

European Union Free Trade Agreement Legislation Amendment Bill

Government Bill

As reported from the Foreign Affairs, Defence and Trade Committee

Commentary

Recommendation

The Foreign Affairs, Defence and Trade Committee has examined the European Union Free Trade Agreement Legislation Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The European Union Free Trade Agreement Legislation Amendment Bill is an omnibus bill that would amend New Zealand law as part of the implementation of the free trade agreement between New Zealand and the European Union (the EU FTA).

The EU FTA was signed in Brussels on 9 July 2023. A national interest analysis prepared by the Ministry of Foreign Affairs and Trade was presented to the House on 20 July 2023. The Foreign Affairs, Defence and Trade Committee of the 53rd Parliament reported on its examination of the treaty on 28 August 2023.

Most of New Zealand's obligations under the EU FTA are already met by the domestic legal and policy regime. However, some amendments to Acts and regulations are needed to align New Zealand's domestic law with certain obligations in the EU FTA.

This bill would amend the following legislation:

- Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992—to allow goods from a member state of the EU to be labelled as “Made in the EU” or as made in that member state
- Dairy Industry Restructuring Act 2001—to bring additional and revised dairy quotas under the existing quota management system

- Geographical Indications (Wine and Spirits) Registration Act 2006—which would be renamed the Geographical Indications Registration Act 2006—to protect geographical indications from the EU in New Zealand, along with enforcement measures
- Overseas Investment Act 2005 and the Overseas Investment Regulations 2005—to increase the monetary threshold above which consent is required for investments by EU non-government investors in “significant business assets” in New Zealand
- Tariff Act 1988—to provide for the bilateral safeguard mechanism under chapter 5 of the EU FTA (Trade Remedies)
- New Zealand Tariff—to enable the application of the preferential tariff rates agreed in the EU FTA and to implement obligations relating to the tariff treatment of goods returned after repair or alteration
- Customs and Excise Regulations 1996—to implement the agreed rules of origin and product-specific rules of origin for goods imported from the EU.

Separate from this bill, New Zealand has also agreed to:

- certain copyright-related obligations that are intended to be implemented through amendments to the Copyright Act 1994 within 4 years of the EU FTA entering into force
- a visual artist resale royalty regime within 2 years of the EU FTA entering into force, which is being met through the Resale Right for Visual Artists Act 2023.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation’s design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Public notice requirements before registration of EU FTA geographical indications

Clause 84 of the bill would insert new Parts 4 to 6 into the renamed Geographical Indications Registration Act.

New Part 4 provides for matters relating to the registration of EU FTA geographical indications. New section 58 sets out the examination and opposition requirements before an EU FTA geographical indication could be registered.

If the European Union requested that a geographical indication be registered (or that a registration be changed), new section 58(2)(a) would require the Registrar to give

public notice of the proposed registration. The Registrar must give the public notice “in accordance with requirements in regulations”.

We propose aligning this provision with similar public notification provisions already in the Act, such as sections 36B(2), 45A(3), and 46A(3). Those provisions allow the Registrar to give public notice in the format, manner, and frequency that the Registrar thinks appropriate.

We recommend amending new section 58(2)(a) to provide that the public notice must be given:

- in accordance with requirements in regulations about the information that must be included in the notice; and
- in the form, manner, and frequency that the Registrar thinks appropriate.

We think this amendment would make public notification processes in the Act consistent.

We note that several submitters were concerned that new section 57 would allow new proposals for geographical indications to be added to Annex 18-B of the EU FTA (and therefore be included in the New Zealand register) before undergoing the examination and opposition processes in new section 58. However, we think that new section 57(4) makes it clear that the Registrar must not register or change an EU FTA geographical indication unless the requirements in new section 58 have been complied with.

Information contained in infringement notices

New Part 5, to be inserted by clause 84, provides for the enforcement of geographical indications. Under proposed new section 122, a GI officer could issue an infringement notice to a person if the officer believed on reasonable grounds that the person was committing, or had committed, an infringement offence.

New section 124 sets out what must be contained in an infringement notice. Paragraph (a) sets a requirement for details of the alleged infringement offence that “fairly inform a person of the time, place, and nature of the alleged offence”.

We note that, under new section 120, a person’s failure to comply with a notice of direction would constitute an infringement offence. In these situations, it might not be feasible to specify the time or place of the alleged offence.

We think that new section 124(a) should make clear that the requirement for details in the infringement notice about the time and place of the alleged offence are required only to any extent that they are applicable. We recommend amending new section 124(a) accordingly.

Determining the origin of goods under the Customs and Excise Regulations 1996

Clause 108 of the bill would insert new regulation 51ZZN into the Customs and Excise Regulations 1996. This regulation would prescribe when particular goods are treated as being the produce or manufacture of the European Union countries for the purpose of the Customs and Excise Act 2018 and the Tariff Act 1988. The new

regulation would set out what requirements must be met, which are contained in the EU FTA.

Subclause (3)(c) of the new regulation refers to the requirements in Appendix 3-B-1 of the EU FTA (Origin quotas and alternatives to the product-specific rules of origin in Annex 3-B (Product-specific rules of origin)). However, this reference should instead be to Annex 3-B as a whole. We recommend amending proposed new regulation 51ZZN(3)(c) accordingly.

Other matters raised in submissions

Submitters raised several matters with us relating to the EU FTA and the bill. They included the value and costs of the free trade agreement, the nature and implications of the geographical indication registration regime, climate and sustainability, the extent of the enforcement regime, and obligations under te Tiriti o Waitangi / the Treaty of Waitangi.

We tested these issues with submitters and advisers, and are satisfied that the issues have been appropriately addressed, as far as possible, within the bill.

Some submitters raised concerns with the proposed enforcement regime to be established under new Part 5 (Enforcement) of the Geographical Indications Registration Act, and suggested that it was unnecessary to create a new mechanism for ensuring GIs are protected. These submitters suggested the current legal mechanisms would be sufficient.

Under Article 18.38 of the FTA, New Zealand must provide for administrative enforcement of EU GIs. This means that the enforcement obligations for GIs under the FTA cannot be achieved by implementing existing civil enforcement procedures, measures, and remedies that are available for other types of IP rights. Instead, New Zealand must empower a government agency to take enforcement action on its own initiative or on written request from an interested party. This is provided for under clause 84, new sections 85 to 129.¹

Members note their concern around adding additional bureaucracy, but the majority of us accept the advice that failing to establish an enforcement system would be a breach of the FTA. We would expect this system to be efficient.

ACT New Zealand differing view

The ACT Party supports this bill and acknowledges the huge economic opportunities that will benefit all of New Zealand.

However, concerns were raised by submitters regarding new Part 5 of the Geographical Indications Registration Act—outlining the need for an additional enforcement regime.

¹ Departmental report, page 5.

The NZ-EU FTA does not prescribe any specific approach to enforcing geographical indications and only states that enforcement must be “in accordance with its laws and regulations by appropriate administrative and judicial steps”.

It is our view that we should align with the existing enforcement of GIs and IPR in New Zealand, that is the existing Geographical Indications (Wine and Spirits) Registration Act 2006 and the Fair Trading Act. Enforcement is run under a well-established and familiar IP system that is proven to be fit for purpose already existing under New Zealand law.

This means there is no requirement for a stand-alone regulatory and enforcement regime specific to the EU. It is imperative that we do not create any additional red tape for business and consumers which has the potential for unnecessary public sector expenditure.

Appendix

Committee process

The bill was referred to the committee on 31 January 2024. We invited the Minister for Trade to provide an initial briefing on the bill. He did so on 19 February 2024.

We called for submissions on the bill with a closing date of 16 February 2024. We received and considered submissions from 29 interested groups and individuals. We heard oral evidence from 14 submitters at hearings in Wellington and via videoconference.

Advice on the bill was provided by the Ministry of Foreign Affairs and Trade, the Ministry of Business, Innovation and Employment, and the Ministry for Primary Industries. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Tim van de Molen (Chairperson)

Tim Costley

Hon Peeni Henare

Dana Kirkpatrick

Hon Damien O'Connor

Hon James Shaw (to 21 February 2024)

Laura Trask

Teanau Tuiono (from 21 February 2024)

Related resources

The documents received as advice and evidence are available on the Parliament website.

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Todd McClay

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the European Union Free Trade Agreement Legislation Amendment Act **2024**.

2 Commencement

5

- (1) This Act comes into force on a single date set by Order in Council.
- (2) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1

**Amendments to regulations previously called Consumer Information
Standards (Country of Origin (Clothing and Footwear) Labelling)
Regulations 1992**

10

3 Principal regulations

- (1) This Part amends the regulations that were previously called the Consumer Information Standards (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992. 15
- (2) Replace regulation 1(1) with:
 - (1) These regulations are the Consumer Information Standards (Country or Territory of Origin (Clothing and Footwear) Labelling) Regulations 1992.

4 Regulation 3 amended (Consumer information standard for clothing and footwear prescribed) 20

- (1) Replace regulation 3(a) with:

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(a) every article of clothing and footwear to which these regulations apply that is supplied, offered for supply, or advertised for supply must be labelled or marked to show the country or territory of origin:	
(2) In regulation 3(c) and (d), replace “country in which the article was made or produced shall” with “country or territory of origin must”.	5
(3) In regulation 3(e),—	
(a) replace “country in which the footwear was made or produced shall” with “country or territory of origin must”; and	
(b) replace “country in which it was made or produced shall” with “country or territory of origin must”.	10
(4) In regulation 3, insert as subclause (2):	
(2) In this regulation,—	
country or territory of origin means—	
(a) the country in which the article of clothing or footwear was made or produced; or	15
(b) in the case of an article of clothing or footwear made or produced in the territory of the European Union,—	
(i) the country in which it was made or produced; or	
(ii) the European Union	
EU FTA means the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023	20
territory of the European Union means the territories to which the EU FTA applies under Article 1.4(1)(a) of the EU FTA.	

Part 2	
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5	Principal Act
	This Part amends the Dairy Industry Restructuring Act 2001.
6	Section 5 amended (Interpretation)
(1)	In section 5(1), replace the definition of designated market with:
	designated market means a market listed in Schedule 5A
(2)	In section 5(1), replace the definition of export licence with:
	export licence , in respect of a designated market, means a licence allocated under section 26
(3)	In section 5(1), repeal the definitions of—
(a)	initial licence ; and
	35

	(b) initial period ; and	
	(c) interim licence ; and	
	(d) interim period .	
(4)	In section 5(1), definition of quota year , paragraph (a), replace “European Communities” with “European Union”.	5
(5)	In section 5(1), insert in its appropriate alphabetical order: EU FTA means the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023	
7	Section 21 amended (Purpose) In section 21(3), replace “Schedules 5 and 5A” with “Schedule 5A”.	10
8	Section 22 amended (Overview) Repeal section 22(2).	
9	Section 23 amended (Restrictions on exports to designated markets)	
(1)	In section 23(1), replace “Schedules 5 and 5A” with “Schedule 5A”.	
(2)	Repeal section 23(2).	15
10	Sections 24 to 25A repealed Repeal sections 24 to 25A.	
11	Section 26 amended (Later allocation of export licences)	
(1)	Repeal section 26(1)(a) and (b).	
(2)	In section 26(1)(c), delete “after the initial periods”.	20
(3)	In section 26(2), replace “Following the expiry of the initial and interim licences, export” with “Export”.	
12	New section 26B inserted (Commencement of EU FTA tariff quotas) After section 26A, insert:	
26B	Commencement of EU FTA tariff quotas	25
(1)	If the EU FTA first comes into force on a day other than 1 January in any year, an EU FTA tariff quota must be applied in that year on a pro rata basis.	
(2)	In this section, EU FTA tariff quota means an EU FTA tariff quota listed in Schedule 5A.	
13	Section 27 repealed (Increases in rights to export to designated markets during initial period) Repeal section 27.	30

- 14 Section 27A amended (Increases or reductions in rights to export to designated markets after initial period)**
- (1) In the heading to section 27A, delete “after initial period”.
- (2) In section 27A(1), delete “, after the initial period,”.
- (3) Repeal section 27A(4). 5
- 15 Section 28 repealed (Restriction on transfer of initial licences)**
- Repeal section 28.
- 16 Section 28A amended (Transferring export licences)**
- Repeal section 28A(4).
- 17 Section 29 and cross-heading above section 29 repealed** 10
- Repeal section 29 and the cross-heading above section 29.
- 18 Schedule 5 repealed**
- Repeal Schedule 5.
- 19 Schedule 5A amended**
- (1) Replace the Schedule 5A heading with: 15

**Schedule 5A
Designated markets**

ss 21(3), 23, 26

- (2) In Schedule 5A, replace the item relating to European Communities butter with: 20

EU WTO tariff quotas

European Union	Butter	Destined for import into the European Union under the tariff quota for butter of New Zealand origin, as provided for in the Current Access Quotas part of Section I-B of Schedule CLXXV/European Union of the World Trade Organization and as set out in paragraph 25(d)-(f), Section C, Annex 2-A of the EU FTA, including any amendment or any successor to that schedule or annex.
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- (3) In Schedule 5A, replace the items relating to European Communities cheddar cheese and European Communities cheese for processing with:

European Union	Cheese	Destined for import into the European Union under the tariff quota for cheddar cheese and cheese for processing of New Zealand origin, as provided for in the Current Access Quotas part of Section I-B of Schedule CLXXV/European Union of the World Trade Organization and as set out in paragraph 26(d), Section C, Annex
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		2-A of the EU FTA, including any amendment or any successor to that schedule or annex.
(4)	In Schedule 5A, after the new item relating to European Union cheese, insert:	
	<i>EU FTA tariff quotas</i>	
	European Union	Milk powders
		Destined for import into the European Union under the tariff quota for milk powders of New Zealand origin, as set out in paragraph 24, Section C, Annex 2-A of the EU FTA, including any amendment or any successor to that annex.
	European Union	Butter
		Destined for import into the European Union under the tariff quota for butter of New Zealand origin, as set out in paragraph 25(a)-(c), Section C, Annex 2-A of the EU FTA, including any amendment or any successor to that annex.
	European Union	Cheese
		Destined for import into the European Union under the tariff quota for cheese of New Zealand origin, as set out in paragraph 26(a)-(c), Section C, Annex 2-A of the EU FTA, including any amendment or any successor to that annex.
	European Union	Dairy processed agricultural products and high protein whey
		Destined for import into the European Union under the tariff quota for dairy processed agricultural products and high protein whey of New Zealand origin, as set out in paragraph 27, Section C, Annex 2-A of the EU FTA, including any amendment or any successor to that annex.
	<i>Other WTO tariff quotas</i>	

Part 3

Amendments to Act previously called Geographical Indications (Wine and Spirits) Registration Act 2006

- | | | |
|-----------|--|----|
| 20 | Principal Act | 5 |
| | This Part amends the Act that was previously called the Geographical Indications (Wine and Spirits) Registration Act 2006. | |
| 21 | Section 1 amended (Title) | |
| | In section 1, delete “(Wine and Spirits)”. | |
| 22 | Section 3 amended (Purpose) | 10 |
| (1) | In section 3(a), replace “registration of geographical indications” with “protection of New Zealand and foreign geographical indications”. | |
| (2) | In section 3(c), replace “a registered” with “a New Zealand registered or foreign registered”. | |
| (3) | After section 3(d), insert: | 15 |
| (e) | provide a suitable legal framework for the protection of EU FTA geographical indications in respect of wine, spirits, and other goods in a | |

manner consistent with New Zealand's rights and obligations under the EU FTA.

