

# **GEOGRAPHICAL INDICATIONS (AMENDMENT) BILL, 2023**

## **Arrangement of Sections**

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### **Section**

1.	Short title and commencement.....	2
2.	Amendment of section 2 of the principal Act.....	2
3.	Amendment of section 4 of the principal Act.....	3
4.	Insertion of new sections 7A and 7B into the principal Act.....	3
5.	Insertion of new section 19A into the principal Act.....	4

<b>OBJECTS AND REASONS</b>	<b>4</b>
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# GEOGRAPHICAL INDICATIONS (AMENDMENT) BILL, 2023

## A BILL FOR AN ACT TO AMEND THE GEOGRAPHICAL INDICATIONS ACT

**Enacted by the Parliament of The Bahamas**

### **1. Short title and commencement.**

- (1) This Act, which amends the Geographical Indications Act, 2015 (*No. 44 of 2015*) may be cited as the Geographical Indications (Amendment) Act, 2023.
- (2) This Act shall come into operation on such day as the Minister has, by notice published in the Gazette, appointed for the coming into operation of the principal Act.

### **2. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended by —

- (a) the insertion in the appropriate alphabetical order of the following new definition —
  - “ **financial services provider**” has the meaning conferred by section 2(2) of the Financial and Corporate Service Providers Act, 2020;”;
- (b) the deletion and substitution of the following definition —
  - “ **Registrar**” means the Registrar of the Intellectual Property Office and any reference to the Registrar shall be construed as including a reference to any officer discharging the functions of the Registrar;”.

### **3. Amendment of section 4 of the principal Act.**

Section 4 of the principal Act is amended —

- (a) by the deletion of the section heading and the substitution as follows —  
**“4. Homonymous geographical indications.”**;
- (b) by the deletion of subsection (1) and the substitution as follows —  
“(1) Subject to the provisions of this section and section 3(2), the Registrar shall grant protection to homonymous geographical indication.”;
- (c) by the deletion of subsection (4) and the substitution as follows —  
“(4) For the purpose of this section, homonymous geographical indications are those that are spelled or pronounced alike, but which identify products originating in different places or countries.”.

### **4. Insertion of new sections 7A and 7B into the principal Act.**

The principal Act is amended by the insertion immediately after section 7 of the following new sections —

#### **“7A. Courts power to grant relief in certain circumstances.**

In any proceedings brought by an interested party related to goods which are being sold, marketed for sale or are imported for sale in The Bahamas in contravention of section 12, the Court may grant relief to such interested party by way of an order for the forfeiture, seizure or destruction of the goods in issue.

#### **7B. Request to Comptroller of Customs to treat imports as prohibited goods.**

- (1) Where goods are being imported into the Bahamas in circumstances which amount to a contravention of section 6 (1), an interested party may give notice in writing to the Comptroller of Customs requesting the Comptroller to treat the goods in issue as prohibited goods under the Customs Management Act.
- (2) The Comptroller of Customs shall not be obliged to act in respect or a notice presented in accordance with subsection 1, unless the Comptroller is satisfied that the party presenting the Notice has presented information which sufficiently demonstrates that that party is a person entitled to the benefit of the geographical indication.”.

**5. Insertion of new section 19A into the principal Act.**

The principal Act is amended by the insertion immediately after section 19 of the following new section —

**“19A. Power of Court to order certain information.**

- (1) Where legal proceedings have been instituted by an interested party against an opposing party that is alleged to have engaged in acts which contravene section 6(1) on a commercial scale the Court may, on the application of the interested party, order the opposing party, a financial services provider or any person within the jurisdiction of the court, to disclose to the interested party or the Court, the banking or other commercial information of the opposing party.
- (2) Where in any case the Court has adjudged that one or more persons have engaged in conduct which contravenes section 6(1), the Court may order any or all such persons to provide to an interested party or the court information on the origin and distribution of networks of the goods in issue.”.

**OBJECTS AND REASONS**

This Bills seeks to amend the Geographical Indications Act, 2015.

Clause 2 of the Bill seeks to amend section 2 of the Act to provide for the insertion of the definition of financial services provider and the substitution of the definition of Registrar.

Clause 3 of the Bill seeks to amend section 4 of the Act to remove the limitation of homonymous geographical indications to wines.

Clause 4 of the Bill seeks to provide for the insertion of new clauses 7A and 7B to —

- (a) empower the Court to grant relief in certain circumstances; and
- (b) to permit an interested party to request to Comptroller of Customs to treat imports as prohibited goods.

Clause 5 of the Bill seeks to provide for a new section 19A into the Act, to empower the Court to order the provisions of certain information to an interested party or to the Court.