

Appellations of Origin (Geographical Indications) (Protection) Law, 57251965

(as amended to January 2000)

Chapter One Interpretation

Definitions

1. In this Law

"appellation of origin" means the geographical name of a country, region or locality contained in the name of a product and intended to convey that such product has its origin there and that its quality and properties are mainly due to that geographical area, including its nature and people;

"country of origin" means the country whose name, or the name of a region or locality in which, is the appellation of origin which has given the product its reputation;

"person entitled" means the person entitled to use an appellation of origin to denote a particular product;

"product" means any agricultural, industrial or handicraft product; "the Registrar" means the Registrar of Trade Marks.

"Geographical indication" means an indication that identifies in Israel goods as originating in a given geographical area of a member state, or a region or part thereof, where a given quality, characteristic or reputation of the good is essentially attributable to its geographical origin;

"Member state" a state that is a member of the World Trade Organization;

"World Trade Organization" the World Trade Organization constituted by the agreement signed in Marrakech on 15 April 1994.

Chapter Two Registration of Israeli Appellations of Origin

Register of Appellations of Origin

2. (a) The Patent Office at the Ministry of justice shall keep a Register of Appellations of Origin (hereinafter referred to as "the Register") in which shall be registered the appellations of origin accepted for registration under this Law and such further particulars as may have been prescribed or as the Registrar may see fit to register.

(b) The Register shall be established and kept under the supervision of the Registrar.

Registration of Appellations of Origin in Israel

3. Any person interested in protection under this Law for an appellation of origin, the country of origin being Israel, may apply to the Registrar to register in the Register such appellation, the product which it is intended to denote and the person entitled.

Contents of Application

4. An application under section 3 shall indicate the product, the special particulars showing that the designation of the product is an appellation of origin and not merely an indication of provenance or type, the person entitled in respect of the appellation, and such further particulars as may have been prescribed.

Examination of Application

5. The Registrar or a person appointed by him in that behalf shall examine every application with a view to ascertaining whether it complies with the provisions of section 4 and whether the designation which he is asked to register is an appellation of origin.

Powers in Connection with Examination

6. For the purposes of an examination under section 5, the Registrar may demand of the applicant, or of any other person claiming to be a person entitled, any material or information relevant to the examination and deemed by him to be necessary for it, and he may consult with any such person as he may think fit and may obtain from any such person any material or information deemed by him to be necessary for the examination.

Acceptance of Application

7. Where the Registrar is satisfied that the designation which he has been asked to register is, prima facie, an appellation of origin, and that the other conditions laid down in section 4 are fulfilled, he shall accept the application.

Advertisement of Acceptance of Application

8. (a) When an application has been accepted, the Registrar shall notify the

acceptance in Reshumot at the expense of the applicant. In addition, the Registrar shall notify the application publicly in some other appropriate manner.

(b) The publication shall indicate the appellation of origin, the product which the appellation is intended to denote and the person entitled, as named in the application.

Opposition

9. Within three months from the date of advertisement of the acceptance of the application, under section 8, any person may notify to the Registrar, in writing, his opposition to the registration of the appellation of origin applied for.

Grounds of Opposition

10. The grounds of opposition to the registration of an appellation of origin are the following:

(1) the designation whose registration is applied for is not an appellation of origin, but merely an indication of provenance or type;

(2) the person who claims to be the person entitled to the appellation is not entitled to use it.

Powers of Registrar with Regard to Opposition

11. The Registrar may accept the opposition in whole or in part, reject it or accept it subject to conditions.

Registration and Issue of Certificate

12. Where no opposition has been filed within the time fixed therefor, or where opposition has been filed in time, but has been withdrawn or been rejected by a decision or a final judgement, the appellation of origin shall be registered in the register and the applicant shall be given a certificate attesting the registration.

Period of Validity of Registration and Extension Thereof

13. (a) A registration under this chapter shall be valid for ten years from the filing of the application. However, its validity may be extended for additional periods of ten years on application by a person entitled filed with the Registrar within such time and in such manner as shall have been prescribed.

