

INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA (MyIPO)



CONSULTATION PAPER

NOVEMBER 2021

PROPOSED NEW POLICIES FOR PROTECTION OF GEOGRAPHICAL INDICATIONS

(REF. NO.: Bil. 1/2021/PC/GI)

INTRODUCTION

The Intellectual Property Corporation of Malaysia (MyIPO) is seeking for feedback on the proposed changes to the Geographical Indications Act 2000. MyIPO welcomes our stakeholders and any interested parties to make a written submission in response to the proposed changes and new policies as stated below.

The period of public consultation is from **12 NOVEMBER 2021 until 21 NOVEMBER 2021**.

You are welcome to submit the written submission via email either to Ms. Iylia Hashim at iylia@myipo.gov.my or Ms. Zaitilakhtar Yunus at zaiti@myipo.gov.my or Mr Ryzul Osman Basah at ryzul@myipo.gov.my by **5.00 pm, 21 November 2021**.

Your feedback is important to help us in improving the geographical indications regime in Malaysia.

Please note that, unless requested otherwise, written submissions submitted to MyIPO will be made publicly available.

BACKGROUND

The Intellectual Property Corporation of Malaysia (“MyIPO”) intends to review the Geographical Indications Act 2000 [Act 602]. This review seeks to introduce new policies and law in view of the global changes that are taking place relating to protection given to geographical indications.

Such policies are appended here below for your perusal.

Thus, this consultation paper seeks to gather feedback on the proposed changes, among others, relating to:

- i) requirements of filing an application
- ii) grounds of examination of geographical indication
- iii) grounds of opposition
- iv) grounds of cancellation
- v) grounds for institution of a civil action
- vi) types of offences
- vii) requirements of registration of geographical indications agents

THE PROPOSED POLICIES ON PROTECTION FOR GEOGRAPHICAL INDICATION

ITEM NO.	MATTERS	PROPOSED POLICIES
1.	Definition of certain terms	<p>It is proposed that the following terms are defined as follows:</p> <p>“agent” means a Geographical Indication agent registered in accordance with this Act.</p> <p>“competent authority” means any—</p> <ul style="list-style-type: none"> (a) government or statutory body carrying out the functions of, on behalf of, or sanctioned by, the Government of Malaysia or the Government of a State; (b) government other than the Government of Malaysia; or (c) authority which is competent to certify the goods, <p>and has the responsibility for the geographical indication in question;</p> <p>“Corporation” means the Intellectual Property Corporation of Malaysia established under the Intellectual Property Corporation of Malaysia Act 2002;</p> <p>“Court” means the High Court;</p>

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		<p>“earlier geographical indication” means a registered geographical indication, the application for registration of which was made earlier than the geographical indication in question, and includes a geographical indication in respect of which an application for registration has been made and which, if registered, would be an earlier geographical indication by virtue of subject to its being so registered”;</p> <p>“geographical indication”—</p> <p>(a) means an indication which identifies any goods as originating in a country or territory, or a region or locality in that country or territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin; and</p> <p>(b) may contain two or more words;</p> <p>“goods” means any goods as determined by the Registrar in the guidelines or practice directions;</p>

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		<p>“homonymous geographical indication” means a geographical indication that, in part or in whole, has the same spelling as, or sounds the same as, a geographical indication for any goods having a different geographical origin;</p> <p>“interested person” in relation to goods identified by a geographical indication, means a producer of the goods, a trader of the goods, or an association of such producers, traders or producers and traders;</p> <p>“Minister” means the Minister charged with the responsibility for geographical indication;</p> <p>“Paris Convention” means the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised or amended from time to time;</p> <p>"prescribed" means, in relation to proceedings before the Court or preliminary thereto or connected therewith, prescribed by rules of court made by the Rules Committee constituted under the Courts of Judicature Act 1964 [Act 91], and in other cases, prescribed by the Minister in the regulations made under this Act;</p>

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		<p>“producer” means any producer, manufacturer or trader of goods identified by the geographical indication;</p> <p>“protected international registration designating Malaysia” has the meaning as assigned to it in the Trademarks Act 2019 [Act 815];</p> <p>“qualified person” means —</p> <ul style="list-style-type: none"> (a) a citizen of Malaysia or an individual who is residing in Malaysia; (b) a body corporate incorporated under any written law in Malaysia; or (c) any other person who has a real and effective industrial or commercial establishment in Malaysia; <p>“Register” means the Register of Geographical Indications kept under this Act;</p> <p>“registered geographical indications” means a geographical indication that is registered under this Act;</p>

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		<p>“registered proprietor” in relation to a geographical indication, means a person for the time being entered in the Register as proprietor of the geographical indication;</p> <p>“registered trademark” means a trademark registered under the Trademarks Act 2019 or under any previous written law relating to trademark;</p> <p>“repealed Act” means the Geographical Indications Act 2000 [Act 602];</p> <p>“trademark” has the same meaning as in the Trademarks Act 2019 or under any previous written law relating to trademark;</p> <p>“use” means use as part of, in connection with—</p> <ul style="list-style-type: none"> (a) any transaction, including a purchase, a sale or an exchange; (b) any importing or exporting;

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		<p>(c) any advertisement; or</p> <p>(d) any invoice, wine list, catalogue, business letter, business paper, price list or other commercial document;</p> <p>“well-known trademark” has the meaning as assign to it in the Trademarks Act 2019 or under any previous written law relating to trademark; and</p> <p>“variant” means any variant of a geographical indication constituting the geographical indication, and includes any translation, transliteration or other variation of the indication.</p>
PROTECTION FOR GEOGRAPHICAL INDICATION		
2.	Institution of proceedings against certain uses of geographical indication	Subject to any exception, it is proposed that any interested person of goods identified by a geographical indication may institute Court proceedings against any person for carrying out an act to which item 3 applies in relation to the geographical indication.

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3.	Institution of proceedings against certain uses of geographical indication	<ul style="list-style-type: none"> - It is proposed that item 2 shall apply to the following acts: <ul style="list-style-type: none"> (a) the use in the course of trade of a geographical indication by any means in the designation or presentation of any goods that indicates or suggests, in a manner which misleads the public as to the geographical origin of the goods, that the goods in question originate in a geographical area other than the true place of origin; (b) any use in the course of trade of a geographical indication which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention for the Protection of Industrial Property 1967 as specified in the Schedule; (c) any use in the course of trade of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or a geographical indication identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the wines or spirits is indicated or the geographical indication is used in translation or accompanied

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		<p>by expressions such as “kind”, “type”, “style”, “imitation” or any similar word or expression.</p> <ul style="list-style-type: none"> - Any use in the course of trade of a geographical indication within the meaning of paragraph (1) shall be deemed to be an act to which this item applies, even if the geographical indication is literally true as to the geographical origin of the goods in question, provided that such use falsely represents to the public that the goods originate in another country, territory, region or locality. - For the purposes of paragraph (1), “use in the course of trade of a geographical indication” includes the use of a trademark which contains and consists of the geographical indication in question. - Item 2 shall apply to any use of a registered geographical indication which identifies any goods, other than wine or a spirit belonging to a category of goods, in relation to any goods which are of the same category as that goods, but which did not originate in the place indicated by the registered geographical indication in question, even

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		<p>where the true origin of those goods is indicated or the geographical indication is used in translation or accompanied by any expressions such as “kind”, “type”, “style”, “imitation” or any similar word or expression.</p> <ul style="list-style-type: none"> - Any use of a registered geographical indication within the meaning of paragraph (4) shall be deemed to be an act to which item 2 applies, even if the geographical indication is literally true as to the geographical origin of the goods in question, provided that such use falsely represents to the public that the goods originate in another country, territory, region or locality. - Paragraph (4) shall not apply to the use of a registered geographical indication to identify an ingredient of any goods, if the geographical indication is literally true as to the geographical origin of the ingredients in question, provided that such use does not falsely represent to the public that the goods originate in the place indicated by the geographical indication.

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		<ul style="list-style-type: none"> - In an action under item 2, the Court may grant— <ul style="list-style-type: none"> (a) an injunction subject to such conditions as the Court thinks fit; or (b) in any case to which paragraph (4), (5) or (6) applies— <ul style="list-style-type: none"> (i) an award of damages or account of profits; and (ii) any other legal remedy or relief as the Court deems fit.
4.	Homonymous geographical indications for goods as determined by the Registrar	<ul style="list-style-type: none"> - It is proposed that any interested person of any goods identified by homonymous geographical indications may institute Court proceedings against any person for carrying out any act under item 2. - Any interested person of any goods identified by homonymous geographical indications may, where no practical conditions in respect of the homonymous geographical indications have been imposed by the Registrar under item 19, apply to the Court for a declaration of the practical conditions under which the homonymous geographical indications are to be differentiated from each other,

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		taking into account the need to ensure equitable treatment of the interested parties concerned and that the public are not misled.
EXCEPTIONS		
5.	Exception for certain uses of geographical indication	<ul style="list-style-type: none"> - Item 2 shall not apply to the use of a geographical indication which is— <ul style="list-style-type: none"> (a) contrary to public order or morality; (b) not or has ceased to be protected in its country or territory of origin; (c) identical with the term customary in the common language as common name of the goods or services in Malaysia; (d) identical with the customary name of a grape variety existing in Malaysia as of 1 January 1995, with respect to products of the wine of that or any other grape variety; or (e) fallen into disuse in its country or territory of origin
6.	Exception for failure to take action	<ul style="list-style-type: none"> - An action under item 2 shall not be brought against a person for the use of a trade mark which contains or consists of a geographical indication after the expiry of five years—

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		<p>(a) from the date such use by that person or his predecessor in title has become generally known in Malaysia; or</p> <p>(b) from the date of registration of the trade mark by that person under the Trade Marks Act 1976 [Act 175], whichever is earlier.</p> <p>- Paragraph above shall not apply if the trade mark was used or registered in bad faith.</p>
7.	Exception for prior uses	<p>- Item 2 shall not apply to the use by a qualified person of a particular geographical indication of another country identifying wines or spirits in relation to any goods or services if the qualified person has, or he and his predecessor in title have, continuously used in Malaysia that geographical indication in relation to those goods or services or related goods or services either—</p> <p>(a) for at least ten years before 15 April 1994; or</p> <p>(b) in good faith before 15 April 1994.</p>

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		<ul style="list-style-type: none"> - Item 2 shall not apply to the use by a person of a trade mark which is identical or similar to a geographical indication if— <ul style="list-style-type: none"> (a) the application for the registration of the trade mark was made in good faith, or the trade mark was registered in good faith, under the Trade Marks Act 1976 [Act 175] or any previous written law relating to trade marks; (b) he has, or he and his predecessor in title have, continuously used that trade mark in good faith in Malaysia in the course of trade, either before 15 August 2001 or before the geographical indication in question is protected in its country or territory of origin.
8.	Exception for use of personal name	Item 2 shall not apply to the use in the course of trade by person of that person's name or the name of that person's predecessor in business except where such name is used in such a manner as to mislead the public.

