

GEOGRAPHICAL INDICATIONS ACT

CHAPTER 82:78

Act
20 of 1996
Amended by
18 of 2000

Current Authorised Pages

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CHAPTER 82:78

GEOGRAPHICAL INDICATIONS ACT

An Act to provide for the protection of geographical indications and related matters. 20 of 1996.

[1ST DECEMBER 1997]

Commencement.
[258/1997].

PART I

PRELIMINARY

1. This Act may be cited as the Geographical Indications Act. Short title.

2. In this Act—

Interpretation.

“Controller” means the Controller of the Intellectual Property Office appointed under section 3 of the Patents Act and any reference to the Controller shall be construed as including a reference to any officer discharging the functions of the Controller; Ch. 82:76.

“Court” means the High Court;

“geographical indication” means an indication which identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

“good” means any natural or agricultural product or any product of handicraft or industry;

“Minister” means the Minister to whom responsibility for legal affairs has been assigned;

“Paris Convention” means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as last revised;

“producer” means—

- (i) any producer of agricultural products or any other person exploiting natural products;

- (ii) any manufacturer of products of handicraft, or industry; and
- (iii) any trader dealing in the said products.

“Register” means the Register of Geographical Indications.

PART II

PROTECTION OF GEOGRAPHICAL INDICATIONS

Civil proceedings.

3. Any interested person and any interested group of producers or consumers may institute proceedings in the Court to prevent, in respect of geographical indication—

- (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;
- (b) any use which constitutes an act of unfair competition within the meaning of Article 10 *bis* of the Paris Convention; or
- (c) use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like,

and in proceedings under this section, the Court may, in addition to issuing an injunction, award damages and grant any other remedy or relief as it may deem fit.

Availability of protection regardless of registration; presumption.

4. Protection under this Act shall be available—

- (a) regardless of whether a geographical indication has been registered; however, registration of a geographical indication under Part III of this Act

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- shall, in any proceedings under this Act, raise a presumption that such indication is a geographical indication within the meaning of section 2; and
- (b) against a geographical indication which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another territory.

5. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to paragraph (b) of section 4. The Controller, in cases of permitted concurrent use of such indications, shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

Homonymous geographical indications for wines.

6. The following shall not be protected as geographical indications:

Exclusion from protection.

- (a) indications which do not correspond to the definition in section 2;
- (b) indications which are contrary to public order or morality;
- (c) geographical indications which are not or cease to be protected in their country of origin, or which have fallen into disuse in that country.

7. Any person who knowingly and with intent to deceive performs any of the acts referred to in section 3 is guilty of an offence and is liable on summary conviction to a fine of eight thousand dollars and to imprisonment for three years.

Offences.

PART III

REGISTRATION OF GEOGRAPHICAL INDICATIONS

8. (1) An application for the registration of a geographical indication shall be filed with the Controller.

Application for registration; right to file application; representation.

(2) The following shall have the right to file an application:

- (a) persons carrying on an activity as a producer in the geographical area specified in the application, with respect to the goods specified in the application, as well as groups of such persons;
- (b) groups of consumers; and
- (c) any competent authority.

(3) Where an applicant's ordinary residence or principal place of business is outside Trinidad and Tobago, he shall be represented by an Attorney-at-law resident and practising in Trinidad and Tobago.

Contents of application.

9. An application for the registration of a geographical indication shall specify—

- (a) the name, address and nationality of the natural person or legal entity filing the application, and the capacity in which the applicant is applying for registration;
- (b) the geographical indication for which registration is sought;
- (c) the geographical areas to which the geographical indication applies;
- (d) the goods for which the geographical indication applies;
- (e) the quality, reputation or other characteristic of the goods for which the geographical indication is used,

and shall be subject to the payment of the prescribed fee.

Examination; opposition; registration.

10. (1) The Controller shall examine the application to ascertain whether it complies with the requirements of sections 6(b), 8 and 9 and the Regulations pertaining thereto.

(2) (a) Where the Controller finds that the conditions referred to in subsection (1) hereof are fulfilled, he shall cause the application, as accepted, to be published in the prescribed manner.

(b) Any interested person or competent authority may, within the prescribed period and in the prescribed manner, give notice to the Controller of opposition to the registration of the geographical indication on the grounds that one or more of the requirements of sections 6, 8 and 9 are not fulfilled.

(c) The Controller shall send a copy of such a notice to the applicant, and, within the prescribed period and in the prescribed manner, the applicant shall send to the Controller a counter-statement of the grounds on which he relies for his application; if he does not do so, he shall be deemed to have abandoned the application.

(d) If the applicant sends a counter-statement, the Controller shall furnish a copy thereof to the person giving notice of opposition and, after hearing the parties, if either or both wish to be heard, and considering the merits of the case, shall decide whether the geographical indication should be registered.