23 Section 4 amended (Interpretation)

(1) In section 4, insert in their appropriate alphabetical order:

accepted notice, in **subpart 4 of Part 5**, has the meaning given to it in **section 130** 5

chief executive,—

(a) except in **subpart 4 of Part 5**, means the chief executive of the Ministry that, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant part of this Act; and 10

(b) in **subpart 4 of Part 5**, has the meaning given to it in **section 130**
claimant, in **subpart 4 of Part 5**, has the meaning given to it in **section 130**

control of Customs, in **subpart 4 of Part 5**, has the meaning given to it in **section 130** 15

Customs, in **subpart 4 of Part 5**, has the meaning given to it in **section 130**

Customs officer, in **subpart 4 of Part 5**, has the meaning given to it in **section 130** 20

EU means the European Union

EU FTA means the Free Trade Agreement between New Zealand and the European Union done at Brussels on 9 July 2023, as revised or amended from time to time

EU FTA geographical indication has the meaning given to it in **section 6(4)** 25

EU FTA registered geographical indication has the meaning given to it in **section 7(1)(c)**

exporter, in **subpart 4 of Part 5**, has the meaning given to it in **section 130**

GI officer, in **Part 5**, has the meaning given to it in **section 79** 30

homonymous New Zealand or foreign geographical indication has the meaning given to it in section 19(2)

homonymous or partially homonymous EU FTA geographical indication has the meaning given to it in section 71(2)

importer, in **subpart 4 of Part 5**, has the meaning given to it in **section 130** 35

infringement fee, in relation to an infringement offence, means the infringement fee specified for the offence in the regulations

infringement offence means an offence against **section 120** or any other offence identified in this Act as an infringement offence

infringing good, in **Part 5**, has the meaning given to it in **section 79**

infringing material, in **Part 5**, has the meaning given to it in **section 79**

infringing object, in **Part 5**, has the meaning given to it in **section 79**

issuing officer, in **Part 5**, has the meaning given to it in **section 79**

Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant part of this Act

regulations means regulations made under **section 156**

relevant good, in **Part 5**, has the meaning given to it in **section 79**

restriction on use, in **Part 5**, has the meaning given to it in **section 79**

transliteration means the conversion of characters following the phonetics of the original language or languages of the relevant geographical indication

written or in writing, in **Part 5**, has the meaning given to it in **section 79**

- (2) In section 4, definition of **foreign registered geographical indication**, replace “section 7(3)” with “**section 7(1)(b)**”.

- (3) In section 4, definition of ~~homonymous geographical indication~~, replace “~~homonymous geographical indication~~” with “**homonymous New Zealand or foreign geographical indication**”.

- (3) In section 4, repeal the definition of **homonymous geographical indication**.

- (4) In section 4, replace the definition of **ministry** with:

Ministry means the Ministry that, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant part of this Act

- (5) In section 4, definition of **New Zealand registered geographical indications**, replace “section 7(2)” with “**section 7(1)(a)**”.

- (6) In section 4, definition of **prescribed**, replace “section 57” with “**section 156**”.

- (7) In section 4, definition of **register**, replace “section 42” with “**section 161**”.

- (8) In section 4, definition of **Registrar**, replace “section 34” with “**section 157**”.

- (9) In section 4, replace the definition of **spirit** with:

spirit—

- (a) means a potable alcoholic distillate, including whisky, brandy, rum, gin, and vodka, produced by distillation of fermented liquor derived from food sources, so as to have the taste, aroma, and other characteristics generally attributable to that particular spirit; but

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(b) in the definition of EU FTA geographical indication in section 6(4) , has the meaning given to it in Annex 18-A of the EU FTA	
(10) In section 4, definition of working day , paragraph (c)(i) and (ii), replace “section 49” with “ section 165 ”.	
(11) In section 4, replace the definition of wine with:	5
wine—	
(a) has the same meaning as grape wine in section 4(1) of the Wine Act 2003; but	
(b) in the definition of EU FTA geographical indication in section 6(4) , has the meaning given to it in Annex 18-A of the EU FTA	10
24 New section 4A inserted (Transitional, savings, and related provisions)	
After section 4, insert:	
4A Transitional, savings, and related provisions	
The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.	15
25 Part 2 heading replaced	
Replace the Part 2 heading with:	
Part 2 Types of geographical indication	
26 Cross-heading above section 6 repealed	20
Repeal the cross-heading above section 6.	
27 Section 6 amended (What is geographical indication?)	
(1) Replace the heading to section 6 with “ Geographical indications ”.	
(2) In section 6(1),—	
(a) replace “a wine or spirit” with “a wine, spirit, or other good (as the case requires)”;	25
(b) replace “the wine or spirit” with “the wine, spirit, or other good”.	
(3) Replace section 6(3) with:	
(3) A foreign geographical indication—	
(a) means a geographical indication that identifies a wine or spirit as originating in a country other than New Zealand; but	30
(b) does not include an EU FTA geographical indication unless the EU FTA geographical indication is also listed in Part 2 of the register.	
(4) An EU FTA geographical indication means a geographical indication that—	

- (a) identifies a wine, spirit, or other good as originating in a country that is a member state of the EU; and
- (b) is listed in Section A of Annex 18-B of the EU FTA.

28 Section 6A amended (What is enduring New Zealand geographical indication?) 5

- (1) Replace the heading to section 6A with “**Enduring New Zealand geographical indications**”.
- (2) In section 6A(1)(b)(i), replace “registered geographical indication” with “New Zealand registered geographical indication”.

29 Section 7 replaced (What is registered geographical indication?) 10
Replace section 7 with:

- 7 Registered geographical indications**
- (1) A **registered geographical indication** is—
 - (a) a New Zealand geographical indication registered under section 8 (a **New Zealand registered geographical indication**); or 15
 - (b) a foreign geographical indication registered under section 8 (a **foreign registered geographical indication**); or
 - (c) an EU FTA geographical indication registered under **section 57 or clause 2 of Schedule 1** (an **EU FTA registered geographical indication**). 20
 - (2) **Subsection (1)(a) and (b)** is subject to section 47D.

7A Registration as both foreign and EU FTA geographical indication

- (1) A foreign registered geographical indication that is then registered as an EU FTA registered geographical indication does not lose its registration as a foreign registered geographical indication because of its registration as an EU FTA registered geographical indication. 25
- (2) An EU FTA registered geographical indication that is then registered as a foreign registered geographical indication ~~under section 8~~ does not lose its registration as an EU FTA registered geographical indication because of its registration as a foreign registered geographical indication. 30

30 New Part 3 heading inserted

After section 7, Before the cross-heading above section 8, insert:

Part 3
New Zealand and foreign geographical indications

31 Section 8 amended (Registration)

- (1) In the heading to section 8, after “**Registration**”, insert “**of New Zealand or foreign geographical indication**”.
- (2) In section 8(1) and (2), replace “geographical indication” with “New Zealand or foreign geographical indication”.

5

32 Section 9 amended (Date of registration)

- (1) In the heading to section 9, after “**Date of registration**”, insert “**of New Zealand or foreign geographical indication**”.
- (2) In section 9(1), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.
- (3) In section 9(2), replace “geographical indication” with “New Zealand or foreign geographical indication”.

10

33 Section 9A amended (Duration of registration)

- (1) In the heading to section 9A, after “**Duration of registration**”, insert “**of New Zealand or foreign geographical indication**”.
- (2) In section 9A(1), (2), and (3), replace “geographical indication” with “New Zealand or foreign geographical indication”.

15

34 Section 10 amended (Geographical indication identical to registered geographical indication)

- (1) In the heading to section 10, replace “**Geographical indication**” with “**New Zealand or foreign geographical indication**”.
- (2) In section 10(a) and (b), replace “a geographical indication” with “a New Zealand or foreign geographical indication”.

20

35 Section 11 amended (Geographical indication identical to customary name of grape variety)

25

- (1) In the heading to section 11, replace “**Geographical indication**” with “**New Zealand or foreign geographical indication**”.
- (2) In section 11, replace “geographical indication” with “New Zealand or foreign geographical indication”.

36 Section 12 amended (Geographical indication identical to common name for wine or spirit)

30

- (1) In the heading to section 12, replace “**Geographical indication**” with “**New Zealand or foreign geographical indication**”.
- (2) In section 12(a) and (b), replace “geographical indication” with “New Zealand or foreign geographical indication”.

35

- 37 Section 13 amended (Foreign geographical indication)**
In the heading to section 13, after “**Foreign geographical indication**”, insert “**no longer protected, or fallen into disuse, in country of origin**”.
- 38 Section 13A amended (No registration of geographical indication if use or registration likely to be offensive)** 5
(1) In the heading to section 13A, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”.
(2) In section 13A, replace “geographical indication” with “New Zealand or foreign geographical indication”.
- 39 Section 14 amended (No registration of geographical indication if identical to trade mark for identical goods or services)** 10
(1) In the heading to section 14, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”.
(2) In section 14(1), (2), and (3), replace “a geographical indication” with “a New Zealand or foreign geographical indication”. 15
- 40 Section 15 amended (No registration of geographical indication if identical to trade mark for similar goods or services)**
(1) In the heading to section 15, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”.
(2) In section 15(1), (2), and (3), replace “a geographical indication” with “a New Zealand or foreign geographical indication”. 20
- 41 Section 16 amended (No registration of geographical indication if similar to trade mark for identical goods or services)**
(1) In the heading to section 16, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”. 25
(2) In section 16(1), (2), and (3), replace “a geographical indication” with “a New Zealand or foreign geographical indication”.
- 42 Section 17 amended (No registration of geographical indication if similar to trade mark for similar goods or services)**
(1) In the heading to section 17, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”. 30
(2) In section 17(1), (2), and (3), replace “a geographical indication” with “a New Zealand or foreign geographical indication”.
- 43 New section 17A inserted (No registration of New Zealand or foreign geographical indication if identical or similar to well-known trade mark that indicates connection)** 35
After section 17, insert:

17A No registration of New Zealand or foreign geographical indication if identical or similar to well-known trade mark that indicates connection

The Registrar must not register a New Zealand or foreign geographical indication if—

- (a) it is identical or similar to a trade mark that is well known in New Zealand; and 5
- (b) the trade mark is registered in New Zealand in respect of goods that are neither identical nor similar to the good to which the New Zealand or foreign geographical indication relates; and
- (c) the use of the geographical indication in respect of a good is likely to indicate a connection to the owner of the trade mark; and 10
- (d) the interests of the trade mark owner are likely to be damaged by the use of the geographical indication; and
- (e) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002) is earlier than the date of the application for registration of the geographical indication. 15

Compare: EU FTA art 18.33.3(b)

44 Section 18 amended (When restrictions on registration as geographical indication do not apply in relation to trade mark)

- (1) ~~In the heading to section 18, replace “as geographical indication” with “of New Zealand or foreign geographical indication”.~~ 20
- (1) Replace the heading to section 18 with “When restrictions in sections 14 to 17A do not apply”.
- (2) In section 18(1), replace “sections 14 to 17” with “sections 14 to 17A”.
- (3) In section 18(1), replace “register a geographical indication” with “register a New Zealand or foreign geographical indication”. 25

45 Cross-heading above section 19 replaced

Replace the cross-heading above section 19 with:

Registration of homonymous New Zealand or foreign geographical indication

46 Section 19 amended (Registrar may register homonymous geographical indication) 30

- (1) In the heading to section 19, replace “geographical indication” with “New Zealand or foreign geographical indication”.
- (2) In section 19(1), replace “geographical indication” with “New Zealand or foreign geographical indication”. 35
- (3) In section 19(2), replace “homonymous geographical indication” with “homonymous New Zealand or foreign geographical indication”.

- (4) In section 19(2), replace—
- (a) “registered geographical indication” with “New Zealand registered or foreign registered geographical indication” in each place:
 - (b) “a geographical indication” with “a New Zealand or foreign geographical indication” in each place. 5
- 47 Section 20 amended (Registrar may impose conditions when registering homonymous geographical indication)**
- (1) In the heading to section 20, replace “**geographical indication**” with “**New Zealand or foreign geographical indication**”.
 - (2) In section 20(1), replace “geographical indication” with “New Zealand or foreign geographical indication” in each place. 10
- 48 Cross-heading above section 21 replaced**
Replace the cross-heading above section 21 with:
- Restrictions on use*
- 49 Section 25 amended (Additional rules relating to restrictions on use)** 15
- (1) In the heading to section 25, after “**restrictions on use**”, insert “**of New Zealand registered or foreign registered geographical indication**”.
 - (2) In section 25, replace “a registered geographical indication” with “a New Zealand registered or foreign registered geographical indication”.
 - (3) In section 25(b), after “translation”, insert “or transliteration”. 20
 - (4) In section 25, insert as subsection (2):
 - (2) Despite **subsection (1)(b)**, the restrictions in **sections 21 to 24** do not apply to a translated term if evidence is provided that shows there is no link between the geographical indication and the translated term.
- 50 Section 26 amended (Use of certain information not use of registered geographical indication)** 25
- (1) In the heading to section 26, replace “**registered geographical indication**” with “**New Zealand registered or foreign registered geographical indication**”.
 - (2) In section 26, replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”. 30
- 51 Cross-heading above section 27 replaced**
Replace the cross-heading above section 27 with:
- When restrictions on use do not apply*

- 52 Section 27 repealed (Wine or spirit never in New Zealand or in transit only)**
Repeal section 27.
- 53 Section 28 amended (Bottling pre-dating registration of registered geographical indication)** 5
- (1) In the heading to section 28, replace “**registered geographical indication**” with “**New Zealand registered or foreign registered geographical indication**”.
- (2) In section 28, replace “a registered geographical indication” with “a New Zealand registered or foreign registered geographical indication”. 10
- 54 Section 29 amended (Continuous use)**
In section 29(1) and (1A), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication” in each place.
- 55 Section 30 amended (Trade mark pre-dating registration of registered geographical indication)** 15
- (1) In the heading to section 30, replace “**registered geographical indication**” with “**New Zealand registered or foreign registered geographical indication**”.
- (2) In section 30(1), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”. 20
- 56 Section 31 amended (Use of registered geographical indication in unregistered trade mark after 5 years after adverse use generally known)**
- (1) Replace the heading to section 31 with “**Use of New Zealand registered or foreign registered geographical indication in unregistered trade mark in certain circumstances**”. 25
- (2) In section 31(1) and (2), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication” in each place.
- 57 Section 32 amended (Unregistered geographical indication homonymous with registered geographical indication)** 30
- (1) Replace the heading to section 32 with “**Unregistered New Zealand or foreign geographical indication homonymous with New Zealand registered or foreign registered geographical indication**”.
- (2) In section 32(1) and (2), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”. 35

- (3) In section 32(1) and (2), replace “unregistered geographical indication” with “unregistered New Zealand or unregistered foreign geographical indication” in each place.
- 58 Sections 33 to 35A and cross-headings repealed**
- Repeal sections 33 to 35A and the cross-headings above sections 33 and 34. 5
- 59 Section 36 amended (Interested person may apply for registration of geographical indication)**
- (1) In the heading to section 36, replace “geographical indication” with “New Zealand or foreign geographical indication”.
 - (2) In section 36, replace “geographical indication” with “New Zealand or foreign geographical indication”. 10
- 60 Section 36A amended (Registrar may amend application to substitute applicant)**
- (1) In the heading to section 36A, after “application”, insert “for registration of New Zealand or foreign geographical indication”. 15
 - (2) In section 36A(1), replace “geographical indication” with “New Zealand or foreign geographical indication”.
 - (3) In section 36A(2)(b), delete “made under section 57(1)(ea)”.
- 61 Section 36B amended (Registrar must give public notice of accepted application)** 20
- (1) In the heading to section 36B, after “application”, insert “for registration of New Zealand or foreign geographical indication”.
 - (2) In section 36B(1), replace “geographical indication” with “New Zealand or foreign geographical indication”.
- 62 Section 36C amended (Interested person may oppose accepted application)** 25
- (1) In the heading to section 36C, after “application”, insert “for registration of New Zealand or foreign geographical indication”.
 - (2) In section 36C, replace “geographical indication” with “New Zealand or foreign geographical indication”.
- 63 Section 37 amended (Registrar must deal with application according to prescribed procedure)** 30
- (1) In the heading to section 37, after “application”, insert “for registration of New Zealand or foreign geographical indication”.
 - (2) In section 37(1), after “application”, insert “for registration of a New Zealand or foreign geographical indication”. 35
 - (3) In section 37(1), delete “made under section 57”.