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9.	Exception for certain uses of registered geographical indications	<p>Item 2 shall not apply to the use in the course of trade—</p> <ul style="list-style-type: none"> (a) of any name contained in a registered geographical indication in relation to any goods or services where the name is identical with the term customarily used in common language to describe such goods or services in Malaysia; or (b) of any individual component contained in the geographical indication where the individual component is identical to a term customary in the common language as the common name of any goods or services in Malaysia.
10.	Exception for prior uses of registered geographical indications and trademarks	<ul style="list-style-type: none"> - Item 2 shall not apply to the use by a qualified person of a registered geographical indication identifying any goods other than wine and spirit in relation to any goods or services if the qualified person has, or he and his predecessor in title have, continuously used in Malaysia that geographical indication in relation to those goods or services or related goods or services either— <ul style="list-style-type: none"> (a) for at least ten years before the commencement of this Act; or (b) in good faith before the commencement of this Act.

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		<ul style="list-style-type: none"> - Item 2 shall not apply to the use of a trademark which is identical or similar to a registered geographical indication if— <ul style="list-style-type: none"> (a) the trademark is a registered trademark or protected international registration designating Malaysia, and taking into account, where appropriate, the priorities claimed in respect of the trademark under the Trademarks Act 2019— <ul style="list-style-type: none"> (i) the application for the registration of the trade mark was made in good faith; or (ii) the trade mark was registered in good faith, under the Trademarks Act 2019 relating to trademarks, before the date of application for registration of the geographical indication in Malaysia; or (b) he has, or he and his predecessor in title have, continuously used the trademark in good faith in Malaysia in the course of trade, before the date of application for registration of geographical indication in Malaysia. - Item 2 shall not apply to the use by a person of a trademark which is identical or similar to a registered geographical indication if—

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		<p>(a) the trademark is, before the date of the application for registration of the geographical indication in Malaysia, a well-known trademark in Malaysia; and</p> <p>(b) the application of item 2 to the use of that trademark is liable to mislead consumers as to the true identity of the goods identified by that geographical indication.</p>
ADMINISTRATION		
11.	Registrar, Deputy Registrars and Assistant Registrars	<ul style="list-style-type: none"> - It is proposed that the Director General of the Corporation shall be the Registrar of Geographical Indications and have the control of the Geographical Indications Office. - The Registrar shall perform the duties imposed and exercise the powers conferred on him under this Act for the proper administration of this Act. - The Corporation may appoint, on such terms and conditions as the Corporation may determine, from amongst persons in the

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		<p>employment of the Corporation, such number of Deputy Registrars of Geographical Indications, Assistant Registrars of Geographical Indications and other officers as may be necessary for the proper administration of this Act.</p> <ul style="list-style-type: none"> - Subject to the general direction and control of the Registrar and to such conditions or restrictions as may be imposed by the Registrar, a Deputy Registrar or an Assistant Registrar may exercise any power of the Registrar under this Act. - The Registrar shall have a seal of such device as may be approved by the Corporation and the impressions of such seal shall be judicially noticed and admitted in evidence.
12.	Protection of Registrar, Deputy Registrars, Assistant Registrars and other officers	<ul style="list-style-type: none"> - It is proposed that no action, suit, prosecution or other proceedings shall be brought, instituted or maintained in any court against— <ul style="list-style-type: none"> (a) the Registrar, Deputy Registrars, Assistant Registrars or any other officer, in respect of any act ordered or done for the purpose of carrying into effect this Act; and

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		<p>(b) any other officer in respect of any act done or purported to be done by him under the order, direction or instruction of the Registrar,</p> <p>if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.</p>
13.	Geographical Indications Office and other branch offices	<ul style="list-style-type: none"> - It is proposed that the Central Geographical Indications Office and such number of branch offices of the Central Geographical Indications Office established under section 9 of the repealed Act shall be known as Geographical Indications Office and branch offices, respectively. - In addition to the above, for the purposes of this Act, such number of branch offices of the Geographical Indications Office as may be necessary shall be established. - It is proposed that any document required by this Act to be filed at the Geographical Indications Office may be filed at any branch office of the Geographical Indications and reference in this Act to the

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		<p>submission at the Geographical Indications Office includes reference to the submission at a branch office.</p> <ul style="list-style-type: none"> - It is proposed that all communication with the Geographical Indications Office shall be in the national language or English language.
REGISTER OF GEOGRAPHICAL INDICATIONS		
14.	Register of Geographical Indications	<ul style="list-style-type: none"> - It is proposed that the Registrar shall keep and maintain a register called the Register of Geographical Indications. - The Register shall contain all such matters and particulars relating to geographical indications as prescribed. - The Register shall be kept in such form as determined by the Registrar.

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15.	Inspection of Register	<ul style="list-style-type: none"> - It is proposed that the Register shall be made available for public inspection subject to the conditions as prescribed upon application in the form as determined by the Registrar together with the payment of the prescribed fee. - Subject to the conditions in stated above, certified copies or extracts of any entry in the Register sealed with the seal of the Registrar shall be given to any person upon application in the form as determined by the Registrar together with the payment of the prescribed fee.
REGISTRATION OF GEOGRAPHICAL INDICATIONS		
16.	Application for registration of geographical indication	<ul style="list-style-type: none"> - It is proposed that any person may file an application for registration of a geographical indication of any goods as may be determined by the Registrar in such manner and with the payment of fee as may be prescribed.

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		<ul style="list-style-type: none"> - If the person referred to above wishes to register any variant of a geographical indication and the geographical indication is the subject of an application for registration, the registration of the variant shall be made in a different application for registration. - If the geographical indication applied for registration contains or consists of a word which is not in Roman characters, or the national language or English language, the applicant shall furnish the Registrar with the following: <ul style="list-style-type: none"> (a) the transliteration of the geographical indication; (b) the translation of the geographical indication; or (c) any information as determined by the Registrar. - If the applicant does not comply with the requirements under this item within the prescribed period, his application for registration of geographical indication shall be deemed to be withdrawn. - For the purposes of this item, “person” means—

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		<ul style="list-style-type: none"> (a) any person who is carrying on an activity as a producer in the geographical area with respect to the goods and includes an association of such person; or (b) a competent authority.
17.	Registration only in respect of categories of goods as determined by the Registrar	<ul style="list-style-type: none"> - It is proposed that an application for registration of a geographical indication under item 16 may only be made by the applicant in respect of any goods as determined by the Registrar. - The Registrar shall determine whether or not any specific goods fall within a category of goods set out in the guidelines or practice directions.
18.	Grounds for refusal of registration of geographical indications	<ul style="list-style-type: none"> - It is proposed that the Registrar shall refuse to register a geographical indication based on the following grounds: <ul style="list-style-type: none"> (a) the geographical indication does not correspond to the meaning of “geographical indications” as defined in the definition;

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		<ul style="list-style-type: none"> (b) the geographical indication identifies goods that do not fall within any of the categories of goods as determined by the Registrar; (c) the geographical indication consists exclusively of an indication which is identical with the term customary in the common language as the common name of any goods in Malaysia and registration of geographical indication is sought in relation to those goods; (d) the geographical indication is contrary to public order or morality; (e) the geographical indication is not or has ceased to be protected in its country or territory of origin; (f) the goods does not originate from the country, region or locality indicated in the application for registration of geographical indication; or (g) the geographical indication in relation to the goods is of such a nature which may mislead the public as to the true place of origin of the goods;

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		<ul style="list-style-type: none"> - Subject to item 19, the Registrar shall refuse to register a geographical indication if there exists a likelihood of confusion on the part of the public because the geographical indication is identical with or similar to, and has the same geographical origin as, an earlier geographical indication. - It is proposed that the Registrar shall not register a geographical indication if there exists a likelihood of confusion on the part of the public by reason of the geographical indication is identical with or similar to a trademark if the trademark fulfils any of the following conditions: <ul style="list-style-type: none"> (a) the trademark is a registered trademark or protected international registration designating Malaysia, and taking into account, where appropriate, the priorities claimed in respect of the trademark under the Trademarks Act 2019 where— <ul style="list-style-type: none"> (i) the application for the registration of the trademark was made in good faith; or

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		<ul style="list-style-type: none"> (ii) the trademark was registered in good faith, under the Trademarks Act 2019 or any previous written law relating to trademarks, before the date of application for registration of the geographical indication in Malaysia; (b) the trademark has been used in good faith in Malaysia in the course of trade before the date of application for registration of the geographical indication in Malaysia. <p>- It is proposed that the Registrar shall refuse to register a geographical indication that is identical with or similar to a trademark if—</p> <ul style="list-style-type: none"> (a) before the date of application for registration of the geographical indication, the trademark is a well-known trademark in Malaysia; and (b) the registration of the geographical indication is liable to mislead consumers as to the true identity of the goods identified by that geographical indication.

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		<ul style="list-style-type: none"> - Notwithstanding paragraphs (3) and (4), the Registrar may, in his discretion, register any geographical indication referred to in paragraph (3) or (4), if the proprietor of the trademark referred to in paragraph (3) or (4), as the case may be — <ul style="list-style-type: none"> (a) consents to the registration; or (b) fails to give notice to the Registrar of his opposition to the registration in accordance with item 24(1). - For the purposes of this item— <ul style="list-style-type: none"> (a) a reference to a geographical indication includes a variant of the geographical indication; and (b) a refusal of registration under this item of any variant of a geographical indication does not prevent the registration of any other variant of the geographical indication if that variant satisfies the requirements of this Act.
19.	Registration of homonymous geographical indications	<ul style="list-style-type: none"> - Notwithstanding paragraph (2) of item 18 above, it is proposed that the Registrar may register a geographical indication that is a

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		<p>homonymous geographical indication in relation to an earlier geographical indication.</p> <ul style="list-style-type: none"> - For the purposes of the above paragraph, the Registrar may register the homonymous geographical indication with practical conditions as determined by the Registrar differentiating the homonymous geographical indication from the earlier geographical indication, taking into account the need to ensure equitable treatment of all the parties concerned and that the public are not misled.
20.	Examination of application	<ul style="list-style-type: none"> - It is proposed that the Registrar shall examine whether an application for registration of a geographical indication made by an applicant fulfills the requirements for registration under this Act. - For the purposes of an examination in the paragraph above, the Registrar shall carry out a search, to such extent as he considers necessary, of earlier geographical indications or earlier trademark.

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		<ul style="list-style-type: none"> - If the application for registration of geographical indication made by the applicant does not fulfil any of the requirements for registration of geographical indication, the Registrar shall inform the applicant the grounds of provisional refusal by a written notice and give the applicant an opportunity, within such period as the Registrar may specify in the written notice, to— <ul style="list-style-type: none"> (a) make a representation by way of a written submission or hearing; (b) amend the application so as to meet any condition, amendment, modification or limitation as the Registrar deems fit to impose; or (c) furnish additional or any other information or evidence. - Any hearing under paragraph 3(a) and amendment under paragraph 3(b) shall be made by the applicant in the form as determined by the Registrar upon payment of the prescribed fee.

