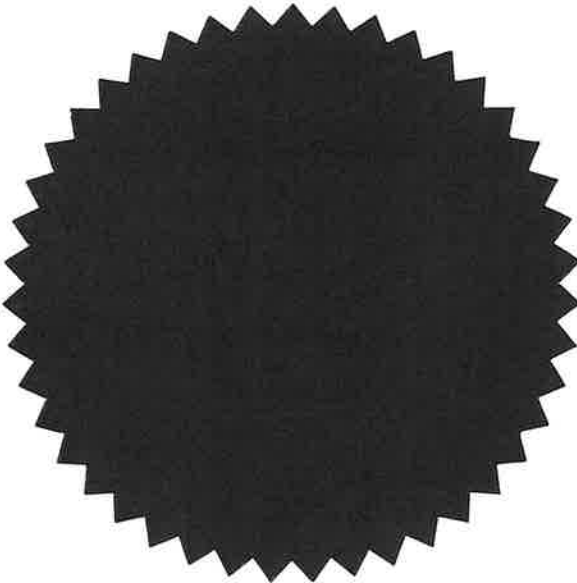


JAMAICA

No. 11 -2018

I assent,



P. Allen

Governor-General.

3rd day of May 2018

AN ACT to Amend the Protection of Geographical Indications Act; and for connected matters.

[*4th day of May 2018*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Protection of Geographical Indications (Amendment) Act, 2018 and shall be read and construed as one with the Protection of Geographical Indications Act (hereinafter referred to as the "principal Act").

Short title
and
construction.

Amendment
of section 2
of principal
Act.

2. Section 2(1) of the principal Act is amended by renumbering the section as section 2 and in the section as renumbered by—

- (a) inserting in the correct alphabetical sequence the following definition—

““Committee” means the Geographical Indications Advisory Committee established under section 7A;” and

- (b) deleting the definition of “good” and substituting therefor the following definition—

““good” means any natural or agricultural product or by-products thereof (including wines and spirits) or any product of industry or handicraft;”.

Amendment
of section 3
of principal
Act.

3. Section 3(1)(c) of the principal Act is amended by—

- (a) deleting the words “wines or spirits”, wherever they appear and substituting therefor, in each case, the word “goods”; and

- (b) deleting the words “as the case may be”.

Amendment
of section 5
of principal
Act.

4. Section 5 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “which relate to wines”; and

- (b) in subsection (2), by inserting immediately after the words “homonymous geographical indications”, the words “referred to in subsection (1)”.

Insertion of
new section
7A of
principal Act.

5. The principal Act is amended by inserting next after the heading “Part III. *Registration of Geographical Indications*” the following section—

“ Geographical Indications Advisory Committee. 7A.—(1) There shall be established for the purposes of this Act a body to be called the Geographical Indications Advisory Committee.

Schedule.

(2) The provisions of the Schedule shall have effect with respect to the constitution and

procedures of the Committee and otherwise in relation thereto.

(3) The Committee shall—

- (a) upon the request of the Registrar, review applications for registration of geographical indications; and
- (b) upon review of an application under paragraph (a), make a recommendation to the Registrar for the acceptance or refusal of the application.

(4) The recommendation made under this section in relation to an application, shall be signed by the Chairman of the Committee and communicated to the Registrar as soon as possible.”.

6. Section 10 of the principal Act is amended—

Amendment
of section 10
of principal
Act.

- (a) by deleting the word “objector” wherever it appears and substituting therefor the word “opponent” in each case;
- (b) in subsection (3), by deleting the words “prescribed manner” and substituting therefor the words “*Intellectual Property Journal*”; and
- (c) in subsection (9), by deleting the word “*Gazette*” and substituting therefor the words “*Intellectual Property Journal* or the *Gazette*,”.

7. Section 17 of the principal Act is amended, in subsection (3)(b), by inserting immediately after the words “published in the” the words “*Intellectual Property Journal* or the”.

Amendment
of section 17
of principal
Act.

8. Section 18(1) of the principal Act is amended by—

Amendment
of section 18
of principal
Act.

- (a) deleting the words “wines or spirits, as the case may be” and substituting therefor the word “goods”; and
- (b) deleting the words “wines or spirits” and substituting therefor the word “goods”.

Amendment
of section 19
of principal
Act.

9. Section 19(1) of the principal Act is amended by deleting the words “identifying wines or spirits in connection with goods or services produced” and substituting therefor the words “identifying goods in connection with goods produced or services provided”.

Insertion of
Schedule in
principal Act.

10. The principal Act is amended by inserting next after section 19, the following Schedule—

“ SCHEDULE (Section 7A)

Geographical Indications Advisory Committee

Constitution
of the
Committee.

1.—(1) The Committee shall consist of such number of persons not being less than five nor more than seven—

- (a) appointed by the Minister by instrument in writing, being persons with knowledge and expertise in geographical indications; and
- (b) including the Registrar who shall be an *ex-officio* member of the Committee.

