only by such a review that definite information could be obtained re the inflow of Natives into the towns, and also the means of checking the inflow found out.

Selby Ngcobo .

Fort Hare,
ALICE, C.P.

~~77~~ Pages 114 and 115 are pages in the quoted Report.

Urban Areas

KUTU v REX.

T.P.D., March 3, 1930. Before Tindall and Solomon, JJ.

STATUTES-- Natives (Urban Areas) Act 21/1923 - Regulations under Para. 23 - Regulation 17 - Ultra vires - Act 21/1923, Para. 12 (1) - Refers only to unexempted Natives - Regulations cannot apply to all Natives indiscriminately - Failing to satisfy authorised officer - Vague and unreasonable test - Statute- Title- Cannot amplify text of statute.

Criminal Appeal.

Appellant was convicted of contravening Regulation 17 of the regulations framed under Section 23 of Act 21, 1923, in that he failed to satisfy an authorised officer that he was lawfully within the area in which he was arrested. Regulation 17, in so far as it applies to the present case, provides that every male native in a proclaimed area who fails to satisfy any authorised officer that he is lawfully within the area when called upon to do so shall be guilty of an offence.

For Appellant it was contended that Regulation 17 was ultra vires the enabling Act, and that it was void for vagueness and unreasonableness. Section 23 (1) of the Act empowers the Governor-General to make regulations as to the exercise of the powers referred to in Section 12 (1) and all matters incidental thereto, "and generally for the better carrying out of the objects and purposes of this Act." Section 12 (1) is confined to the control of unexempted natives by the registering officer by a method of report registration and written permit. One of the objects of the Act appearing in the title is "to provide for the regulation of the ingress of natives into and their residence in" proclaimed areas. For the Crown it was argued, inter alia, that Regulation 17 provided such control.

Held: That Regulation 17 was ultra vires the enabling Act.

It purported to apply to all male natives, whereas Section 12 (1) only applied to unexempted natives. It had also been decided in the case of Rex v. Moseke, 1925 T.P.D. 407, that a native who, when the Act was passed, was living and carrying on a trade in a proclaimed area, did not fall within the provisions of the Act, but the Regulation purported to apply to such natives as well as other natives. Nor did Regulation 17 deal with a matter "incidental to" the powers referred to in Section 12 (1), which was confined to the registering officer's administration.

Held, further: That the title of the Act could not be read as an amplification of the text of the Act.

Held, further: That Regulation 17 was vague and unreasonable.

Per Solomon, J.: "It makes the native guilty of an offence unless he can persuade the mind of an authorised officer, who be ignorant of the regulations, may mistake the value of the proofs submitted, may be unable either to understand what the native wishes to tell him or to explain what further evidence he requires; and it does not tell the native what evidence is sufficient, but leaves him at the mercy of what may be unreasonable demands for proof."

Appeal accordingly upheld. Conviction and sentence set aside.

E.C.N.

J. S. R. J.

QUESTIONS ON THE SMIT REPORT ON NATIVES IN URBAN AREAS

1. The Report recommends that attempts be made to discover a cheaper house which is commodious and hygienic.
 - (a) Do you know of any such attempts in your area?
 - (b) Have you any practical suggestions to make?
2. What is the Bloemfontein housing system? Do you consider it practicable for your area?
3. Do you agree with the view that special government assistance for housing Natives should be given to poorer and smaller municipalities?
4. Can you describe clearly the difference between an economic and a sub-economic housing loan?
5. Do you agree with the view of the Report that the loss on sub-economic housing loans should be met from general municipal revenue and not from Native Revenue Account?
6. Do you agree with the principle that, as far as possible, houses in locations should be built by Bantu builders? Do you see any practical difficulties in the way? How would you overcome them?
7. What items at present charged by municipalities to the Native Revenue Account should, in the opinion of the Report, be transferred to the general revenue account?
8. The Report recommends that certain persons should be exempted from the payment of lodgers' fees. What is your view with regard to the system of charging lodgers' fees?
- 9-15. Answer the following questions of fact with regard to the location/s in your area:-
 9. Are there taps in every house?
 10. What provision is made with regard to baths or showers?
 11. What facilities are provided for washing clothes?
 12. Do the individual households have latrines?
 13. Are there any Bantu nurses employed, by the municipalities or otherwise?
 14. What facilities are given for Child Welfare, including help to expectant mothers?
 15. Are there any V.D. clinics?
 16. Germiston Municipality supplies milk to its Bantu population at cost price. Can this be done in your area?
 17. What provision exists at present for the sale of vegetables and fruit in the location? How could this provision be improved?
- 18-23. Discuss the following recommendations of the Committee on the basis (a) of the present facts; (b) of future policy.
 18. Use of home visitors and demonstrators.
 19. Training of Bantu males as sanitary inspectors and health assistants.
 20. Training of female Bantu health visitors and housing managers.
 21. Training of Bantu social workers.
 22. Appointment of special rent inspector to deal with Bantu rents.
 23. Creation of Juvenile Affairs Boards for Bantu.
 24. The Committee recommends the study of family allowances by interested groups. Do you agree with this recommendation?
 25. The Committee also recommends that communal feeding should be provided on a selective basis. Do you agree with this? Is it consistent with 24.
 26. Are there sufficient schools in your area for all the children who wish to attend school? If not, what can be done about it?
 27. What is the position with regard to mothers' grants in your area? Do you agree with the recommendation of the Report on the point of mothers' grants?
 28. The Report recommends that Native juvenile clubs be assisted. Can anything of this sort be done in your area?
 29. Do you agree with the majority recommendation that the old age pension scheme should be applied to Natives?
 30. Do you agree with the view of the Report that the criteria of eligibility and ration scales for urban Natives be the same as in the case of Coloured persons in towns?

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PERMISSION TO OCCUPY AN ARABLE OR HOMESTEAD ALLOTMENT.
Vergunning tot Bezitneming van Bebouw of Bewoonbare toekenning.

(Government Notice No. 833 of 1921.)
 (Gouvernements Kennisgeving No. 833 van 1921.)

Headman..... Location No..... called.....
 Hoofdman..... Lokatie No. genoemd

District of.....
 Distrikt

Allotment No.
 Toekenning No.

Whether Arable or Homestead.
 Bebouw- of Bewoonbaar.

Name of Allottee.
 Naam van persoon aan wie toegekend.

Subsequent Transfers.
 Latere overschrijvingen.

Approximate extent.
 Omvang.

Date of Allotment.
 Datum van toekenning.

Reference to relative Arable or Home
 stead allotment.
 Verwijzing naar bebouw- of Bewoonbare toe-
 kenning.

Remarks. (Cancellations, Temporary
 absences, etc.)
 Opmerkingen (Terugtrekkingen, Tijdelijke af-
 wezigheid, enz.)

Date Stamp.
 Datum stempel.

Inspector or Superintendent of Natives.
 Inspekteur of Superintendent van Naturellen.

Land Register Folio No.

” ” ” ”

Collection Number: AD1715

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (SAIRR), 1892-1974

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