

## **Geographical Indications Regulations 2001**

**PU(A) 247/2001**

In exercise of the powers conferred by section 32 of the Geographical Indications Act 2000 [*Act 602*], the Minister makes the following regulations:

## **Geographical Indications Regulations 2001**

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### **PART I**

#### **1. Citation and commencement.**

(1) These regulations may be cited as the **Geographical Indications Regulations 2001**.

(2) These Regulations come into operation on 15 August 2001.

#### **2. Interpretation.**

In these Regulations, unless the context otherwise requires-

"Office" means the Central Geographical Indications Office or any other geographical indications office established under section 9 of the Act;

"registered proprietor", in relation to the geographical indications, means the person for the time being registered as a proprietor of the geographical indication.

#### **3. Fees.**

(1) The fees to be paid under these Regulations shall be as prescribed in the First Schedule.

(2) The fees shall be paid to the Registrar by such means and in such manner as the Registrar may direct.

#### **4. Forms.**

The forms referred to in these Regulations are those contained in the Second Schedule.

#### **5. Classification of goods.**

For the purposes of the registration of geographical indications, goods are classified in the manner prescribed in the Third Schedule.

## **PART II**

### **6. Application for registration.**

- (1) An application for the registration of a geographical indication shall be made on Form GI 1 accompanied by a copy of statutory declaration by the applicant and the prescribed fee.
- (2) The application shall be signed by the applicant or an agent appointed by the applicant pursuant to section 11 of the Act.
- (3) Application signed by an agent shall be accompanied by the statutory declaration of the applicant.

### **7. Size, etc. , of documents.**

Subject to any other directions that may be given by the Registrar, all applications, notices, replies, papers having representation affixed, and other documents required by the Act or by these Regulations to be left with or sent to the Registrar shall be in ISO A4 size which shall have on the left hand part of the document a margin of not less than four centimeters.

### **8. Language of documents and translations.**

- (1) Application shall be in the national language or the English language.
- (2) Where the application or any document forming part of an application is in a language other than the national language or the English language the application shall be accompanied by a certified translation and the name of the language.

### **9. Service of documents.**

- (1) All applications, notices, replies, papers having representations affixed, and other documents authorized or required by the Act or these Regulations to be made, left or sent, at or to the Office, may be sent by post.
- (2) Any application or any document so sent shall be deemed to have been received at the time when it is received at the Office.

### **10. Indication of name, address, nationality and residence.**

- (1) Names of natural persons shall be specified in full and the names of legal entities shall be indicated by their full official designation.
- (2) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery and in any case shall comprise of all the relevant administrative units, including the house number, telegraphic and telex addresses and facsimile and telephone number, if any.
- (3) The nationality of an applicant shall be indicated by the name of the country of which he is a national and legal entities shall indicate the name of the country in which the entities are constituted and their registered office.

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

#### **11. Address.**

Where any person is, by the Act or these Regulations, bound to furnish the Registrar with an address, the address given shall in all cases be as full as possible for the purpose of enabling the place of trade or business of such person to be found easily.

#### **12. Address for service.**

(1) An applicant, opponent or registered proprietor of a geographical indication who does not reside or carry on business in Malaysia shall file Form GI 2 giving an address for service in Malaysia and such address may be treated as the actual address of the person for all purposes connected with the matter in question.

(2) Any other applicant, opponent or registered proprietor of a geographical indication may, if he so desires, file Form GI 2 giving an address for service in Malaysia.

(3) Subject to subregulation 6(2) and regulation 13, Form GI 2 filed under these Regulations may be signed by an authorized agent and in any case in which the Registrar so requires shall be signed by the applicant, opponent, or registered proprietor, as the case may be.

(4) In any case in which no address for service is filed at the Office, the Registrar may treat the business address in Malaysia, if any, of the person concerned as his address for service for all purposes connected with the matter in question.

(5) Any written communication addressed to a person at an address given by him or treated by the Registrar as his address for service shall be deemed to be properly addressed.

(6) The Registrar may, at any time that a doubt arises as to the continued availability of an address for service entered in the Register, request the person for whom it is entered, by letter addressed to his business address in the Register, to confirm the address for service or to provide another by filing Form GI 2, and if within two months of making such a request, the Registrar receives no confirmation or substitution of that address, he may strike the address off the Register.

#### **13. Signature of documents.**

(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-

(a) by all the partners;

(b) by the principal acting partner stating that he signs on behalf of all the partners; or

(c) by an agent or any other person who satisfies the Registrar that he is authorized to sign the document.

