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as at 1 March 2016



## Geographical Indications (Wine and Spirits) Registration Act 2006

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Commencement    see section 2

### Contents

	Page
1    Title	4
2    Commencement	4
<b>Part 1</b>	
<b>Preliminary provisions</b>	
3    Purpose	4
4    Interpretation	4
5    Act binds the Crown	6
<b>Part 2</b>	
<b>Registered geographical indications</b>	
<i>Nature of registered geographical indication</i>	
6    What is geographical indication?	6
7    What is registered geographical indication?	7
<i>Registration</i>	
8    Registration	7
9    Date of registration	7

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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*Restrictions on registration*

10	Geographical indication identical to registered geographical indication	7
11	Geographical indication identical to customary name of grape variety	7
12	Geographical indication identical to common name for wine or spirit	7
13	Foreign geographical indication	8
14	No registration of geographical indication if identical to trade mark for identical goods or services	8
15	No registration of geographical indication if identical to trade mark for similar goods or services	8
16	No registration of geographical indication if similar to trade mark for identical goods or services	9
17	No registration of geographical indication if similar to trade mark for similar goods or services	10
18	When restrictions on registration as geographical indication do not apply in relation to trade mark	10
<i>Registration of homonymous geographical indication</i>		
19	Registrar may register homonymous geographical indication	11
20	Registrar may impose conditions when registering homonymous geographical indication	11
<i>Restrictions on use of registered geographical indications</i>		
21	Restriction on use of New Zealand registered geographical indication for wine	12
22	Restriction on use of foreign registered geographical indication for wine	12
23	Restriction on use of New Zealand registered geographical indication for spirit	12
24	Restriction on use of foreign registered geographical indication for spirit	12
25	Additional rules relating to restrictions on use	13
26	Use of certain information not use of registered geographical indication	13
<i>When restrictions on use of registered geographical indication do not apply</i>		
27	Wine or spirit never in New Zealand or in transit only	13
28	Bottling pre-dating registration of registered geographical indication	13
29	Continuous use	13
30	Trade mark pre-dating registration of registered geographical indication	14

31	Use of registered geographical indication in unregistered trade mark after 5 years after adverse use generally known	14
32	Unregistered geographical indication homonymous with registered geographical indication	14
	<i>Effect of breach of restriction</i>	
33	Breach of restriction on use of registered geographical indication is breach of Fair Trading Act 1986	15
	<i>Registrar</i>	
34	Registrar	15
35	Registrar's seal	15
	<i>Process of registration</i>	
36	Interested person may apply for registration of geographical indication	15
37	Registrar must deal with application according to prescribed procedure	15
38	Priority	16
39	Registrar may obtain advice and consult	16
40	Hearing before exercise of Registrar's discretion	16
41	Conditions of use	16
	<i>Register of registered geographical indications</i>	
42	Register	16
43	Public access to register	17
44	Registrar may correct obvious errors or omissions	17
45	Removal from register	17
46	Alteration of register	18
47	Procedure for removal or alteration	18
	<i>Appeals</i>	
48	Appeals in relation to Registrar's decisions	18
49	Notice of appeal	18
50	Hearing of appeal	18
51	Determination of appeal	19
52	Provisions pending determination of appeal	19
	<i>Geographical indications committees</i>	
53	When Registrar may establish geographical indications committee	19
54	Membership of committee	20
55	Discharge of committee or removal of member	20
56	Proceedings of committee	20
	<i>Miscellaneous</i>	
57	Regulations	21
58	Act does not affect unregistered geographical indication	21

59	Act does not affect Wine Act 2003	21
60	Act does not affect joint food standards	22
61	Act does not limit Fair Trading Act 1986	22
62	Geographical Indications Act 1994 repealed	22
63	Trade Marks Act 2002 amended	22
20	Trade mark that contains registered geographical indication must not be registered	22
98A	No infringement through use of registered geographical indication	23
64	Other consequential amendments	23

## 1 Title

This Act is the Geographical Indications (Wine and Spirits) Registration Act 2006.

## 2 Commencement

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions.

Section 2(1): section 62 brought into force, on 14 April 2008, by clause 2 of the Geographical Indications Act 1994 Repeal Order 2008 (SR 2008/64).