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64	Section 38 amended (Priority)	
	In section 38(1), replace “a geographical indication” with “a New Zealand or foreign geographical indication”.	
65	Sections 39 to 40 repealed	
	Repeal sections 39 to 40.	5
66	Section 41 amended (Conditions of use)	
(1)	In the heading to section 41, after “use”, insert “ of New Zealand registered or foreign registered geographical indication ”.	
(2)	In section 41, replace “a geographical indication” with “a New Zealand or foreign geographical indication”.	10
67	Sections 42 to 44 and cross-heading above section 42 repealed	
	Repeal sections 42 to 44 and the cross-heading above section 42.	
67A	<u>New cross-heading above section 45 inserted</u>	
	<u>Before section 45, insert:</u>	
	<i>Removals from and alterations to register</i>	15
68	Section 45 amended (Removal from register)	
(1)	In the heading to section 45, after “ Removal ”, insert “ of New Zealand registered or foreign registered geographical indication ”.	
(2)	In section 45(1), replace “The registrar may remove a registered geographical indication” with “The Registrar or the court may remove a New Zealand registered or foreign registered geographical indication”.	20
(3)	In section 45(2) and (4), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.	
(4)	In section 45(2), replace “his or her” with “the Registrar’s”.	
(5)	After section 45(2), insert:	25
(2A)	The court may remove a New Zealand registered or foreign registered geographical indication under subsection (1) on the application of any interested person.	
(6)	In section 45(3), replace “The Registrar” with “The Registrar or the court”.	
69	Section 45A amended (Notice of proposed removal)	30
(1)	In the heading to section 45A, after “ Notice of proposed removal ”, insert “ of New Zealand registered or foreign registered geographical indication from register ”.	
(2)	In section 45A(1),—	
(a)	replace “his or her” with “the Registrar’s”; and	35

(b)	replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.	
(3)	In section 45A(2), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.	
70	Section 46 amended (Alteration of register)	5
(1)	In section 46(1), replace “his or her” with “the Registrar’s”.	
(2)	In section 46(1), (1A), and (1B), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication” in each place.	
(3)	In section 46(1C)(b), delete “made under section 57(1)(ea)”.	10
71	Section 46A amended (Notice of proposed alteration)	
(1)	In section 46A(1), replace “his or her” with “the Registrar’s”.	
(2)	In section 46A(1) and (2), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication” in each place.	15
72	Section 46C amended (Alteration of register concerning certain inconsistent information)	
	After section 46C(2), insert:	
(2A)	Regulations made for the purposes of this section may include procedures, requirements, and other matters in respect of an alteration.	20
73	Section 47 amended (Procedure for removal or alteration)	
(1)	In section 47(1) and (3), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.	
(2)	In section 47(1), delete “made under section 57”.	
74	Section 47A amended (Renewal of registration)	25
(1)	In the heading to section 47A, after “ Renewal of registration ”, insert “ of New Zealand registered or foreign registered geographical indication ”.	
(2)	In section 47A(1), replace “registered geographical indication” with “New Zealand registered or foreign registered geographical indication”.	
75	Section 47B amended (Notice of pending expiration of registration of geographical indication)	30
(1)	In the heading to section 47B, replace “ geographical indication ” with “ New Zealand or foreign geographical indication ”.	
(2)	In section 47B(1), replace “geographical indication” with “New Zealand or foreign geographical indication” in each place.	35

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(3) In section 47B(1)(a) and (b), after “expiration of the”, insert “registration of the”.	
76 Section 47C amended (Procedure if registration not renewed)	
In section 47C(1), replace “geographical indication” with “New Zealand or foreign geographical indication”.	5
77 Section 47D amended (Effect of registered-past expiry date status)	
In section 47D(1), replace “A geographical indication” with “A New Zealand or foreign geographical indication”.	
78 Sections 48 to 52 and cross-heading replaced	
Replace sections 48 to 52 and the cross-heading above section 48 with:	10
<i>Costs</i>	
47E Registrar may award costs	
(1) The Registrar may, in any proceedings before the Registrar under this Part,—	
(a) by order, award to a party costs of an amount that the Registrar thinks appropriate (which, without limitation, may be on an indemnity basis); and	15
(b) direct how and by what parties the costs are to be paid.	
(2) The order may be entered as a judgment of the court and may be enforced accordingly.	
47F Registrar may require security for costs	20
(1) The Registrar may require a party to proceedings to give security for the costs of the proceedings if the Registrar is satisfied that—	
(a) the party does not reside, and does not carry on business, in New Zealand; or	
(b) there is reason to believe that the party will be unable to pay the costs of the other party if unsuccessful in the proceedings.	25
(2) If the party does not give the security required, the Registrar may treat the proceedings as having been abandoned by that party and determine the matter accordingly.	
47G Meaning of proceedings for purposes of sections 47E and 47F	30
For the purposes of sections 47E and 47F , proceedings means any procedure prescribed by the regulations—	
(a) for opposition, and determination of opposition, to an accepted application for registration of a geographical indication as referred to in section 37(2)(b):	35

(b)	for opposition, and determination of opposition, to the removal or alteration of a registered geographical indication as referred to in section 47(2)(b).	
79	Cross-heading above section 53 replaced	
	Replace the cross-heading above section 53 with:	5
	<i>New Zealand geographical indications committee</i>	
80	Section 53 amended (When Registrar may establish geographical indications committee)	
(1)	In the heading to section 53, replace “geographical indications” with “New Zealand geographical indications”.	10
(2)	In section 53(1) and (2), replace “geographical indications” with “New Zealand geographical indications” in each place.	
(3)	In section 53(1), (2), and (3), replace “geographical indication” with “New Zealand geographical indication” in each place.	
(4)	In section 53(1)(b) and (c), replace “registered geographical indication” with “New Zealand registered geographical indication”.	15
81	Section 54 amended (Membership of committee)	
(1)	In the heading to section 54, replace “committee” with “New Zealand geographical indications committee”.	
(2)	In section 54(1), replace “committee” with “New Zealand geographical indications committee”.	20
(3)	In section 54(2)(a) and (b), replace “his or her” with “their”.	
82	Section 55 amended (Discharge of committee or removal of member)	
(1)	In the heading to section 55, replace “committee” with “New Zealand geographical indications committee”.	25
(2)	In section 55(1), replace “committee” with “New Zealand geographical indications committee”.	
(3)	In section 55(2), replace “his or her” with “that person’s”.	
83	Section 56 amended (Proceedings of committee)	
(1)	In the heading to section 56, replace “committee” with “New Zealand geographical indications committee”.	30
(2)	In section 56(1), replace “a committee” with “a New Zealand geographical indications committee”.	
84	Sections 57 to 64 and cross-heading replaced	
	Replace sections 57 to 64 and the cross-heading above section 57 with:	35

Part 4 EU FTA geographical indications

Registration

57 Registration of EU FTA geographical indication

- (1) The Secretary of Foreign Affairs and Trade must, in writing, notify the Registrar ~~if,—~~ 5
 - (a) ~~if,~~ in accordance with the EU FTA, a geographical indication has been listed or changed in Section A of Annex 18-B of the EU FTA (the **Annex**); and
 - (b) ~~if so, whether~~ a New Zealand registered or foreign registered geographical indication must be altered to enable the geographical indication to be registered in accordance with **section 72** (if the listing or change is in respect of a homonymous or partially homonymous EU FTA geographical indication). 10
- (2) The notification must be made as soon as practicable after the listing or change is made in the Annex. 15
- (3) The Registrar must then—
 - (a) register the EU FTA geographical indication by entering it in the register as soon as practicable after receiving the notification under subsection (1)(a); and 20
 - (b) alter the register to include conditions in respect of a New Zealand registered or foreign registered geographical indication if the Registrar is notified under subsection (1)(b) (and those conditions apply immediately after they are added to the register).
- (4) However, the Registrar must not register or change an EU FTA geographical indication unless the requirements in **section 58** have been complied with. 25
- (5) All conditions set out in the Annex relating to a homonymous or partially homonymous EU FTA geographical indication apply to the geographical indication if it is registered or changed under this section (and those conditions apply immediately after the listing or change is made in the Annex). 30
- (6) The Registrar is entitled to rely on a certificate from the Secretary of Foreign Affairs and Trade as to whether a listing or change of an EU FTA geographical indication in the Annex is in accordance with the EU FTA.
- (7) In this section and **section 58**, **change**, in respect of an EU FTA geographical indication, means a change to the name of an EU FTA geographical indication or the product class to which it relates. 35

58	Examination and opposition requirements before registration of EU FTA geographical indication	
(1)	The Secretary of Foreign Affairs and Trade must, in writing, notify the Registrar if the EU requests, in accordance with the EU FTA, that New Zealand register a geographical indication or change the registration of an EU FTA registered geographical indication.	5
(2)	The Registrar must—	
(a)	give public notice of the proposed registration, or change to the registration, of the geographical indication in accordance with requirements in regulations; and	10
(i)	<u>in accordance with requirements in regulations about the information that must be included; and</u>	
(ii)	<u>in the form, manner, and frequency that the Registrar thinks appropriate; and</u>	
(b)	give interested persons an opportunity, in accordance with the opposition procedure in regulations, to oppose the registration or change to registration on the basis that there is a ground to refuse to register the geographical indication or change the registration under any of sections 62 to 69 and 71 ; and	15
(c)	examine, in accordance with the examination procedure in regulations, whether there is any ground to refuse to register the geographical indication or change the registration under any of sections 62 to 69 and 71 .	20
(3)	The Registrar must, after complying with the requirements in subsection (2) with respect to a proposed registration or change to registration, determine—	
(a)	that there are no grounds to refuse the registration or change to registration under any of sections 62 to 69 and 71 ; or	25
(b)	that there is a ground under any of sections 65 to 69 to refuse the registration or change to registration, but it is permitted under section 70 ; or	
(c)	that there is a ground under section 71 to refuse the registration or change to registration, but it is permitted under section 72 ; or	30
(d)	that there is a ground under any of sections 62 to 69 and 71 to refuse the registration or change to registration, and it is not permitted under section 70 or 72 (as the case requires).	
(4)	If the Registrar determines that a homonymous or partially homonymous EU FTA geographical indication may be registered in accordance with section 72 , the Registrar must also determine whether—	35
(a)	the EU FTA geographical indication may be registered with conditions and, if so, what those conditions may be; and	

	(b) the register in respect of an earlier registered New Zealand or foreign geographical indication may be altered by adding conditions and, if so, what those conditions may be.	
(5)	The Registrar must notify the Secretary of Foreign Affairs and Trade, in writing, of the Registrar's determinations under subsections (3) and (4) , including,—	5
	(a) for a refusal to register an EU FTA geographical indication, the ground or grounds for refusal; and	
	(b) if the Registrar decides that an EU FTA geographical indication may be registered under section 70 , the reasons for the Registrar's decision; and	10
	(c) if the Registrar determines that a homonymous or partially homonymous EU FTA geographical indication may be registered under section 72 , the conditions, if any, that may be imposed—	
	(i) on the registration of the EU FTA geographical indication and the reasons for those conditions; and	15
	(ii) on the registration of the earlier registered geographical indication and the reasons for those conditions.	
(6)	The Registrar must also give public notice of the information provided under subsection (5) , in the format and manner that the Registrar thinks appropriate.	20
	Compare: EU FTA art 18.33.2, 18.40.2(b), (c)	
59	Date of registration of EU FTA geographical indications	
	An EU FTA registered geographical indication registered under section 57 is deemed to be registered on and after the date on which the Registrar gives public notice of the proposed registration under section 58(2)(a) .	25
	Compare: EU FTA art 18.35	
	<i>Duration of registration and removal from register</i>	
60	Duration of registration of EU FTA geographical indications	
	An EU FTA registered geographical indication remains registered unless it is removed from the register under section 61 .	30
	Compare: EU FTA art 18.34.2, 18.39.4	
61	Removal of EU FTA geographical indication from register	
(1)	The Secretary of Foreign Affairs and Trade must, in writing, notify the Registrar that an EU FTA geographical indication has been removed from Section A of Annex 18-B of the EU FTA as soon as practicable after the removal.	35

- (2) The Registrar must then remove the EU FTA geographical indication from the register as soon as practicable after receiving the notification.

Compare: EU FTA art 18.34.3, 18.39.4

Restrictions on registration

- 62 No registration of EU FTA geographical indication if identical to common name for good** 5

The Registrar must not register an EU FTA geographical indication if it is ~~identical to the~~ a term customary in common language as the common name in New Zealand for the good to which the geographical indication relates.

Compare: EU FTA art 18.33.3(c)

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- 63 No registration of EU FTA geographical indication if name of plant variety or animal breed**

The Registrar must not register an EU FTA geographical indication if it is a term that is used in New Zealand as the name of a plant variety or an animal breed and as a result is likely to mislead consumers as to the true origin of the good.

Compare: EU FTA art 18.33.3(d)

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- 64 No registration of EU FTA geographical indication if likely to be offensive**

The Registrar must not register an EU FTA geographical indication if its use in relation to goods or its registration would, in the opinion of the Registrar, be likely to offend a significant section of the community, including Māori.

Compare: EU FTA art 18.33.3(f)

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- 65 No registration of EU FTA geographical indication if identical to trade mark for identical goods**

- (1) The Registrar must not register an EU FTA geographical indication if it is identical to a trade mark and the trade mark is registered in New Zealand in respect of identical goods. 25

- (2) The Registrar must not register an EU FTA geographical indication if—

- (a) it is identical to a trade mark; and
- (b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of identical goods; and 30
- (c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the public notice of the proposed registration of the geographical indication under **section 58(2)(a)**. 35

Part 3 cl 84		European Union Free Trade Agreement Legislation Amendment Bill	
(3)	The Registrar must not register an EU FTA geographical indication if it is identical to a trade mark and rights to the trade mark have been acquired through use in New Zealand in good faith in respect of identical goods. Compare: EU FTA art 18.33.3(a)		
66	No registration of EU FTA geographical indication if identical to trade mark for similar goods		5
(1)	The Registrar must not register an EU FTA geographical indication if—		
	(a) it is identical to a trade mark; and		
	(b) the trade mark is registered in New Zealand in respect of similar goods; and		10
	(c) its use is likely to deceive or confuse.		
(2)	The Registrar must not register an EU FTA geographical indication if—		
	(a) it is identical to a trade mark; and		
	(b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of similar goods; and		15
	(c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the public notice of the proposed registration of the geographical indication under section 58(2)(a) ; and		
	(d) its use is likely to deceive or confuse.		20
(3)	The Registrar must not register an EU FTA geographical indication if—		
	(a) it is identical to a trade mark; and		
	(b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of similar goods; and		
	(c) its use is likely to deceive or confuse.		25
	Compare: EU FTA art 18.33.3(a)		
67	No registration of EU FTA geographical indication if similar to trade mark for identical goods		
(1)	The Registrar must not register an EU FTA geographical indication if—		
	(a) it is similar to a trade mark; and		30
	(b) the trade mark is registered in New Zealand in respect of identical goods; and		
	(c) its use is likely to deceive or confuse.		
(2)	The Registrar must not register an EU FTA geographical indication if—		
	(a) it is similar to a trade mark; and		35
	(b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of identical goods; and		

	(c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the public notice of the proposed registration of the geographical indication under section 58(2)(a) ; and	
	(d) its use is likely to deceive or confuse.	5
(3)	The Registrar must not register an EU FTA geographical indication if—	
	(a) it is similar to a trade mark; and	
	(b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of identical goods; and	
	(c) its use is likely to deceive or confuse.	10
	Compare: EU FTA art 18.33.3(a)	
68	No registration of EU FTA geographical indication if similar to trade mark for similar goods or services	
(1)	The Registrar must not register an EU FTA geographical indication if—	
	(a) it is similar to a trade mark; and	15
	(b) the trade mark is registered in New Zealand in respect of similar goods; and	
	(c) its use is likely to deceive or confuse.	
(2)	The Registrar must not register an EU FTA geographical indication if—	
	(a) it is similar to a trade mark; and	20
	(b) the owner of the trade mark has in good faith applied for the registration in New Zealand of the trade mark in respect of similar goods; and	
	(c) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002), if the trade mark were to be registered, is earlier than the date of the public notice of the proposed registration of the geographical indication under section 58(2)(a) ; and	25
	(d) its use is likely to deceive or confuse.	
(3)	The Registrar must not register an EU FTA geographical indication if—	
	(a) it is similar to a trade mark; and	
	(b) rights to the trade mark have been acquired through use in New Zealand in good faith in respect of similar goods; and	30
	(c) its use is likely to deceive or confuse.	
	Compare: EU FTA art 18.33.3(a)	
69	No registration of EU FTA geographical indication if identical or similar to well-known trade mark that indicates connection	35
	The Registrar must not register an EU FTA geographical indication if—	

European Union Free Trade Agreement Legislation Amendment Bill	
Part 3 cl 84	
(a) it is identical or similar to a trade mark that is well known in New Zealand; and (b) the trade mark is registered in New Zealand in respect of goods that are neither identical nor similar to the good to which the EU FTA geographical indication relates; and (c) the use of the geographical indication in respect of a good is likely to indicate a connection to the owner of the trade mark; and (d) the interests of the trade mark owner are likely to be damaged by the use of the geographical indication; and (e) the trade mark's deemed date of registration (as defined in section 5 of the Trade Marks Act 2002) is earlier than the public notice of the proposed registration of the geographical indication under section 58(2)(a).	5 10
Compare: EU FTA art 18.33.3(b)	
70 When restrictions in sections 65 to 69 do not apply	15
(1) The restrictions in sections 65 to 69 do not apply, and the Registrar may register an EU FTA geographical indication that is identical or confusingly similar to a trade mark, if— (a) the owner of the trade mark has consented to its registration as a geographical indication; or (b) the Registrar considers that the geographical indication may co-exist with the trade mark. (2) In making a decision under subsection (1)(b), the Registrar must have regard to the following factors: (a) the geographical indication's history of use in good faith in New Zealand; (b) recognition of the geographical indication in New Zealand as a geographical indication; (c) the legitimate interests of the owner of the trade mark and of third parties; (d) any other relevant factors.	20 25 30
<i>Registration of homonymous EU FTA geographical indication</i>	
71 Registrar may register homonymous or partially homonymous EU FTA geographical indication	
(1) The Registrar must not register an EU FTA geographical indication if it is a homonymous or partially homonymous EU FTA geographical indication except in accordance with section 72.	35

(2) In this Act, **homonymous or partially homonymous EU FTA geographical indication** means—

(a) an EU FTA geographical indication for a wine that consists of or includes the same spelling, or sounds the same in whole or part, as a word or term that is part of— 5

(i) a New Zealand registered or foreign registered geographical indication for a wine having a different geographical origin; or

(ii) a New Zealand or foreign geographical indication for a wine having a different geographical origin for which an application for registration under section 36 has been made; or 10

(b) an EU FTA geographical indication for a spirit that consists of or includes the same spelling, or sounds the same in whole or part, as a word or term that is part of—

(i) a New Zealand registered or foreign registered geographical indication for a spirit having a different geographical origin; or 15

(ii) a New Zealand or foreign geographical indication for a spirit having a different geographical origin for which an application for registration under section 36 has been made.

