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Geographical Indications Act 2022: Protecting Authenticity Or Limiting Competition?

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Intellectual property typically evokes familiar categories such as trademarks, patents or copyrights. Yet an increasingly important form of protection, particularly for food, agriculture and heritage-linked goods, is the geographical indication (GI). GIs certify that a product's qualities, characteristics or reputation are intrinsically tied to a specific place of origin.

The updated Geographical Indications Act 2022 (GIA 2022), which came into force on 18 March 2022, marks the country's latest effort to bring its system closer to global practice and strengthen safeguards for region-based products. The Act establishes a more structured framework for registering and enforcing GIs.

What Qualifies As A GI?

Under the Act, a GI is defined as an indication often but not necessarily a name that identifies goods as originating from a particular country, region or locality, where the quality or reputation of those goods is fundamentally attributable to their geographical origin. In practice, GIs serve as signals of authenticity. Examples include Malaysia's Klang Bak Kut Teh, Sarawak Pepper, Nanas Johor and Musang King durian.

The GIA 2022 allows applications from producers, producer associations or relevant authorities. Registered GIs enjoy statutory exclusivity: under Section 25 only the proprietor or an authorised user may use the indication for commercial purposes, with "use" interpreted broadly to include manufacture, import, export, sale and advertising.

This framework elevates GIs to an enforceable right on par with other forms of IP- a shift with implications for both domestic producers and foreign exporters entering Malaysia's market.

Malaysia's First GI Prosecution

A notable test of the new regime arrived in September 2025, when prosecutors brought Malaysia's first case under the Act. A coffee company and its director were charged with falsely applying the GI "Tenom Coffee" to over 1,300 packs of "Kopi-O" products in violation of Section 34(3).

"Tenom Coffee" registered since 2006 refers specifically to coffee produced in the Tenom district of Sabah, known for its wood-fire roasting methods and locally grown Robusta beans. Under the Act, any product bearing the name must originate from that region.

The case underscores Malaysia's intention to actively police GI misuse and signals to businesses that misrepresentation, even if commonplace in the past, now carries legal consequences.

Legal Exposure: Criminal And Civil Liabilities

Criminal Penalties

Under Section 34, falsely applying a GI whether in packaging, labels, signs, advertisements or commercial documents constitutes an offence.

Corporations:

Up to RM15,000 per good for a first offence, rising to RM30,000 per good for subsequent breaches.

Individuals:

Fines up to RM10,000 per good or three years' imprisonment with harsher penalties for repeat offenders.

Section 35 extends criminal liability to those who import, sell or possess goods bearing falsely applied GIs, unless they can show they took reasonable precautions and had no reason to doubt authenticity. Possession of three or more infringing items triggers a presumption of possession for trade.

Civil Remedies

Proprietors may also seek injunctions, damages, an account of profits and other equitable relief under Section 77, providing a dual-track enforcement system.

Economic And Policy Implications

GIs often sit at the intersection of commerce, culture and politics. Advocates argue that they protect traditional methods, preserve local heritage and enable producers to command premium prices. For rural communities, GIs can provide a form of economic uplift tied to regional branding.

Critics, however, warn that overly restrictive GI regimes can entrench exclusivity, raise barriers to entry and potentially stifle competition, particularly where the definition of a region-linked product becomes too broad or where enforcement disproportionately affects small manufacturers.

Malaysia's first prosecution suggests that authorities intend to err on the side of strict enforcement. The success of the GIA 2022, however, will depend on whether stakeholders, from regulators to local producers can balance authenticity with openness, ensuring that the system safeguards genuine products without becoming an instrument of protectionism.

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