## Part 1 Preliminary provisions

### 3 Purpose

The purposes of this Act are to—

- (a) contribute to the development and continual growth of, and innovation in, the wine and spirits industries in New Zealand by providing a suitable legal framework for the registration of geographical indications; and
- (b) provide a sound trading and marketing environment that facilitates, rather than creates barriers to, the trade in wine and spirits; and
- (c) facilitate the purposes set out in paragraphs (a) and (b) in a manner consistent with New Zealand's rights and obligations under the TRIPS Agreement.

### 4 Interpretation

In this Act, unless the context requires otherwise,—

**bottled** means placed or contained in a bottle or other container used for wine or spirits

**committee** means a geographical indications committee established under section 53

**country** includes a member of the World Trade Organization established by Article 1 of the WTO Agreement

**court** means the High Court

**foreign geographical indication** has the meaning given to it in section 6(3)

**foreign registered geographical indication** has the meaning given to it in section 7(3)

**geographical indication** has the meaning given to it in section 6(1)

**international agreement** means any bilateral or multilateral treaty, convention, or agreement to which New Zealand is a party, and any arrangement between New Zealand and any other country, concerning the protection of geographical indications

**ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**New Zealand Geographic Board** means the New Zealand Geographic Board established under section 3 of the New Zealand Geographic Board Act 1946

**New Zealand geographical indication** has the meaning given to it in section 6(2)

**New Zealand registered geographical indication** has the meaning given to it in section 7(2)

**person** includes the government of a country, a corporation sole, an incorporated or unincorporated body or person, and any association or combination of individual persons or incorporated or unincorporated persons

**prescribed** means prescribed by regulations made under section 57

**register** means the register of registered geographical indications established under section 42

**registered geographical indication** has the meaning given to it in section 7(1)

**Registrar** means the Registrar of Registered Geographical Indications appointed under section 34

**spirit** means a potable alcoholic distillate, including whisky, brandy, rum, gin, and vodka, produced by distillation of fermented liquor derived from food sources, so as to have the taste, aroma, and other characteristics generally attributable to that particular spirit

**Surveyor-General** means the Surveyor-General appointed under section 5 of the Cadastral Survey Act 2002

**trade** means any trade, business, industry, profession, occupation, activity of commerce, or undertaking relating to the supply or acquisition of goods

**TRIPS Agreement** means the Agreement on Trade-Related Aspects of Intellectual Property set out in Annex 1C to the WTO Agreement

**wine** has the same meaning as **grape wine** in section 4(1) of the Wine Act 2003

**working day** means a day of the week other than—

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; and
- (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (b) the day observed in the appropriate area as the anniversary of the province of which the area forms part; and
- (c) a day in the period beginning with 25 December in any year and,—
  - (i) except in section 49, ending with 2 January in the following year; or
  - (ii) in section 49, ending with 15 January in the following year

**WTO Agreement** means the World Trade Organization Agreement adopted at Marrakesh on 15 April 1994, as revised or amended from time to time.

Section 4 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

## 5 Act binds the Crown

This Act binds the Crown.

## Part 2

### Registered geographical indications

#### *Nature of registered geographical indication*

## 6 What is geographical indication?

- (1) A **geographical indication** is an indication that identifies a wine or spirit as originating in the territory of a country, or a region or locality in that territory, where a given quality, or reputation, or other characteristic, of the wine or spirit is essentially attributable to its geographical origin.
- (2) A **New Zealand geographical indication** means a geographical indication that identifies a wine or spirit as originating in New Zealand.
- (3) A **foreign geographical indication** means a geographical indication that identifies a wine or spirit as originating in a country other than New Zealand.

**7 What is registered geographical indication?**

- (1) A **registered geographical indication** is a geographical indication that has been registered under section 8.
- (2) A **New Zealand registered geographical indication** is a New Zealand geographical indication that has been registered under section 8.
- (3) A **foreign registered geographical indication** is a foreign geographical indication that has been registered under section 8.

*Registration*

**8 Registration**

- (1) The Registrar registers a geographical indication by entering it in the register.
- (2) The Registrar may register a geographical indication except in the cases set out in sections 10 to 15.

**9 Date of registration**

- (1) A registered geographical indication is deemed to be registered on and from the date of the application for registration.
- (2) The Registrar must not register a geographical indication until 6 months after the date of the application for registration.
- (3) The date of the application for registration is the date when the Registrar receives the application.

