

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Presented pursuant to leave granted and read 1^o, 22 February 1985)

(THE MINISTER FOR FINANCE, SENATOR WALSH)

A BILL

FOR

An Act relating to sugar and certain sugar products

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Sugar Agreement Act 1985*.

5 **Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Repeal

3. The *Sugar Agreement Act 1979* is repealed.

10 **Prohibition of importation of sugar and certain sugar products**

4. (1) In this section, "Agreement" means the agreement relating to sugar and certain sugar products made on 28 June 1984 between the Commonwealth and the State of Queensland, being the agreement a copy of which is set out in the Schedule.

(2) The importation of sugar and sugar products to which clause 16 of the Agreement applies is prohibited except with the consent in writing of the Minister or of an officer of the Commonwealth authorized in writing by the Minister to give consents under this section.

(3) Notwithstanding sub-clause 16 (1) of the Agreement, the prohibition in sub-section (2) extends beyond 30 June 1989. 5

(4) Sugar and sugar products imported into Australia in contravention of sub-section (2) shall be deemed to be prohibited imports within the meaning of the *Customs Act 1901* and the provisions of that Act relating to prohibited imports apply to sugar and sugar products so imported. 10

SCHEDULE

Section 4

SUGAR AGREEMENT 1984

AN AGREEMENT made this 28 day of June 1984 between THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part, and THE STATE OF QUEENSLAND (in this agreement called "the State") of the other part.

WHEREAS:

- (A) by various agreements made between the Commonwealth and the State as varied or extended from time to time by agreements supplemental thereto, provision has been made, amongst other things, for the State to make sugar and other sugar products available during the agreed periods, at the prices and upon the terms and conditions respectively specified in the agreements; and
- (B) the Commonwealth and the State desire to make further provision, amongst other things, for the State to make sugar and other products available during the period which commences on the 1st July 1984 and ends on the 30th June 1989 and for the prices at which and the terms and conditions upon which the sugar and other products will be made available.

NOW IT IS HEREBY AGREED as follows:

Definitions

1. (1) In this agreement, unless the contrary intention appears—
 - "Consumer Price Index" means the index in respect of a quarter based upon all groups of consumer price index numbers for the weighted average of eight capital cities as published in the Australian Bureau of Statistics Catalogue Number 6401.0 entitled "Consumer Price Index";
 - "half year" means a period of six months within the agreed period commencing on the 1st January or the 1st July;
 - "maximum price" means the maximum price applying in respect of a half year to a grade of sugar as determined in accordance with the provisions of clause 6;
 - "movement in Consumer Price Index" means the movement (if any) between the Consumer Price Index for any quarter being the first three months of a half year and that for the quarter being the first three months of the next succeeding half year;
 - "movement in maximum price" means the movement (if any) between the maximum price for any half year and that for the next succeeding half year;

SCHEDULE—continued

“quarter” means a period of three months ending on either the 31st March, 30th June, 30th September or 31st December;

“the agreed period” means the period commencing on the 1st July 1984 and ending on the 30th June 1989;

“the ESC” means the Export Sugar Committee established under clause 8;

“the Minister” means the Minister for Primary Industry of the Commonwealth or such other Minister as may be nominated in writing by the Prime Minister for the purpose of the administration of this agreement;

“the Sugar Agreement 1979” means the Agreement made between the Commonwealth and the State on the 1st October 1979; and

“the Sugar Board” means the Sugar Board established under the Sugar Acquisition Act 1915-1982 of the State of Queensland.

(2) Where in this agreement, a Minister of the Commonwealth is referred to, the reference includes a Minister of the Commonwealth who is for the time being acting for and on behalf of the Minister to whom the reference relates.

(3) A reference in this agreement to a department or an authority of the Commonwealth or the State shall, in the event that at any time the name of the department or authority referred to be changed or the relevant functions of the department or authority referred to are allocated to another department or authority, be read as a reference to the department or authority under its changed name or to the department or authority to which those functions are allocated, as the case may be.

(4) Unless a contrary intention appears, a reference in this agreement to a clause is to the relevant clause of this agreement and a reference to a sub-clause is to the relevant sub-clause of the clause specified in that reference or if no clause is so specified then to the sub-clause of the clause in which the reference appears.

(5) Words importing the masculine gender include the feminine.

Commencement

2. This agreement shall come into operation on the 1st July 1984.

Completion of Sugar Agreement 1979

3. (1) Any obligation or function of the Export Sugar Committee established under clause 12 of the Sugar Agreement 1979 that has arisen under that agreement and remains unfulfilled or unperformed at the commencement of this agreement shall be fulfilled or performed by the ESC in all respects as if the ESC were the Export Sugar Committee established under the Sugar Agreement 1979.