Compare: EU FTA art 18.33.3(e)

72 Registrar may impose conditions when registering homonymous or partially homonymous EU FTA geographical indication 20

(1) The Registrar may register a homonymous or partially homonymous EU FTA geographical indication with conditions, or alter the register to include conditions for the use of the earlier registered geographical indication (in the case of a New Zealand registered or foreign registered geographical indication), or both. 25

(2) In deciding what conditions (if any) to impose under **subsection (1)**, the Registrar must take into account—

(a) the need for the equitable treatment of the producers of goods to which the geographical indications relate; and 30

(b) the need to ensure that consumers are not misled.

Compare: EU FTA art 18.39

Restriction on use

73 Restriction on use of EU FTA registered geographical indication

(1) A person must not, in trade, use an EU FTA registered geographical indication in relation to a good that falls within the product class for which the EU FTA registered geographical indication is registered, unless the good meets the product specification of the EU FTA registered geographical indication. 35

(2) **Subsection (1)** applies even if—

Part 3 cl 84	European Union Free Trade Agreement Legislation Amendment Bill	
	(a) the true place of origin of the good is indicated; or (b) the EU FTA registered geographical indication is used in translation or transliteration (whether or not the transliteration is specified on the register); or (c) the use of the EU FTA registered geographical indication is accompanied by any of the words “kind”, “type”, “style”, “imitation”, or any similar word or expression.	5
(3)	Despite subsection (2)(b) , the restriction in subsection (1) does not apply to a translated term if evidence is provided that shows there is no link between the geographical indication and the translated term.	10
(4)	In this section,— product class means a product class from Annex 18-A of the EU FTA product specification means the requirements approved by the EU for using a geographical indication for marketing a particular product, including (without limitation)— (a) the name protected as a geographical indication in respect of the product; and (b) a description of the product; and (c) the specific geographical area to which the geographical indication relates; and (d) a description of the method of making the product to which the geographical indication relates; and (e) the authority or body responsible for verifying compliance with the product specification. Compare: EU FTA art 18.32.2(b), (c), 18.34.1(a)	15
	<i>When restriction on use does not apply</i>	25
74	EU FTA geographical indication no longer protected in country of origin The restriction on the use of an EU FTA registered geographical indication in section 73 ceases to apply from the date on which the geographical indication ceases to be protected in its country of origin. Compare: EU FTA art 18.34.2, 18.34.3	30
75	Person’s name or common English word (1) The restriction on the use of an EU FTA registered geographical indication in section 73 does not affect the right of any person to use, in the course of trade, that person’s name or the name of the person’s predecessor in business, except if the name is used in such a manner as to mislead the public. (2) The restriction on the use of an EU FTA registered geographical indication in section 73 does not apply to any word, or a translation or transliteration	35

of any word, contained in—~~a registered~~ an EU FTA registered geographical indication if that word, translation, or transliteration is a common English word such as “mountain”, “alps”, or “river”.

Compare: EU FTA art 18.34.4, 18.34.7

76 Customary or common name

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(1) The restriction on the use of an EU FTA registered geographical indication in **section 73** does not apply with respect to a good if the geographical indication is identical or similar to—

- (a) the name of a plant variety or an animal breed that has become the customary name of the plant variety or animal breed and as a result is likely to mislead the consumer as to the true origin of the good; or
- (b) a term that has become customary in common language as the common name for the good in New Zealand.

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(2) When determining whether a name or term has become a customary or common name for the purposes of **subsection (1)**, only use of the name or term on and after the applicable date is relevant.

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(3) In this section, **applicable date** means—

- (a) the deemed date of registration under **section 59**, for an EU FTA geographical indication registered under **section 57**; or
- (b) the deemed date of registration under **clause 2(2) of Schedule 1**, for an EU FTA geographical indication registered under that clause that is not subject to a transitional period under Section A of Annex 18-B of the EU FTA; or
- (c) the day after the end of the transitional period set out in Section A of Annex 18-B of the EU FTA, for a geographical indication registered under **clause 2 of Schedule 1** that is subject to a transitional period under Section A of Annex 18-B of the EU FTA.

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Compare: EU FTA art 18.34.5

77 Customary or common name for individual word or term

The restriction on the use of an EU FTA registered geographical indication in **section 73** does not apply to any word or term that is part of an EU FTA registered geographical indication for a good if the word or term is identical or similar to—

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- (a) the customary name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the good; or
- (b) a term customary in common language as the common name for the good in New Zealand.

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Example

Irish whiskey from Ireland is subject to the restrictions applying to EU FTA geographical indications, but the restrictions do not apply to the word “whiskey” when used in isolation or when combined with words other than “Irish”.

Compare: EU FTA art 18.34.6

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78 Goods to be marketed and sold until stocks exhausted

(1) Goods that, on the applicable date, are described and presented in a manner that does not comply with the restriction on the use of an EU FTA registered geographical indication in **section 73** may be marketed and sold until stocks are exhausted.

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(2) In **subsection (1)**, **applicable date** means—

(a) the day before the deemed date of registration under **section 59**, for an EU FTA geographical indication registered under **section 57**; or

(b) the day before the deemed date of registration under **clause 2(2) of Schedule 1**, for an EU FTA geographical indication registered under that clause that is not subject to a transitional period under Section A of Annex 18-B of the EU FTA; or

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(c) the last day of the transitional period set out in Section A of Annex 18-B of the EU FTA, for a geographical indication registered under **clause 2 of Schedule 1** that is subject to a transitional period under Section A of Annex 18-B of the EU FTA.

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Compare: EU FTA art 18.39.5

Part 5 Enforcement

79 Interpretation

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In this Part, unless the context otherwise requires,—

GI officer means an officer appointed under **section 80**

infringing good is a good that bears, or a good the packaging of which bears, a registered geographical indication contrary to a restriction on use

infringing material means material that bears a registered geographical indication and is—

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(a) used for labelling or packaging goods, as a business paper, or for advertising goods, in a way that is contrary to a restriction on use; or

(b) intended to be used in a way that is contrary to a restriction on use

infringing object means an object that is—

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(a) specifically designed or adapted for making copies of a geographical indication; and

- (b) in the possession, custody, or control of a person who knows or has reason to believe that the object has been or is to be used to produce infringing goods or infringing material

issuing officer has the same meaning as in section 3(1) of the Search and Surveillance Act 2012

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relevant good means a good of a kind to which a registered geographical indication may relate

restriction on use means a restriction on the use of a registered geographical indication under any of sections 21 to 24 or **section 73**

written or in writing means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax, email, or other electronic means.

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Subpart 1—GI officers

80 Appointment of GI officers

- (1) The chief executive may appoint persons as GI officers for the purposes of this Act.
- (2) Persons appointed under **subsection (1)** must be employed under the Public Service Act 2020.
- (3) A GI officer's appointment document may authorise the officer to perform all the functions and duties, and exercise all the powers, that this Act confers on GI officers.
- (4) Alternatively, the GI officer's appointment document may specify the particular functions and duties that the officer may perform and the particular powers that the officer may exercise.
- (5) The chief executive may impose written conditions on the appointment of a GI officer.
- (6) GI officers must not delegate any of their functions, duties, or powers.

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Compare: 2014 No 32 s 276

81 Suspension or cancellation of appointment of GI officer

- (1) The chief executive may decide to suspend a person's appointment as a GI officer.
- (2) The chief executive must give the person a written notice that—
 - (a) states that the person's appointment is suspended; and
 - (b) states one of the following:
 - (i) what the period of the suspension is:
 - (ii) that the suspension is for an indefinite period; and
 - (c) states the reason for the suspension; and

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(d) states that the person may apply for a review of the decision under section 82.	
(3) The chief executive may decide to cancel a person's appointment as a GI officer.	
(4) The chief executive must give the person a written notice that—	5
(a) states that the person's appointment is cancelled; and	
(b) states when the cancellation takes effect; and	
(c) states the reason for the cancellation; and	
(d) states that the person has the right to seek a review of the decision under section 82.	10
Compare: 2014 No 32 s 277	
82 Right of review of decision to suspend or cancel appointment of GI officer	
(1) A person dissatisfied with a decision described in section 81(1) or (3) may apply to have it reviewed.	
(2) An application for a review must—	15
(a) be written; and	
(b) state the grounds on which it is made; and	
(c) be provided to the chief executive within 20 working days after the applicant is notified of the decision.	
(3) Schedule 2 applies to the review of (and further appeals in relation to) a decision to suspend or cancel the appointment of a GI officer.	20
Compare: 2014 No 32 ss 355(1), 356(1), (2), 357	
83 Chief executive may give general directions on functions, duties, or powers	
(1) The chief executive may give a direction to any GI officer individually or to GI officers as a class.	25
(2) The direction must be about the performance of the officer's functions or duties, or the exercise of the officer's powers, under this Act and may, without limitation, include instructions or requirements relating to the performance of specific tasks.	
(3) An officer to whom a direction is given under this section must ensure that it is complied with.	30
(4) However, an action taken by an officer to whom a direction is given under this section is not invalid by reason only of a failure of that officer to comply with the direction.	
Compare: 2014 No 32 s 278	35

84 Functions, duties, and powers of GI officer may be performed or exercised by chief executive

The chief executive may perform or exercise the functions, duties, and powers of a GI officer under this Act.

Subpart 2—Enforcement powers

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85 GI officer may require information about relevant goods

(1) This section applies if a GI officer reasonably suspects that a person has any information that the GI officer considers is necessary for the purpose of determining whether there has been a breach of a restriction on use.

(2) Information referred to in **subsection (1)** includes, without limitation, information about—

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- (a) where, how, and when a relevant good is manufactured; or
- (b) the source of ingredients used in a relevant good; or
- (c) the marketing and distribution channels used for a relevant good.

(3) The GI officer may—

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- (a) require the person to produce the information to the GI officer or the chief executive; and
- (b) copy the information.

(4) A copy made under **subsection (3)**, and certified by the GI officer or the chief executive as a true and correct copy, is presumed to be a true and correct copy, until the contrary is proved.

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(5) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to requirements made, and the copying of information, under this section.

Compare: 2014 No 32 s 292

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86 Person assisting GI officer

A person whom a GI officer requests to assist under this subpart must act under the supervision of, and as instructed by, the officer.

Compare: 2014 No 32 s 297(2)(a)

87 Other powers of GI officer

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(1) A GI officer may ask about a document relating to the applicable requirements of this Act.

(2) A GI officer may require a person engaged in trade in a relevant good to state—

- (a) the person's full name and full address; and
- (b) the person's email address; and

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- ### *Power of entry and inspection*

(1) For the purpose of determining whether the applicable requirements of this Act have been, or are being, complied with, a GI officer may at any reasonable time enter and inspect a place described in **subsection (2) (place A)** without a search warrant.

- 44

- (d) that any thing seized during the inspection may be used in evidence in proceedings.
- (4) **Subsection (3)** does not apply if—
- (a) place A is in a public place and the entry is made when place A is open to the public; or 5
- (b) place A is a place of business and the entry is made—
- (i) when it is open for carrying on business; and
- (ii) only to those parts of it that are open to the public.
- (5) For the purpose of this section,—
- place—** 10
- (a) includes (without limitation)—
- (i) a structure or tent, whether fully or partly erected; and
- (ii) a stand or stall; and
- (iii) a vehicle; and
- (iv) a caravan, trailer, or other conveyance; but 15
- (b) does not include a private dwelling house or marae
- public place** means a place that is open to or being used by the public, with or without payment by the public of a charge.
- (6) For the purposes of this section, any person who appears to be under 14 years of age must not be treated as the occupier. 20
- Compare: 2002 No 49 s 134D
- 89 What GI officer and person assisting may do when exercising power of entry and inspection**
- (1) The power of entry and inspection conferred by **section 88** authorises a GI officer to do any of the following: 25
- (a) examine the place and all things, including any document:
- (b) seize any thing that the officer has reasonable grounds to believe is evidence of, or of significant relevance to the investigation of, a breach of a restriction on use:
- (c) bring and use in or on the place equipment for the purposes of carrying out the inspection: 30
- (d) take photographs or sound or video recordings of the place, and of any thing found in that place, if the GI officer has reasonable grounds to believe that the photographs or sound or video recordings may be relevant in any proceedings (including future proceedings) related to the entry and inspection: 35
- (e) copy the whole or part of anything the GI officer has reasonable grounds to believe is infringing material:

- (f) take any person to the place to assist the officer with the inspection.
 - (2) The power under **subsection (1)(b)** does not extend to removing any item merely to remove an infringing good, or a good that a GI officer suspects is an infringing good, from sale.
 - (3) A person who assists a GI officer exercising the power of entry and inspection may, under the direction of the GI officer,—
 - (a) exercise any of the powers described in **subsection (1)(a), (c), (d), and (e)**; and
 - (b) seize any thing that the GI officer determines may lawfully be seized.
 - (4) If a GI officer enters and inspects a place in circumstances to which **section 88(3)** applies and the occupier revokes their consent,—
 - (a) the GI officer and any person assisting the GI officer must immediately stop the inspection and leave the place; but
 - (b) before leaving the place, the GI officer may seize any thing already identified by the officer before the revocation of consent as a thing that the officer has reasonable grounds to believe is evidence of, or of significant relevance to the investigation of, an offence under this Act.
 - (5) Sections 131 to 135 and subparts 5 and 6 of Part 4 of the Search and Surveillance Act 2012 apply to anything done under this section.
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- Compare: 2002 No 49 s 134E

Search warrants

90 Application for search warrant

- (1) The following provisions of the Search and Surveillance Act 2012 apply in relation to applications for a search warrant:
 - (a) section 98 (application for search warrant):
 - (b) section 99 (application must be verified):
 - (c) section 100 (mode of application for search warrant).
 - (2) A GI officer may apply to an issuing officer for a search warrant.
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- Compare: 2014 No 32 s 322

91 Issue of search warrant

- (1) This section applies if an issuing officer reasonably believes that there is, at a place, any thing—
 - (a) in relation to which a breach of a restriction on use is or has been occurring; or
 - (b) that has been, is being, or is intended to be used by a person in connection with a breach of a restriction on use; or
 - (c) that is evidence of a breach of a restriction on use.
- 35