(b) Before extending the validity of a registration, the Registrar shall examine whether the designation is still an appellation of origin and shall

advertise the application for extension in Reshumot.

StrikingOut of Registration

14. (a) A registration under this chapter may be struck out on the application of an interested person or on the initiative of the registrar if the appellation has become a mere indication of type or provenance or if the conditions which served as basis for the registration have ceased to exist.

(b) An application for the strikingout of a registration shall be treated like an opposition, and the provisions of this chapter relating to opposition procedure shall apply to it.

Chapter Three Registration of Appellations of Origin under the Lisbon Arrangement

The Registrar the Israeli Administration within the Meaning of the Lisbon Arrangement

15. The Registrar is the Administration, within the meaning of the Lisbon Arrangement Concerning the Protection and International Registration of Appellations of Origin** and for the purposes of communication with the International Bureau established thereunder.

Registration of Israeli Appellations of Origin in International Register

16. (a) On the application of a person entitled registered in Israel, the Registrar shall submit to the International Bureau an application to register, in the International Register, an Israeli appellation of origin and the person entitled thereto.

(b) Upon making the application, the person entitled shall deposit with the Registrar a sum of money, as shall be prescribed by regulations, as security for the payment of the registration fee.

Notification of Foreign Appellation Registered in International Register

17. When the Registrar has been notified by the International Bureau that a foreign appellation of origin has been registered in the International Register, he shall examine such appellation as if he had before him an application under section 3 for the registration of an Israeli appellation of origin, and the provisions of Chapter Two shall apply.

Registration of Foreign Appellation

18. (a) If the Registrar is satisfied that the foreign appellation of origin registered in the International Register is eligible for protection in Israel, he shall register it in the Register and shall notify the International Bureau accordingly.

(b) The Registrar may exercise his powers under subsection (a) even if he has previously sent notification under section 19(b).

Refusal to Protect

19. (a) If the Registrar is satisfied that the appellation of origin registered in the International Register is not eligible for protection in Israel under this Law, he shall send to the International Bureau, within one year from the date of receipt of the notification, a reasoned notification of his inability to ensure the protection of that appellation of origin in Israel.

(b) The Registrar shall send a notification as aforesaid even where opposition proceedings under section 9 are pending before him in respect of the appellation of origin notified by the International Bureau, or where objection proceedings in respect of a decision under section 30 are still pending, and he may regard such proceedings as a ground for his inability to ensure the protection of the appellation of origin in Israel.

Effect of Registration of Foreign Appellation

20. The term of validity of the registration of an appellation of origin effected upon a notification received as specified in section 17 shall be the same as the term of validity of its registration in the country of origin.

Striking Out of Appellation of Origin in Foreign Country

21. (a) Any interested person may ask the Registrar, on such conditions as shall be prescribed, to strike out an appellation of origin under this chapter by reason that it is not, or has ceased to be, protected in the country of origin; and the Registrar may do so on his own initiative.

(b) An application for striking out under this section shall be treated like an opposition, and the provisions of Chapter Two relating to opposition procedure shall apply to it.

Chapter 3.1 Geographical Indication

Unlawful Use of a Geographical Indication

21A. Use of a geographical indication in respect of a product the origin of which is other than the geographical region indicated therein is unlawful use of a geographical indication if the geographical indication might be misleading as to the true geographical origin of the product, and shall be considered an infringement of an appellation of origin right under sections 22 and 23.

Unlawful Use of a Geographical Indication Identifying Wine or Spirit Beverage
21B. (a) Use of a geographical indication identifying wine or spirit beverages where the origin of the wine or spirit beverage is not from the geographical region indicated, constitutes an unlawful use of a geographical indication, and shall be treated as an infringement of an appellation of origin right under sections 22 and 23, even if the geographical indication is accompanied by expressions such as "sort", "type", "kind", "imitation" or similar expressions or translations of them into a foreign language.

