

Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation

## CHAPTER III

### TRADITIONAL TERMS

#### SECTION I

#### *Applications for protection and examination procedure*

#### *Article 24*

#### **Language and spelling of the traditional term**

- 1 A traditional term shall be registered:
  - a in the official language or regional language of the <sup>F1</sup>... country from which the term originates; or
  - b in the language used in trade for this term.
- 2 A traditional term shall be registered with its original spelling and in its original script. Where the original script is not in Latin characters, a transcription in Latin characters shall be registered together with the name in its original script.

#### **Textual Amendments**

- F1** Words in Art. 24(1)(a) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(19)**

#### *Article 25*

#### **Applicants**

- 1 Competent authorities of <sup>F2</sup>... third countries or representative professional organisations established in [<sup>F3</sup>the United Kingdom or] third countries may apply for the protection of a traditional term.
- 2 ‘Representative professional organisation’ shall mean any producer organisation or association of producer organisations having adopted the same rules, operating in the area of one or more wine designations of origin or geographical indications where it includes in its membership at least two thirds of the producers established in the area in which it operates and accounts for at least two thirds of the production of that area. A representative professional

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

organisation may lodge an application for protection only for grapevine products which it produces.

#### Textual Amendments

- F2** Words in Art. 25(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(20)(a)**
- F3** Words in Art. 25(1) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(20)(b)**

### Article 26

#### Admissibility of the application

1 Applications for protection are considered admissible where they are submitted in compliance with Article 25 of this Regulation and Article 21 and Article 30(3) of Implementing Regulation (EU) 2019/34 and are duly completed.

An application shall be considered to be duly completed where it contains the following information:

- a the name to be protected as a traditional term;
- b the type of traditional term, whether it falls under Article 112(a) or (b) of Regulation (EU) No 1308/2013;
- c the language in which the name to be protected as a traditional term is expressed;
- d the grapevine product category or categories concerned;
- e a summary of the definition and conditions of use;
- f the protected designations of origin or protected geographical indications concerned.

2 The application shall be accompanied by a copy of the legislation <sup>F4</sup>... or rules applicable to wine producers in the <sup>F5</sup>... country or countries concerned, governing the use of the term in question, and a reference to the publication of that legislation or those rules.

<sup>F6a</sup> In the case of an application concerning a term originating in Great Britain, a copy of an enactment need not be provided under paragraph 2 where the title of the enactment is given together with its year and chapter, serial or other identifying number.

2b In the case of an application concerning a term originating in Northern Ireland, a copy of the following enactments need not be provided under paragraph 2 where the title of the relevant enactment is given together with its year and chapter, serial or other identifying number:

- a an Act that extends to Northern Ireland, and an enactment contained in any Order in Council, order, rules, regulations or other instrument made under such an Act that extends to Northern Ireland;
- b Northern Ireland legislation and an enactment contained in an instrument made under Northern Ireland legislation but not any legislation that forms part of the domestic law of Northern Ireland by virtue of section 7A of the EUWA and the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.]

3 If the application is not duly completed or if the documents referred to in paragraph 2 have not been provided with the application, the application shall be inadmissible.

4 Where the application is inadmissible, the <sup>F7</sup>applicant, in the case of an application concerning a term originating in the United Kingdom, or, in the case of an application

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

concerning a term originating in a third country, the authorities of the third country or the applicant established in the third country in question,] shall be informed of the reasons for its inadmissibility and that they are entitled to submit another application duly completed.

[<sup>F8</sup> In paragraph 2a, ‘enactment’ means the following legislation whenever passed or made:

- a an Act, and an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act, except to the extent that they extend to Northern Ireland;
- b retained direct EU legislation, except to the extent that it extends to Northern Ireland;
- c an Act of the Scottish Parliament, and an enactment contained in an instrument made under an Act of the Scottish Parliament;
- d a Measure or Act of Senedd Cymru and an enactment contained in an instrument made under a Measure or Act of Senedd Cymru.]

#### Textual Amendments

- F4** Words in Art. 26(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(21)(a)(i)**
- F5** Word in Art. 26(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(21)(a)(ii)**
- F6** Art. 26(2a)(2b) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(21)(b)**
- F7** Words in Art. 26(4) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(21)(c)**
- F8** Art. 26(5) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(21)(d)**

### Article 27

#### Conditions of validity

1 An application for the protection of a traditional term shall be deemed valid if the name for which the protection is sought:

- a fulfils the requirements of a traditional term as defined in Article 112 of Regulation (EU) No 1308/2013 as well as the requirements laid down in Article 24 of this Regulation;
- b consists exclusively of either:
  - (i) a name traditionally used in trade in a large part of the territory of the <sup>F9</sup>... country in question, to distinguish specific categories of grapevine products referred to in Article 92(1) of Regulation (EU) No 1308/2013; or
  - (ii) a reputed name traditionally used in trade in at least the territory of the <sup>F10</sup>... country in question, to distinguish specific categories of grapevine products referred to in Article 92(1) of Regulation (EU) No 1308/2013;
- c has not become generic, and
- d is defined and regulated in the [<sup>F11</sup>legislation of the relevant country or, in the case of an application concerning a term originating in a third country, is] subject to conditions of use as provided for by rules applicable to wine producers in the third country in question, including those emanating from representative professional organisations.

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

Point (b) shall not apply to traditional terms referred to in Article 112(a) of Regulation (EU) No 1308/2013.