*Restrictions on registration*

**10 Geographical indication identical to registered geographical indication**

The Registrar must not register—

- (a) a geographical indication for a wine that is identical to a registered geographical indication for a wine in respect of the same or a similar geographical origin:
- (b) a geographical indication for a spirit that is identical to a registered geographical indication for a spirit in respect of the same or a similar geographical origin.

**11 Geographical indication identical to customary name of grape variety**

The Registrar must not register a geographical indication if it is identical to the customary name of a grape variety existing in New Zealand on 1 January 1995.

**12 Geographical indication identical to common name for wine or spirit**

The Registrar must not register—

- (a) a geographical indication for a wine if it is identical to the term customary in common language as the common name of a wine in New Zealand;
- (b) a geographical indication for a spirit if it is identical to the term customary in common language as the common name of a spirit in New Zealand.

### **13 Foreign geographical indication**

The Registrar must not register a foreign geographical indication that is not, or has ceased to be, protected in its country of origin or that has fallen into disuse in that country.

### **14 No registration of geographical indication if identical to trade mark for identical goods or services**

- (1) The Registrar must not register a geographical indication if it is identical to a trade mark and the trade mark is registered in New Zealand in respect of identical goods or services.
- (2) The Registrar must not register a geographical indication if—
  - (a) it is identical to a trade mark; and
  - (b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of identical goods or services; and
  - (c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the application for registration of the geographical indication.
- (3) The Registrar must not register a geographical indication if it is identical to a trade mark and rights to the trade mark have been acquired through use in New Zealand in good faith in respect of identical goods or services.

### **15 No registration of geographical indication if identical to trade mark for similar goods or services**

- (1) The Registrar must not register a geographical indication if—
  - (a) it is identical to a trade mark; and
  - (b) the trade mark is registered in New Zealand in respect of similar goods or services; and
  - (c) its use is likely to deceive or confuse.
- (2) The Registrar must not register a geographical indication if—
  - (a) it is identical to a trade mark; and



- (b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of similar goods or services; and
  - (c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the application for registration of the geographical indication; and
  - (d) its use is likely to deceive or confuse.
- (3) The Registrar must not register a geographical indication if—
- (a) it is identical to a trade mark; and
  - (b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of similar goods or services; and
  - (c) its use is likely to deceive or confuse.

**16 No registration of geographical indication if similar to trade mark for identical goods or services**

- (1) The Registrar must not register a geographical indication if—
- (a) it is similar to a trade mark; and
  - (b) the trade mark is registered in New Zealand in respect of identical goods or services; and
  - (c) its use is likely to deceive or confuse.
- (2) The Registrar must not register a geographical indication if—
- (a) it is similar to a trade mark; and
  - (b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of identical goods or services; and
  - (c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the application for registration of the geographical indication; and
  - (d) its use is likely to deceive or confuse.
- (3) The Registrar must not register a geographical indication if—
- (a) it is similar to a trade mark; and
  - (b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of identical goods or services; and
  - (c) its use is likely to deceive or confuse.

**17 No registration of geographical indication if similar to trade mark for similar goods or services**

- (1) The Registrar must not register a geographical indication if—
  - (a) it is similar to a trade mark; and
  - (b) the trade mark is registered in New Zealand in respect of similar goods or services; and
  - (c) its use is likely to deceive or confuse.
- (2) The Registrar must not register a geographical indication if—
  - (a) it is similar to a trade mark; and
  - (b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of similar goods or services; and
  - (c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the application for registration of the geographical indication; and
  - (d) its use is likely to deceive or confuse.
- (3) The Registrar must not register a geographical indication if—
  - (a) it is similar to a trade mark; and
  - (b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of similar goods or services; and
  - (c) its use is likely to deceive or confuse.

**18 When restrictions on registration as geographical indication do not apply in relation to trade mark**

- (1) The restrictions in sections 14 to 17 do not apply, and the Registrar may register a geographical indication that is identical or confusingly similar to a trade mark, if—
  - (a) the owner of the trade mark has consented to its registration as a geographical indication; or
  - (b) the Registrar considers that the geographical indication may co-exist with the trade mark.
- (2) In making a decision under subsection (1)(b), the Registrar must have regard to the following factors:
  - (a) the geographical indication's history of use in good faith in New Zealand;
  - (b) recognition of the geographical indication in New Zealand as a geographical indication:

- (c) the legitimate interests of the owner of the trade mark and of third parties:
- (d) any other relevant factors.

