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No. 6419

PROCLAMATION

by the State President of the Republic of
South Africa

No. R. 81, 1979

**COMING INTO OPERATION OF THE SUGAR
ACT, 1978 (ACT 9 OF 1978)**

Under the powers vested in me by section 12 of the
Sugar Act, 1978 (Act 9 of 1978), I hereby declare
that the said Act shall come into operation on 27 April 1979.

Given under my Hand and the Seal of the Republic
of South Africa at Cape Town this Twenty-fifth day of
April, One thousand Nine hundred and Seventy-nine.

B.J. VORSTER, State President.
By Order of the State President-in-Council:
J.C. HEUNIS.

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Amendments to the Sugar Act, 1978

Date	Government Gazette No.	Section Amended
22 March 1984	9085	Section 4(2)(h)
25 September 1987	10942	Section 4(1)(b) Section 4(2)(i)
5 June 1992	14029	Section 4(2)(fA) Section 4(3) Section 6 Section 7

SUGAR ACT, 1978

(Act No. 9 of 1978)

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:-

No. 9 of 1978: Sugar Act, 1978.

To consolidate and amend the laws relating to the Sugar Industry; and to provide for matters incidental thereto.

(English text signed by the State President)

(Assented to 3 March 1978).

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1 In this Act, unless the context otherwise indicates -

- (i) "Agreement" means the Sugar Industry Agreement referred to in Section 4; (ix)
- (ii) "Association" means the South African Sugar Association incorporated in terms of section 2; (xiv)
- (iii) "designated agricultural product" means an agricultural product designated in terms of section 4(2)(a); ~~(ii)~~
- (iv) "grower" means a person who produces sugar cane or any designated agricultural product; ~~v~~(v)
- (v) "industrial price", in relation to any sugar industry product, means the price at which that product is sold by any miller or refiner for consumption in the Republic; ~~v~~(viii)
- (vi) "miller" means a person who manufactures sugar from sugar cane or any designated agricultural product; (vi)
- (vii) "Minister" means the Minister of Economic Affairs; (vii) ~~(viii)~~
- (viii) "production", when used in relation to the words 'sugar industry product', includes the planting, growing, harvesting, transportation, milling, manufacture and refining of such a product; (x)
- (ix) "refined sugar" means refined sugar as defined in Schedule 1, including any amendment or substitution of that definition in terms of section 9; (ii) ~~(ii)~~
- (x) "refiner" means a person who manufactures refined sugar; (xi)
- (xi) "speciality sugar" means speciality sugar as defined in Schedule II, including any amendment or substitution of that definition in terms of section 9; (xii)
- (xii) "sugar industry product" means sugar cane, sugar or any designated agricultural product, or any product or by-product derived directly from the processing of sugar cane, a designated agricultural product or the juice of sugar cane or of a designated agricultural product or any product or by-product derived directly from the manufacture or refining of sugar, but does not include anything derived from the reprocessing of any such product or by-product; (xiii)
- (xiii) "this Act" includes the Agreement, a notice issued in terms of section 6 and any regulation made in terms of section 10; (iii) ~~(iii)~~
- (xiv) "year" means a year as defined in the Agreement. (iv)

Incorporation of South African Sugar Association

- 2(1) The Association known as the South African Sugar Association shall under that name, with effect from the date of commencement of this Act, be a juristic person with a constitution of which the terms shall be published by the Minister by notice in the *Gazette*.
- (2) The Minister shall in like manner publish any amendment of the said constitution.
- (3) The Registrar of Companies shall as soon as possible after the commencement of this Act enter the name of the Association in the register kept by him of bodies incorporated by Statute.

Transfer of assets, liabilities, rights and obligations

- 3(1) Any asset, liability, right or obligation of the South African Sugar Association immediately prior to the commencement of this Act, including any asset registered in the name of, any right vested in, and any liability or obligation binding upon, any Trustee of the said Association, shall, as from such commencement, vest in or, as the case may be, be binding upon the said Association as incorporated.
- 3(2) The Registrar of Deeds in whose office any deed or other document relating to any asset, liability, right or obligation contemplated in subsection (1) is registered immediately prior to the commencement of this Act, shall, after such commencement, upon receipt of an application by any person on behalf of the Association and the production to him by such person of the documents and the information required by him, make such endorsements on the said deed or other document and such entries in his register as may be necessary to give effect to the provisions of subsection

(1), and no transfer duty, stamp duty, registration fee or charge or other duty, fee or charge shall be payable in respect of any such endorsement or any such entry.

