

Zimbabwe

Sugar Production Control Act Chapter 18:19

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Zimbabwe

Sugar Production Control Act

Chapter 18:19

Commenced on 18 September 1964

[This is the version of this document at 31 December 2016 and includes any amendments published up to 31 December 2017.]

[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe]

AN ACT to provide for the control and regulation of the manufacture of sugar and the delivery of sugar cane for manufacture in Zimbabwe; to fix the price to be paid for sugar cane; and to provide for other matters connected with and incidental to the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Sugar Production Control Act *[Chapter 18:19]*.

2. Interpretation

In this Act—

“**Association**” means the Zimbabwe Sugar Association;

“**cane delivery quota**” means the quantity of sugar cane a grower may deliver to a factory during the period referred to in subsection (1) of section thirteen;

“**factory**” means a factory registered in terms of the Factories and Works Act *[Chapter 14:08]* in which sugar is manufactured from sugar cane;

“**factory quota**” means the quantity of raw sugar a miller may sell during the period referred to in subsection (1) of section five;

“**grower**” means a person who grows sugar cane for the purpose of delivery to a factory and who is licensed in terms of this Act;

“**manufacture**” means to manufacture sugar from sugar cane in a factory;

“**miller**” means a person who, by himself or his agents or servants, manufactures sugar in Zimbabwe and who is licensed in terms of this Act;

“**Minister**” means the Minister of Industry and Commerce or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“**private grower**” means a grower in whose business as a grower no miller, no owner of the business of a miller or no owner of a factory has a direct or indirect pecuniary interest;

“**quantity**” means quantity in tonnes;

“**raw value**”, in relation to any quantity of sugar, means its equivalent quantity in terms of raw sugar testing ninety-six sugar degrees by the polariscope;

“**Secretary**” means the Secretary of the Ministry for which the Minister is responsible;

“**sugar**” means sugar in any of its recognized commercial forms derived from sugar cane grown in Zimbabwe, including edible and fancy molasses, syrups and any other form of liquid sugar used for human consumption other than final molasses and noncentrifugal sugar produced by primitive methods.

Part II – Control of sugar manufacture

3. Miller to be licensed

- (1) No person shall carry on the business of a miller unless he is licensed as a miller.
- (2) An application for the issue of a miller’s licence shall be made to the Secretary in the manner prescribed.
- (3) The Secretary shall, after consultation with the Association, grant or refuse an application for a licence.
- (4) An applicant who is aggrieved by the refusal of an application for a licence shall have a right of appeal to the Minister whose decision shall be final.

4. Miller not to furnish false information

No miller shall knowingly furnish false information in any return required to be submitted to the Secretary under this Act.

5. Making of orders by Minister

- (1) If at any time it appears to the Minister that it would be in the interests of the public or of the sugar industry to control and regulate the production, marketing and export of raw sugar, he may, after consultation with the Association, by statutory instrument, fix the quantity of sugar which may be sold by any miller during a period fixed in the statutory instrument.
- (2) The Minister may, after consultation with the Association, in fixing the quantity referred to in subsection (1) –
 - (a) estimate the total quantity of sugar likely to be required in that period from millers for consumption in Zimbabwe, for export and for the maintenance of stocks;
 - (b) prescribe a percentage formula according to which the factory quotas of each miller and a reserve factory quota for contingencies shall be determined for the period for which the requirements have been estimated or for any longer period;
 - (c) determine a basic factory quota for a miller for the period referred to in paragraph (a) by applying to the total quantity referred to in that paragraph the percentage formula referred to in paragraph (b);
 - (d) determine from time to time supplementary factory quotas for any miller, having regard to such miller’s ability to supply—
 - (i) any proportion of the reserve factory quota referred to in paragraph (b); or
 - (ii) any proportion of the factory quota of another miller where there is reason to believe that such quota will not be supplied by such miller during the period specified.

