

This Statutory Instrument substantially replaces provision made in S.I. 2019/1343, the scrutiny period for which expired on 7 January 2020 without the instrument having been approved, and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2020 No. 1446

EXITING THE EUROPEAN UNION

AGRICULTURE

FOOD

**The Common Organisation of the Markets in Agricultural
Products (Producer Organisations and Wine) (Amendment etc.)
(EU Exit) Regulations 2020**

Made - - - - 7th December 2020

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

There has been consultation, as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety^(b), during the preparation of these Regulations so far as they relate to food.

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

(a) 2018 c. 16. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(b) OJ No L 31, 1.2.2002, p.1, as amended by Commission Regulation (EU) 2017/228 (OJ No L 35, 10.2.2017, p. 10) and Regulation (EU) 2019/1243 of the European Parliament and of the Council (OJ No L 198, 25.7.2019, p. 241).

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Common Organisation of the Markets in Agricultural Products (Producer Organisations and Wine) (Amendment etc.) (EU Exit) Regulations 2020.

(2) Parts 1 and 3 come into force immediately before IP completion day.

(3) Parts 2 and 4 come into force on IP completion day.

PART 2

Amendment of retained direct EU legislation

Amendment of Commission Delegated Regulation (EU) No 880/2012

2.—(1) Commission Delegated Regulation (EU) No 880/2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector^(a) is amended as follows.

(2) Omit Articles 1 and 2.

(3) In Article 3, for “Article 126c(2)(c) and (3) of Regulation (EC) No 1234/2007” substitute “Article 149(2)(c) of Regulation (EU) No 1308/2013”.

(4) After Article 4, omit the words from “This Regulation” to “Member States.”.

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

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

(2) In Article 92(2)—

(a) in point (b), for “internal market” substitute “market in Great Britain”;

(b) in point (c), for “national quality policy measures” substitute “quality policy measures to be implemented in England, and, to the extent to which those measures are within devolved competence, in Wales and Scotland”.

(3) 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.”.

(4) In Article 97, for paragraphs 3 and 4 substitute—

“**3.** Where the Secretary of State considers that the conditions laid down in this Subsection are met, the Secretary of State must publish the single document referred to in point (d) of Article 94(1) in respect of the application concerned and the product specification referred to in Article 94(2).

4. Where the Secretary of State considers that the conditions laid down in this Subsection are not met, the Secretary of State must reject the application and:

(a) EUR 2012/880.

(b) EUR 2013/1308. Other prospective amendments are made by S.I. 2019/821, 828, 831, 1402 and 1422. In particular, S.I. 2019/821 amends Article 101 and Article 104 and S.I. 2019/828 inserts Articles 99a and 99b.

- (a) inform the applicant and any interested parties of the decision and the reasons for that decision;
 - (b) provide information to the applicant and any interested parties of the right to appeal under Article 99a against the decision and the time period within which an appeal may be made; and
 - (c) publish the decision and the reasons.”.
- (5) After Article 97 insert—

“Article 97a

Applications pending on IP completion day

1. A pending application made before IP completion day under Regulation (EU) No 1308/2013 as it had effect before IP completion day is deemed to be an application made under Article 94 of this Regulation for which scrutiny under Article 97 of this Regulation has not been commenced.

2. Unless requested in writing not to do so by the person who submitted the application under Regulation (EU) No 1308/2013, the Secretary of State must scrutinise a pending application under Article 97 of this Regulation.

3. But the Secretary of State may decide not to scrutinise a pending application under paragraph 2 in a case where the pending application is an application that has been sent to the European Commission for scrutiny under Article 97 of Regulation (EU) No 1308/2013 before IP completion day.

4. The six month period specified in Article 10 of Regulation (EU) No 2019/33 begins with the day on which IP completion day falls.

5. Where a request of the type specified in paragraph 2 is made in relation to a pending application by an applicant referred to in that paragraph, the pending application is to be treated as having been withdrawn.

