

SUGAR SECTOR PACKAGE DEAL ACT 1985

Act 2 of 1985—1 April 1985

ARRANGEMENT OF SECTIONS

1	Short title	5	Amendment of the Customs Tariff Act
2	Interpretation		PART III
	PART I	6	Segregation of milling activities
3	Registration of deeds of transfer	7	Offence
4	[Repealed 36/88]	8	Commencement
	PART II		

To provide for fiscal incentives to promote the democratisation of the ownership of sugar cane land, the rationalisation of the export duty on sugar and the segregation of milling activities from other activities of the sugar industry

1 Short title

This Act may be cited as the Sugar Sector Package Deal Act 1985.

2 Interpretation

In this Act—

“principle Act”, in relation to Part II of this Act, means the Customs Tariff Act;

“Minister” means the Minister to whom the subject of agriculture is assigned.

PART I

3 Registration of deeds of transfer

(1) Notwithstanding any other enactment, a deed witnessing the transfer, by one or more operations, to any person of one or more portions of land under cane cultivation of an aggregate extent not exceeding 25 arpents or 10.55 hectares, and presented for registration after the commencement of this Act, shall, where the conditions specified in subsection (2) are satisfied, be—

(a) registered on payment of registration duty at the rate of 6 per cent of the consideration mentioned in the deed of transfer or of the value as determined in accordance with section 28 of the Land (Duties and Taxes) Act, 1984;

(b) exempt from payment of the—

(i) taxes leviable under Parts III, IV and V of the Land (Duties and Taxes) Act 1984;

(ii) surcharge leviable under any enactment;

(iii) transcription duty leviable under the Transcription and Mortgage Act.

(2) (a) The conditions which have to be satisfied for the purposes of subsection (1) are—

(i) the deed of transfer shall contain a certificate from the Sugar Insurance Fund certifying that the land transferred has been under cane cultivation for a period of not less than two years during the ten years immediately preceding the date of transfer;

(ii) the transferor shall declare in the deed of transfer that he has not, by means of any one or more deeds registered after the commencement of this Act, transferred to the transferee land under cane cultivation exceeding an aggregate extent of 25 arpents or 10.55 hectares;

(iii) the transferee shall specify in the deed the extent of all lands under cane cultivation acquired by him by means of any deed registered after the commencement of this Act;

(iv) every declaration made under subsection (2) shall contain a reference where applicable, to any transcription volume;

(b) (i) where a deed does not contain the certificate and the declarations

specified in paragraph (a), the duties and taxes leviable under any enactment relating to the transfer of the land shall become due and payable;

- (ii) where after the registration of a deed of transfer, the Receiver of Registration Dues is satisfied that the declarations contained in the deed and specified in paragraph (a) are incorrect, he shall, by written notice sent by registered post, claim from the transferor or the transferee, as the case may be, the difference between the appropriate duty and taxes leviable and the duty and taxes actually paid together with a penalty equal to twice the amount of the difference.

(3) Section 42 of the Land (Duties and Taxes) Act 1984 shall apply to the recovery of duties and taxes under this section.

(4) This section shall not apply—

- (a) where the transferee is not an individual but a corporate body or a partnership;
 (b) where the transfer is effected between ascendants and descendants;
 (c) where the deed was drawn up before, and not registered within, 6 months of the commencement of this Act;
 (d) to a transferor where the transferor transfers to one and the same person land exceeding in the aggregate 25 arpents;
 (e) to a transferee, in respect of all land which he acquires exceeding in the aggregate 25 arpents.

(5) In this section—

“deed of transfer” means a deed witnessing the transfer of land for consideration or by way of donation;

“Sugar Insurance Fund” has the meaning assigned to it in the Sugar Insurance Fund Act;

“Duty and Taxes” include the penalty mentioned in subsection (2)(b)(ii) of this section.

(6) Section 28 of the Land (Duties and Taxes) Act 1984 shall apply to this section in respect of the determination of the value of land transferred.

(7) This section shall remain in force for a period of 5 years from the commencement of this Act.

4 [Repealed 36/88]

PART II

5 Amendment of the Customs Tariff Act

The principal Act is amended in Part III of the First Schedule by deleting item X.5 and replacing it by the following—

X.5—Sugar produced in Mauritius in any crop year from the 1984 crop and exported by any person—

- (a) in respect of the first 1,000 metric tons.....NIL
 (b) in respect of the next 2,000 metric tons.....9%
 (c) in respect of the remainder.....13½%

In determining the appropriate rate of duty leviable under this item—

- (i) subject to sub paragraph (iii), where the sugar of an exporter is produced from land which on 1st January 1981 formed part of a larger plot of sugar cane land which has subsequently been subdivided into two or more lots, the exporter shall be deemed to be the exporter of the aggregate total amount of sugar produced by all lots;
 (ii) any sugar exported by a shareholder of a company having as one of its objects the growing of sugar cane or the milling of sugar shall be deemed to have been exported by the company;
 (iii) (A) All metayers who have cultivated sugar cane under the system of metayage between 1st January 1981 and 31st December, 1984 shall be exempted from the provisions of paragraph (i) in respect of the 1984 and 1985 crop years upon production of a registered document certifying the metayage.

- (B) The exporter specified in paragraph (i) may be exempted from the provisions of that paragraph in respect of the 1984 and subsequent crops and in accordance with such rules as may be prescribed.

PART III

6 Segregation of milling activities

(1) Subject to subsection (2), where a company or any other body corporate which is engaged in the milling of sugar and planting or other activities decides to set up a separate public company to carry out its milling and other related activities, all taxes and duties leviable on the consequential transfer of assets to the new company shall be waived.

(2) For the purposes of subsection (1)—

- (a) "assets" shall mean such movable and immovable property as are reasonably connected with milling and other related activities;
- (b) "related activities" shall mean such activity connected with the manufacturing or the industrial processing of sugar by-products, other than the distillation of alcohol, as the Minister may approve.

7 Offence

(1) Every person who contravenes section (4) of this Act shall commit an offence and shall, on conviction, be sentenced to pay a fine which shall not be less than 5,000 rupees or more than 50,000 rupees in respect of every half arpent of land which has been put to any non-agricultural use.

(2) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, the District Court of Port Louis shall have jurisdiction to try any offence under this Act and impose any penalty provided by this Act or any other enactment.

8 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

[P 4/85]
