**THE GAZETTE OF THE DEMOCRATIC SOCIALIST REPUBLIC OF**   
**SRI LANKA**

**Part II of February 03, 2022**

**SUPPLEMENT**

(*Issued on 10.02.2022*)



**INTELLECTUAL PROPERTY (AMENDMENT)**

**A**

**BILL**

**to amend the Intellectual Property Act, No. 36 of 2003**

*Ordered to be published by the Minister of Trade*

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*STATEMENT OF LEGAL EFFECT*

This Bill amends the Intellectual Property Act, No. 36 of 2003 to introduce a“Geographical Indications Registration System” to provide for the registration and administration of geographical indications and matters relating thereto.

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| *Intellectual Property (Amendment)* | 1 |

L.D.–O.8/2020

AN ACTTOAMENDTHE INTELLECTUAL PROPERTY   
ACT, NO. 36 OF 2003

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

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| **1.** | This Act may be cited as the Intellectual Property | Short title |

(Amendment) Act, No. of 2022.

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| --- | --- | --- | --- |
| 5 | **2.** | Section 2 of the Intellectual Property Act, No.36 of | Amendment |
| 2003 (hereinafter referred to as the “principal enactment”) is | | of section 2 |
| of Act, |
| hereby amended in paragraph (*a*) of subsection (2), by the | |
| No.36 of |
| substitution for the words “administration of Industrial | |
| 2003 |

Designs, Patents, Marks and of any other matter” of the words 10 “administration of Industrial Designs, Patents, Marks, Geographical Indications and of any other matter”.

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| --- | --- | --- | --- |
| 15 | **3.** | Section 4 of the principal enactment is hereby | Amendment |
| amended as follows:- | | of section 4 |
| of the |
| (1) in subsection (1), by the substitution for the words | | principal |
| enactment |
| “Industrial designs, patents, marks and any other | |

matter” of the words “Industrial designs, patents,   
marks, geographical indications and any other   
matter”;

(2) in subsection (2), by the substitution for the words 20 “industrial designs, patents, marks and any other matter” of the words “industrial designs, patents, marks, geographical indications and any other matter”;

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| --- | --- | --- | --- |
| 25 | **4.** | Section 101 of the principal enactment is hereby | Amendment |
| amended by the repeal of the definition of the phrase | | of section |
| “geographical indication”. | | 101 of the |
| principal |

enactment

|  |  |  |  |
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| 5 | 2 | *Intellectual Property (Amendment)* | Amendment |
| **5.** | Section 160 of the principal enactment is hereby |
| amended as follows:- | | of section |
| (1) in paragraph (*b*) of subsection (1), by the | | 160 of the |
| principal |
| enactment |
| substitution for the words “protecting inventions, | |
| industrial designs, marks, trade names,” of the words | |
| “protecting inventions, industrial designs, marks, | |

trade names, geographical indications,”;

(2) by the repeal of subparagraph (iv) of paragraph (*b*) of subsection (4) and the substitution therefor of 10 the following:-

“(iv) the geographical indication of any goods   
including production process of products   
or goods or services;”.

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| 15 | **6.** | The following new section is hereby inserted | | Insertion of |
| immediately after the heading “GEOGRAPHICAL | | | new section |
| 160A in the |
| INDICATIONS” in PART IX of the principal enactment and | | |
| principal |
| shall have effect as section 160A of that enactment:- | | |
| enactment |
| “Definitions | | 160A. For the purposes of this Part, unless |

the context otherwise requires–

|  |  |
| --- | --- |
| 20 | “authorized user” means a user of a geographical indication registered under |

this Part of this Act;

“control plan” means the method as to how the verification of compliance with 25 product specification is carried out;

“geographical indication” means an indication which identifies any goods as originating in the territory of a country, or a region or locality in that territory, 30 where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

*Intellectual Property (Amendment)*  3

“goods” means any manufactured or naturally   
available agricultural products, food,   
wines, spirits or any item of handicraft or   
industry;

5 “producer” in relation to goods, means any person who–

(*a*) if such goods are agricultural products, wine or spirit, produces such goods or processes or 10 packages such goods;

(*b*) if such goods are natural goods,   
 exploits such goods; or

(*c*) if such goods are handicrafts or industrial goods, makes or 15 manufactures such goods; and

“specification” means a document to be   
submitted with the application for   
registration of a geographical indication   
which provides technical details of the

20 characteristics of the goods or products, the method of production, the geographical area and the link between the characteristics, quality or reputation of the goods or product and its