[<sup>F12</sup>In point (d), ‘legislation of the relevant country’, in relation to the United Kingdom, includes legislation that does not apply to all the constituent nations of the United Kingdom but only applies to one or more of them.]

2 For the purposes of paragraph (1) (b), traditional use means:

- a use amounting to a period of at least five years in case of terms filed in the official language or regional language of the <sup>F13</sup>... country where the term originates;
- b use amounting to a period of at least 15 years in case of terms filed in the language used for trade.

3 For the purposes of paragraph (1)(c), a name that has become ‘generic’ means the name which, although it relates to a specific production method or ageing method, or the quality, colour, type of place, or a particular event linked to the history of a grapevine product, has become the common name of that product in the [<sup>F14</sup>United Kingdom].

#### Textual Amendments

- F9** Words in Art. 27(1)(b)(i) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(23)(a)(i)(aa)**
- F10** Words in Art. 27(1)(b)(ii) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(23)(a)(i)(bb)**
- F11** Words in Art. 27(1)(d) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(23)(a)(ii)**
- F12** Words in Art. 27(1) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(23)(b)**
- F13** Words in Art. 27(2)(a) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(24)**
- F14** Words in Art. 27(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(25)**

#### Article 28

#### Scrutiny by the [<sup>F15</sup>Secretary of State]

1 The date of submission of an application for protection of a traditional term shall be the date on which the application is received by the [<sup>F16</sup>Secretary of State].

2 The [<sup>F17</sup>Secretary of State] shall examine whether the application for protection meets the conditions laid down in this Chapter.

3 Where the [<sup>F18</sup>Secretary of State] considers that the conditions laid down in Articles 26 and 27 are met, [<sup>F19</sup>the Secretary of State must publish the application in such manner as appears appropriate to the Secretary of State from time to time].

4 If an application for the protection of a traditional term does not meet the conditions laid down in this Chapter, the [<sup>F20</sup>Secretary of State] shall inform the applicant of the grounds for refusal, setting a deadline for the withdrawal or modification of the application or for the submission of comments.

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

5 If the obstacles are not remedied by the applicant within the deadline referred to in paragraph 4, the [<sup>F21</sup>Secretary of State must reject the application].

[<sup>F22</sup>6 After making a decision to reject an application under paragraph 5, the Secretary of State must publish a notice in such manner as appears appropriate to the Secretary of State from time to time:

- a informing the applicant and the public of the decision made in relation to the application and the reasons for that decision, and
- b providing information about the right to appeal under Article 39a against the decision and the period within which an appeal may be made.

7 An implementing act to which paragraph 8 applies is revoked.

8 This paragraph applies to an implementing act adopted by the European Commission under Article 28 of EU Regulation 2019/33 and incorporated into domestic law by section 3(1) of the EUWA.]

#### Textual Amendments

- F15** Words in Art. 28 heading substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(a)**
- F16** Words in Art. 28(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(b)**
- F17** Words in Art. 28(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(b)**
- F18** Words in Art. 28(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(c)(i)**
- F19** Words in Art. 28(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(c)(ii)**
- F20** Words in Art. 28(4) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(d)**
- F21** Words in Art. 28(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(e)**
- F22** Art. 28(6)-(8) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(26)(f)**

## SECTION 2

### Objection procedure

#### Article 29

#### Submission of an objection

The date of submission of an objection shall be the date on which the objection is received by the [<sup>F23</sup>Secretary of State].

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

### Textual Amendments

- F23** Words in Art. 29 substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(27)**

## Article 30

### Admissibility and grounds of objection

- 1 A substantiated objection shall be admissible where:
  - a it is submitted by any <sup>F24</sup>... third country, or any natural or legal person having a legitimate interest;
  - b it is received by the [<sup>F25</sup>Secretary of State] within the deadline provided for in Article 22(1) of Implementing Regulation (EU) 2019/34;
  - c it demonstrates that the application for protection is incompatible with the rules on traditional terms because it does not comply with Article 27 of this Regulation or because the registration of the name proposed would conflict with Article 32 or 33 of this Regulation.
- 2 An objection that is deemed admissible shall be notified to the [<sup>F26</sup>applicant, or, in the case of an application submitted by a third country authority, that authority].

### Textual Amendments

- F24** Words in Art. 30(1)(a) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(28)(a)(i)**
- F25** Words in Art. 30(1)(b) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(28)(a)(ii)**
- F26** Words in Art. 30(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(28)(b)**

## Article 31

### Scrutiny of an objection

1 Where the [<sup>F27</sup>Secretary of State] does not reject the objection in accordance with Article 23(3) of Implementing Regulation (EU) 2019/34, [<sup>F28</sup>the Secretary of State] shall communicate the objection to the applicant that submitted the application and shall invite the applicant to file observations within the time period referred to in Article 24(1) of Implementing Regulation (EU) 2019/34. Any observations received within this period shall be communicated to the objector.

In the course of [<sup>F29</sup>the Secretary of State's] scrutiny of an objection, the [<sup>F30</sup>Secretary of State] shall request the parties to provide comments, if appropriate, within the time period referred to in Article 24(2) of Implementing Regulation (EU) 2019/34, on the communications received from the other parties.

2 Where the applicant or the objector do not file any observations in response, or where the time periods for filing observations and for submitting comments referred to in Article 24

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

of Implementing Regulation (EU) 2019/34 are not respected, the [F31Secretary of State] shall proceed to rule on the objection.

