

GEOGRAPHICAL INDICATIONS REGULATIONS, 2023

Arrangement of Regulations

Regulation

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GEOGRAPHICAL INDICATIONS ACT, 2015 (NO. 44 OF 2015)

GEOGRAPHICAL INDICATIONS REGULATIONS, 2023

The Minister in exercise of the powers conferred by section 24 of the Geographical Indications Act, 2015 (*No. 44 of 2015*) hereby makes the following rules

PART I - PRELIMINARY

1. Citation.

This Act may be cited as the Geographical Indications Regulations, 2023.

2. Interpretation.

In these Regulations —

“**Agent**” means a counsel or attorney admitted to practice in The Bahamas in accordance with section 2 of the Legal Profession Act (*Ch. 64*);

“**declaration**” means a declaration under the Oaths Act (*Ch. 60*);

“**Office**” means the Intellectual Property Office referred to in section 3 of the Patents Act, 2015 (*No. 40 of 2015*).

3. Fees.

Any fee required to be paid in connection with applications, registration and other matters under the Act shall be paid before or at the time of the doing of the matter in respect of which they are to be paid, and in the amount indicated on the list of fees payable as specified in the *First Schedule*.

4. Forms.

The forms shown in the *Second Schedule* shall be used in all cases to which they are applicable, and may be modified as directed by the Registrar to meet other cases, including conversion to any suitable electronic form.

5. Document format.

Subject to any other directions that may be given by the Registrar, all applications, notices, counter-statements, papers having representations affixed, or other documents in writing required by the Act or these Regulations to be left with or sent to the Registrar shall be upon A4 paper of a size approximately 11 inches by 8 inches, and shall have on the left hand part thereof a margin of not

less than one inch, or shall be in any mandated electronic format permitted or adopted by the Office.

6. Registrar may adopt and authorise electronic means of communication.

- (1) The Registrar may adopt and authorise the use of electronic means of communication in place of written communications, provided that the Registrar may in such cases also use electronic means to communicate with any persons or their Agents on any matters that the Registrar is required to communicate.
- (2) In all cases in these Regulations where written communications are required, the Registrar may permit electronic delivery of communications and electronic signatures subject to proof of service requirements that apply to written communications.

7. Service by post or electronic means.

- (1) Any application, statement, notice, or other document authorised or required to be left, made or given at the Office, or to or with the Registrar, or with or to any other person may be sent through the post by a prepaid or official-paid letter; any document so sent shall be deemed to have been delivered at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.
- (2) A letter addressed—
 - (a) to a registered proprietor of a geographical indication at the address that appears on the Register, or address for service; or
 - (b) to any applicant for or person opposing the registration of a geographical indication at the address appearing in the application, or notice of opposition or given for service as hereinafter provided, shall be deemed to be sufficiently addressed.
- (3) The Registrar may permit service by electronic means subject to proof of service requirements that apply to written communications.

8. Obligation to furnish Registrar with address.

Where any person is by the Act or these Regulations bound to furnish the Registrar with an address —

- (a) the address given shall in all cases include the street address and any other information necessary for the purpose of enabling any person easily to find the place of business or location of the person whose address is given;

- (b) the address may be supplemented with an electronic address for service.

9. Address for service within The Bahamas.

- (1) Every applicant for the registration of any geographical indication and every opponent to such registration, who does not reside or carry on business in The Bahamas shall, if so required, give an address for service in The Bahamas, which may include an Agent's address, and such address may be treated as the actual address of such applicant or opponent, for all purposes connected with such application for registration or the opposition thereto.
- (2) An address in The Bahamas may be supplemented with an electronic address for service.

10. Agents.

- (1) An application for registration and an opposition to registration and all other communications between an applicant, opponent and the Registrar, or the Minister, and between the proprietor of a registered geographical indication and the Registrar, or the Minister, or any other person, may be made by or through an Agent.
- (2) An applicant, opponent, or proprietor may appoint an Agent to represent him in the matter of the geographical indication by signing and sending to the Registrar an authority in writing to that effect in Form 1 of the *Second Schedule* or in such other form as the Registrar may deem sufficient.
- (3) In the event that a proprietor of a registered geographical indication appoints an Agent, service upon such Agent of any document relating to the geographical indication shall be deemed to be service upon the person, and all communications directed to be made to such person in respect of the geographical indication may be addressed to such Agent.
- (4) Subject to the express authorisation of the Registrar, a person or their Agent may engage in electronic communications on consent.

