

THE PROTECTION OF GEOGRAPHICAL
INDICATIONS ACT

REGULATION
(*under section 16*)

The Protection of Geographical Indications Regulations, 2009

L.N. 119/2009

**THE PROTECTION OF GEOGRAPHICAL
INDICATIONS ACT**

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(under section 16)

THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATION, 2009

(Made by the Minister on the 8th day of September, 2009)

L.N. 119/2009

1. These Regulations may be cited as the Protection of Geographical Indications Regulations, 2009.

Citation.

2. In these Regulations—

Interpretation.

“applicant” means an applicant for registration of a geographical indication;

“application” means an application for registration of a geographical indication made pursuant to Regulation 3;

“Register” means the Register of Geographical Indications kept pursuant to section 8 of the Act.

3.—(1) An application to register a geographical indication, shall be made to the Registrar in the form set out as Form 1 in the First Schedule.

Application
for Registration.
Form 1.
First
Schedule.

(2) An application referred to in paragraph (1) shall—

(a) be in the English Language;

(b) where any documents submitted in support of the application are in a language other than English, be accompanied by an English translation of each such document certified by the translator’s knowledge, a complete and accurate translation;

(c) contain the information specified in paragraph 3; and

(d) be accompanied by the appropriate fee under the Second Schedule.

Second
Schedule.

(3) An application shall contain the following information (1) shall—

(a) where the applicant is—

(i) an individual, the full name and address of the applicant and information as to his nationality;

(ii) a person other than an individual, its official designation and principal place of business or registered address;

- (ii) a person other than an individual, its official designation and principal place of business or registered address;
 - (iii) a corporation, the country in which it is incorporated;
 - (iv) a body not falling within sub-paragraph (ii) or (iii), the country in which it is domiciled;
- (b) the geographical area to which the geographical indication relates, including the map of the territory of the country, or the region or locality in that territory, in which the goods originate or are being manufactured;
- (c) the quality, reputation or other characteristics of the goods in relation to which the geographical indication is used, including information—
- (i) as to how the geographical indication serves to designate the goods as originating from the particular territory of the country, or region or locality in the territory; and
 - (ii) in respect of the quality, reputation or other characteristics of the goods, which are attributable essentially to their geographical origin, including any inherent natural and human factors, as produced, processed or prepared in such territory, region or locality.

(4) An application submitted pursuant to this regulation, shall be signed by the applicant or the applicant's duly authorized agent.

4. An applicant, or his duly authorized agent, may withdraw an application submitted pursuant to regulation 3, by so indicating in writing to the Registrar.

5.—(1) Subject to paragraph (2), an applicant may at any time before registration of the relevant geographical indication, submit to the Registrar a request, in the form set out as Form 2 in the First Schedule, for the amendment of or correction of any error appearing in, or in connection with, the application.

(2) An amendment or correction, the effect of which would substantially alter the application submitted pursuant to sub-paragraph (1), shall not be made in relation to the—

- (a) description of the goods; or
- (b) geographical location to which the application relates.

(3) Where the Registrar decides to grant or refuse a request made pursuant to this regulation, the Registrar shall notify the applicant of the decision and the reasons therefor within fourteen days after making the decision.

Applications
may be
withdrawn.

Amendment
and correc-
tion of appli-
cation.
Form 2.
First
Schedule.

6.—(1) Where the Registrar examines an application, and finds that it does not satisfy the conditions specified in section 10 (2) of the Act, he shall, by notice in writing—

Examination
of application by
Registrar.

- (a) inform the applicant of the finding and the reasons therefor; and
- (b) invite the applicant to—
 - (i) make the necessary amendments or modifications;
 - (ii) submit written representations in response to the findings; or
 - (iii) apply for a hearing.

(2) Where the applicant requests a hearing, the Registrar shall give the applicant no less than one month's notice in writing of the date of the hearing.

(3) Where the applicant—

- (a) does not, within two months of being notified pursuant to paragraph (1), comply with the action required under the notice; or
- (b) fails to attend a hearing after being notified in accordance with paragraph (3), the application shall be deemed by the Registrar to have been withdrawn.

7.—(1) Where the Registrar accepts an application the Registrar shall inform the applicant by notice in writing of the Registrar's—

Publication
of application
in the *Gazette*
or daily news-
paper.

- (a) acceptance of the application; and
- (b) intention to publish the application.