*Registration of homonymous geographical indication*

**19 Registrar may register homonymous geographical indication**

- (1) The Registrar may register a homonymous geographical indication under section 8.
- (2) A **homonymous geographical indication** is—
  - (a) a geographical indication for a wine that has the same spelling as, or sounds the same as,—
    - (i) a registered geographical indication for a wine having a different geographical origin; or
    - (ii) a geographical indication for a wine having a different geographical origin for which an application for registration under section 36 has been made; or
  - (b) a geographical indication for a spirit that has the same spelling as, or sounds the same as,—
    - (i) a registered geographical indication for a spirit having a different geographical origin; or
    - (ii) a geographical indication for a spirit having a different geographical origin for which an application for registration under section 36 has been made.

**20 Registrar may impose conditions when registering homonymous geographical indication**

- (1) For the purposes of section 19, the Registrar may register the homonymous geographical indication with conditions, or alter the register under sections 46 and 47 to include conditions for the use of the earlier registered geographical indication, or both.
- (2) In deciding what conditions (if any) to impose under subsection (1), the Registrar must take into account—
  - (a) the need for the equitable treatment of the producers of the wines or spirits to which the geographical indications relate; and
  - (b) the need to ensure that consumers are not misled.

*Restrictions on use of registered geographical indications***21 Restriction on use of New Zealand registered geographical indication for wine**

A person may use a New Zealand registered geographical indication or indications in trade in New Zealand in relation to a wine only if—

- (a) at least 85% of the wine is obtained from grapes harvested in the geographical origin or origins to which the New Zealand registered geographical indication or indications relate; and
- (b) the New Zealand registered geographical indication or indications are used in accordance with their registration in New Zealand.

**22 Restriction on use of foreign registered geographical indication for wine**

A person may use a foreign registered geographical indication or indications in trade in New Zealand in relation to a wine only if—

- (a) that wine originated in the geographical origin or origins to which the foreign registered geographical indication or indications relate; and
- (b) the foreign registered geographical indication or indications are used in accordance with the scope of their protection in their country of origin, including any conditions as to the use of the foreign registered geographical indication or indications.

**23 Restriction on use of New Zealand registered geographical indication for spirit**

A person may use a New Zealand registered geographical indication or indications in trade in New Zealand in relation to a spirit only if—

- (a) that spirit originated in the geographical origin to which the registered geographical indication or indications relate; and
- (b) the New Zealand registered geographical indication or indications are used in accordance with their registration in New Zealand.

**24 Restriction on use of foreign registered geographical indication for spirit**

A person may use a foreign registered geographical indication or indications in trade in New Zealand in relation to a spirit only if—

- (a) that spirit originated in the geographical origin or origins to which the foreign registered geographical indication or indications relate; and
- (b) the foreign registered geographical indication or indications are used in accordance with the scope of their protection in their country of origin, including any conditions as to the use of the foreign registered geographical indication or indications.

**25 Additional rules relating to restrictions on use**

The restrictions in sections 21 to 24 on the use of a registered geographical indication apply whether or not—

- (a) the true origin of the wine or spirit is indicated; or
- (b) the registered geographical indication is used in translation; or
- (c) the use of the registered geographical indication is accompanied by any of the words “kind”, “type”, “style”, “imitation”, or any similar word or expression.

**26 Use of certain information not use of registered geographical indication**

For the purposes of sections 21 to 25, the use by a person (A) of any or all of the following information, in the course of trade and not in such a manner as to mislead the public, does not of itself constitute the use of a registered geographical indication in relation to a wine or spirit:

- (a) A’s name or the name of A’s predecessor in business;
- (b) a statement indicating the address where the wine or spirit was produced or bottled.

*When restrictions on use of registered geographical indication do not apply*

**27 Wine or spirit never in New Zealand or in transit only**

The restrictions on the use of a registered geographical indication in sections 21 to 24 do not apply in respect of a wine or spirit that is—

- (a) never in New Zealand; or
- (b) in New Zealand only for the purpose of transit from one country to another, neither of which is New Zealand.

**28 Bottling pre-dating registration of registered geographical indication**

The restrictions on the use of a registered geographical indication in sections 21 to 24 do not apply in respect of a wine or spirit that was bottled or was being bottled before the registered geographical indication relating to the wine or spirit was registered under this Act.