6. In this Article ‘pending application’ means an application submitted to the Secretary of State under Article 96 of Regulation (EU) No 1308/2013 as it has effect in EU law—

- (a) for protection of a name as a designation of origin or geographical indication;
- (b) for which the European Commission has not adopted an implementing act under Article 99 of Regulation (EU) 1308/2013 before IP completion day.”;

- (6) For Article 99 substitute—

“Article 99

Decision on protection

1. On the basis of the information available to the Secretary of State upon completion of the objection procedure referred to in Article 98, the Secretary of State must decide to:

- (a) reject the application if the Secretary of State considers that the conditions laid down in this Subsection are not met; or
- (b) approve the application and update the register provided for in Article 104 accordingly.

2. Where the Secretary of State decides to reject an application under point (a) of the first paragraph, the Secretary of State must:

- (a) inform the applicant and any interested parties of the decision and the reasons for that decision;
- (b) provide information to the applicant and any interested parties of the right to appeal under Article 99a against the decision and the time period within which an appeal may be made; and
- (c) publish the decision and the reasons.

3. Where the Secretary of State decides to approve an application under point (b) of paragraph 1, the Secretary of State must:

- (a) inform such parties as the Secretary of State considers to have an interest in the decision of the decision and the reasons for that decision;
- (b) provide information to such parties as the Secretary of State considers to have an interest in the decision of the right to appeal under Article 99a against the decision and the time period within which an appeal may be made; and
- (c) publish the decision and the reasons.”.

(7) In Article 101(1)—

- (a) in the first subparagraph, after “protected” insert “in Great Britain”;
- (b) at the end of the second subparagraph, insert “in the United Kingdom”.

(8) In Article 104, at the end insert—

“and unless the Secretary of State, when making an entry, specifies a later date on the register as the date the entry is to take effect, the entry is to be treated as taking effect:

- (a) in a case where the register is established by the Secretary of State after IP completion day but before the end of the next day following the day on which IP completion day falls and the entry is on the register as established during that period, on IP completion day;
- (b) in any other case, immediately the entry is made”.

(9) For Article 106 substitute—

“Article 106

Cancellation

Either on the Secretary of State’s own initiative or following a request, the Secretary of State may decide, in accordance with Commission Delegated Regulation (EU) 2019/33 and Commission Implementing Regulation (EU) 2019/34, to cancel the protection of a designation of origin or a geographical indication where the Secretary of State considers that compliance with the corresponding product specification is no longer ensured.

Where the Secretary of State makes a decision to cancel under the first paragraph (either following a request or on the Secretary of State’s own initiative) or to decline to cancel under the first paragraph (following a request), the Secretary of State must:

- (a) inform any interested party of the decision and the reasons for that decision;
- (b) provide information to such parties as the Secretary of State considers to have an interest in the decision of the right to appeal against the decision and the time period within which an appeal may be made;
- (c) publish the decision and the reasons; and
- (d) update the register provided for in Article 104 accordingly.”.

(10) In Article 109—

- (a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
- (b) in paragraph 2, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
- (c) in paragraph 3—
 - (i) in the words before point (a), for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) in point (b), for “Commission” substitute “Secretary of State”;
 - (iii) at the end of point (f), for the full stop substitute a semi-colon;
 - (iv) after point (f) insert—

