

SCHEDULE 8

Commission Delegated Regulation (EU) 2019/33: new provisions

PART 4

Chapter 3: new Section 6

“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
 - (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

Status: This is the original version (as it was originally made).

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