

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, জুলাই ৩১, ২০১৪

**Government of the People's Republic of Bangladesh
Ministry of Law, Justice and Parliamentary Affairs
Legislative and Parliamentary Affairs Division**

Notification

Dated the 22 July 2014

S.R.O. No. 209-Law/2014—In exercise of the powers conferred by section 46 of the Geographical Indication of Goods (Registration and Protection) Act, 2013, the Government is pleased to publish the following Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (3) of section 1 of the Act :

**GEOGRAPHICAL INDICATION OF GOODS
(REGISTRATION AND PROTECTION) ACT, 2013**

Act No. LIV of 2013

**An Act to make provisions for the registration and protection of
geographical indication of goods.**

WHEREAS, it is expedient and necessary to make provisions for the registration and protection of geographical indication of goods and for matters ancillary thereto;

(১৬৬০৩)
মূল্য : টাকা ২৮.০০

It is hereby enacted as follows :—

Chapter I Preliminary

1. Short title, application and commencement.—(1) This Act may be called the Geographical Indication of Goods (Registration and Protection) Act, 2013.

(2) This Act shall be equally applicable to the protectable geographical indication of goods already in existence before the commencement of this Act, as it applies to the protectable geographical indication of goods after the commencement of this Act.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (1) “**authorized user**” means an authorized user of a geographical indication of goods registered under this Act, and shall also include any association or society of persons, or of producers or any other institution or organization carrying on their activities with respect to any product in the geographical area specified in the register and enlisted in the register as the user of the geographical indication of goods;
- (2) “**competent district court**” means the district court within which territorial jurisdiction, the person or persons initiating the litigation actually or ordinarily reside or carry on business or are employed for personal gain;
- (3) “**producer**” means any person who, for sale or other commercial purposes,—
 - (a) produces an agricultural product;
 - (b) exploits natural products;
 - (c) manufactures products of handicraft or industry; and
 - (d) trades or deals in producing, exploiting, making or manufacturing the aforesaid goods;

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- (4) “**generic name or indication**” means the geographical indicative name of goods which relates to the place or region where the goods are originally produced, exploited or manufactured and have become the common name of such goods and serves as a designation for or indication of the kind, nature, type or other property or characteristic of the goods;
 - (5) “**Tribunal**” means the Registrar or, as the case may be, any officer empowered by him before whom the concerned proceeding is pending;
 - (6) “**prescribed**” means prescribed by rules;
 - (7) “**register**” means the register mentioned in section 17 of this Act;
 - (8) “**goods**” means any natural or agricultural product or any product of handicraft or industry, and shall also include any foodstuff;
 - (9) “**geographical indication of goods**” means a geographical indication of agricultural or natural or manufactured goods which identifies its originating country or territory, or a region or locality of that country or territory, where any specific quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods, one of the activities of either production or processing or preparation of the goods concerned conceivably takes place in such territory, region or locality as the case may be;
 - (10) “**Paris Convention**” means the Paris Convention for the protection of industrial property adopted on the 20th March, 1883 as modified from time to time, and to which Bangladesh became a party on the 3rd March, 1991;
 - (11) “**deceptively similar geographical indication**” means a geographical indication which is similar to the geographical indication of another goods and is likely to deceive and cause confusion;
 - (12) “**rules**” means rules made under this Act;
 - (13) “**Package**” means any case, box, container, cover, folder, receptacle, vessel, casket, bottle, wrapper, label, band, ticket, reel, frame, capsule, cap, lid, stopper and cork;

- (14) “**Registrar**” means the Registrar empowered under section 5 of this Act to register the geographical indication of goods and to perform other duties relating thereto;
- (15) “**class**” means the international class declared by the World Intellectual Property Organization (WIPO);
- (16) “**homonymous geographical indication**” means the geographical indication of such goods which bear similar name ; and
- (17) “**Government**” means in the case of registration of geographical indication of goods, the Secretary of the concerned administrative Ministry or Division, and in other cases, the administrative Ministry or Division.