(2)	The issuing officer may issue a search warrant for a place.	
(3)	Sections 102 to 105 and 107 and subpart 5 of Part 4 of the Search and Surveillance Act 2012 apply. Compare: 2014 No 32 ss 323, 325	
92	Powers under search warrant	5
(1)	This section applies to a GI officer who is authorised by a search warrant to exercise powers at a place.	
(2)	Any exercise of the powers at a marae or a building associated with a marae must take account of the kawa of the marae so far as practicable in the circumstances.	10
(3)	Section 110 of the Search and Surveillance Act 2012 applies. Compare: 2014 No 32 s 326	
93	Carrying out search powers Sections 106, 111 to 114, 115(1)(b) and (3), 116, 117, 120 to 130, 131(1) to (6), and 132 to 135 of the Search and Surveillance Act 2012 apply. Compare: 2014 No 32 s 327	15
94	Disposal of property seized under search warrant Subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply. Compare: 2014 No 32 s 328	20
95	Retention of documents Section 101 of the Search and Surveillance Act 2012 applies to a copy (whether in electronic form or otherwise) of every written application for a search warrant or (in the case of an oral application) the record of the application made by the issuing officer. Compare: 2014 No 32 s 329	25
<i>Notices of direction</i>		
96	GI officer may give notice of direction	
(1)	A GI officer may give a notice to a person under this section (a notice of direction) if satisfied on reasonable grounds that the person has breached a restriction on use.	30
(2)	The notice of direction must—	
(a)	identify the relevant registered geographical indication and the good that is, or goods that are, alleged to breach a restriction on use; and	

(b) require the person, within a specified time that is reasonable in the circumstances, to cease further use of the registered geographical indication; and (c) require the person to withdraw from trade the good that is, or goods that are, alleged to breach a restriction on use; and (d) state the right of the person to— (i) request an extension of time under subsection (4); and (ii) apply for a review of the notice of direction under section 99; and (e) specify the consequences of not complying with the notice.	5
(3) The notice may,— (a) if the GI officer thinks it appropriate, require the person, in a manner and within a period specified in the notice and at the person’s own expense, to arrange for the withdrawal from trade of any good that is, or goods that are, alleged to breach a restriction on use that the person has supplied to any other person for retail sale: (b) specify any other reasonable requirements or conditions that the person must comply with.	10
(4) A GI officer may extend the specified time stated in the notice under subsection (2)(b) if requested by the person to whom the notice was issued within 15 working days after the date <u>on which</u> the notice of direction was served.	15
(5) No requirement under subsection (2)(c) or (3)(a) applies in respect of goods that, on the date that <u>on which</u> the notice is served, have already been sold to a consumer.	20
97 Service of notice of direction	25
(1) The GI officer must ensure that the notice of direction is served on the person to whom it is given.	
(2) The notice of direction may be served by— (a) delivering it to the person; or (b) leaving it at the person’s usual or last known place of residence or business; or (c) posting it by letter addressed to the person at that place of residence or business or at that address; or (d) emailing it to the person at an email address that is used by the person.	30
(3) If the notice is required to be served on a body corporate, the notice may be served— (a) on a director or an officer of the body corporate in a manner specified in subsection (2); or	35

- (b) by delivering it to the body corporate's head office, principal place of business or work, or registered office.
- (4) If the notice is required to be served on an association or body of persons,—
- (a) the notice may be served in a manner specified in **subsection (2)** on the secretary, executive officer, manager, or other officer holding a similar position in the association or body; and 5
- (b) service on the association or body must, unless otherwise directed by the GI officer or stated in the notice, be treated as service on all persons who are members of the association or body, or who are represented on the association or body by those members. 10
- (5) If a notice is sent to a person by a service that records delivery, then,—
- (a) unless the contrary is proved, the notice must be treated as having been delivered to the person when it would have been delivered in the ordinary course of business for that service; and
- (b) in proving the delivery, it is sufficient to prove that the notice was properly addressed and provided to the service. 15
- (6) A notice given to a person by electronic means is treated as having been received by the person not later than 5 working days after the date on which it was sent, unless the person proves that—
- (a) the person did not receive it; and 20
- (b) the non-receipt was not the person's fault.
- (7) **Subsection (6)** does not apply if the electronic system for processing the electronic communication has sent to the sender an automatic message to the effect that the notice has not been received by the recipient. 25
- Compare: 1986 No 121 s 47I; 2014 No 32 s 378
- 98 GI officer may amend or cancel notice of direction**
- (1) A notice of direction may be amended or cancelled at any time by any GI officer.
- (2) The power in **subsection (1)** is subject to any decision under **section 99(8)**.
- 99 Review of notice of direction** 30
- (1) A person to whom a notice of direction is given may apply to the chief executive for a review of the notice.
- (2) An application for a review must—
- (a) be written; and
- (b) state the grounds on which it is made; and 35
- (c) contain or be accompanied by relevant information to support the grounds on which it is made; and

	(d) be provided to the chief executive within 20 working days after the notice of direction is served, or any longer period allowed by the chief executive.	
	(3) The chief executive must review the notice within 20 working days after the date on which the chief executive receives the application.	5
	(4) The chief executive may give the applicant a notice in writing requiring the applicant to supply information additional to that contained in the application within a time specified by the chief executive.	
	(5) The time limit specified in subsection (3) does not include—	
	(a) the time the applicant takes to supply information under subsection (4) ; or	10
	(b) the time allowed for the applicant to supply the information, if the applicant does not supply it.	
	(6) The chief executive must—	
	(a) give the applicant a notice in writing of the time within which submissions on the review may be made; and	15
	(b) consider any submissions by the applicant.	
	(7) The review is by way of a rehearing.	
	(8) The chief executive may confirm, amend, cancel, or replace the notice of direction.	20
	(9) The chief executive must, as soon as practicable, give the applicant a notice in writing of—	
	(a) the decision on the review; and	
	(b) the reasons for the decision on the review.	
	Compare: 2014 No 32 s 358	25
100	Appeal against decision on review of notice of direction	
	Clauses 3 to 6 7 of Schedule 2 apply to a decision under section 99 .	
	<i>Information sharing</i>	
101	Application of section 102	
	(1) Section 102 applies to—	30
	(a) the information described in subsection (2) ; and	
	(b) the agencies described in subsection (3) .	
	(2) The information is—	
	(a) personal information as defined in the Privacy Act 2020; and	

	(b) information about a business engaging in trade in a relevant good that includes, to avoid doubt, confidential information or commercially sensitive information, or both.	
(3)	The agencies are those that perform functions under, or administer, the whole or any part of this Act or the following Acts:	5
	(a) Fair Trading Act 1986:	
	(b) New Zealand Horticulture Export Authority Act 1987:	
	(c) Weights and Measures Act 1987:	
	(d) Biosecurity Act 1993:	
	(e) Agricultural Compounds and Veterinary Medicines Act 1997:	10
	(f) Animal Products Act 1999:	
	(g) Animal Welfare Act 1999:	
	(h) Dairy Industry Restructuring Act 2001:	
	(i) Trade Marks Act 2002:	
	(j) Wine Act 2003:	15
	(k) National Animal Identification and Tracing Act 2012:	
	(l) Sale and Supply of Alcohol Act 2012:	
	(m) Food Act 2014:	
	(n) Customs and Excise Act 2018:	
	(o) Organic Products and Production Act 2023:	20
	(p) any other Act enacted in substitution for any of the Acts specified in paragraphs (a) to (o) .	
	Compare: 2014 No 32 s 368	
102	Disclosure of information	
(1)	An agency to which this section applies may disclose information to which this section applies if the agency reasonably believes that subsections (2) and (3) are satisfied.	25
(2)	The disclosure must be only of information supplied or obtained—	
	(a) under or for the purposes of this Act that is necessary or desirable to promote the enforcement of other legislation referred to in section 101(3) ; or	30
	(b) under or for the purposes of legislation (other than this Act) referred to in section 101(3) that is necessary or desirable to promote the enforcement of this Act.	
(3)	Despite subsections (1) and (2) , the only information supplied or obtained under the Trade Marks Act 2002 that may be disclosed under this section is	35

information relevant to the investigation of a breach or potential breach of sections 120 to 124 of that Act.

- (4) The agency that discloses the information must make and keep a record of—
- (a) the information that was disclosed; and
 - (b) the agency to which it was disclosed; and
 - (c) any conditions subject to which it was disclosed.

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Compare: 2014 No 32 s 369

103 Disclosure of information outside New Zealand

- (1) The chief executive may disclose information to an overseas person under this section.

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- (2) The information that may be disclosed is—

- (a) personal information, as defined in the Privacy Act 2020, that is supplied or obtained under or for the purposes of this Act; and
- (b) information about a business engaging in trade in a relevant good that includes, to avoid doubt, confidential information or commercially sensitive information, or both.

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- (3) The disclosure may be made only if **section 104** is satisfied.

Compare: 2014 No 32 s 370

104 Disclosure of information outside New Zealand must be under agreement

- (1) The chief executive may disclose information under **section 103** under an agreement that is made between the chief executive and the overseas person.

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- (2) Before making an agreement, the chief executive—

- (a) must consult the Privacy Commissioner; and
- (b) must be satisfied that the agreement is necessary—
 - (i) to help investigate, prevent, identify, or respond to non-compliance with this Act or the relevant law in the overseas country; or
 - (ii) to respond to a difficulty arising in the course of trade between New Zealand and the overseas country involving or related to goods with registered geographical indications.

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- (3) The agreement—

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- (a) must be in writing; and
- (b) must state the criteria for the disclosure of information under it to the overseas person; and
- (c) must state the use that the overseas person may make of the information disclosed; and
- (d) must state whether the overseas person may disclose the information disclosed to any other person; and

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- (e) if the overseas person may disclose any of the information disclosed to any other person, must state—
- (i) the persons to whom the overseas person may disclose it; and
 - (ii) the extent to which the overseas person may disclose it; and
 - (iii) the conditions subject to which the overseas person may disclose it; and

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- (f) may state—
- (i) the form in which the information may be disclosed; and
 - (ii) the method by which the information may be disclosed.

Compare: 2014 No 32 s 371

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105 Privacy Commissioner may request review of agreement

- (1) The Privacy Commissioner may require the chief executive to review an agreement and the arrangements for disclosure under it.
- (2) The Privacy Commissioner may make the requirement at intervals of at least 12 months.
- (3) The chief executive must—
- (a) conduct the review; and
 - (b) as soon as practicable after doing so, report the result to the Privacy Commissioner.

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Compare: 2014 No 32 s 372

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Subpart 3—Civil remedies and offences

Civil proceedings for breach of restriction on use

106 No proceedings for use of unregistered geographical indication

No person may bring proceedings under this Act to prevent, or to recover damages for, the use of an unregistered geographical indication.

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Compare: 2002 No 49 s 99

107 Who may bring proceedings for breach of restriction on use of registered geographical indication

The following persons may apply to the court for relief for a breach of a restriction on use in relation to a particular registered geographical indication:

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- (a) a person with an interest in upholding the restrictions on use of the registered geographical indication:
- (b) the chief executive.

Compare: 2002 No 49 s 101

108 Time for bringing proceedings

- (1) An application under **section 107** may be made only if the breach occurred on or after the deemed date of registration of the geographical indication.
- (2) In **subsection (1), deemed date of registration** means,—
 - (a) for a New Zealand registered or foreign registered geographical indication, the date referred to in section 9(1); and
 - (b) for an EU FTA registered geographical indication, the date referred to in **section 59 or clause 2(2) of Schedule 1**.

Compare: 2002 No 49 s 100

109 Unjustified proceedings

- (1) If a person brings proceedings alleging a breach of a restriction on use in relation to a particular registered geographical indication, the court may, on the application of any person against whom the proceedings are brought,—
 - (a) make a declaration that the bringing of proceedings is unjustified;
 - (b) make an order for the payment of damages for any loss suffered by the person against whom the proceedings are brought.
- (2) The court must not grant relief under this section if the person who brings the proceedings proves that the acts in respect of which proceedings are brought constituted, or would have constituted if they had been done, a breach of a restriction on use in relation to the particular registered geographical indication.
- (3) Nothing in this section makes a barrister or solicitor of the High Court of New Zealand liable to any proceedings under this section in respect of any act done in that person's professional capacity on behalf of a client.

Compare: 2002 No 49 s 105

Types of relief in civil proceedings

110 Types of relief available for breach of restriction on use

- (1) If an application is made to the court for relief, the relief that the court may grant includes—
 - (a) an injunction on any terms that the court thinks fit;
 - (b) either damages or an account of profits.
- (2) If an application is made to the court for relief, the court may grant any additional damages that the justice of the case requires, having regard to all the circumstances and, in particular, to—
 - (a) the flagrancy of the breach; and
 - (b) any benefit accruing to the defendant by reason of the breach.

- (3) If in an application brought by the chief executive the court orders an account of profits, the order must be made in respect of the Crown.

Compare: 2002 No 49 s 106

111 Order for erasure, etc, of offending geographical indication

- (1) If a person has breached a restriction on use, the court may make an order that requires the person— 5
- (a) to erase, remove, or obliterate the geographical indication from any infringing goods, infringing material, or infringing object in the person's possession, custody, or control; or
 - (b) if it is not reasonably practicable to erase, remove, or obliterate the geographical indication, to destroy the infringing goods, infringing material, or infringing object. 10
- (2) If an order under **subsection (1)** is not complied with, or it appears to the court likely that the order will not be complied with, the court may order that the infringing goods, infringing material, or infringing object be delivered to any person whom the court may direct— 15
- (a) to erase, remove, or obliterate the offending geographical indication from the infringing goods, infringing material, or infringing object; or
 - (b) if it is not reasonably practicable to erase, remove, or obliterate the offending geographical indication, to destroy the infringing goods, infringing material, or infringing object. 20

Compare: 2002 No 49 s 108

Orders for delivery up in civil proceedings

- # **112 Order for delivery up of infringing goods, infringing material, or infringing object** 25
- (1) The court may order any infringing goods, infringing material, or infringing object in the possession of any person or before the court to be delivered up to the plaintiff or any other person that the court thinks fit.
- (2) No order may be made under this section unless—
- (a) the court makes an order under **section 113**; or 30
 - (b) it appears to the court that there are grounds for making an order under that section.
- (3) A person to whom any infringing goods, infringing material, or infringing object is delivered up under an order made under this section must, if an order under **section 113** is not made, retain the goods, material, or object pending— 35
- (a) the making of an order under that section; or
 - (b) the decision not to make an order under that section.

(4)	Nothing in this section affects any other power of the court. Compare: 2002 No 49 s 109	
113	Order for disposal of infringing goods, infringing material, or infringing object An application may be made to the court for an order that the infringing goods, infringing material, or infringing object delivered up under an order made under section 112 must be— (a) forfeited to the plaintiff or any other person that the court thinks fit; or (b) destroyed or otherwise dealt with as the court thinks fit. Compare: 2002 No 49 s 110	5 10
114	Matters to be considered by court In considering what order, if any, should be made under section 113 , the court must consider— (a) whether other remedies available for the breach of a restriction on use would be adequate to compensate, or protect the interests of, the plaintiff; and (b) the need to ensure that— (i) no infringing goods, infringing material, or infringing objects are disposed of in a manner that would adversely affect the interests of the plaintiff or any person with an interest in the goods, material, or objects; and (ii) no infringing goods, infringing material, or infringing objects are disposed of in a manner that would breach the restrictions on use of the registered geographical indication. Compare: 2002 No 49 s 111	15 20 25
115	Directions for service The court must issue directions for the service of notice on every person who has an interest in the infringing goods, infringing material, or infringing object to which an application under section 113 relates. Compare: 2002 No 49 s 112	30
116	Rights of persons with interest in infringing goods, infringing material, or infringing object Every person who has an interest in the infringing goods, infringing material, or infringing object to which an application under section 113 relates is entitled to— (a) appear in proceedings for an order under that section, whether or not the person is served with notice; and	35

	(b) appeal against any order made, whether or not the person appears in the proceedings.	
	Compare: 2002 No 49 s 113	
117	When order under section 113 takes effect	
	An order made under section 113 takes effect—	5
	(a) at the end of the period within which notice of an appeal may be given; or	
	(b) on the final determination or abandonment of the proceedings on appeal.	
	Compare: 2002 No 49 s 114	
118	Miscellaneous court order if more than 1 person interested in infringing goods, infringing material, or infringing object	10
	If more than 1 person is interested in the infringing goods, infringing material, or infringing object to which an application under section 113 relates, the court may—	
	(a) direct that the infringing goods, infringing material, or infringing object be sold, or otherwise dealt with, and the proceeds divided; and	15
	(b) make any other order that it thinks fit.	
	Compare: 2002 No 49 s 115	
119	Position where no order made under section 113	
	If the court decides that no order should be made under section 113 , the person in whose possession, custody, or control the infringing goods, infringing material, or infringing objects were before being delivered up is entitled to their return.	20
	Compare: 2002 No 49 s 116	
	<i>Infringement offence</i>	25
120	Infringement offence for failure to comply with notice of direction	
(1)	This section applies if—	
	(a) a notice of direction given under section 96 has been served on a person; and	
	(b) the chief executive has not been required under section 99 to review the notice.	30
(2)	The person must comply with the notice of direction within the time specified in the notice, or any further time allowed under section 96 .	
(3)	A person who contravenes subsection (2) commits an infringement offence and is liable to—	35
	(a) the infringement fee prescribed in the regulations; or	

- (b) a fine imposed by a court not exceeding the amount prescribed in the regulations.