(2) A document purporting to be signed for or on behalf of a body corporate shall bear the seal of the body and be signed-

(a) by a director or the secretary or other principal officer of the body corporate; or

(b) by an agent or any other person who satisfies the Registrar that he is authorized to sign the document.

(3) A document purporting to be signed for or on behalf of an association of persons other than a partnership may be signed by the secretary or an agent or any other person who satisfies the Registrar that the person is authorized to sign the document on behalf of the association.

(4) The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

#### **14. Agency.**

(1) Except as otherwise required by the Act or these Regulations-

(a) any application, request or notice which is required or permitted to be made or given to the Registrar;

(b) all other communications between an applicant or a person making such request or giving such a notice and the Registrar; and

(c) all other communications between the registered proprietor of the geographical indication and the Registrar or any other person,

may be signed, made or given by or through an agent and the Registrar may-

(aa) in any particular case, require the personal signature or presence of the applicant, opponent, registered proprietor or other person;

(bb) by notice in writing sent to an agent, require him to produce evidence of his authority.

(2) Where a party to proceedings before the Registrar appoints an agent for the first time or appoints one agent in substitution for another, the agent appointed shall file Form GI 2 with the Registrar on or before the first occasion on which he acts as an agent for that party in the proceedings.

(3) No person may appoint more than one agent to act for him concurrently in respect of the same geographical indication, whether in respect of the same or different transactions; and where more than one agent is on record, the Registrar shall recognize only the latest agent duly appointed.

#### **15. Numbering of geographical indications.**

(1) Each geographical indication contained in an application shall be given a number.

(2) The numbering shall appear in the margin next to each representation.

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

#### **16. Acceptance of application.**

(1) Upon the Registrar being satisfied that the application has complied with the requirements of sections 11 and 12 and that the geographical indication is not contrary to public order and morality, the Registrar shall notify the applicant and request payment of the appropriate fee by way of filing Form GI 3; and if the applicant does not pay the fee within one month of receipt of the Registrar's request, he shall be deemed to have abandoned his application.

(2) Upon the receipt of the fee referred to in subregulation (1) within the stipulated time, the Registrar shall proceed to publish the application setting out:

(i) the geographical indication for which registration is sought;

(ii) 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;

(iii) the name and address of the agent, if any;

(iv) the address for service if any agent has not been appointed in accordance with subsection 11(2) of the Act; (v) the demarcation of the geographical area to which the geographical indication applies;

(vi) the goods for which the geographical indication is used;

(vii) 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

(viii) the filing date and number of the application.

#### **17. Notice of opposition to registration.**

(1) Any person may within two months from the date of advertisement referred to in subregulation 16(2) give notice in writing to the Registrar, on Form GI 4 accompanied by the prescribed fee of opposition to the registration and in any such case shall at the same time send a copy of the notice to the applicant.

(2) A notice of opposition to the registration shall include a statement of the grounds upon which the opponent objects to the registration of the applicant's geographical indication.

#### **18. Reply.**

(1) Within two months of the receipt of a notice of opposition to the registration filed in accordance with regulation 17, the applicant shall file a reply on Form GI 5 setting out the grounds on which he relies as supporting his application and the facts, if any, alleged in the notice of opposition to the registration which he admits, and shall at the same time send a copy of the reply to the opponent.

(2) If no reply is filed in accordance with subregulation (1), the application shall be deemed abandoned.

#### **19. Evidence in support of opposition.**

(1) Within two months of the receipt of the reply, the opponent shall file with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his opposition, and shall at the same time send a copy of that evidence to the applicant.

(2) If no evidence is filed in accordance with subregulation (1), the opposition shall be deemed abandoned.

#### **20. Evidence in support of application.**

(1) Within two months of the receipt of the opponent's evidence, the applicant shall file with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his application and shall at the same time send a copy of that evidence to the opponent.

(2) If no evidence is filed in accordance with subregulation (1), the application shall be deemed abandoned.

#### **21. Evidence in reply.**

(1) Within two months from the receipt by the opponent of the copies of the applicant's evidence filed in accordance with regulation 20, the opponent may file evidence in reply by way of statutory declaration and shall, at the same time, send a copy of that evidence to the applicant.

(2) Evidence in reply shall be confined to matters strictly in reply to the applicant's evidence.

#### **22. Further evidence.**

No further evidence may be filed by either side, except that in any proceedings before him, the Registrar may at any time if he thinks fit give leave to either party to file such further evidence upon such terms as to costs or otherwise as he may think fit.