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		<ul style="list-style-type: none"> - For the purposes of paragraph 3— <ul style="list-style-type: none"> (a) the application shall be deemed to be withdrawn if the applicant does not respond within such period as specified by the Registrar in the written notice; and (b) the Registrar shall refuse the application if the applicant’s response does not satisfy the Registrar that those requirements are fulfilled and the Registrar shall, if required by the applicant upon payment of the prescribed fee, state in writing the grounds of refusal. - Upon examination, where the Registrar finds that the application fulfils the requirements for registration of geographical indication, the Registrar shall accept the application. - Where an appeal lies to the Court against the decision of the Registrar relating to the refusal under paragraph 5(b)— <ul style="list-style-type: none"> (a) the appeal shall be made in the prescribed manner; (b) the Court shall, where necessary, hear the applicant and the Registrar; and

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		<p>(c) the appeal shall be heard on the material stated by the Registrar to have been used by the Registrar in arriving at his decision and no further grounds of refusal to the acceptance of the application shall be allowed to be taken by the Registrar other than those so stated except by leave of the Court.</p> <ul style="list-style-type: none"> - For the purposes of paragraph (7)(c), where any further grounds of provisional refusal are taken, the applicant shall be entitled to withdraw his appeal in the prescribed manner without payment of any cost. - In determining an appeal under paragraph (7), the Court shall make an order subject to any condition, amendment, modification or limitation, for the acceptance of the application for registration of geographical indication. - Any application for registration of geographical indication filed under item 16 and accepted under this item shall, notwithstanding any condition, amendment, modification or limitation permitted by the

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		<p>Registrar or the Court to be made in such application, be deemed to have been made on the date of application.</p> <ul style="list-style-type: none"> - Without prejudice to paragraph (10), where after the acceptance of an application for registration of geographical indication but before the registration of the geographical indication, the Registrar is satisfied— <ul style="list-style-type: none"> (a) that the application has been accepted in error; or (b) that in the special circumstances of the case— <ul style="list-style-type: none"> (i) the geographical indication shall not be registered; or (ii) the geographical indication shall be registered subject to additional or different conditions or limitations, <p>the Registrar may revoke the acceptance and proceed as if the application had not been accepted or, in respect only of a geographical indication which shall be registered subject to additional or different conditions or limitations, reissue a new acceptance subject to additional or different conditions or limitations.</p>

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21.	Acceptance of application for registration	<ul style="list-style-type: none"> - It is proposed that if an application for registration of geographical indication is accepted under paragraph (6) or (9) of item 20, the Registrar shall issue a notice of acceptance to the applicant requiring the applicant to make payment of the prescribed fee within the period as specified in such notice. - If the applicant fails to make payment under paragraph (1), the application for the registration of geographical indication shall be deemed to be withdrawn.
22.	Publication of acceptance	<ul style="list-style-type: none"> - Upon receipt of the payment of the prescribed fee by the applicant under paragraph (1) of item 21, such application shall be published. - The publication under paragraph (1) shall contain all conditions, amendments, modifications or limitations subject to which the application has been accepted.

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23.	Amendment or withdrawal of application for registration of geographical indication	<ul style="list-style-type: none"> - It is proposed that an applicant may, before the registration of geographical indication to which his application under item 16 relates, amend or withdraw his application for registration of geographical indication in the form as determined by the Registrar together with the payment of the prescribed fee. - Any amendment to an application for registration of geographical indication under paragraph (1) shall only be made in relation to the matters as prescribed and shall not substantially affect the geographical indication or extend the goods or specification covered by the application. - If the applicant withdraws his application for registration of geographical indication after the notice of acceptance of such application has been published under paragraph (1) of item 22, the notice of withdrawal of that application shall be published.

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		<ul style="list-style-type: none"> - An applicant shall not revoke an application for withdrawal under paragraph (3) if the application for withdrawal has been given effect by the Registrar.
24.	Opposition proceedings	<ul style="list-style-type: none"> - It is proposed that any interested person may, within the prescribed period, file a notice of opposition with the Registrar on any ground under item 18 in the form as determined by the Registrar together with the payment of the prescribed fee. - The notice of opposition filed under paragraph (1) shall be accompanied with a statement of the grounds of the opposition containing the ground as specified in the notice. - The interested person shall, within the prescribed period, serve the notice of opposition together with the statement of grounds filed with the Registrar under paragraphs (1) and (2) to the applicant. - The applicant for the registration of geographical indication shall file a counterstatement in the form as determined by the Registrar

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		<p>together with the payment of the prescribed fee, within the prescribed period after the receipt of the notice of opposition from the opponent and if he does not do so, the application for the registration of geographical indication shall be deemed withdrawn.</p> <ul style="list-style-type: none"> - The counterstatement in paragraph (4) shall be accompanied with a statement of grounds upon which the applicant relies on for the application. - The opponent and applicant shall file evidence and exhibits in the prescribed manner within the prescribed period in support of the opposition or the counterstatement, as the case may be, and if the opponent or applicant does not do so, the opposition or application, as the case may be, shall be deemed withdrawn. - If the applicant files evidence and exhibits under paragraph (6), the opponent may file evidence in reply in the prescribed manner.

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		<ul style="list-style-type: none"> - The applicant and the opponent may file a written submission within the prescribed period. - Upon considering the evidence, exhibits and written submissions, the Registrar shall decide whether— <ul style="list-style-type: none"> (a) to refuse to register the geographical indication filed by the applicant; (b) to register the geographical indication as filed by the applicant; or (c) to register the geographical indication filed by the applicant subject to any condition, amendment, modification or limitation as he thinks fit. - Where an appeal lies to the Court against the decision of the Registrar under paragraph (9)— <ul style="list-style-type: none"> (a) the appeal shall be made in the prescribed manner; (b) the Court shall, where necessary, hear the parties and the Registrar; and

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		<p>(c) any party may, either in the prescribed manner or by special leave of the Court, bring forward further material for the consideration of the Court but no further grounds of opposition to the registration of geographical indication shall be allowed to be taken by the opponent other than those stated by the opponent except by leave of the Court.</p> <ul style="list-style-type: none"> - Where any further grounds of opposition are taken, the applicant shall be entitled to withdraw his appeal in the prescribed manner without payment of any cost to the opponent. - If a person giving notice of opposition, an applicant sending a counterstatement, or an appellant, neither resides nor carries on business in Malaysia, the Registrar or the Court may require him to give security for costs of the proceedings relating to the opposition, application or appeal, as the case may be, and in default of such security being duly given, may deem the opposition, application, or appeal, as the case may be, as withdrawn.

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		<ul style="list-style-type: none"> - For the purpose of paragraph (12), the Registrar may determine the manner and form of giving security for costs together with the payment of prescribed fee.
25.	Registration	<ul style="list-style-type: none"> - It is proposed that when an application for registration of geographical indication has been accepted and either— <ul style="list-style-type: none"> (a) the application has not been opposed and the period for opposition has expired; or (b) the application has been opposed and the opposition has been decided in favour of the applicant, the Registrar shall, unless the application has been accepted in error, register the geographical indication in the Register in the name of the proprietor, and the geographical indication so registered shall be registered as at the date of filing of application for registration and that date shall be deemed for the purposes of this Act to be the date of registration.

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		<ul style="list-style-type: none"> - Upon the registration of geographical indication, the Registrar shall issue to the registered proprietor a certificate of the registration of geographical indication with the seal of the Registrar.
26.	Duration of registration and renewal	<ul style="list-style-type: none"> - It is proposed that the registration of geographical indication shall be for a period of ten years from the date of registration. - It is proposed that the registration of geographical indication may be renewed in accordance with item 27 for further periods of ten years in respect of each renewal.
27.	Renewal of registration	<ul style="list-style-type: none"> - It is proposed that a registered proprietor may, on or before the date of expiry of the registration, renew the registration of a geographical indication in the form and manner as determined by the Registrar together with the payment of the prescribed fee. - For the purpose of renewing the registration of geographical indication under paragraph (1), the Registrar may require additional particulars as prescribed and shall refuse to renew the registration if

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		<p>the registered proprietor does not furnish the additional particulars required.</p> <ul style="list-style-type: none"> - In the case where the request for renewal is made within the period of six months after the date of expiry of the registration, the application for renewal shall be accompanied with the payment of the prescribed fee and a surcharge as prescribed. - If the registered proprietor does not renew the registration of geographical indication after six months of the expiry of the registration, the geographical indication shall be deemed removed. - Any renewal of registration made under this item shall take effect from the date of expiry of the registration or immediate preceeding renewal. - Where the geographical indication has been deemed removed, the registered proprietor may request for restoration for his removed registration in the form as determined by the Registrar within six

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		<p>months from the date of removal together with the payment of the restoration fee as prescribed.</p> <ul style="list-style-type: none"> - For the purpose of restoring the registration of geographical indication under paragraph (6), the Registrar may require additional particulars as prescribed and shall refuse to restore the registration if the registered proprietor does not furnish the additional particulars required. - The registration of geographical indication shall cease if no application for restoration is made under paragraph (6) or the application is refused by the Registrar. - The renewal or restoration of the registration of a geographical indication shall be published in the Intellectual Property Official Journal.

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CORRECTION AND CANCELLATION		
28.	Interpretation	<p>For the purposes of this Part, the proposed definition are as follows—</p> <ul style="list-style-type: none"> (a) a reference to a geographical indication in this item includes a variant constituting a geographical indication; and (b) a cancellation of the registration under this item of any variant constituting a geographical indication does not affect the registration of any other variant constituting the geographical indication.
29.	Correction of Register or record	<ul style="list-style-type: none"> - It is proposed that the Registrar may, as he deems necessary, correct any clerical error or clerical mistake in the Register or record under this Act. - It is proposed that the Registrar may, on the request of any registered proprietor in the form as determined by the Registrar, together with the payment of the prescribed fee—

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		<ul style="list-style-type: none"> (a) correct any error or enter any change in the name, address or description of the registered proprietor in the Register; or (b) correct the details of description of the goods in the Register in respect of which the geographical indication is registered without extending the rights given under the existing registration of geographical indication in any way. <ul style="list-style-type: none"> - The Registrar shall issue a certificate of registration upon making any correction under this item.
30.	Voluntary cancellation of registered geographical indication by Registrar	<ul style="list-style-type: none"> - It is proposed that the Registrar may cancel the registration of geographical indication in respect of any goods upon the request of the registered proprietor made in the form as determined by the Registrar together with the payment of the prescribed fee. - In exercising his powers under paragraph (1), the Registrar shall cancel the registration of geographical indication under paragraph (1), if he is satisfied that registered proprietor has complied with any requirement as prescribed.

