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STATUTORY INSTRUMENTS

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**2019 No. 1366**

**The Agricultural Products, Food and Drink  
(Amendment) (EU Exit) Regulations 2019**

**PART 1**

Introductory

**Citation and commencement**

**1.** These Regulations may be cited as the Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

**PART 2**

Amendment of subordinate legislation

**The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019**

**2.** In the Trade Marks (Amendment etc.) (EU Exit) Regulations 2019(1), in Schedule 5, after paragraph 7(1) insert—

“(1A) Paragraph 1 does not apply to an application to register a trade mark that was pending immediately before exit day referred to in—

- (a) Article 14a of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs(2);
- (b) Article 102a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products(3);
- (c) Article 19a of Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products(4);
- (d) Article 32a of Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council

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(1) [S.I. 2019/269](#).

(2) It is prospectively amended on exit day by [S.I. 2019/865](#) and regulation 3 of, and Schedule 1 to, these Regulations. See the definitions of “EU Regulation 1151/2012”, “established protected designation of origin” and “established protected geographical indication” in Article 3(10), (18) and (19), which are prospectively inserted on exit day by [S.I. 2019/865](#). Article 14a is prospectively inserted on exit day by regulation 3(5) of, and Part 2 of Schedule 1 to, these Regulations.

(3) It is prospectively amended on exit day by [S.I. 2019/828](#), and regulation 4 of, and Schedule 2 to, these Regulations; there are other amending instruments that make prospective amendments on exit day but none is relevant. Article 102a is prospectively inserted on exit day by regulation 4(6) of, and Part 2 of Schedule 2 to, these Regulations.

(4) It is prospectively amended on exit day by [S.I. 2019/865](#) and regulation 5 of, and Schedule 3 to, these Regulations; there are other amending instruments that make prospective amendments on exit day but none is relevant. Article 19a is prospectively inserted on exit day by regulation 5(4) of, and Part 2 of Schedule 3 to, these Regulations.

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<sup>(5)</sup>;

- (e) Article 36a of Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages<sup>(6)</sup>.”.

## PART 3

### Amendment of retained direct EU legislation

#### Regulation (EU) No 1151/2012 of the European Parliament and of the Council

3.—(1) Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs is amended as follows.

(2) In Article 3—

(a) after point (13) insert—

“(13a) ‘an Article 52(4) approval notice’ means a notice published under Article 52(4) relating to a decision of the Secretary of State to approve an application to register a designation of origin or geographical indication;”;

(b) after point (17) insert—

“(17a) ‘enters into force’, in relation to a reference to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;”;

(c) after point (20) insert—

“(20a) ‘EUIA’ means an international agreement made between the European Union and a third country that provides for the protection of a designation of origin or geographical indication of the third country in the European Union;”;

(d) after point (21) insert—

“(21a) ‘the relevant period’ means the period beginning on exit day and expiring at the end of the day that falls nine months after the day on which exit day falls;”;

(e) in point (22), after “and” insert “, except in the definition of ‘EUIA’ in this Article and in Annex 1A,”;

(f) after point (22) insert—

(5) It is prospectively amended on exit day by [S.I. 2019/759](#) and regulation 6 of, and Schedule 4 to, these Regulations; there are other amending instruments making prospective amendments on exit day but none is relevant. See the definition of “the Article 25 Register” in Article 1a, which is prospectively inserted on exit day by [S.I. 2019/759](#) and amended by regulation 6(2) (a) of these Regulations on exit day to provide for a definition of the term “the United Kingdom’s Traditional Terms Register”. See the definition of “third country” in Article 1a, which is prospectively inserted on exit day by [S.I. 2019/759](#) and amended on exit day by regulation 6(2)(d) of these Regulations. Article 32a is prospectively inserted on exit day by regulation 6(5) of, and Part 2 of Schedule 4 to, these Regulations.

(6) It is prospectively amended on exit day by [S.I. 2019/](#) and regulation 7 of, and Schedule 5 to, these Regulations. See the definitions of “EU Regulation 110/2008”, “EU Regulation 2019/787”, “third country”, “the United Kingdom established geographical indications” and “the United Kingdom’s GIs Register” in Article 3, which are prospectively inserted on exit day by [S.I. 2019/](#). Article 36a is prospectively inserted on exit day by regulation 7(5) of, and Part 2 of Schedule 5 to, these Regulations.

