

XIII.

THE PASS LAW.

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LAW NO. 31, 1896.

Being amendment of Law No. 23, 1895.

Declared valid by the Hon. First Volksraad by Article 2289 of their minutes, dated 10th September, 1896, until the First Volksraad decides more particularly with regard to them in their next ordinary session.

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WHEREAS it is deemed necessary to amend Law No. 23, 1895, so it is hereby enacted as follows:—

Regulations in terms of Article 88 of the Gold Law. For the purpose of facilitating and promoting the supply of native labour on the public diggings of this Republic, and for the better controlling and regulating of the natives employed, and the relations of employer and native labourer.

IT IS ENACTED:—

1. These regulations shall only after proclamation, as in Clause 2 provided, be of force and effect within the boundary of the proclaimed public diggings of this State, and shall, therefore, in no way be taken to interfere with Law No. 13 of 1880, 3 of 1876, and 6 of 1880, or with Law No. 22 of 1895 (Native Pass Law), which laws shall remain in full force and effect within the proclaimed gold fields, in so far as they do not conflict with the provisions of these regulations, these regulations being regarded as special additional laws for the area proclaimed. The area mentioned in the third clause of Article 153 of Law No. 21, 1896, shall also be regarded as coming under these regulations.

2. These regulations shall come into force and effect for such public diggings and private unproclaimed ground of this State as the State President, with the advice and consent of the Executive Council, shall from time to time determine, and shall by proclamation in the *Staatscourant* proclaim as coming under the operation thereof.

3. Such public diggings shall simultaneously with the proclamation of the above effect be deemed, for the purposes of these regulations, to be divided into as many labour districts as there shall for the time being be Mining Commissioners and judicial officers on such goldfields, and the labour district will have the same boundaries and be coterminous with the district of the jurisdiction of such Mining Commissioner or judicial officer; provided always that the Government shall have the right to declare any town within the proclaimed area as a separate labour district.

4. In these regulations the word "native" shall be deemed to apply to males of all the native and coloured races of South Africa.

Every native, on entering any district governed by these regulations, and being in possession of the pass required by existing pass law, shall, without unreasonable

delay, repair to the district office and get a pass and a badge as hereinafter provided for, and in proceeding thither he shall be protected by the pass he holds.

Any servant travelling within his labour district on his employer's service will be protected if he, in addition to the pass and badge required by these regulations, has a free written pass in terms of Article 1 of Law 22 of 1895 (Native Pass Law).

5. Upon entering the boundaries of a proclaimed goldfield and private unproclaimed area falling within the operation of these regulations, a native shall be bound, before engaging himself to any employer, to repair to the office of the Mining Commissioner or to the office of the officer or officers appointed for the district, and there exchange his travelling pass, whether same be from within the Republic or from beyond the borders thereof, for a district pass of the form on schedule A.

6. The Mining Commissioner or pass officer appointed for the district shall enter in a register to be kept for the purpose, of the form of schedule B hereto, the name of the native, his tribe, chief, father, district or country, stature and marks, if any, etc., and he shall also number each native consecutively. Such registered number shall thereafter be the native's official mark so long as he remains within the district. All these particulars shall likewise be entered on the district pass, form schedule A.

7. In addition to the district pass to form A, the pass officer shall at the same time issue to each native a metal ticket or badge, on which shall be clearly stamped or impressed at the time of issue the native's registered number, the initial letters of the labour district, and year of issue. This ticket or badge shall be attached to a strong leather strap or buckle, and must be worn by the native round his left arm above the elbow, so as always to be clearly visible. Such district pass and badge shall be issued free of charge.

8. Such district pass and metal badge shall enable and authorise the native to whom it is issued, to seek employment within the labour district for which it is issued for a period of three days from the date of issue.

9. If the native fails to find employment within the prescribed three days from the date of issue of district pass, or after discharge by his last employer, he shall return to the Mining Commissioner or pass officer who issued the pass and badge, and may have an extension of a further three days endorsed thereon by the pass officer, on payment of a fee of two shillings; failing to find employment within the further three days, he shall return to the pass officer, and it shall be in the discretion of the pass officer or officers charged with the administration of these regulations to require from such native his district pass and metal badge, and in return issue to him an exit or travelling pass, in terms of Articles 8 and 9, and the native shall pass on to another district or return to his home.