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		<ul style="list-style-type: none"> - Where the registration is voluntarily cancelled under this item, the rights conferred by the registration on any interested party of goods identified by the geographical indication shall cease to exist with effect from the date of the cancellation of the registration.
31.	Cancellation of registered geographical indication by Court	<ul style="list-style-type: none"> - It is proposed that the Court may, on the application of any person in the prescribed manner, cancel the registration of geographical indication based on the following grounds: <ul style="list-style-type: none"> (a) the geographical indication was registered in breach of item 18 except for paragraph (1)(e) of item 18; (b) the registration of the geographical indication was obtained fraudulently or by misrepresentation; (c) the geographical indication has fallen into disuse or has ceased to be protected in its country or territory of origin;

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		<p>(d) there has been a failure to maintain, in Malaysia, any commercial activity or interest in relation to the geographical indication, including commercialisation, promotion or market monitoring; or</p> <p>(e) in consequence of the failure to maintain any activity under paragraph (d) by any interested party of goods identified by a registered geographical indication, the geographical indication has become the common name of those goods in Malaysia</p> <ul style="list-style-type: none"> - Upon filing an application under paragraph (1), the person shall notify all persons having the right to use the geographical indication under item 35 which is within his knowledge in the manner as determined by the Registrar. - For the purposes of paragraph (2), “within his knowledge” includes information in the Register of all persons having the right to use the geographical indication.

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		<ul style="list-style-type: none"> - The persons referred to in paragraph (2) and any other interested persons may, within a period which shall be specified by the Court, apply to the Court for leave to join any proceedings which may be heard by the Court to determine whether or not the registration of the geographical indication should be cancelled. - Where the registration of a geographical indication is cancelled on any ground referred to in paragraph (1)(a) or (b), the geographical indication shall be deemed to never have been registered, but this shall not affect transactions past and closed. - Where the registration of a geographical indication is cancelled on any ground referred to in paragraph (1)(c), (d) or (e), the rights conferred by the registration on any interested person of goods identified by the geographical indication shall cease to exist with effect from— <ul style="list-style-type: none"> (a) the date of the application for cancellation is made; or

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		<p>(b) if the Court is satisfied that the ground existed on an earlier date, that earlier date.</p> <ul style="list-style-type: none"> - Where cancellation of registered geographical indications is made under this item, the person in whose favour the order or judgment is made shall notify such order or judgment to all other persons having rights in the registered geographical indication who is within his knowledge according to the manner as determined by the Registrar.
EFFECTS OF REGISTERED GEOGRAPHICAL INDICATION		
32.	Rights conferred under registered geographical indication	<ul style="list-style-type: none"> - It is proposed that a registered proprietor of geographical indication in relation to the goods for which the geographical indication is registered has the rights to— <ul style="list-style-type: none"> (a) use the geographical indication; and (b) authorize other persons to use the geographical indication. - For the purposes of this Part, “use” in paragraph (1) includes making, importing, exporting, offering for sale, selling or using the

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		<p>geographical indications in relations to the goods for which the geographical indication is registered.</p> <ul style="list-style-type: none"> - Subject to the provisions of this Act, the registered proprietor has the right to take action or obtain relief or remedies under item 2, 3, 41 or 42. - The rights of the registered proprietor shall accrue from the date of registration of geographical indication except that— <ul style="list-style-type: none"> (a) no proceedings may be begun before the date on which the geographical indication is in fact registered; and (b) no offence under item 41 or 42 is committed by anything done before the date on which the geographical indication is in fact registered. - If the geographical indication is registered subject to any condition or limitation, the rights of the registered proprietor are restricted by the condition or limitation.

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33.	Transfer of registration of registered geographical indication	<ul style="list-style-type: none"> - It is proposed that a registered proprietor may file an application for transfer of registration of a geographical indication to another person in the form as determined by the Registrar together with the payment of prescribed fee. - The registration of a geographical indication shall not be transferred to another person unless that person— <ul style="list-style-type: none"> (a) is entitled to file an application for registration of the geographical indication under paragraph 16(1); and (b) consents to having the registration transferred to him.
34.	Registration as <i>prima facie</i> evidence	<p>It is proposed that in any legal proceedings relating to a registered geographical indication—</p> <ul style="list-style-type: none"> (a) the Register shall be <i>prima facie</i> evidence of anything contained in the Register; (b) the registration of any transfer made under item 33 shall be <i>prima facie</i> evidence of such transfer; and

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		<p>(c) the registration of a person as the registered proprietor of a geographical indication shall be <i>prima facie</i> evidence of—</p> <ul style="list-style-type: none"> (i) the validity of the original registration of geographical indication; and (ii) any subsequent transfer of registration of geographical indication.
35.	Right of use	<ul style="list-style-type: none"> - It is proposed that in the case of a registered geographical indication, only a producer carrying on an activity in the geographical area specified in the Register shall have the right to use the registered geographical indication in the course of trade. - The right of use shall be in respect of the goods in accordance to the quality, reputation or characteristic as specified in the Register.

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GEOGRAPHICAL INDICATION AGENTS		
36.	Recognition of registered geographical indication agents, etc.	<ul style="list-style-type: none"> - It is proposed that any act which is required or authorized by this Act to be done by or to a person in connection with the application for registration of geographical indication, or any procedure relating to a registered geographical indication, may be done by or to a registered geographical indication agent duly authorized by that person in the manner as determined by the Registrar. - It is proposed that a person who does not reside or carry on a business principally in Malaysia shall appoint and authorize a registered geographical indication agent to act for him for the purpose of registration of a geographical indication or any procedure relating to a registered geographical indication in the form as determined by the Registrar together with the payment of prescribed fee. - Upon being appointed and authorized by the person to act for him under paragraph (2), a registered geographical indication agent appointed and authorized to act for a person under paragraph (2)

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		<p>shall, unless terminated by the person or ceases to act for the person in accordance with the prescribed manner—</p> <ul style="list-style-type: none"> (a) continue to be the agent of the person; and (b) be answerable for all acts, matters and things that are required to be done by the person under this Act. <p>- Where a registered geographical indication agent acting for a person intends to cease to act on behalf of the person—</p> <ul style="list-style-type: none"> (a) the registered geographical indication agent shall file a notice of intention to cease to act on the person’s behalf with the Registrar in the form as determined by the Registrar together with the payment of prescribed fee; and (b) the registered geographical indication agent shall notify the person in the manner as determined by the Registrar. <p>- The agent shall cease to be the agent for a person upon the Registrar being satisfied that the agent has complied with paragraph (4).</p>

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37.	Register of Geographical Indication Agents	<ul style="list-style-type: none"> - It is proposed that the Registrar shall keep and maintain a register called the Register of Geographical Indication Agents. - The Register of Geographical Indication Agents shall contain the names, addresses and other prescribed matters of registered geographical indication agents who shall act on behalf of any person for the purposes of item 36. - In all legal proceedings relating to a registered geographical indication agent, the Register of Geographical Indication Agents shall be <i>prima facie</i> evidence of anything contained in the Register of Geographical Indication Agents.
38.	Registration of geographical indication agent	<ul style="list-style-type: none"> - It is proposed that any person may apply to the Registrar to be registered as a geographical indication agent by filing an application for registration in the form as determined by the Registrar together with the payment of prescribed fee.

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		<ul style="list-style-type: none"> - The Registrar shall register the person as a registered geographical indication agent if he satisfies the prescribed requirements and enter his name in the Register of Geographical Indication Agents.
39.	Cancellation of geographical indication agent and etc.	<ul style="list-style-type: none"> - In relation to registration of geographical indication agent, it is proposed that the Registrar shall have the power to— <ul style="list-style-type: none"> (a) cancel the registration of a geographical indication agent on grounds as may be prescribed; (b) allow the voluntary cancellation of the registration of a geographical indication agent upon the application by the registered geographical indication agent together with the payment of the prescribed fee; (c) allow a change of name or address for service of the registered geographical indication agent upon the application by the registered geographical indication agent together with the payment of the prescribed fee; (d) remove the registration of a geographical indication agent from the Register of Geographical Indication Agents upon the death of the registered geographical indication agent; and

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		<p>(e) refuse to recognize any person as a registered geographical indication agent subject to any circumstances as prescribed.</p> <ul style="list-style-type: none"> - Any cancellation of the registration of a geographical indication agent shall result in the removal of the name of the registered geographical indication agent from the Register of Geographical Indication Agents. - The Registrar shall publish in the Intellectual Property Official Journal— <ul style="list-style-type: none"> (a) the removal of the registered geographical indication agent from the Register of Geographical Indication Agents; and (b) particulars relating to application for registration of geographical indications or registered geographical indications handled by the registered geographical indication agent. - It is proposed that the Registrar shall register partnerships and bodies corporate as geographical indication agents if they satisfy the prescribed requirements.

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		<ul style="list-style-type: none"> - Upon registration under paragraph (4), they shall be bound by the requirements specified in paragraphs (1), (2) and (3).
40.	Privileged communications with registered geographical indication agent	<ul style="list-style-type: none"> - It is proposed that a communication made between a registered geographical indication agent and the person appointing and authorizing the agent in matters relating to geographical indications, and any record or document made for the purposes of such a communication, are privileged to the same extent as a communication between a solicitor and his client. - A registered geographical indication agent has, in relation to documents and property of the person appointing and authorizing the agent in a matter relating to geographical indication, the same right of lien that a solicitor has in relation to the documents and property of a client.

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OFFENCE		
41.	Falsely applying a registered geographical indication to goods	<ul style="list-style-type: none"> - For the purposes of this item and item 42, it is proposed that a person falsely applies a registered geographical indication to goods when— <ul style="list-style-type: none"> (a) he applies the geographical indication or any indication directly or indirectly referring to the geographical indication to the goods without the consent of the registered proprietor; and (b) the goods are— <ul style="list-style-type: none"> (i) not genuine goods of the registered proprietor or person authorized by the registered proprietor of the geographical indication, or person who has the right to use the geographical indication under item 35; or (ii) not in accordance with the quality, reputation or characteristics as specified in the Register. - For the purposes of paragraph (1)— <ul style="list-style-type: none"> (a) a geographical indication or any indication directly or indirectly referring to the geographical indication is applied to goods if it is applied directly unto the goods themselves;

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		<p>(b) a geographical indication shall be deemed to be applied to goods if it is used in—</p> <ul style="list-style-type: none"> (i) any sign or advertisement; or (ii) any invoice, catalogue, business letter, business paper, price list or other commercial document, including any such document in any medium; and (iii) the goods are delivered to a person pursuant to a request or order made by reference to the geographical indication as so used; or <p>(c) a geographical indication or any indication directly or indirectly referring to the geographical indication is applied to goods shall be deemed to be applied to goods if—</p> <ul style="list-style-type: none"> (i) it is applied to any covering, label, reel or thing in or with which the goods are sold, offered or exposed for sale or are in possession for the purpose of trade or manufacture; and (ii) it is used in a manner that is likely to lead persons to believe that it refers to, describes or designates the goods.

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		<ul style="list-style-type: none"> - It is proposed that any person who falsely applies a registered geographical indication or any indication directly or indirectly referring to the geographical indication to goods under paragraph (1) commits an offence and shall, on conviction, be liable— <ul style="list-style-type: none"> (a) if the person is a body corporate, to a fine not exceeding fifteen thousand ringgit for each of the goods bearing the falsely applied registered geographical indication, and for a second or subsequent offence, to a fine not exceeding thirty thousand ringgit for each of the goods bearing the falsely applied registered geographical indication; or (b) if the person is not a body corporate, to a fine not exceeding ten thousand ringgit for each of the goods bearing the falsely applied registered geographical indication or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit for each of the goods bearing the falsely applied registered geographical indication, or to imprisonment for a term not exceeding five years or to both.

