

## SCHEDULE 1

Regulation 7(4)(b), (27), (50), (53), (55)  
and (60)

Regulation (EU) No 1151/2012 of the European Parliament and of the Council: new provisions

### PART 1

#### Article 3: new definitions

- “(9) ‘the EUWA’ means the European Union (Withdrawal) Act 2018;
- (10) ‘EU Regulation 1151/2012’ means Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs as it had effect in EU law immediately before exit day;
- (11) ‘Regulation 1308/2013’ means Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products;
- (12) ‘Regulation 664/2014’ means Commission Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules;
- (13) ‘the Quality Schemes Regulations’ means the Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018;
- (14) ‘the competent authority’, in relation to the United Kingdom, means the person specified in regulation 3(1) of the Quality Schemes Regulations;
- (15) ‘the designated authority’ means:
- (a) unless point (b) or (c) applies, the person specified in regulation 3(2) of the Quality Schemes Regulations as the person responsible for carrying out the relevant function;
  - (b) in a case where an official control has been delegated to a control body in accordance with Article 39, the control body to which the function has been delegated;
  - (c) in a case where an enforcement authority has been appointed to carry out the function under regulation 6 of the Quality Schemes Regulations, the appointed enforcement authority;
- (16) ‘domestic law’ means the means the law of England and Wales, Scotland and Northern Ireland;
- (17) ‘enactment’ includes:
- (a) enactments of the type specified in paragraphs (a) to (f) of the definition of “enactment” in section 20(1) of the EUWA, and
  - (b) except in Article 28, retained direct EU legislation;
- (18) ‘established protected designation of origin’ means a designation of origin shown as a United Kingdom registered designation of origin on the register maintained by the European Commission pursuant to Article 11 of EU Regulation 1151/2012 as that register stood immediately before exit day;
- (19) ‘established protected geographical indication’ means a geographical indication shown as a registered United Kingdom geographical indication on the register maintained by the European Commission pursuant to Article 11 of EU Regulation 1151/2012 as that register stood immediately before exit day;
- (20) ‘established protected traditional speciality guaranteed’ means a traditional speciality guaranteed shown as a registered United Kingdom traditional speciality guaranteed on the register

maintained by the European Commission pursuant to Article 22 of EU Regulation 1151/2012 as that register stood immediately before exit day;

- (21) ‘FTT’ means the First-tier Tribunal;
- (22) ‘third country’ means any country, other than the United Kingdom, and includes:
  - (a) the Bailiwick of Guernsey;
  - (b) the Bailiwick of Jersey;
  - (c) the Isle of Man.”

## PART 2

### Article 28: new Article

#### *“Article 28*

#### *Existing enactments*

1. Nothing in this Regulation prevents the maintenance of enactments on optional quality terms that are not covered by this Regulation and are in force immediately before exit day, provided that they comply with retained EU law.
2. In paragraph 1, ‘maintenance’ includes repeal and replacement, and revocation and replacement, without, in both cases, any substantive modification.”

## PART 3

### New Article 52a

#### *“Article 52a*

#### *Applications pending on exit day*

1. An application made under EU Regulation 1151/2012 before exit day to which paragraph 2 applies is deemed to be an application made under Article 49(1) of this Regulation for which scrutiny under Article 50(1) of this Regulation has not been commenced. Unless requested not to do so in writing by the applicant who submitted the application, the Secretary of State must scrutinise the application under Article 50(1) of this Regulation. The six month period specified in Article 50(1) starts from the day on which exit day falls.
2. This paragraph applies to an application submitted to the Secretary of State on or after 1st January 2019 or the Secretary of State or the Department for Environment Food and Rural Affairs before that date:
  - (a) to register:
    - (i) a name of a geographical area in, or partly in, the United Kingdom as a designation of origin,
    - (ii) a name of a geographical area in, or partly in, the United Kingdom as a geographical indication, or
    - (iii) a name as a traditional speciality guaranteed, and
  - (b) that has not been scrutinised under Article 49(2) of EU Regulation 1151/2012 before exit day or has been subject to scrutiny under Article 49(2) before exit day but for

which no decision has been taken as to whether it meets the relevant conditions of EU Regulation 1151/2012 or is justified.