(3) Where the Controller finds that the conditions referred to in subsection (1) are fulfilled, and either—

- (a) the registration of the geographical indication has not been opposed within the prescribed time limit; or
- (b) the registration of the geographical indication has been opposed and the opposition has been decided in the applicant's favour, he shall register the geographical indication, publish a reference to the registration and issue to the applicant a certificate of registration. Otherwise, he shall refuse the application.

11. Only producers carrying on their activity in the geographical area specified in the Register shall have the right to use a registered geographical indication, in the course of trade, with respect to the products specified in the Register, provided that such products possess the quality, reputation or other characteristic specified in the Register. Right of use.

Cancellation and
rectification of
registration;
publication.

12. (1) Any interested person or any competent authority may apply to the Court for—

- (a) the cancellation of the registration of a geographical indication on the ground that it does not qualify for protection as such having regard to section 6; or
- (b) the rectification of the registration of an appellation of origin on the ground that the geographical area specified in the registration does not correspond to the geographical indication, or that the indication of the products for which the geographical indication is used or the indication of the quality, reputation or other characteristic of such products is missing or unsatisfactory.

(2) In any proceedings under this section, notice of the request for cancellation or rectification—

- (a) shall be served on the person who filed the application for registration of the geographical indication or his successor in title; and
- (b) shall, by a publication in the prescribed manner, be given to all persons having the right to use the geographical indication under section 11.

(3) The persons referred to in subsection (2) and any other interested person may, within a period which shall be specified by the Court in the said notice and publication, apply to join in the proceedings.

(4) The Registrar of the Court shall notify the Controller of the decision of the Court or the decision on any appeal therefrom and the Controller shall record it and publish a reference thereto as soon as possible.

Register;
publication.

13. (1) (a) The Controller shall maintain a Register in which he shall record all matters required by this Act to be recorded.

(b) The Register may be consulted by any person, and any person may obtain extracts therefrom, under the conditions prescribed in the Regulations.

(2) The Controller shall publish in the prescribed manner all the publications provided for in this Act.

14. (1) The Controller may, subject to Regulations made under this Act, correct any error of translation or transcription, clerical error or mistake in any application or document filed with the Controller or in any matter recorded pursuant to this Act or the Regulations.

Correction of errors; extension of time.

(2) If the Controller is satisfied that the circumstances justify it, he may, upon receiving a written request, extend the time for doing any act or taking any proceeding under this Act and the Regulations, upon notice to parties concerned and upon such terms as he may direct. Notwithstanding that the time for doing the Act or taking the proceeding has expired, the Controller may grant an extension of time.

15. The Controller shall, before exercising any discretionary power vested in him by this Act adversely to any party to a proceeding before him give that party an opportunity to be heard.

Exercise of discretionary powers.

16. (1) The Court shall have jurisdiction in cases of dispute relating to the application of this Act and in matters which under this Act are to be referred to the Court.

Competence of Court; appeals.

(2) Any decision taken by the Controller under this Act may be the subject of an appeal by any interested party before the Court and such appeal shall be filed within two months of the date of the decision.

PART IV

SPECIAL PROVISIONS CONCERNING MARKS; EXCEPTIONS

17. The Controller shall, on his own motion or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in Trinidad and Tobago is of such a nature as to mislead the public as to the true place of origin.

Misleading marks.

Marks conflicting with a geographical indication for wines and spirits.

18. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or of a trademark for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated by the Controller on his own motion or at the request of an interested party, with respect to such wines or spirits not having this origin.

Exceptions regarding prior users. [18 of 2000].

19. (1) Nothing in this Act shall prevent continued and similar use in Trinidad and Tobago of a particular geographical indication of another country identifying wines or spirits in connection with goods or services by any national or domiciliary of Trinidad and Tobago who has used that geographical indication in a continuous manner with regard to the same or related goods or services in Trinidad and Tobago either—

- (a) for at least ten years preceding April 15, 1994; or
- (b) in good faith preceding that date.

(2) Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either—

- (a) before the date of entry into force of this Act; or
- (b) before the geographical indication is protected in its country of origin,

this Act shall not prejudice the registrability of or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

(3) Nothing in this Act shall apply in respect of a geographical indication of any country with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in Trinidad and Tobago or in respect of a geographical indication of any other country with respect to products of the vine for which the relevant indication is identical with the customary name of a grape variety existing in Trinidad and Tobago as of January 1, 1995.

(4) Any request for relief made under Part II of this Act in connection with the use or registration of a trademark must be presented within five years after the adverse use of the protected indication has become generally known in Trinidad and Tobago or after the date of registration of the trademark in Trinidad and Tobago, provided that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became generally known in Trinidad and Tobago and provided that the geographical indication is not used or registered in bad faith.

(5) This Act shall in no way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

PART V

REGULATIONS

20. The Minister may make Regulations prescribing all matters Regulations. that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

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GEOGRAPHICAL INDICATIONS REGULATIONS

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SCHEDULE II.

[Subsidiary]

191/1996.