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| 25 | geographical origin.”. | | Amendment |
| **7.** | Section 161 of the principal enactment is hereby |
| amended by the repeal of subsections (4A) and (5) thereof. | | of section |
| 161 of the |

principal   
enactment

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | 4 | *Intellectual Property (Amendment)* | Insertion of |
| **8.** The following new sections are hereby inserted | |
| immediately after section 161 of the principal enactment | | new sections |
| 161A, 161B, |
| and shall have effect as section 161A, 161B, 161C, 161D and | |
| 161c, 161D |
| 161E of that enactment:- | |
| and 161E in |
| “Admissibility of | 161A. Where, any geographical indication– | the principal |
| enactment |
| 10 | geographical indications  for | (*a*) that does not comply with the definition of geographical indication |
| registration | as specified in section 160A; |
| (*b*) the use of which is contrary to law, | |
| morality, religion, accepted customs | |

or public order;

(*c*) that is not or that ceases to be protected in the country of origin as a geographical indication, or which 15 has fallen into disuse in such country;

(*d*) that is identical with the term   
customary in common language as   
the common name of the relevant   
good;

20 (*e*) that misleads or deceives the public as to the characteristics, nature, quality, place of origin and production process of the good or its use; or

25 (*f*) which constitutes the name of a plant variety or an animal breed,

shall not be registered under this Act.

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| 30 | Application | 161B. (1) Any association of persons or |
| to register |
| producers or any organization or authority |
| geographical |
| established by any law for the time being |
| indications |

*Intellectual Property (Amendment)*  5

representing the interests of the producers of   
any relevant good (hereinafter referred to as   
the “applicant”) may make an application to   
the Director-General for the registration of such

|  |  |
| --- | --- |
| 5 | good as a geographical indication in such manner and form and accompanied by such |

documents and processing fee as shall be   
prescribed.

(2) Upon receipt of an application, the 10 Director-General shall examine such application in the manner as shall be prescribed .

(3) Where the geographical indication intended to be registered is not admissible for 15 registration in terms of section 161A, the Director-General shall refuse to register such geographical indication and the reasons therefore shall be informed to the applicant:

Provided that, where there is any defect in 20 any application submitted to the Director- General under this section, the Director-General shall within three months from the date of application, notify that to the applicant and shall afford the applicant an opportunity to 25   
 rectify any such defect within three months from the date of such notification. The date on which the applicant resubmits the rectified application to the Director-General, shall be deemed to be the date of receipt of such 30 application for registration.

(4) Any applicant whose application has been refused under subsection (3), may if not satisfied with the reasons specified by the Director-General for such refusal, make to the 35 Director-General, within three months from the

6 *Intellectual Property (Amendment)*

date on which the refusal was informed to the   
applicant, his submissions in writing against   
the refusal.

(5) The Director-General may, upon receipt

|  |  |
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| 5 | of such submissions, if he considers a hearing is necessary, inform the applicant of a date, |

time and place for the hearing of the matter   
relating to such submissions.

(6) The Director-General may, after such 10 hearingrefuse to register such application or register the application as it is or subject to such conditions, amendments or limitations as to the mode or place of use of such geographical indication as the Director-General may consider 15 appropriate.

(7) Where the Director-General refuses to register any application or register an application subject to any conditions as specified in subsection (6), the Director-20 General shall if the applicant requests so, furnish the reasons for such refusal or conditional acceptance for registration.

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| 25 | Publication | 161C. (1) Where the Director-General is of |
| of the | the opinion that the geographical indication |
| application |
| sought to be registered is admissible under |

section 161A, he shall upon receipt of the fee as shall be prescribed for the publication of the application publish such application in the *Gazette,* within a period of two months from 30 the date of receipt of such application by the Director-General. Where the applicant fails to pay such fee within such specified time period,

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| *Intellectual Property (Amendment)* | 7 |

the Director-General shall refuse to register the   
geographical indication.

(2) The Director-General shall when publishing the application under subsection 5 (1) set out the following:-

(*a*) the name and address of the applicant;

(*b*) the date of application;

(*c*) the representation of the geographical   
 indication;

10 (*d*) the goods for which the geographical indication sought to be registered;

(*e*) the summary of the specification and   
the map of the geographical area; and

(*f*) if the applicant is resident outside

|  |  |  |
| --- | --- | --- |
| 15 | Opposition | Sri Lanka, a postal address for service |
| in Sri Lanka. |
| 161D. (1) Where any person considers the |
| 20 | to | geographical indication published under |
| registration |
| section 161C is inadmissible in terms of section |
| 161A, such person may within a period of three |

months from the date of such publication send   
notice of opposition to the registration of the   
geographical indication so published, by post   
or by hand delivery to the Director-General in

25 the prescribed form together with the prescribed fee. The person who gives the notice of opposition shall also specify the grounds on which such notice of opposition is made and

8 *Intellectual Property (Amendment)*

shall submit necessary information and   
evidence to substantiate such grounds.

