
STATUTORY INSTRUMENTS

2019 No. 828

The Common Organisation of the Markets in
Agricultural Products and Common Agricultural Policy
(Miscellaneous Amendments) (EU Exit) Regulations 2019

PART 2

Common Market Organisation Amendments

6. After Article 99, insert—

“Article 99a

Appeals

1. The following may appeal to the First-tier Tribunal (the “FTT”) against a decision of the Secretary of State to approve an application made under Article 94 for protection of a name as a designation of origin or geographical indication:

- (a) a person who submitted a statement in accordance with Article 98;
- (b) a person marketing a product that is, or may be, affected by the registration of the designation of origin or geographical indication.

2. The following may appeal to the FTT against a decision of the Secretary of State to reject an application made under Article 94 for protection of a name as a designation of origin or geographical indication:

- (a) the person who submitted the application for protection;
- (b) a person marketing a product that is, or may be, affected by the decision not to register the designation of origin or geographical indication.

[^{F1}2A. The following may appeal to the FTT against a decision of the Secretary of State to approve an application made under Article 105 for an amendment to a product specification of a protected designation of origin or of a protected geographical indication—

- (a) the person who submitted an application under Article 105 which is the subject of the appeal;
- (b) a person marketing a product that is, or may be, affected by the decision to approve the application.

2B. The following may appeal to the FTT against a decision of the Secretary of State to reject an application made under Article 105 for an amendment to a product specification of a protected designation of origin or of a protected geographical indication—

- (a) the person who submitted an application under Article 105 which is the subject of the appeal;
- (b) a person marketing a product that is, or may be, affected by the decision to reject the application.

2C. The following may appeal to the FTT against a decision of the Secretary of State (either on the Secretary of States' own initiative or following a request) under Article 106 to cancel the protection of a designation of origin or geographical indication—

- (a) the person who made a request for cancellation under Article 106 which is the subject of the appeal, if applicable;
- (b) a person marketing a product that is, or may be, affected by the decision of the Secretary of State to cancel.

2D. The following may appeal to the FTT against a decision of the Secretary of State, following a request under Article 106, not to cancel the protection of a designation of origin or geographical indication—

- (a) the person who made the request for cancellation under Article 106;
- (b) a person marketing a product that is, or may be, affected by the decision of the Secretary of State not to cancel.]

3. In determining an appeal under [F²paragraph 1, 2, 2A, 2B, 2C or 2D] 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,
- (b) if it allows an appeal made under paragraph 1:
 - (i) quash the decision and direct the Secretary of State to reject the application and (if appropriate) restore the register; or
 - (ii) 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; or
- (c) if it allows an appeal made under paragraph 2:
 - (i) quash the decision and direct the Secretary of State to approve the application and register the designation of origin or geographical indication; or
 - (ii) remit the matter to the Secretary of State with a direction to repeat the scrutiny of the application.
- [F³(d) if it allows an appeal made under paragraph 2A—
 - (i) quash the decision and direct the Secretary of State to reject the application and (if appropriate) restore the register; or
 - (ii) remit the matter to the Secretary of State with a direction to repeat the consideration of the application for amendment and (if appropriate) to restore the register in the meantime;
- (e) if it allows an appeal made under paragraph 2B—

- (i) quash the decision and direct the Secretary of State to approve the application; or
 - (ii) remit the matter to the Secretary of State with a direction to repeat the consideration of the application for amendment;
- (f) if it allows an appeal made under paragraph 2C—
- (i) quash the decision and direct the Secretary of State to reverse the cancellation and (if appropriate) restore the register; or
 - (ii) remit the matter to the Secretary of State with a direction to repeat the consideration of the cancellation and (if appropriate) to restore the register in the meantime;
- (g) if it allows an appeal made under paragraph 2D—
- (i) quash the decision and direct the Secretary of State to cancel the protection of designation of origin or geographical indication; or
 - (ii) remit the matter to the Secretary of State with a direction to repeal the consideration of the cancellation.]

5. The Secretary of State may consider a decision mentioned in [^{F4}paragraph 1, 2, 2A, 2B, 2C or 2D] 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.

[^{F5}**9.** An appeal made under paragraph 1, 2A or 2C does not prevent an entry recorded on the register provided for in Article 104 by the Secretary of State following that decision from having effect.

10. The entry referred to in paragraph 9 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 restore the register, 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.]

Changes to legislation: There are currently no known outstanding effects for the The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 6. (See end of Document for details)

F6 ... »

Textual Amendments

- F1** Words in reg. 6 inserted (31.12.2020 immediately before IP completion day) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(a)**
- F2** Words in reg. 6 substituted (31.12.2020 immediately before IP completion day) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(b)**
- F3** Words in reg. 6 inserted (31.12.2020 immediately before IP completion day) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(c)**
- F4** Words in reg. 6 substituted (31.12.2020 immediately before IP completion day) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(d)**
- F5** Words in reg. 6 inserted (31.12.2020 immediately before IP completion day) by The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(e)**
- F6** Words in reg. 6 omitted (31.12.2020 immediately before IP completion day) by virtue of The Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1446), regs. 1(2), **7(3)(f)**

Commencement Information

- I1** Reg. 6 in force at 31.12.2020 in force on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see reg. 1

Changes to legislation:

There are currently no known outstanding effects for the The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019, Section 6.