GEOGRAPHICAL INDICATIONS REGULATIONS

made under section 20

PART I

PRELIMINARY

Citation. **1.** These Regulations may be cited as the Geographical Indications Regulations.

Interpretation. **2.** In these Regulations, unless the context otherwise requires—

Ch. 82:76. “periodical” has the same meaning assigned to it by section 2 of the Patents Act;

“section” refers to the specified section of the Act.

Fees. **3.** The fees to be paid in respect of matters arising under the Act or these Regulations shall be those specified in the Schedule of Fees in Schedule I.

Forms. **4.** (1) The forms referred to in these Regulations are those set out in Schedule II.

Schedule II. (2) A requirement under these Regulations to use such a form is satisfied by the use either of a replica of that form or of a form which is acceptable to the Controller and contains the information required by the corresponding form set out in that Schedule.

Language of documents and translations. **5.** Applications shall be in the English language, and any document forming part of an application or submitted to the Controller pursuant to the Act or these Regulations and which is in a language other than English shall be accompanied by an English translation verified by the translator that the translation is to the best of his knowledge complete and faithful.

Indication of name, address, nationality and residence. **6.** (1) Names of natural persons shall be indicated by the person’s family name and given name or names, the family name being indicated before the given names, and the names of legal entities shall be indicated by their full, official designations.

(2) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any, and addresses shall also indicate any telegraphic and telex addresses and facsimile and telephone numbers.

(3) Nationality shall be indicated by the name of the State of which a person is a national and legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.

(4) Residence shall be indicated by the name of the State of which a person is a resident.

7. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the parties or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Controller that he is authorised to sign the document.

Signatures by partnerships, companies and associations.

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a Director or by the Secretary or other principal officer of the body corporate, or by any other person who satisfies the Controller that he is authorised to sign the document.

(3) A document purporting to be signed for or on behalf of an association or persons may be signed by any person who satisfies the Controller that he is duly authorised.

8. (1) The appointment of an Attorney-at-law shall be by an authorisation of agent which shall be signed by the applicant or, if there are more than one, by each applicant.

Representation by Attorney-at-law.

(2) The authorisation of agent appointing an Attorney-at-law may be filed together with the application or within two months from its filing date and if the appointment is not thus made and is not in accordance with section 8(3) and subregulation (1) any procedural steps taken by the agent, other than the filing of the application, shall be deemed not to have been taken.

PART II

REGISTRATION OF GEOGRAPHICAL INDICATIONS

Application for registration.

9. The application for the registration of a geographical indication shall be made on Form No. 1 and shall be signed by the applicant or authorised agent.

Withdrawal of application.

10. (1) The application may be withdrawn in writing to the Controller and signed by each applicant or authorised agent.

(2) The application fee shall not be refunded if the application is withdrawn.

Marking application.

11. (1) Upon receipt, the Controller shall mark on each document making up the application, the actual date of receipt and the application number consisting of the letters TT, slant, the letters GI, slant, the numbers of the year in which the initial papers were received, slant, and a number allotted in the sequential order in which applications are received and where any corrections or other later filed documents are received on different dates, the Controller shall also mark their actual date of receipt in the appropriate place of the request for registration of the geographical indication.

(2) The application number allotted under subregulation (1) shall be quoted in all subsequent communications concerning the application.

Objection to or conditional acceptance of application; hearing.

12. (1) If, upon examination in accordance with section 10(1), the Controller objects to the application for registration of a geographical indication, he shall notify the applicant in writing of his objections with all the relevant details and invite the applicant to amend the application, to submit his observations in writing or to apply for a hearing within two months from the date of the notification and if the applicant does not comply with the invitation within the set period, he shall be deemed to have withdrawn his application.

(2) If, upon examination in accordance with section 10(1), the Controller decides to accept the application subject to amendments, modifications, conditions or limitations he shall communicate the decision to the applicant in writing.

(3) If the applicant objects to the amendments, modifications, conditions or limitations, he shall, within two months from the date of the communication, request a hearing or submit his observations in writing.

(4) If the applicant does not object to such amendments, modifications, conditions, or limitations, he shall notify the Controller in writing and amend his application accordingly.

(5) If the applicant does not respond in one way or the other within the set period, he shall be deemed to have withdrawn his application.

(6) The request for a hearing, which shall be accompanied by the prescribed fee, shall be made in writing to the Controller who, upon receiving the same, shall give the applicant at least one month's notice in writing of the date and time when he may be heard.

13. (1) If, after a hearing or after consideration of the applicant's amendments or observations in writing, the Controller refuses the application or accepts it subject to any amendments, modifications, conditions or limitations to which the applicant objects, he shall communicate his decision to the applicant in writing.

Refusal of application or conditional acceptance to which applicant objects.

(2) The applicant may, within one month from the date of such communication, upon payment of the prescribed fee, request the Controller to state in writing the grounds of his decision and the material used by him in arriving thereat.

