

Introduced on:- 01-01-2020

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[~~TO~~ BE INTRODUCED IN THE SENATE]

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to provide for registration and effective protection of geographical indications

WHEREAS it is expedient to provide for registration and protection of geographical indications of goods;

AND WHEREAS it is necessary to recognize and protect the geographical indications of the Islamic Republic of Pakistan for public interest and advancing the economic reform and development of the least developed areas of Pakistan;

AND WHEREAS it is expedient to provide the legal means for interested parties to prevent the use of any means in the designation or presentation of goods that indicates or suggests that the goods in question originate in a geographical area and to prevent any use which constitutes an act of unfair competition within the meaning of Article 22 of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS);

It is hereby enacted as follows:-

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) The Act may be called the Geographical Indications (Registration and Protection) Act, 2019.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may by notification in the Official Gazette appoint.

2. **Definitions .**—(1) In this Act, unless there is anything repugnant in the subject or context;-

(i) **“Applicant”** means a natural or legal person, government organization or statutory body, association, or group of producers, or producer organization, or operator having an interest in the registration;

(ii) **“authorized user”** means authorized user of a geographical indication registered under this Act;

- (iii) **“book of specifications”** means a document elaborated by the applicant, specifying the geographical area of goods, production standards or product specifications, and qualification process for Geographical Indication goods;
- (iv) **“certification body”** means an organization issuing a certificate of conformity with the book of specifications;
- (v) **“deceptively similar”** means a geographical indication which so nearly resembles to another geographical indication so as to be likely to deceive or cause confusion;
- (vi) **“Director General”** means Director General, Intellectual Property Organization of Pakistan appointed under section 12 of the Intellectual Property Organization of Pakistan Act, 2012 (XXII of 2012);
- (vii) **“geographical indication” or “GI”** in relation to goods includes an indication which identifies such goods as agricultural goods, natural goods or manufactured goods originating or manufactured or produced in a territory or a region or locality as determined by the country, where a given quality, reputation or other characteristics of the goods or the ingredients or components, is essentially attributable to its geographical origin and in the case of manufactured goods one of the activities of either the production or processing or preparation of the goods concerned takes place in such territory, region or locality as the case may be. For the purpose of this clause any name which is not the name of a territory or a region a locality or a country shall also be considered as a geographical indication if such name refers to or indicates the origin of goods within or from a specific geographical area within that country and is used upon or in relation to particular goods originating from or with in that country or a territory or a region or locality within that country;
- (viii) **“geographical origin”** means an area of a country, region, locality and shall also include the sea, lake, river, island, mountain or any other area of a similar nature;
- (ix) **“foreign geographical indication”** means a geographical indication that identifies a product as originating in a country other than Islamic Republic of Pakistan;
- (x) **“generic name or indication “** means a name which, may correspond to the name of a territory, region or locality, does not have in Pakistan any meaning as an indication or reference of geographical origin and has become a commonly used name for the goods in question;

- (xi) **“goods”** include any agricultural, horticulture, natural, raw or manufactured goods or goods of any industry or handicraft or any food or drink product, whether in a processed or semi-processed or semi-finished form;
- (xii) **“indication”** includes any words, letters or numerals, geographical name or other name, device or any figurative representation, label or any combination thereof indicating or referring or suggesting or conveying the geographical origin of the goods to which it is applied;
- (xiii) **“IPO-Pakistan”** means the Intellectual Property Organization of Pakistan, established under the Intellectual Property Organization of Pakistan Act, 2012 (XXII of 2012);
- (xiv) **“limitation”** with its grammatical variations means any limitation of the right to use of geographical indication given by registration to a registrant or an authorized user thereof including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded within Pakistan or as to use in relation to goods to be exported outside Pakistan;
- (xv) **“name”** includes any abbreviation of a name;
- (xvi) **“operator”** means a natural or legal person involved in the collection, transformation, processing, trading, or distribution of geographical indication goods;
- (xvii) **“organisation”** means any entity, body, department, authority or organization so designated by the Division concerned;
- (xviii) **“Pakistan geographical indication”** means a geographical indication that identifies a product as originating in the Islamic Republic of Pakistan;
- (xix) **“Paris Convention”** means the Paris Convention of 20th March, 1883 for the protection of industrial property, as revised or amended from time to time;
- (xx) **“package”** includes any case, box, container, covering, folder, receptacle, vessel, casket, bottle, wrapper, label, band, ticket, reel, frame, capsule, cap, lid, stopper and cork;
- (xxi) **“Policy Board”** means the Policy Board constituted under section 4 of Intellectual Property Organisation Act, 2012 (XXII of 2012);
- (xxiii) **“prescribed”** means prescribed by rules made under this Act;
- (xxiv) **“producer”**, in relation to goods, means any person who—
 - (a) if such goods are natural goods, exploits the goods;