#### **23. Exhibits.**

(1) Where there are exhibits to any statutory declaration filed as evidence in an opposition, the party filing them shall, on the request and at the cost of the other party, send to him a copy or impression of each exhibit.

(2) In all cases, the original exhibits filed with the Registrar shall be opened for inspection at the Office by the other side.

#### **24. Extension of time.**

Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, if he thinks fit, without giving that party a hearing, grant to the other party, on payment by him of the prescribed fee on Form GI 13, any reasonable extension of time in which to take any subsequent step.

#### **25. Written submission.**

(1) Upon completion of the evidence the Registrar shall give notice to the parties of a date by which they may send to him any submissions in writing.

(2) The date mentioned in subregulation (1) shall be at least one month after the date of receipt by the parties of the notice given by the Registrar.

#### **26. Registrar's decision.**

As soon as may be after the expiration of the period notified in accordance with regulation 25, the Registrar shall consider the evidence and any written submissions and shall within two months communicate to the parties in writing of his decision in the matter and the grounds for his decision.

#### **27. Security for costs.**

Where the opponent or the applicant does not reside or carry on business in Malaysia, the Registrar may require him to give security for the costs of the opposition proceedings for such amount as the Registrar thinks fit.

## **28. Notification.**

Where the Registrar decides to register the geographical indication, as provided in section 19 of the Act, he shall notify the applicant in writing requesting him to pay the registration fee within one month from the date of the notification.

## **29. Registration and issuance of certificate.**

(1) Upon payment of the registration fee under regulation 28, the Registrar shall register the geographical indication in accordance with section 19 of the Act and these Regulations.

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

(i) the geographical indication registered;

(ii) the demarcation of the geographical area to which the geographical indication applies;

(iii) the name and address of the natural person or legal entity in whose name the indication is registered;

(iv) the name and address of the agent, if any;

(v) the address for service if an agent has not been appointed in accordance with subsection 11(2) of the Act;

(vi) the goods for which the geographical indication is used;

(vii) 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

(viii) the filing date and number of the application as well as the date of registration.

(3) The certificate of registration of the geographical indication shall be issued on Form GI 6.

## **30. Cancellation or rectification of registration.**

(1) An application to the Registrar under section 22 of the Act for the cancellation or rectification of registration of a registered geographical indication from the Register shall be made on Form GI 7 and shall be accompanied by a prescribed fee and a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks.

(2) A copy of Form GI 7 shall be served by the applicant on the registered proprietor.

(3) Upon receipt of Form GI 7 the Registrar shall notify all persons having the right to use the geographical indication under section 21 of the Act by way of advertisement in at least one national language and one English language national daily newspapers and the cost of the advertisement shall be borne by the applicant.

(4) Within one month from the date of the advertisement any persons mentioned in subsections 22(3) and (4) of the Act may apply to be joined as a party to the proceeding by filing Form GI 8 with the prescribed fee stating the nature of his interest and any written submission relating to the application, and a copy of Form GI 8 shall be served on the applicant.

(5) Upon receipt of the Form GI 8 and the written submission, the applicant may submit a written reply in Form GI 9 together with submission and prescribed fee, and shall serve the documents on the Registrar and all parties to the proceedings.

(6) The Registrar shall upon receipt of all the submission and documents fixed a date of hearing to determine whether or not the registration of geographical indications should be cancelled or rectified.

(7) At any time before the date of the hearing any parties may submit any other documents to the Registrar for the purpose of the hearing.

(8) The decision of the Registrar shall within two months be communicated in writing to the parties and he may award any cost to be paid to any parties to the proceeding.

### **31. Publication.**

Particulars of geographical indications and other proceedings under the Act and any other information required to be advertised under the Act or these Regulations shall be published in the *Gazette*.

## **PART III**

### **32. Amendment of application.**

Any request to amend an application for registration, whether or not the amendment is made to overcome an objection by the Registrar, shall be made on Form GI 10 accompanied by the prescribed fee.

### **33. Excluded days.**

When the last day for doing any act or taking any proceeding falls on a day when the 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 Office is next open for business.

### **34. Request for copies of extracts and documents.**

Requests for certified copies of extracts from the Register or for certified copies of documents shall be made on Form GI 11 to the Registrar in writing and shall be subject to payment of the prescribed fee.

