



Geographical Indications (Wine and Spirits) Registration Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 26th day of June 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 57 of the Geographical Indications (Wine and Spirits) Registration Act 2006 on the advice and with the consent of the Executive Council.

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Fees

Regulations

1 Title

These regulations are the Geographical Indications (Wine and Spirits) Registration Regulations 2017.

2 Commencement

These regulations come into force on 27 July 2017.

Part 1

Preliminary provisions

3 Overview

- (1) In these regulations,—
- (a) this Part defines terms used in these regulations:
 - (b) Part 2 contains mandatory provisions for an application to register a geographical indication, and provisions relating to withdrawing or amending an application:
 - (c) Part 3 contains procedural provisions for dealing with an application to register a geographical indication:
 - (d) Part 4 contains provisions relating to—
 - (i) renewing the registration of a geographical indication; and
 - (ii) restoring an expired geographical indication to the register:
 - (e) Part 5 contains provisions relating to removing a registered geographical indication from the register as follows:
 - (i) subpart 1 relates to the Registrar proposing to remove a registered geographical indication:
 - (ii) subpart 2 relates to an application to remove a registered geographical indication:
 - (f) Part 6 contains provisions relating to altering a registered geographical indication as follows:
 - (i) subpart 1 relates to the Registrar proposing to alter a registered geographical indication:
 - (ii) subpart 2 relates to an application to alter a registered geographical indication:
 - (iii) subpart 3 relates to alterations concerning the registrant:
 - (g) Part 7 contains general provisions relating to decisions of the Registrar:
 - (h) Part 8 contains general requirements as follows:
 - (i) subpart 1 relates to applications, requests, and notices to the Registrar:
 - (ii) subpart 2 relates to addresses:
 - (iii) subpart 3 relates to agents:
 - (i) Part 9 contains provisions relating to proceedings:
 - (j) Part 10 contains provisions relating to hearings:
 - (k) Part 11 contains provisions relating to fees.
- (2) This regulation is intended only as a guide to the general scheme and effect of these regulations.

4 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Geographical Indications (Wine and Spirits) Registration Act 2006

address for service means—

- (a) a postal address in New Zealand or Australia; or
- (b) a post office box or document exchange box in New Zealand or Australia

agent means a person—

- (a) who is authorised by the agent's principal (**X**) to act for X in a proceeding in accordance with the Act or these regulations or to take a step on X's behalf under the Act or these regulations; and
- (b) whom the Registrar has not refused to recognise under section 57B of the Act

filing date means—

- (a) the date on which an application is received at the Intellectual Property Office of New Zealand or by the Registrar; or
- (b) if the date on which an application is received at the Intellectual Property Office of New Zealand or by the Registrar is not a working day, the date of the next working day

proceeding includes an application, request, notice, or hearing in accordance with the Act or these regulations

working day means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (c) if 1 January falls on a Friday, the following Monday; and
- (d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and
- (e) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (f) the day observed as the anniversary day in Wellington.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Part 2

Application to register geographical indication

Mandatory requirements

6 Mandatory requirements for application

- (1) An application, under section 36 of the Act, to register a New Zealand geographical indication or a foreign geographical indication must—
 - (a) be filed with the Registrar; and
 - (b) be in a form that is made available by the Registrar; and
 - (c) contain, or be accompanied by, the information specified in regulation 7 or 9 (as appropriate).
- (2) An applicant must pay the prescribed fee for an application in accordance with Part 11.
- (3) An application must be given a filing date by the Registrar if—
 - (a) the application complies with subclause (1); and
 - (b) the applicant pays the prescribed fee for the application in accordance with Part 11.
- (4) An application must not be given a filing date by the Registrar if—
 - (a) the application does not comply with subclause (1); or
 - (b) the applicant does not pay the prescribed fee for the application in accordance with Part 11.

Compare: SR 2003/187 r 41

New Zealand geographical indication

7 Information required for application to register New Zealand geographical indication

An application to register a New Zealand geographical indication must, when it is filed, contain, or be accompanied by, the following information:

- (a) the geographical indication that the applicant is applying to register;
- (b) geographical co-ordinates, in a form that is approved by the Registrar, that define the boundaries of the territory, region, or locality to which the geographical indication relates;
- (c) a statement as to whether the geographical indication relates to a wine or a spirit;
- (d) a description of any proposed conditions on the use of the geographical indication.

Compare: SR 2003/187 r 42

8 Additional information required before application accepted

- (1) An applicant must, before the application can be accepted, file the following additional information with the Registrar:
 - (a) an explanation of the given quality, or reputation, or other characteristic of the wine or spirit that is essentially attributable to the area:
 - (b) evidence regarding the given quality, or reputation, or other characteristic described in paragraph (a):
 - (c) any other information requested by the Registrar that will assist in the examination of the application.
- (2) An applicant may file any information that is relevant to whether the given quality, or reputation, or other characteristic of the wine or spirit is essentially attributable to the area, including—
 - (a) a description of the geological and geographical attributes of the area:
 - (b) a description of the history relating to use of a word or expression to indicate the area as a geographical indication:
 - (c) a description of the history of the founding and development of the area for the growing of grapes for wine or the production of spirits:
 - (d) a description of the viticultural practices, winemaking practices, or spirit-making practices used for making wine or spirits originating in the area:
 - (e) evidence in relation to the marketing and sales of wine or spirits originating in the area.
- (3) An applicant may file the information referred to in subclauses (1) and (2) after filing the application.
- (4) In this regulation, **area** means the territory, region, or locality within the boundaries described in the application.

Compare: SR 2003/187 r 44

*Foreign geographical indication***9 Information required for application to register foreign geographical indication**

An application to register a foreign geographical indication must, when it is filed, contain, or be accompanied by, the following information:

- (a) the geographical indication that the applicant is applying to register:
- (b) a statement as to whether the geographical indication relates to a wine or a spirit:
- (c) the name of the country of origin in which the geographical indication is protected:

- (d) a statement that the geographical indication is protected in its country of origin and has not fallen into disuse in that country;
- (e) a description of any proposed conditions on the use of the geographical indication in New Zealand;
- (f) a copy of the regulations, rules, or other documents that specify the protection given to the geographical indication in its country of origin (including any conditions on the use of the geographical indication).

Compare: SR 2003/187 r 42

10 Additional information required before application accepted

- (1) An applicant must, before the application can be accepted, file the following additional information with the Registrar:
 - (a) an English translation of any foreign words in the geographical indication;
 - (b) a transliteration of any foreign characters in the geographical indication;
 - (c) any other information requested by the Registrar that will assist in the examination of the application.
- (2) An applicant may file the information referred to in subclause (1) after filing the application.

Compare: SR 2003/187 r 44

Withdrawal or amendment of application

11 Withdrawal of application

An applicant may, at any time, withdraw an application to register a geographical indication by notice to the Registrar.

Compare: 2002 No 49 s 37(1)

12 Correction of application

- (1) An applicant may, at any time, request the Registrar to alter an application to register a geographical indication to correct—
 - (a) the name, address for service, or email address of the applicant; or
 - (b) an error or omission.
- (2) The request must contain the correction that is to be made to the application.
- (3) The Registrar may alter the application to make the correction if, in the Registrar's opinion, the correction does not materially alter the meaning or scope of the application.