3 A decision to reject or recognise the traditional term in question shall be taken by the [F32Secretary of State] on the basis of the evidence available to [F33the Secretary of State]. The [F32Secretary of State] shall consider whether the conditions referred to or laid down in Articles 27, 32 or 33 of this Regulation are fulfilled. F34 ...

3a [F35 After making a decision about the application, the Secretary of State must publish in such manner as appears appropriate to the Secretary of State a notice:

- a informing the applicant, any objector and the public of the decision made in relation to the application and the reasons for that decision, and
- b providing information about the right to appeal under Article 39a against the decision and the period within which an appeal may be made.]

4 Where multiple objections are lodged, a preliminary examination of one or more such objections may prevent an application for protection from proceeding. In these circumstances, the [F36Secretary of State] may suspend the other objection procedures. The [F36Secretary of State] shall inform the other objectors of any decision affecting them which was taken in the course of the procedure.

Where an application is rejected, objection procedures which have been suspended shall be deemed to be closed and the objectors concerned shall be duly informed.

#### Textual Amendments

- F27 Words in Art. 31(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(a)(i)(aa)**
- F28 Words in Art. 31(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(a)(i)(bb)**
- F29 Words in Art. 31(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(a)(ii)(aa)**
- F30 Words in Art. 31(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(a)(ii)(bb)**
- F31 Words in Art. 31(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(b)**
- F32 Words in Art. 31(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(c)(i)**
- F33 Words in Art. 31(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(c)(ii)**
- F34 Words in Art. 31(3) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(c)(iii)**
- F35 Art. 31(3a) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(d)**
- F36 Words in Art. 31(4) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **26(29)(e)**

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

## SECTION 3

### Protection

#### Article 32

#### Relationship with trade marks

1 The registration of a trade mark that contains or consists of a traditional term which does not respect the definition and conditions of use of that traditional term as referred to in Article 112 of Regulation (EU) No 1308/2013, and that relates to a product falling under one of the categories listed in Part II of Annex VII thereto shall be:

- a refused if the application for registration of the trade mark is submitted after the date of submission of the application for protection of the traditional term to the [<sup>F37</sup>Secretary of State] and the traditional term is subsequently protected; or
- b invalidated.

2 A name shall not be protected as a traditional term where, in the light of a trade mark's reputation and renown, such protection is liable to mislead the consumer as to the true identity, nature, characteristic or quality of the grapevine product.

3 Without prejudice to paragraph 2, a trade mark referred to in paragraph 1 which has been applied for, registered or established by use in good faith, <sup>F38</sup>... in the territory of the [<sup>F39</sup>United Kingdom], prior to the date of protection of the traditional term in the country of origin, may continue to be used and renewed notwithstanding the protection of a traditional term, provided that no grounds for the trade mark's invalidity or revocation exist [<sup>F40</sup>in, or under, the TMA].

In such cases, the use of the traditional term shall be permitted alongside the relevant trade marks.

#### Textual Amendments

- F37** Words in Art. 32(1)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(30)(a)**
- F38** Words in Art. 32(3) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(30)(b)(i)**
- F39** Words in Art. 32(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(30)(b)(ii)**
- F40** Words in Art. 32(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(30)(b)(iii)**

#### <sup>F41</sup>Article 32a

#### Transitional provision: relationship with trade marks

1 Unless paragraph 4 applies, an application to register a trade mark that was pending immediately before IP completion day or filed during the relevant period must be refused where, if the trade mark is registered, the use of the trade mark will not respect the definition in Article 112 of Regulation (EU) No 1308/2013 and the conditions of use in Article 113 of that Regulation in relation to a category A traditional term.

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

2 Unless paragraph 4 applies, an application to register a trade mark that was pending immediately before IP completion day or filed during the relevant period must be refused where:

- a if the trade mark is registered, the use of the trade mark will not respect the definition in Article 112 of Regulation (EU) No 1308/2013 and conditions of use in Article 113 of that Regulation in relation to a category B traditional term, and
- b after the application for the trade mark is accepted but before the trade mark is registered:
  - i in the case of a type 2B traditional term:
    - aa the international agreement referred to in paragraph (c) of column 2 of row 2 of the Types Table enters into force or the bridging arrangements referred to in that column are made, and
    - bb the entry into force of the international agreement or the making of the bridging arrangements is brought to the attention of the registrar before the trade mark is registered;
  - ii in the case of any other category B traditional term:
    - aa the Secretary of State publishes an Article 115(2) approval notice relating to the traditional term, and
    - bb the Article 115(2) approval notice is brought to the attention of the registrar before the trade mark is registered.

3 Where an application for a declaration of invalidity is made under the TMA (as applied by Article 32b(1) and modified by Article 32b(2)) in relation to the registration of a trade mark, the registration of the trade mark must be declared to be invalid, unless paragraph 4 applies, if:

- a the application to register the trade mark was pending immediately before IP completion day or filed during the relevant period,
- b the use of the trade mark does not, or will not, if used, respect the definition in Article 112 of Regulation (EU) No 1308/2013 and conditions of use in Article 113 of that Regulation in relation to a category B traditional term, and
- c in the case of a type 3B, 4B or 5B traditional term, the Secretary of State publishes an Article 115(2) approval notice relating to the traditional term on or after the day on which the trade mark application is accepted.