Compare: 2015 No 70 s 78

Procedure for infringement offences

121 Infringement offences	5
(1) A person who is alleged to have committed an infringement offence may— (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or (b) be issued with an infringement notice under section 122. (2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957. (3) <i>See</i> section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.	10
122 When infringement notice may be issued	15
A GI officer may issue an infringement notice to a person if the officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence.	
123 Revocation of infringement notice before payment made	20
(1) A GI officer may revoke an infringement notice before— (a) the infringement fee is paid; or (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957. (2) The GI officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice. (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in section 121(1)(a) or (b) against the person to whom the notice was issued in respect of the same matter.	25
124 What infringement notice must contain	30
An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:	
(a) details of the alleged infringement offence that fairly inform a person of the <u>time, place, and nature of the alleged offence, including, to any applicable extent, the time and place of the alleged offence</u>: (b) the amount of the infringement fee: (c) the address of the Ministry:	35

	(d) how the infringement fee may be paid:	
	(e) the time within which the infringement fee must be paid:	
	(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:	
	(g) a statement that the person served with the notice has a right to request a hearing:	5
	(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:	
	(i) any other matters prescribed in the regulations.	
125	How infringement notice may be served	10
(1)	An infringement notice may be served on the person who the GI officer believes is committing or has committed the infringement offence by—	
	(a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or	
	(b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or	15
	(c) leaving it for the person at the person's place of business or work with another person; or	
	(d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or	20
	(e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.	
(2)	Unless the contrary is shown,—	
	(a) an infringement notice (or a copy of it) sent by prepaid post to a person under subsection (1) is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and	25
	(b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the Ministry.	30
126	Payment of infringement fees	
	All infringement fees paid for infringement offences must be paid into a Crown Bank Account designated by the chief executive.	
127	Reminder notices	35
	A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.	

Other offences

128 Hindering or obstructing GI officer

- (1) A person who intentionally hinders or obstructs a GI officer performing a function or duty, or exercising a power, under this Act commits an offence.
- (2) Without limiting what constitutes intentionally hindering or obstructing, intentionally hindering or obstructing includes failing to allow a GI officer to perform a function or duty or to exercise a power under this Act. 5
- (3) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000: 10
 - (b) in any other case, to a fine not exceeding \$30,000.

Compare: 2014 No 32 s 235

129 Offence involving documents or information

- (1) A person commits an offence if the person—
 - (a) provides a document or information to a GI officer or a person performing a function or duty, or exercising a power, under this Act, in purported compliance with a requirement made under this Act; and 15
 - (b) knows the document or information is false or misleading.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000: 20
 - (b) in any other case, to a fine not exceeding \$30,000.

Compare: 2014 No 32 s 226

Subpart 4—Border protection measures

Interpretation 25

130 Interpretation

In this subpart, unless the context otherwise requires,—

accepted notice means a notice given under **section 133** that has been accepted by the chief executive under **section 136**

chief executive has the same meaning as in section 5(1) of the Customs and Excise Act 2018 30

claimant means a person who gives a notice under **section 133**

control of Customs is to be read in accordance with the definition of subject to the control of Customs in section 6 of the Customs and Excise Act 2018

Customs means the New Zealand Customs Service 35

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

exporter has the same meaning as in section 5(1) of the Customs and Excise Act 2018

importer has the same meaning as in section 5(1) of the Customs and Excise Act 2018. 5

Compare: 2002 No 49 s 135

Detention of suspected infringing goods

131 Detention of suspected infringing goods

- (1) Any goods in the control of Customs may be detained in the custody of the chief executive or a Customs officer if a Customs officer has reasonable cause to suspect that the goods are infringing goods. 10
- (2) The chief executive must, as soon as is reasonably practicable after the goods are detained, take reasonable steps to notify the detention to—
 - (a) the registrant or, if there is no registrant, a person that appears to the chief executive to be a person with an interest in upholding the restrictions on use of the relevant registered geographical indication (to enable that person to consider whether to give a notice under **section 133**); and 15
 - (b) the importer or exporter from whom the goods have been detained, if that person is identified but was not present when the detention took place. 20
- (3) The detention of any goods under **subsection (1)** is not rendered illegal by a failure to serve notice under **subsection (2)(a) or (b)**. 25

Compare: 2002 No 49 s 135A

132 Release of goods

- (1) The goods are no longer detained under **section 131(1)** if—
 - (a) no notice under **section 133** is given in respect of the goods within 3 working days after the date on which notice was given under **section 131(2)(a)**; or 30
 - (b) a notice under **section 133** is given in respect of the goods within 3 working days after the date on which notice was given under **section 131(2)(a)** and—
 - (i) the notice given under **section 133** is subsequently accepted under **section 136** and the goods are subsequently detained under **section 147**; or 35
 - (ii) the notice given under **section 133** is subsequently declined under **section 136**; or

	(c) the chief executive considers that it is not reasonably practicable for notice to be given under section 131(2)(a) ; or	
	(d) the chief executive considers that there is no longer a reason to detain the goods.	
(2)	The chief executive must release any goods no longer detained under section 131(1) to the person entitled to them.	5
(3)	However, the chief executive may release goods under subsection (2) only if the goods are not detained under section 147 and if—	
	(a) every legal requirement as to the importation or exportation of the goods is satisfied; and	10
	(b) every requirement made under section 135 that requires the deposit of a security is satisfied; and	
	(c) the release of the goods is not contrary to law.	
	Compare: 2002 No 49 s 135B	
	<i>Notice of infringing goods</i>	15
133	Notice may be given to chief executive	
	A person may give a notice in writing to the chief executive that—	
	(a) claims that they have an interest in upholding the restrictions on use of a geographical indication that is registered in respect of the goods specified in the notice; and	20
	(b) requests the chief executive to detain any infringing goods that are in, or at any time come into, the control of Customs.	
	Compare: 2002 No 49 s 137	
134	Contents of notice	
(1)	A notice under section 133 must—	25
	(a) contain particulars in support of the request; and	
	(b) specify the period for which the notice is to be in force; and	
	(c) be in the form approved by the chief executive (if any); and	
	(d) include the full name, address, and telephone number of the claimant, their electronic address for service, and the relevant geographical indication and its registration number.	30
(2)	The period referred to in subsection (1)(b) must be—	
	(a) not longer than 5 years from the date of the notice; or	
	(b) if the registration of the geographical indication to which the notice relates will expire within the period of 5 years from the date of the notice, not longer than the period for which the current registration will last.	35

- (3) The claimant must provide evidence to the chief executive in support of the claim that the goods specified in the notice are infringing goods.
- (4) The chief executive may direct that the evidence must be provided when the notice is given or at any later time.
- (5) The claimant must give the chief executive written notice of any change in the particulars contained in the notice or in any evidence or other information given to the chief executive in support of the request made in the notice.

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Compare: 2002 No 49 s 138; SR 2003/187 rr 157–158

135 Security and indemnity

- (1) A claimant must, if required by the chief executive, give security or an indemnity, or both security and an indemnity, for the amount, and on the terms and conditions, that the chief executive may decide.
- (2) The chief executive may direct that the security or indemnity, or both, must be given when the notice is given or at any later time.
- (3) A person to whom goods are to be, or have been, released under **section 148** must, if required by the chief executive, give security or an indemnity, or both security and an indemnity, for the amount, and on the terms and conditions, that the chief executive may decide.

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Compare: SR 2003/187 r 159

136 Chief executive must accept or decline notice

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The chief executive must, in relation to any notice given under **section 133**,—

- (a) either—
 - (i) accept the notice if the claimant and the notice given by the claimant comply with the requirements of this subpart; or
 - (ii) decline the notice if the claimant or the notice given by the claimant does not comply with the requirements of this subpart; and
- (b) within a reasonable period of receiving the notice, advise the claimant whether the notice has been accepted or declined.

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Compare: 2002 No 49 s 139

137 Chief executive may suspend accepted notice

- (1) The chief executive may suspend an accepted notice if the chief executive is satisfied that—
 - (a) the information held in respect of the accepted notice is not correct or is no longer current; or
 - (b) there has been a failure to comply with a requirement concerning the giving of security or an indemnity, or both; or

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European Union Free Trade Agreement Legislation	
Amendment Bill	
Part 3 cl 84	
(c) there has been a failure to comply with an obligation under an indemnity given for an amount in respect of the accepted notice. (2) Before suspending an accepted notice, the chief executive must— (a) give written advice to the claimant of the chief executive’s intention to suspend the accepted notice; and (b) include in or with the advice a statement of the chief executive’s reasons; and (c) give the claimant not less than 20 working days to respond; and (d) consider any response made by the claimant to the chief executive within the time allowed. Compare: 2002 No 49 s 139A	5 10
138 Notice of suspension If the chief executive decides to suspend an accepted notice, the chief executive must give written notice of the suspension to the claimant. Compare: 2002 No 49 s 139B	15
139 Chief executive may reinstate accepted notice The chief executive may reinstate an accepted notice suspended under section 137 if the chief executive is satisfied that the grounds for the suspension no longer apply. Compare: 2002 No 49 s 139C	20
140 Duration of accepted notice (1) An accepted notice remains in force for the period specified in the notice unless— (a) it is revoked by the claimant by notice in writing; or (b) the court orders, in proceedings under section 151, that the notice be discharged; or (c) the geographical indication to which the notice relates has been removed from the register. (2) However, an accepted notice is not in force during the period of any suspension under section 137. Compare: 2002 No 49 s 140	25 30
<i>Investigation where notice of infringing goods</i>	
141 Determination to conduct investigation The chief executive may conduct an investigation in order to establish whether the goods appear to be infringing goods to which the notice relates if— (a) an accepted notice is in force; and	35

- (b) the chief executive considers that any goods that are in the control of Customs may be goods to which the notice relates.

Compare: 2002 No 49 s 143

142 Claimant to provide information for investigation

For the purpose of an investigation under **section 141**, the chief executive may require the claimant, or any other person appearing to the chief executive to have an interest in the goods, to provide, within 10 working days, any information required by the chief executive.

Compare: 2002 No 49 s 144

143 Limitations on requirement to supply information

- (1) The chief executive must not require any person to provide any information under **section 142** unless the chief executive considers that the information is reasonably necessary for the purpose of an investigation under **section 141**.
- (2) Every person who is required to provide information under **section 142** has the same privileges in relation to the giving of the information as witnesses have in any court.
- (3) If a person refuses or fails to provide information required by the chief executive under **section 142**, the chief executive may, subject to **subsection (2)**, take that refusal or failure into account in forming any opinion under **section 141** or in making any determination under **section 144**.

Compare: 2002 No 49 s 145

Chief executive's determination

144 Chief executive's determination

Whether or not the chief executive conducts an investigation, the chief executive must, within a reasonable period of forming an opinion under **section 141**, make a determination of whether the goods appear to be infringing goods to which the notice relates.

Compare: 2002 No 49 s 146

145 Notice of determination

If the chief executive makes a determination under **section 144**, the chief executive must, within any period that may be reasonably necessary to effect service, cause written notice of the determination to be served on—

- (a) the claimant; and
- (b) any other person appearing to the chief executive to have an interest in the goods.

Compare: 2002 No 49 s 147

European Union Free Trade Agreement Legislation	
Amendment Bill	
Part 3 cl 84	
146	Consequences of failure to serve notice
	The detention of any goods under section 147 is not rendered illegal by a failure to serve notice under section 145 .
	Compare: 2002 No 49 s 148
	<i>Detention of infringing goods</i>
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147	Detention of infringing goods
(1)	If the chief executive considers that any goods that are in the control of Customs may be infringing goods to which an accepted notice relates, those goods must be detained in the custody of the chief executive or any Customs officer until—
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(a)	the chief executive is served with an order made in proceedings under section 150 that the notice be discharged; or
(b)	the chief executive is served with an order made in proceedings under section 150 that the goods be released; or
(c)	any proceedings under section 151 in respect of those goods (including any appeal) are determined by a decision that the goods are not infringing goods; or
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(d)	any proceedings under section 151 in respect of those goods, including any appeal, are abandoned; or
(e)	10 working days have elapsed since notice was served under section 145 and the chief executive has not been served with notice of proceedings brought under section 151 by a person other than the importer or exporter.
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(2)	Subject to section 148 , on the occurrence of any of the matters specified in subsection (1)(a) to (e) , the goods must be released to the person entitled to them.
	25
(3)	The chief executive may, in any particular case, extend the period referred to in subsection (1)(e) to 20 working days if the chief executive considers it appropriate to do so in all the circumstances.
	30
	Compare: 2002 No 49 s 149
148	When detained goods may be released
	The chief executive or any Customs officer must release any goods under section 147 if—
(a)	every legal requirement as to importation or exportation of the goods is satisfied; and
	35
(b)	every requirement made under section 135 that requires the deposit of a security is satisfied; and

- (c) the release of the goods is not contrary to law.

Compare: 2002 No 49 s 150

149 Forfeiture of goods by consent

- (1) If goods have been detained in the custody of the chief executive or a Customs officer, the importer or exporter of the goods may, by notice in writing to the chief executive, consent to the goods being forfeited to the Crown. 5
- (2) On the giving of a notice under **subsection (1)**, the goods are forfeited to the Crown.
- (3) Goods forfeited to the Crown under this section must be sold, destroyed, or otherwise disposed of in the manner that the chief executive directs. 10
- (4) However, the chief executive must not direct a step to be taken under **subsection (3)** without first having regard to the need to ensure that the step to be taken does not adversely affect the claimant.

Compare: 2002 No 49 s 151; SR 2003/187 r 160

Proceedings relating to infringing goods 15

150 Application for various orders relating to infringing goods

The court may, on an application by any person, make an order that—

- (a) an accepted notice be discharged; or
- (b) goods detained under **section 147** be released.

Compare: 2002 No 49 s 152

151 Proceedings to determine whether goods are infringing goods

- (1) The court may, on an application by any person, decide whether goods to which a determination under **section 144** relates are infringing goods.
- (2) Notice of proceedings under **subsection (1)** must be served on the chief executive. 25
- (3) In proceedings under **subsection (1)**,—
- (a) the court must issue directions as to the service of notice on every person who has an interest in goods to which the proceedings relate; and
- (b) a person who is served a notice is entitled to—
- (i) appear in those proceedings, whether or not the person was served with notice under **section 145**; and 30
- (ii) appeal against any order made in those proceedings, whether or not the person appeared in the proceedings.
- (4) An order made in proceedings under **subsection (1)** takes effect—
- (a) at the end of the period within which notice of an appeal may be given; 35
- or

- (b) on the final determination or abandonment of the proceedings on appeal (if notice of the appeal is given before the end of that period).

Compare: 2002 No 49 s 153

152 Powers of court

- (1) If, in proceedings under **section 151**, the court decides that any goods that are the subject of a determination made under **section 144** are infringing goods, the court must make an order that the goods be—
 - (a) destroyed; or
 - (b) otherwise dealt with as the court thinks fit.
- (2) In considering what order should be made under **subsection (1)**, the court must consider—
 - (a) whether other remedies available in proceedings for infringement of a registered geographical indication would be adequate to compensate, and to protect the interests of, the claimant; and
 - (b) the need to ensure that no infringing goods are disposed of in a manner that would adversely affect the claimant.
- (3) If more than 1 person is interested in the goods, the court may—
 - (a) direct that the goods be sold or otherwise dealt with, and the proceeds divided; and
 - (b) make any other order it thinks fit.
- (4) If, in proceedings under **section 151**, the court decides that the goods are not infringing goods to which a determination under **section 144** relates, the court may make an order that a person who is a party to the proceedings pay compensation in such amount as the court thinks fit to the importer, exporter, or owner of the goods.