Compare: 2002 No 49 s 37(2)

13 Substitution of applicant

- (1) This regulation applies if, under section 36A of the Act, an interested person (A) applies to amend an application made by another interested person (B) to register a geographical indication.
- (2) The application under section 36A of the Act must—
 - (a) be signed by A; and
 - (b) contain B's name and address; and
 - (c) be accompanied by evidence that A is an interested person; and
 - (d) be accompanied by evidence that—
 - (i) B consents to A being the substitute applicant; or
 - (ii) B has died or ceased to exist.

14 Registrar or court may correct application

The Registrar or the court, as the case may be, may at any time (whether before or after an application to register a geographical indication is accepted) correct an error in connection with the application if, in the Registrar's or the court's opinion, the correction does not materially alter the meaning or scope of the application.

Compare: 2002 No 49 s 38

Part 3**Procedure for dealing with application to register geographical indication***Examination and acceptance***15 Examination of application**

The Registrar must examine an application to register a geographical indication that has been given a filing date in order to determine whether it complies with the Act and these regulations.

Compare: 2002 No 49 s 39

16 Acceptance of application

The Registrar must, subject to any conditions the Registrar thinks fit, accept an application to register a geographical indication if the Registrar considers that the application complies with the Act and these regulations.

Compare: 2002 No 49 s 40

*Non-complying application***17 Applicant must be notified of non-complying application**

If the Registrar considers that an application to register a geographical indication does not comply with the Act and these regulations, the Registrar must—

- (a) give the applicant a notice of non-compliance; and
- (b) give the applicant an opportunity to respond to the notice, or to amend the application, within the time specified in the notice.

Compare: 2002 No 49 s 41

18 Time for response to notice of non-compliance

- (1) A notice of non-compliance given under regulation 17 must specify a deadline of not less than 6 months after the notice was given for the applicant to—

- (a) respond to the notice; or
- (b) amend the application.

- (2) After each response or amendment by the applicant, the Registrar may, if the application still does not comply with the Act and these regulations,—

- (a) issue a further notice under regulation 17; and
- (b) specify a new deadline in accordance with subclause (1).

Compare: SR 2003/187 r 61

19 Applicant may request extension of time in relation to notice of non-compliance

- (1) An applicant may, before the deadline specified in a notice of non-compliance given under regulation 17 has expired, apply to the Registrar for an extension of time to comply.
- (2) The Registrar may, at the Registrar's discretion, allow an extension for a period that the Registrar considers reasonable.
- (3) The Registrar must not allow an extension if the application for extension is made after the deadline has expired.

Compare: SR 2003/187 r 62

20 Abandonment of application

- (1) The Registrar must treat an application to register a geographical indication as abandoned if, within the time specified in a notice of non-compliance given under regulation 17, the Registrar does not receive a response or an amendment from the applicant.
- (2) However, the Registrar must not treat the application as abandoned if—
 - (a) the application is awaiting the outcome of related proceedings that are—
 - (i) opposition proceedings, under regulation 28, in respect of a prior application to register a geographical indication; or

- (ii) removal proceedings, under Part 5, in respect of a registered geographical indication; or
 - (iii) alteration proceedings, under subpart 1 or 2 of Part 6, in respect of a registered geographical indication; or
 - (iv) opposition proceedings, under the Trade Marks Act 2002 or the Trade Marks Regulations 2003, in respect of a prior application for registration of a trade mark; or
 - (v) cancellation, revocation, or invalidity proceedings, under the Trade Marks Act 2002 or the Trade Marks Regulations 2003, in respect of a registered trade mark; and
- (b) the applicant has, within the time specified in a notice of non-compliance given under regulation 17, notified the Registrar that the application is awaiting the outcome of any proceedings referred to in paragraph (a).
- (3) An applicant who has notified the Registrar under subclause (2)(b) must, as soon as practicable, notify the Registrar of the outcome of the proceedings.
- (4) The Registrar must, after being notified of the outcome of the proceedings, extend the deadline for compliance by a period that the Registrar considers reasonable.

Compare: 2002 No 49 s 44; SR 2003/187 rr 63, 64

Extension of time

21 Applicant entitled to 1 extension in certain circumstances

- (1) This regulation applies to a deadline for doing anything under these regulations in relation to—
- (a) an application to register a geographical indication, up until the application is accepted; and
 - (b) a proposal under regulation 22 to revoke the acceptance of an application.
- (2) If a deadline has expired, an applicant is entitled to an extension of time of not more than 2 months after that expiry if the applicant—
- (a) applies to the Registrar, within 2 months after that expiry, for an extension of time to do the thing; and
 - (b) at the time of application, does the thing.
- (3) An applicant is entitled to only 1 extension under this regulation.

Compare: SR 2003/187 r 62A

*Revocation of acceptance***22 Revocation of acceptance of application**

- (1) The Registrar may revoke the acceptance of an application to register a geographical indication before the geographical indication is registered if the Registrar is satisfied that the application was accepted because of an error or omission by the Registrar.
- (2) If the Registrar revokes the acceptance of an application,—
 - (a) the application is to be treated as if it had not been accepted; and
 - (b) the Registrar must examine the application under regulation 15 again.

Compare: 2002 No 49 s 42

23 Registrar must notify applicant of intention to revoke acceptance of application

- (1) The Registrar must notify the applicant if the Registrar proposes to revoke acceptance of an application under regulation 22.
- (2) The notice must—
 - (a) be in writing; and
 - (b) specify the ground or grounds for revocation; and
 - (c) advise the applicant that the applicant may request a hearing; and
 - (d) specify a period of not less than 1 month after the applicant has received the notice during which the applicant may request a hearing; and
 - (e) advise the applicant that the Registrar will revoke acceptance at the end of that period if the applicant has not requested a hearing.

Compare: SR 2003/187 r 71

24 Registrar must hold hearing on revocation of acceptance of application

The Registrar must, as soon as practicable, hold a hearing in relation to the proposed revocation of acceptance of an application if the applicant requests it.

Compare: SR 2003/187 r 72

*Rejection of application***25 Rejection of application**

The Registrar must reject an application to register a geographical indication if, within the time specified in a notice given under regulation 26, the applicant does not satisfy the Registrar that the application complies with the requirements of the Act and these regulations for registering a geographical indication.

Compare: 2002 No 49 s 43

26 Registrar must notify applicant of intention to reject application

- (1) The Registrar must notify the applicant if the Registrar proposes to reject an application under regulation 25.
- (2) The notice must—
 - (a) be in writing; and
 - (b) specify the ground or grounds for rejection; and
 - (c) advise the applicant that the applicant may request a hearing; and
 - (d) specify a period of not less than 1 month after the applicant has received the notice during which the applicant may request a hearing; and
 - (e) advise the applicant that the Registrar will reject the application at the end of that period if the applicant has not requested a hearing.

Compare: SR 2003/187 r 69

27 Registrar must hold hearing on rejection of application

The Registrar must, as soon as practicable, hold a hearing in relation to the proposed rejection of an application if the applicant requests it.

Compare: SR 2003/187 r 70

*Notice of opposition***28 Opposition to accepted application**

- (1) An interested person may, under section 36C of the Act, oppose an application to register a geographical indication by filing a notice of opposition.
- (2) The notice of opposition must—
 - (a) be filed within 3 months after the date on which acceptance of the application was first publicly notified; and
 - (b) be signed by the opponent; and
 - (c) contain, or be accompanied by, the following information:
 - (i) a statement of the basis on which the opponent claims to be an interested person;
 - (ii) the geographical indication to which the opposition relates;
 - (iii) the ground or grounds of opposition;
 - (iv) if a ground of opposition relates to section 14, 15, 16, or 17 of the Act, the trade mark number of the relevant trade mark;
 - (v) the facts on which the opponent relies and the relief sought.
- (3) An opponent must pay the prescribed fee for a notice of opposition in accordance with Part 11.