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		<ul style="list-style-type: none"> - For the purposes of paragraph (2)(c)(i)— <ul style="list-style-type: none"> (a) "covering" includes any stopper, glass, bottle, vessel, box, capsule, case, frame or wrapper; and (b) "label" includes any band or ticket. - It is proposed that in a prosecution under this item, the burden of proving the consent of the registered proprietor of the geographical indication shall be upon on the accused person.
42.	Importing or selling, etc., goods with falsely applied geographical indication	<ul style="list-style-type: none"> - It is proposed that any person who— <ul style="list-style-type: none"> (a) imports into Malaysia for the purpose of trade or manufacture; (b) sells, or offers or exposes for sale; or (c) has in his possession, custody or control for the purpose of trade or manufacture, any goods to which a registered geographical indication is falsely applied under item 41, unless he proves that having taken all reasonable precautions against committing an offence under this item, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the geographical indication and

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		<p>on demand made by the Assistant Controller as defined in item 46, he gave all the information in his knowledge with respect to the persons from whom he obtained the goods, commits an offence.</p> <ul style="list-style-type: none"> - Any person who commits an offence under paragraph (1) shall, on conviction, be liable— <ul style="list-style-type: none"> (a) if the person is a body corporate, to a fine not exceeding fifteen thousand ringgit for each of the goods with the falsely applied registered geographical indication, and for a second or subsequent offence, to a fine not exceeding thirty thousand ringgit for each of the goods with the falsely applied registered geographical indication; or (b) if the person is not a body corporate, to a fine not exceeding ten thousand ringgit for each of the goods with the falsely applied registered geographical indication or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding twenty thousand ringgit for each of the goods with the falsely applied registered

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		<p>geographical indication, or to imprisonment for a term not exceeding five years or to both.</p> <ul style="list-style-type: none"> - For the purposes of paragraph (1)(c), a person who has in his possession three or more of the goods to which a registered geographical indication is falsely applied is deemed to have in possession the goods for the purpose of trade or manufacture.
43.	False entries to Geographical Indications Office or in Register	<p>It is proposed that any person who—</p> <ul style="list-style-type: none"> (a) makes or causes to be made a false entry to the Geographical Indications Office or in the Register; (b) makes or causes to be made a false entry in any certified copy deposited in the Geographical Indications Office; (c) makes or causes to be made any thing false purporting to be a copy of an entry in the Register or to be filed with the Geographical Indications Office; or (d) produces or tenders or causes to be produced or tendered in evidence anything referred to in paragraph (c),

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		<p>knowing or having reasons to believe that the entry or thing is false, commits of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.</p>
44.	<p>Falsely representing geographical indication as registered</p>	<ul style="list-style-type: none"> - It is proposed that any person who— <ul style="list-style-type: none"> (a) falsely represents that a geographical indication is a registered geographical indication; or (b) makes a false representation as to the goods for which a geographical indication is registered, knowing or having reason to believe that the representation is false commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit. - For the purposes of this item, the use in the course of trade in Malaysia in relation to a geographical indication the word “registered” or any other word or symbol importing a reference expressly or impliedly to registration shall be deemed to be a representation as to registration under this Act unless it is shown that the reference is to

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		<p>registration elsewhere than in Malaysia and that the geographical indication is in fact so registered for the goods in question.</p>
45.	<p>Offence relating to disobedience to summons or refusal to give evidence</p>	<ul style="list-style-type: none"> - It is proposed that the Registrar may, for the purposes of this Act— <ul style="list-style-type: none"> (a) summon witnesses; (b) receive evidence on oath; and (c) require the production of any document or article. - Any person who disobeys the summons or request made by the Registrar under paragraph (1) without any lawful excuse commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding three months or to both.
<p>INVESTIGATION AND ENFORCEMENT</p>		
46.	<p>Interpretation</p>	<p>It is proposed that for the purposes of this Part—</p> <ul style="list-style-type: none"> (a) “Controller”, “Deputy Controller” or “Assistant Controller” means the Controller, Deputy Controller or Assistant Controller of the Trade

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		<p>Descriptions appointed under section 3 of the Trade Descriptions Act 2011 [<i>Act 730</i>]; and</p> <p>(b) “premises” means any place, stationary or otherwise established or set up by any person, whether such place is with or without enclosure, and includes vehicles, aircrafts, ships and any other vessel.</p>
47.	Powers of Controller, Deputy Controller and Assistant Controller	<ul style="list-style-type: none"> - It is proposed that the Controller shall perform the duties imposed and exercise the powers conferred on him under this Part subject to the general directions and control of the Minister. - The Deputy Controllers and Assistant Controllers shall be under the directions and control of the Controller. - The Deputy Controllers may perform all the duties imposed and exercise all the powers conferred on the Controller. - The Controller and Deputy Controllers may perform all the duties imposed and exercise all the powers conferred on the Assistant Controllers.

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		<ul style="list-style-type: none"> - The Controller or the Deputy Controller may in writing delegate all or any of his powers, duties or functions under this Part to any Assistant Controller.
48.	Power of investigation	<ul style="list-style-type: none"> - It is proposed that where any Assistant Controller has reasonable grounds to suspect that any offence is or will be committed under this Act, the Assistant Controller may conduct such investigation as the Assistant Controller thinks expedient for the due administration of this Act. - It is proposed that any Assistant Controller investigating any commission of an offence under this Act may exercise all or any of the powers in relation to police investigation in seizable cases given by the Criminal Procedure Code [Act 593].
49.	Complaints to the Assistant Controller	<ul style="list-style-type: none"> - It is proposed that any Assistant Controller may, upon a complaint by an interested person, conduct an investigation on any person who has committed or is committing any offence under this Act.

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		<ul style="list-style-type: none"> - The complaint made under paragraph (1) shall specify the person against whom the complaint is made or the premises where the alleged offence is committed and details of the alleged offence under this Act. - If the complaint made under paragraph (1) is in relation to a geographical indication which is not identical with the registered geographical indication, any interested person shall obtain the Registrar's verification in the form as determined by the Registrar together with the payment of the prescribed fee to be submitted to the Assistant Controller. - The Registrar's verification under paragraph (3) shall be <i>prima facie</i> evidence in any proceedings before any court.
50.	Power of Assistant Controller to require provision of information	<ul style="list-style-type: none"> - It is proposed that this item applies if any Assistant Controller in carrying out an investigation under this Part has reason to believe that any person—

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		<ul style="list-style-type: none"> (a) has any information or any document that is relevant to the performance of the powers and functions of the Assistant Controller under this Act; or (b) is capable of giving any evidence which the Assistant Controller has reason to believe is relevant to the performance of the powers and functions of the Assistant Controller under this Act. <p>- Notwithstanding any provision of any other written law, the Assistant Controller may, by written notice, direct any person—</p> <ul style="list-style-type: none"> (a) to provide to the Assistant Controller, within the period and in the manner and form specified in the notice, any information or document referred to in paragraph (1); (b) to produce to the Assistant Controller, within the period and in the manner specified in the notice, any information or document referred to in paragraph (1), whether in physical or electronic form; (c) to make copies of, or extracts from, any document referred to in paragraph (1) and to produce copies or extracts of such

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		<p>documents to the Assistant Controller within the period and in the manner specified in the notice;</p> <p>(d) if the person is an individual, to appear before the Assistant Controller at a time and place specified in the notice to give any information, either orally or in writing, and produce any document referred to in paragraph (1), whether in physical or electronic form;</p> <p>(e) if the person is a body corporate or a public body, to cause a relevant and competent officer of the body to appear before the Assistant Controller at a time and place specified in the notice to give any information, either orally or in writing, and produce any document referred to in paragraph (1), whether in physical or electronic form;</p> <p>(f) if the person is a partnership, to cause an individual who is a partner in the partnership or an employee of the partnership to appear before the Assistant Controller at a time and place specified in the notice to give any information, either orally or in writing, and produce any document referred to in paragraph (1), whether in physical or electronic form; or</p>

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		<p>(g) to make a statement to the Assistant Controller providing an explanation on any information or document referred to in paragraph (1) within the period and in the manner and form specified in the notice.</p> <ul style="list-style-type: none"> - It is proposed that where the Assistant Controller directs any person to produce any document under paragraph (2) and the document is not in the custody of that person, that person shall— <ul style="list-style-type: none"> (a) state, to the best of his knowledge and belief, where the document may be found; and (b) identify, to the best of his knowledge and belief, the last person who had custody of the document and to state, to the best of his knowledge and belief, where that last-mentioned person may be found. - Any person directed to provide information under paragraph (2) or (3) shall ensure that the information provided is true, accurate and complete and such person shall provide an express representation to that effect, including a declaration that he is not aware of any other

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		<p>information which would make the information provided untrue or misleading.</p> <ul style="list-style-type: none"> - It is proposed that any person who refuses or does not comply with the directions made by the Assistant Controller under this item commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.
51.	Assistant Controller may retain documents	<ul style="list-style-type: none"> - It is proposed that the Assistant Controller may take and retain for such duration as he deems necessary, any document obtained under this Part. - The person who provided the document is entitled to be supplied, as soon as practicable, with a copy certified by the Assistant Controller to be a true copy of the document. - Notwithstanding the provisions of any other written law, the certified copy of the document shall be admissible as evidence as if it were the original document.