3. Act to override.—Notwithstanding anything contained contrary in any other law for the time being in force, the provisions of this Act shall prevail.

Chapter II Geographical Indication Unit

4. Geographical Indication Unit.—(1) For the purposes of this Act, there shall be a Geographical Indication Unit within the Department of Patent, Design and Trademarks, which shall carry out all functions relating to geographical indication of goods under this Act.

(2) There shall be an official seal of the Geographical Indication Unit having inscribed in the margin the words “Geographical Indication of Goods” and the impression of such seal shall be judicially noticed and admitted in evidence.

5. Manpower of Geographical Indication Unit.—(1) The Registrar appointed in the Department of Patents, Designs and Trademarks shall, ex-officio, discharge the functions of the Registrar of Geographical Indication, and supervise and control all activities of the Geographical Indication Unit.

(2) The Government may appoint such number of employees for the Geographical Indication Unit from the Department of Patents, Designs and Trademarks as may be required for carrying out the purposes of this Act, and the terms and conditions of their services shall be prescribed by rules.

Chapter III

Protection of Geographical Indication of Goods

6. Protection of Geographical Indication of Goods.—(1) A geographical indication of goods and its definite territory, region or locality, as the case may be, irrespective of whether or not registered under this Act, shall be protected against another geographical indication which, although literally true as to the country, territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another country, territory, region or locality.

(2) The Registrar shall, for the purposes of registration of geographical indication of goods, classify the goods in accordance with the international classification of goods.

(3) Any question as to the class of goods or the country, territory, region, area or locality, in which the goods originate, shall be determined by the Registrar whose decision in the matter shall be final.

(4) For the purposes of this Act, the Geographical Indication Unit shall keep and maintain a list of geographical indication of goods.

7. Registration and protection of homonymous geographical indication of goods.—(1) A homonymous geographical indication of goods may be registered under this Act.

(2) In case of registration of homonymous geographical indication for the same class of goods, an equitable treatment and protection to every producer of such goods shall be accorded for each indication.

8. Prohibition of registration for certain geographical indication of goods.—Notwithstanding anything contained in any other law for the time being in force, a geographical indication shall not be registered, if—

- (a) it does not conform to the definition given in this Act; or
- (b) it is apprehended that its use may deceive or cause confusion; or
- (c) its use is contrary to any law in force in Bangladesh; or
- (d) it is contrary to public order or morality; or
- (e) it comprises or contains any matter likely to hurt the religious susceptibilities of any citizen of Bangladesh; or

- (f) it is, or may otherwise be, disentitled to protection in a court; or
- (g) it is determined to be a generic name or indication, or is not or has ceased to be protected in its country of origin, or has fallen into disuse in that country; or
- (h) it is literally true as to the territory, region or locality in which the goods originate, but falsely represents that the goods originate in another territory, region or locality.

Chapter IV

Registration of Geographical Indication of Goods

9. Application for the Registration of the Geographical Indication of Goods.—Any association, institution, government body or authority, which is established or registered under existing laws and representing the interest of persons producing geographical indication of goods, may apply in writing to the Registrar in the prescribed form and manner along with the payment of prescribed fees for registration of geographical indication of goods.

10. Registration as Authorized User.—Subject to the provisions of section 9, any person or a group of persons claiming to be the producer, exploiter, manufacturer or processor of the geographical indication of goods registered under this Act may, in the prescribed manner, apply for registering him or them as authorized user of such geographical indication of goods.

11. Refusal of application.—If it appears to the Registrar that the application has been entertained erroneously or in separate name and title, or in the relevant circumstances the geographical indication does not require to be registered, the Registrar may refuse to entertain the application for registration after giving adequate opportunity to the applicant of being heard.

12. Advertisement of Application.—If the Registrar, after examining the application for registration of the geographical indication of goods, is satisfied that the application has fulfilled all the requirements, he shall, by notification, publish the application in the prescribed manner.