(2) The Minister shall appoint one of the members appointed pursuant to subparagraph (1), who shall be an attorney-at-law with at least seven years experience at the Bar, to be the Chairman of the Committee.

(3) In the case of an absence or inability to act—

- (a) of the Chairman, the Minister may appoint any member of the Committee to act as Chairman; or
- (b) of any member, the Minister may appoint any person who has the knowledge and expertise referred to in subparagraph (1).

Tenure of
office.

2.—(1) A member of the Committee shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years from the date of appointment.

(2) Every member of the Committee shall be eligible for reappointment.

Resignation.

3.—(1) The Chairman may, at any time, resign his office by instrument in writing addressed to the Minister.

(2) The resignation shall take effect as from the date of receipt by the Minister of the instrument.

(3) A member other than the Chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman.

(4) From the date of the receipt by the Minister of such instrument, the member shall cease to be a member of the Committee.

4. The Minister may revoke the appointment of any member if the member— Revocation
of appoint-
ment.

- (a) is unable to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause);
- (b) is convicted of a criminal offence;
- (c) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (d) fails to discharge the functions of his office in a competent manner;
- (e) fails to attend three consecutive meetings of the Committee, without reasonable excuse or explanation; or
- (f) engages in such activities as are reasonably considered prejudicial to the interest of the Committee.

5. The names of all members of the Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication
of member-
ship.

6.—(1) The Minister may, on the written application of any member of the Committee other than the Registrar, grant leave of absence to that member. Leave of
absence.

(2) The Minister may appoint any person who has the knowledge and expertise referred to in paragraph 1(1), to act temporarily in the place of any member who is absent.

(3) The Minister may revoke the appointment of a member if that member has been charged with an offence involving fraud, dishonesty or moral turpitude or an offence listed in the Second Schedule to the *Proceeds of Crime Act* or an offence that is similar to any such offence in another jurisdiction.

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Meetings.

7.—(1) The Committee shall meet at such times as may be necessary or expedient to undertake the functions specified in section 7A(3) of the Act and the meetings shall be held at such places and times and on such days as the Committee may determine.

(2) The Chairman of the Committee shall preside at all meetings of the Committee, and if the Chairman is absent from a meeting the members present and constituting a quorum, shall elect one of their numbers to preside at the meeting.

(3) The quorum of the meetings of the Committee shall be three.

(4) The decisions of the Committee shall be by a majority of the members present and voting, and in addition to an original vote, the Chairman or other member presiding at a meeting, shall have a casting vote in any case in which the voting is equal.

(5) The minutes of each meeting shall be kept in proper form and shall be confirmed as soon as practicable at a subsequent meeting.

Chairman
may call a
special
meeting.

8. The Chairman may, at any time, call a special meeting of the Committee, and shall call a special meeting within seven days of receipt of a written request for that purpose, addressed to the Chairman by any two members of the Committee.

Conflict of
interest.

9. A member who is directly or indirectly interested in any matter which is being considered by the Committee shall—

- (a) disclose the nature of his interest at any meeting of the Committee; and
- (b) not take part in any deliberation or decision of the Committee with respect to that matter.

Vacancy, acts
or omission.

10.—(1) If any vacancy occurs in the membership of the Committee, the vacancy shall be filled by the appointment of another member, however, the appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

(2) No act done or proceeding taken under this Act, shall be questioned on the ground—

- (a) of any vacancy in the membership of or any defect in the constitution of the Committee; or
- (b) of any omission, defect or irregularity, not affecting the merits of the case.

11.—(1) No action, suit or other proceedings shall be brought or instituted personally against any member in respect of any act done *bona fide* in the course of carrying out any of the provisions of this Act. Liability of members.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Committee shall be liable to the extent that it would be if that member were a servant or agent of the Committee.

12. There shall be paid from the funds of the Jamaica Intellectual Property Office to the Chairman and other members of the Committee, such remuneration (whether by honorarium, salaries or fees) or allowances, as the Minister responsible for the public service may determine.” Remuneration.

11.—(1) The provisions of the *Protection of Geographical Indications Regulations, 2009*, specified in the First Column of the Schedule to this Act are amended in the manner set out in relation thereto, in the Second Column of that Schedule. Amendment of *Protection of Geographical Indications Regulations, 2009*.

(2) The amendments specified in the Second Column of the Schedule to this Act shall be read and construed as one with the said Regulations. Schedule.