(2) An application published pursuant to paragraph (2) shall state—

- (a) the date of filing of the application;
- (b) the proposed date of registration of the geographical indication;
- (c) the name, address and (as the case may require) the nationality or Country of incorporation or domicile, of the applicant, or his agent and his address for service;
- (d) the goods to which the geographical indication applies;
- (e) how the geographical indication is to be used and any conditions under which the indication may be used;
- (f) the quality, reputation or other characteristics of the goods;
- (g) the demarcation of the geographical area to which the geographical indication applies; and
- (h) in accordance with regulation 8(1), the time allowed for the lodging of objections to the registration.

Objection to registration of geographical indication.

Form 3.
First Schedule.

8.—(1) A person who objects to the registration of a geographical indication (hereinafter referred to as “the objector”) may, within three months from the date of publication of the application for registration or within such further time, not exceeding one month, as the Registrar may allow, give a notice of objection to the Registrar in the form set out as Form 3 in the First Schedule.

(2) The notice referred to in paragraph (1) shall set out the grounds on which the objector relies, and be accompanied by any supporting evidence.

(3) The objector shall serve a copy of the notice referred to in paragraph (1) on the applicant at his address for service pursuant to regulation 7 (3)(c).

Counter-statement.

Form 4
First Schedule.

9.—(1) The applicant shall, within two months of his receipt of the copy of the notice of objection, send to the Registrar a counter-statement in the form set out as Form 4 in the First Schedule, setting out the grounds relied on for making the application, and accompanies by any supporting evidence.

(2) A copy of the counter-statement shall be served by the applicant on the objector.

Hearing.

10.—(1) The applicant or the objector may in writing submit to the Registrar a request for a hearing.

(2) The Registrar shall give the applicant and the objector no less than one month’s notice of the date of the hearing.

(3) The date referred to in paragraph (3), shall be a date no later than one month after the expiration of the period allowed for filing the counter-statement.

(4) An applicant or objector who intends to appear at the hearing shall, within fourteen days of the receipt of the notice of the date of the hearing, notify the Registrar in writing of such intention.

Certificate of Registration.

11. Where the Registrar is satisfied as to the matters specified in section 10(8)(a) of the Act, the Registrar shall—

(a) so notify the applicant in writing;

(b) thereafter, register the geographical indication and issue a Certificate of Registration in the form set out as Form 5 in the First Schedule.

Form 5.
First Schedule.

Register.

12.—(1) The Registrar shall keep the Register in accordance with the provisions of this Regulation.

(2) The Register shall include the following particulars in relation to each geographical indication registered under the Act—

(a) the date of filing of the application for registration;

- (b) the date of registration;
- (c) the name, address and (as the case may require) the nationality or country of incorporation or domicile, of the applicant;
- (d) the applicant's address for service;
- (e) the goods to which the geographical indications applies;
- (f) the quality, reputation or other characteristics of the goods for which the geographical indication is used and any other conditions under which the indication may be used;
- (g) the demarcation of the geographical area to which the geographical indication applies; and
- (h) such other particulars as the Registrar considers appropriate.

(3) Any member of the public may inspect the Register and on the payment of the prescribed fee set out in the Second Schedule obtain extracts from the Register.

Second
Schedule.

13. The Registrar shall publish from time to time, in the *Gazette* or in the *Geographical Indications Journal* (referred to in regulation 15), a list of the geographical indications registered in accordance with the Act.

List of
geographical
indications.

14.—(1) An application for rectification under section 12, or a request for cancellation of registration under section 13, of the Act shall be made in the form set out in Form 6 in the First Schedule.

Application
for cancellation
or rectification
of registration.
Form 6.
First Schedule.

(2) The application or request referred to in paragraph (1) shall be accompanied by a statement setting out—

- (a) the nature of the person's interest;
- (b) the facts and grounds which form the basis of the case; and
- (c) the relief sought.

(3) The Registrar shall publish a copy of the application or request referred to in paragraph (1), by notice in a daily newspaper in circulation throughout Jamaica, specifying—

- (a) the time within which the parties may submit written submissions in respect thereof to the Registrar; and
- (b) the time within which any other interested party may apply to be joined in the matter.

(4) The person making the application or request referred to in paragraph (1), shall bear the cost of publishing the notice referred to in paragraph (3).

(5) An application to be joined in the matter under section 14 of the Act shall—

- (a) be made in the form set out as Form 7 in the First Schedule;
- (b) state the nature of the interest of the person making the application; and
- (c) be accompanied by any written submissions made by that person in relation thereto.

(6) The Registrar shall cause a copy of the application referred to in paragraph (5), to be served on the parties to proceedings.