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		<ul style="list-style-type: none"> - If the Assistant Controller is satisfied that it is no longer necessary to retain the document, the Assistant Controller may return the document to the person who provided the document, as soon as practicable.
52.	Confidentiality	<ul style="list-style-type: none"> - It is proposed that any person who discloses or makes use of any confidential information or document with respect to a particular enterprise or the affairs of an individual obtained by virtue of any provision of this Act commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit. - Nothing in paragraph (1) shall operate to prevent the disclosure of information where— <ul style="list-style-type: none"> (a) the disclosure is made with the consent of the person from whom the information or document was obtained; (b) the disclosure is made in circumstances where the information provided is framed in such a manner that the source of the information could not be ascertained;

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		<ul style="list-style-type: none"> (c) the information is already in the public domain; (d) the disclosure is made to facilitate the performance of the functions or powers of the Controller, Deputy Controller or Assistant Controller; (e) the disclosure is reasonably made during any proceedings under this Act provided that such disclosure is not made against any direction by the Controller, Deputy Controller or Assistant Controller before whom those proceedings are taking place; or (f) the disclosure is made in connection with the investigation of an offence under this Act. <p>- For the purposes of this item, "confidential information" means trade, business or industrial information that belongs to any person that has economic value and is not generally available to or known by others or any information which is regarded as confidential under this Act.</p>
53.	Privileged communication	<ul style="list-style-type: none"> - It is proposed that no person shall be required, under any provision of this Part, to produce or disclose any communication between a professional legal advisor and his client which would be protected

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		<p>from disclosure in accordance with section 126 of the Evidence Act 1950 [Act 56].</p> <ul style="list-style-type: none"> - The Controller may require an advocate and solicitor to provide any document under item 51. - Where the document required under paragraph (2) contains privileged communication made by or on behalf of or to the advocate and solicitor in his capacity as an advocate and solicitor— <ul style="list-style-type: none"> (a) the advocate and solicitor shall be entitled to refuse to comply with the requirement; or (b) the person to whom or by or on behalf of whom the privileged communication was made or, if the person is a body corporate that is under receivership or is in the course of being wound up, the receiver or the liquidator, as the case may be, may agree that the advocate and solicitor shall comply with the requirement. - Notwithstanding paragraph (3)(b) where the advocate and solicitor refuses to comply with the requirement, the advocate and solicitor

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		shall forthwith furnish in writing to the Controller the name and address of the person to whom, by or on behalf of whom the privileged communication was made.
54.	Giving false or misleading information, evidence or document	It is proposed that any person who does not disclose or omits to give any relevant information, evidence or document, or provides any information, evidence or document that he knows or has reason to believe is false or misleading, in the course of investigation by the Assistant Controller, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.
55.	Destruction, concealment, mutilation and alteration of records	It is proposed that a person who— (a) destroys, conceals, mutilates or alters; or (b) sends, attempts to send or conspires with any other person to remove from his premises or send out of Malaysia, any goods, document, material, article or thing kept or maintained with intent to defraud the Assistant Controller or to prevent, delay or obstruct the carrying out of an investigation or the exercise of any power by the Assistant

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		Controller under this Act commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.
56.	Power of arrest	<ul style="list-style-type: none"> - It is proposed that any Assistant Controller may arrest without warrant any person whom he reasonably believes has committed or is attempting to commit an offence under item 41 or 42 of this Act. - Any Assistant Controller making an arrest under paragraph (1) shall, without unnecessary delay, bring the person arrested to the nearest police station, and the person shall thereafter be dealt with in accordance with the law relating to criminal procedure for the time being in force.
57.	Power to enter premises, inspect and seize goods, etc.	<ul style="list-style-type: none"> - It is proposed that any Assistant Controller may, at all reasonable hours, exercise the following powers: <ul style="list-style-type: none"> (a) for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods, document, material, article or thing and enter any premises other than premises used only for dwelling;

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		<p>(b) if the Assistant Controller has reasonable cause to believe that an offence under this Act has been committed, seize and detain any goods, document, material, article or thing for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;</p> <p>(c) seize and detain any goods, document, material, article or thing which the Assistant Controller has reason to believe may be required as evidence in any proceedings for an offence under this Act; and</p> <p>(d) for the purpose of exercising his powers under this paragraph, seize any goods, document, material, article or thing, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act and of any order made under this Act are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, the Assistant Controller may do so himself.</p>

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		<ul style="list-style-type: none"> - An Assistant Controller seizing any goods, document, material, article or thing in the exercise of his powers under this item shall inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed. - Where the goods, document, material, article or thing seized by the Assistant Controller in the exercise of his powers under this item are by reason of their nature, size or amount not practical to be removed from where they are found, he may by any means seal such goods, document, material, article or thing in the premises or container in which they are found and it shall be an offence for any person without lawful authority to break, tamper with or damage such seal or to remove such goods, document, material, article or thing or to attempt to do so.

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58.	Magistrate may issue search warrant	<ul style="list-style-type: none"> <li data-bbox="913 341 1930 868">- It is proposed that whenever it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there are reasonable grounds to believe that any person has committed or is committing an offence under this Act, so that any evidence or thing which is necessary to the conduct of an investigation into any offence may be found in any premises, the Magistrate may issue a warrant authorizing any Assistant Controller named in the warrant to enter the premises at any time, with or without assistance, and if need be by force to search for and seize any such evidence or thing. <li data-bbox="913 951 1930 1318">- An Assistant Controller entering any premises under this item may take with him such other persons and such equipment as may appear to the Assistant Controller necessary and on leaving any premises which he has entered by virtue of a warrant under the preceding paragraph the Assistant Controller shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

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		<ul style="list-style-type: none"> - Without affecting the generality of paragraph (1), the warrant issued by the Magistrate may authorize the search and seizure of any goods, document, material, article or thing which contains or is reasonably suspected to contain information as to any offence suspected to have been committed or is otherwise necessary to conduct an investigation into any offence. - The Assistant Controller conducting a search under paragraph (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises. - The Assistant Controller making a search of a person under paragraph (4) may seize, or take possession of, and place in safe custody all things other than the necessary clothing found upon the person, and any other things, in respect of which there is reason to believe are the instruments or evidence of the offence, and such things may be detained until the order by the court for its disposal.

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		<ul style="list-style-type: none"> - If, by reason of its nature, size or amount, it is not practicable to remove any goods, document, material, article or thing seized under this item, the Assistant Controller who effected the seizure shall by any means seal the premises or container in which such goods, document, material, article or thing is found. - A person who, without lawful authority, breaks, tampers with or damages the seal referred to in paragraph (6) or removes any goods, document, material, article or thing under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.
59.	Search may be made without warrant	It is proposed that if the Assistant Controller is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under item 58 the investigation would be adversely affected or evidence of the commission of an infringement or offence is likely to be tampered with, removed, damaged or destroyed, the Assistant Controller may enter the premises and exercise in, upon and in

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		respect of the premises, all the powers referred to in item 58 in as full and ample a manner as if he were authorized to do so by a warrant issued under that item.
60.	Access to recorded information or computerized data, etc.	<ul style="list-style-type: none"> - It is proposed that any Assistant Controller exercising his powers under item 57, 58 or 59 shall be given access to any recorded information or computerized or digitalized data, whether stored in a computer or otherwise. - In addition to his powers under paragraph (1), the Assistant Controller may— <ul style="list-style-type: none"> (a) inspect the operation of any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been used in connection with that information or data; and (b) require— <ul style="list-style-type: none"> (i) the person, by whom or on whose behalf the Assistant Controller has reasonable cause to suspect the computer

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		<p>is or has been so used on connection with the information or data; or</p> <p>(ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material in connection with the information or data, to provide him with such reasonable assistance as he may require for the purposes of this item.</p> <ul style="list-style-type: none"> - The Assistant Controller may make copies or take extracts of the recorded information or computerized or digitalized data if he deems necessary. - For the purposes of this item, "access" includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of recorded information and computerized or digitalized data.

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61.	Tipping-off	<ul style="list-style-type: none"> - It is proposed that any person who— <ul style="list-style-type: none"> (a) knows or has reason to suspect that an Assistant Controller is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act and discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or (b) knows or has reason to suspect that a disclosure has been made to an Assistant Controller and discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit. - Nothing in paragraph (1) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter—

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		<ul style="list-style-type: none"> (a) to his client or the client's representative in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the advocate and solicitor; or (b) to any person in contemplation of, or in connection with and for the purpose of, any legal proceedings. <ul style="list-style-type: none"> - Paragraph (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose. - In any proceedings against a person for an offence under this item, it shall be a defence to prove that— <ul style="list-style-type: none"> (a) he did not know or suspect that the disclosure made under paragraph (1)(b) was likely to prejudice the investigation; or (b) he had lawful authority or reasonable excuse for making the disclosure. - An Assistant Controller or any other person does not commit an offence under this item in respect of anything done by him in the

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		course of acting in connection with the enforcement, or intended enforcement, of this Act.
62.	Search warrant valid notwithstanding defects	It is proposed that a search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission in the warrant or in the application for such warrant and any goods, document, material, article or thing seized under such warrant shall be admissible in evidence in any proceedings under this Act.
63.	List of things seized	<ul style="list-style-type: none"> - Except as provided in paragraph (2), it is proposed that where any goods, document, material, article or thing is seized under this Part, the Assistant Controller who effected the seizure shall as soon as practicable prepare a list of the things seized and immediately deliver a copy of the list signed by him to the occupier of the premises which has been searched, or to his agent or servant, at the premises. - Where the premises are unoccupied, the Assistant Controller who effected the seizure shall wherever possible post a list of the things seized conspicuously on the premises.

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64.	Forfeiture of seized goods, etc.	<ul style="list-style-type: none"> <li data-bbox="913 339 1933 427">- It is proposed that any goods, document, material, article or thing seized under this Act shall be liable to forfeiture. <li data-bbox="913 507 1933 986">- An order for the forfeiture or for the release of any goods, document, material, article or thing seized under this Act shall be made by the court before which the prosecution relating to it has been held and an order for the forfeiture of the goods, document, material, article or thing shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the goods, document, material, article or thing was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of such offence. <li data-bbox="913 1066 1933 1313">- If there is no prosecution with regard to any goods, document, material, article or thing seized under this Act, such goods, documents, material, article or thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless a claim to such goods, document, material, article or

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		<p>thing is made before the date in the manner set out in paragraphs (4), (5) and (6).</p> <ul style="list-style-type: none"> - Any person asserting that he is the owner of such goods, document, material, article or thing and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to an Assistant Controller that he claims the same. - On receipt of the notice under paragraph (4), the Assistant Controller shall refer the claim to the Controller who may direct that such goods, document, material, article or thing be released or forfeited or may direct the Assistant Controller to refer the matter to a court for decision. - The court to which the matter is referred shall issue a summons requiring the person asserting that he is the owner of the goods, document, material, article or thing and the person from whom it was seized to appear before the court and upon his appearance or default to appear, due service of the summons being proved, the court shall

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		<p>proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such goods, document, material, article or thing was the subject matter or was used in the commission of such offence shall order the same to be forfeited or may in the absence of such proof order it release to the person entitled to it.</p> <ul style="list-style-type: none"> - Any goods, document, material, article or thing forfeited or deemed forfeited shall be delivered to the Assistant Controller who shall dispose it in accordance with the directions of the Controller. - Where any goods, document, material, article or thing seized under this Act is of a perishable nature or where the custody of such goods, document, material, article or thing involves unreasonable expense and inconvenience, such goods, document, material, article or thing may be sold by the Assistant Controller at any time and the proceeds of the sale held by the Assistant Controller to abide by the result of any prosecution or claim under this item.

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65.	Release of things seized	<ul style="list-style-type: none"> <li data-bbox="913 341 1933 1034">- If any goods, documents, material, articles or things has been seized under this Act, it is proposed that the Assistant Controller who effected the seizure may release the goods, documents, material, articles or things to the person as he determines to be lawfully entitled to it, if he is satisfied that the goods, documents, material, articles or things is not otherwise required for the purpose of any proceedings under this Act, or for the purpose of any prosecution under any other written law, and in such event neither the Assistant Controller effecting the seizure, nor the Federal Government, the Controller or any person acting on behalf of the Federal Government or the Controller shall be liable to any proceedings by any person if the seizure and the release of the goods, documents, material, articles or things had been effected in good faith. <li data-bbox="913 1118 1933 1362">- A record in writing shall be made by the Assistant Controller effecting the release of anything under paragraph (1) specifying in detail the circumstances of, and the reason for, the release, and he shall send a copy of such record to the Public Prosecutor within seven days of the release.