- “(23) ‘the TMA’ means the Trade Marks Act 1994<sup>(7)</sup>;
- (24) ‘the Types Table’ means the table in Part 1 of Annex 1A;
- (25) ‘the United Kingdom’s PDOs and PGIs Register’ means the register established and maintained by the Secretary of State under Article 11(1).”
- (3) After Article 3 insert the new Article 3a in Part 1 of Schedule 1.
- (4) In Article 14(2), in the first sentence—
  - (a) omit the words from “if” to “concerned”;
  - (b) for “Union” substitute “United Kingdom”;
  - (c) for “Commission” substitute “Secretary of State”;
  - (d) for the words from “under Council” to “2008/95/EC” substitute “in, or under, the TMA”.
- (5) After Article 14 insert the new Articles 14a and 14b in Part 2 of Schedule 1.
- (6) After Annex 1 insert the new Annex 1A in Part 3 of Schedule 1.

#### **Regulation (EU) No 1308/2013 of the European Parliament and of the Council**

4.—(1) Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products is amended as follows.

- (2) In Article 93, after paragraph 1 insert—
  - “**1a.** For the purpose of Article 102a and Annex 8A:
    - (a) ‘an Article 99 approval notice’ means a notice published under Article 99(3) relating to a decision of the Secretary of State to approve an application to register a designation of origin or geographical indication;
    - (b) ‘enters into force’, in relation to a reference to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;
    - (c) ‘EUIA’ means an international agreement made between the European Union and a third country that provides for the protection of a designation of origin or geographical indication of the third country in the European Union;
    - (d) ‘EU 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<sup>(8)</sup> as it had effect before exit day;
    - (e) ‘the relevant period’ means the period beginning on exit day and expiring at the end of the day that falls nine months after the day on which exit day falls;
    - (f) ‘the Types Table’ means the table in Part 1 of Annex 8A;
    - (g) ‘the United Kingdom’s PDOs and PGIs Register’ means the register established and maintained by the Secretary of State under Article 104.
  - 1b.** In the following provisions ‘third country’ means any country except that it does not include any part of the British Islands:
    - (a) the definition of ‘EUIA’ in paragraph 1a(c);
    - (b) Annex 8A.”
- (3) After Article 93 insert the new Article 93a in Part 1 of Schedule 2.

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<sup>(7)</sup> 1994 c. 26.

<sup>(8)</sup> OJ No. L 347, 20.12.2013, p. 671, to which there are amendments not relevant to these Regulations.

(4) In Article 95, after paragraph 1 insert—

“1a. An application to protect a designation of origin or a geographical indication for a wine produced in the United Kingdom must be submitted to the Secretary of State.”.

(5) In Article 99, after paragraph 2 insert—

“3. Where the Secretary of State decides to approve an application under point (b) of the first paragraph, the Secretary of State must:

- (a) inform the applicant and any interested parties of the decision, and
- (b) publish the decision.”.

(6) After Article 102 insert the new Articles 102a and 102b in Part 2 of Schedule 2.

(7) After Annex 8 insert the new Annex 8A in Part 3 of Schedule 2.

### **Regulation (EU) No 251/2014 of the European Parliament and of the Council**

5.—(1) Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products is amended as follows.

(2) In Article 2(1)—

(a) after point (3) insert—

“(3a) ‘an Article 16 approval notice’ means a notice published under the second paragraph of Article 16 relating to a decision of the Secretary of State to grant an application to register a geographical indication;”;

(b) after point (6) insert—

“(6a) ‘enters into force’, in relation to a reference to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;

(6b) ‘EUIA’ means an international agreement made between the European Union and a third country that provides for the protection of a geographical indication of the third country in the European Union;

(6c) ‘EU Regulation 251/2014’ means Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products<sup>(9)</sup> as it had effect before exit day;”;

(c) in point (8), for “means” substitute “and ‘the United Kingdom’s GIs Register’ mean”;

(d) after point (8) insert—

“(8a) ‘the relevant period’ means the period beginning on exit day and expiring at the end of the day that falls nine months after the day on which exit day falls;”;

(e) in point (9), after “and” insert “, except in the definition of ‘EUIA’ in point (6b) and in Annex 2A,”;

(f) after point (9) insert—

“(10) ‘the TMA’ means the Trade Marks Act 1994;

(11) ‘the Types Table’ means the table in Part A of Annex 2A.”.