13. Objection to Registration.—(1) Any person, institution, or authority concerned may, in the prescribed manner, give notice to the Registrar by objecting the registration of the geographical indication of goods within 2 (two) months from the date of notification of an application for registration under section 12.

(2) After expiry of the time limit mentioned in sub-section (1), any person, institution, or authority concerned may, subject to the approval of the Government, file a notice of objection to the Registrar.

(3) In the notice given under sub-sections (1) and (2), it shall be mentioned as the grounds of objection that the geographical indication of goods sought to be registered by the applicant—

- (a) does not fall within the meaning of the definition of “geographical indication of goods” under this Act;
- (b) is contrary to public order or morality;
- (c) may hurt the belief or religious susceptibilities of the people;
- (d) is not or has ceased to be protected in its country of origin; or
- (e) has fallen into disuse in its country of origin.

14. Counter-statement and reply by the applicant.—(1) The Registrar shall serve a copy of the notice of objection upon the applicant.

(2) Upon receipt of notice under sub-section (1), the applicant may, within 2 (two) months from the receipt of such notice, send to the Registrar a reply or counter-statement in the prescribed manner mentioning the grounds on which he relies upon his application.

(3) If the applicant sends such counter-statement, the Registrar shall serve a copy thereof upon the person giving notice of such objection.

(4) The evidence upon which the opponent or the applicant relies, shall be submitted in such manner and within such time as may be determined by the Registrar, and the Registrar shall give the parties an opportunity of being heard, if they so desire.

(5) The Registrar shall, after hearing the parties and considering the evidence and merits of the case, approve or reject the application for registration.

(6) If the applicant fails to reply to the objection within the period specified in sub-section (2) or within the additional period extended by the Registrar, which may not exceed one month, the applicant shall be deemed to have abandoned his application for registration.

15. Registration of geographical indication of goods.—(1) Where there is no objection under section 13, or the Registrar is satisfied that the application for registration of the geographical indication of goods has fulfilled all the requirements that sought to be registered, the Registrar shall register the said geographical indication of goods mentioned in the application.

(2) The validity of registration of the aforesaid geographical indication of goods shall be effective from the date of application.

(3) The Registrar shall, in the prescribed form, issue to the applicant a certificate of registration bearing proper seal.

16. Duration, Renewal, etc. of Registration.—(1) The registration of the geographical indication of goods shall remain valid until the registration of geographical indication of goods is cancelled or otherwise invalidated under this Act.

(2) The registration of a registered authorized user of the geographical indication of goods shall have effect for 5 (five) years.

(3) The Registrar may, on payment of prescribed fees in the prescribed manner by an authorized user within the prescribed time, renew the registration of the authorized user for a period of next 3 (three) years from the date of expiration of the original registration, or of the last renewal of registration.

(4) Where any authorized user fails to renew the registration after expiry of the above mentioned period, it may be renewed on payment of such fine as may be prescribed by rules.

17. Register of geographical indication of goods.—There shall be a register to be called “Geographical Indication of Goods Register” in the office of the Registrar, where in all information relating to registration of geographical indication of goods shall be preserved and such information shall be admissible as official record.

18. Rights conferred by registration.—(1) If any, geographical indication of goods are registered, the authorized user of such goods shall, subject to other provisions of this Act, have the following rights, namely:—

- (a) the right to obtain relief in respect of infringement of the geographical indication in the manner provided by this Act; and
- (b) the right to use the geographical indication of goods in respect of which the geographical indication is registered.

(2) The right to use the geographical indication of goods conferred under clause (b) of sub-section (1) shall be subject to such conditions and limitations as may be prescribed.

19. Prohibition to assign, transfer, etc.—(1) Notwithstanding anything contained in any other law for the time being in force, any right to a registered geographical indication of goods shall not be assigned, transferred, licensed pledged or mortgaged, or no agreement shall be entered into on any such matter.

(2) On the death of an authorized user of a registered geographical indication of goods, the right to the registered geographical indication of goods shall devolve upon his legitimate successor.

(3) In the case of the liquidation or abolition of the authorized institution, the registration of authorized user shall be terminated automatically.