- (4) The Registrar must, as soon as practicable after a notice of opposition is filed and the prescribed fee has been paid, send a copy of the notice to the applicant.

Compare: 2002 No 49 s 47

29 Extension of time for filing notice of opposition

- (1) The Registrar may, on the request of a person wishing to oppose the application, extend the period for filing a notice of opposition under regulation 28—
- (a) by up to 1 month, without the applicant's consent; or
 - (b) by up to 2 months, with the applicant's consent.
- (2) The Registrar must not extend the period for filing a notice of opposition if the request for extension is received after the period for filing the notice has expired.

Compare: LI 2014/275 r 93

Counter-statement to notice of opposition

30 Counter-statement to notice of opposition

- (1) The applicant must file a counter-statement within 2 months after the date on which the Registrar sends the notice of opposition to the applicant.
- (2) The counter-statement must—
- (a) be signed by the applicant; and
 - (b) contain—
 - (i) a response to the opponent's notice of opposition, by admitting, denying, or claiming lack of knowledge of each assertion made in the notice of opposition; and
 - (ii) a brief statement of the facts on which the applicant relies in support of the registration of the geographical indication.
- (3) If the applicant does not file a counter-statement within the period specified in subclause (1), the application must be treated as having been abandoned.
- (4) If the applicant files a counter-statement within the period specified in subclause (1), the Registrar must send a copy of the counter-statement to the opponent.

Compare: SR 2003/187 rr 79, 80, 81

Evidence

31 Opponent's evidence

- (1) The opponent must, within 4 months after the date on which the Registrar sends a copy of the counter-statement to the opponent,—
- (a) file evidence in support of the opponent's case; or
 - (b) notify the Registrar that the opponent does not intend to file evidence; or

- (c) notify the Registrar that the opponent withdraws the notice of opposition.
- (2) The Registrar must notify the applicant as soon as practicable after the opponent has notified the Registrar that the opponent either does not intend to file evidence or withdraws the notice of opposition.
- (3) The opponent discontinues the opposition if—
 - (a) the opponent does not, within the period specified in subclause (1), file evidence or notify the Registrar that the opponent does not intend to file evidence; or
 - (b) the opponent notifies the Registrar that the opponent withdraws the opposition.

Compare: SR 2003/187 rr 82, 83

32 Applicant may file evidence

The applicant may file evidence in support of the applicant's case within 4 months after the date on which the applicant—

- (a) receives a copy of the opponent's evidence; or
- (b) is notified by the Registrar that the opponent does not intend to file evidence.

Compare: SR 2003/187 r 84

33 Opponent may file evidence in reply

The opponent may, if the applicant has filed evidence in support of the applicant's case, file evidence strictly in reply within 3 months after the date on which the opponent receives a copy of the applicant's evidence.

Compare: SR 2003/187 r 85

Determination

34 Registrar's determination on opposition

The Registrar must—

- (a) hear the parties, if required; and
- (b) consider the evidence; and
- (c) determine whether, and subject to what conditions, if any, the geographical indication is to be registered.

Compare: 2002 No 49 s 49

*Registration***35 When geographical indication must be registered**

The Registrar must register a geographical indication if the Registrar has accepted the application to register it (and does not propose to revoke acceptance of the application) and—

- (a) no notice of opposition has been given in accordance with regulation 28; or
- (b) 1 or more notices of opposition have been given in accordance with regulation 28 but—
 - (i) all notices of opposition have been withdrawn; or
 - (ii) the Registrar determines, under regulation 34, that the geographical indication is to be registered.

Compare: 2002 No 49 s 50

Part 4**Renewal and restoration of geographical indication***Renewal***36 Notice of expiry**

- (1) This regulation applies if, 2 months before the date on which the registration of a geographical indication is due to expire, no interested person has made an application that complies with regulation 37 to renew the registration of the geographical indication.
- (2) The Registrar must send a notice to the last known postal or email address of—
 - (a) the registrant; and
 - (b) each of the producer representatives.
- (3) In addition to the matters specified in section 47B(2)(b) of the Act, the notice must state—
 - (a) that the registration will expire if it is not renewed; and
 - (b) the last day on which it can be renewed; and
 - (c) the amount of the renewal fee.
- (4) In this regulation,—

notice means the notice that the Registrar must give under section 47B(1)(a) of the Act

producer representatives means other persons and organisations that the Registrar considers are representative of the producers of the wine or spirits to which the geographical indication relates.

Compare: SR 2003/187 r 132

37 Application to renew registration of geographical indication

An application under section 47A of the Act to renew the registration of a geographical indication must—

- (a) specify the registration number of the geographical indication to which the application relates; and
- (b) be filed with the Registrar before the date on which the geographical indication is due to expire, but not earlier than 1 year before that date; and
- (c) be accompanied by the prescribed fee.

Compare: SR 2003/187 r 133

*Restoration***38 Application to restore expired geographical indication to register**

- (1) The Registrar may, under section 47D of the Act, restore an expired geographical indication to the register on an application by an interested person.
- (2) An application must—
 - (a) specify the former registration number of the expired geographical indication to which the application relates; and
 - (b) be filed with the Registrar not later than 12 months after the date on which the registration of the geographical indication expired; and
 - (c) be accompanied by the prescribed fee.

Part 5**Removal of registered geographical indication from register****Subpart 1—Removal proposed by Registrar****39 Opposition to removal proposed by Registrar**

- (1) An interested person may, under section 45B of the Act, oppose a proposal by the Registrar on the Registrar's own initiative to remove a registered geographical indication from the register by filing a counter-statement.
- (2) The counter-statement must—
 - (a) be filed within 2 months after the date on which the proposed removal was first publicly notified; and
 - (b) contain, or be accompanied by,—
 - (i) the registration number of the geographical indication to which the counter-statement relates; and
 - (ii) if the opponent is not the registrant, a statement of the basis on which the opponent claims to be an interested person; and

- (iii) the grounds on which the proposed removal of the registered geographical indication from the register is opposed; and
 - (iv) the facts relied on in support of the opposition.
- (3) The opponent may, within 4 months after the date on which the opponent files the counter-statement, file evidence in support of the opponent's case.
- (4) The opponent discontinues the opposition if the opponent notifies the Registrar that the opponent withdraws the opposition.

40 Registrar's determination on opposition to removal proposed by Registrar

- (1) If a counter-statement is filed in accordance with regulation 39, the Registrar must—
- (a) hear the opponent, if required; and
 - (b) consider the evidence; and
 - (c) determine whether to remove the registered geographical indication from the register.
- (2) If no counter-statement is filed in accordance with regulation 39, the Registrar must remove the registered geographical indication from the register.

Subpart 2—Application to remove registered geographical indication

Application

41 Application to remove registered geographical indication

- (1) An application, under section 45(2) of the Act, to remove a registered geographical indication from the register must—
- (a) be filed with the Registrar; and
 - (b) be signed by the applicant; and
 - (c) contain—
 - (i) a statement of the basis on which the applicant claims to be an interested person; and
 - (ii) the grounds for removal and the provisions of the Act to which those grounds relate.
- (2) An applicant must pay the prescribed fee for an application in accordance with Part 11.

