

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO.: D4472/2023

In the matter between:

TONGAAT HULETT LIMITED
(IN BUSINESS RESCUE)



First Applicant

TONGAAT HULETT SUGAR
SOUTH AFRICA (PROPRIETARY) LIMITED
(IN BUSINESS RESCUE)

Second Applicant

TREVOR JOHN MURGATROYD N.O.

Third Applicant

PETRUS FRANCOIS VAN DEN STEEN N.O.

Fourth Applicant

GERHARD CONRAD ALBERTYN N.O.

Fifth Applicant

and

SOUTH AFRICAN SUGAR ASSOCIATION

First Respondent

S.A. SUGAR EXPORT CORPORATION
(PROPRIETARY) LIMITED

Second Respondent

MINISTER OF TRADE, INDUSTRY
AND COMPETITION

Third Respondent

SOUTH AFRICAN SUGAR MILLERS'
ASSOCIATION NPC

Fourth Respondent

SOUTH AFRICAN CANE GROWERS'
ASSOCIATION NPC

Fifth Respondent

SOUTH AFRICAN FARMERS'
DEVELOPMENT ASSOCIATION NPC

Sixth Respondent

RCL FOODS SUGAR & MILLING
(PROPRIETARY) LIMITED

Seventh Respondent

ILLOVO SUGAR (SOUTH AFRICA)
(PROPRIETARY) LIMITED

Eighth Respondent

UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED

Ninth Respondent

GLEDHOW SUGAR COMPANY
(PROPRIETARY) LIMITED

Tenth Respondent

HARRY SIDNEY SPAIN N.O

Eleventh Respondent

UCL COMPANY
(PROPRIETARY) LIMITED

Twelfth Respondent

ALL REGISTERED GROWERS

Thirteenth to Twenty-Three
Thousandth Respondents

THE AFFECTED PERSONS IN
THL'S BUSINESS RESCUE

Twenty-Three Thousand and First
Respondents and Further Respondents

NOTICE IN TERMS OF RULE 41A

TAKE NOTICE that the applicants **oppose** the referral of this matter to mediation on the basis that -

- 1 The application under the above case number seeks declaratory relief, which only a Court with competent jurisdiction can determine.
- 2 In addition, the applicants have raised a constitutional challenge to section 136(2)(a) of the Companies Act 71 of 2008, in the alternative. A declaration of constitutional invalidity can only be made by a court with competent jurisdiction.
- 3 The disputes raised in the application consequently cannot be determined and finalised by mediation.
- 4 Without detracting from what is set out above, the applicants are not opposed to exploring settlement to ensure that the matter proceeds without delay.

DATED AT JOHANNESBURG 26 APRIL 2023



WERKSMANS ATTORNEYS

Applicants' Attorneys

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Ref: Mr T Boswell / Mr D Hertz / Mr D Andropoulos / Ms S Gast / **TONG7430.11**

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