6. Miller not to sell in excess of factory quota

Subject to this Part, a miller to whom a factory quota has been allotted shall not, during the period referred to in such quota, sell a greater quantity of sugar by raw value than that referred to in such quota.

7. Miller may transfer factory quota to another miller

- (1) A miller to whom a factory quota has been allotted may, by an agreement in writing entered into between such miller and another miller, transfer such quota to such other miller.
- (2) A copy of any agreement referred to in subsection (1) shall be forwarded to the Secretary not later than fourteen days after the date of such agreement.

8. Sugar cane to be received only from one grower

No miller shall receive sugar cane grown in Zimbabwe for the manufacture of sugar other than from a grower or his duly authorized servant or agent.

9. Millers to accept sugar cane from growers

No miller shall, without reasonable cause, refuse to accept sugar cane for the manufacture of sugar delivered to him by a grower in accordance with a cane delivery quota.

10. Determination of prices for sugar cane delivered by private grower

- (1) If at any time it appears to the Minister that it would be in the interests of the public or of the sugar industry, he may, after consultation with the Minister responsible for agriculture and the Association, by statutory instrument, determine the price to be paid by a miller for sugar cane delivered to him by a private grower.
- (2) In the exercise of the powers conferred upon him by subsection (1) the Minister may order that prices be determined by reference to—
 - (a) the sucrose content of the juice extracted from the sugar cane;
 - (b) the quantity of sugar cane or of the juice extracted from it;
 - (c) the condition, type or quality of the sugar cane;
 - (d) the average proceeds per tonne of sugar accruing to the miller from all or a specified portion of his sales of sugar during a specified period;
 - (e) such other matters as may be prescribed.

Part III – Control of sugar cane production**11. Growers to be licensed**

- (1) No person shall grow sugar cane for the purpose of delivery to a factory unless he is licensed as a grower.
- (2) An application for the issue of a grower's licence shall be made to the Secretary in the manner prescribed.
- (3) The Secretary shall, after consultation with the Association, grant or refuse an application for a licence.
- (4) An applicant who is aggrieved by the refusal of an application for a licence shall have a right of appeal to the Minister whose decision shall be final.

12. Cancellation of licence

If the Minister is satisfied that a grower—

- (a) has been convicted of a contravention of this Act; or
- (b) has knowingly furnished false information in any return required to be submitted to the Secretary under this Act;

the Minister may order that his licence as a grower be cancelled and that he shall not be entitled to apply for the issue of a licence as a grower for such period as the Minister may fix.

13. Making of orders by Minister

- (1) If at any time it appears to the Minister that it would be in the interests of the public or of the sugar industry to control and regulate the production of sugar cane, he, having regard to the quantity of sugar which may be sold by a miller in terms of an order made under section five, may, subject to the agreement of the Minister responsible for agriculture and after consultation with the Association, by statutory instrument, fix the quantity of sugar cane which may be delivered during any period by a grower to any factory operated by such miller.
- (2) The Minister may, with the agreement of the Minister responsible for agriculture and after consultation with the Association, in fixing the quantity referred to in subsection (1)—
 - (a) specify the factory to which, or the miller to whom, a grower may deliver sugar cane;
 - (b) control the rate of delivery of sugar cane to a factory by a grower;
 - (c) estimate the quantity of sugar cane likely to be required by a miller in a factory during a specified period;
 - (d) specify a percentage formula according to which the cane delivery quotas of each grower, and a reserve cane delivery quota for contingencies, shall be determined during the period referred to in paragraph (c) or during any longer period:

Provided that, notwithstanding the operation of any percentage formula, the Minister may, after consultation with the Association, specify a minimum quantity for a cane delivery quota of any private grower;

- (e) determine an initial cane delivery quota for a grower by applying to the total quantity of sugar cane referred to in paragraph (c) the formula or minimum quantities, if any, referred to in paragraph (d);
- (f) determine supplementary cane delivery quotas for a grower, having regard to that grower's ability to supply—
 - (i) any portion of the reserve quota referred to in paragraph (d); or
 - (ii) any portion of the cane delivery quota of another grower where there is reason to believe that such sugar cane will not be delivered by such grower during the period specified for delivery in the latter grower's cane delivery quota.