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66.	Seizure of perishable goods	It is proposed that where any goods seized in exercise of the powers conferred by this Act are of a perishable nature or where the custody of such goods involves unreasonable expense and inconvenience, such goods may be sold by the Assistant Controller at any time and the proceeds of the sale held to abide by the result of any prosecution or claim under this item.
67.	No cost or damages arising from seizure to be recoverable	It is proposed that no person shall, in any proceedings before any court in respect of any goods, documents, material, articles or things seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.
68.	Obstruction	It is proposed that any person who— (a) refuses to give any Assistant Controller access to any premises which the Assistant Controller is entitled to have under this Act or in the execution of any duty imposed or power conferred by this Act; or (b) assaults, obstructs, hinders or delays any Assistant Controller in effecting any entry which the Assistant Controller is entitled to effect

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		<p>under this Act or in the execution of any duty imposed or power conferred by this Act,</p> <p>commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.</p>
69.	Evidence of agent provocateur is admissible	<ul style="list-style-type: none"> - It is proposed that notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, no agent provocateur shall be presumed to be unworthy of credit by reason only of his having attempted to abet or abetted the commission of an offence by any person under this Act if the attempt to abet or abetment was for the sole purpose of securing evidence against such person. - Notwithstanding any rule of law or the provisions of this Act or any other written law to the contrary, any statement, whether oral or in writing made to the agent provocateur by any person who subsequently is charged with an offence under this Act shall be admissible as evidence at his trial.

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70.	Taking of samples	<ul style="list-style-type: none"> <li data-bbox="913 341 1930 651">- It is proposed that where any goods, documents, material, articles or things which are the subject matter of an offence under this Act are found in two or more packages or receptacles of the same description, it shall be presumed until the contrary is proved that all the packages or receptacles contain goods, documents, material, articles or things of the same nature, quantity and quality. <li data-bbox="913 727 1930 1037">- Where packages or receptacles containing goods, documents, material, articles or things which contravene the provisions of this Act or are otherwise liable to seizure have been seized, it shall be sufficient only to open and examine one per centum or not less than five samples, whichever is the lesser, of the contents of each package or receptacle seized. <li data-bbox="913 1114 1930 1264">- The court shall presume that the remaining samples contained in the package or receptacle is of the same nature as those samples examined.

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71.	Jurisdiction to try offences	It is proposed that notwithstanding anything to the contrary in any written law, a Sessions Court shall have jurisdiction to try any offence under this Act and to impose the full punishment for any such offence.
72.	Institution of prosecution	It is proposed that no prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.
73.	Compounding of offences	<ul style="list-style-type: none"> - It is proposed that the Minister may, with the approval of the Public Prosecutor, make regulations prescribing— <ul style="list-style-type: none"> (a) any offence under this Act and any regulations made under this Act that may be compounded; (b) the criteria for compounding such offence; and (c) the method and procedure for compounding such offence. - The Controller may, with the consent in writing of the Public Prosecutor, at any time before a charge is being instituted, compound any offence prescribed as an offence which may be compounded by making a written offer to the person reasonably suspected of having

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		<p>committed the offence to compound the offence upon payment to the Controller of a sum of money not exceeding fifty per centum of the amount of the maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in the written offer.</p> <ul style="list-style-type: none"> - An offer under paragraph (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Controller may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made. - Where an offence has been compounded under paragraph (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and the Controller may forfeit or return the goods, documents, material, articles or things seized in connection with the offence, subject to such terms as the Controller thinks fit.

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		<ul style="list-style-type: none"> - All sums of money received by the Controller under this item shall be paid into and form part of the Federal Consolidated Fund.
74.	Principal liable for acts of servant or agent	<ul style="list-style-type: none"> - It is proposed that where the servant or agent of a person commits an offence or does anything or omits to do anything which if done or omitted to be done by that person would constitute an offence under this Act, that person shall, notwithstanding that he has no knowledge of the offence, be deemed to be guilty of the offence and shall be liable to punishment for the offence unless he proves that— <ul style="list-style-type: none"> (a) the act or omission complained of was not within the ordinary scope of the employment of the servant or of the agency of the agent; or (b) the act or omission complained of was done or omitted to be done without his consent or connivance and that he exercised all such diligence to prevent the commission or omission as he ought to have exercised having regard to all the circumstances of the case.

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75.	Offences committed by body corporate	<ul style="list-style-type: none"> - It is proposed that if a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management— <ul style="list-style-type: none"> (a) may be charged severally or jointly in the same proceedings with the body corporate; and (b) if the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves— <ul style="list-style-type: none"> (i) that the offence was committed without his knowledge, consent or connivance; and (ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

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		<ul style="list-style-type: none"> - If any person would be liable under this Act to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed— <ul style="list-style-type: none"> (a) by that person's employee in the course of his employment; (b) by the agent when acting on behalf of that person; or (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.
76.	Protection of Controller, Deputy Controller and Assistant Controller and other persons	<p>It is proposed that no action, suit, prosecution or other proceedings shall be brought, instituted or maintained in any court against—</p> <ul style="list-style-type: none"> (a) the Controller, Deputy Controller, Assistant Controller or any other person in respect of any act ordered or done for the purpose of carrying into effect this Act; and (b) any other person in respect of any act done or purported to be done by him under the order, direction or instruction of the Controller if the act

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		<p>was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.</p>
<p>LEGAL PROCEEDINGS IN COURT, COST AND EVIDENCE</p>		
77.	<p>Service of applications to Court on the Registrar</p>	<ul style="list-style-type: none"> - It is proposed that a copy of every application to the Court, including appeals to the Court of Appeal or Federal Court, relating to the application for registration or registered geographical indication shall be filed with the Registrar by the parties to the application to the Court in the manner as determined by the Registrar together with the payment of the prescribed fee within the prescribed period, without having to name the Registrar as a party. - Upon receipt of the application under paragraph (1), the Registrar may change the status of the application or registration of geographical indication as the Registrar deems fit, subject to further condition, direction, instruction, order or judgment of the Court.

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		<ul style="list-style-type: none"> - Any order or judgment made by the court upon the completion of the application filed under paragraph (1) shall be filed with the Registrar in the manner as determined by the Registrar together with the payment of the prescribed fee. - The Registrar, under paragraph (3), shall comply and give effect to the court's order or judgment. - If the Registrar considers that publicity should be given upon giving effect to the court's order, he may publish it in the Intellectual Property Official Journal.
78.	Registrar's appearance in proceedings involving the Register	<ul style="list-style-type: none"> - It is proposed that in any legal proceedings before the Court which includes involving an application for the cancellation of the registration of geographical indication, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court.

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		<ul style="list-style-type: none"> - Unless otherwise directed by the Court, the Registrar, in lieu of appearing and being heard, may submit to the Court a statement in writing and signed by him, giving particulars of the proceedings before him in relation of the matter in issue or of the grounds of any decision given by him affecting the same or of the practice of the office in like cases, or of such other matters relevant to the issues, and within his knowledge as Registrar, as he thinks fit, and such statement shall be deemed to form part of the evidence in the proceedings.
79.	Costs of proceedings before the Court	It is proposed that in all proceedings before the Court, the Court may, in its discretion, award any party including the Registrar such costs as it may consider reasonable but the Registrar shall not be ordered to pay the costs of any of the other parties.
80.	Certificate of validity	<ul style="list-style-type: none"> - It is proposed that in any legal proceedings in which the validity of a registered geographical indication comes into question and is decided in favour of the registered proprietor, the Court may certify to that effect, and if it so certifies then in any subsequent legal proceedings

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		<p>in which the validity of the registration comes into question the registered proprietor on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between solicitor and client, unless in the subsequent proceedings the Court certifies that he ought not to have them.</p> <ul style="list-style-type: none"> - Such certification by the Court may be recorded with the Registrar upon request in the manner as determined by the Registrar together with the payment of the prescribed fee by the registered proprietor.
81.	Evidentiary value of copies certified by Registrar	It is proposed that a copy or extract from any form or document filed at the Geographical Indication Office of which the Registrar certified to be a true copy or extract signed and sealed by the Registrar shall be admissible in evidence in any proceedings as of equal validity with the original document.
82.	Sealed copies of document to be evidence	<ul style="list-style-type: none"> - It is proposed that printed or written copies or extracts of or from the Register purporting to be certified by the Registrar and sealed with his seal shall be admissible as evidence in any proceedings before any court without further proof or production of the originals.

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		<ul style="list-style-type: none"> - It is proposed that a certificate of registration shall be admissible as evidence in any proceedings before any court of law without further proof or production of the originals. - It is proposed that a certificate purporting to be under the hand of the Registrar as to any act which he is authorized to perform and which he has or has not performed shall be <i>prima facie</i> evidence in any proceedings before any court of law of his having or not having performed the act. - It is proposed that no person in the employment of the Corporation shall be required to attend the Court for the purposes of producing any documents relating to a geographical indication application or registered geographical indication which may be obtained under the provisions of this Act.

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		<ul style="list-style-type: none"> - It is proposed that any person may request for the documents under paragraph (1) or (3) by filing a form determined by the Registrar together with the payment of the prescribed fee.
83.	Electronic information, etc., certified by the Registrar admissible in evidence	<ul style="list-style-type: none"> - It is proposed that any form, information or document, a copy or extract from any form, information or document electronically filed with the Registrar or issued by the Registrar, shall be a true extract from any form, information or documents filed with or submitted to the Registrar as required under this Act shall be <i>prima facie</i> evidence of matters specified in that form, information, document, copy or extract. - It is proposed that any person, upon fulfilling the conditions determined by the Registrar, may request for the form, information or documents under paragraph (1) by filing a form determined by the Registrar together with the payment of the prescribed fee.

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MISCELLANEOUS AND GENERAL		
84.	Intellectual Property Official Journal	<ul style="list-style-type: none"> - It is proposed that the Registrar shall publish an Intellectual Property Official Journal which shall contain— <ul style="list-style-type: none"> (a) all matters relating to geographical indications which are required to be published under this Act; and (b) such other information or matters relating to geographical indications as the Registrar deems necessary. - The Registrar shall make available the Intellectual Property Official Journal to a person upon payment of the prescribed fee. - Publication in the Intellectual Property Official Journal shall constitute sufficient notice of any matter required to be published under this Act. - A copy of the Intellectual Property Official Journal shall on its production be admitted in legal proceedings as evidence without further proof being given that the copy was so published.

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		<ul style="list-style-type: none"> - A copy of the Intellectual Property Official Journal shall be <i>prima facie</i> evidence of the facts stated therein. - Where the Intellectual Property Official Journal is published in more than one form, the date of publication of the Intellectual Property Official Journal shall be deemed to be the date the Intellectual Property Official Journal is first published in any form.
85.	Electronic filing	<ul style="list-style-type: none"> - It is proposed that the Registrar may provide a service for the electronic filing of documents required by this Act to be filed with the Registrar. - A document electronically filed under this item shall be deemed to have satisfied the requirement for filing if the document is communicated or transmitted to the Registrar in such manner as determined by the Registrar.