### **35. Entries of changes in the Register.**

The Registrar shall cause to be entered in the Register in respect of each geographical indication in addition to the information indicated in subregulation 29(2) , any changes with respect to such information, relating to the name, or address, or address for service indicated therein in Form GI 12 with prescribed fees.

### **36. Corrections of errors.**

Corrections of errors, referred to in section 23 of the Act, may be made by the Registrar either upon receipt of a request in writing in Form GI 12 with the prescribed fees and subject to such terms as he

may consider appropriate, or on his own initiative. Any correction shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

### **37. Request for extension of time.**

Request for an extension of time referred to in section 24 of the Act shall be subject to the payment of the prescribed fee on Form GI 13.

### **38. Hearing.**

(1) Before exercising adversely to any person any discretionary power given to the Registrar by the Act or these Regulations, the Registrar 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 on Form GI 14 and shall be subject to payment of the prescribed fee.

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

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

### **39. Directions as to furnishing of documents.**

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

### **40. Corrections of irregularities.**

Any irregularity in a procedure before the Registrar may be rectified on such terms as he may direct.

### **41. Dispensation by the Registrar.**

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 Registrar that from any reasonable cause that person is unable to do that act or thing, or that the document or evidence cannot be produced or filed, the Registrar 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.

### **42. Evidence.**

(1) Where under these Regulations, evidence may be filed, the evidence shall be by way of statutory declaration or affidavit.

(2) The Registrar 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.

### **43. Statutory declarations and affidavits.**

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

(2) Statutory declarations or affidavits made outside Malaysia shall be made before a consular or notary public.

## FIRST SCHEDULE

### FEES

(Regulation 3)

The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

### PART I

<i>Form</i>	<i>Matters or Proceedings</i>	<i>Fee</i> RM
1.	Application for registration of a geographical indication	250. 00
2.	Form of authorisation and request to enter, alter or substitute an address for service	30. 00
3.	Advertisement for registration	450. 00
4.	Notice of opposition to registration	450. 00
5.	Reply to a notice of opposition	300. 00
6.	Certificate of registration	Fee collected on Form GI 3
7.	Request for cancellation or rectification of registration of geographical indication	450. 00
8.	Application to the Registrar to join as a party in any proceedings in relation to the rectification or the cancellation of a geographical indication from the Register	100. 00
9.	Reply by applicant for cancellation or rectification of registration of geographical indication	300. 00
10.	Request for correction of a clerical error in an application or for permission to amend an application for registration	100. 00
11.	Request for Registrar's certificate other than certificate of registration	100. 00
12.	Request by registered proprietor of a registered geographical indication for entries of changes in the Register	100. 00

13.	Request for extension of time (Per month:100. 00)	50. 00
14.	Notice to the Registrar of attendance at hearing	480. 00

## PART II

### *OTHER FEES REQUIRED UNDER THE ACT*

	<i>Fee</i>
	RM
1. Request for copy of office document and manuscript-	
(a) Certified extract from Register per page	10. 00
(b) Non-certified extract from Register per page	5. 00
(c) Computer print-out per page	5. 00
2. Request to conduct public search per hour	10. 00

## SECOND SCHEDULE

### *FORMS*

*(Regulation 4)*

Form  
GI

1. Application for registration of a geographical indication
2. Form of authorisation and request to enter, alter or substitute an address for service
3. Advertisement for registration
4. Notice of opposition to registration
5. Reply to a notice of opposition
6. Certificate of registration
7. Request for cancellation or rectification of registration of geographical indication
8. Application to the Registrar to join as a party in any proceedings in relation to the rectification or the cancellation of a geographical indication from the Register
9. Reply by applicant for cancellation or rectification of registration of geographical indication
10. Request for correction of a clerical error in an application or for permission to otherwise amend an application for registration

11. Request for Registrar's certificate other than certificate of registration
12. Request by registered proprietor of a registered geographical indication for entries of changes in the Register
13. Request for extension of time
14. Notice to the Registrar of attendance at hearing

*[Details of the various Forms could be obtained by email request]*

### **THIRD SCHEDULE**

#### *CLASSIFICATION OF GOODS FOR THE PURPOSE OF THE REGISTRATION OF GEOGRAPHICAL INDICATIONS*

*(Regulation 5)*

#### CLASS OF GOODS

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##### Class 1

##### Wine and Spirit:

Wine

Spirit

##### Class 2

##### Manufactured Goods:

Handicraft

Food

##### Class 3

##### Natural Product:

Mineral

Agricultural

##### Class 4

##### Miscellaneous:

Other not included in Class 1 to 3.