3. An application made under EU Regulation 1151/2012 before exit day to which paragraph 4 applies is deemed to be an application made under Article 49(1) of this Regulation that has been found by the Secretary of State, for the purpose of Article 50(2), to fulfil the conditions laid down in this Regulation but for which the documents specified in Article 50(2) have not been published.

In the case of an application to register the name of a designation of origin or geographical indication, the Secretary of State must, unless requested not to do so in writing by the applicant who submitted the application, publish the single document and product specification submitted with the application made under EU Regulation 1151/2012 as soon as reasonably practicable after exit day.

In the case of an application to register the name of a traditional speciality guaranteed, the Secretary of State must, unless requested not to do so in writing by the applicant who submitted the application, publish the product specification submitted with the application made under EU Regulation 1151/2012 as soon as reasonably practicable after exit day.

The publication of the documents specified in the second or third subparagraph by the Secretary of State initiates the opposition procedure to which Article 51 of this Regulation applies in relation to the application.

4. This paragraph applies to an application submitted to the Secretary of State on or after 1st January 2019 or the Secretary of State or the Department for Environment Food and Rural Affairs before that date:

- (a) to register:
  - (i) the name of a geographical area in, or partly in, the United Kingdom as a designation of origin,
  - (ii) the name of a geographical area in, or partly in, the United Kingdom as a geographical indication, or
  - (iii) a name as a traditional speciality guaranteed, and
- (b) that has been scrutinised under Article 49(2) of EU Regulation 1151/2012 and been found by the Secretary of State to meet the conditions of, and to be justified under, EU Regulation 1151/2012 before exit day but for which the Commission has not adopted an implementing act under Article 52 of EU Regulation 1151/2012 before exit day.”

## PART 4

### New Title 5A

#### “TITLE 5A

#### APPEALS

##### *Article 54a*

##### *Appeals: general*

1. An appeal may be made to the FTT against a decision of the Secretary of State specified in the first column of the table in Annex 3.
2. Such an appeal may be made:
  - (a) in all cases, by a person specified in the corresponding entry in the second column of the table in Annex 3;
  - (b) in the case of a decision affecting an application submitted by the authorities of a third country, the authorities of that third country.
3. In determining such an appeal the FTT:
  - (a) must consider the decision appealed against afresh, and
  - (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 the third column of the table in Annex 3.
5. The Secretary of State may consider a decision specified in the first column of the table in Annex 3 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 of the original decision.
6. Paragraph 5 applies even though an appeal has been made to the FTT in respect of the original decision.
7. 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, 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.
8. If the Secretary of State makes the same decision again, the appeal to the FTT restarts. If the Secretary of State makes a different decision, the appeal to the FTT ceases unless the FTT directs otherwise.

##### *Article 54b*

##### *Appeals: applications to register designations of origin, geographical indications and traditional specialities guaranteed*

1. Where an appeal is made to the FTT relating to a decision to approve an application to register a designation of origin, geographical indication or traditional speciality guaranteed,

and the Secretary of State has made an entry in the relevant register pursuant to Article 52 relating to that registration, the entry in the register is to be maintained but is in suspense and must be marked to indicate that it is in suspense until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State.

2. Where an appeal is made to the FTT relating to a decision to approve an application to register a designation of origin, geographical indication or traditional speciality guaranteed, and the Secretary of State has not made an entry in the register, the Secretary of State must not make an entry in the register until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State.

#### *Article 54c*

##### *Appeals: applications to amend product specifications*

1. Paragraph 2 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to approve an application of the type specified in Article 53(2) to amend a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed and the Secretary of State has not updated the entry in the relevant register relating to it pursuant to Article 14(3) of Commission Implementing Regulation (EU) 668/2014 by replacing the copy of the product specification attached to the relevant register with the amended version of the product specification.

2. Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the existing copy of the product specification attached to the entry in the relevant register relating to the protected designation of origin, protected geographical indication or traditional speciality guaranteed applies without amendment but the entry in the relevant register must be marked to indicate that an appeal relating to the amendment of the product specification is pending.