(7) The Registrar shall on the expiration of the time specified under paragraph (3) or the receipt of written submissions, fix a date for the hearing as to whether the registration shall be cancelled or rectified as the case may require.

(8) The Registrar's decision after a hearing conducted pursuant to paragraph (7), shall be communicated in writing to the parties.

(9) The Registrar may, after conducting a hearing under regulation 14—

- (a) make such rectification of the Register as he considers necessary;
- (b) cancel the registration; or
- (c) dismiss the application for rectification or cancellation, as the case requires.

(10) Where the Registrar rectifies the Register under paragraph (1), the Registrar shall—

- (a) make the necessary changes to the Certificate of Registration, and for that purpose may require the Certificate of Registration to be produced by the person to whom the application relates;
- (b) send a copy of the rectified entry to the parties and to any other person who appears from the Register to have an interest in the geographical indication; and
- (c) publish the rectified entry in the *Gazette* or a daily newspaper in circulation throughout Jamaica.

(11) The provisions of paragraph (2) shall apply, with the necessary modifications, to any correction made by the Registrar pursuant to section 8 of the Act.

15. The Registrar may publish an annual journal which shall be entitled "*The Geographical Indications Journal*" and which shall contain—

- (a) the particulars of pending applications under the Act for the registration of geographical indications; and
- (b) such other information relating to geographical indications as the Registrar thinks fit.

16.—(1) A request under section 17(2) (b) of the Act for the Registrar to refuse or, as the case may require, revoke, the registration of a trade mark misleading as to the origin of a good, shall be made in the form set out as Form 8 in the First Schedule.

Refusal or
invalidation of
misleading
trade marks.
Form 8.
First Schedule.

(2) A request under section 18 of the Act, for the Registrar to refuse or revoke the registration of a trade mark that inaccurately identifies the origin of wines or spirits, shall be made in the form set out as Form 9 in the First Schedule.

Form 9.

(3) For the purposes of section 17(3) and 18 of the Act, the time within the Registrar shall notify the proprietor of a trade mark of the decision to refuse registration is twenty-one days after making the decision.

(4) Where the Registrar revokes a trade mark under section 18 of the Act, he shall cause a copy to be published in the *Gazette* and a daily newspaper in circulation throughout Jamaica, a notice of the revocation.

(5) A notice of revocation published pursuant to section 17(3) of the Act or paragraph (4) of this regulation, shall include—

- (a) the representation of the trade mark;
- (b) the particulars of the registration of the trade mark including the date of registration;
- (c) the name and address of the registered proprietor;
- (d) the list of goods and services in respect of which the trade mark was registered with an indication of the corresponding class or classes of the Nice Classification; and
- (e) the grounds on which the registration of the trade mark is invalid.

(6) In this Regulation, “Nice Classification” means the International Classification of Goods and Services, for the purposes of the Registration of Marks determined pursuant to the Nice Agreement made in Nice, France on the 15th day of June, 1957.

17. The fees specified in the section column of the Second Schedule shall be payable in respect of the services set out in relation thereto in the first column of that Schedule.

Fees.

Second
Schedule.

FORM 1

THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT

THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009

Application for Registration of Geographical Indication

(Pursuant to Regulation 9)

Application is hereby made for registration of the geographical indication (details of which accompany this Form) in the name of the Applicant(s) acting in the capacity of¹

The particulars required for the purposes of the application are set out below:

PARTICULARS

I. APPLICANT(S)²

Name(s):

Address(es):

Mailing Address (if any):

Nationality:

Tel. No.: E-Mail Address (if any): Fax No.:

Address for service in Jamaica³:

II. DULY AUTHORIZED AGENT

The following has been appointed by the applicant as his duly authorized agent.

Name:

Address:

Tel. No.: E-Mail Address (if any): 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, 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, possibly in graphic form, maps, etc.

Accompanies this Form

V. GOODS

The goods for which the geographical indication is used are the following:

FIRST SCHEDULE, *contd.*

FORM 1, *contd.*

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 accompanies this Form	
VII. FEES accompanying this Form <input type="checkbox"/>	
VIII. SIGNATURE(S)¹	(Applicant(s)) <div style="text-align: right;">Date</div>
TO BE COMPLETED BY THE REGISTRAR Date of receipt of corrections and later filed papers completing the application:	
For Official Use Date of Receipt by Jamaica Intellectual Property Office: Application No.:	
Fees received on:	(Office's Stamp)
Gazette Details	

ANNEX

1. State capacity in accordance with section 9 of the Act.
2. If the space provided in any of the boxes is insufficient use additional sheets and attached to this form.
3. 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.
4. Type name(s) under signature(s). The typed names and signatures of all applicants should appear (one below the other).