14. (1) If the Controller accepts the application unconditionally or accepts it subject to any conditions or limitations to which the applicant does not object, he shall so notify the applicant, requesting him to pay the publication fee within one month from the date of the notification.

Acceptance of application; publication for opposition.

(2) If the publication fee referred to in subregulation (1) is paid within the time limit prescribed, the Controller shall proceed to publish the application setting out—

- (a) the geographical indication for which registration is sought;

- (b) the name, address and nationality of the natural person or legal entity filing the application, and the capacity in which the applicant is applying for registration;
- (c) the name and address of the agent, if any;
- (d) the address for service if an agent has not been appointed in accordance with section 8(3) and regulation 8;
- (e) the demarcation of the geographical area to which the geographical indication applies;
- (f) the goods for which the geographical indication is used;
- (g) the quality, reputation or other characteristic of the goods for which the geographical indication is used, and any conditions under which the indication may be used;
- (h) the filing date and number of the application.

(3) If the publication fee referred to in subregulation (1) is not paid within the time limit prescribed, the application shall be considered withdrawn.

Opposition.

15. (1) The notice of opposition, under section 10(2)(b) shall be given within three months from the date of the publication referred to in regulation 14(2), on Form No. 2, together with payment of the prescribed fee and accompanied by supporting evidence, if any.

(2) The counter-statement referred to in section 10(2)(c) shall be subject to payment of the prescribed fee and shall be given within three months from the date the notice of opposition is sent to the applicant and shall be in writing, stating the grounds upon which the applicant relies for his application and accompanied by supporting evidence, if any.

(3) The request for a hearing under section 10(2)(d) shall be made to the Controller in writing at any time after the filing of the notice of opposition but not later than one month after the expiry

of the prescribed period for filing the counter-statement, and the Controller shall give the parties at least one month's written notice of the date set for the hearing, and each party shall, within that period pay the prescribed fee for the hearing.

(4) Where the opponent or the applicant does not reside or carry on business in Trinidad and Tobago, the Controller may require him to give security for the costs of the opposition proceedings for such amount as the Controller thinks fit.

(5) Where the Controller decides to register the geographical indication, as provided in section 10(3), he shall notify the opponent, if any, and the applicant in writing stating the reasons for his decision and, in the case of the applicant, requesting him to pay the registration fee within one month from the date of the notification.

(6) Where the Controller decides to refuse to register the geographical indication, as provided in section 10(3), he shall notify the opponent and the applicant in writing, stating the reasons for his decision.

16. (1) Subject to the payment of the registration fee within the period prescribed in regulation 15(5), the Controller shall register the geographical indication in accordance with section 10(3) and this regulation.

Registration, publication of reference thereto; issuance of certificate.

(2) The registration of the geographical indication shall include—

- (a) the geographical indication registered;
- (b) the demarcation of the geographical area to which the geographical indication applies;
- (c) the name and address of the natural person or legal entity in which name the indication is registered;
- (d) the name and address of the agent, if any;
- (e) the address for service if an agent has not been appointed in accordance with section 8(3) and regulation 8;

- (f) the goods for which the geographical indication is used;
- (g) the quality, reputation or other characteristic of the goods for which the geographical indication is used and any conditions under which the indication may be used; and
- (h) the filing date and number of the application as well as the date of registration.

(3) The publication of the reference to the registration of a geographical indication shall contain the particulars specified in subregulation (2).

(4) The certificate of registration of the geographical indication shall be issued on Form No. 3.

Cancellation or
rectification of
registration.

- 17.** (1) The publication referred to in section 12(2)(b) shall—
- (a) identify the geographical indication by setting out the particulars referred to in regulation 16(2);
 - (b) identify the person or authority which has applied for the cancellation or rectification of the registration of the geographical indication by setting out the name and address of the person or authority and of the representative or agent, if any; and
 - (c) specify the period within which the persons having the right to use the geographical indication under section 11 may apply to join in the proceedings.

(2) The period to be specified by the Court under section 12(3) shall not be less than one month from the date of the notice or publication, as the case may be.

(3) Where the Court notifies the Controller under section 12(4), that a decision has been taken to cancel or rectify the registration of the geographical indication, the Controller shall, as the case may be, cancel the registration or rectify it in accordance with and in the manner specified in the Court's decision.

(4) The publication, under section 12(4), of the reference to the cancellation or rectification of the registration of a geographical indication shall—

- (a) identify the geographical indication by setting out the particulars referred to in regulation 16(2);
- (b) indicate that the registration of the geographical indication has been cancelled or rectified, as the case may be, and, if rectified, specify the manner in which the registration has been so rectified; and
- (c) cite the Court decision by which the registration of the geographical indication has been cancelled or rectified.

18. Particulars of geographical indications and other proceedings under the Act and any other information required to be published under the Act or these Regulations shall be published, in accordance with the direction of the Controller, in at least one periodical. Publication.