11. Disqualified Agents.

The Registrar shall not be bound to recognise as an Agent any person who is an undischarged bankrupt, or is not a qualified "counsel and attorney" as defined by section 2 of the Legal Profession Act (*Ch. 64*).

PART II - APPLICATION FOR REGISTRATION

12. Applications to be signed.

- (1) An application shall, if required, be signed by the applicant or his Agent.
- (2) If application for registration of a geographical indication be made by a group of producers, consumers group or marketing organisation, it may be signed in the name or for and on behalf of the producers, consumers group or marketing organisation by any one or more members thereof.
- (3) If the application is made by a body corporate it may be signed by a director or by the secretary or other principal officer of such body corporate.

13. Acknowledgement.

On or after the receipt of an application, the Registrar shall furnish the applicant with an acknowledgement thereof.

14. Representation of geographic indication.

Every application for registration of a geographical indication shall contain a representation of the geographical indication for which registration is sought and other requirements set out in section 8 of the Act, as specified in Form 2 of the *Second Schedule* for that purpose.

15. Additional representations.

There shall be sent with every application for registration of a geographical indication any additional representations and particulars as may from time to time be required by the Registrar.

PART III - PROCEDURE ON RECEIPT OF APPLICATION

16. Search.

Upon receipt of an application the Registrar shall cause a search to be made amongst the recognised geographical indications for the purpose of ascertaining whether there are on record any existing geographical indications for the same region, wine, spirits or goods.

17. Registrar to publish application in *Gazette*.

If after such search and a consideration of the application the Registrar thinks there is reason to accept the geographic indication to be registered, the Registrar may accept it absolutely or subject to conditions, amendments, and

modifications which shall be communicated on behalf of the Registrar to the applicant.

18. Statement of objections.

If after such search and consideration of the application any objections appear, a statement of those objections shall be sent to the applicant in writing, and unless within one month the applicant applies for a hearing, failing which the application shall be deemed to have been withdrawn.

19. Objections to amendments.

- (1) If the Registrar accepts an application subject to any conditions, amendments, or modifications, and the applicant objects to such conditions, amendments, or modifications, the applicant shall within one month from the date of the communication notifying such acceptance apply for a hearing, failing which the application shall be deemed to have been withdrawn.
- (2) If the applicant does not object to such conditions, amendments, or modifications, the applicant shall forthwith notify the Registrar in writing.

20. Decision of Registrar.

The decision of the Registrar at such hearing as aforesaid shall be communicated to the applicant in writing, and the date of the decision shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

21. Order of the Court.

If the applicant desires to appeal the Registrar's decision rejecting the application or disputing any other aspect of the decision, the applicant shall within one month bring the matter before the court by motion, serving a copy on the Registrar.

22. Directions of the Court.

Where an applicant commences proceedings in the court pursuant to regulation 21, the Court shall order that the application be advertised and proceedings thereafter shall be had in respect of it in such manner as the Court shall direct.

23. Advertisement of application.

Every application when accepted shall be advertised by the Registrar in the *Gazette* during such times and in such manner as the Registrar may direct, pursuant to section 9(2) of the Act.

PART IV - OPPOSITION PROCEEDINGS

24. Opposition to Registration.

Any person may within two months from the date of any advertisement in the *Gazette* of an application for registration of a geographical indication give notice in writing to the Office of an opposition to the registration.

25. Grounds for opposition.

- (1) A notice referred to in regulation 24 shall be in Form 3 of the *Second Schedule*, and shall contain a statement of the grounds upon which the opponent objects to the registration.
- (2) If registration is opposed on the ground that the geographical indication does not comply with Part II of the Act, reference to the date of the *Gazette* in which the geographical indication was advertised shall be set out.
- (3) A notice of opposition shall be accompanied by a duplicate where delivered in writing, which the Registrar will forthwith send to the applicant.
- (4) If sent electronically, the Registrar will forthwith forward an electronic copy to the applicant.