Compare: SR 2003/187 rr 94, 95

Opposition to application

42 Opposition to application

- (1) An interested person may, under section 45B of the Act, oppose an application to remove a registered geographical indication by filing—

- (a) a counter-statement; and
 - (b) if the application for removal is on grounds of disuse, evidence of the recent use of the geographical indication.
- (2) The counter-statement must—
- (a) be filed, together with the evidence referred to in subclause (1)(b) (if any), within 2 months after the date on which the proposed removal was first publicly notified; and
 - (b) be signed by the opponent; and
 - (c) contain,—
 - (i) if the opponent is not the registrant, a statement of the basis on which the opponent claims to be an interested person; and
 - (ii) a response to the applicant's grounds for removal, by admitting, denying, or claiming lack of knowledge of each assertion made in the application; and
 - (iii) a brief statement of the facts on which the opponent relies in support of continued registration.
- (3) The Registrar must, as soon as practicable, send a copy of the counter-statement and any evidence to the applicant.
- (4) The Registrar must determine the application on the documents filed by the applicant if the opponent does not comply with subclauses (1) and (2).

Compare: SR 2003/187 rr 101, 102

Evidence

43 Applicant's evidence

- (1) The applicant must, within 4 months after the date on which the Registrar sends a copy of the counter-statement and any evidence to the applicant,—
- (a) file evidence in support of the application; or
 - (b) notify the Registrar that the applicant does not intend to file evidence; or
 - (c) notify the Registrar that the applicant withdraws the application.
- (2) The Registrar must notify the opponent as soon as practicable after the applicant has notified the Registrar that the applicant either does not intend to file evidence or withdraws the application.
- (3) The applicant discontinues the application if—
- (a) the applicant does not, within the period specified in subclause (1), file evidence or notify the Registrar that the applicant does not intend to file evidence; or
 - (b) the applicant notifies the Registrar that the applicant withdraws the application.

Compare: SR 2003/187 r 103

44 Opponent may file evidence

The opponent may file evidence in support of the registration within 4 months after the date on which the opponent—

- (a) receives a copy of the applicant's evidence; or
- (b) is notified by the Registrar that the applicant does not intend to file evidence.

Compare: SR 2003/187 r 104

45 Applicant may file evidence in reply

An applicant may, if the opponent has filed evidence in support of the registration, file evidence strictly in reply within 3 months after the date on which the applicant receives a copy of the evidence filed in support of the registration by the opponent.

Compare: SR 2003/187 r 105

*Determination***46 Registrar's determination on opposition to application to remove registered geographical indication**

The Registrar must—

- (a) hear the parties, if required; and
- (b) consider the evidence; and
- (c) determine whether to remove the registered geographical indication from the register.

**Part 6
Alteration of register****Subpart 1—Alteration to registered geographical indication proposed by Registrar****47 Opposition to alteration proposed by Registrar**

- (1) An interested person may, under section 46B of the Act, oppose a proposal by the Registrar on the Registrar's own initiative to alter a registered geographical indication, or the conditions or boundaries relating to it, by filing a counter-statement.
- (2) The counter-statement must—
 - (a) be filed within 2 months after the date on which the proposed alteration was first publicly notified; and
 - (b) contain, or be accompanied by,—

- (i) the registration number of the geographical indication to which the counter-statement relates; and
 - (ii) if the opponent is not the registrant, a statement of the basis on which the opponent claims to be an interested person; and
 - (iii) the grounds on which the proposed alteration is opposed; and
 - (iv) the facts relied on in support of the opposition.
- (3) The opponent may, within 4 months after the date on which the opponent files the counter-statement, file evidence in support of the opponent's case.
- (4) The opponent discontinues the opposition if the opponent notifies the Registrar that the opponent withdraws the opposition.

Compare: LI 2014/275 r 140

48 Registrar's determination on opposition to alteration proposed by Registrar

- (1) If a counter-statement is filed in accordance with regulation 47, the Registrar must—
- (a) hear the opponent, if required; and
 - (b) consider the evidence; and
 - (c) determine whether to alter the registered geographical indication, or the conditions or boundaries relating to it.
- (2) If no counter-statement is filed in accordance with regulation 47, the Registrar must alter the registered geographical indication, or the conditions or boundaries relating to it, as proposed in the public notice.

Subpart 2—Application to alter registered geographical indication

Application

49 Application to alter registered geographical indication

- (1) An application, under section 46(1) of the Act, to alter a registered geographical indication or the conditions or boundaries relating to it must—
- (a) be filed with the Registrar; and
 - (b) be signed by the applicant; and
 - (c) contain,—
 - (i) if the applicant is not the registrant, a statement of the basis on which the applicant claims to be an interested person; and
 - (ii) the proposed alteration; and
 - (iii) the grounds on which the alteration is proposed.
- (2) An applicant must pay the prescribed fee for an application in accordance with Part 11.

*Opposition to application***50 Opposition to application**

- (1) An interested person may, under section 46B of the Act, oppose an application to alter a registered geographical indication, or the conditions or boundaries relating to it, by filing a counter-statement.
- (2) The counter-statement must—
 - (a) be filed within 2 months after the date on which the proposed alteration was first publicly notified; and
 - (b) be signed by the opponent; and
 - (c) contain,—
 - (i) if the opponent is not the registrant, a statement of the basis on which the opponent claims to be an interested person; and
 - (ii) a response to the applicant's grounds for the proposed alteration, by admitting, denying, or claiming lack of knowledge of each assertion made in the application; and
 - (iii) a brief statement of the facts on which the opponent relies in opposing the proposed alteration.
- (3) The Registrar must, as soon as practicable, send a copy of any counter-statement to the applicant.
- (4) The Registrar must determine the application on the documents filed by the applicant if the opponent does not comply with subclauses (1) and (2).

Compare: SR 2003/187 rr 101, 102

*Evidence***51 Applicant's evidence**

- (1) The applicant must, within 4 months after the date on which the Registrar sends a copy of the counter-statement to the applicant,—
 - (a) file evidence in support of the application; or
 - (b) notify the Registrar that the applicant does not intend to file evidence; or
 - (c) notify the Registrar that the applicant withdraws the application.
- (2) The Registrar must notify the opponent as soon as practicable after the applicant has notified the Registrar that the applicant either does not intend to file evidence or withdraws the application.
- (3) The applicant discontinues the application if—
 - (a) the applicant does not, within the period specified in subclause (1), file evidence or notify the Registrar that the applicant does not intend to file evidence; or

- (b) the applicant notifies the Registrar that the applicant withdraws the application.

52 Opponent may file evidence

The opponent may file evidence in support of opposition to the alteration within 4 months after the date on which the opponent—

- (a) receives a copy of the applicant's evidence; or
- (b) is notified by the Registrar that the applicant does not intend to file evidence.

53 Applicant may file evidence in reply

An applicant may, if the opponent has filed evidence in support of opposition to the alteration, file evidence strictly in reply within 3 months after the date on which the applicant receives a copy of the evidence filed in support of opposition to the alteration by the opponent.

Determination

54 Registrar's determination on opposition to application to alter registered geographical indication

The Registrar must—

- (a) hear the parties, if required; and
- (b) consider the evidence; and
- (c) determine whether to alter the registered geographical indication, or the conditions or boundaries relating to it.