14. Grower to deliver sugar cane to prescribed miller or factory

A grower for whom the Minister has specified a miller or factory for the purposes of delivering sugar cane shall not deliver sugar cane to any miller or factory other than that specified by the Minister.

15. Grower not to deliver greater quantity than cane delivery quota

Subject to this Part, a grower to whom a cane delivery quota has been allotted shall not, during any period referred to in the quota, deliver to the miller or factory mentioned in the quota any quantity of sugar cane greater than that referred to in the quota.

16. Grower may transfer cane delivery quota to another grower

- (1) A grower to whom a cane delivery quota has been allotted may, by an agreement in writing entered into between such grower and another grower, transfer such quota to such other grower.
- (2) A copy of any agreement referred to in subsection (1) shall be forwarded to the Secretary not later than fourteen days after the date of such agreement.

Part IV – General

17. Appointment of inspectors

Subject to the law relating to the Public Service, the Minister may, after consultation with the Minister responsible for agriculture, appoint persons as inspectors for the purposes of this Act.

18. Minister may make regulations

- (1) The Minister, after consultation with the Minister responsible for agriculture, may make such regulations as he may deem expedient to give force or effect to this Act or for its better administration.
- (2) Without derogation from any other powers conferred by other sections of this Act, regulations may provide for the following matters—
 - (a) the forms, information and returns which shall be submitted by applicants for the allotment of quotas, growers and millers in connection with any matter referred to in this Act;
 - (b) the form of and the conditions to be contained in licences;
 - (c) the periods of validity of licences;
 - (d) fees to be paid in connection with applications for the issue and the issue by the Minister of licences;
 - (e) inspection by inspectors of sugar cane on land and premises where sugar cane is manufactured, sold or otherwise dealt in or stored and the testing, weighing and extracting of the juice of sugar cane by such inspector;
 - (f) the fees to be paid in connection with any matter referred to in paragraph (e);
 - (g) the seizure by an inspector of books, documents and sugar cane which, in the opinion of the inspector, may afford evidence of a contravention of this Act and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with this Act.

19. Evidence of amount of factory quota or cane delivery quota

A certificate by the Secretary stating the amount of the factory quota of a miller or the amount of the cane delivery quota of a grower shall on its production by any person in any court be conclusive evidence of the amount of the factory quota or cane delivery quota of such miller or grower, as the case may be.

20. Evidence

At the trial of any person charged with any contravention of this Act, any statement contained in any return furnished by or on behalf of the accused in terms of this Act, and any statement or record contained in any book, account or document kept by the accused or an employee or agent of the accused on his behalf shall be admissible in evidence unless it is proved that the return, statement or record was not made by the accused, by any person in his employ or by his agent.

21. Acts and omissions of managers, agents and employees

Whenever the manager, agent or employee of any person does or omits to do anything which it would be an offence under this Act for such person to do or omit to do, such person shall be deemed himself to have done or omitted to do such thing and be liable to the penalties therefor in terms of this Act unless he proves to the satisfaction of the court that all reasonable steps were taken by him to prevent any act or omission of the kind in question:

Provided that the fact that the person issued instructions forbidding in respect of his manager, agent or employee any act or omission of the kind in question shall not by itself be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

22. Offences and penalties

- (1) Any person who contravenes this Act shall be guilty of an offence and liable—
 - (a) in the case of a first conviction, to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding six months;
 - (b) in the case of a second or subsequent conviction, to a fine not exceeding four hundred dollars or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.
- (2) If any person is convicted of an offence under this Act, the court convicting him shall inquire into and estimate the amount of income accruing to him in consequence of his having committed such offence and may, in addition to any sentence which it may impose under subsection (1), impose on the person so convicted a fine not exceeding the amount of income so estimated by the court.