- “(g) rights to appeal any decision made:
- (i) under Article 99 to reject or approve an application for the protection of a designation of origin or of a geographical indication;
 - (ii) to reject or approve an application submitted under Article 105 to amend the product specification of a protected designation of origin or of a protected geographical indication;
 - (iii) under Article 106, either to reject or approve an application to cancel a protected designation of origin or a protected geographical indication, or to cancel such protection on the Secretary of State’s own initiative,
- including the parties who may bring an appeal, the grounds and form of appeal, the appeals procedure, and the identity and powers of the appeal body.”;
- (d) in paragraph 4, for the words from “Commission” to “on” substitute “Secretary of State may make regulations about”;
 - (e) in paragraph 5—
 - (i) after “granted protection” insert “under Regulation (EU) No 1308/2013”;
 - (ii) after “application for protection has been made” in both places it occurs, insert “under Regulation (EU) No 1308/2013”;
 - (iii) for “1 August 2009”, in both places it occurs, substitute “IP completion day”;
 - (iv) for “that date”, in both places it occurs, substitute “IP completion day”;
 - (v) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations for securing, as far as practicable, uninterrupted protection equivalent to that provided by Regulation (EU) No 1308/2013 immediately before IP completion day, and in particular”;
 - (vi) omit “by Member States”.
- (11) In Article 110—
- (a) for the heading substitute—

“Article 110 Other delegated powers”;
 - (b) in paragraph 1—
 - (i) for the words from “Commission” to “acts” substitute “Secretary of State may make regulations”;
 - (ii) omit the last sentence;
 - (c) in paragraph 2—
 - (i) for the words from “Commission” to “acts” substitute “Secretary of State may make regulations”;
 - (ii) omit the last sentence.
- (12) Omit Article 111.
- (13) In Article 114—
- (a) in paragraph 1, for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (b) in paragraph 2—
 - (i) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”;
 - (ii) in point (g), for “Commission” substitute “Secretary of State”;
 - (iii) at the end of point (g), for the full stop substitute a semi-colon;
 - (iv) after point (g), insert—
- “(h) the circumstances in which an interested party may appeal any decision to:
- (i) reject or approve an application for the protection of a traditional term;

- (ii) reject or approve an application for the modification of the protection of a traditional term;
 - (iii) either reject or approve an application for the cancellation of the protection of a traditional term, or to cancel such protection on the Secretary of State’s own initiative.”;
 - (c) in paragraph 3—
 - (i) for “the Union” substitute “Great Britain”;
 - (ii) for the words from “Commission” to “Article 227” substitute “Secretary of State may make regulations”.
- (14) In Article 115—
- (a) for the heading substitute—

“Article 115 Other delegated powers”;
 - (b) in paragraph 1, for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (c) for paragraph 2 substitute—

“2. The Secretary of State may:

 - (a) approve or reject an application for protection of a traditional term;
 - (b) approve or reject an application for modification of a protected traditional term;
 - (c) approve or reject an application to cancel the protection of a traditional term;
 - (d) cancel the protection of a traditional term on the Secretary of State’s own initiative.

2A. Where the Secretary of State makes a decision under paragraph 2, the Secretary of State must publish in such manner as appears appropriate to the Secretary of State from time to time, a notice—

 - (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 against the decision and the period within which an appeal may be made.”;
 - (d) in paragraph 3, for the words “Commission shall adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (e) omit paragraph 4.
- (15) Omit Article 116.
- (16) In Article 119(3), for point (b) substitute—
- “(b) in exceptional and duly justified circumstances specified in regulations made by the Secretary of State in order to ensure compliance with existing labelling practices.”.
- (17) In Article 191—
- (a) for the first paragraph substitute—

“The Secretary of State may, pursuant to international obligations, make regulations setting out derogations from point 5 of Section B or from Section C of Part 2 of Annex VIII for products imported into Great Britain.”;
 - (b) in the second paragraph, omit “of the Member State of release into free circulation”;
 - (c) in the third paragraph—
 - (i) for “Commission may adopt implementing acts” substitute “Secretary of State may make regulations”;
 - (ii) omit the last sentence.

Amendment of Commission Delegated Regulation (EU) 2016/232

4. In Commission Delegated Regulation (EU) 2016/232 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation(a), omit Articles 2 and 4.

Amendment of Commission Delegated Regulation (EU) 2017/891

5.—(1) Commission Delegated Regulation (EU) 2017/891 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to penalties to be applied in those sectors(b) is amended as follows.