PART III

SPECIAL PROVISIONS CONCERNING MARKS

19. (1) The request, under section 17, to refuse or to invalidate the registration of a misleading mark shall be made on Form No. 4 and shall be subject to the payment of the prescribed fee and the procedure set out in regulation 15 shall apply *mutatis mutandis*. Refusal or invalidation of registration of misleading marks.

(2) Where the Controller on his own motion decides to refuse or invalidate the registration of a mark pursuant to section 17, he shall, in writing, so notify the registered proprietor of the mark, stating the reasons for his decision and giving him at least one month to submit a counter-statement and to request a hearing.

(3) If a hearing is requested, the Controller shall give the registered proprietor at least one month's written notice of the date set for the hearing, and the registered proprietor shall, within that period, pay the prescribed fee for the hearing.

(4) The Controller shall notify the registered proprietor in writing of his final decision, stating the reasons therefor.

Refusal or invalidation of registration of a mark conflicting with a geographical indication for wines and spirits.

20. (1) The request, under section 18, to refuse or to invalidate the registration of a mark which conflicts with a geographical indication for wines and spirits shall be made on Form No. 5 and shall be subject to the payment of a prescribed fee and the procedure set out in regulation 15 shall apply *mutatis mutandis*.

(2) Where the Controller on his own motion decides to refuse or invalidate the registration of a mark pursuant to section 18, he shall, in writing, so notify the registered proprietor of the mark stating the reasons for his decision and giving him at least one month to submit a counter-statement and to request a hearing.

(3) If a hearing is requested the Controller shall give the registered proprietor at least one month's written notice of the date set for the hearing and the registered proprietor shall within that period pay the prescribed fee for the hearing.

(4) The Controller shall notify the registered proprietor in writing of his final decision stating the reasons therefor.

Publication of invalidation of registration of mark.

21. (1) The Controller shall record and publish a reference to the invalidation of the registration of a mark pursuant to section 17 or 18.

(2) The publication of the reference to the invalidation of the registration of the mark pursuant to section 17 or 18 shall include—

- (a) the representation of the mark;
- (b) the registration number of the mark;
- (c) the name and address of the registered proprietor;
- (d) the date of registration;
- (e) the list of goods and services in respect of which the mark was registered with an indication of the corresponding class or classes of the International Classification; and
- (f) an indication of the grounds on which the registration of the mark has been invalidated.

PART IV

GENERAL

- 22.** (1) There shall be furnished to the Controller—
- (a) by every applicant for the registration of a geographical indication, an address for service in Trinidad and Tobago for the purpose of his application; and
- (b) by every person including the applicant for, or the owner of, a geographical indication, as the case may be concerned in any proceedings to which any of these Regulations relate, an address for service in Trinidad and Tobago,

Address for service.

and the address so furnished or, where another address being an address in Trinidad and Tobago has been furnished in place thereof, that address shall be treated for the purposes of that application or those proceedings, as appropriate, as the address of that applicant or, as the case may be, of that person.

(2) Where an agent has been appointed in accordance with section 8(3) and regulation 8, the address of the agent shall, for all purposes connected with the Act and these Regulations, be treated as the address to which communications to the person or persons who appointed the agent shall be transmitted.

23. When the last day for doing any act or taking any proceeding falls on a day when the Intellectual Property Office is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Intellectual Property Office is next open for business.

Excluded days.

24. Consultation of the Register shall be subject to payment of the prescribed fee and requests for certified copies of extracts from the Register or for copies of documents shall be made to the Controller in writing and shall be subject to payment of the prescribed fee.

Consultation of Register, request for extracts therefrom and for copies of documents.

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Geographical Indications

[Subsidiary]

Geographical Indications Regulations

Entries of changes in the Register.

25. The Controller shall cause to be entered in the Register in respect of every geographical indication in addition to the information indicated in regulation 16(2), any change with respect to such information in particular in the name, or address, or address for service indicated therein.

Corrections of errors.

26. Corrections of errors, referred to in section 14(1), may be made by the Controller either upon receipt of a request in writing and subject to such terms as he may consider appropriate, or on his own initiative and any correction shall be communicated in writing to all interested persons and where considered necessary shall be published by the Controller.

Extension of time.

27. The request for an extension of time, referred to in section 14(2), shall be subject to the payment of the prescribed fee.

Hearing.

28. (1) Before exercising adversely to any person any discretionary power given to the Controller by the Act or these Regulations, the Controller shall notify such person, in writing, of the opportunity to be heard thereon, and indicating a time limit, which shall not be less than one month, for filing a request for a hearing.

(2) The request for a hearing shall be in writing and shall be subject to payment of the prescribed fee.

(3) Upon receiving such request, the Controller shall give the person applying, and any other interested persons at least one month's notice, in writing, of the date and time of the hearing.

(4) After hearing the party or parties desiring to be heard, the Controller shall decide the matter and shall notify all parties of this decision and if any party so desires shall give his reason for the decision.