10. The district pass and metal badge will hold good so long as the native remains in the labour district.

11. A native working on a proclaimed goldfield, and wishing to remove from one labour district to another, on such or any other proclaimed goldfields, or to his home, or to any part of the Republic, if beyond the labour district, shall first apply for leave to do so from the Mining Commissioner or other appointed pass officer in his district, and such leave shall be granted him, provided he then holds a district pass, in clear order, with metal badge, and that his last employer, if any, shall have filled in the full discharge required on the district pass, form A. Thereupon the Mining Commissioner or pass officer shall issue a travelling pass of the form set out in schedule C, in exchange for the district pass and the metal badge held by such native, on the payment by the native of a fee of one shilling.

12. The Mining Commissioner or pass officer shall register the date, number, and particulars of such travelling pass against the native's name and number in the

register, form schedule B, and shall immediately destroy the district pass and metal badge received from such native.

13. Upon arriving in any new labour district of a proclaimed goldfield, a native travelling under the pass above described shall be bound immediately to repair to the mining Commissioner thereof, or other officer appointed for the purpose, and there obtain a district pass and metal badge in manner and of form above described.

14. Any native found in the labour district without the district pass of form A and metal badge, or without a travelling pass, or any defaulter under Article 9, shall be punishable by a fine of not exceeding £3, or not more than three weeks' imprisonment with hard labour for first offence, and for second offence a fine not exceeding £5, or not more than four weeks' imprisonment with hard labour and lashes, and at the discretion of the Court before whom he shall be convicted for every offence thereafter.

15. Any native who has lost his district pass or metal badge, or both, may apply to the district officer who issues the same for a new pass or badge in substitution for the one lost, and the district officer shall issue a new district pass or badge if he is satisfied of the identity and *bona fides* of the applicant by means of a letter from the last employer, if any : provided that the applicant shall pre-pay for such new pass or badge a fine of 5s.

16. Any native being in possession of, or using or counterfeiting a district pass, employer's pass, travelling or exit pass, or metal badge, or falsely stating that he has not previously been registered, or making any other false statement, or doing any act for the purpose of deceiving the pass officers or evading these regulations, and any native who shall transfer any of the passes or metal badges hereinbefore described to any other person, and any native who shall accept transfer, or make use, or be in possession of any pass or metal badge belonging to any other native, shall be deemed to be guilty of contravening these regulations, and shall, upon conviction, be punished by a fine of not exceeding £5, with imprisonment of not exceeding one month and lashes not exceeding 25.

17. The Government shall make arrangements as it may deem desirable, so that each labour district in a proclaimed goldfield shall use and issue a pass distinctive in colour from those of the other labour districts, and metal badges with initial letters of each district, in order to facilitate the detection of vagrants or natives moving in any labour district without a pass and badge for that district.

18. Any native leaving a labour district without the proper travelling pass of form C shall be liable to a fine not exceeding £3, or one month's imprisonment with hard labour, with or without lashes. Should it appear to the satisfaction of the Court that the native has left his last or any employer in breach of his contract, then the said fine may be increased to £5, and the said imprisonment to two months.

19. It shall not be lawful for any person within the proclaimed public diggings :—

- (a). To engage or employ any native unless he is provided with a clear district pass and corresponding metal badge at the time such native seeks employment.
- (b). To engage or employ any native unless his district pass shall show that he has been duly discharged by his last employer, if any.
- (c). To provide a monthly pass for a native labourer who is not *bona fide* in his service.
- (d). To act as agent or intermediary with regard to the issue and obtaining of passes and metal badges for native labourers according to this law.

20. Immediately after engagement the employer shall enter upon the district pass of such native engaged all the particulars as required on the face of the district pass,

form A. And shall take from the native such district pass and issue instead thereof an employer's pass of form D. This employer's pass shall be renewed monthly on the first day of each month, and for the first pass and each renewal thereof the native shall pay the sum of 2s. per month. And the employer shall be liable to Government for such amounts of pass moneys on every native in his employ, and he shall further be responsible for and issue the passes monthly to each and every native employed, such passes to be supplied by and purchased from the Government.

21. The employer shall take possession of and be responsible for the safe-keeping of all district passes so long as the native remains in his or their employ, and on the termination of the native's service the employer shall enter upon the said district pass the particulars of such native's discharge as are required by the pass form, and then return the pass to the rightful owner thereof.

22. Any employer who shall be convicted of a breach or failure to comply with any of the provisions of Clauses 19 to 21, or illegally withholding district pass from, or coercing any native, shall, upon conviction, be punished with a fine of not less than five pounds, and not exceeding one hundred pounds for each and every breach or failure in respect of every native employed, or in default with imprisonment not exceeding six months, with hard labour. In the event of the employer being a company or syndicate, then, and in such case, the manager shall be responsible.