4 This paragraph applies where a column 5 date applies in relation to a category A or B traditional term and, taking account of any priority claimed in respect of an application to register the trade mark referred to in paragraph 1, 2 or 3(a) (as relevant) and on the basis of the information available to the registrar, it appears to the registrar that the date of filing of the trade mark application is earlier than the column 5 date that applies to the relevant traditional term.

5 As regards paragraphs 1 and 2, a column 5 date does not apply in relation to a type 2A, 3A or 4A traditional term where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to the traditional term provides that an application for a trade mark must be refused, regardless of when that application is filed, if the trade mark, if registered, will contravene a provision in the EUIA providing for the protection of the use of the traditional term

6 As regards paragraph 3, a column 5 date does not apply in relation to a type 2B, 3B or 4B traditional term where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to the traditional term provides that the registration of a trade mark must be invalidated if, regardless of when the application that resulted in the registration of the trade mark is filed, the use of the trade mark contravenes a provision in the EUIA providing for the protection of the use of the traditional term.

---

*Changes to legislation:* There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

7 Where a traditional term falls within the definition of more than one type of traditional term in Article 1b, the column 5 date to be taken into account for the purpose of paragraph 4 is the earliest of the column 5 dates for the relevant types of traditional term.

8 In a case of a category A or B traditional term that is not on Great Britain's Traditional Terms Register at the time an assessment is carried out under paragraph 1, 2 or 3, the traditional term is to be treated, for the purpose of the assessment, as being a protected traditional term in determining whether the use of the trade mark will contravene Article 113 in relation to that traditional term.

9 A trade mark that could be used under Article 32(3) of EU Regulation 2019/33 in the United Kingdom immediately before IP completion day may continue to be used in Great Britain on and after IP completion day:

- a notwithstanding that the use of the trade mark would not respect the definition in Article 112 of Regulation (EU) No 1308/2013 and conditions of use in Article 113 of that Regulation in relation to a traditional term registered by the Secretary of State under this Regulation;
- b provided that no grounds for the invalidation or revocation of the trade mark exist in, or under, the TMA.

10 Nothing in this Regulation prevents a trade mark that could be renewed in the United Kingdom pursuant to Article 32(3) of EU Regulation 2019/33 immediately before IP completion day from being renewed after IP completion day:

- a notwithstanding that the use of the renewed trade mark would not respect the definition in Article 112 of Regulation (EU) No 1308/2013 and conditions of use in Article 113 of that Regulation in relation to a traditional term registered by the Secretary of State under this Regulation;
- b provided that no grounds for the invalidation or revocation of the trade mark exist in, or under, the TMA.

11 Where paragraph 9 or 10 applies to the use or renewal of a trade mark, this does not affect the use of:

- a an established protected traditional term entered on Great Britain's Traditional Terms Register pursuant to Article 39;
- b a traditional term entered on Great Britain's Traditional Terms Register by the Secretary of State following a decision by the Secretary of State to approve an application to protect the traditional term submitted under Article 21 of Implementing Regulation (EU) 2019/34;
- c a traditional term entered on Great Britain's Traditional Terms Register by the Secretary of State under Article 25(3) of Implementing Regulation (EU) 2019/34.

12 In this Article:

- b 'a category A traditional term' means a type 1, 2A, 3A, 4A or 5A traditional term;
- c 'a category B traditional term' means a type 2B, 3B, 4B or 5B traditional term;
- d 'column 5 date', in relation to a traditional term that is a category A or B traditional term, means the date specified, or provided for, in column 5 of the Types Table in the row relating to the relevant type of traditional term;
- e 'date of filing':
  - i in the case of an EUTM-based trade mark application, means the filing date referred to in paragraph 25(2)(a)(i) of Schedule 2A to the TMA for the existing EUTM application;
  - ii in the case of an ITM-based trade mark application, means:

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- aa in the case of an application for the registration of a trade mark to which paragraph 28 of Schedule 2B to the TMA applies, the date referred to in paragraph 28(2)(a) of that Schedule for the existing ITM application or existing request for EU extension (as the case may be);
  - bb in the case of an application for the registration of a trade mark to which paragraph 29 of Schedule 2B to the TMA applies, the date referred to in paragraph 29(2)(a) of that Schedule for the existing ITM application or existing request for EU extension (as the case may be);
  - iii in any other case, has the meaning given by section 33 of the TMA;
  - f ‘EUTM-based trade mark application’ means an application to register a trade mark to which paragraph 25(1) of Schedule 2A to the TMA applies that is made within the period specified in paragraph 25(2) of that Schedule;
  - g ‘existing EUTM application’ has the same meaning as in paragraph 24 of Schedule 2A to the TMA;
  - h ‘existing ITM application’ has the same meaning as in paragraph 27(1)(a) of Schedule 2B to the TMA;
  - i ‘existing request for EU extension’ has the same meaning as in paragraph 27(1)(b) of Schedule 2B to the TMA;
  - j ‘ITM-based trade mark application’ means an application to register a trade mark to which paragraph 28(1) or 29(1) of Schedule 2B to the TMA applies that is made within the period specified in paragraph 28(1)(c) or 29(1)(c) (as the case may be) of that Schedule;
  - k ‘the registrar’ has the meaning given by section 62 of the TMA.
- 13 Any reference in this Article to:
- a ‘priority claimed in respect of an application’:
    - i in the case of an EUTM-based trade mark application, means any priority claimed in respect of the existing EUTM application referred to in paragraph 25(2)(a)(ii) of Schedule 2A to the TMA;
    - ii in the case of an ITM-based trade mark application, means any priority claimed in respect of the existing ITM application or the existing request for EU extension referred to in paragraph 28(2)(b) or 29(2)(b) (as the case may be) of Schedule 2B to the TMA;
    - iii in any other case, means any priority claimed in respect of the application pursuant to section 35 of the TMA;
  - b an application to register a trade mark that was ‘pending immediately before IP completion day’ is a reference to an application that was neither refused, nor resulted in the registration of the trade mark that is the subject of the application, before IP completion day;
  - c a trade mark includes a reference to:
    - i a collective mark as defined in section 49(1) of the TMA;
    - ii a certification mark as defined in section 50(1) of the TMA.]