Subpart 3—Alterations related to registrant

Altering details of registrant

55 Change to name or address of registrant

An application, under section 46(1A) of the Act, to alter the registrant's name or address on the register must contain the new name or address to be entered on the register.

Compare: SR 2003/187 r 135

Substitution of registrant

56 Substitution of registrant

An application, under section 46(1B) of the Act, to alter the register by substituting a new registrant must—

- (a) be filed with the Registrar; and
- (b) be signed by the applicant; and

- (c) contain the current registrant's name and address; and
- (d) be accompanied by evidence that the applicant is an interested person; and
- (e) be accompanied by evidence that—
 - (i) the registrant consents to the applicant becoming the new registrant in relation to the registered geographical indication; or
 - (ii) the registrant has died or ceased to exist (as applicable).

Part 7

Decisions of Registrar

57 Registrar must notify decision

- (1) The Registrar must,—
 - (a) in the case of a decision by the Registrar at the conclusion of a proceeding, notify all the parties to the proceeding in writing; and
 - (b) in the case of the Registrar's exercise of any other discretionary power under the Act or these regulations, notify the party or parties affected in writing.
- (2) For the purpose of an appeal under section 48 of the Act, a decision is given—
 - (a) on the date on which the Registrar sends notice of the decision under subclause (1); or
 - (b) if a person to whom the notice has been sent requires the Registrar to notify the reasons for the decision, on the date on which the Registrar sends the reasons for the decision to the person.

Compare: SR 2003/187 r 162

58 Registrar must give reasons for decision if required

- (1) A person who is sent a notice under regulation 57 may require the Registrar to notify that person of the reasons for the decision, if the Registrar has not already done so.
- (2) A person who requires the reasons for a decision must give notice to the Registrar within the time for appealing against the decision.

Compare: SR 2003/187 r 163

59 Registrar may waive requirement for information

The Registrar may waive a requirement in these regulations for information to be provided in a proceeding or document if the Registrar is satisfied that the information is unnecessary.

Compare: SR 2003/187 r 164

Part 8

General requirements

Subpart 1—Applications, requests, and notices to Registrar

Form and content of documents

60 Documents must be in English or Māori

- (1) A document that is filed with the Registrar in, or that is related to, a proceeding must be in English or Māori.
- (2) The Registrar may require a person who files a document in Māori to provide the Registrar with a translation into English within the time specified by the Registrar.
- (3) Despite subclause (1), a person may file a document that is not in English or Māori if—
 - (a) it is necessary to do so; and
 - (b) the document is accompanied by a translation into English that has been verified to the satisfaction of the Registrar.

Compare: SR 2003/187 r 4

61 Content of documents filed in proceeding

- (1) A document that is filed with the Registrar in, or that is related to, a proceeding must contain—
 - (a) the name, address for service, and email address of the person filing the document; and
 - (b) if that person has an agent, the name, address for service, and email address of the agent; and
 - (c) the application number or registration number of the geographical indication that is the subject of the proceeding.
- (2) In this regulation, **person filing the document** means—
 - (a) the person that files the document; or
 - (b) if a document is filed by a person (for example an agent) on behalf of another person, the person on whose behalf the document has been filed.

Compare: SR 2003/187 r 5

62 Signatures

- (1) A document required to be signed for the purposes of these regulations must,—
 - (a) in the case of a partnership,—
 - (i) contain the full names of all partners; and

- (ii) be signed by a qualified partner or any other person who has, to the satisfaction of the Registrar, authority to sign; and
 - (b) in the case of a body corporate, be signed by a director or other principal officer, or any other person who has, to the satisfaction of the Registrar, authority to sign; and
 - (c) in the case of an unincorporated association, be signed by any person who appears to the Registrar to be duly qualified.
- (2) A document may be signed in accordance with section 226 of the Contract and Commercial Law Act 2017.

Compare: SR 2003/187 r 6

63 Electronic documents

A requirement in these regulations for a document to be in writing is satisfied if the document complies with section 222 of the Contract and Commercial Law Act 2017.

Compare: SR 2003/187 r 7

Filing documents

64 How information and documents given to Registrar

- (1) Any information or document that a person must or may give to the Registrar under the Act or these regulations must—
- (a) be in writing; and
 - (b) be given to the Registrar—
 - (i) electronically; or
 - (ii) by any other method approved by the Registrar.

- (2) In this regulation,—

give means issue, supply, produce, provide, file, send, serve, or give in any other way

information or document means any evidence, application, authority, request, form, certificate, statement, notice, or any other type of information or document that—

- (a) is referred to in the Act or these regulations; and
- (b) relates to a geographical indication registration or to proceedings.

Compare: SR 2003/187 r 8

65 Document filed when received in proper form by Registrar

- (1) A document required to be filed by the Act or these regulations must be filed with the Registrar.
- (2) A document is filed with the Registrar when it is received in proper form.

- (3) A document is in **proper form** only if—
- (a) it is legible; and
 - (b) it complies with regulations 60 and 64; and
 - (c) it complies with any requirement in these regulations for the document to be signed; and
 - (d) any prescribed fee in relation to the document has been paid.

Compare: SR 2003/187 r 9

66 Evidence must be sent to relevant parties

- (1) A person who files evidence with the Registrar in, or in relation to, a proceeding must send a copy of the evidence to each relevant party as soon as practicable after filing it with the Registrar.
- (2) Evidence may be sent to a relevant party electronically.
- (3) In this regulation, **relevant party** means the opposite party (if any) and any other party to the proceeding.

Evidence

67 Form of evidence

Evidence filed under these regulations must be by statutory declaration or affidavit unless otherwise expressly provided in these regulations.

Compare: LI 2014/275 r 144

Amendment of documents

68 Request to amend documents

- (1) A person who has filed a document in a proceeding (other than an application to register a geographical indication) may request the Registrar to amend the document.
- (2) The request must—
 - (a) be signed by the person making the request; and
 - (b) contain—
 - (i) details of the document requested to be amended; and
 - (ii) details of the requested amendment.
- (3) The Registrar may amend the document if, in the Registrar's opinion,—
 - (a) the requested amendment corrects a clerical error or an obvious mistake; or
 - (b) it is fair and reasonable in all the circumstances of the case to make the requested amendment.

- (4) A request to amend a document that is a pleading within the meaning of regulation 69 must comply with this regulation and regulation 69.

Compare: SR 2003/187 r 11

69 Request to amend pleadings

- (1) A request under regulation 68 to amend a pleading must, in addition to complying with that regulation, be made prior to any hearing to which the pleading relates.
- (2) If a request to amend a pleading is made,—
- (a) the Registrar must, on receipt of the request, notify the opposite party (if any) of the request; and
 - (b) the opposite party may make submissions on the request within a time specified by the Registrar; and
 - (c) the Registrar must, after considering those submissions (if any), notify the parties of the decision that the Registrar intends to make on the request.
- (3) If the Registrar intends to allow an amendment to a pleading described in subclause (4)(a), (b), or (c), the Registrar must give the opposite party (if any) an opportunity to file, within a time specified by the Registrar, an amended counter-statement.
- (4) In this regulation, **pleading** means any of the following:
- (a) a notice of opposition to an application to register a geographical indication;
 - (b) an application to remove a registered geographical indication;
 - (c) an application to alter a registered geographical indication or the conditions or boundaries relating to it;
 - (d) a counter-statement to—
 - (i) a notice of opposition to an application to register a geographical indication;
 - (ii) a proposal by the Registrar to remove a registered geographical indication;
 - (iii) an application to remove a registered geographical indication;
 - (iv) a proposal by the Registrar to alter a registered geographical indication or the conditions or boundaries relating to it;
 - (v) an application to alter a registered geographical indication or the conditions or boundaries relating to it.