- (b) if such goods are agricultural goods, produces the goods and includes the person who is an operator or processes or packages such goods; and
 - (c) if such goods are handicrafts or industrial goods, makes or manufactures the goods, and includes an operator or any person who trades or deals in such production, exploitation, making or manufacturing, as the case may be, of the goods
- (xxv) **“qualifying country”** means any country or territory which is –
- (a) a member of the World Trade Organization;
 - (b) a member of the World Intellectual Property Organization;
 - (c) a party to the Paris Convention; or
 - (d) any other country which the competent authority may designate as a qualifying country on the basis of reciprocity;
- (xxvi) **“register”** means the register of geographical indications provided under section 6;
- (xxvii) **“registered”** with its grammatical variations means registered under this Act;
- (xxviii) **“registered geographical indication”** means a geographical indication which is actually on the register;
- (xxix) **“registrant”** means any statutory body, public body, , local or provincial administration, government enterprise or any government organization which is a juristic person having area of responsibility covering the geographical indication of the goods as referred to in this Act having obtained registration and entered in the register as proprietor of a geographical indication ;
- (xxx) **“Registrar”** means the Registrar of Geographical Indications referred to in section 4;
- (xxxi) **“Registry”** means the geographical indications registry mentioned in section 3;
- (xxxii) **“Intellectual Property Tribunal” or “IP Tribunal”** means the Intellectual Property Tribunal established under the Intellectual Property Organization of Pakistan Act, 2012 (XXII of 2012); and
- (xxxiii) **“use of a geographical indication”** shall include but not be limited to, use in production, manufacturing, packing, stocking, importing, exporting,

distributing, selling, dealing and advertising or exploiting in any other manner and any reference to such use shall be construed to include a reference to the use of a printed or other visual representation of the geographical indication.

(2) Words and expressions used and not defined in this Act shall have the same meaning as are assigned to them in the Trade Marks Ordinance, 2001(XIX of 2001).

CHAPTER-II

GEOGRAPHICAL INDICATION REGISTRY

3. **Geographical Indications Registry.**—(1) For the purposes of this Act, the concerned Division shall establish a Geographical Indications Registry under the management and control of IPO-Pakistan. The Trade Marks Registry and its branches established under the Trade Marks Ordinance, 2001(XIX of 2001) shall carry out functions of the Geographical Indications Registry and its branches till such time a separate GI Registry is established under this Act.

(2) The GI Registry shall maintain a register of record to be called the register of geographical indications. GI Register shall be maintained at Trade Marks Registry for the time being and shall be handed over and transferred to the GI Registry once it has been established under this Act.

(3) For the facilitation of applicants, the IPO-Pakistan with the prior approval of Policy Board may set up offices of the Registry at such places, as deems necessary, as and when required.

(4) The Geographical Indications Registry shall have its own seal.

4. **Registrar geographical indications and other functionaries.**—(1) The registrar of geographical indications shall be appointed by the concerned Division and till such time appointment the registrar of Trade Marks as appointed under sub-section (1) of section 7 of the Trade Marks Ordinance, 2001(XIX of 2001) shall also perform the functions of the Geographical Indication Registrar, in accordance with the provisions of this Act.

5. **Delegation of Authority of the Registrar.**— (1) The IPO-Pakistan shall with the prior approval of the Policy Board appoint one or more deputy registrars and assistant registrars for the purposes of this Act.

(2) Under direction of IPO-Pakistan, the Registrar may delegate its powers to the deputy registrars and assistant registrars who shall discharge such functions of the Registrar under this Act as the Registrar may delegate from time to time.

(3) Any reference in this Act to the Registrar shall include a reference to any deputy registrar or assistant registrar in the discharge of such functions.

(4) IPO-Pakistan may authorize the Registrar to delegate any function of the Registrar to any other officers of the GI Registry other than the deputy and assistant registrars.

6. **Register of geographical indication.**— (1) There shall be kept at each branch, a copy of the register of geographical indication which shall contain all registered geographical indications with names, addresses and descriptions of the registrants, the names and addresses and descriptions of authorized users and such registers may be maintained wholly or partly in electronic form. The register shall be open for inspection of the public at all convenient times in the same manner as the originals thereof.

(2) The register shall contain list of registrants and authorized users of geographical indications.