26. Counter-statement.

- (1) Within two months from the receipt of such notice of opposition the applicant shall send to the Registrar a counter-statement in Form 4 of the *Second Schedule* setting out —
 - (a) the grounds on which he relies as supporting his application.
 - (b) what facts, if any, alleged in the notice of opposition are admitted.
- (2) The counter-statement shall be accompanied by a duplicate if delivered in writing, which the Registrar will forthwith send to the opponent.
- (3) If the counter-statement is sent electronically, the Registrar will forthwith forward an electronic copy of the counter-statement to the opponent.

27. Opponent's evidence.

Within four months of receipt of such counter-statement by the opponent, the opponent shall file at the Office such evidence by way of Declaration as may be desired to adduce in support of the opposition and shall deliver to the applicant copies thereof.

28. Applicant's evidence.

- (1) If an opponent files no evidence, the opponent shall be deemed to have abandoned the opposition.
- (2) If the opponent files evidence, then within four months from the receipt of the copies of Declarations, the applicant shall file at the Office such evidence by way of Declaration as may be desired to adduce in support of the application and shall deliver to the opponent copies thereof.

29. Additional support of opposition.

- (1) Within one month from the receipt by the opponent of the copies of the applicant's Declarations, the opponent may leave at the Office evidence by Declaration in reply, and shall deliver to the applicant copies thereof.
- (2) Such evidence shall be confined to matters strictly in reply.

30. Further evidence.

In any proceedings before the Registrar, the Registrar may at any time give leave to either the applicant or the opponent to file any further evidence upon such terms as to costs or otherwise as the Registrar may deem fit.

31. Exhibits.

- (1) Where there are exhibits to declarations filed in an opposition, copies of such exhibits shall be sent to the other party upon request, or, if such copies cannot conveniently be furnished, the originals shall be sent to the Office, so that they may be open to inspection.
- (2) The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

32. Request for hearing.

- (1) Upon completion of the evidence as signalled by the Registrar with a written notice that no further evidence may be filed in the proceedings, either party may make a request within one month that the Registrar issue a notice to the parties of a date for hearing the arguments in the case.
- (2) Such hearing date shall be for a date at least one month after the date of the notice, unless the parties consent to a shorter notice.
- (3) The request for a hearing shall be made in Form 5 of the *Second Schedule*.
- (4) A party who receives a hearing notice from the Registrar must, within ten days from the receipt thereof, give notice in Form 6 of the *Second Schedule* of an intention to appear, or will be treated as not desiring to be heard and the Registrar may act accordingly.

33. Extension of time.

Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, as the Registrar deems fit, without giving the said party a hearing, grant any reasonable extension of time to the other party in which to take any subsequent step.

34. Security for costs.

Where a party giving notice of opposition neither resides nor carries on business in The Bahamas, the Registrar may call upon the party to give a security in such form as the Registrar may deem sufficient for the costs of the proceedings before the Registrar, for such amount as to the Registrar may determine, and at any stage in such opposition may require further security to be given at any time before giving a decision in the case.

PART V - REGISTRATION

35. Entry on the Register.

- (1) Upon the expiration of two months from the date of the advertisement in the Gazette of any application, the Registrar shall, subject to any opposition and the determination thereof, and upon payment of the prescribed fee, enter the geographical indication on the Register.
- (2) The entry of a geographical indication on the Register shall give the date of the registration, the goods in respect of which it is registered, and all particulars named in section 8 of the Act, together with particulars of the trade, business, profession, or occupation, if any, of the proprietor, consumer group or marketing organisation, and such other particulars as the Registrar may deem necessary.

36. Certificate of registration.

Upon the registration of a geographical indication the Registrar shall issue to the applicant a certificate of registration in Form 7 of the *Second Schedule*.