Compare: SR 2003/187 r 11A

Subpart 2—Addresses

70 Notice of address for service

Each of the following persons must, at the time when the person first gives any information or a document to the Registrar in respect of a matter, file a notice of address for service:

- (a) an applicant applying to register a geographical indication:
- (b) the registrant of a registered geographical indication:
- (c) an agent:
- (d) a party to a proceeding under the Act or these regulations.

Compare: SR 2003/187 r 13

71 Notice of email address

A person must, at the time when the person first gives any information or a document to the Registrar in respect of a matter, file a notice of an email address for the purpose of—

- (a) receiving documents related to proceedings; and
- (b) receiving general correspondence.

Compare: SR 2003/187 r 15

72 Change of address, etc

- (1) A person who has filed a notice of address for service or a notice of an email address must, if the address changes, file a notice of change of address as soon as practicable after the address has changed.
- (2) A notice of address or a notice of change of address must contain the name and the address (or the new address) of the person giving the notice.
- (3) An address that is notified to the Registrar must be sufficiently detailed to enable the Registrar to contact the addressee at that address.

Compare: SR 2003/187 rr 16, 17, 18

Subpart 3—Agents

73 Agent may act on behalf of principal

- (1) An agent may, subject to the scope of the agent's authority, act for the agent's principal in a proceeding in accordance with the Act or these regulations or take a step on the principal's behalf under the Act or these regulations.
- (2) Despite subclause (1), the Registrar may require that a document that must be signed for the purposes of the Act or these regulations be signed by the principal and not by the agent.

Compare: SR 2003/187 r 20

74 Registrar may serve and give notices to agent

- (1) The Registrar satisfies a requirement under the Act or these regulations of service on, notice to, or correspondence with a person by serving on, giving notice to, or corresponding with that person's agent.
- (2) Subclause (1) does not apply if a written authority filed with the Registrar by the agent's principal expressly excludes the authority of the agent for the matter that is the subject of the service, notice, or correspondence.

Compare: SR 2003/187 r 21

75 Registrar may require principal to file authority with Registrar in certain cases

- (1) This regulation applies if—
 - (a) the Registrar receives a communication that refers to a person as an agent (**A**) of a principal (**X**) and, at the time of the communication, the Registrar does not have a written authority in respect of A that complies with subclause (3); or
 - (b) the Registrar has a written authority in respect of an agent that complies with subclause (3) and the Registrar receives a communication informing the Registrar that the principal (**X**) has appointed a new agent (**A**).
- (2) The Registrar may, by notice in writing, require X to file, within the time specified by the Registrar, a written authority in respect of A.
- (3) The written authority must—
 - (a) be signed by X and not by an agent; and
 - (b) contain—
 - (i) A's name and address for service; and
 - (ii) if A is authorised to act in respect of a particular geographical indication,—
 - (A) the application number or registration number of the geographical indication; or
 - (B) details of the geographical indication (if an application number or registration number has not been assigned); and
 - (iii) a statement of any limitation on the authority of A to act on X's behalf.
- (4) The time specified by the Registrar under subclause (2) must be,—
 - (a) if X's address is inside New Zealand, not less than 1 month from the date on which the Registrar receives the communication referred to in subclause (1); and

- (b) if X's address is outside New Zealand, not less than 2 months from the date on which the Registrar receives the communication referred to in subclause (1).

Compare: SR 2003/187 r 22

76 Notice of revocation or alteration of authority given by principal

- (1) A principal (X) must, as soon as practicable, give written notice to the Registrar of the revocation or alteration of the authority of X's agent (A).
- (2) The notice must—
 - (a) be signed by X, and not by an agent; and
 - (b) contain—
 - (i) A's name; and
 - (ii) if A is (or has been) authorised to act in respect of a particular geographical indication,—
 - (A) the application number or registration number of the geographical indication; or
 - (B) details of the geographical indication (if an application number or registration number has not been assigned); and
 - (iii) if A's authority has been revoked, a statement to that effect; and
 - (iv) if A's authority has been altered, a statement setting out the alteration to the authority and the matters for which A continues to have authority.
- (3) A notice that complies with this regulation is effective on and from the date on which it is received by the Registrar.

Compare: SR 2003/187 r 25

77 Notice of revocation of authority given by agent

- (1) An agent (A) of a principal (X) may give written notice to the Registrar of the revocation of A's authority as X's agent.
- (2) The notice must—
 - (a) be signed by A; and
 - (b) contain—
 - (i) X's name and address for service; and
 - (ii) A's name; and
 - (iii) if A is (or has been) authorised to act in respect of a particular geographical indication,—
 - (A) the application number or registration number of the geographical indication; or

- (B) details of the geographical indication (if an application number or registration number has not been assigned); and
 - (iv) a statement that A's authority as X's agent has been revoked.
- (3) A notice that complies with this regulation is effective on and from the date on which it is received by the Registrar.

Compare: SR 2003/187 r 25A

Part 9

Proceedings

Case management

78 Registrar may require parties to attend case management conference

- (1) The Registrar may, at any stage in a proceeding, give a direction requiring the parties to attend a case management conference to review the proceeding and the steps that have been or must still be taken.
- (2) The Registrar must give each party notice of the conference at least 10 working days before the conference.
- (3) The parties may attend the conference in person or by any method that is acceptable to the Registrar.

Compare: LI 2014/275 r 155

79 Registrar may give directions

- (1) The Registrar may, at any stage in a proceeding, give directions that are consistent with the Act and these regulations and that require a party to do things to secure the just, speedy, and inexpensive determination of the proceeding within a time specified by the Registrar.
- (2) The Registrar may give a direction on the Registrar's own initiative or on the application of a party to the proceeding.
- (3) Without limiting subclause (1), the Registrar may—
 - (a) fix the time by which a step in the proceeding must be taken; and
 - (b) specify the steps that must be taken to prepare the proceeding for a hearing; and
 - (c) direct how a hearing is to be conducted; and
 - (d) require parties to use their best endeavours to agree on how information or evidence that may be confidential or privileged is to be treated; and
 - (e) give directions about how information that may be confidential or privileged is to be treated if the parties have not been able to reach an agreement within the time specified by the Registrar; and
 - (f) require parties to file copies of documents; and

- (g) require parties to provide other parties to the proceeding with copies of documents; and
- (h) require parties to file better or further particulars; and
- (i) require parties to provide other parties to the proceeding with better or further particulars.

Compare: LI 2014/275 r 156

80 Parties must comply with Registrar's directions

All parties to a proceeding must comply with a direction given by the Registrar under this Part.