(3) The register shall be divided into two Parts called respectively Part A and Part B.

(4) The particulars relating to the registration of the registrant of geographical indications shall be incorporated and included in Part A of the register in the prescribed manner.

(5) The particulars relating to the registration of the authorised users shall be incorporated and included in Part B of the register in the prescribed manner.

(6) Any person may obtain extracts from the register in the prescribed manner.

CHAPTER III

REGISTRATION OF GEOPGRAPHICAL INDICATION

7. **Registration of registrant of geographical indication.**—(1) Registration of proprietor of geographical indication of any or all goods subject to definite territory of a country shall comprise of such class of goods as may be classified by the Registrar in accordance with the international classification of goods for the purposes of registration of geographical indications.

8. **Prohibition of registration of a geographical indication.**—(1) An indication shall not be registered as a geographical indication,-

- (i) which does not correspond to the definition of geographical indication contained in clause (vii) of sub-section (1) of section 2; or
- (ii) the use of which is likely to deceive or cause confusion; or
- (iii) which is not or has ceased to be protected in its country of origin or which has fallen into disuse in that country; or

- (iv) which is determined by the Registrar to be a generic name or an indication;
or
- (v) which is opposed to morality or public policy.

9. **Registration of homonymous geographical indication.**—(1) A homonymous geographical indication is entitled to be considered for registration under this Act.

(2) Prior to registration under sub-section (1) the Registrar shall satisfy himself that he has considered-

- (i) all practical conditions under which the homonymous indication in question shall be differentiated from other homonymous indication;
- (ii) equitable treatment of the producers of the goods concerned; and
- (iii) that the consumers of such goods shall not be confused or misled in consequence of such registration.

Explanation.—Homonymous geographical indications (GI) are those that are spelled or pronounced alike, but which identify products originating in different places, usually in different countries. In principle, these indications should coexist, but such coexistence may be subject to certain conditions. For example, it may be required that they be used only together with additional information as to the origin of the product in order to prevent consumers from being misled. A GI may be refused protection if, due to the existence of another homonymous indication, its use would be considered potentially misleading to consumers with regard to the product's true origin.

10. **Registration of foreign geographical indication.**—(1) A geographical indication of a foreign country shall be registered in the Islamic Republic of Pakistan as long as it is registered in accordance with the local legislation in its country of origin. The title and date of the legislative or administrative provisions or of judicial decisions regarding protection to the geographical indication in the country of origin shall be considered for accepting foreign GI application.

(2) The Registry shall not allow the registration of a foreign Geographical Indication which is not or has ceased to be protected in its country of origin or which has fallen into disuse in that country.

(3) The application for registration of foreign geographical indication shall be made at the Registry by its legal representative in Pakistan.

(4) During the registration procedure, the Registry may require the applicant or its legal representative to submit any information related to registration in the country of origin which may affect its registration in Pakistan.

CHAPTER IV

PROCEDURE FOR REGISTRATION OF REGISTRANT OF GI

11. **Right to own and register geographical indication.**—(1) The Federal Government shall be the holder and exclusive owner of all the geographical indications of the Islamic Republic of Pakistan.

(2) The Federal Government may allow any statutory body, public body, local or provincial administration, government enterprise or any government organization which is a juristic person having area of responsibility covering the geographical indications in the territory of Islamic Republic of Pakistan to apply for and register the product as a geographical indication as a registrant in such form, manner and accompanied by such fees as may be prescribed.

(3) When a product bearing geographical indication is registered at the Registry in accordance with the provisions of this Act, such producers or operators whose practices are in compliance with the book of specification shall have the right to use the geographical indication as authorized users. The producers or operators, with the formal assent of the Registrant, shall apply to the Registry for obtaining registration as authorized users.

(4) The concerned Division shall be responsible for conciliating any conflicts and engage in advocacy in relation to drafting of book of specification during pre-registration phase of geographical indications.

(5) The concerned Division shall regulate cooperation agreement with organizations to enable pre-registration processes of geographical indication and facilitate in arranging consultations with producers and operators in drafting book of specification.

12. **Content of Application for registration of geographical indication.**—(1) The application for registration of a geographical indication by the Applicant shall contain the following documents for registration, namely:-

- (i) name and address of applicant filing the application;
- (ii) geographical indication for which registration is sought;
- (iii) class of goods to which the geographical indication shall apply;
- (iv) geographical area to which the geographical indication applies and a map of that area;
- (v) title and date of the legislative or administrative provisions or of judicial decisions regarding the protection to the geographical indication in the qualifying country of origin;