SCHEDULE

(Section 11)

*Amendment of the Protection of Geographical
Indications Regulations, 2009*

Provision	Amendment
Regulation 7	<p>1. Delete the marginal note and substitute therefor the following—</p> <p style="padding-left: 40px;">“Publication of application”.</p> <p>2. Delete from paragraph (2)—</p> <p style="padding-left: 40px;">(a) the numeral “(2)” and substitute therefor the numeral “(1)”;</p> <p style="padding-left: 40px;">(b) the word “objections” and substitute therefor the word “oppositions”.</p>
Regulation 8	<p>1. Delete from—</p> <p style="padding-left: 40px;">(a) the marginal note the word “Objection” and substitute therefor the word “Opposition”;</p> <p style="padding-left: 40px;">(b) paragraph (1)—</p> <p style="padding-left: 80px;">(i) the word “objects to” and substitute therefor the word “opposes”;</p> <p style="padding-left: 80px;">(ii) the words “the objector” and substitute therefor the words “the opponent”;</p> <p style="padding-left: 80px;">(iii) the word “objection” and substitute therefor the word “opposition”.</p> <p>2. Delete from paragraphs (2) and (3) the word “objector” and substitute therefor the word “opponent”.</p>

Provision	Amendment
Regulation 9	<ol style="list-style-type: none">1. In paragraph (1), delete the word “objection” and substitute therefor the word “opposition”.2. Delete from paragraph (2) the word “objector” and substitute therefor the word “opponent”.
Regulation 10	Delete the word “objector” wherever it appears and substitute therefor the word “opponent”.
Regulation 13	<ol style="list-style-type: none">1. Insert immediately before the word “<i>Gazette</i>” the words “<i>Intellectual Property Journal</i> (referred to in regulation 15) or the,”.2. Delete the words “or in the <i>Geographical Indications Journal</i> (referred to in regulation 15)”.
Regulation 14	<ol style="list-style-type: none">1. In paragraph (3), in the opening words insert immediately after the words “by notice,” the words “in the <i>Intellectual Property Journal</i> or,”.2. In paragraph (10)(c), insert immediately before the word “<i>Gazette</i>” the words “<i>Intellectual Property Journal</i> or the,”.
Regulation 15	Delete— <ol style="list-style-type: none">(a) the marginal note and substitute therefor the following—<p style="text-align: center;"><i>“Intellectual Property Journal.”</i>;</p>(b) the words “an annual journal which shall be entitled the <i>Geographical Indications Journal</i>” and substitute therefor the words “a Journal which shall be entitled “<i>The Intellectual Property Journal</i>”.”

Provision	Amendment
—————	—————
Regulation 16	<p>1. Delete from paragraph (2) the words “wines or spirits” and substitute therefor the word “the goods”.</p> <p>2. In paragraph (4), insert immediately before the word “<i>Gazette</i>” “the words “<i>Intellectual Property Journal</i> or the”.</p>
First Schedule	
Form 2	<p>Delete—</p> <p>(a) from the heading, the words “Regulation 8(2)” and substitute therefor the words “Regulation 5(1)”;</p> <p>(b) from item II the words “the entry in the register in respect of”.</p>
Form 3	<p>Delete—</p> <p>(a) the words “Section 10” and substitute therefor the words “Regulation 8(1)”;</p> <p>(b) the word “Objection” from the heading, and wherever else it appears and substitute therefor in each case the word “opposition”;</p> <p>(c) from item II the word “objecting to” and substitute therefor the word “opposing”.</p>
Form 4	<p>Delete—</p> <p>(a) the heading “Section 10(6)” and substitute therefor the word “Regulation 9(1)”;</p> <p>(b) from the annex the words “Rule 9(1)” and substitute therefor the words “Regulation 9(1)”;</p>

<u>Provision</u>	<u>Amendment</u>
	(c) note 4, and renumber notes 5, 6 and 7 as notes 4, 5 and 6.
Form 5	Delete— (a) the words “Section 10(9)” and substitute therefor the words “Regulation 11”; (b) the word “accompanies” and substitute therefor the word “accompany”.
Form 6	Delete from the heading the words “sections 12 and 13” and substitute therefor the words “Regulation 14(1)”.
Form 7	Delete from the heading “section 14” and substitute therefor the words “Regulation 14(5)”.
Form 8	Delete from the heading “section 17(2)(b)” and substitute therefor the words “Regulation 16(1)”.
Form 9	Delete— (a) from the heading— (i) the word “Invalidate” and substitute therefor the word “Revoke”; (ii) the words “for Wines and Spirits”; (iii) the words “section 18” and substitute therefor the words “regulation 16(2)”;

Provision

Amendment

- (b) from note 2 of the annex, the word “invalidation” and substitute therefor the word “revocation”.

Passed in the House of Representatives this 6th day of December, 2017.

PEARNEL CHARLES, CD, MP, JP
Speaker.

Passed in the Senate this 9th day of March, 2018 with three (3) amendments.

THOMAS TAVARES-FINSON, CD, QC, JP
President.

On the 3rd day of April, 2018 the House of Representatives agreed to the amendments made by the Senate.

PEARNEL CHARLES, CD, MP, JP
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Heather E. Cooke
Clerk to the Houses of Parliament.