Compare: 2002 No 49 s 154

Inspection of goods

153 Inspection of goods

- (1) The chief executive or a Customs officer must permit a person who claims to have an interest in goods or proceedings to which **section 141 or 151** applies to inspect the goods if the chief executive or Customs officer has, in their possession, goods to which any of the following apply:
 - (a) a notice given under **section 133**;
 - (b) an investigation under **section 141**;
 - (c) proceedings under **section 151**.
- (2) A person who claims to have an interest in goods may—
 - (a) inspect the goods during normal office hours; or

	(b) with the approval of the chief executive or Customs officer, remove the goods or a sample of the goods to a place, for a specified period, and on any conditions specified by the chief executive or Customs officer for the purpose of inspecting them.	
(3)	Any person who wishes to inspect any goods under this section must give the chief executive or Customs officer not less than 72 hours notice of their intention to inspect those goods, or any lesser notice period specified by the chief executive or Customs officer for that purpose.	5
	Compare: 2002 No 49 s 155	
	<i>Service under this subpart</i>	10
154	Service of notices under this subpart	
(1)	The chief executive, or a Customs officer, may give notice or written advice under this subpart by sending it by electronic means to the person's contact electronic address.	
(2)	For the purposes of this section, a person's contact electronic address is any of the following:	15
(a)	an email or other electronic address that the person has provided to Customs:	
(b)	the person's last known email or other electronic address:	
(c)	an email or other electronic address of the person that is otherwise available, if there are reasonable grounds to suppose that the person will receive the communication.	20
(3)	For the purposes of this subpart, a notice or written advice is treated as having been given on the first working day following the day on which it was sent by electronic means.	25
(4)	In proving the giving of notice or written advice by electronic means, it is sufficient to prove that the notice or written advice was properly transmitted to the contact electronic address in question.	
(5)	A notice or written advice is not to be treated as having been given to a person if that person proves that, through no fault on their part, the notice or written advice was not received within the time specified or at all.	30
	Compare: 2018 No 4 ss 423–426	
	Subpart 5—Protection from civil and criminal liability	
155	Protection from civil and criminal liability	
(1)	A specified person is protected from civil and criminal liability, however it may arise, for any act that the person does or omits to do—	35
(a)	under a requirement of this Act; or	

(b)	in the performance or purported performance of the person's functions or duties, or the exercise or purported exercise of the person's powers, under a requirement of this Act—	
(i)	in good faith; and	
(ii)	with reasonable cause; or	5
(c)	in the performance or purported performance of the person's functions or duties, or the exercise or purported exercise of the person's powers, under this Act—	
(i)	in good faith; and	
(ii)	with reasonable cause.	10
(2)	<i>See also</i> section 6(1) of the Crown Proceedings Act 1950 (which relates to the liability of the Crown in tort).	
(3)	In this section,—	
	specified person means—	
(a)	a relevant chief executive:	15
(b)	an employee or agent of a relevant Ministry:	
(c)	a GI officer:	
(d)	a person lawfully assisting a GI officer:	
(e)	a Customs officer (within the meaning of subpart 4):	
(f)	a person lawfully assisting a Customs officer under that subpart.	20
	Compare: 2014 No 32 s 351	

Part 6
General provisions

Regulations

156	Regulations	25
(1)	The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:	
(a)	prescribing the form of, and the requirements relating to, applications under this Act:	
(b)	prescribing the procedure for dealing with an application for registration of a geographical indication:	30
(c)	prescribing the procedure relating to the removal of a registered geographical indication from the register:	
(d)	prescribing the procedure relating to the alteration of a geographical indication on the register:	35

- (e) prescribing the procedure relating to the alteration of the name and address of an applicant or a registrant (including the substitution of information relating to an applicant or a registrant):
- (f) prescribing the procedure for any hearing under this Act:
- (g) prescribing time and extensions of time in respect of any matters under this Act: 5
- (h) specifying conditions relating to 1 or more New Zealand registered or foreign registered geographical indications:
- (i) prescribing penalties for infringement offences in this Act, which,—
 - (i) in the case of infringement fees, must not be more than \$1,000; 10
 - and
 - (ii) in the case of maximum fines, must not be more than 3 times the amount of the infringement fee for the offence:
- (j) prescribing the matters in respect of which fees are payable under this Act, the amounts of the fees or the methods by which they are to be assessed, and the person to whom the fees are to be paid: 15
- (k) giving effect, for the purposes of this Act, to the terms of any international agreement:
- (l) providing for anything this Act says may or must be provided for by regulations: 20
- (m) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) The Governor-General may prescribe any renewal fees under **subsection (1)(j)** that—
 - (a) recover some or all of the costs incurred by the Registrar in performing the Registrar's functions under this Act: 25
 - (b) recover those costs at a level that provides an incentive to allow registrations of geographical indications to expire if persons interested in the registration no longer find registration beneficial.
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 30

Registrar

157 Registrar

- (1) The chief executive of the Ministry must, under the Public Service Act 2020, appoint a Registrar of Geographical Indications. 35
- (2) The Registrar must be an officer or employee of the Ministry, and the Registrar's appointment may be held either separately or in conjunction with any other office in the Ministry.

158 Registrar's seal

- (1) The Registrar must have and use a seal of office bearing the impression of the New Zealand Coat of Arms and having inscribed in the margin the words Registrar of Geographical Indications, New Zealand.
- (2) Every document bearing the imprint of the Registrar's seal of office and pur-
porting to be signed or issued by the Registrar, or by a person employed to
assist the Registrar in the exercise of the Registrar's functions under this Act,—
 - (a) must be received in evidence; and
 - (b) in the absence of proof to the contrary, must be treated as having been
signed or issued by or under the direction of the Registrar.

159 Power of Registrar to delegate

- (1) The Registrar may delegate to any person any of the Registrar's functions, duties, and powers, except this power of delegation.
- (2) The delegation—
 - (a) must be in writing; and
 - (b) may be made subject to any restrictions and conditions that the Registrar thinks fit; and
 - (c) is revocable, at any time, in writing; and
 - (d) does not prevent the performance or exercise of a function, duty, or power by the Registrar.
- (3) A person to whom any functions, duties, or powers are delegated may perform those functions and duties and exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (4) A person who appears to act under a delegation must, in the absence of evidence to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (5) Any reference to the Registrar in this Act (or in regulations made under this Act) includes a reference to a person to whom the Registrar has delegated their power in respect of a thing delegated to that person.

160 Hearing before exercise of Registrar's discretion

- (1) The Registrar must not, without giving an interested person an opportunity of being heard, adversely exercise any discretionary or other power under this Act or regulations made under this Act in relation to—
 - (a) a registered geographical indication; or
 - (b) a New Zealand or foreign geographical indication that is the subject of an application for registration under section 8; or

- (c) an EU FTA geographical indication that is the subject of a request for registration referred to in **section 58(1)**.

- (2) Regulations may prescribe the procedure for the opportunity to be heard.

Register of geographical indications

161 Register of geographical indications 5

- (1) The Registrar must establish and maintain a register of registered geographical indications.

- (2) The register must contain 4 parts, as follows:

- (a) Part 1, for enduring New Zealand geographical indications:
- (b) Part 2, for— 10
 - (i) New Zealand registered geographical indications:
 - (ii) foreign registered geographical indications:

- (c) Part 3, for geographical indications that have been registered in accordance with regulations made under **section 156(1)(h)(k)**:

- (d) Part 4, for EU FTA registered geographical indications. 15

- (3) The register must specify, in respect of each registered geographical indication in Parts 1 to 3 of the register,—

- (a) whether it relates to a wine or a spirit or to both; and
- (b) its boundaries, unless it is a foreign registered geographical indication (including a foreign registered geographical indication in Part 3 of the register); and 20
- (c) any conditions that relate to it; and
- (d) the name and address of the registrant; and
- (e) the date of registration (except in the case of an enduring New Zealand geographical indication); and 25
- (f) if the geographical indication's status is registered-past expiry date (as defined in section 47D), a statement to that effect.

- (4) The register must specify, in respect of each registered geographical indication in Part 4 of the register,—

- (a) the product class to which the geographical indication relates (as specified in Annex 18-A of the EU FTA); and 30
- (b) for any geographical indication registered under—
 - (i) **section 57**, any conditions (as specified in connection with the geographical indication in Annex 18-B of the EU FTA) imposed in accordance with **section 72**; or 35
 - (ii) **clause 2 of Schedule 1**, any conditions, limitations, restrictions, exceptions, or transitional provisions that relate to the geo-

	graphical indication, as specified in Annex 18-B of the EU FTA; and	
	(c) any transliteration specified in connection with the geographical indication in Annex 18-B of the EU FTA; and	
	(d) the date of registration.	5
(5)	Annex 18-A or 18-B of the EU FTA, as the case requires, prevails to the extent of any inconsistency with the register in respect of an EU FTA registered geographical indication.	
(6)	The register may be kept in any manner that the Registrar thinks fit provided it permits the contents to be readily accessed or reproduced in usable form.	10
(7)	The register is prima facie evidence of any matters required or authorised by or under this Act to be entered in it.	
162	Public access to register	
(1)	Any person may access or search the register, or make copies of information in the register, except to the extent that the Registrar suspends its operation in accordance with subsection (2) .	15
(2)	The register must be operated at all times unless the Registrar suspends its operation (in whole or in part)—	
	(a) for maintenance purposes; or	
	(b) in response to technical difficulties; or	20
	(c) to ensure the security or integrity of the register.	
(3)	The Registrar must provide a copy, or a certified copy, of any particulars on the register to any person who applies for it and pays the prescribed fee (if any).	
(4)	A certified copy of particulars on the register signed by the Registrar and sealed with the Registrar's seal is conclusive evidence for all purposes that the particulars on the certified copy have been duly registered.	25
163	Registrar may correct obvious errors or omissions	
	If satisfied that there is an obvious error in, or omission from, the register, the Registrar may correct it.	
	<i>Appeals</i>	30
164	Appeals in relation to Registrar's decisions	
(1)	A person who is aggrieved by a decision of the Registrar under this Act may appeal to the court.	
(2)	In this section and sections 165, 167, and 168 , decision includes a determination by the Registrar under section 58(3) or (4) .	35

165 Notice of appeal

Notice of an appeal under **section 164** must be filed in the court and served on the Registrar within 20 working days after the date on which the decision appealed against was given.

166 Hearing of appeal

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- (1) On an appeal, the court must hear the Registrar and the parties.
- (2) An appeal must be heard only on the materials stated by the Registrar unless a party, either in the manner prescribed or by leave of the court, brings forward further material for the consideration of the court.
- (3) In the case of an appeal against the acceptance of an application for registration of a geographical indication, or the registration of a geographical indication,—
 - (a) no further grounds are permitted by the person opposing the application or registration, other than those stated by the person opposing, except with the permission of the court; and
 - (b) if further grounds of objection are permitted, the applicant for registration may, on giving notice as prescribed in regulations, withdraw the application without paying the costs of the person opposing.

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167 Determination of appeal

In determining an appeal, the court may—

- (a) confirm, modify, or reverse the Registrar's decision or any part of it:
- (b) exercise any of the powers that could have been exercised by the Registrar in relation to the matter to which the appeal relates.

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168 Provisions pending determination of appeal

The decision to which an appeal under this Act relates remains in full force pending the determination of the appeal unless the court orders otherwise.

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Advice and consultation

169 Registrar may obtain advice and consult

If the Registrar thinks it necessary, the Registrar may obtain advice on, and may consult about, any matter relating to—

- (a) an application for the registration of a geographical indication, including opposition to an accepted application; or
- (b) the registrability of a geographical indication; or
- (c) alterations to a registered geographical indication; or
- (d) the removal of a registered geographical indication from the register; or
- (e) a request by the European Union for registration of an EU FTA geographical indication referred to in **section 58(1)**.

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170 Function of advisory committee appointed under Trade Marks Act 2002

It is a function of an advisory committee appointed under section 177(1) of the Trade Marks Act 2002 to advise the Registrar whether the use of a geographical indication in relation to wine or spirits or other goods, or the registration of the geographical indication, is, or is likely to be, offensive to Māori.

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Miscellaneous provisions

171 Recognition of agents

(1) Anything that must be done by or to a person under this Act in relation to a geographical indication may be done by or to the person's expressly authorised agent.

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(2) **Subsection (1)** applies only if the agent is not a person whom the Registrar refused to recognise as an agent in accordance with **section 172**.

172 Registrar may refuse to recognise person as agent

(1) The Registrar may refuse to recognise a person as an agent if that person—

(a) is suspended from practice before the Intellectual Property Office of New Zealand; or

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(b) has their registration as a patent attorney suspended or cancelled; or

(c) has been removed from or struck off the roll of barristers and solicitors under the provisions of the Lawyers and Conveyancers Act 2006, and has not been restored to the roll; or

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(d) is suspended from practice as a barrister or solicitor; or

(e) has been convicted in New Zealand of an offence specified in Part 10 (except section 298A) of the Crimes Act 1961 or has been convicted of an equivalent offence in another country.

(2) If the Registrar refuses to recognise a person as an agent, the Registrar must, as soon as practicable, notify that person and the person's principal in writing.

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173 Act does not affect unregistered geographical indication

Nothing in this Act affects a geographical indication that is not a registered geographical indication.

174 Act does not affect Wine Act 2003

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Nothing in this Act affects the operation of the Wine Act 2003.

175 Act does not affect joint food standards

Nothing in this Act affects the operation of any joint food standard adopted under the Food Act 2014.

- 176 Act does not limit Fair Trading Act 1986**
Nothing in this Act limits the operation of the Fair Trading Act 1986.
- 85 Schedule replaced**
Replace the Schedule with **Schedules 1 and 2** set out in **Schedule 1**.
- 86 Consequential amendments to other Acts** 5
Amend the Acts specified in **Schedule 2** as set out in that schedule.

Part 4

Amendments to Overseas Investment Act 2005 and Overseas Investment Regulations 2005

- Subpart 1—Amendments to Overseas Investment Act 2005 10
- 87 Principal Act**
This subpart amends the Overseas Investment Act 2005.
- 88 Section 61A amended (Regulations regarding alternative monetary thresholds for overseas investments in significant business assets)**
- (1) Repeal section 61A(1)(a). 15
- (2) After section 61A(1)(g), insert:
(ga) the Pacific Agreement on Closer Economic Relations Plus, done at Nuku'alofa on 14 June 2017:
- (3) After section 61A(1)(i), insert:
(j) the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023. 20

Subpart 2—Amendments to Overseas Investment Regulations 2005

- 89 Principal regulations**
This subpart amends the Overseas Investment Regulations 2005.
- 90 Regulation 84 amended (Introduction to Part 5)** 25
- (1) Revoke regulation 84(3)(a).
- (2) After regulation 84(3)(g), insert:
(h) the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023 (the **EU FTA**).
- 91 Regulation 85 amended (Definitions)** 30
- (1) In regulation 85(1), definition of **type A enterprise**, after paragraph (d), insert:

European Union Free Trade Agreement Legislation Amendment Bill		
Part 4 cl 92		
	(e) the European Union	
(2)	In regulation 85(1), definition of type A individual , after paragraph (e), insert:	
	(f) a person who is a national of one of the Member States of the European Union as defined by subparagraph (i) of the definition of natural person of a Party in Article 1.2(r) of the EU FTA	5
(3)	In regulation 85(1), definition of type A territory , after paragraph (d), insert:	
	(e) the territories to which the EU FTA applies under Article 1.4(1)(a) of the EU FTA	
(4)	In regulation 85(1A), delete “ P4 Agreement , and”.	
(5)	In regulation 85(1A), after “ UK FTA ”, insert “, and EU FTA ”.	10
92	Regulation 88 amended (Introduction to subpart 2 and interaction between regulations in Part 5)	
(1)	Revoke regulation 88(2)(a).	
(2)	After regulation 88(2)(g), insert:	
	(h) Article 10.4(2) and (3) of the EU FTA.	15
93	Schedule 1AA amended	
	In Schedule 1AA,—	
(a)	insert the Part set out in Schedule 3 of this Act as the last Part; and	
(b)	make all necessary consequential amendments.	
	Part 5	20
	Amendments to Tariff Act 1988, Tariff, and Customs and Excise Regulations 1996	
	Subpart 1—Amendments to Tariff Act 1988	
	<i>Amendments to Tariff Act 1988</i>	
94	Principal Act	25
	Sections 95 to 99 amend the Tariff Act 1988.	
95	Section 2 amended (Interpretation)	
	In section 2(1), insert in its appropriate alphabetical order:	
	preferential group of countries has the meaning given to it by section 7(3)	
96	Section 7 amended (Application of Tariff)	30
(1)	In section 7(1), after “a preferential country”, insert “or preferential group of countries”.	