(b) Notwithstanding the provisions of subsection (a), a person who has continuously used the geographical indication of a member state for identifying a wine or spirit beverage, may continue to use such geographical indication in respect of wine or spirit beverages or in respect of any related product if one of the following conditions exists:

- (1) it was used for a period of at least 10 years prior to 15 April 1994;
- (2) the use of it was made in good faith and commenced prior to 15 April 1994.

21C. Despite the provisions of sections 21A and 21B, the following uses are lawful uses of a geographical indication:

(1) use, in respect of a product, of a geographical indication that is identical to a linguistic expression commonly used in Israel as the name for the product;

(2) use, in respect of a product, of a geographical indication that is not protected or that has ceased to be protected in the geographical region indicated therein, or that the use of it in such geographical region has ceased;

(3) use, in respect of a grape product, of a geographical indication that is identical to a commonly used expression of a species of grape, if such term for the species of grape was commonly used prior to 15 April 1994;

(4) (a) use, in respect of wine, of homonymous geographical indications that indicate various separate geographical regions which can be differentiated from each other;

(b) In dealing with a claim made pursuant to sub paragraph (4) the Court, when determining whether there is differentiation between the homonymous geographical indications the Court shall take into consideration, inter alia, the need to ensure equitable treatment as between the various producers involved and the need to ensure that consumers will not be misled;

(c) for the purposes of sub paragraph (4), "homonymous" means indications which are identical in spelling or pronunciation but differ in their meaning.

Chapter Four General Provisions

Infringement of Right to Appellation of Origin

22. The improper use of a registered appellation of origin is an infringement of the right to an appellation of origin even if the true origin of the goods is indicated beside the appellation of origin and even if the appellation appears in translation or accompanied by expressions such as "kind", "type", "class", "imitation" or the like.

Use of Name in Good Faith

22A. The lawful use of a geographical indication under this Law shall not prevent a person from using his own name or that of his predecessors in a business, provided that such use is in good faith and in such a way so as not to mislead the public.

Relief Upon Infringement of Right

23. Where a court is satisfied that a right in a registered appellation of origin has been infringed, it shall order the infringer to refrain from infringing the right. The court may attach conditions to the order and may stay the execution thereof for up to six months on such conditions as it may think fit.

Offences

24. Any person who unlawfully uses an appellation of origin shall be dealt with like a person who uses a false trade description, within the meaning of the Merchandise Marks Ordinance, and the provisions of that Ordinance shall apply.

Exercise of Power by Registrar

25. The Registrar shall not exercise any power vested in him by this Law before he has given every person who, in his opinion, is likely to be adversely affected by his decision an opportunity to state his arguments before him.

Notice of Proceeding under this Law

26. Notice of every proceeding under this Law shall be published in Reshumot at least thirty days before the time fixed for the proceeding. The Registrar shall, moreover, publish the said notice in some other appropriate manner, summoning every person entitled to attend at the proceeding and to give the Registrar notice of his attendance five days before the date on which the

proceeding is to be held. If the person does not give notice as aforesaid, he shall not be permitted to attend.

Decisions of Registrar to be in Writing

27. Every decision of the Registrar shall be in writing and shall be delivered to every person who was a party to the proceedings before him.

Procedure in Proceedings Concerning Dispute

28. In every proceeding concerning a dispute brought before the Registrar under this Law, the Registrar shall give the parties an opportunity to produce their evidence and state their arguments before him in such manner and form and at such times as shall be prescribed by regulations.

(b) The Registrar may order the payment of such costs as he may deem reasonable and may direct which of the parties shall pay the costs and how they shall be paid.

(c) An order under subsection (b) is capable of execution as if it were an order of the court.

Evidence

29. (a) Evidence in any proceeding before the Registrar under this Law shall be by affidavit, and the Registrar shall, if he has been requested so to do and sees no reasonable cause not to accede to the request, direct any person who has made an affidavit to be crossexamined.

(b) For the purpose of taking oral evidence in a crossexamination, the Registrar shall have all the powers of a court as to the administration of an oath or affirmation to witnesses, compelling witnesses to attend and matters connected with the summoning of witnesses and the giving of evidence.