(3) In Chapter 3 insert as the first Article in that Chapter the new Article 8a in Part 1 of Schedule 3.

<sup>(9)</sup> OJ No. L 84, 20.3.2014, p. 14.

- (4) After Article 19 insert the new Articles 19a and 19b in Part 2 of Schedule 3.
- (5) After Annex 2 insert the new Annex 2A in Part 3 of Schedule 3.

### **Commission Delegated Regulation (EU) 2019/33**

6.—(1) 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 is amended as follows.

- (2) In Article 1a—
  - (a) after the definition relating to the Article 25 Register insert—

“‘an Article 115(2) approval notice’ means a notice published under the second subparagraph of Article 115(2) of Regulation (EU) No 1308/2013 relating to a decision of the Secretary of State to approve an application to protect a traditional term;”;
  - (b) after the definition of “country” insert—

“‘enters into force’, in relation to a reference to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;

‘EUIA’ means an international agreement made between the European Union and a third country that provides for the protection of a traditional term used in the third country in the European Union;”;
  - (c) in the definition of “third country”, after “and” insert “, except in the definition of ‘EUIA’ in this Article and in Annex 7A,”.
  - (d) after the definition of “relevant legislation” insert—

“‘the relevant period’ means the period beginning on exit day and expiring at the end of the day that falls nine months after the day on which exit day falls;

‘the TMA’ means the Trade Marks Act 1994;

‘the Types Table’ means the table in Part A of Annex 7A.”;
- (3) After Article 1a insert the new Article 1b in Part 1 of Schedule 4.
- (4) In Article 32(3), in the first subparagraph—
  - (a) omit “, where national legislation so provides,”;
  - (b) for “Union” substitute “United Kingdom”;
  - (c) for the words from “under” to the end substitute “in, or under, the TMA”.
- (5) After Article 32 insert the new Articles 32a and 32b in Part 2 of Schedule 4.
- (6) After Annex 7 insert the new Annex 7A in Part 3 of Schedule 4.

### **Regulation (EU) 2019/787 of the European Parliament and of the Council**

7.—(1) Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages is amended as follows.

- (2) In Article 3—
- (a) after point (7) insert—
- “(7a) ‘an Article 30(4) approval notice’ means a notice published under Article 30(4) relating to a decision of the Secretary of State to approve an application for a geographical indication;
- (7b) ‘enters into force’, in relation to a reference to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;
- (7c) ‘EUIA’ means an international agreement made between the European Union and a third country that provides for the protection of a geographical indication of the third country in the European Union;”;
- (b) in point (12)(10), after “and” insert “, except in the definition of ‘EUIA’ in point (7c) and in Annex 1A,”;
- (c) after point (12) insert—
- “(12a) ‘the TMA’ means the Trade Marks Act 1994;
- (12b) ‘the Types Table’ means the table in Part 1 of Annex 1A;”.
- (3) After Article 3 insert the new Article 4 in Part 1 of Schedule 5.
- (4) In Article 36(2)—
- (a) omit the words from “if” to “concerned,”;
- (b) for “Union” substitute “United Kingdom”;
- (c) for “Commission” substitute “Secretary of State”;
- (d) for the words from “under” to the end substitute “in, or under, the TMA”.
- (5) After Article 36 insert the new Articles 36a and 36b in Part 2 of Schedule 5.
- (6) After Annex 1 insert the new Annex 1A in Part 3 of Schedule 5.

*Zac Goldsmith*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

At 2.05 p.m. on 21st October 2019

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(10) Point (12) of Article 3 of Regulation (EU) 2019/787 of the European Parliament and of the Council was inserted in that Article, as it stood on exit day, by regulation 15(2) of S.I. 2019/. Point (12) of Article 3 of Regulation (EU) 2019/787 of the European Parliament and of the Council (OJ No. L 130, 17.5.2019, p. 1), as that point was in force (but did not apply) immediately before exit day, does not form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 (c. 16) because it was not operative immediately before exit day.