20. Special provisions for Convention States.—If any country which is a member of Paris Convention or World Intellectual Property Organization (WIPO) accords to citizens of Bangladesh similar privileges as granted to its own citizens in respect of registration and protection of geographical indication of goods, the Government may, by notification in the Official Gazette, declare such country as Paris Convention State in order comply to with the treaty, convention or arrangement made with the country.

Chapter V

Special Provisions Relating to Trademarks

21. Restrictions on registration of trademarks as geographical indication of goods.—(1) Notwithstanding anything contained in the Trademarks Act, 2009 (Act No. XIX of 2009), the registrar may, *suo-moto* or on the request of an aggrieved party or any party having interest therein, refuse or invalidate the registration of a trademark, if—

- (a) the trademark containing or consisting of a geographical indication with respect to goods or services related thereto, not originating in the territory of a country, or a region or locality in that territory for which such geographical indication is being utilized; and
- (b) such use of geographical indication in the trademark, for such goods or services, is of such a nature so as to confuse or mislead the people as to the actual place of origin of such goods or services.

(2) The Government may, by notification in the Official Gazette, provide additional protection to some goods specifying their names.

22. Protection to certain trademarks.—(1) Where a trademark contains or consists of any geographical indication has been applied for registration or registered in good faith under any other law relating to trademarks for the time being in force, or where rights to such trademarks have been acquired through use in good faith—

- (a) before the commencement of this Act; or
- (b) before the date of submitting any application for registration of such geographical indication of goods under this Act;

nothing of this Act shall prejudice the registrability or the validity of the registration of such trademark under any law relating to the trademarks for the time being in force, or the right to use such trademark, on the ground that such trademark is identical with or similar to such geographical indication.

(2) Nothing of this Act shall in any way prejudice the right of any person to use, in course of trade, that person's name or the name of his predecessor in business, except where such name is used in such a manner as to confuse or mislead the people.

Chapter VI

Cancellation of Registration

23. Cancellation or modification of registration.—(1) Any person concerned may, in the prescribed manner, apply to the Registrar for modification or cancellation of any registration of geographical indication of goods for the reasons, that—

- (a) the geographical indication of the goods does not qualify for protection under this Act;
- (b) the geographical area specified in the registration does not correspond to the geographical indication; or
- (c) the indication of the products in respect of which the geographical indication is intended to apply or the indication of the quality, reputation or other characteristic of such goods is missing or unsatisfactory.

(2) If an application is filed under sub-section (1), the Registrar shall serve notice upon all parties concerned with the application.

(3) The Registrar may modify or cancel any registration giving adequate opportunity of being heard to all parties concerned.

24. Correction of Register.—The Registrar may, on an application made by any authorized user, make correction, alteration, rectification or addition to the register in a prescribed manner.

Chapter VII Power of Registrar

25. Power of Registrar.—(1) For the purposes of this Act, the Registrar shall have the following powers, namely:—

- (a) to receive, cancel or rectify any application and review his own decision on reasonable grounds;
- (b) to issue notice for the attendance of witnesses, to administer oath, to examine the witnesses and to issue commissions for the examinations of witnesses;
- (c) to direct the parties to recover and produce the document;
- (d) to pass an order for payment of cost not exceeding taka 5000 (five thousand) to any party;
- (e) to exercise power of a Certificate Officer under the Public Demand Recovery Act 1913 (Bengal Act No. III of 1913) to recover any government dues; and
- (f) to exercise other powers under this Act, subject to giving adequate opportunity of being heard to both the parties.

(2) The Registrar or any officer authorised by him shall, in exercise of powers under this Act, be deemed to be a Tribunal.

26. Evidence before the Registrar.—In any proceeding under this Act, evidence shall be given to the Registrar by affidavit:

Provided that the Registrar may, if he thinks fit, take oral evidence instead of, or in addition to, such evidence by affidavit.