(2) In Article 2(c)—

(a) omit points (d) and (e);

(b) after point (q)(d), insert—

“(r) ‘existing non-UK member’ means an ex-transnational producer organisation member:

(i) who was, immediately before IP completion day, a producer member of a transnational producer organisation within the meaning of Articles 2(b) and 2(d) (as they had effect immediately before IP completion day); and

(ii) at least one of whose holdings is situated in a Member State;

(s) ‘ex-transnational producer organisation’ means a producer organisation that was, immediately before IP completion day, recognised in the United Kingdom as a transnational producer organisation within the meaning of Article 2(d) (as it had effect immediately before IP completion day).”.

(3) In Article 3—

(a) omit the first and second sentences;

(b) in the third sentence—

(i) for “Member States may adopt” substitute “Nothing in this Regulation prevents the Secretary of State from adopting”;

(ii) for “organisations and on” substitute “organisations, including rules concerning”.

(4) In Article 4(1) and (2), for “Member States” substitute “The Secretary of State”.

(5) In Article 5—

(a) in the first paragraph, for the words from “Member States” to the end substitute “producer organisations must have at least five producer members, all of whom are separate legal entities.”;

(b) omit the second paragraph.

(6) In Article 6—

(a) in paragraph 2, for the second sentence substitute—

“Subject to paragraph 3, resignation from membership will take effect:

(a) if notice of resignation is received by the producer organisation on or before 30 September of a given calendar year (or such earlier date as may be set in the producer

(a) EUR 2016/232.

(b) EUR 2017/891. Under Article 138 of the withdrawal agreement (as defined in s39(1) of the European Union (Withdrawal) Act 2020 (c. 1) and s7A of the European Union (Withdrawal) Act 2018 (c. 16), certain common organisation of the markets and rural development measures committed under the multiannual financial framework 2014-20 and previous financial perspectives continue to be governed by directly applicable EU law.

(c) Article 2 is also amended by S.I. 2020/1445.

(d) S.I. 2020/1445 inserts points (n) to (q) into Article 2.

organisation's membership agreement in accordance with paragraph 3), on 1 January of the following year;

- (b) if notice of resignation is received by the producer organisation after 30 September of a given calendar year (or such earlier date as may be set in the producer organisation's membership agreement in accordance with paragraph 3), on 1 January of the year after the following year.”;

- (b) after paragraph 2, insert—

“3. The membership agreement of a producer organisation may require notice of resignation to be given before 30 September (but no earlier than 30 June) of the year before that in which resignation is intended to take effect.”.

- (7) In Article 7—

- (a) for “Member States” substitute “The Secretary of State”;
- (b) in point (e), for “national” substitute “applicable”.

- (8) For Article 9, substitute—

“Article 9

Minimum value of marketed production

For the purposes of Article 154(1)(b) of Regulation (EU) No 1308/2013, the minimum value of marketed production is:

- (a) €250,000 for producer organisations recognised for mushrooms or nuts;
- (b) €1 million for producer organisations recognised in respect of any other product or group of products.”.

- (9) In Article 12—

- (a) in paragraph 1, in the words before point (a), for “Member State” substitute “Secretary of State”;
- (b) in paragraph 2—
 - (i) for “Member States may set” substitute “nothing in this Regulation prevents the Secretary of State from setting”;
 - (ii) for “Member States may increase” substitute “Nothing in this Regulation prevents the Secretary of State from increasing”.

- (10) In Article 13(1), for “a Member State” substitute “the Secretary of State”.

- (11) For Article 14, substitute—

“Article 14

Ex-transnational producer organisations

1. An ex-transnational producer organisation retains recognition as a producer organisation pursuant to Article 152 of Regulation (EU) No 1308/2013 provided that it fulfils the criteria and requirements for recognition set out in Regulation (EU) No 1308/2013, this Regulation and Regulation (EU) 2017/892.