Compare: LI 2014/275 r 157

81 Compliance with Registrar's directions

- (1) If a party (**P**) fails to comply with a direction given by the Registrar under this Part, the Registrar must—
 - (a) request P to provide an explanation for P's non-compliance to the Registrar and to the opposite party (if any) within a time specified by the Registrar; and
 - (b) in that request, advise P of the potential consequences of non-compliance.
- (2) The opposite party (if any) may provide comments on the explanation to the Registrar within a time limit specified by the Registrar.
- (3) The Registrar must, after considering the explanation (if any) and comments from the opposite party (if any), consider whether P has a reasonable excuse for P's non-compliance, and—
 - (a) notify P and the opposite party (if any) of the decision that the Registrar intends to make; and
 - (b) in that notice,—
 - (i) advise that each party may request a hearing concerning the non-compliance; and
 - (ii) specify a period during which a party may request a hearing concerning the non-compliance, being a period of not less than 10 working days after the date on which the party receives the notice.
- (4) If a party requests a hearing concerning the non-compliance, the Registrar must,—
 - (a) as soon as practicable, hold a hearing; and
 - (b) make a decision only after holding a hearing.
- (5) If the Registrar's decision is that P has not satisfied the Registrar that P has a reasonable excuse for P's non-compliance, the Registrar may, in addition to exercising his or her power under section 57C of the Act,—

- (a) extend the period for P to comply with the direction; or
- (b) modify, or waive compliance with, the direction; or
- (c) direct that P take no further step in the proceeding.

Compare: LI 2014/275 r 158

Halt in proceedings

82 Registrar may halt proceeding

- (1) The Registrar may halt a proceeding, if the Registrar thinks it appropriate, on the application of a party or on the Registrar's own initiative.
- (2) The Registrar may halt the proceeding for the period and on the terms that the Registrar thinks appropriate, but the Registrar must not halt the proceeding for more than 6 months.
- (3) The Registrar may halt the proceeding for further periods, but on each occasion for not more than 6 months.
- (4) The Registrar may recommence the proceeding at any time while the proceeding is halted.

Compare: LI 2014/275 r 159

Consolidation of proceedings

83 Registrar may consolidate proceedings

- (1) If the Registrar is satisfied that 1 or more of the conditions in subclause (2) have been met, the Registrar may require that—
 - (a) 2 or more of the proceedings—
 - (i) be consolidated on terms that the Registrar thinks appropriate; or
 - (ii) be heard at the same time; or
 - (iii) be heard one after another; or
 - (b) any of the proceedings be halted until after the determination of any other of them.
- (2) The conditions are that, in relation to 2 or more proceedings,—
 - (a) a common question of law or fact arises in the proceedings;
 - (b) the proceedings relate to identical geographical indications;
 - (c) for any other reason it is desirable to consolidate the proceedings under this regulation.

Compare: LI 2014/275 r 160

*Extension of time***84 Registrar may extend time**

- (1) The Registrar may extend, for a period not exceeding 3 months, the time specified by these regulations for a step to be taken in a proceeding if the Registrar is satisfied that the extension is reasonable in the circumstances.
- (2) The Registrar may extend, for any period specified by the Registrar (whether or not the period is in addition to the period specified in subclause (1)), the time specified by these regulations for a step to be taken in a proceeding if the Registrar is satisfied that there are genuine and exceptional circumstances that justify the extension.
- (3) Subclauses (1) and (2) do not apply in relation to the following:
 - (a) the matters described in regulation 21(1):
 - (b) a time period for paying a fee specified in regulation 97 or 98:
 - (c) a time period, for a step to be taken in a proceeding, that has already expired before an extension request is filed.
- (4) The Registrar may grant an extension under this regulation on any terms that the Registrar considers appropriate.
- (5) If more than 1 extension is granted under subclause (1), the total period of those extensions must not exceed 3 months.
- (6) Despite subclauses (1) and (2), the Registrar may not extend the time specified by these regulations for a step to be taken in a proceeding if these regulations provide that the time must not be extended.

Compare: SR 2003/187 r 32

*Evidence***85 Application to file evidence out of time**

- (1) A party to a specified proceeding must not file evidence after the prescribed time unless—
 - (a) the party applies to the Registrar in accordance with subclause (3); and
 - (b) the Registrar allows the evidence to be filed.
- (2) The Registrar may allow the evidence to be filed only if—
 - (a) the Registrar considers that there are genuine and exceptional circumstances that justify allowing the evidence to be filed out of time; or
 - (b) the evidence could not have been filed earlier.
- (3) An application must—
 - (a) be filed with the Registrar; and
 - (b) be signed by the applicant; and
 - (c) contain—

- (i) the nature of the evidence and whether it is evidence in chief or evidence strictly in reply; and
 - (ii) an explanation why the evidence could not have been filed earlier; and
 - (iii) any other ground or grounds for making the application.
- (4) The Registrar must notify the opposite party (if any) of the application, and the opposite party may make submissions to the Registrar within the time specified by the Registrar.
- (5) The Registrar must notify the parties of the decision that the Registrar intends to make on the application.
- (6) The notification must—
 - (a) specify the ground or grounds on which the Registrar intends to reject or accept the application; and
 - (b) advise that each party may request a hearing; and
 - (c) specify a period of not less than 1 month after the date of notification for a party to request a hearing; and
 - (d) advise the parties that the Registrar will decide the application at the end of that period if a party has not requested a hearing.
- (7) The Registrar must, as soon as practicable, hold a hearing if a party requests it.
- (8) If the Registrar allows a party to file evidence in chief after the prescribed time, the opposite party (if any) may file evidence strictly in reply within 1 month after the date on which the opposite party is notified by the Registrar that the evidence in chief will be allowed to be filed in the proceeding.
- (9) In this regulation,—

prescribed time means, in relation to a specified proceeding, the time prescribed in these regulations by which the evidence or type of evidence must be filed

specified proceeding means any of the following proceedings:

- (a) opposition to an application to register a geographical indication (*see* regulations 28 to 34):
- (b) opposition to a proposal by the Registrar to remove a registered geographical indication (*see* subpart 1 of Part 5):
- (c) an application to remove a registered geographical indication (*see* subpart 2 of Part 5):
- (d) opposition to a proposal by the Registrar to alter a registered geographical indication or the conditions or boundaries relating to it (*see* subpart 1 of Part 6):

- (e) an application to alter a registered geographical indication or the conditions or boundaries relating to it (*see* subpart 2 of Part 6).

Compare: SR 2003/187 rr 34, 35, 35A

86 Evidence restricted to particulars filed

A party to a proceeding may file evidence only in the proceeding that relates to the particulars filed by that party or any other party to the proceeding.

Compare: LI 2014/275 r 162

Part 10 Hearings

Form of hearing

87 Form of hearing

- (1) A hearing may be—
- (a) a hearing by appearance, that is, the appearance of a party before the Registrar, whether in person or by any other method acceptable to the Registrar; or
 - (b) a hearing by submissions, that is, the consideration by the Registrar of written submissions filed by a party and a review of the other documents filed in the proceedings without an appearance; or
 - (c) a hearing on the papers, that is, a review of the documents filed in the proceedings.
- (2) A party may, subject to subclause (3), elect whether to be heard by appearance, by submissions, or on the papers.
- (3) If the Registrar considers that a party has failed, without reasonable excuse, to attend a hearing or to agree to a hearing date, the Registrar may, at his or her discretion,—
- (a) direct a hearing on the papers for that party; or
 - (b) direct that the party take no further part in the proceeding; or
 - (c) treat the request for a hearing as withdrawn.
- (4) Subclause (3)(a) does not prevent any other party to the proceeding being heard by appearance or by submissions.

Compare: LI 2014/275 r 169

88 Registrar may determine form of hearings, etc

- (1) After the relevant evidence has been filed, the Registrar may determine, by correspondence or by holding a pre-hearing conference of the parties, each of the matters specified in subclause (2).
- (2) The matters are as follows:

- (a) whether a hearing is required:
- (b) the form of the hearing:
- (c) the time for filing submissions:
- (d) the venue of the hearing:
- (e) any other matters necessary for arranging a hearing.