Chapter VIII

Appeal

27. Appeal.—(1) Any person aggrieved by an order or the decision of the Registrar under this Act, may prefer an appeal against such order or decision to the Government within two months from the date on which such order or decision is communicated to him, and in disposal of such appeal, the order or decision which may be passed or given by the Government shall be final.

(2) An appeal to the Government shall be made in such form and manner, and on payment of such fees as may be prescribed and be accompanied with a copy of the order or decision appealed against.

Chapter-IX

Offence and Trial

28. Infringement of Protected Geographical Indications.—(1) A registered geographical indication shall be infringed by a person if he, not being an authorized user thereof:—

- (a) uses such geographical indication by any means in the designation or presentation of goods that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the persons as to geographical origin of such goods; or
- (b) uses any geographical indication in such manner which constitutes an act of unfair competition including passing off in respect of registered geographical indication; or
- (c) Uses another geographical indication to the goods which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the persons that the goods originate in the territory, region or locality in respect of which such registered geographical indication relates; or
- (d) uses any other geographical indication to such goods not originating in the place indicated by such other geographical indication or uses other geographical indication to such goods even indicating the true origin of such goods or uses other geographical indication to such goods in translation of the true of origin or accompanied by expression such as “kind”, “style”, “imitation” or the like expression.

(2) for the purpose of clause (b) of sub-section (1), any act of competition contrary to honest practices in industrial or commercial matters shall be constituted as “an act of unfair competition” and the following acts shall also be deemed to be “acts of unfair competition”, namely:—

- (a) any act of such a nature as to create confusion by any means whatsoever with the establishment, the goods or the industrial or commercial activities of a competitor;
- (b) any false allegation in the course of trade of such a nature as to discredit the establishment, the goods or the industrial or the commercial activities of a competitor; and
- (c) the use of geographical indication which in the course of trade is liable to mislead the people as to the quantity, the nature, the manufacturing process, the characteristics, the suitability, etc. of the goods.

(3) Notwithstanding anything contained in this section, where a geographical indication of goods has been registered and is lawfully acquired by a person other than the authorized user of such geographical indication of goods, further dealings in those goods by such a person including processing or packaging, shall not deem to constitute an infringement of such geographical indication, except where the condition of goods is impaired after putting into market.

(4) Any interested person, or interested group of producers or consumers may file a case in the competent district court to prevent infringement of geographical indication, where the uses of the designation or presentation of the goods indicate or suggest in any way that the goods in question originate in a geographical area other than the true place of origin which may mislead the public as to geographical origin of the goods.

(5) In the proceedings under this section, the Court may, in addition to issuing an injunction, award compensation for damages and grant such other civil remedy or relief as it deems fit.

(6) No person shall be entitled to file any case to prevent or recover damages for the infringement of an unregistered geographical indication.

(7) Nothing in this Act shall affect the rights to take action against any person for passing off goods as the goods of another person or for the remedies thereof.

29. Falsifying or falsely Applying Geographical Indication and punishment.—(1) If any person falsifies any geographical indication or falsely applies to goods any geographical indication, such act of the person shall be deemed to be an offence, and he shall be liable to be prosecuted and, if convicted, be punished with imprisonment for a term which may extend to 3 (three) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

(2) A person or an institution shall be deemed to have falsified and falsely applied any geographical indication if the person or the institution—

- (a) claims any goods to be registered geographical indication of goods without the approval of the competent authority; or
- (b) prepares deceptively similar geographical indications of goods; or
- (c) declares a genuinely registered geographical indication of goods as unregistered goods; or
- (d) proclaims that the registration of a geographical indication of goods gives an exclusive right to the use thereof, but such registration does not eventually grant the right.

(3) For the purposes of this section, in the case of a geographical indication of goods in Bangladesh, the use of the words “registered geographical indication” or any other similar expression, symbol or sign referring, whether explicitly or implied, to registration, shall be deemed to be a reference to registration in the register, unless—

- (a) the word or other expression, symbol or sign is used in direct association with other words delineated in characters at least as large as those in which that word or other expression, symbol or sign is delineated, and indicates that the reference to registration as a geographical indication under the law of the country outside Bangladesh being a country under the law of which the registration referred to is in fact in force; or

- (b) the other expression, symbol or sign innately indicates itself of the reference of such registration as mentioned in clause (a); or
- (c) the word is used in any geographical indication of goods registered under the law of any other country, and the goods shall be exported only for the use of that country.