**29 Continuous use**

- (1) The restrictions on the use of a registered geographical indication in sections 21 to 24 do not apply in respect of the continued and similar use by any New Zealand person or entity (N) of a term that is a registered geographical indication if N has used the term in a continuous manner in trade in relation to a wine or spirit in New Zealand—

- (a) in good faith since before 15 April 1994; or
- (b) for at least 10 years before 15 April 1994.

- (2) In subsection (1), **New Zealand person or entity** includes—
- (a) the Government of New Zealand;
  - (b) a New Zealand citizen;
  - (c) in the case of a natural person, a person who is ordinarily resident or domiciled in New Zealand;
  - (d) a body corporate established by or under New Zealand law;
  - (e) an unincorporated association established in New Zealand;
  - (f) an association of any of the persons or entities in paragraphs (a) to (e).

### **30 Trade mark pre-dating registration of registered geographical indication**

- (1) The restrictions on the use of a registered geographical indication in sections 21 to 24 do not apply in respect of the use of a trade mark if, before the effective date,—
- (a) the trade mark has been registered in New Zealand; or
  - (b) registration of the trade mark in New Zealand has been applied for in good faith; or
  - (c) rights to the trade mark have been acquired by use in New Zealand in good faith.
- (2) In subsection (1), **effective date** means the later of 1 January 1995 and the date on which protection of the geographical indication in its country of origin began.

### **31 Use of registered geographical indication in unregistered trade mark after 5 years after adverse use generally known**

- (1) The restrictions on the use of a registered geographical indication in sections 21 to 24 cease to apply to the use not in bad faith of a registered geographical indication in an unregistered trade mark after 5 years after its adverse use became generally known in New Zealand.
- (2) In subsection (1), **adverse use** means use of a registered geographical indication in an unregistered trade mark in contravention of the restrictions contained in sections 21 to 24.

### **32 Unregistered geographical indication homonymous with registered geographical indication**

- (1) This section applies when a registered geographical indication and an unregistered geographical indication are homonymous.
- (2) The restrictions on the use of a registered geographical indication in sections 21 to 24 do not apply to the use of an unregistered geographical indication for a wine or spirit that originates in the geographical origin to which the unregistered geographical indication relates.

*Effect of breach of restriction*

**33 Breach of restriction on use of registered geographical indication is breach of Fair Trading Act 1986**

A person who contravenes any of sections 21 to 24 contravenes section 9 of the Fair Trading Act 1986 and the provisions of that Act apply accordingly.

*Registrar*

**34 Registrar**

- (1) There must be a Registrar of Registered Geographical Indications appointed under the State Sector Act 1988.
- (2) The Registrar must be an officer or employee of the ministry, and his or her appointment may be held either separately or in conjunction with any other office in the ministry.

**35 Registrar's seal**

- (1) The Registrar must have and use a seal of office bearing the impression of the New Zealand Coat of Arms and having inscribed in the margin the words "Registrar of Registered Geographical Indications, New Zealand".
- (2) Every document bearing the imprint of the Registrar's seal of office, and purporting to be signed or issued by the Registrar, or by a person employed to assist the Registrar in the exercise of the Registrar's functions under this Act,—
  - (a) must be received in evidence; and
  - (b) in the absence of proof to the contrary, must be treated as having been signed or issued by or under the direction of the Registrar.

*Process of registration*

**36 Interested person may apply for registration of geographical indication**

An interested person may apply in the prescribed form and on payment of the prescribed fee for the registration of a geographical indication.

**37 Registrar must deal with application according to prescribed procedure**

- (1) The Registrar must deal with the application according to the procedure prescribed by regulations made under section 57.
- (2) Those regulations may include regulations for—
  - (a) the acceptance or rejection of the application:
  - (b) opposition, and determination of opposition, to an accepted application:
  - (c) registration:
  - (d) any other steps to be taken in dealing with the application.

**38 Priority**

- (1) The first application for the registration of a geographical indication received by the Registrar has priority over any subsequent application for registration of an identical geographical indication—
  - (a) in respect of the same good (that is, wine or spirit); and
  - (b) having the same or a similar geographical origin.
- (2) The Registrar must reject any subsequent application received before the Registrar has accepted or rejected the first application.