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		<ul style="list-style-type: none"> - A document that is required to be stamped, signed or sealed shall, if the document is to be electronically filed, be certified to be true copy or authenticated in such manner as determined by the Registrar. - Where a document that is required to be signed and attested under this Act is to be filed electronically, the requirement for attestation of the signature does not apply. - If a document is electronically filed with the Registrar, the Registrar shall not be liable for any loss or damage suffered by any person by reason of any error or omission of whatever nature or however arising appearing in any document obtained by any person under the service referred to in paragraph (1), if such error or omission occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service or without the knowledge of the Registrar.

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86.	Issuing document electronically	It is proposed that the Registrar may, by electronic means, issue a document which is to be issued by the Registrar under this Act.
87.	Address for service	<ul style="list-style-type: none"> <li data-bbox="913 483 1939 847">- It is proposed that for the purposes of this Act, an applicant, any person who opposes the registration of a geographical indication or any other person who is involved in any proceedings before the Registrar, who is residing or carrying on business principally in Malaysia, shall furnish an address for service in Malaysia with the Registrar in the manner as determined by the Registrar together with the payment of the prescribed fee. <li data-bbox="913 927 1939 1129">- The address furnished with the Registrar under paragraph (1) shall be entered into the Registrar's record or Register and shall be deemed to be the address for service of the person under paragraph (1) for all the proceedings before the Registrar. <li data-bbox="913 1209 1939 1353">- An address for service may be changed upon notifying the Registrar in the form as determined by him and within the prescribed period which shall be entered into the Registrar's record or Register.

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		<ul style="list-style-type: none"> - Upon receipt of the request for change in paragraph (3) together with the payment of the prescribed fee, the Registrar shall change the address for service of the person under paragraph (1) which may affect his application for registration or registered geographical indication. - The Registrar may refuse to proceed with the application or registration of geographical indication if the address for service as stated in paragraph (1) is not furnished. - If the person stated in paragraph (1) is not residing or carrying on business in Malaysia, he shall appoint and authorize a registered geographical indication agent to act for him in the manner as determined by the Registrar together with the payment of the prescribed fee. - When the person mentioned in paragraph (1) appoints and authorizes a registered geographical indication agent to act for him, the address

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		<p>for service of the registered geographical indication agent which shall be entered into the Registrar's record or Register, shall be deemed to be the address for service of the person under paragraph (1) for all proceedings before the Registrar.</p>
88.	Power of Registrar to allow amendment of document	<ul style="list-style-type: none"> - It is proposed that any applicant, any person who opposes the registration of a geographical indication or any other person who is involved in any proceedings before the Registrar may apply to the Registrar in the form as determined by the Registrar together with the payment of the prescribed fee to amend any clerical error or any mistake in— <ul style="list-style-type: none"> (a) an application for the registration of geographical indication; (b) a notice of opposition; (c) a counterstatement; or (d) any document as the Registrar thinks fit. - The Registrar may, on such terms as the Registrar thinks just, allow the amendment applied under paragraph (1) if the amendment does not—

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		<ul style="list-style-type: none"> (a) extend in any way the rights given by the existing registration of geographical indication; or (b) substantially affect the content of the documents filed with the Geographical Indication Office.
89.	Power of Registrar to allow extension of time	<ul style="list-style-type: none"> - It is proposed that where, in any proceedings before the Registrar, a time is specified within which an act or thing is to be done, the Registrar may, unless otherwise expressly provided under this Act or directed by the Court, upon application in the form as determined by the Registrar, extend the time before its expiration upon payment of the prescribed fee. - Where by reason of— <ul style="list-style-type: none"> (a) an error or omission by the person or by his registered geographical indication agent; (b) circumstances beyond the control of the person or by his registered geographical indication agent; or (c) an error or action on the part of the Geographical Indication Office,

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		<p>an act in relation to an application for the registration of geographical indication or in proceedings before the Registrar required to be done within a certain time has not been so done, the Registrar may extend the time for doing the act.</p> <ul style="list-style-type: none"> - The time required for doing an act under paragraph (2) may be extended even though that time has expired.
90.	Reinstatement	<ul style="list-style-type: none"> - It is proposed that any person whose— <ul style="list-style-type: none"> (a) application is treated as deemed withdrawn; or (b) right has been abrogated, or thing has ceased to be in force or to exist, by reason that he has failed to comply with any procedural requirement in any proceedings or other matter before the Registrar within the time limit under the Act or specified by the Registrar for complying with that requirement, may request for the reinstatement of the application, right or thing, as the case may be, within the prescribed period and in accordance with the prescribed requirements together with the payment of the prescribed fee.

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		<ul style="list-style-type: none"> - In approving the request under paragraph (1), the Registrar shall require sufficient detail of circumstances to justify the reinstatement. - If the Registrar allows the reinstatement, the Registrar shall publish the fact that registration or any rights have been reinstated.
91.	Mode of giving evidence	<ul style="list-style-type: none"> - It is proposed that for the purposes of paragraph (1) of item 45, in all proceedings before the Registrar, evidence shall be given by statutory declaration in the absence of directions to the contrary but in any case in which he thinks fit, the Registrar may take evidence <i>viva voce</i> in lieu of or in addition to evidence by declaration. - Any such statutory declaration may, in the case of an appeal, be used before the Court in lieu of evidence by affidavit, but if so used, shall have all the incidents and consequences of evidence by affidavit. - In any action or proceedings relating to a geographical indication, the Registrar or the Court, as the case may be, shall admit evidence of

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		<p>the usages of the trade concerned or evidence of business usages in the provision of the services in question and evidence of any relevant geographical indication or trade name or business name or get-up legitimately used by other persons.</p>
92.	Exercise of discretionary power	<p>It is proposed that where any discretionary power is given to the Registrar by this Act, he shall not exercise that power adversely to the applicant for registration of geographical indication or the registered proprietor in question without, if duly required to do so within the prescribed period, giving to the applicant an opportunity of being heard.</p>
93.	Costs awarded by Registrar	<ul style="list-style-type: none"> - It is proposed that in all proceedings before the Registrar, the Registrar shall have power to award to any party such costs including taxation of the costs as he may consider reasonable and to direct how and by what parties they are to be paid, and any such order may, by leave of the Court, be enforced in the same manner as a judgment or order of the Court to the same effect.

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		<ul style="list-style-type: none"> - A party to any proceedings before a Registrar who is desirous to obtain costs or to have the costs taxed shall apply to the Registrar in the prescribed manner. - Costs awarded by the Registrar under paragraph (1) may in default of payment be recovered in a court of competent jurisdiction as a debt due by the person against whom the costs were accorded to the person in whose favour they were accorded.
94.	Guidelines or practice directions by Registrar	<ul style="list-style-type: none"> - It is proposed that the Registrar may issue guidelines or practice directions on any matter. - The guidelines or practice directions issued by the Registrar under this item shall be published in the Intellectual Property Official Journal and shall be effective from the date as specified in the guidelines or practice directions. - Any person who is specified in the provision under this Act shall comply with the guidelines and practice directions.

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		<ul style="list-style-type: none"> - The Registrar may amend the whole or any part of any guidelines or practice directions issued under this item. - Paragraphs (2) and (3) shall apply in respect of any amendment of the guidelines or practice directions made under paragraph (4). - Any person, applicant or registered proprietor who does not comply with any guidelines or practice directions issued by the Registrar, where such guidelines or practice directions is applicable to such person, applicant or registered proprietor— <ul style="list-style-type: none"> (a) is deemed to have failed to fulfil the requirements as required by the Registrar which renders the application as withdrawn, lapsed, refused, cancelled or any other status as determined by the Registrar; or (b) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

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95.	Appeal from Registrar	<ul style="list-style-type: none"> - It is proposed that notwithstanding any provision in any written law in relation to judicial review, any person aggrieved by the decision of the Registrar in relation to the following matters may appeal to the Court: <ul style="list-style-type: none"> (a) decision of the Registrar under item 17 as to whether any specific goods fall within a category of goods set out in the guidelines or practice directions under item 94; (b) decision of the Registrar relating to examination of application under paragraph (7) of item 20; (c) decision of the Registrar on the practical conditions differentiating a homonymous geographical indication from the earlier geographical indication under item 19; (d) decision of the Registrar not to allow any amendment of application for registration of geographical indication under item 23; (e) decision of the Registrar relating to opposition proceedings under paragraph (9) of item 24; (f) decision of the Registrar not to allow any correction under item 28;

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		<ul style="list-style-type: none"> (g) decision of the Registrar not to allow any voluntary cancellation under item 29; (h) decision of the Registrar relating to transfer of registration of registered geographical indication to another person under item 33; (i) decision of the Registrar relating to the registration of geographical indication agent under item 38; and (j) decision of the Registrar not to allow any amendment of document under item 88. <p>- The same rules of procedure on appeal shall apply to appeals made under paragraph (1) as to appeals to the High Court under any written law.</p>
96.	Rights under other laws unaffected	It is proposed that nothing in this Act shall affect the rights of a person under the Trademarks Act 2019.

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97.	Power to make regulations	<ul style="list-style-type: none"> - Subject to the provisions of this Act, it is proposed that the Minister may make regulations for the purpose of carrying into effect the provisions of this Act. - In particular and without prejudice to the generality of paragraph (1), such regulations may provide for all or any of the following purposes: <ul style="list-style-type: none"> (a) to regulate the procedure, other than that relating to proceedings before the Court or connected therewith, under this Act including service of documents; (b) to classify goods for the purposes of registration of geographical indications; (c) to provide for all matters relating to registration of geographical indication including renewal of registered geographical indication; (d) to provide for all matters relating to voluntary cancellation or cancellation of registered geographical indication or correction of Register;

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		<ul style="list-style-type: none"> <li data-bbox="965 339 1928 480">(e) to secure and regulate the publishing and selling or distributing of copies of extracts of geographical indications and other documents from the record or Register; <li data-bbox="965 504 1928 592">(f) to prescribe the fees to be paid in respect of any matter or thing required for the purposes of this Act; <li data-bbox="965 616 1928 703">(g) to regulate all matters relating to registered geographical indications agents; <li data-bbox="965 727 1928 975">(h) to regulate generally on matters pertaining to the business operation relating to geographical indications carried on in any Geographical Indications Office whether or not specifically prescribed under this Act but so as not to be inconsistent with any of the provisions of this Act; <li data-bbox="965 999 1928 1139">(i) to regulate the use of Geographical Indication including how the geographical indication is applied to or applied in relation to goods; <li data-bbox="965 1163 1928 1251">(j) to regulate matters relating to use of geographical indications on the internet;

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		<p>(k) to provide for the manner and effect of a cancellation and for protecting the interests of other persons having a right in the registered geographical indication; and</p> <p>(l) to prescribe the entry, particulars or matters to be entered into the record or Register.</p>
98.	Power to amend Schedule	It is proposed that the Minister may, by order published in the <i>Gazette</i> , amend the Schedule.