---

#### Textual Amendments

**F41** Arts. 32a, 32b inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 26(31), **Sch. 8 Pt. 3** (as amended by [S.I. 2020/1661](#), regs. 1(2)(b), **16(10)(b)**)

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

## *<sup>F41</sup>Article 32b*

### **Application and modification of trade mark provisions**

1 For the purpose of Article 32a, the following provisions of the TMA apply, with the modifications, in the case of sections 47(3) and (5), 74(1), 76(1) and 77(1), specified in paragraph 2:

- a subsections (3) to (5) and (6) of section 47 (invalidation of trade marks) in relation to an application to invalidate a trade mark referred to in Article 32a(3);
- b section 72 (registration to be prima face evidence of validity);
- c section 73 (certificate of validity of contested application);
- d section 74 (registrar's appearance in proceedings involving the register of trade marks);
- e section 75 (definition of 'the court');
- f section 76 (appeals) except for subsection (5);
- g section 77(1) (persons appointed to hear and determine appeals).

2 The modifications are:

- a section 47 applies as if:
  - i in subsection (3), in the words before paragraph (a), after 'invalidity' there were inserted 'made under this section, as applied by Article 32b(1) of Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation,';
  - ii in subsection (5), for 'grounds of invalidity' there were substituted 'ground for invalidity specified in Article 32a(3) of Commission Delegated Regulation (EU) 2019/33 exists';
- b section 74(1) applies as if, for the words from 'for' to 'the registrar' there were substituted 'for a declaration of the invalidity of the registration of a trade mark, the registrar';
- c section 76(1) applies as if:
  - i in the first paragraph, for the words from 'under' to the end there were substituted 'made under Article 32a(3) of Commission Delegated Regulation (EU) 2019/33';
  - ii the second paragraph were omitted;
- d section 77(1) applies as if, at the end there were inserted 'as applied by Article 32b(1) of Commission Delegated Regulation (EU) 2019/33'.

3 In the case of the following proceedings, the rules made under section 68 or 69 of the TMA apply to those proceedings as they apply to proceedings involving an application of the type referred to in section 74(1)(b) of the TMA:

- a an application to invalidate a trade mark referred to in Article 32a(3);
- b an appeal to an appointed person from a decision of the registrar in relation to an application referred to in paragraph (a).]

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

#### Textual Amendments

**F41** Arts. 32a, 32b inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 26(31), **Sch. 8 Pt. 3** (as amended by [S.I. 2020/1661](#), regs. 1(2)(b), **16(10)(b)**)

### *<sup>F42</sup>Article 32c*

#### **Third Country traditional terms covered by bridging arrangements**

1 A traditional term to which paragraph 2 applies is, for the protection period, to be entered on Great Britain's Traditional Terms Register.

2 This paragraph applies to a traditional term which relates to a wine sector product produced in a third country ("C") which:

- a was, immediately before IP completion day, protected in the European Union under an EU IA to which the European Union and C were contracting parties, and
- b is, before a qualifying international agreement enters into force, to be protected in Great Britain pursuant to any written arrangements made by the United Kingdom and C ("bridging arrangements").

3 For the purposes of this Article, "the protection period", in relation to a traditional term, is the period for which:

- a the relevant bridging arrangements have effect, or
- b if only part of the relevant bridging arrangements relates to the traditional term, that part has effect.

4 In this Article "qualifying international agreement" means an international agreement between the United Kingdom and C, which has been initialled.]

#### Textual Amendments

**F42** Arts. 32c, 32d inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 4**

### *<sup>F42</sup>Article 32d*

#### **Transitional provisions: relations between trade marks and traditional terms when bridging arrangements are in effect**

1 Where a traditional term is entered on Great Britain's Traditional Terms Register under Article 32c, Articles 32a and 32b and Annex A1 apply for the purposes of determining:

- a whether an application to register a trade mark which was pending before IP completion day or made during the relevant period, must be refused, or
- b if a relevant invalidity application was made, whether the registration of a trade mark must be declared invalid,

but subject to the general modifications specified in paragraphs 2 and 3 and any further modifications made by regulations (if any) (see paragraph 4).

---

*Changes to legislation:* There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

2 The modifications mentioned in paragraph 1 are that Articles 32a and 32b and Annex A1 are to be read as if:

- a in the case of a type A term, any reference to a type 2A traditional term included a reference to a type A term;
- b in the case of a type B term, any reference to a type 2B traditional term included a reference to a type B term.