30. Use of deceptively similar geographical indication and punishment.—(1) If any person uses deceptively similar geographical indication to any goods or the packages of the goods, such act of the person shall be deemed to be an offence, and he shall be liable to be prosecuted and, if convicted, be punished with imprisonment for a term which may extend to 3 (three) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

(2) For the purposes of this section, the following actions shall be deemed to be the use of deceptively similar geographical indication, namely:—

- (a) using any package bearing a geographical indication which is identical with or deceptively similar to the geographical indication of such authorized user, for the purpose of packing, filling or wrapping therein any goods other than the genuine goods of the authorized user of the geographical indication of goods; or
- (b) falsifying any genuine geographical indication by distortion, alteration or effacement; or
- (c) applying to goods any false indication, name and address of a country, manufacturer or place knowing that the genuine indication of the country or place where they have been made or produced, or the name and the address of the manufacturer or the person for whom the goods have been manufactured are required to be applied.

31. Punishment for the production, transport, storage and sale of false geographical indication goods.—If any person or institution—

- (a) falsely uses any geographical indication in any goods or produces, transports, stores or sells such goods in the market; or

- (b) makes, disposes of, or has in his or its possession, any dice, block, machine, plate or other instrument for the purpose of falsifying, or of being used for falsifying a geographical indication; or
- (c) sells or displays for sale or hires or keeps in possession for sale, any goods or things to which any false geographical indication is applied, and any goods to which an indication of the country or place where they were made or produced or the name and the address of the manufacturer or person for whom the goods is manufactured is not inscribed;

such act of that person or institution shall be deemed to be an offence, and the person or the institution shall be liable to be prosecuted and, if convicted, the person or the persons in charge of the institution shall be punished with imprisonment for a term which may extend to 3 (three) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

32. Punishment for marketing without renewal.—If any authorized user or institution, after the date of expiry of registration of a geographical indication, continues the production, storage, marketing, transporting or sale of any outdated registered goods of geographical indication without renewal of the registration, such act of the user or the institution shall be deemed to be an offence and the user or the institution shall be liable to be proceeded against and, if convicted, the said person or the person in charge of the institution shall be punished with imprisonment for a term which may extend to 3 (three) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

33. Punishment for the breach of conditions of registration.—If any person or institution breaches any condition of the registration of geographical indication, the person or the institution shall be deemed to have committed an offence under this Act and be liable to be prosecuted, and if convicted, the registration of the person or the institution shall be cancelled, and the said person or the person in charge of the institution shall be punished with imprisonment for a term which may extend to 3 (three) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

34. Punishment for forgery of entries of the register.—If any person makes or causes to be made a false entry in the register, or makes or causes to be made a writing falsely purporting to be a copy of an entry in the register, or produces or tenders any such entry or writing in evidence, knowing the entry or writing to be false, the person shall be punished with imprisonment for a term which may extend to 2 (two) years, but not less than 6 (six) months, or with a fine which may extend to taka 2 (two) lac, but not less than taka 50,000 (fifty thousand), or with both.

35. Punishment for the second or subsequent offences.—If any person commits a second or other subsequent offence under this Act, the person shall be punished with imprisonment for a term which may extend to 5 (five) years, but not less than 2 (two) years, or with a fine which may extend to taka 4 (Four) lac, but not less than taka 2 (Two) lac, or with both.

36. Forfeiture of goods.—(1) If it is failed to prove the legal right of having possession of, or using the goods or things seized under this Act, the concerned court may forfeit the goods or things in favour of the Government.

(2) Where an order of forfeiture is passed along with a sentence, and if the order of the sentence is appealable, the order of forfeiture shall also be appealable.