(2) The Fruit Industry Sugar Concession Committee established under clause 9 of the Sugar Agreement 1979 shall without prejudice to any obligation or function arising under that Agreement furnish to the Minister as soon as practicable a report upon the completion of all business not covered or occurring after that covered in the report furnished for the purposes of clause 11 of that Agreement in respect of the year ending on the 30th June 1984.

Acquisition of Raw Sugar Grown in Queensland

4. The State shall under its statutory powers in that behalf acquire all raw sugar manufactured from sugar cane grown in Queensland during the seasons of 1984-85, 1985-86, 1986-87, 1987-88 and 1988-89 other than such quantity of raw sugar, not exceeding one per centum of the total quantity of raw sugar manufactured during each of the said seasons in any mill where raw sugar is manufactured, as the owner of any such mill shall desire to retain, use and dispose of for consumption in his mill district.

SCHEDULE—continued**Purchase of Raw Sugar Grown in New South Wales**

5. The State shall purchase all raw sugar manufactured from sugar cane grown in New South Wales during the seasons of 1984-85, 1985-86, 1986-87, 1987-88 and 1988-89:

Sugar Supply and Prices

6. (1) The State shall during the agreed period make sugar and other sugar products available for sale at Australian refineries and at suitable distribution centres in Darwin, Hobart and Launceston, under payment terms determined by the Sugar Board, at prices not exceeding, in respect of grades of sugar or sugar products, the maximum prices for those grades of sugar or those sugar products fixed by or ascertained in accordance with this clause.

(2) In respect of the half year commencing on 1st July 1984—

- (a) the maximum price for refined bulk sugar of manufacturers grade, for such minimum delivery quantity as is determined by the Sugar Board for payment within 14 days of delivery, is \$508.00 per tonne; and
- (b) maximum prices for other manufacturers grade sugar, other grades of sugar, and golden syrup and treacle shall be fixed at amounts which vary from the maximum price fixed in paragraph (a) for refined bulk sugar of manufacturers grade to, but only to, the extent of the proportionate value of sugar in the respective products and in so far as costs of refining, packaging, storing and delivery of the products at refinery, or, in the case of supply in Darwin, Hobart and Launceston, at suitable distribution centres, exceed or are less than the equivalent costs for refined bulk sugar of manufacturers grade.

(3) In respect of each half year following that referred to in sub-clause (2), the maximum price for refined bulk sugar of manufacturers grade shall subject to sub-clause (5) be calculated by the formula $P(0.5C + 0.5W)$ where—

P is the maximum price per tonne of refined bulk sugar of manufacturers grade applicable under this clause at the end of the half year immediately preceding the half year in question.

C is the ratio of the Consumer Price Index for—

- (a) where the half year in question commences on the 1st January—the quarter ending on the 30th September immediately prior thereto compared with that of the quarter ending on the 31st March immediately prior thereto; and
- (b) where the half year in question commences on the 1st July—the quarter ending on the 31st March immediately prior thereto compared with that of the quarter ending on the 30th September immediately prior thereto; and

W is the ratio of the average f.o.b. equivalent of the daily spot market quotation under Contract 6 for raw sugar on the London Terminal Market expressed in United States dollars per metric tonne for—

- (a) where the half year in question commences on the 1st January—the six months ending on the 30th September immediately prior thereto compared with that of the six months ending on the 31st March immediately prior thereto; and
- (b) where the half year in question commences on the 1st July—the six months ending on the 31st March immediately prior thereto compared with that for the six months ending on the 30th September immediately prior thereto.

(4) For the purposes of sub-clause (5)—

- (a) where a movement in maximum price involves an increase which when expressed as a percentage exceeds the movement in Consumer Price Index in respect of the same half years when expressed as a percentage—the movement in maximum price

SCHEDULE—continued

shall be deemed to be that which when expressed as a percentage is equal to the percentage of the movement in Consumer Price Index; and

- (b) where a movement in maximum price involves a decrease—there shall be deemed to be no movement in maximum price.

(5) If the maximum price remains constant during a period of three consecutive half years the maximum price to apply in respect of the next succeeding half year shall be calculated in accordance with the formula $P(0.5 + 0.5C)$ where **P** and **C** have the same definitions as in sub-clause (3).

(6) The maximum prices of all grade of sugar other than refined bulk sugar of manufacturers grade and of golden syrup and treacle shall be calculated in respect of each half year following that referred to in sub-clause (2) at amounts which may vary from the maximum price calculated in respect of the same half year for refined bulk sugar of manufacturers grade only to the extent permitted in sub-clause (2)(b).

Hobart Sugar Depot

7. The State, if and when requested by the Commonwealth, shall establish a sugar depot at Hobart but the Commonwealth shall not make such a request unless the request be accompanied by evidence proving that a general shortage of sugar has occurred in Hobart which is due to wholesale merchants in Hobart or the Sugar Board failing to adhere to present arrangements whereby special reserve stocks of sugar are supplied to and held by such merchants.