3 In addition, Article 32b and Annex A1 are to be read as if any reference to Article 32a included a reference to that Article as applied by this Article.

4 The Secretary of State may, by regulations, make such further modifications to Article 32a or 32b or Annex A1 as the Secretary of State considers necessary for the purpose of ensuring that the relative priorities afforded to traditional terms and trade marks before IP completion day continue to apply appropriately during the relevant period.

5 For the purposes of this Article:

‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 32b(1) and modified by Article 32b(2)) in relation to the registration of a trade mark;

‘type A term’ means a traditional term which—

- i is, immediately before the application to register a trade mark is accepted, entered in Great Britain’s Traditional Terms Register under Article 32c, or
- ii is not so entered when the application to register a trade mark is accepted, but is to be protected under bridging arrangements which come into effect before the application to register a trade mark is accepted;

‘type B term’ means a traditional term which is not entered in Great Britain’s Traditional Terms Register under Article 32c when the relevant trade mark application is accepted but must be protected in Great Britain pursuant to bridging arrangements made on or after the day on which the relevant trade mark application is accepted.

6 The power to make regulations conferred on the Secretary of State by paragraph 4 is exercisable by statutory instrument.

7 A statutory instrument containing regulations under paragraph 4 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

8 Such regulations may:

- a contain supplementary, incidental, consequential, transitional or saving provision (including provision amending, repealing or revoking an enactment);
- b make different provision for different purposes.

9 In this Article, ‘enactment’ means:

- a an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act, except so far as it extends to Northern Ireland;
- b regulations made under retained direct principal EU legislation, except so far as they extend to Northern Ireland;
- c retained direct minor EU legislation, except so far as it extends to Northern Ireland.]

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

### Textual Amendments

**F42** Arts. 32c, 32d inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), reg. 1(3), **Sch. 4**

## Article 33

### Homonyms

1 A term for which an application for protection is submitted and which is wholly or partially homonymous with a traditional term already protected under Article 113 of Regulation (EU) No 1308/2013 shall be registered with due regard to local and traditional usage and the risk of confusion.

A homonymous term which misleads consumers as to the nature, quality or the true origin of the grapevine products shall not be registered even if the term is accurate.

A registered homonymous term may be used only if there is a sufficient distinction in practice between the homonym registered subsequently and the term already in the register, having regard to the need to treat the producers concerned in an equitable manner and the need to avoid misleading the consumer.

2 Paragraph 1 shall apply *mutatis mutandis* for traditional terms protected before 1 August 2009 which are wholly or partially homonymous with a protected designation of origin or geographical indication or a wine grape variety name or its synonym listed in Annex IV.

## SECTION 4

### Modification and cancellation

## Article 34

### Modification of a traditional term

An applicant satisfying the conditions of Article 25 may apply for approval of a modification of a registered traditional term concerning the elements referred to in points (b), (c) and (d) of Article 26(1).

Articles 26 to 31 shall apply *mutatis mutandis* to applications for modification.

[<sup>F43</sup>An implementing act to which the fourth paragraph applies is revoked.]

This paragraph applies to an implementing act:

- a concerning a decision of the European Commission relating to an application to modify a traditional term registered in the European Union at the time the application was submitted,
- b adopted by the European Commission pursuant to Article 34 of EU Regulation 2019/33 following the procedure referred to in the second paragraph of that Article, and
- c incorporated into domestic law by section 3(1) of the EUWA.]

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

#### Textual Amendments

- F43** Words in Art. 34 inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(32)**

### Article 35

#### Cancellation of a traditional term

[<sup>F44</sup>The Secretary of State] may, on a duly substantiated request by <sup>F45</sup>... a third country or a natural or legal person having a legitimate interest, [<sup>F46</sup>cancel] the protection of a traditional term.

Articles 26 to 31 shall apply *mutatis mutandis* to applications for cancellation.

[<sup>F47</sup>An implementing act to which the fourth paragraph applies is revoked.

This paragraph applies to an implementing act adopted by the European Commission pursuant to Article 35 of EU Regulation 2019/33 following the procedure referred to in the second paragraph of that Article and incorporated into domestic law by section 3(1) of the EUWA.]

#### Textual Amendments

- F44** Words in Art. 35 substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(33)(a)(i)**
- F45** Words in Art. 35 omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(33)(a)(ii)**
- F46** Word in Art. 35 substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(33)(a)(iii)**
- F47** Words in Art. 35 inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(33)(b)**

### Article 36

#### Grounds for cancellation

The protection of a traditional term shall be cancelled where:

- (a) the traditional term no longer meets the requirements laid down in Articles 27, 32 or 33;
- (b) compliance with the corresponding definition and conditions of use is no longer ensured.

### Article 37

#### Admissibility of a cancellation request

- 1 A substantiated cancellation request shall be admissible where:

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- a it was submitted to the [<sup>F48</sup>Secretary of State by] a third country or a natural or legal person having a legitimate interest; and
- b it is based on one of the grounds referred to in Article 36.

The duly substantiated cancellation request shall be admissible only if it demonstrates the legitimate interest of the applicant.

2 Where the [<sup>F49</sup>Secretary of State] considers that the cancellation request is not admissible [<sup>F50</sup>the Secretary of State] shall inform the authority or person that sent the request of the reasons for inadmissibility.

3 The [<sup>F51</sup>Secretary of State] shall make the cancellation request available to the authorities and persons affected in accordance with Article 30(4) of Implementing Regulation (EU) 2019/34.