Service by mail.

29. Any notice, application or other document sent to the Controller by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail and in proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

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30. At any stage of any proceedings before the Controller, he may direct that such documents, information or evidence as he may require be furnished within such period of time as he may fix.

Directions as to
furnishing of
documents.

31. Any irregularity in any procedure before the Controller may be rectified, on such terms as he may direct.

Corrections of
irregularities.

32. Where, under these Regulations, any person is to do any act or thing or any document or evidence is required to be produced or filed and it is shown to the satisfaction of the Controller that from any reasonable cause that person is unable to do that act or thing or that that document or evidence cannot be produced or filed, the Controller may, upon the production of such evidence and subject to such terms as he thinks fit, dispense with the doing of any such act or thing, or the production or filing of such document or evidence.

Dispensation by
the Controller.

33. The Intellectual Property Office shall be open to the public from Monday to Friday inclusive, each week, between the hours of 9.00 a.m. and 4.00 p.m., for all classes of business.

Hours of
business.

34. (1) Where under these Regulations evidence may be filed, it shall be by statutory declaration or affidavit.

Evidence.

(2) The Controller may, if he thinks fit in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit or declaration.

35. (1) Any statutory declaration or affidavit filed under the Act or these Regulations shall be made before any officer authorised by law in any part of Trinidad and Tobago to administer an oath for the purpose of any legal proceedings.

Statutory
declarations
and affidavits.

(2) Statutory declarations or affidavits made outside Trinidad and Tobago shall be made before a Consul or Notary Public.

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Chap. 82:78

Geographical Indications

[Subsidiary]

Geographical Indications Regulations

(Regulation 3).

SCHEDULE I

FEEES

MATTER OR PROCEEDING	AMOUNT OF FEE	FORM
1. Application for registration of geographical indication [Sections 8(1) and 9; Regulation 9]	\$500.00	Form No. 1
2. Request for hearing [Sections 10(1) and (2)(d), 17, 18; Regulations 12(3), 15(3), 19(2), 20(2), 28(2)]	\$100.00	
3. Request to the Controller to state in writing grounds of decision to refuse application or to accept it subject to conditions [Section 10(1); Regulation 13]	\$50.00	
4. Publication fee [Section 10(2)(a); Regulation 14(1)]	\$50.00 plus fee payable to publisher	
5. Notice of opposition to registration of geographical indication [Section 10(2)(b); Regulation 15(1)]	\$100.00	
6. Counter-statement to notice of opposition [Section 10(2)(c); Regulation 15(2)]	\$100.00	
7. Registration Fee [Section 10(3); Regulation 15(5)]	\$2,500.00	
8. Request to refuse or to invalidate the registration of a misleading mark [Section 17; Regulation 19(1)]	\$250.00	Form No. 4
9. Request to refuse or to invalidate the registration of a mark which conflicts with a geographical indication for wines and spirits [Section 18; Regulation 20(1)]	\$250.00	Form No. 5
10. Consultation of Register (for every quarter of an hour or part thereof) (Regulation 24)	\$20.00	
11. Request for certified copies of extracts from Register or for copies of documents (per page) (Regulation 24)	\$5.00 per printed page and \$20.00 to certify	
12. Request for correction of error [Section 14(1); Regulation 26]	\$20.00	
13. Request for extension of time [Section 14(2); Regulation 27]	\$150.00	

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SCHEDULE II

(Regulation 4).

FORM 1

INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO	
Form No. 1 (Regulation 9) GEOGRAPHICAL INDICATIONS ACT APPLICATION FOR REGISTRATION OF GEOGRAPHICAL INDICATION To: The Controller Intellectual Property Office	For Official Use Date of Receipt by Intellectual Property Office: APPLICATION No. (Office's Stamp) Fees received on:
	Applicant's or Attorney's File Reference:
THE APPLICANT(S) REQUEST(S) THE REGISTRATION OF A GEOGRAPHICAL INDICATION IN RESPECT OF THE FOLLOWING PARTICULARS: I. APPLICANT(S)* Additional information is contained in supplemental box <input type="checkbox"/> Name(s): Address(es): Nationality: Country of residence or principal place of business: Capacity in which Applicant is applying for registration: Tel. No.: Telegraphic Address: Telex No.: Fax No.:	

*The data concerning each applicant must appear in this box or, if the space is insufficient, in the supplemental box.
(Form No. 1, first page)

FORM 1—Continued

Address for service in Trinidad and Tobago*:
II. ATTORNEY-AT-LAW The following Attorney-at-law has been appointed by the applicant(s) in the Authorisation of Agent: <input type="checkbox"/> accompanying this Form <input type="checkbox"/> to be filed within two months from the filing of the application for registration [Regulation 8(2)] Name: Address: Tel. No.: Telegraphic Address: Telex No.: Fax No.:
III. GEOGRAPHICAL INDICATION The geographical indication for which registration is sought is the following:
IV. GEOGRAPHICAL AREA The following is the demarcation of the territory of the country, or region, or locality in that territory, to which the geographical indication applies, and from which the goods for which the geographical indication is used originate: Additional information, possible in graphic form, maps, etc., <input type="checkbox"/> accompanies this Form <input type="checkbox"/> is contained in the supplemental box

* Where an Attorney-at-law has been appointed, the address of the Attorney-at-law shall be treated as the address to which any communication shall be transmitted [Regulation 22(2)].