Sugar Industry Agreement

- 4(1) (a) The Minister shall after consultation with the Association determine the terms of an agreement to be known as the Sugar Industry Agreement, which shall provide for, and deal with, such matters relating to the Sugar Industry as are, in the opinion of the Minister in the interests of that industry but not detrimental to the public interest.
- (b) (i) the Minister may at the instance of, or after consultation with, the Association, amend the agreement if the Minister is satisfied that such amendment is in the interests of the Sugar Industry and not detrimental to the public interest.
- (ii) An amendment may be made with retrospective effect to any date determined by the Minister after consultation with the Association.
- (c) The Minister shall publish the Agreement and any amendment thereof by notice in the Gazette, whereupon the Agreement or such amendment shall become binding upon every grower, miller and refiner.
- (2) Without derogating from the generality of subsection (1)(a), the matters with reference to which the Minister may provide for, and deal with, in the Agreement, shall include -
- (a) the designation of any agricultural product from which it is or becomes possible to manufacture sugar as a product which is subject to the Agreement:
- (b) (i) the regulation and control of the production, export marketing and exportation of Sugar Industry products;
- (ii) the prohibition of the production, export marketing and exportation of Sugar Industry products;
- (c) the confiscation or destruction, which may be with or without compensation, and the sale or other disposal, which may be for the benefit of the Association or not, of any Sugar Industry product in circumstances in which the production of that product, or the marketing or other disposal or the exportation thereof, has been effected or attempted in contravention of the Agreement or any notice published under section 6 or any regulation made under section 10;
- (d) a formula for determining the price to be paid by millers to growers for sugar cane or any designated agricultural product, which may include any factor related to the sale or other disposal of any Sugar Industry product;
- (e) the functions to be performed by the Association in the execution of the Agreement;
- (f) the establishment and constitution of a Board to carry out the terms of the Agreement, and the functions to be performed by it thereunder;
- * (fA) the granting of power, in specified cases or in general, to the board established under paragraph (f) to impose any penalty prescribed in the Agreement for the contravention of, or failure to comply with, any term of the Agreement, or any provision of a notice issued under section 6;
- (g) the imposition of levies upon growers, millers and refiners for the purpose of giving effect to the terms of the Agreement and for the purpose of enabling the Association to fulfil any obligation incurred by it in accordance with its constitution.
- (h) the regulation and control of the transportation of sugar cane from growers to millers, the prohibition of agreements which are contrary to the terms relating to such regulation and control, whether or not the agreements exist at the commencement of those terms, and whether or not the other terms of the Agreement are applicable to the parties to those agreements, and any compensation to parties who suffer loss as a result of such a prohibition.
- (i) the granting of power
- (aa) in specified cases, to any person or body (including the Association) to provide for and deal with, with the approval of the Minister, any matter referred to in subsection (1)(a), read with paragraphs (a) to (h) inclusive, of this subsection, and, where necessary, or desirable, with retrospective effect to any date determined by the said person or body with the approval of the Minister, by means of rules, regulations, notices, directions, orders or similar general measures; and
- (bb) in specified cases or in general, to any such person or body to publish any such rules, regulations, notices, directions, orders or measures, after consultation, where applicable, with the Association, by notice in the *Gazette* or, with the prior approval of the Minister, where it is deemed expedient due to the restricted operation thereof or for any other reason, in such other manner as may in the opinion of the Minister be suitable in the circumstances to make them known to the persons affected thereby and which rules, regulations, notices, directions, orders or measures shall on any such publication become binding in accordance with the provisions thereof on any grower, miller, refiner or other person affected thereby.
- * (3) The Minister may, after consultation with the Association, in the Agreement or in any subsequent notice in the *Gazette*, declare any contravention of, or failure to comply with, any term of the Agreement, or a notice issued by the Association under section 6, an offence, and may in like manner prescribe penalties for any such contravention or failure.

Equality of treatment of growers, millers and refiners

- 5** Unless the Agreement expressly provided to the contrary in respect of any particular growers, millers or refiners, any right conferred, or any obligation imposed, upon growers, millers or refiners under the Agreement, shall be construed as applying equally and without distinction to all growers, millers and refiners, respectively.

