

**REPUBLIC OF VANUATU**

**BILL FOR THE**

**GEOGRAPHICAL INDICATIONS (WINE) ACT**

**NO.            OF 2000**

**Explanatory Note**

This Note does not form part of the Bill

The purpose of this Bill is to provide for the protection of geographical indications that show the origins of wine.

The Bill reflects international trends towards greater uniformity in the field of the protection of geographical indications. In particular, the Bill conforms with the minimum standards and principles prescribed for the protection of geographical indications in the international Agreement on Trade-related Aspects of Intellectual Property Rights.

The Bill defines a geographical indication for wine as being a word or expression that shows where the wine was made, or the qualities it has. It prohibits selling, importing and exporting of wines that have a false or misleading description or presentation (such as packaging), and allows the Supreme Court to grant injunctions to prevent the sale, importing or exporting.

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**Arrangement of sections**

1. Interpretation
2. Meaning of “description and presentation”
3. Where wine originates
4. Sale, export or import of wine with a false description and presentation
5. Meaning of “false description and presentation”
6. Sale, export or import of wine with a misleading description and presentation
7. Meaning of “misleading description and presentation”
8. Exception for certain wines
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**BILL FOR THE**

**GEOGRAPHICAL INDICATIONS (WINE) ACT**

**NO.            OF 2000**

An Act to control the use of false or misleading geographical indications for the origin of wine.

**BE IT ENACTED** by the President and parliament as follows:

**INTERPRETATION**

1. In this Act, unless the contrary intention appears:

“Court” means the Supreme Court;

“geographical indication”, for wine, means:

- (a) a word or expression used in the description and presentation of the wine to show the country, region or locality where the wine originated; or
- (b) a word or expression used in the description and presentation of the wine to suggest that the wine has a particular quality, reputation or characteristic because it originated in the country, region or locality indicated by the word or expression;

“sell” includes offer, expose or advertise for sale;

“traditional expression”, for wine, means a word or expression used in the description and presentation of the wine to refer to the method of production, or to the quality, colour or type, of the wine;

“wine” means an alcoholic beverage produced by the complete or partial



- (4) If:
- (a) the description and presentation of wine includes a word or expression that is a geographical indication, or a traditional expression, in relation to a country, region or locality; and
  - (b) the wine originated in that country, region or locality; and
  - (c) the description and presentation indicates that the wine originated in that country, region or locality;

the description and presentation is not false merely because the word or expression included in the description and presentation is also a geographical indication, or a traditional expression, in relation to another country, region or locality.

- (5) The description and presentation of wine is not false merely because it includes:
- (a) the name of an individual who manufactured, sold, exported or imported the wine; or
  - (b) if an individual who manufactured, sold, exported or imported the wine lawfully carries on business under the name of another individual who previously carried on the business—the name of that other individual; or
  - (c) the address of the winery where the wine was manufactured.

#### **SALE, EXPORT OR IMPORT OF WINE WITH A MISLEADING DESCRIPTION AND PRESENTATION**

6. (1) A person must not, in trade or commerce, knowingly sell wine with a misleading description and presentation.
- (2) A person must not, in trade or commerce, knowingly export wine with a misleading description and presentation.
- (3) A person must not, in trade or commerce, knowingly import wine with a misleading description and presentation.

Penalty: Imprisonment for 2 years.

## MEANING OF "MISLEADING DESCRIPTION AND PRESENTATION"

7. (1) Subject to subsection (5), the description and presentation of wine is misleading if:
  - (a) it includes a geographical indication or a traditional expression; and
  - (b) the indication or expression is used in such a way in the description and presentation as to be likely to mislead as to the country, region or locality in which the wine originated.
- (2) Subject to subsection (5), the description and presentation of wine is misleading if:
  - (a) it includes a translation of a geographical indication or a traditional expression; and
  - (b) the inclusion of the translation is likely to mislead as to the country, region or locality where the wine originated.
- (3) The description and presentation of wine is misleading if:
  - (a) it includes:
    - (i) the name of an individual who manufactured, sold, exported or imported the wine; or
    - (ii) if an individual who manufactured, sold, exported or imported the wine lawfully carried on business under the name of another individual who previously carried on the business—the name of that other individual; or
    - (iii) the name or address of the winery where the wine was manufactured; and
  - (b) the name or address is used in such a way in the description and presentation as to be likely to mislead as to the country, region or locality where the wine originated.
- (4) Subsections (1), (2) and (3) do not limit what, apart from those subsections, is a misleading description and presentation of wine.

(5) If:

- (a) the description and presentation of wine includes a word or expression that:
  - (i) is a geographical indication, or a traditional expression, in relation to a country, region or locality; or
  - (ii) is a translation of an indication or expression referred to in subparagraph (i); or
  - (iii) resembles an indication or expression referred to in subparagraph (i); and
- (b) the wine originated in that country, region or locality; and
- (c) the description and presentation shows that the wine originated in that country, region or locality;

the description and presentation is not misleading merely because the indication or expression referred to in subparagraph (a)(i) is also an indication or expression in relation to another country, region or locality.

#### **EXCEPTION FOR WINES IN TRANSIT**

8. Sections 4 and 6 do not apply to wines that are in transit through Vanuatu.

#### **REMEDIES**

9. (1) If a person has engaged, is engaging or proposes to engage in any conduct in contravention of this Act, the Court may grant an injunction:
- (a) restraining the person from engaging in the conduct; and
  - (b) if the Court thinks it desirable to do so—requiring the person to do a particular act.
- (2) An application for an injunction may be made by, or on behalf of, any person aggrieved by the conduct.
- (3) The Court may also make an order awarding damages if it considers it appropriate to do so.



- (4) The Court has jurisdiction to hear and determine matters under this Act.

#### **COMMENCEMENT**

10. This Act commences on the day on which it is published in the Gazette.