**39 Registrar may obtain advice and consult**

If the Registrar thinks it necessary, the Registrar may obtain advice on, and may consult about, any matter relating to—

- (a) an application for the registration of a geographical indication, including opposition to an accepted application; or
- (b) the registrability of a geographical indication; or
- (c) alterations to a registered geographical indication; or
- (d) the removal of a registered geographical indication from the register.

**40 Hearing before exercise of Registrar's discretion**

- (1) The Registrar must not, without giving an interested person an opportunity of being heard, adversely exercise any discretionary or other power under this Act or regulations made under this Act in relation to—
  - (a) a registered geographical indication; or
  - (b) a geographical indication that is the subject of an application for registration under section 8.
- (2) Regulations made under section 57 may prescribe the procedure for the opportunity to be heard.

**41 Conditions of use**

The Registrar may register a geographical indication with conditions as the Registrar thinks fit, including conditions on the use of the geographical indication.

*Register of registered geographical indications*

**42 Register**

- (1) The Registrar must establish and maintain a register of registered geographical indications.
- (2) The register must contain 2 parts, as follows:
  - (a) Part 1, for all registered geographical indications except those to which paragraph (b) refers:



- (b) Part 2, for geographical indications that have been registered in accordance with regulations made under section 57(j).
- (3) The register must specify, in respect of each registered geographical indication,—
  - (a) whether it relates to a wine or a spirit or to both; and
  - (b) its boundaries, unless it is a foreign registered geographical indication (including a foreign registered geographical indication in Part 2 of the register); and
  - (c) any conditions that relate to it; and
  - (d) the date of registration.
- (4) The register may be kept in any manner that the Registrar thinks fit, including, either wholly or partly, by means of a device or facility—
  - (a) that records or stores information electronically or by other means; and
  - (b) that permits the information so recorded or stored to be readily inspected or reproduced in usable form.
- (5) The register is prima facie evidence of any matters required or authorised by or under this Act to be entered in it.

#### **43 Public access to register**

- (1) The Registrar must allow access to the register during each working day, at the times determined by Registrar for inspection, by any person who pays the prescribed fee (if any).
- (2) The Registrar must provide a copy, or a certified copy, of any particulars on the register to any person who applies for it and pays the prescribed fee (if any).
- (3) A certified copy of particulars on the register signed by the Registrar and sealed with the Registrar's seal is conclusive evidence for all purposes that the particulars on the certified copy have been duly registered.

#### **44 Registrar may correct obvious errors or omissions**

If satisfied that there is an obvious error in, or omission from, the register, the Registrar may correct it.

#### **45 Removal from register**

- (1) The Registrar may remove a registered geographical indication from the register if satisfied that any of the following grounds exist:
  - (a) in the case of a foreign geographical indication, it is not, or has ceased to be, protected in its country of origin;
  - (b) it has fallen into disuse in its country of origin;
  - (c) it should not have been registered because it did not meet the requirements of the definition of a geographical indication in section 6(1):

- (d) it should not have been registered because it fell under 1 or more of the restrictions in sections 10 to 15:
  - (e) it has become a term customary in common language as the common name for a wine or spirit in New Zealand.
- (2) The Registrar may remove a registered geographical indication under subsection (1) on his or her own initiative, or on the application of any interested person.
  - (3) The Registrar may refuse an application for removal that in the Registrar's opinion is vexatious or frivolous.

#### **46 Alteration of register**

- (1) If satisfied that the alteration is necessary, the Registrar may, on his or her own initiative or on the application of an interested person, alter a registered geographical indication, or the conditions or boundaries relating to it.
- (2) The Registrar may refuse an application for alteration that in the Registrar's opinion is vexatious or frivolous.

#### **47 Procedure for removal or alteration**

- (1) Before removing a registered geographical indication from the register or altering the register, the Registrar must follow the procedure prescribed by regulations made under section 57.
- (2) Those regulations may include regulations for—
  - (a) advertising the removal or alteration:
  - (b) opposition, and determination of opposition, to the removal or alteration:
  - (c) any other steps to be taken in effecting the removal or alteration.

### *Appeals*

#### **48 Appeals in relation to Registrar's decisions**

A person who is aggrieved by a decision of the Registrar under this Act may appeal to the court.

#### **49 Notice of appeal**

Notice of an appeal under section 48 must be filed in the court and served on the Registrar within 20 working days after the date on which the decision appealed against was given.