(2) If any notice of opposition has not been   
received by the Director-General within the

5 period as specified in subsection (1), the Director-General shall register the geographical indication sought to be registered under section 161B.

(3) Where any notice of opposition has been 10 received by the Director-General in the prescribed form together with the prescribed fee and accompanied by the evidence or information to substantiate the grounds specified in such notice, within one month from 15   
 the date of such notice, the Director-General shall serve a copy of such notice on the applicant and require him to make his observations on such grounds accompanied by evidence or information to support his 20 application within three months from the date of receipt of such notice.

(4) Upon receipt of the observation of the applicant, the Director-General shall after hearing the parties if he considers such hearing 25 necessary, decide as expeditious as possible whether such geographical indication shall be registered or not. If the Director-General decides that it shall be registered, then the Director- General shall –

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| 30 | (*a*) where no appeal is preferred under section 173 against his decision, upon |

the expiry of the period within which an

*Intellectual Property (Amendment)*  9

appeal may be preferred against his   
decision; or

(*b*) where an appeal is preferred under

section 173 against his decision, upon

5 the dismissal of such appeal,

as the case may be, register such geographical   
indication subject to any conditions,   
requirements or to such amendments or   
modifications.

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| 10 | Renewal of | 161E. (1) The registration of any |
| registration | geographical indication, unless it is cancelled |
| of |
| earlier shall be valid for ten years from the date |
| geographical |
| of application. |
| indications |

(2) The registration of any geographical

|  |  |
| --- | --- |
| 15 | indication may be renewed by the owner of such geographical indication for consecutive |

periods of ten years each on making an application together with the prescribed fee for such renewal to the Director-General within 20 six months prior to its expiration:

Provided that, the Director-General may afford to the applicant a grace period of six months after the date of such expiration to renew the registration upon payment of a 25 surcharge as shall be prescribed.

(3) Renewal of registration shall not be   
subject to any further examination of the   
geographical indication by the Director-  
General or to opposition by any person.

30 (4) The Director-General shall record in the register of the renewal of such geographical

10 *Intellectual Property (Amendment)*

indication and cause it to be published in the   
*Gazette.*

(5) Where an application has not been sent   
for renewal along with the renewal fee by the

|  |  |  |  |  |
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| 5 | applicant as specified in subsection (2), the | | | |
| Director-General | shall | remove | the |

geographical indication from the register of   
geographical indications.”.

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| 10 | **9.** The following new Chapters are hereby inserted | Insertion of |
| immediately after section 161E in the principal enactment | new Chapters |
| XXXIIIA, |
| and shall have effect as Chapters XXXIIIA, XXXIIIB, |
| XXXIIIB, |
| XXXIIIC, XXXIIID and XXXIIIE of that enactment:- |
| XXXIIIC, |

XXXIIID   
and XXXIIIE   
in the   
principal   
enactment

“CHAPTER XXXIIIA

ISSUEOFCERTIFICATEOFREGISTARTIONANDTHE

|  |  |  |
| --- | --- | --- |
| 15 | Issue of | REGISTEROFGEOGRAPHICALINDICATION |
| 161F. If any application has duly been |
| certificate of |
| registered by the Director-General under this |
| registration |
| Part, he shall upon receipt of the prescribed fee |

for the certificate, issue a certificate of

20 registration to the applicant who shall be the

owner of the geographical indication

(hereinafter referred to as the “registered

owner”) in the prescribed form.

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| 25 | Register of | 161G. (1) The Director-General shall keep |
| Geographical | and maintain a register in the Office called the |
| Indication |
| “Register of Geographical Indications” in |

which all registered geographical indications

*Intellectual Property (Amendment)*  11

shall be recorded in the order of their   
registration.

(2) The following particulars shall be included in the Register of Geographical 5 Indications:-

(*a*) the geographical indication;

(*b*) number of registration;

(*c*) the name and address of the registered owner and if the registered owner is 10 outside Sri Lanka, a postal address for service in Sri Lanka;

(*d*) the date of application and registration;

(*e*) the list of goods in respect of which the   
registration of geographical indication

15 has been granted;

(*f*) the summary of the specification;

(*g*) the map of the geographical area; and

(*h*) specifications and associated control   
 plan.