- (2) In section 7(1)(b) and (c), after “preferential country”, insert “or group of countries”.
 - (3) In section 7(2), after “country”, insert “or group of countries” in each place.
 - (4) In section 7(3), definition of **preferential abbreviation**,—
 - (a) after “preferential country”, insert “or preferential group of countries”; 5
 - and
 - (b) after “that country”, insert “or group of countries”.
 - (5) In section 7(3), insert in its appropriate alphabetical order:
preferential group of countries means a group of countries listed or described
in the first column of note 3 of the Tariff 10
 - 97 Section 9 amended (Alterations and modifications of Tariff)**
In section 9(3), after “specified country”, insert “or group of countries,”.
 - 98 Section 15A amended (Interpretation)**
 - (1) In section 15A, insert in its appropriate alphabetical order:
EU FTA means the Free Trade Agreement between New Zealand and the 15
European Union, done at Brussels on 9 July 2023
 - (2) In section 15A, definition of **free trade agreement**, after paragraph (i), insert:
(j) the EU FTA
 - 99 Section 15H amended (Provisional transitional safeguard measure)**
In section 15H(1)(b)(ii), replace “or the UK FTA,” with “the UK FTA, or the 20
EU FTA,”.
- Consequential amendment to Trade (Safeguard Measures) Act 2014*
- 100 Principal Act**
Section 101 amends the Trade (Safeguard Measures) Act 2014.
 - 101 Section 4 amended (Overview of safeguards) 25**
In section 4(3)(c), after “country”, insert “or group of countries”.
- Subpart 2—Amendments to Tariff
- 102 Principal legislation**
This subpart, in accordance with section 9F(1) of the Tariff Act 1988, amends 30
the Tariff.
 - 103 Note 2 amended**
In the notes to the Tariff, note 2, penultimate paragraph,—
 - (a) after “manufacture of countries”, insert “or groups of countries”; and

(b) after “CPT,”, insert “EU,”.

104 Note 3 amended

- (1) In the notes to the Tariff, note 3, after “**Preferential countries**”, insert “**or groups of countries**”.
- (2) In the notes to the Tariff, note 3, after “**Preferential country**”, insert “**or group of countries**”.
- (3) In the notes to the Tariff, note 3, after the item relating to country that is a specified CPTPP party, insert:

EU FTA group (the European Union (including the territory of Ceuta and Melilla), Andorra, Monaco, San Marino, and the Sovereign Base Areas of Akrotiri and Dhekelia) EU

105 Footnotes amended

In the Tariff, in each footnote, after “CPT,”, insert “EU,”. 10

106 Part II Concessions amended

In the Tariff, Part II Concessions, table, in the item relating to Concession Reference Number 66, after subclause (5), insert:

- (6) Goods re-entered after repair or alteration—
- (a) in one of the following places:
- (i) the territories to which the EU FTA applies under Article 1.4(1)(a) and (2) of the EU FTA:
- (ii) the territory of the Republic of San Marino; and
- (b) in accordance with Article 2.9 of the EU FTA. Free
- (7) Goods that fall within sections V to XXI of the Tariff that are re-entered after repair or alteration—
- (a) in the territory of the Principality of Andorra; and
- (b) in accordance with Article 2.9 of the EU FTA. Free

DEFINITIONS

In this concession, **EU FTA** means the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023.

Subpart 3—Amendment to Customs and Excise Regulations 1996

107 Principal regulations 15

This subpart amends the Customs and Excise Regulations 1996.

108 New regulations 51ZZM and 51ZZN and cross-heading inserted

After regulation 51ZZL, insert:

Provisions relating to EU FTA group

51ZZM Interpretation

In regulation 51ZZN, unless the context otherwise requires,—

EU FTA means the Free Trade Agreement between New Zealand and the European Union, done at Brussels on 9 July 2023

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EU FTA group means the European Union (including the territory of Ceuta and Melilla), the Principality of Andorra, the Principality of Monaco, the Republic of San Marino, and the Sovereign Base Areas of Akrotiri and Dhekelia.

51ZZN Originating goods

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(1) This regulation prescribes when particular goods are treated, for the purposes of the Act and the Tariff Act 1988, as being the produce or manufacture of the EU FTA group.

(2) Goods are the produce or manufacture of the EU FTA group if the goods meet all the applicable EU FTA requirements to qualify, be accepted, or be treated the same way for customs purposes as goods originating in the European Union.

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(3) The **EU FTA requirements** are the requirements set out in the following provisions of the EU FTA:

(a) Chapter 3 (Rules of origin and origin procedures):

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(b) Annex 3-A (Introductory notes to product-specific rules of origin):

(c) ~~Appendix 3-B-1 (Origin quotas and alternatives to the product-specific rules of origin in Annex 3-B (Product-specific rules of origin)):~~

(d) Annex 3-C (Text of the statement on origin):

(e) Annex 3-D (Supplier's declaration referred to in Article 3.3(4) (Cumulation of origin)):

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(f) Annex 3-E (Joint declaration concerning the Principality of Andorra):

(g) Annex 3-F (Joint declaration concerning the Republic of San Marino).

Schedule 1
Schedule of Act previously called Geographical Indications (Wine and Spirits) Registration Act 2006 replaced

s 85

Schedule 1
Transitional, savings, and related provisions

5

s 4A

Part 1
Provisions relating to European Union Free Trade Agreement Legislation Amendment Act 2024

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1 References to previous Title

Every reference in any enactment and in any document to the Geographical Indications (Wine and Spirits) Registration Act 2006 must, unless the context otherwise provides, be read as a reference to the **Geographical Indications Registration Act 2006**.

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2 Registration of geographical indications listed in EU FTA

- (1) The Registrar must, as soon as practicable, register all EU FTA geographical indications listed in Section A of Annex 18-B of the EU FTA on the commencement of this clause.
- (2) An EU FTA registered geographical indication registered under this clause is deemed to be registered on and after the date of entry into force of the EU FTA.
- (3) All conditions, limitations, restrictions, exceptions, transitional provisions, and other requirements specified in Section A of Annex 18-B of the EU FTA, as it reads on the commencement of this clause,—
- (a) apply to an EU FTA geographical indication registered under this clause; and
- (b) must be specified in Part 4 of the register established under **section 161** in respect of the EU FTA geographical indication.
- (4) **Sections 57 to 59 and 62 to 72** do not apply to the registration of an EU FTA geographical indication under this clause.

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Example

Feta is listed in section A of Annex 18-B of the EU FTA on the commencement of this clause. Accordingly, the Registrar must register it as an EU FTA registered geographical indication, which provides protection for the geographical indication.

	Section A of Annex 18-B includes a transitional provision for feta, which allows certain existing users of that geographical indication to continue using it for a maximum period of 9 years after the date of entry into force of the EU FTA.	
	Compare: EU FTA art 18.32.3	
3	Registration of foreign registered geographical indication as EU FTA geographical indication	5
	A foreign registered geographical indication that is listed in Section A of Annex 18-B of the EU FTA on the commencement of clause 2 must be registered as an EU FTA registered geographical indication under that clause.	
4	Transitional regulations	10
(1)	Regulations may provide for transitional or savings matters concerning the coming into force of the amendment Act.	
(2)	The regulations may be in addition to, or in place of, the provisions in this Part of this schedule.	
(3)	The regulations may provide that, during a specified transitional period,—	15
	(a) specified provisions of this Act do not apply or apply with modifications:	
	(b) specified provisions of this Act that are repealed or amended by the amendment Act continue to apply as if they were not repealed or amended (with or without modifications).	20
(4)	The Minister must not recommend that regulations be made for the purpose of this clause unless the Minister is satisfied on reasonable grounds that they are necessary to—	
	(a) give effect to New Zealand’s obligations under the EU FTA, as at the commencement of this clause, with respect to geographical indications;	25
	or	
	(b) facilitate an orderly transition from the geographical indications regime that existed before commencement of the amendment Act to the regime existing after commencement of the amendment Act.	
(5)	This clause is repealed, and any regulations made in reliance on it are revoked, on the close of the 5-year date.	30
(6)	In this clause,—	
	5-year date means the date that is 5 years after the date on which this clause comes into force	
	amendment Act means the European Union Free Trade Agreement Legislation Amendment Act 2024 .	35

Schedule 2

Provisions relating to reviews and appeals

ss 82, 100

Review of decision to suspend or cancel appointment as GI officer

- | | | |
|----------|--|----|
| 1 | Procedure for review | 5 |
| (1) | The reviewer must be,— | |
| | (a) for a decision made by the chief executive, a person appointed for the purpose by the Minister under subclause (2) ; | |
| | (b) for a decision made by a person acting under the delegated authority of the chief executive,— | 10 |
| | (i) a person who was not involved in making the decision and who is designated by the chief executive; or | |
| | (ii) the chief executive. | |
| (2) | The Minister may appoint the person referred to in subclause (1)(a) on any terms and conditions that the Minister considers appropriate (including conditions as to the payment of fees). | 15 |
| (3) | The reviewer must review the decision within— | |
| | (a) 40 working days after the appointment referred to in subclause (1)(a) , if that paragraph applies; or | |
| | (b) 40 working days after the designation referred to in subclause (1)(b)(i) , if that subparagraph applies; or | 20 |
| | (c) 40 working days after the date on which the chief executive receives the application, if subclause (1)(b)(ii) applies; or | |
| | (d) a shorter period specified in writing by the reviewer to the applicant. | |
| (4) | The reviewer may give the applicant a notice in writing requiring the applicant to supply information additional to that contained in the application within a time specified by the reviewer. | 25 |
| (5) | The time limits specified in subclause (3) do not include— | |
| | (a) the time the applicant takes to supply information under subclause (4) ; or | 30 |
| | (b) the time allowed for the applicant to supply the information, if the applicant does not supply it. | |
| (6) | The reviewer must— | |
| | (a) give the applicant and the chief executive (or the person who made the decision under delegated authority) a notice in writing of the time within which submissions on the review may be made; and | 35 |

	(b) consider any submissions by the applicant and the chief executive (or the chief executive's delegate).	
(7)	The review is by way of a rehearing.	
(8)	The reviewer may confirm, modify, or reverse all or some of the decision.	
(9)	The reviewer must, as soon as practicable, give the applicant a notice in writing of—	5
	(a) the decision on the review; and	
	(b) the reasons for the decision on the review.	
	Compare: 2014 No 32 s 357	
2	Effect of review	10
(1)	The original decision described in section 81(1) or (3) is valid until the reviewer modifies or reverses it.	
(2)	If the reviewer modifies or reverses some of the original decision, the parts that are not modified or reversed remain valid.	
	Compare: 2014 No 32 s 359	15
	<i>Appeals against decision under clause 1 or section 99</i>	
3	Meaning of review decision	
	In clause 4 , review decision means—	
	(a) a decision under clause 1 (which relates to a review of a decision to suspend or cancel appointment as a GI officer):	20
	(b) a decision under section 99 (which relates to a review of a notice of direction).	
4	Appeal to District Court against review decision	
(1)	A person may appeal to the District Court against a review decision.	
(2)	An appeal under subclause (1) must be brought no later than 28 days after the date on which the appellant was notified under this Act of the review decision.	25
(3)	In considering an appeal,—	
	(a) the District Court may hear all evidence tendered and representations made by, or on behalf of, any party to the appeal that the court considers relevant to the appeal, whether or not that evidence would be otherwise admissible in the court; and	30
	(b) the court may—	
	(i) confirm, reverse, or modify the decision appealed against, and make the orders and give the directions that may be necessary to give effect to the court's decision; or	35

(ii) refer the matter back to the the chief executive with a direction to reconsider the whole or any part of the matter. Compare: 2014 No 32 s 362 5 Procedure for appeal (1) An appeal under clause 4 must, subject to that clause, be made and determined in accordance with the District Court Act 2016 and the District Court Rules 2014. (2) The decision of the District Court on an appeal under clause 4 is final unless clause 6 or 7 applies. Compare: 2014 No 32 s 363 6 Appeal to High Court on question of law (1) A party to an appeal under clause 4 who is dissatisfied with the decision of the District Court on the ground that it is wrong in law may appeal to the High Court on that question of law. (2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subclause (1) as if it were an appeal under section 124 of that Act. Compare: 2014 No 32 s 364 7 Further appeals to Court of Appeal or Supreme Court (1) With the leave of the court appealed to, a party to an appeal under clause 6 may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court in the appeal. (2) On an appeal under this clause, the Court of Appeal or the Supreme Court has the same power to adjudicate on the proceedings as the High Court had. (3) Subclause (1) is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). Compare: 2014 No 32 s 365	5 10 15 20 25 30
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Schedule 2

Consequential amendments to Acts

s 86

Major Events Management Act 2007 (2007 No 35)

In section 35(c), replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”. 5

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, replace “Geographical indications committees established under the Geographical Indications (Wine and Spirits)” with “New Zealand geographical indications committees established under the Geographical Indications”. 10

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, insert in its appropriate alphabetical order:

Geographical Indications Registration Act 2006	85	GI officer may require information about relevant goods	Subpart 5
	87	Other powers of GI officer	Subpart 5
	89	What GI officer and person assisting may do when exercising power of entry and inspection	Sections 131 to 135 and subparts 5 and 6
	90	Application for search warrant	Sections 98, 99, and 100
	91	Issue of search warrant	Sections 102 to 105 and 107 and subpart 5
	92	Powers under search warrant	Section 110
	93	Carrying out search powers	Sections 106, 111 to 114, 115(1)(b) and (3), 116 to 117, 120 to 130, 131(1) to (6), and 132 to 135
	94	Disposal of property seized under search warrant	Subparts 1, 5, 6, 7, 9, and 10
	95	Retention of documents	Section 101

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (jk), insert:

(jl) **section 122** of the **Geographical Indications Registration Act 2006**; or 15

Trade Marks Act 2002 (2002 No 49)

In section 5(1), definition of **registered geographical indication**, replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”. 20

Trade Marks Act 2002 (2002 No 49)—*continued*

In section 20(1)(a) and (b), replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”.

In section 20(1)(a), replace “wine or spirit” with “wine, spirit, or other good” in each place. 5

In section 20(1)(b), replace “an application for registration of a geographical indication” with “an application for registration of a New Zealand or foreign geographical indication”.

After section 20(1)(b), insert:

- (c) the Registrar of Geographical Indications has given public notice of the proposed protection of an EU FTA geographical indication under **section 58** of the **Geographical Indications Registration Act 2006** and the examination and opposition procedures under that section have not been completed. 10

In section 88(c), replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”. 15

In section 98A, replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”.

After section 195, insert:

195A Use of fees under this Act 20

- (1) A fee, or a portion of a fee, payable to the Commissioner under this Act may be used to recover the costs, or a share of the costs, of the Registrar of Geographical Indications in the performance of the Registrar’s functions, powers, and duties under the **Geographical Indications Registration Act 2006**. 25

- (2) The costs recovered in accordance with **subsection (1)**, and the functions, powers, and duties in relation to which those costs were incurred, need not be related, directly or indirectly, to the person or persons from whom the fee is collected.

Compare: 1993 No 105 s 372(3C), (3D) (repealed) 30

195B Validation of fees used to recover costs of register of geographical indications

- (1) This section applies to a fee payable to the Commissioner under this Act that is or was payable under this Act on or before the commencement of the European Union Free Trade Agreement Legislation Amendment Act **2024**. 35
- (2) Money received by the Commissioner in payment of the fee may be applied on or after the commencement of the European Union Free Trade Agreement Legislation Amendment Act **2024** to recover the costs or a share of the costs

Trade Marks Act 2002 (2002 No 49)—*continued*

of the Registrar of Geographical Indications in accordance with section 195A of this Act.

Compare: 2011 No 21 s 84A

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

In Schedule 1, Category 2, replace “Geographical Indications (Wine and Spirits) Registration Act 2006” with “**Geographical Indications Registration Act 2006**”. 5

Schedule 3
New Part 11 inserted into Schedule 1AA of Overseas Investment
Regulations 2005

s 93

	Part 11	5
	Provisions relating to European Union Free Trade Agreement Legislation Amendment Act 2024	
25	Application	
	The amendments made by the European Union Free Trade Agreement Legis- lation Amendment Act 2024 apply only to the acquisition of rights or interests in securities or of other property, or the establishment of any business, after the commencement of that Act.	10
26	No refunds	
	No person is entitled to a refund of any fee or charge paid to the regulator for a matter under Schedule 2 on the ground that the amendments made by the European Union Free Trade Agreement Legislation Amendment Act 2024 mean that the matter is no longer relevant (for example, that a consent that had been applied for is no longer required).	15

Legislative history

25 January 2024	Introduction (Bill 10–1)
31 January 2024	First reading and referral to Foreign Affairs, Defence and Trade Committee