#### **50 Hearing of appeal**

- (1) On an appeal, the court must hear the Registrar and the parties.
- (2) An appeal must be heard only on the materials stated by the Registrar unless a party, either in the manner prescribed or by leave of the court, brings forward further material for the consideration of the court.

- (3) In the case of an appeal against the acceptance of an application for registration of a geographical indication, or the registration of a geographical indication,—
- (a) no further grounds are permitted by the person opposing the application or registration, other than those stated by the person opposing, except with the permission of the court; and
  - (b) if further grounds of objection are permitted, the applicant for registration may, on giving notice as prescribed in regulations made under section 57, withdraw the application without paying the costs of the person opposing.

### **51 Determination of appeal**

In determining an appeal, the court may—

- (a) confirm, modify, or reverse the Registrar’s decision or any part of it;
- (b) exercise any of the powers that could have been exercised by the Registrar in relation to the matter to which the appeal relates.

### **52 Provisions pending determination of appeal**

The decision to which an appeal under this Act relates remains in full force pending the determination of the appeal unless the court orders otherwise.

## *Geographical indications committees*

### **53 When Registrar may establish geographical indications committee**

- (1) The Registrar may, if the Registrar thinks fit, establish a geographical indications committee in relation to an application for 1 or more of the following:
- (a) registration of a geographical indication;
  - (b) alteration of a registered geographical indication;
  - (c) removal of a registered geographical indication from the register.
- (2) In deciding whether or not to establish a geographical indications committee under subsection (1) in relation to an application for registration of a geographical indication, the Registrar must have regard to the following factors:
- (a) whether any person opposes or, in the opinion of the Registrar, is likely to oppose the application for registration;
  - (b) whether the application is supported by the relevant national and regional organisations representing the wine or spirits industry, as the case may be;
  - (c) whether there are any existing trade mark rights that may need to be taken into account in considering the application;
  - (d) whether there are any existing homonymous geographical indications;
  - (e) whether, if the application is successful, the geographical indication might be registered subject to conditions:

- (f) the history and the current use of the geographical indication in New Zealand and the country of origin:
  - (g) any other factors that the Registrar considers relevant.
- (3) The function of the committee is to advise the Registrar on issues relating to the boundaries and the use of a place name as a geographical indication.

#### **54 Membership of committee**

- (1) The Registrar may at any time appoint a member of the committee.
- (2) Each committee must include the following members:
- (a) the Surveyor-General (or the Surveyor-General's representative) acting in his or her capacity as Surveyor-General:
  - (b) a member of the New Zealand Geographic Board, who is not the Surveyor-General, acting in his or her capacity as a member of that board:
  - (c) 1 or more persons who, in the Registrar's opinion, have appropriate knowledge of the wine or spirits industry, as the case may be.
- (3) Subsection (2)(a) or (b) does not apply if the matter on which the Registrar requires advice does not relate to boundaries or place names respectively.
- (4) In appointing a person under subsection (2)(c), the Registrar must first consult the relevant national and regional organisations representing the wine or spirits industry, as the case may be.
- (5) The Registrar may appoint as members of the committee any other persons who, in the opinion of the Registrar, have appropriate knowledge or expertise in relation to the matter to be considered by the committee.
- (6) A member of the committee may resign office by notice in writing to the Registrar.

#### **55 Discharge of committee or removal of member**

- (1) The Registrar may at any time discharge the committee.
- (2) The Registrar may at any time remove a member of the committee, except the Surveyor-General, and appoint another person in his or her place.

#### **56 Proceedings of committee**

- (1) Meetings of a committee must be held at the times and places as the committee or the chairperson from time to time decides.
- (2) The quorum for a meeting of a committee is 3 members.
- (3) Every question before a committee must be determined by a majority of the votes of the members present at the meeting concerned.
- (4) The chairperson of a committee has a deliberative vote and, in the case of an equality of votes, a casting vote.

- (5) Except as provided in this section and in any regulations made under this Act, and subject to any direction given by the Registrar, the committee may regulate its own procedure.