FIRST SCHEDULE, *contd.*

FORM 2

THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT

THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009

Amendment or Request for Correction of Error
in Application*(Pursuant to Regulation 8(2))*

To the Registrar:

I. In the matter of a geographical indication in the name of

.....
Applicant

II. It is hereby requested that the entry in the register in respect of the abovementioned application for a geographical indication be amended or be corrected in the following manner—

Dated this day of 20.....

Name:

Signature:

Name and daytime telephone number of person to contact:

State number of sheets attached to this form:

Address of service:

ANNEX

1. These notes will help you fill out this form. If you need any more help or you have any questions, please contact the Geographical Indications Registry.
2. Write your answers in capital letters using black ink or you may type them.
3. If there is not enough space for your answer to any section of this form, use separate sheets. Number each one and write on the form how many extra sheets you have used.
4. Once you have filled in the form you must remember to sign and date it.
5. If your address for service is different from your agent, then please give us full details of both.

FIRST SCHEDULE, *contd.*

FORM 3

THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT

THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009

Notice of Objection to Registration of Geographical Indication

(Pursuant to section 10)

I. IN THE MATTER OF:

Application No for Registration of Geographical Indication

Filing Date of Application:

Published in of the day of 20

No. page

II. Name(s) of the person objecting to the Registration¹:

Address(es):

Address for service in:

III. GROUNDS FOR OBJECTION:

The grounds for objection are as follows:

Additional information is contained in the Annexed Schedule which is incorporated in this Form.

Supporting evidence accompanies this Form

IV. ATTORNEY-AT-LAW²

The following Attorney-at-law has been appointed by the applicant as his duly Authorized Agent

Name:

Address:

Tel. No.:

E-Mail address (if any):

Fax No.:

FOR OFFICIAL USE

Notice of objection received on:

Fees received on:

FIRST SCHEDULE, *contd.*

ANNEX

1. If the space provided in any of the boxes is insufficient, the particulars should be on additional sheets and attached to this form.
2. 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.

<p>FORM 4</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009</p> <p>Counter-Statement</p> <p>(Pursuant to section 10(6))</p>	
I.	Your reference:
II.	Give details of the application to which this counter-statement relates:
III.	Full name of applicant:
IV.	Grounds for Notice of Objection:
V.	Name of agent (if appropriate):
VI.	Grounds relied on for making the application:
VII.	Supporting evidence (if available):

ANNEX

1. These notes will help you to fill in this form. If you need any more help or you have any questions, please contact the Geographical Indication Registry.
2. Write your answers in capital letters using black ink or you may type them.
3. If there is not enough space for your answer to any section of this form, use separate sheets. Number each one and write on the form how many extra sheets you have used.
4. Once you have filled in the form you must remember to sign and date it.
5. This form is used if you want to defend your application against a third party who has lodged an opposition against your application or application to rectify, or to invalidate your registration. (Rule 9(1) of the Protection of Geographical Indications Regulations, 2009 refers).
6. You must send us details of the grounds for this counter statement on a separate sheet of paper.
7. If your address for service is different from your agent, then please give us full details of both.

FIRST SCHEDULE, *contd.*

FORM 5

THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT

THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009

Certificate of Registration of Geographical Indication

(Pursuant to section 10(9))

In accordance with section 10 of the Act it is hereby certified that a geographical indication having the Registration No. has been registered in the name(s) of:

Name(s):

Address(es):

on in respect of a geographical indication registered pursuant
(date)

to an application filed on: being a geographical
(date)

indication used for: and which applies
(goods)

to:
(geographical area)

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.

Date:

.....
Registrar

FIRST SCHEDULE, *contd.*

<p>FORM 6</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009</p> <p>Request for rectification of the register or the cancellation of the registration of a geographical indication</p> <p><i>(Pursuant to sections 12 and 13)</i></p>	
1. To the Registrar	
2. In the matter of a Geographical Indication No. registered in the name of in Class.....	
3. It is hereby requested that the entry in the register in respect of the abovementioned Geographical Indication may be (removed) (rectified) in the following manner ¹ :-	
4. The Register will make any rectification or amendment in default of a response to this notice within the required time.	
Dated this day of 20.....	
NAME ² :	ADDRESS FOR SERVICE:
SIGNATURE	SIGNATURE

ANNEX

1. If registration is opposed on the ground that the geographical indication resembles a trade mark or a geographical indication already on the register the numbers and the journals in which it has been advertised are to be set out.
2. State full name and address. An address for service shall be given if the opponent has no place of business or of residence in Jamaica.