4 Substantiated statements of objection to cancellation requests shall be admissible only if they show continued commercial reliance on the registered name by an interested person.

#### Textual Amendments

- F48** Words in Art. 37(1)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(34)(a)**
- F49** Words in Art. 37(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(34)(b)(i)**
- F50** Words in Art. 37(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(34)(b)(ii)**
- F51** Words in Art. 37(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(34)(c)**

### Article 38

#### Rules concerning traditional terms used in [<sup>F52</sup>Northern Ireland and] third countries

1 The definition of traditional terms provided for in Article 112 of Regulation (EU) No 1308/2013 shall apply *mutatis mutandis* to terms traditionally used in [<sup>F53</sup>Northern Ireland or] third countries for grapevine products covered by geographical indications or designations of origin under the [<sup>F54</sup>legislation applying in Northern Ireland or] those third countries.

2 Grapevine products originating [<sup>F55</sup>in Northern Ireland or] in third countries whose labels bear traditional indications other than the traditional terms listed in [<sup>F56</sup>Great Britain's Traditional Terms Register] may use these traditional indications on wine labels in accordance with the rules applicable in [<sup>F57</sup>Northern Ireland or] the third countries concerned, [<sup>F58</sup>as relevant, including, in the case of a third country,] those emanating from representative professional organisations.

#### Textual Amendments

- F52** Words in Art. 38 heading inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(a)**
- F53** Words in Art. 38(1) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(b)(i)**
- F54** Words in Art. 38(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(b)(ii)**

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F55** Words in Art. 38(2) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(c)(i)**
- F56** Words in Art. 38(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(c)(ii)**
- F57** Words in Art. 38(2) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(c)(iii)**
- F58** Words in Art. 38(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(35)(c)(iv)**

## SECTION 5

### [<sup>F59</sup>Article 39

#### **Established protected traditional terms**

The Secretary of State must enter the names of established protected traditional terms on Great Britain's Traditional Terms Register. The entries are to be treated as taking effect on IP completion day.]

#### **Textual Amendments**

- F59** Art. 39 substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **26(36)**

## [<sup>F60</sup>SECTION 6

### **Appeals**

#### *Article 39a*

#### **Appeals: general**

- 1 An appeal may be made to the FTT against a decision of the Secretary of State specified in column 1 of the table in Annex A2.
- 2 Such an appeal may be made:
  - a in all cases, by a person or third country authority specified in the corresponding entry in column 2 of the table in Annex A2;
  - b in the case of a decision affecting an application submitted by the authorities of a third country, by the authorities of that third country.
- 3 In determining such an appeal the FTT:
  - a must consider the decision appealed against afresh;
  - b may take into account evidence that was not available to the Secretary of State.
- 4 The FTT may:
  - a dismiss the appeal, or

---

**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- b if it allows the appeal, exercise any power specified in the corresponding entry in column 3 of the table in Annex A2.

5 Where the FTT remits a matter to the Secretary of State for reconsideration and fresh decision:

- a the Secretary of State, after making a fresh decision, must publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the original applicant, the appellant (if different) and the public of that fresh decision and the reasons for that decision;
- b the provisions of this Section and Annex A2 apply to the fresh decision made by the Secretary of State.

6 An appeal made under paragraph 1 in relation to a decision of the Secretary of State specified in column 1 of the table in Annex A2 does not prevent an entry recorded on Great Britain's Traditional Terms Register by the Secretary of State following that decision from having effect.

7 The entry referred to in paragraph 6 continues to have effect, despite the appeal, unless the appeal is allowed by the FTT and:

- a in a case where the FTT quashes the Secretary of State's decision and directs the Secretary of State to take specified action, that action has been taken;
- b in a case where the FTT remits the matter to the Secretary of State for reconsideration and fresh decision, the relevant entry ceases to have effect as a result of consequent action taken in relation to the entry in the register following the fresh decision taken by the Secretary of State.

#### *Article 39b*

### **Secretary of State decision to consider a decision afresh and the effect of that decision on appeal**

1 The Secretary of State may consider a decision specified in column 1 of the table in Annex A2 ('the original decision') afresh if evidence becomes available to the Secretary of State after making the original decision that was not available to the Secretary of State at the time the original decision was made.

2 Paragraph 1 applies even though an appeal has been made in respect of the original decision.

3 Where the Secretary of State decides to consider an original decision afresh in a case where an appeal has been made to the FTT in respect of that decision:

- a the Secretary of State must notify the FTT of the Secretary of State's decision to consider the original decision afresh and publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the appellant, the original applicant (if different) and the public of that decision;
- b the appeal to the FTT is suspended until such time as the Secretary of State has made a fresh decision in relation to the matter;
- c the Secretary of State must, following the making of the fresh decision, notify the FTT of that decision and publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the appellant, the original applicant (if different) and the public of that decision and the reasons for that decision.

4 If the Secretary of State makes the same decision again, the appeal to the FTT restarts.

---

**Changes to legislation:** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

5 If the Secretary of State makes a different decision, the appeal to the FTT ceases unless the FTT directs otherwise.]

.....