(Form No. 1, second page)

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V. GOODS
The goods for which the geographical indication is used are the following:
VI. QUALITY, REPUTATION OR OTHER CHARACTERISTICS
The quality, reputation or other characteristics of the goods for which the geographical indication is used, and any conditions under which the indication may be used, are the following:
<input type="checkbox"/> Additional information is contained in the supplemental box
<input type="checkbox"/> Additional information accompanies this Form
VII. FEES
accompany this Form <input type="checkbox"/>
VIII. SUPPLEMENTAL BOX*

*Use this box if any of the boxes is not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. APPLICANT(S) (continued)"].

(Form No. 1, third page)

FORM 1—Continued

VIII. SUPPLEMENTAL BOX* (<i>Continued</i>)
IX. SIGNATURE(S) [Applicant(s)/†] (Date)
TO BE FILLED IN BY THE CONTROLLER Date of receipt of corrections and later filed papers completing the application:

*Use this box if any of the boxes is not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., “II. APPLICANT(S)*continued*”].

† Type name(s) under signature(s). The typed names and signatures of all applicants should appear (one below the other).

(Form No. 1, fourth and last page).

FORM 2

INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO	
Form No. 2 [Regulation 15(1)] GEOGRAPHICAL INDICATIONS ACT NOTICE OF OPPOSITION To: The Controller Intellectual Property Office	For Official Use Notice of opposition received on: Fees received on: Applicant's or Attorney's File Reference:
I. IN THE MATTER OF: Application No. for Registration of Geographical Indication Filing Date of Application: Published in the periodical of theday of 20, No., page	
II. OPPONENT(S)* Name(s): Address(es): Additional information is contained in the supplementary box <input type="checkbox"/> Address for service in Trinidad and Tobago†	

* If there is more than one person or competent authority, together, opposing the registration of the geographical indication, the data concerning each opponent must appear in this box or, if the space is not sufficient, in the supplementary box.

† Where an Attorney-at-law has been appointed, the address of the Attorney-at-law shall be treated as the address to which communication shall be transmitted [Regulation 22(2)].

(Form No. 2, first page)

FORM 2—Continued

<p>III. GROUND(S) FOR OPPOSITION: The Grounds for opposition are as follows:</p> <p>Additional information is contained in the supplemental box <input type="checkbox"/></p> <p>Supporting evidence accompanies this Form <input type="checkbox"/></p>
<p>IV. ATTORNEY-AT-LAW</p> <p>The following Attorney-at-law has been appointed by the applicant in the Authorisation of Agent:</p> <p><input type="checkbox"/> accompanying this Form</p> <p>Name:</p> <p>Address:</p> <p>Tel. No.: Telegraphic Address: Telex No.: Fax No.:</p>
<p>V. FEES <input type="checkbox"/> accompany this Form</p>
<p>VI. SUPPLEMENTAL BOX*</p>

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. OPPONENT(S) (continued)"].

(Form No. 2, second page)

VI. SUPPLEMENTAL BOX* (<i>Continued</i>)
VII. SIGNATURE(S) [Opponent (s)Attorney†] <i>(Date)</i>

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. OPPONENT(S) (continued)"].

† Type name(s) under signature and delete whichever does not apply. The typed names and signatures of all opponents should appear (one below the other).

(Form No. 2, third and last page).

FORM 3

INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO
<p>Form No. 3 GEOGRAPHICAL INDICATIONS ACT CERTIFICATE OF REGISTRATION OF GEOGRAPHICAL INDICATION</p>
<p>In accordance with section 10(3) and regulation 16(4), it is hereby certified that a geographical indication having the Registration No. has been registered in the name(s) of:</p> <p style="padding-left: 40px;">Name(s):</p> <p style="padding-left: 40px;">Address(es):</p> <p>on: in respect of a geographical indication registered pursuant <i>(Date)</i></p> <p>to an application</p> <p>filed on: <i>(Date)</i></p> <p>being a geographical indication used for: <i>(goods)</i></p> <p>and which applies to: <i>(geographical area)</i></p> <p>A description of the quality, reputation or other characteristic of the goods for which the geographical indication is used and any conditions under which the indication may be used accompanies this certificate.</p>
<p>Date:</p> <p>..... <i>Controller</i></p>

(Form No. 3, only page).