FIRST SCHEDULE, *contd.*

<p>FORM 7</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009</p> <p>Application for leave to join proceedings relating to the rectification of the register or the cancellation of the registration of geographical indication</p> <p><i>(Pursuant to section 14)</i></p>	
<p>In the matter of the Geographical Indication No. registered in the name of</p> <p>I/we hereby apply for leave to be joined as parties to the proceedings relating to the rectification or removal of the entry in the register in respect of the abovementioned geographical indication/additional protection under section or cancellation of an authorized user.</p> <p>My/our interest in the geographical indication is</p> <p>My/our address for service is:</p> <p>Dated this day of 20.....</p>	
	<p>..... Signature</p>

FIRST SCHEDULE, *contd.*

FORM 8

THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT
 THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009

Request to Refuse or Revoke Registration of
 Misleading Trade Mark

(Pursuant to section 17(2)(b))

I. IN THE MATTER OF:

An Application for Registration/Registration No.* of Mark:

Filing/Registration¹

Date:

Application/Registration* Published in the periodical

.....
 (No.)

(Page)

(Date)

II. APPLICANT(S)²

Name(s):

Address(es):

Additional information is Attached to this Form.

Address for service³:

III. GROUNDS FOR REQUEST:

The Grounds for request to refuse or to invalidate the registration of the above identified mark are as follows:

Additional information is attached to this Form.

Supporting evidence accompanies this Form.

IV. ATTORNEY-AT-LAW

The following Attorney-at-law has been appointed by the applicant as his duly Authorized Agent

accompanying this Form

Name:

Address:

Tel. No.:

E-Mail address (if any):

Fax No.:

FIRST SCHEDULE, *contd.*

FORM 8, *contd.*

SIGNATURE(S)	(Applicant(s)/Attorney ¹) (Date)
FOR OFFICIAL USE	
Request received on:	
Fees received on:	

ANNEX

1. Delete whichever does not apply.
2. If there is more than one person or competent authority, together, requesting the refusal or invalidation of the registration of the trade mark, the data concerning each applicant must appear in this box or if the space in any of the boxes is not sufficient, the information should be set out in additional sheets and attached to this Form.
3. 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.
4. 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).

FIRST SCHEDULE, *contd.*

FORM 9		
<p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS ACT</p> <p>THE PROTECTION OF GEOGRAPHICAL INDICATIONS REGULATIONS, 2009</p> <p>Request to Refuse or Invalidate Registration of a Mark conflicting with a Geographical Indication for Wines and Spirits</p> <p><i>(Pursuant to section 18)</i></p>		
I. IN THE MATTER OF:		
Application for Registration No. * of Mark:		
Filing/Registration ¹ :		
Date:		
Application/Registration* Published in the periodical		
.....
(No.)	(Page)	(Date)
II. APPLICANT(S)		
Name(s):		
Address(es):		
.....		
Additional information is contained in the Annexed Schedule which is incorporated in the Form. <input type="checkbox"/>		
Address for service ³ :		
III. GROUNDS FOR REQUEST:		
The Grounds for request to remove or to invalidate the registration of the above identified mark are as follows:		
Additional information is attached to this Form. <input type="checkbox"/>		
Supporting evidence accompanies this Form. <input type="checkbox"/>		
IV. ATTORNEY-AT-LAW		
The following Attorney-at-law has been appointed by the applicant as his duly Authorized Agent		
<input type="checkbox"/> accompanying this Form		
Name:		
Address:		
.....		
Tel. No.:	E-Mail address (if any):	Fax No.:

FIRST SCHEDULE, *contd.*

FORM 9, *contd.*

SIGNATURE(S)	(Applicant(s)/Attorney ¹) (Date)
FOR OFFICIAL USE	
Notice of opposition received on:	
Fees received on:	
Applicant's or Attorney's File Reference:	

ANNEX

1. Delete whichever does not apply.
2. If there is more than one person or competent authority, together, requesting the refusal or invalidation of the registration of the trade mark, the data concerning each applicant must appear in this box or if the space in any of the boxes is not sufficient, the information should be set out in additional sheets and attached to this Form.
3. 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.
4. 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).

SECOND SCHEDULE (Regulations 3 and 12)

FEEs

Service	Fees
1. Application for registration	\$30,000.00
2. Inspection of Register	\$10,000.00