The Export Sugar Committee

8. (1) For the purposes of this agreement there shall be a committee to be known as the Export Sugar Committee.

(2) The members of the ESC shall be appointed by the Minister and shall consist of one representative of each of the following—

- (a) the Department of Primary Industry of the Commonwealth;
- (b) the Sugar Board; and
- (c) the manufacturers of exported products containing sugar.

(3) The representative of the Department of Primary Industry of the Commonwealth shall be Chairman of the ESC.

(4) The representative of the manufacturers of exported products containing sugar shall be nominated in a manner approved by the Minister.

Deputy Members

9. (1) A member of the ESC may, with the approval of the Minister, appoint a person to be his deputy.

(2) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice of it in writing to the Minister.

(3) The deputy of a member is entitled to attend a meeting of the ESC in the absence of the member and, when so attending shall be deemed to be a member and, if he is the deputy of the Chairman, shall be deemed to be the Chairman.

Functions of the ESC

10. The functions of the ESC shall be—

- (a) to determine in respect of each month of the agreed period on the bases set out in clause 13 the rebates referred to in sub-clause 12 (1);

SCHEDULE—continued

- (b) to prescribe the manner and form in which claims may be made by exporters and manufacturers for the rebates payable under sub-clause 12 (1);
- (c) to consider and make recommendations to the State on claims of exporters and manufacturers for the rebates payable under sub-clause 12 (1);
- (d) to determine the Australian cane sugar content of goods exported from Australia in such circumstances and applying such criteria as the ESC thinks fit;
- (e) to draw up and publish as the ESC thinks fit rules for determining for the purposes of this agreement the date on which manufactured goods or products were exported from Australia; and
- (f) to exercise such other powers and do such other acts in connection with the export of goods and products containing Australian cane sugar or in connection with rebates in respect of such export as this agreement provides for it to exercise or do or as the State for the purposes of this agreement requests it to exercise or do.

The ESC Fund

11. (1) The State shall create a fund (in this agreement called "the ESC fund") which shall comprise the total amount remaining in the fund created under sub-clause 14 (1) of the Sugar Agreement 1979 as at the 1st July 1984, and such further contributions by the State as are required from time to time during the agreed period to meet the ESC's commitment under sub-clause (2) as certified by the Chairman of the ESC, provided that the credit balance of the fund shall not exceed fifty thousand dollars (\$50,000).

(2) The ESC shall defray out of the ESC fund the expenses of the ESC including—

- (a) administrative expenses;
- (b) fees of committee members and their deputies;
- (c) fees of persons commissioned to carry out functions including advice and investigations on behalf of the ESC;
- (d) salaries of staff members;
- (e) fares, travelling allowances and related direct expenses of committee members, deputies, staff members;
- (f) costs of office rent, printing, stationery and requisites;
- (g) costs of investigation work; and
- (h) the cost of such insurance as the ESC thinks fit to arrange, the authority of the ESC in which behalf is hereby acknowledged, covering all those committee members, deputies and staff members in respect of whom the ESC is authorized by this sub-clause to defray travelling allowances, against the risk of personal injury or death suffered or incurred while engaged or travelling on ESC business.

(3) The amounts of fees and their rates of travelling allowances payable pursuant to paragraphs (b), (c) and (e) of sub-clause (2) shall be as approved from time to time by the Minister.

(4) Any funds standing to the credit of the ESC fund after all defrayals in accordance with sub-clause (2) have been made following the expiry of this agreement shall be paid to the State unless otherwise agreed between the Commonwealth and the State.

Rebate on Export of Products Containing Sugar

12. (1) Subject to the provisions of this clause and of clause 14, the State shall in respect of the Australian cane sugar content, being the content determined by the ESC in accordance with paragraph (d) of clause 10, of such manufactured goods, as are determined from time to time by the Minister on the recommendation of the ESC and are during the agreed period exported from Australia, pay to the exporter, or if the ESC thinks fit on

SCHEDULE—continued

special grounds, to the manufacturer instead, a rebate of the amount of the excess, if any, of the cost of such sugar content over the cost of such sugar content calculated at the Australian equivalent of the world sugar parity price at the rates determined from time to time by the ESC in accordance with clause 13.

(2) Where the ESC reports to the State that the circumstances relating to the destination of particular goods or a particular class of goods upon export are such as to warrant a reduction of the rebate provided for under sub-clause (1), the rebate may be reduced by the State by such amounts as the ESC recommends having regard to those circumstances.

(3) No rebate is payable by the State under sub-clause (1) unless a claim is lodged with the person for the time being nominated in that behalf by the ESC within six months after the month of export.