FORM 4

INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO	
Form No. 4 (Regulation 19) GEOGRAPHICAL INDICATIONS ACT REQUEST TO REFUSE OR INVALIDATE REGISTRATION OF MISLEADING MARK To: The Controller Intellectual Property Office	For Official Use Request received on: Fees received on: Applicant's or Attorney's File Reference:
I. IN THE MATTER OF: Application for Registration/Registration No.* Filing/Registration* of Mark: Date: Application/Registration* Published in the periodical (No.) (Page) (Date)	
II. APPLICANT(S)† Name(s): Address(es): Additional information is contained in the supplemental box <input type="checkbox"/> Address for service in Trinidad and Tobago:‡	

* Delete whichever does not apply.

† If there is more than one person or competent authority, together, requesting the refusal or invalidation of the registration of the trademark, the data concerning each applicant must appear in this box or, if the space is not sufficient, in the supplemental box.

‡ Where an Attorney-at-law has been appointed, the address of the Attorney-at-law shall be treated as the address to which communication shall be transmitted [Regulation 22(2)].

(Form No. 4, first page)

FORM 4—Continued

<p>III. GROUND(S) FOR REQUEST: The Grounds for request to refuse or to invalidate the registration of the above identified mark are as follows:</p> <p>Additional information is contained in the supplemental box <input type="checkbox"/></p> <p>Supporting evidence accompanies this Form <input type="checkbox"/></p>
<p>IV. ATTORNEY-AT-LAW</p> <p>The following Attorney-at-law has been appointed by the applicant in the Authorisation of Agent:</p> <p><input type="checkbox"/> accompanying this Form</p> <p>Name:</p> <p>Address:</p> <p>Tel. No.: Telegraphic Address: Telex No.: Fax No.:</p>
<p>V. FEES <input type="checkbox"/> accompanying this Form</p>
<p>VI. SUPPLEMENTAL BOX*</p>

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. APPLICANT(S) (continued)"].

(Form No. 4, second page)

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VI. SUPPLEMENTAL BOX* (<i>Continued</i>)
VII. SIGNATURE(S) [Applicant(s)Attorney†] (Date)

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. APPLICANT(S) (continued)"].

†Type name(s) under signature and delete whichever does not apply. The typed names and signatures of all applicants should appear (one below the other).

(Form No. 4, third and last page).

FORM 5

INTELLECTUAL PROPERTY OFFICE, TRINIDAD AND TOBAGO	
Form No. 5 (Regulation 20) GEOGRAPHICAL INDICATIONS ACT REQUEST TO REFUSE OR INVALIDATE REGISTRATION OF A MARK CONFLICTING WITH A GEOGRAPHICAL INDICATION FOR WINES AND SPIRITS To: The Controller Intellectual Property Office	For Official Use Request received on: Fees received on: Applicant's or Attorney's File Reference:
I. IN THE MATTER OF: Application for Registration/Registration No.* Filing/Registration* of Mark: <p style="text-align: right;">Date:</p> Application/Registration* Published in the periodical: <p style="text-align: center;">(No.) (Page) (Date)</p>	
II. APPLICANT(S)† Name(s): Address(es): Additional information is contained in the supplemental box <input style="width: 30px; height: 15px;" type="checkbox"/> Address for service in Trinidad and Tobago‡:	

* Delete whichever does not apply.

† If there is more than one person or competent authority, together, requesting the refusal or invalidation of the registration of the trademark, the data concerning each applicant must appear in this box or, if the space is not sufficient, in the supplemental box.

‡ Where an Attorney-at-law has been appointed, the address of the Attorney-at-law shall be treated as the address to which communication shall be transmitted [Regulation 22(2)].

(Form No. 5, first page).

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FORM 5—Continued

<p>III. GROUND(S) FOR REQUEST: The grounds for request to refuse or to invalidate the registration of the above identified mark are as follows:</p> <p>Additional information is contained in the supplemental box <input type="checkbox"/></p> <p>Supporting evidence accompanies this form <input type="checkbox"/></p>
<p>IV. ATTORNEY-AT-LAW</p> <p>The following Attorney-at-law has been appointed by the applicant in the Authorisation of Agent:</p> <p><input type="checkbox"/> accompanying this Form</p> <p>Name:</p> <p>Address:</p> <p>Tel. No.: Telegraphic Address: Telex No.: Fax No.:</p>
<p>V. FEES <input type="checkbox"/> accompanying this Form</p>
<p>VI. SUPPLEMENTAL BOX*</p>

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. APPLICANT(S) (continued)"].

(Form No. 5, second page)

FORM 5—Continued

VI. SUPPLEMENTAL BOX* (*Continued*)

VII. SIGNATURE(S) [Applicant(s)Attorney†]
(*Date*)

*Use this box if any of the boxes are not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title [e.g., "II. APPLICANT(S) (continued)"].

†Type name(s) under signature and delete whichever does not apply. The typed names and signatures of all applicants should appear (one below the other).

(Form No. 5, third and last page).

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