2. Any person that:

- (a) immediately before IP completion day, was a member of a transnational producer organisation which is an ex-transnational producer organisation; and
- (b) is not a producer within the meaning of Article 2(a),

is a non-producer member of the ex-transnational producer organisation within the meaning of Article 16, whether or not such person was a producer member of such organisation before IP completion day.”.

- (12) In Article 15(1), for “Member State” substitute “Secretary of State”.

- (13) In Article 16—

- (a) in paragraph 1—
 - (i) for “Member States may determine the conditions under which any” substitute “Any”;
 - (ii) after “producer organisation” insert “if and for so long as there is no conflict of interest between that person and the producer organisation”;
- (b) omit paragraph 2;
- (c) in paragraph 3—
 - (i) in point (b), for “by the Union” substitute “from public funds(a)”;
 - (ii) for the second subparagraph substitute—

“Restrictions on the right of a natural or legal person to vote on decisions relating to operational funds are set out in Annex VIII to this Regulation.”;

- (d) after paragraph 3 insert—

“4. By way of derogation from paragraph 3(b), an existing non-UK member of an ex-transnational producer organisation may continue to benefit directly from measures financed from public funds, where:

- (a) those measures are contained in an operational programme that was implemented by that organisation before IP completion day; and
- (b) that member was entitled to benefit from those measures immediately before IP completion day.”.

- (14) In Article 17—

- (a) in paragraph 1—
 - (i) omit “national”;
 - (ii) for “Member State” substitute “Secretary of State”;
- (b) for paragraph 2 substitute—

“2. The maximum percentage of voting rights and shares or capital which any natural or legal person may hold in any producer organisation that does not fall within paragraph 1 is set out in Annex VIII to this Regulation.”;

- (c) in paragraph 3, for “Member States’ authorities” substitute “The Secretary of State”;
- (d) omit paragraph 4.

- (15) In Article 18—

- (a) after “17” insert “(save as provided otherwise in this Article and Annex VIII)”;
- (b) at the end, insert “Restrictions on voting rights in associations of producer organisations are set out in Annex VIII to this Regulation.”.

- (16) In Article 19—

- (a) in paragraph 1, for “Member States” substitute “The Secretary of State”;
- (b) in paragraph 4, for “Member States may adopt” substitute “Nothing in this Regulation prevents the Secretary of State from adopting”.

- (17) In Article 20—

- (a) in paragraph 1—
 - (i) for “Member States may determine the conditions under which natural” substitute “Natural”;
 - (ii) after “producer organisations” insert “if and for so long as there is no conflict of interest between those persons and the association of producer organisations”;

(a) S.I. 2020/1445 inserts a definition of “public funds” into Article 2 of Regulation (EU) 2017/891.

(b) in paragraph 2—

- (i) in point (b), for “by the Union” substitute “from public funds”;
- (ii) for the second subparagraph substitute—

“Restrictions on those members’ right to vote on decisions relating to operational programmes are set out in Annex VIII to this Regulation.”.

(18) Omit Article 21.

(19) In Article 22—

(a) in paragraph 1—

- (i) in the first subparagraph, for “The”, in the first place it occurs, substitute “Except to the extent that this Article and Article 23 provide otherwise, the”;
- (ii) in the second subparagraph, for “The” substitute “Except to the extent that this Article and Article 23 provide otherwise, the”;

(b) in paragraph 3, for “Member States” substitute “The Secretary of State”;

(c) omit paragraph 4;

(d) in paragraph 5, for “Only” substitute “Except to the extent that this Article and Article 23 provide otherwise, only”;

(e) in paragraph 8(b), for “Member State approval” substitute “approval by the Secretary of State”.