(4) A rebate referred to in sub-clause (1) shall not be payable unless the exporter or manufacturer claiming the rebate complies with such other conditions as the ESC imposes, including a condition requiring the exporter and the manufacturer of the good the subject of the claim to permit any persons as are for the time being authorized in that behalf by the ESC to take samples of the good for the ESC and to enter and inspect during reasonable hours the premises and such books, documents and records of the exporter and the manufacturer as the ESC may reasonably require to have inspected for the purposes of this agreement, and to provide reasonable assistance for those purposes.

(5) The ESC, on request by an exporter or manufacturer in receipt of an export sugar rebate, shall make available details of the calculation of such rebate provided that information which the ESC deems to be commercially confidential need not be released.

World Parity Price for Sugar

13. (1) The Australian equivalent of the world sugar parity price in respect of Australian cane sugar contained in manufactured goods or products exported during the agreed period shall be the lower of—

- (a) the lowest c.i.f. and e. cost in Australia of foreign raw sugar semi-refined (i.e. mill white) sugar or refined sugar as may be determined by the ESC brought to terms of equality with the grade of Australian cane sugar content of such manufactured goods; or
 - (b) the estimated cost, as may be determined by the ESC, of cane sugar in Australia based on the price of foreign raw sugar, bulk basis for prompt supply as quoted on an internationally recognized sugar exchange, brought to a c.i.f. and e. basis at an Australian east coast refinery port.
- (2) For the purposes of this clause—
- (a) allowance should be made for loss and deterioration of such sugar in transit and for other costs consistent with normal commercial practices such as interest, handling charges and delivery;
 - (b) if foreign raw sugar is taken for the purpose of price comparison with Australian refined cane sugar, the following items shall be added to the c.i.f. and e. cost of foreign raw sugar—
 - (i) Australian refinery costs; and
 - (ii) refinery processing loss;
 - (c) Australian duties of Customs and other Australian taxes shall be excluded from calculations;

SCHEDULE—continued

- (d) with reference to paragraph (a) of sub-clause (1), the foreign sugar submitted for the purpose of price comparison should be reasonably obtainable in Australia under normal trading and shipping conditions.

Sugar Rebate Options

14. (1) The ESC may, in such manner and subject to such conditions as it thinks fit to impose, grant to exporters or manufacturers of manufactured goods or products containing Australian cane sugar options whereunder such exporters or manufacturers may elect to accept for periods not exceeding six months the rates of rebate determined by the ESC in respect of any month.

(2) Where an exporter or manufacturer has been granted an option under sub-clause (1), any rebate payable under sub-clause 12 (1) shall be calculated at the rate determined by the ESC for the month selected under the option.

(3) Notwithstanding sub-clause (1) where under the provisions of the Sugar Agreement 1979, exporters or manufacturers elected to accept a monthly rebate for a period in excess of 6 months, the ESC shall continue to grant such rebate for the elected period and under the same conditions as were imposed under that Agreement.

ESC Annual Report

15. The Chairman of the ESC shall, in respect of each year ending on the 30th June during the agreed period, as soon as practicable thereafter, furnish to the Minister a report of the work of the ESC including statements of receipts and payments by the ESC under this Agreement which have been reported upon by the Auditor-General for the Commonwealth or by an officer authorised by the Auditor-General to do so.

Prohibition of Importation of Sugar

16. (1) The Commonwealth shall, until the 30th June 1989 prohibit the importation of:

- (a) raw sugar produced from sugar cane;
- (b) refined sugar crystals of all crystal sizes produced from sugar cane or sugar beet;
- (c) sugar cubes or lumps produced from sugar cane or sugar beet;
- (d) liquid sugars and invert syrups derived from sugar cane or sugar beet;
- (e) golden syrup;
- (f) treacle;
- (g) sugar and sugar products falling within (a) to (f) which have been modified but which remain substitutable for those falling within (a) to (f).

(2) Notwithstanding sub-clause (1), those sugar and sugar products referred to in that sub-clause may be imported if:—

- (a) in unit sizes not exceeding 5kgs or 5 litres and in consignments not exceeding 1 tonne or 1,000 litres;
- (b) after consultation with the State the Commonwealth considers it necessary to meet any deficiency or shortage of sugar products in Australia;
- (c) temporarily landed in Australia for export to a destination outside Australia;
- (d) produced in Australia and returned in their original form; or
- (e) not available in Australia and required for such special purposes as may be approved by the Minister or an authorised officer.

SCHEDULE—continued

IN WITNESS WHEREOF this agreement has been executed as at the day and year first above written.

SIGNED on behalf of THE COMMONWEALTH OF AUSTRALIA by the Honourable JOHN CHARLES KERIN, Minister of State for Primary Industry, in the presence of—

JOHN KERIN

JULIENNE McKAY

SIGNED on behalf of THE STATE OF QUEENSLAND by the Honourable NEIL JOHN TURNER, Minister of State for Primary Industries, in presence of—

N. J. TURNER

JEFFREY SWIFT J.P.

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