*Miscellaneous*

**57 Regulations**

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing the form of, and the requirements relating to, applications under this Act:
- (b) prescribing the procedure for dealing with an application for registration of a geographical indication:
- (c) prescribing any transitional arrangements for making or dealing with an application for registration of a geographical indication:
- (d) prescribing the procedure relating to the removal of a registered geographical indication from the register:
- (e) prescribing the procedure relating to the alteration of a geographical indication on the register:
- (f) prescribing the procedure for any hearing under this Act:
- (g) prescribing time and extensions of time in respect of any matters under this Act:
- (h) specifying conditions relating to 1 or more registered geographical indications:
- (i) prescribing the matters in respect of which fees are payable under this Act, the amounts of the fees or the methods by which they are to be assessed, and the person to whom the fees are to be paid:
- (j) giving effect, for the purposes of this Act, to the terms of any international agreement:
- (k) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.

**58 Act does not affect unregistered geographical indication**

Nothing in this Act affects a geographical indication that is not a registered geographical indication.

**59 Act does not affect Wine Act 2003**

Nothing in this Act affects the operation of the Wine Act 2003.

**60 Act does not affect joint food standards**

Nothing in this Act affects the operation of any joint food standard adopted under the Food Act 2014.

Section 60 heading: amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

Section 60: amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

**61 Act does not limit Fair Trading Act 1986**

Nothing in this Act limits the operation of the Fair Trading Act 1986.

**62 Geographical Indications Act 1994 repealed**

The Geographical Indications Act 1994 is repealed.

**63 Trade Marks Act 2002 amended**

(1) Section 5(1) of the Trade Marks Act 2002 is amended by repealing the definitions of **geographical indication**, **protected geographical indication**, and **specified goods**.

(2) Section 5(1) of the Trade Marks Act 2002 is amended by inserting the following definition after the definition of **register**:

**registered geographical indication** has the same meaning as in section 7(1) of the Geographical Indications (Wine and Spirits) Registration Act 2006

(3) Section 11 of the Trade Marks Act 2002 is amended by inserting the following paragraph after paragraph (a):

(ab) are subject to any rights arising out of a registered geographical indication; and

(4) The Trade Marks Act 2002 is amended by repealing section 20 and substituting the following section:

**20 Trade mark that contains registered geographical indication must not be registered**

(1) The Commissioner must not register a trade mark that—

(a) contains—

(i) a registered geographical indication for a wine; or

(ii) a geographical indication in respect of which registration has been applied for in good faith under the Geographical Indications (Wine and Spirits) Registration Act 2006; and

(b) relates to a wine that does not originate from the geographical origin to which the registered geographical indication relates.

(2) The Commissioner must not register a trade mark that—

(a) contains a registered geographical indication for a spirit; and

(b) relates to a spirit that does not originate from the geographical origin to which the registered geographical indication relates.

- (3) In this section,—  
**spirit** has the same meaning as in section 4 of the Geographical Indications (Wine and Spirits) Registration Act 2006  
**wine** has the same meaning as in section 4 of the Geographical Indications (Wine and Spirits) Registration Act 2006.
- (5) Section 88 of the Trade Marks Act 2002 is amended by repealing paragraph (c) and substituting the following paragraph:
- (c) rights under the Geographical Indications (Wine and Spirits) Registration Act 2006.
- (6) The Trade Marks Act 2002 is amended by inserting the following section after section 98:

**98A No infringement through use of registered geographical indication**

A registered trade mark is not infringed by the use of a registered geographical indication registered under the Geographical Indications (Wine and Spirits) Registration Act 2006.

**64 Other consequential amendments**

- (1) Section 8 of the New Zealand Geographic Board Act 1946 is amended by inserting the following subsection after subsection (1):
- (1A) The Board also has the functions given to it by the Geographical Indications (Wine and Spirits) Registration Act 2006.
- (2) Part 2 of Schedule 1 of the Ombudsmen Act 1975 is amended by inserting the following item in its appropriate alphabetical order:  
Geographical indications committees established under the Geographical Indications (Wine and Spirits) Registration Act 2006
- (3) Schedule 1 of the Trans-Tasman Mutual Recognition Act 1997 is amended by omitting the item “Geographical Indications Act 1994” and substituting the item “Geographical Indications (Wine and Spirits) Registration Act 2006”.

## Reprints notes

### 1 *General*

This is a reprint of the Geographical Indications (Wine and Spirits) Registration Act 2006 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Food Act 2014 (2014 No 32): section 447

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Geographical Indications Act 1994 Repeal Order 2008 (SR 2008/64): clause 2