3. Paragraph 4 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to approve an application of the type specified in Article 53(2) in relation to the amendment of a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed and the Secretary of State has updated the entry in the relevant register relating to the protected designation of origin, protected geographical indication or traditional speciality guaranteed by replacing the copy of the product specification with the approved amended version.

4. Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the previous copy of the product specification attached to the entry in the relevant register is to be restored but the entry in the relevant register must be marked to indicate that an appeal relating to the amendment of the product specification is pending.

5. Paragraph 6 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to reject an application of the type specified in Article 53(2) to amend a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed.

6. Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the existing copy of the product specification attached to the entry in the relevant register is to be maintained but the entry in the register must be marked to indicate that an appeal relating to an application to amend the product specification is pending.

7. Paragraph 8 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to approve an application of the type specified in Article 6(4) and (4)(a) of

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Regulation 664/2014 to amend a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed on a temporary basis and the Secretary of State has not included an entry in the relevant register relating to the temporary amendment of the product specification pursuant to Article 14(3b) of Commission Implementing Regulation (EU) 668/2014.

**8.** Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the existing copy of the product specification attached to the entry in the relevant register applies without amendment but the entry in the register must be marked to indicate that an appeal relating to the temporary amendment of the product specification is pending.

**9.** Paragraph 10 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to approve an application of the type specified in Article 6(4) of Regulation 664/2014 in relation to the temporary amendment of a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed and the Secretary of State has updated the entry in the relevant register by including an entry relating to the temporary amendment of the product specification.

**10.** Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the copy of the product specification attached to the entry in the relevant register applies and the entry in the relevant register relating to the temporary amendment must be marked to indicate that an appeal relating to the temporary amendment of the product specification is pending.

**11.** Paragraph 12 applies where an appeal is made to the FTT relating to a decision by the Secretary of State to reject an application of the type specified in Article 6(4) and (4)(a) of Regulation 664/2014 to amend a product specification relating to a protected designation of origin, protected geographical indication or traditional speciality guaranteed on a temporary basis.

**12.** Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the copy of the product specification attached to the entry in the relevant register applies but the entry in the register must be marked to indicate that an appeal relating to an application to amend the product specification on a temporary basis is pending.

#### *Article 54d*

*Appeals: applications to cancel registered designations of origin, geographical indications and traditional specialities guaranteed*

**1.** Paragraph 2 applies where an appeal is made to the FTT relating to a decision of the Secretary of State to cancel the registration of a protected designation of origin, protected geographical indication or traditional speciality guaranteed under Article 54 and the Secretary of State has not removed the entry in the relevant register.

**2.** Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the entry in the relevant register is to be maintained but must be marked to indicate that an appeal relating to its cancellation is pending.

**3.** Paragraph 4 applies where an appeal has been made to the FTT relating to a decision of the Secretary of State to cancel the registration of a protected designation of origin, protected geographical indication or traditional speciality guaranteed and the Secretary of State has removed the entry in the relevant register.

4. Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the entry in the register must be restored but must be marked to indicate that an appeal relating to its cancellation is pending.

5. Paragraph 6 applies where an appeal has been made to the FTT relating to a decision of the Secretary of State not to cancel the registration of a protected designation of origin, protected geographical indication or traditional speciality guaranteed.

6. Until the FTT has determined the appeal and any necessary consequent action or decision has been taken by the Secretary of State, the entry in the relevant register relating to the protected designation of origin, protected geographical indication or traditional speciality guaranteed must be marked to indicate that an appeal relating to the cancellation of the entry is pending.”

## PART 5

### New Article 56

#### *“Article 56*

#### *Regulations*

1. Any power to make regulations conferred on the Secretary of State by this Regulation is exercisable by statutory instrument.

2. Such regulations may:

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

3. Except as specified in paragraph 4, a statutory instrument containing regulations under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

4. A statutory instrument containing regulations made under the second subparagraph of Article 2(1) or Article 18(5), 30(1) or 41(3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

5. Before making any regulations under this Regulation, the Secretary of State must consult:

- (a) such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by the regulations;
- (b) such other bodies or persons as the Secretary of State may consider appropriate.”