**Textual Amendments**

**F60** Ch. 3 Section 6 inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), 26(37), **Sch. 8 Pt. 4**

### Changes to legislation:

There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

[View outstanding changes](#)

### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Ch. 3 s. 6 inserted by [S.I. 2019/1342 Sch. 3 Pt. 1](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Signature words omitted by [S.I. 2019/759 reg. 7\(30\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
- Art. 1a inserted by [S.I. 2019/759 reg. 7\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
- Art. 1a words inserted by [S.I. 2019/1342 reg. 13\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Art. 1a words inserted by [S.I. 2019/1366 reg. 6\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
- Art. 1a words inserted by [S.I. 2019/1366 reg. 6\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
- Art. 1a words inserted by [S.I. 2019/1366 reg. 6\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
- Art. 1a words inserted by [S.I. 2019/1366 reg. 6\(2\)\(d\)](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
- Art. 1a words substituted by [S.I. 2019/1342 reg. 13\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Art. 1a words substituted in earlier amending provision S.I. 2019/759, reg. 7(a) by [S.I. 2019/1342 reg. 4\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated

- and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Art. 1a words substituted in earlier amending provision S.I. 2019/759, reg. 7(a) by [S.I. 2019/1342 reg. 4\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 1b inserted by [S.I. 2019/1366 Sch. 4 Pt. 1](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
  - Art. 5(1)(c) word omitted by [S.I. 2019/759 reg. 7\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Annex 8 inserted by [S.I. 2019/1342 Sch. 3 Pt. 2](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 11(1)(a) words substituted by [S.I. 2019/1342 reg. 13\(4\)\(a\)\(i\)\(aa\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 11(1)(c)(i) words substituted by [S.I. 2019/1342 reg. 13\(4\)\(a\)\(i\)\(bb\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 13(1)(b) words inserted by [S.I. 2019/778 reg. 6\(2\)\(a\)\(ii\)\(bb\)](#) (This amendment not applied to legislation.gov.uk. Reg. 6 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 5)
  - Art. 13(2)(a) words substituted by [S.I. 2019/778 reg. 6\(2\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 6 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 5)
  - Art. 13(5)-(7) inserted by [S.I. 2019/1342 reg. 13\(6\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 14para. 2b(b) words substituted by [S.I. 2023/424 Sch. para. 81](#)
  - Art. 14(3) inserted by [S.I. 2019/1342 reg. 13\(7\)\(c\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 17(9)(10) inserted by [S.I. 2019/1342 reg. 13\(18\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 18(1)-(1n) substituted for Art. 18(1) by [S.I. 2019/1342 reg. 13\(19\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has

- no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Art. 18(6) inserted by [S.I. 2019/1342 reg. 13\(19\)\(e\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 26(2a) inserted by [S.I. 2019/759 reg. 7\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 27(1)(b)(i) words omitted by [S.I. 2019/759 reg. 7\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 27(1)(b)(ii) words omitted by [S.I. 2019/759 reg. 7\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 27(1)(d) words substituted by [S.I. 2019/759 reg. 7\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 27(2)(a) words omitted by [S.I. 2019/759 reg. 7\(12\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 30(1)(a) words omitted by [S.I. 2019/759 reg. 7\(15\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 30(1)(b) words substituted by [S.I. 2019/759 reg. 7\(15\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 31(3a) inserted by [S.I. 2019/1342 reg. 13\(23\)\(d\)](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
  - Art. 32(1)(a) words substituted by [S.I. 2019/759 reg. 7\(16\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 32a32b inserted by [S.I. 2019/1366 Sch. 4 Pt. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2020/1366 was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument was approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.)
  - Art. 37(1)(a) words substituted by [S.I. 2019/759 reg. 7\(18\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 46(1)(a) words omitted by [S.I. 2023/1362 Sch. 2 para. 5\(2\)\(b\)\(ii\)](#)
  - Art. 46(1)(d) omitted by [S.I. 2023/1362 Sch. 2 para. 5\(2\)\(b\)\(iii\)](#)
  - Art. 46(1)(f) words substituted by [S.I. 2023/1362 Sch. 2 para. 5\(2\)\(b\)\(iv\)](#)
  - Art. 50(1)(b) words omitted by [S.I. 2019/759 reg. 7\(22\)\(a\)\(ii\)\(aa\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 50(1)(b) words substituted by [S.I. 2019/759 reg. 7\(22\)\(a\)\(ii\)\(bb\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
  - Art. 50(1b) inserted by [S.I. 2023/394 reg. 3\(3\)](#)

- Art. 51(a) words substituted by [S.I. 2019/759 reg. 7\(23\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
- Art. 51(1) words omitted by [S.I. 2023/1362 Sch. 2 para. 5\(5\)](#)
- Art. 52(5) inserted by [S.I. 2019/759 reg. 7\(24\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)
- Art. 53(7)(8) inserted by [S.S.I. 2024/11 reg. 2](#)
- Art. 53(7)(8) inserted by [S.I. 2024/115 reg. 2](#)
- Art. 53(7)(8) inserted by [S.I. 2024/83 reg. 2](#)
- Art. 57(1)(a) revoked by [S.I. 2023/1362 Sch. 1](#)
- Art. 57(1)(b) revoked by [S.I. 2023/1362 Sch. 1](#)
- Art. 58(4)(5) substituted for Art. 58(4) by [S.I. 2019/759 reg. 7\(28\)\(e\)](#) (This amendment not applied to legislation.gov.uk. Regs. 6-8 omitted immediately before IP completion day by virtue of S.I. 2020/1637, regs. 1(6), 4)