Objection to Decisions of Registrar

30. (a) A person who considers himself aggrieved by a decision of the Registrar may lodge objection to it with an objection committee of three members appointed by the Minister of Justice. The members of the committee shall be a judge who shall act as chairman, and two members of the public.

(b) Notice of the appointment and address of the committee shall be published in Reshumot.

(c) The objection committee may, at its discretion, confirm, vary or rescind the decision of the Registrar.

Auxiliary Powers of Objection Committee

31. The objection committee shall be competent

- (1) to obtain any such written or oral testimony as it may deem necessary;
- (2) to summon any person to attend before it for the purpose of giving evidence or submitting any document in his possession, to examine him and to demand of him any such document as aforesaid;
- (3) to compel the attendance of a person who has not complied with a summons and has not justified such noncompliance to the satisfaction of the committee, to order him to pay all the expenses caused by compelling his attendance or by his noncompliance with the summons and to impose on him a fine of seventyfive pounds;
- (4) to require every witness to make a declaration in the manner customary in a court of law;
- (5) to impose a fine of seventyfive pounds on a person who, having been required to make a declaration or to submit a document, has refused to do so without justification satisfactory to the committee: Provided that no person shall be required to answer, or be fined for refusing to answer, a question by answering which he might incriminate himself;
- (6) to admit any written or oral evidence even if it would not be admissible in civil or criminal proceedings;
- (7) to award to a person who has been summoned to attend a session of the committee an amount of money which, in the opinion of the committee, he has expended in consequence of his attendance.

Documents

32. The Register, and any document submitted by an applicant as evidence that a registered designation is an appellation of origin or to prove the rights of a person entitled shall be open to inspection by the public.

Chapter Five Reciprocal Protection of Appellations of Origin

Protection of Appellations of Origin by Agreement

33. If the Minister of justice, by notice in Reshumot, has announced the existence of an agreement between Israel and a particular state concerning the protection of their protected appellations of origin, an application for protection received from the appropriate administration in that state shall be regarded as a notification received under section 17, and the provisions of Chapter Three shall apply to the examination, registration and term of validity thereof.

Chapter 5.1 Rights in Respect of Trade Marks

Right to Continued Use of Trade Mark

33A. Notwithstanding the provisions of this Law, where an application is filed for the registration of a trade mark as defined under the Trade Marks Ordinance [New Version] 57321972 (hereinafter: the "trade mark"), or a trade mark is registered in good faith, or rights are acquired in a trade mark by use thereof in good faith, the fitness of the mark for registration, the validity or registration and the right of use of the trade mark shall not be prejudiced solely because the trade mark is identical or similar to a geographical indication, provided that the application for registration of the trade mark, the registration or the acquisition of rights as aforesaid were effected prior to 1 January 2000, or prior to the date on which the geographical indication was awarded protection in the member state in which the geographical region indicated in the geographical indication is situated.

Claim of Protection Before the Registrar and the Court

33B. In any proceedings before the Registrar or the Court in which a party raises a claim that he is proprietor of a geographical indication, the opposing party may claim that the geographical indication is not a geographical indication.

Chapter Six Applicability and Implementation

Permission to Use Appellation of Origin

34. Where a person has actually used an appellation of origin in the course of his business for not less than one year before the coming into force of this Law, but is not a person entitled thereto, the Registrar may, on such conditions appropriate to the circumstances of the case as he shall determine, permit him to use that appellation for a period not exceeding two years from the date of its registration under this Law.

Implementation

35. The Minister of justice is charged with the implementation of this Law and may make regulations for such implementation, including regulations as to fees payable in respect of any matter relating to this Law.

Commencement

36. The provisions of Chapter Three shall come into force on such day, after the coming into force of the Lisbon Arrangement Concerning the Protection and International Registration of Appellations of Origin of the 31st October, 1958, as the Minister of Justice shall by notice determine.

Levi Eshkol

Prime Minister

Dov Joseph

Minister of Justice

Shneur Zalman Shazar

President of the State



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