37. Amendments.

Any document or drawing or other representation in respect of a geographical indication may be amended, and any irregularity in procedure which in the opinion of the Registrar may be obviated without detriment to the interests of any person may be corrected, if the Registrar deems fit, and on such terms as the Registrar may direct.

PART VI - TIME CALCULATIONS

38. Extension of time for doing act or commencing proceedings.

The time prescribed by these Regulations for doing any act, or taking any proceeding thereunder may be extended by the Registrar, or as appropriate, by the Court, if deemed fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as the Registrar or the Court may direct, and such extension may be granted though the time has expired for doing such act or taking such proceeding.

39. Public holidays.

Whenever the last day fixed by the said Act, or by these Regulations, for leaving any document or paying any fee at the Office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or any day observed as a public holiday, or any day observed as a day of public fast or thanksgiving, or shall be a day on which the Office shall not be open to the public herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days if two or more of them occur consecutively.

40. Late fees.

- (1) Where a time for paying a fee is limited by these Regulations and the person who is bound to pay such fee cannot reasonably pay the fee on the date limited by the Regulation due to unforeseen circumstances, the Registrar, if satisfied that the omission to pay the fee has not been from any want of diligence on the part of the person whose business it is to pay it, may accept the fee even though the date for paying the fee has passed, and treat it as if received on the correct date, provided always that the fee is actually paid with such promptitude as can be expected in the circumstances.
- (2) The Registrar may impose a late fee charge in such cases.

PART VII - EVIDENCE

41. Declarations.

The declarations required by the said Act and these Regulations, or used in any proceedings thereunder, shall be made and subscribed as follows —

- (a) in The Bahamas, before any justice of the peace, magistrate, notary public, the Registrar or other officer by law authorised to administer an oath for the purpose of any legal proceeding;

- (b) in the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;
- (c) in any other part of the Commonwealth, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of a legal proceeding; and
- (d) if made out of the Commonwealth, before a British minister, or person exercising the functions of a British minister or a consul, vice- consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

42. Seal or signature.

- (1) Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person hereby authorised to take such Declaration in testimony of such Declaration having been made and subscribed, may be admitted by the Registrar without proof of the genuineness of any such seal or signature, or of the official character of such person or authority to take such Declaration.
- (2) The Registrar may accept electronic signatures but is not obligated to do so.

PART VIII - APPEALS AND ORDERS

43. Appeals to the Court.

When any person intends to appeal to the court, no such appeal shall be entertained unless notice of motion be given within two months from the date of the decision appealed against or within such further time as the Registrar shall allow.

44. Orders of the Court.

- (1) Where an order has been made by the court in any case under the said Act, the person in whose favour such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Office a copy of such order.
- (2) The Register may, if necessary, thereupon be rectified or altered by the Registrar.

45. Service on Registrar.

Every application to the court under the said Act shall be served on the Registrar.

46. Publication of Orders.

Whenever an order is made by the court under the said Act, the Registrar may, if the Registrar thinks that such order should be made public, publish it in the *Gazette*.

47. Publication of cancellation.

Any decision by the court to cancel a registration of a geographical indication shall be published in the *Gazette* by the Registrar.

FIRST SCHEDULE

(Regulations 3 and 4)

INDEX OF FORMS AND FEES

| Form | Number of Form | Associated Fees |
|--|-----------------------|------------------------|
| Authorisation of Agent | 1 | \$25.00 |
| Application for registration of geographical indication. | 2 | \$250.00 |
| Statement of Opposition to application | 3 | \$50.00 |
| Counter-statement to opposition for registration | 4 | \$50.00 |
| Request for hearing of opposition | 5 | \$50.00 |
| Notice of Appearance for hearing of opposition | 6 | |
| Certificate of registration of a geographical indication | 7 | \$1,250.00 |
| Recordal of change of address | | \$20.00 |
| Late filing fee charge | | \$75.00 |
| Request for correction | | \$10.00 |

FORM 1
(Regulation 10)

GEOGRAPHICAL INDICATIONS ACT

FORM OF AUTHORISATION

Sir/Madam,

I have appointed..... of
..... to act as my
Agent for
Address.....