(3) When an order of forfeiture of goods or things is passed, an appeal may lie against such order of forfeiture within 30 (thirty) days from the date of order of the court, to that court to which, in appealable cases, appeal shall lie.

(4) When any order of forfeiture is passed along with a sentence, the court before which the person is convicted may, at its discretion, pass an order directing the forfeited goods or things to be destroyed or otherwise disposed of.

37. Offences committed by a company or an institution.—Where an offence under this Act is committed by a company or an institution, every owner, director, manager, secretary or any other officer or employee or representative who had direct involvement with the offence shall be deemed to have committed the offence unless he can prove that the offence was committed without his knowledge or he had exercised all due diligence to prevent the offence.

Explanation.—In this section—

- (a) “company or institution” means any statutory body, business institution, partnership business, society or any association or organization consisting of one or more than one person; and
- (b) “director” means any partner, or member of the Board of Directors, by whatever name called.

38. Cognizance of offence.—(1) No court shall take cognizance of an offence under this Act, unless—

- (a) the complaint is made in writing by the Registrar or any officer authorised by him; or
- (b) any person aggrieved or seeking relief from any grievance, gives a notice of justice to the Registrar or any officer authorised by him within 30 (thirty) days of the commission of the offence.

(2) In the proceedings of trial of an offence under this Act, the Code of Criminal Procedure, 1898 (Act No. V of 1898) shall apply.

(3) No police officer below the rank of sub-inspector or equivalent rank may investigate any offence committed under this Act.

(4) The offences committed under this Act shall be tried by a Judicial Magistrate of the first class and all offences under this Act shall be bailable.

39. Punishment for abetment of offence committed outside Bangladesh.—If any person, being in Bangladesh, abets to commit any act outside Bangladesh which, if committed in Bangladesh, would, under this Act, be an offence; the person may be tried for such abetment in any place in Bangladesh, in which he may be found, and be awarded with the same punishment as he would have been awarded if he himself committed the offence.

Chapter X

Miscellaneous

40. Implied warranty on sale of imprinted geographical indication of goods.—Where a geographical indication has been used to the goods on sale or in the contract for sale of any goods, it shall be implied that the seller has given warranty to the effect that imprinted geographical indication is a genuine one and

not falsely applied; unless anything contrary is expressed explicitly in writing and signed by or on behalf of the seller at the time of selling or signing contract of such goods and is duly accepted by the buyer.

41. Authorized user to be included as a party in certain proceedings.—

(1) In each proceeding under this Act, every authorized user of a geographical indication of goods to which such proceeding relates, shall be made a party to the proceeding.

(2) Notwithstanding anything contained in any other law for the time being in force, an authorized user who is made a party to the proceeding under sub-section (1) shall not be liable to any costs unless he appears and takes part in the proceeding.

42. To show origin, etc. of the geographical indication of goods.—The Government may, by notification in the Official Gazette, require that the goods specified in the notification, if made or produced—

- (a) beyond the territory of Bangladesh and imported into Bangladesh; or
- (b) within the territory of Bangladesh;

shall, from the date appointed by such notification which may not be less than 3 (three) months, be applied to them an indication of the country or place in which they were made or produced, or of the name and address of the manufacturer or the person for whom the goods were manufactured.

43. Admission of customary business practices, etc.—The Court may, in the proceeding of the case relating to the geographical indication of goods, allow the related customary trade practices of geographical indication and the common practice of other authorized users of geographical indication that has become accepted conduct in the geographical indication community to be admitted as relevant evidence.

44. Fees and surcharge.—Any fee and other dues payable in respect of applications and registrations and other matters under this Act shall be paid in the manner as may be prescribed by rules.

45. Power to make rules.—The Government may, by notification in the Official Gazette, make rules for the purposes of this Act.

46. Publication of Authentic English text.—After the commencement of this Act, the Government shall, by notification in the Official Gazette, publish an authentic English text of this Act :

Provided that in the event of conflict between the Bangla text and the English text, the Bangla text shall prevail.

By order of the President

Mohammad Shahidul Haque
Secretary.