(20) In Article 23(a)—

(a) in paragraph 2, for “The” substitute “Except where paragraph 2A applies, the”;

(b) after paragraph 2, insert—

“2A. For ex-transnational producer organisations, the ceiling on financial assistance referred to in Article 34(2) of Regulation (EU) No 1308/2013 is to be calculated, and compliance with Article 154(1)(b) of Regulation (EU) No 1308/2013 is to be assessed, on the basis of the value of the marketed production during the reference period of producers who are producer members of the organisation on 1 January of the year for which aid is requested, calculated in accordance with Article 22.”;

(c) in paragraph 4, in the second subparagraph, after “appropriate authority”(b) insert “and the Secretary of State (when the Secretary of State is not the appropriate authority)”.

(21) In Article 31(c)—

(a) in paragraph 6, after the fourth subparagraph, insert—

“The obligations to recover any aid paid from public funds under the fourth subparagraph do not apply to investments that are financed under an operational programme that was being implemented immediately before IP completion day by an ex-transnational producer organisation.”;

(b) in paragraph 7, in the second subparagraph, omit “producer” in the first place it occurs.

(22) After Article 36(5), insert—

“6. The obligations to recover any aid paid from public funds under the sentence at the end of paragraph 2(b) and paragraph 3 do not apply to investments that are financed under an operational programme that was being implemented immediately before IP completion day by an ex-transnational producer organisation.”.

(a) Article 23 is also amended by S.I. 2020/1445.

(b) S.I. 2020/1445 amends Article 23(4) to replace the reference to the “competent authority of the Member State concerned” with “appropriate authority”.

(c) Article 31 is also amended by S.I. 2020/1445.

(23) In Article 56(2), for “, associations of producer organisations, transnational associations of producer organisations and producer groups” substitute “and associations of producer organisations”.

(24) In Article 59—

- (a) in paragraph 1(a)—
 - (i) in the first sentence—
 - (aa) for “a Member State” substitute “the Secretary of State”;
 - (bb) for “it” substitute “the Secretary of State”;
 - (ii) in the second sentence, for “their” substitute “the Secretary of State’s”;
- (b) in paragraph 2, in the first subparagraph—
 - (i) in the first and second sentences, for “Member State” substitute “Secretary of State”;
 - (ii) in the third sentence, omit “horizontal national”;
- (c) in paragraph 3—
 - (i) in the first sentence—
 - (aa) for “competent authority of the Member State” substitute “Secretary of State”;
 - (bb) for “Member State”, in the second place it occurs, substitute “Secretary of State”;
 - (ii) in the second sentence, omit “horizontal national”;
- (d) in paragraph 4—
 - (i) for “a Member State” substitute “the Secretary of State”;
 - (ii) for “it” substitute “the Secretary of State”;
- (e) in paragraph 5—
 - (i) in the first sentence, for “Member State” substitute “Secretary of State”;
 - (ii) in the second sentence, omit “horizontal national”;
- (f) in paragraph 6—
 - (i) in the first subparagraph, for “Member States” substitute “The Secretary of State”;
 - (ii) in the second subparagraph—
 - (aa) for “Member State”, in both places it occurs, substitute “Secretary of State”;
 - (bb) for “Member States” substitute “the Secretary of State”.

(25) In Article 60—

- (a) in paragraph 1(b), after “payments to and” insert “the Secretary of State shall suspend”;
- (b) in paragraph 2, after “head office”(c), insert “in point (b), and the Secretary of State in points (a) and (c)”.

(26) Omit Articles 68 to 71.

(27) Omit Article 72(2).

(28) In Annex II—

- (a) in point 8, for “Union” substitute “United Kingdom”;
- (b) in point 20, for “Union”, in both places it occurs, substitute “United Kingdom”.

(29) In Annex III—

- (a) in point 2(c), omit the words from “, as well” to “associations of producer organisations”;
- (b) in point 13—

(a) Article 59(1) is also amended by S.I. 2020/1445.

(b) Article 60(1) is also amended by S.I. 2020/1445.

(c) S.I. 2020/1445 inserts words after point (c) in Article 60(2) of this Regulation.