20 (3) Any person may examine the register of geographical indications and obtain certified extracts thereof on payment of the prescribed fee.

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CHAPTER XXXIIIB

RIGHTSOFAREGISTEREDOWNERAND

ADMINISTRATIONOFREGISTEROFGEOGRAPHICAL

INDICATIONS

|  |  |  |
| --- | --- | --- |
| 5 | Rights of a | 161H. The registered owner of a |
| registered | geographical indication shall be entitled to |
| owner |
| prevent - |

(a) in respect of goods of the same kind as those to which the geographical 10 indication applies –

(i) any direct or indirect use , misuse, imitation or evocation of a geographical indication identifying goods including an 15 agricultural product, food, wine or sprit or handicraft manufactured and natural goods not originating in the place indicated by the geographical indication in question or not

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 20 | complying | with | any | other |

applicable requirement for using the geographical indication, even where the true origin of the goods is indicated or the geographical 25 indication is used in translated form or accompanied by expression “style”, “kind”, “type”, “make”,

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| --- | --- | --- |
| “imitation”, | “method”, | “as |

produced in”, “like”, “similar” or 30 such similar expression; or

(ii) any direct or indirect use, misuse,   
imitation or evocation of a

*Intellectual Property (Amendment)*  13

geographical indication which   
constitutes an act of unfair   
competition within the meaning of   
section 160 of the Act; or

5 (iii) any other practice likely to mislead consumers as to the true origin, provenance or nature of the goods including an agricultural product, food, wine or sprit or handicraft

10 manufactured and natural goods;

(*b*) for goods that are not of the same kind as   
those to which the geographical   
indication applies –

(i) any direct use, misuse, imitation or

|  |  |
| --- | --- |
| 15 | evocation of the geographical indication in respect of goods that |

are not of the same kind as those to which the geographical indication applies including an agricultural 20 product, food, wine or sprit or handicraft manufactured, and natural goods in question, if such use would indicate or suggest a connection between those goods, 25 and the users of the geographical indication and would be likely to damage their interests, or where applicable because of the reputation of the geographical indication such 30   
 use would be likely to impair or dilute in an unfair manner, or take unfair advantage of that reputation;

(ii) any direct use, misuse, imitation or   
evocation of the geographical

35 indication in respect of goods that

14 *Intellectual Property (Amendment)*

are not of the same kind as those to which the geographical indication applies including an agricultural product, food, wine or sprit or 5 handicraft manufactured, and natural goods   
 in question amounting to its imitation, even if the true origin of the goods is indicated, or if the geographical 10 indication is used in translated form or is accompanied by expression “style”, “kind”, “type”, “make”,

|  |  |  |
| --- | --- | --- |
| “imitation”, | “method”, | “as |

produced in”, “like”, “similar” or 15 such similar expression; or

(iii) any other practice likely to mislead   
consumers as to the true origin,   
provenance or nature of the goods.

|  |  |  |
| --- | --- | --- |
| 20 | Registered | 161I. Any geographical indication registered |
| geographical | under this Act shall not become generic which |
| indication | refers to the name that is generally known as |
| not to |
| the common designation of the good registered |
| become |
| generic | as a geographical indication. |

CHAPTER XXXIIIC

25 CANCELLATIONOFREGISTRATIONOFGEOGRAPHICAL

INDICATIONS

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 30 | Cancellation | 161J. The Director-General may cancel the | | | |
| of | registration of any geographical indication in | | | |
| registration |
| the case of – | | | |
| of |
| geographical | (*a*) any goods registered as geographical | | | |
| indications |
| indications | lose | their | special |

characteristic as geographical indication   
goods;

*Intellectual Property (Amendment)*  15

(*b*) the registered owner fails to comply with   
the conditions and requirements, if any,   
subject to which such geographical   
indication is registered;

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 5 | (*c*) the | registered | owner | of | such |
| geographical indication requests the | | | | |

Director-General in writing for   
cancellation of registration of such   
geographical indication; or

|  |  |
| --- | --- |
| 10 | (*d*) the registered owner fails to renew the registration of a geographical indication |

as specified in section 161E.

CHAPTER XXXIIID

FOREIGNGEOGRAPHICALINDICATIONS

|  |  |  |
| --- | --- | --- |
| 15 | Foreign | 161K. Any foreign geographical indication |
| geographical | may be registered in Sri Lanka as long as such |
| indications |
| geographical indication is protected in its |

country of origin as a geographical indication or a certification mark, as the case may be. The 20 provisions relating to registration of geographical indications in this Act, shall be applicable to such foreign geographical indication.