Powers of Association with regard to prices and surcharge

- *6** (1) (a) The Association may by notice in the *Gazette* prescribe the maximum industrial price at which any Sugar Industry product, other than speciality sugar, may be sold.
(b) Such price may vary in respect of different grades, kinds, quantities and qualities of the product concerned, and in respect of different places or areas.
- (2) The Association may by notice in the *Gazette* or by written notice to the person concerned –
(a) impose a surcharge upon any sugar or molasses purchased or otherwise acquired –
(i) by any person or class or category of persons described in the notice;
(ii) for any purpose described in the notice; and
(b) prescribe the matter in which such surcharge shall be collected, the persons by whom it shall be paid, the persons to whom or the fund to which it shall be paid and the purpose for which it shall be utilized.
- (3) The Association may in the case of a notice referred to in subsection (1) or (2) revoke or amend the notice by notice in the *Gazette* or by written notice to the person concerned.

Penalties

- *7** Any penalty which may be prescribed for any contravention of, or failure to comply with, any terms of the Agreement, or of any provision of a notice issued under section 6, or of any regulation made under section 10, shall not exceed one hundred thousand rand, in the case of a fine, or a period of twelve months, in the case of imprisonment, or both such fine and such imprisonment.

Jurisdiction of magistrate's court

- 8** A magistrate's court shall have jurisdiction to impose any penalty prescribed in terms of this Act.

Minister may effect certain amendments to Schedules

- 9** The Minister may at the request of the Association, and if he is satisfied that it would be in the interests of the Sugar Industry and not detrimental to the public interest, by notice in the *Gazette* amend any definition contained in Schedule 1 or 2, or substitute any other definition for any such definition.

Regulations

- 10** The Minister may, after consultation with the Association, make regulations providing for –
(a) The regulation, control or prohibition of the production, export marketing or exportation of sugar or Sugar Industry products;
(b) The better achievement of the objects and the better administration of the provisions of this Act and of the Agreement or any amendment thereof.

Repeals and savings

- 11** (1) The Sugar Act, 1936 (Act No. 28 of 1936), the Sugar Amendment Act, 1955 (Act No. 17 of 1955), and the Sugar Amendment Act, 1958 (Act No. 26 of 1958), are hereby repealed.
(2) The Sugar Industry Agreement of 1943 is hereby rescinded.
(3) Any determination made, or any decision or action taken, by any person, body or authority under any Act repealed in terms of subsection (1), and any agreement and any determination or regulation published under any such Act, shall, except in so far as it is inconsistent with any provisions of this Act, continued to be of force until it is rescinded or varied under this Act.

Short title and commencement

- 12** (1) This Act shall be called the Sugar Act, 1978, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

SCHEDULE 1**Definition of Refined Sugar**

"Refined sugar" means sugar which complies substantially with the following specifications:

Polarization, not less than 99,9°S;

Conductivity Ash (5° Bx solution), not greater than 0,03%:

ICUMSA Colour, not more than 125 (solution is not filtered not deaerated but left to stand for one hour prior to colour measurement).

SCHEDULE 2**Definition of Speciality Sugar**

"Speciality sugar" means any of the following products, namely:

Cube, superfine dessert, icing, castor, white crystal, coloured crystal, coffee crystal, extra fine, micro fine, superfine baking, confectioners, sanding, canners, caramel brown, soft brown, treacle, damarara, candy, invert sugar, golden syrup, treacle syrup the production of which involves processing costs other than the normal milling and refining costs.

**CONTROL OVER THE EXPORT OF SUGAR
AND SUGAR INDUSTRY PRODUCTS**

The Minister of Economic Affairs has in terms of Section 10 of the Sugar Act, 1978 (Act 9 of 1978), after consultation with the South African Sugar Association, made the regulations set out in the Schedule hereto.

SCHEDULE

1. In these regulations –
“Act” means the Sugar Act, 1978 (Act 9 of 1978);
“Agreement” means the Sugar Industry Agreement published under section 4(1) of the Act; and any other word or expression defined in the Act shall, unless the context otherwise indicates, have the meaning so defined.
 2. No person shall export sugar or any Sugar Industry product from the Republic of South Africa to any other country or territory other than those countries and territories referred to in clause 52(4) of the Agreement, namely the territory of South-West Africa, Lesotho, Botswana, Transkei, Bophuthatswana, and other independent states, formerly parts of the Republic of South Africa, as and when they are established, except under a permit issued by the Secretary for Industries.
 3. Any person wishing to obtain a permit referred to in regulation 2 shall apply to the Secretary for Industries, Pretoria.
 4. Any person who contravenes any provision of regulation 2 shall be guilty of an offence, and liable upon conviction to a fine not exceeding R500 or to imprisonment not exceeding a period of six months, or to both such fine and such imprisonment.
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