Compare: LI 2014/275 r 170

Hearing by appearance

89 Notice of hearing by appearance

- (1) The Registrar must give each party to a hearing by appearance notice of the date and venue of the hearing not less than 1 month before the date of the hearing.
- (2) Subclause (1) does not apply if—
 - (a) the date and venue have been determined at a pre-hearing conference; or
 - (b) the parties waive compliance with subclause (1); or
 - (c) in the Registrar's opinion, notice of 1 month is not practicable for reasons of urgency.

Compare: LI 2014/275 r 171

90 Venue for hearing by appearance

- (1) If 1 party resides or has a principal place of business in Wellington, the hearing must be held—
 - (a) in Wellington; or
 - (b) at the place in New Zealand (if any) that is agreed by all the parties and the Registrar as the venue for the hearing.
- (2) If no party resides or has a principal place in Wellington, the Registrar must determine where in New Zealand the hearing will be held.
- (3) The Registrar may require the party or parties concerned to pay the Registrar's costs in holding the hearing at a venue outside Wellington.

Compare: LI 2014/275 r 173

91 Conduct of hearing by appearance

- (1) The Registrar must determine how a hearing by appearance must be conducted.
- (2) Members of the public may attend a hearing by appearance, unless the Registrar decides that it is not appropriate for members of the public to attend.

Compare: LI 2014/275 r 174

*Hearing before exercise of Registrar's discretion or other power***92 Hearing before exercise of Registrar's discretion or other power**

- (1) This regulation applies if section 40 of the Act requires the Registrar to give an interested person an opportunity of being heard before the Registrar adversely exercises any discretionary or other power under the Act or these regulations in relation to—
 - (a) a registered geographical indication; or
 - (b) a geographical indication that is the subject of an application for registration under section 8 of the Act.
- (2) If a person wishes to be heard before the power is exercised, the person must file a notice seeking a hearing.
- (3) The notice must—
 - (a) state the basis on which the person claims to be an interested person; and
 - (b) state the matter in respect of which a hearing is sought; and
 - (c) be signed by the person.
- (4) The person must file the notice within 10 working days after receiving notice from the Registrar of the decision that the Registrar proposes to make.

Compare: SR 2003/187 r 123

*Hearing fee***93 Hearing fee**

- (1) Each party who requests to be heard at any of the following types of hearing must pay the prescribed fee for a hearing by the Registrar in accordance with Part 11:
 - (a) a hearing referred to in regulation 92;
 - (b) any other type of hearing (other than a hearing on the papers).
- (2) The Registrar must refund a fee paid by a party who withdraws from the hearing if the Registrar receives notice of the withdrawal not less than 5 working days before the date set for the hearing.

Compare: LI 2014/275 r 172

Part 11
Fees**94 Amount of fees**

- (1) The amount of each fee that must be paid under these regulations is set out in Schedule 2.

- (2) The fees prescribed by these regulations are exclusive of goods and services tax.

Compare: SR 2003/187 r 167

95 Registrar may refuse to take step before fee paid

- (1) The Registrar may refuse to take a step under the Act or these regulations in respect of which a fee is payable unless the fee is first paid in accordance with this Part.
- (2) The Registrar may refuse to accept an application, notice, or request under the Act or these regulations in respect of which a fee is payable unless the fee is first paid in accordance with this Part.

Compare: SR 2003/187 r 168

96 Invoice for fees

- (1) The Registrar must issue an invoice—
- (a) to an applicant, after receiving an application under regulation 6:
 - (b) to an opponent, after receiving a notice of opposition under regulation 28:
 - (c) to an applicant, after receiving an application under regulation 41:
 - (d) to an applicant, after receiving an application under regulation 49:
 - (e) to an interested person, after receiving a notice seeking a hearing under regulation 92:
 - (f) to a party, after receiving a request to be heard at a hearing referred to in regulation 93(1)(b).
- (2) The invoice must specify the prescribed fee to be paid.

97 Time for payment

- (1) A fee payable under regulation 37 or 38 must be paid when the application is filed.
- (2) A fee payable under regulation 6, 28, 41, 49, or 93 must be paid not later than 10 working days after the date on which the invoice for the fee is issued under regulation 96.

98 Extension of time for payment

- (1) A time for payment specified in regulation 97 may be extended if the person required to pay the fee has, before filing the document (or making the request) that caused the fee to be payable, made an arrangement that is acceptable to the Registrar for payment of the fee.
- (2) If a time for payment is extended, the person required to pay the fee must pay the fee by the extended time agreed with the Registrar under subclause (1).
- (3) A time for payment may be extended under this regulation only once.

99 Form of payment

A fee payable under the Act or these regulations must be paid by electronic means.

Compare: LI 2014/275 r 7

100 Payment of fees

A fee payable under the Act or these regulations must be paid to the Registrar (unless the Act or these regulations require otherwise).

101 Currency

A fee payable under the Act or these regulations must be paid in New Zealand currency.

Compare: SR 2003/187 r 171

Schedule 1

Transitional, savings, and related provisions

r 5

Part 1

Provision relating to these regulations as made

1 References to Contract and Commercial Law Act 2017

Until the Contract and Commercial Law Act 2017 comes into force,—

- (a) in regulation 62(2), the reference to section 226 of the Contract and Commercial Law Act 2017 must be read as a reference to section 22 of the Electronic Transactions Act 2002; and
- (b) in regulation 63, the reference to section 222 of the Contract and Commercial Law Act 2017 must be read as a reference to section 18 of the Electronic Transactions Act 2002.

Schedule 2

Fees

Regulation	Matter for which fee is prescribed	Amount of fee (NZ\$)
6	Application to register a geographical indication	5,000
28	Notice of opposition to an application to register a geographical indication	700
37	First application to renew registration of a geographical indication	2,000
37	Second and subsequent applications to renew registration of a geographical indication	500
38	Application to restore to the register an expired geographical indication that has not been renewed	2,000
38	Application to restore to the register an expired geographical indication that has been renewed at least once	500
41	Application to remove a geographical indication from the register	1,000
49	Application to alter a registered geographical indication or the conditions or boundaries relating to it	1,000
93	Request to be heard at a hearing	1,700

r 94

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 27 July 2017, contain the operational and technical provisions that enable the various steps and procedures set out in the Geographical Indications (Wine and Spirits) Registration Act 2006 (the **Act**) to operate in practice. These regulations also prescribe fees for various matters that are payable under the Act or these regulations.

The Act itself comes into force on 27 July 2017 in accordance with the Geographical Indications (Wine and Spirits) Registration Act Commencement Order 2017.

These regulations prescribe procedural provisions and related matters in connection with the following:

- an application to register a geographical indication:
- opposition to an application to register a geographical indication:
- an application to renew the registration of a geographical indication:
- an application to restore a geographical indication to the register:
- the removal of a geographical indication from the register:

- the alteration of a registered geographical indication.

These regulations also contain general provisions in relation to the following:

- documents:
- addresses:
- agents:
- management of proceedings:
- procedure for hearings:
- payment of fees.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/info-services/business/intellectual-property/geographical-indications/implementation-geographical-indications-wines-spirits-registration-act-2006>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Business, Innovation, and Employment.