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**PART 6**

**New Annex 3**

**“ANNEX 3**

**APPEALS**

<i>Decision</i>	<i>Persons who may appeal against the decision</i>	<i>FTT powers</i>
Decision of the Secretary of State to approve an application made under Article 49 to register a designation of origin, geographical indication or traditional speciality guaranteed	<p>The persons are:</p> <p>(a) a person who submitted a reasoned statement of opposition under Article 51(2);</p> <p>(b) a person marketing a product that is, or may be, affected by the registration of the designation of origin, geographical indication or traditional speciality guaranteed.</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to reject the application and (if appropriate) restore the register;</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application and (if appropriate) to restore the register in the meantime.</p>
Decision of the Secretary of State to reject an application made under Article 49 to register a designation of origin, geographical indication or traditional speciality guaranteed	<p>The persons are:</p> <p>(a) the person who submitted the application to register the designation of origin, geographical indication or traditional speciality guaranteed;</p> <p>(b) a person marketing a product that is, or may be, affected by the decision not to register the designation of origin, geographical indication or traditional speciality guaranteed.</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to approve the application and register the designation of origin, geographical indication or traditional speciality guaranteed;</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application.</p>
Decision of the Secretary of State to approve an application made under Article 53 to make an amendment to a product specification relating to a protected designation of origin, protected geographical indication or protected traditional speciality guaranteed	<p>The persons are:</p> <p>(a) a person who submitted a reasoned statement of opposition under Article 51(2), as read with the first subparagraph of Article 53(2), in relation to the application;</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to reject the application and (if appropriate) restore the register;</p> <p>(b) remit the matter to the Secretary of State with a</p>



<i>Decision</i>	<i>Persons who may appeal against the decision</i>	<i>FTT powers</i>
Decision of the Secretary of State to reject an application made under Article 53 to make an amendment to a product specification relating to a protected designation of origin, protected geographical indication or protected traditional speciality guaranteed	<p>The persons are:</p> <p>(b) a person marketing a product that is, or may be, affected by the amendment of the product specification.</p> <p>(a) the person who submitted the application to amend the product specification;</p> <p>(b) a person marketing a product that is, or may be, affected by the decision not to approve the application to amend the product specification.</p>	<p>direction to repeat the scrutiny of the application and (if appropriate) to restore the register in the meantime.</p> <p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to approve the application and attach a copy of the amended product specification to the register;</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application.</p>
Decision of the Secretary of State under Article 54 to cancel the registration of a protected designation of origin, protected geographical indication or protected traditional speciality guaranteed on the Secretary of State's initiative	<p>The persons are:</p> <p>(a) a person who submitted a reasoned statement of opposition under Article 51(2) as read with Article 7(1) and (4) of Regulation 664/2014;</p> <p>(b) a person marketing a product that is, or may be, affected by the cancellation of the registration of the protected designation of origin, protected geographical indication or protected traditional speciality guaranteed.</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State (if appropriate) to restore the register;</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny relating to the cancellation and (if appropriate) to restore the register in the meantime.</p>
Decision of the Secretary of State to approve an application made under Article 54 to cancel the registration of a protected designation of origin, protected geographical indication or protected traditional speciality guaranteed	<p>The persons are:</p> <p>(a) a person who submitted a reasoned statement of opposition under Article 51(2) as read with Article 7(1) and (4) of Regulation 664/2014;</p> <p>(b) a person marketing a product that is, or may be, affected by the cancellation of the registration of the protected designation of origin, protected geographical indication or protected traditional speciality guaranteed.</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to (if appropriate) restore the register, or</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application and (if appropriate) to rectify the register in the meantime.</p>

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<i>Decision</i>	<i>Persons who may appeal against the decision</i>	<i>FTT powers</i>
Decision of the Secretary of State to reject an application made under Article 54 to cancel the registration of a protected designation of origin, protected geographical indication or protected traditional speciality guaranteed	<p>The persons are:</p> <p>(a) the person who submitted the application to cancel the registration of the protected designation of origin, protected geographical indication or protected traditional speciality guaranteed;</p> <p>(b) a person marketing a product that is, or may be, affected by the decision not to cancel the registration the protected designation of origin, protected geographical indication or protected traditional speciality guaranteed.</p>	<p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to cancel the registration;</p> <p>(b) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application.”</p>