Dated the day of, 20

To the Registrar,
Intellectual Property Office,
Nassau, Bahamas.

FORM 2
(Regulation 14)
GEOGRAPHICAL INDICATIONS ACT
APPLICATION FOR REGISTRATION OF GEOGRAPHICAL INDICATION

Application is hereby made for registration of the geographical indication depicted as:

[set out geographical indication name and/or logo]

in class in respect of in the name of.....

[Name, Address, Nationality]

.....

trading as.....who claims to be the proprietor thereof.

the geographical area to which the geographical indication applies is:

.....

the goods to which the geographical indication applies are:

.....

the quality, reputation or other characteristic of the goods in respect of which the geographical indication is used are:

[include specification describing in sufficient detail the specific characteristics of the goods for which the geographical indication is used, the area and method of production of the goods, the link between the characteristics of the goods and the area and method of production, the manner in which the specified characteristics are controlled and other prescribed particulars]

The applicant confirms that the continued compliance with the conditions laid down in the specification shall be controlled by the following independent body or authority:

(Signed)

.....

Dated the day of, 20

To the Registrar,

Intellectual Property Office,

Nassau, Bahamas.

FORM 3
(Regulation 25)

GEOGRAPHICAL INDICATIONS ACT

STATEMENT OF OPPOSITION TO APPLICATION FOR REGISTRATION

(To be accompanied by a duplicate in writing)

In the matter of an application,
No. by.....
of

I,hereby give
notice of my intention to oppose the registration of the geographical
indication advertised under the above number for class

..... in the *Gazette* of the day of

..... 20, No., page

The grounds of opposition are as follows —

*[set out in numbered paragraphs the allegations relied upon as
opposition grounds]*

(Signed)

Dated the day of, 20.....

Address for service —

To the Registrar,
Intellectual Property Office,
Nassau, Bahamas.

FORM 4
(Regulation 26)

GEOGRAPHICAL INDICATIONS ACT

COUNTER-STATEMENT IN OPPOSITION PROCEEDING FOR APPLICATION

(To be accompanied by a duplicate in writing)

In the matter of an opposition,

No., to application

No.

I, the applicant for the above geographical indication, hereby give notice that the following are the grounds on which I rely as supporting my application —

I admit the following allegations in the notice of opposition —

[set out in numbered paragraphs the allegations relied upon by applicant to refute opposition grounds]

(Signed)

Dated the day of, 20

To the Registrar,
Intellectual Property Office,
Nassau, Bahamas.

FORM 5
(Regulation 32)

GEOGRAPHICAL INDICATIONS ACT

REQUEST FOR HEARING IN OPPOSITION PROCEEDING

Registrar,

In view of completion of the filing of evidence pursuant to Regulation 33 as noted by the Registrar's letter dated....., the

registrant/claimant..... requests that the Registrar provide an opportunity to be heard at an oral hearing on which you will hear the arguments in the case of opposition No. to application/registration No.,

Signed this day of, 20

Yours truly,

To the Registrar,

Intellectual Property Office,
Nassau, Bahamas.

FORM 6
(Regulation 32)

GEOGRAPHICAL INDICATIONS ACT

NOTICE OF APPEARANCE AT HEARING IN OPPOSITION PROCEEDING

Registrar,

In reply to your notice dated the
giving
ofa date on
which you will hear the arguments in the case of opposition No. to
application No.,

I the applicant/opponent intends to appear before you on the
date you have fixed, namely the day of,
20

Yours truly,

To the Registrar,
Intellectual Property Office,
Nassau, Bahamas.

FORM 7
(Regulation 36)
GEOGRAPHICAL INDICATIONS ACT

CERTIFICATE OF REGISTRATION

To

I hereby certify, pursuant to Regulation 36 of the Regulations under the above Act, that the geographical indication in your application No. was duly advertised in the *Gazette* and has been registered in your name in class, in respect of the goods specified by you.

Witness my hand this

..... day of

20

Registrar.

Made this day of , 2023

**MINISTER WITH RESPONSIBILITY FOR GEOGRAPHICAL
INDICATIONS**