CHAPTER XXXIIIE

|  |  |  |
| --- | --- | --- |
| 25 | Alterations to | MISCELLENEOUS |
| 161L. The registered owner of a geographical |
| 30 | registered | indication may if he intends to amend the |
| geographical |
| specifications and associated control plan due |
| indications |
| to the development of technologies, sciences |
| and the delimitation of the geographical area, |

16 *Intellectual Property (Amendment)*

make a request to the Director-General to   
that effect along with the fees as shall be   
prescribed :

Provided that, any substantial amendment 5 to a registered geographical indication which affects the identity of such geographical indication shall not be accepted by the Director-General.

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| 10 | Geographical | 161M.Any person who has registered a | Amendment |
| Indications  registered as a  Certification | geographical indication as a Certification Mark under section 142 of this Act, may if he so wishes, apply to register such Mark as a |
| Mark under | geographical indication under section 161B.”. |
| this Act | |
| **10.** Section 162 of the principal enactment is hereby | |
| 15 | amended as follows:- | | of section |
| 162 of the |
| (1) in subsection (1), by the substitution for the words | | principal |
| enactment |
| “Industrial Designs, Marks, Patents and Unfair | |

Competition” of the words “Industrial Designs,   
Marks, Patents, Geographical Indications and

20 Unfair Competition”;

(2) in subsection (8) -

(*a*) by the substitution, in paragraph (*a*) of for   
the words “Trade Marks, Patents and Unfair   
Competition” of the words “Trade Marks,

|  |  |
| --- | --- |
| 25 | Patents, Geographical Indications and Unfair Competition”; |

(*b*) by the substitution, in paragraph (*b*) for the   
words “Trade Marks, Patents and Unfair   
Competition” of the words “Trade Marks,

|  |  |
| --- | --- |
| 30 | Patents, Geographical Indications and Unfair Competition”; |

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | *Intellectual Property (Amendment)* | 17 | Amendment |
| **11.** Section 168 of the principal enactment is hereby | |
| of section |
| amended by the substitution for the words “Patent or | |
| 168 of the |
| Mark or” of the words “Patent, Mark or geographical | | principal |
| enactment |
| indication or ”. | |
| **12.** Section 170 of the principal enactment is hereby | | Amendment |
| of section |
| amended in subsection (2), by the substitution for the words | |
| 170 of the |
| 10 | “Patent, Mark or any other registration” of the words “Patent, | | principal |
| Mark, geographical indication or any other registration”. | | enactment |
| **13.** Section 172 of the principal enactment is hereby | | Amendment |
| of section |
| amended as follows:- | |
| 172 of the |

principal (1) in subsection (1), by the substitution for the words enactment

“Industrial Design, Patent or Mark or” of the words  
“Industrial Design, Patent, Mark, Geographical   
Indication or”;

15 (2) in subsection (2), by the substitution for the words “(2) The registered owner of the Industrial Design, Patent or Mark or any other register” of the words “(2) The registered owner of the Industrial Design, Patent or Mark, Geographical Indication or any 20 other register”;

(3) in subsection (3), by the substitution for the words  
“Industrial Design, Patent or Mark or any other   
matter” of the words “Industrial Design, Patent,   
Mark, Geographical Indication or any other matter”.

|  |  |  |
| --- | --- | --- |
| 25 | **14.** The following new section is hereby inserted | Insertion of |
| immediately after section 186 of the principal enactment | new section |
| 186A in the |
| and shall have effect as section 186A of that enactment:- |
| principal |

enactment

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | 18 | *Intellectual Property (Amendment)* | Amendment |
| “Offences  relating to  geographical indications | 186A. The provisions relating to offences and penalties in respect of Marks as specified in this Part shall *mutatismutandis apply* in respect of geographical indications.”. |
| **15.** Section 212 of the principal enactment is hereby | |
| amended in the definition of the term “Convention”, by the | | of section |
| 212 of the |
| substitution for the words “Patents, Marks and any other | |
| principal |
| matter” of the words “Patents, Marks, Geographical | | enactment |

Indications or any other matter”.

|  |  |  |
| --- | --- | --- |
| 10 | **16.** In the event of any inconsistency between the Sinhala | Sinhala text |
| and Tamil texts of this Act, the Sinhala text shall prevail. | to prevail in |
| case of |

inconsistency

|  |  |
| --- | --- |
| *Intellectual Property (Amendment)* | 19 |

DEPARTMENTOFGOVERNMENTPRINTING