23. Every employer employing more than twenty native labourers shall be obliged to keep a register according to schedule form F, and shall at the end of each month, and not later than the fifteenth day of the month following, fill in and send in a return to the Mining Commissioner, or pass officer of his district, of form F schedule, giving the registered numbers of badges and district passes, with name, etc., of all and every native engaged and discharged during that month. Such returns shall be filed and kept by the pass officer for record and reference.

24. Every employer failing to comply with the foregoing regulations, or making false or fraudulent returns, shall be liable to a fine of not less than £5, and not exceeding £100.

25. Any person making use of the provisions of these regulations for the purpose of imposing on and defrauding a native labourer of the wages, rations, or advantages due to him, shall, upon conviction of such offence, be liable to a fine not exceeding £100, or three months' imprisonment, with or without hard labour.

26. Any person found guilty of forging, counterfeiting, or imitating any of the passes or metal badges issued under these regulations, or forging, counterfeiting, or imitating any stamp, seal, or signature, or any such stamps, seals, or passes orges, which may have been issued in terms thereof, and not being the employer described in such employer's pass or form, or any pass, or not being by the employer authorised so to do, but making or writing on such pass or badges any entry, name, or mark intended to defraud the Government officials, whose duty it shall be to issue or inspect such pass or badge, or to deprive the employer, if any, of the services of such native, or in any other way to defeat the provisions of these regulations, shall, on conviction of each and every or any such offence, be punishable by a fine not exceeding £100, or by imprisonment not exceeding three months, with or without hard labour.

27. The Government shall appoint such officers in each district as may from time to time be found necessary for the due and proper administration of these regulations. And shall further appoint special labour inspectors for each labour district, with power to summarily arrest all natives contravening these regulations.

The duties of such special labour inspectors shall *inter alia* be:—

- (a). To make regular and frequent inspections of registers of native labour kept by employers, to inspect all natives employed, to ensure that their

badges are worn and in order, and, if need be, compare any or all such natives with the district pass filed by the employer.

- (b) Inspect monthly passes of all such natives.
- (c) To inspect employers' passes or district passes, and metal badges of all natives when and wherever met.
- (d) Generally to see that the provisions of the law and these regulations are carried out.
- (e) To make a proper report to the pass officer of their district of every inspection held by them in accordance with the above regulations, and to keep a proper diary of their work.

28. Any native found by the police or special labour inspectors without his proper badge, and either district, travelling, or employer's pass, or being a defaulter under Article 9, shall at once be arrested, and fined or punished by any qualified Court having jurisdiction in terms of these regulations.

29. All complaints by employers as to desertion of natives shall be communicated to the district officer, or the inspectors, whose duty it shall be to take the badge and pass numbers, names, etc., of such deserters, and do whatever may be necessary to arrest the deserters for punishment in terms of these regulations.

30. All complaints by natives against employers shall be made to the inspectors, who shall at once report to the district officer appointed for that purpose, whose duty it shall be to make a full and proper investigation into the cause of complaint without delay; and, if need be, submit the matter to the Public Prosecutor, who shall at once proceed against the employer under the provisions of these regulations.

31. All fines imposed under these regulations shall be paid to the Government of the South African Republic.

32. All contraventions of these regulations and of any of the provisions thereof shall be cognisable by any Court having jurisdiction under the Master and Servants' Law, No. 13 of 1880, and under Law No. 22 of 1895 (Native Pass Law), and in whose jurisdiction the offender may be found. And such Courts are authorised to adjudicate on all such contraventions, and to impose the fines and penalties in these regulations and the schedules thereof provided for. All complaints under the regulations shall be brought to trial within 48 hours after arrest; the Court, however, having the right to direct postponements.

These regulations shall not affect the validity of the Supplementary Regulations of the Johannesburg Sanitary Committee, published under Government Notice, No. 385, on the 8th November, 1893, but, on the contrary, such Supplementary Regulations shall remain in full force and effect, and natives licensed thereunder shall be exempt from the provisions of these regulations with regard to district passes, metal badges, and employers' passes, so long as they remain under the said regulations of the Sanitary Board.

33. All pass issuers appointed in terms of this law to the various labour districts shall be *ex officio* Justices of the Peace.

34. Law No. 23, 1895, is repealed.

35. This amended law comes into operation immediately after publication in the *Staatscourant*.

The various passes A, B, C, D, and E, published in the 1895 Report of the Chamber of Mines, are unaltered. Schedule F had not been drawn up at the end of the year.