- (i) for “territory of the Union” substitute “United Kingdom”;
 - (ii) omit “(a) and”.
- (30) In Annex V, in Part A(a)—
- (a) for “, associations”, in each place it occurs, substitute “and associations”;
 - (b) in point 2—
 - (i) omit “, transnational associations of producer organisations”, in each place it occurs;
 - (ii) omit point (a)(ii);
 - (iii) in point (b), omit the words from “In addition” to the end;
 - (c) in points 3 and 4, omit “and transnational associations of producer organisations”, in each place it occurs.
- (31) After Annex VII, insert—

“ANNEX VIII

Restrictions on shareholding and voting rights in producer organisations and associations of producer organisations

1. In this Annex:
 - (a) ‘voting right’ means a right to vote in relation to a relevant decision;
 - (b) ‘relevant decision’ means any decision affecting the producer organisation or association of producer organisations (as the case may be) and its members (in their capacity as such), including the election of the producer organisation’s or association of producer organisations’ (as the case may be) directors or board members.
2. A producer organisation must provide in its members’ agreements and statutes for each producer member to have one voting right.
3. By way of derogation from point 1, a producer organisation that has more than ten members may, with the agreement of the Secretary of State, provide for individual producer members to exercise up to 10% each of the voting rights. The remaining voting rights (other than voting rights held by non-producer members, insofar as permitted by the Secretary of State and the producer organisation) must be shared between the remaining producer members. A producer organisation that implements this option must adopt measures to prevent abuses of power by its members.
4. A producer organisation may provide in its members’ agreements and statutes for non-producer members to have voting rights, provided that:
 - (a) a non-producer member must not be permitted to hold more than one voting right;
 - (b) the total share of the voting rights exercisable by non-producer members must be:
 - (i) in relation to decisions concerning an operational programme that was being implemented by an ex-transnational producer organisation immediately before IP completion day, less than a majority of the total number of voting rights exercisable in respect of such decisions;
 - (ii) in relation to any other relevant decisions, no more than 20%.
5. A natural or legal person must not hold more than:
 - (a) 20% of the total number of shares or amount of capital in a producer organisation directly; or
 - (b) 49% of the total number of shares or amount of capital in a producer organisation in total, directly or indirectly.

(a) Part A of Annex 5 is also amended by S.I. 2020/1445.

6. For the purpose of point 5, a person holds a share or capital “indirectly” if the person has a majority stake in another person and that other person:

- (a) holds the share or capital in question; or
- (b) is part of a chain of persons:
 - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain; and
 - (ii) the last of whom holds the share or capital.

7. An association of producer organisations must provide in its members’ agreements and statutes for each member that is a producer organisation to have one voting right.

8. An association of producer organisations may provide in its members’ agreements and statutes for producer members that are not producer organisations to have voting rights, provided that:

- (a) such members must not be permitted to hold more than one voting right each;
- (b) the total share of the voting rights exercisable by such members must be less than a majority of the total number of voting rights exercisable in respect of each relevant decision.”.

Amendment of Commission Implementing Regulation (EU) 2017/892

6.—(1) Commission Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors^(a) is amended as follows.

(2) In Article 1A^(b), at the end insert—

“(e) ‘existing non-UK member’ means an ex-transnational producer organisation member:

- (i) who was, immediately before IP completion day, a producer member of a transnational producer organisation within the meaning of Articles 2(b) and 2(d) of Regulation (EU) 2017/891 (as they had effect immediately before IP completion day); and
- (ii) at least one of whose holdings is situated in a member State;

(f) ‘ex-transnational producer organisation’ means a producer organisation that was, immediately before IP completion day, recognised in the United Kingdom as a transnational producer organisation within the meaning of Article 2(d) of Regulation (EU) 2017/891 (as it had effect immediately before IP completion day).”.

(3) In Article 9—

- (a) in paragraph 6^(c), omit the second sentence;
- (b) omit paragraph 7.

(4) In Article 21, in the first paragraph^(d), omit “, transnational associations of producer organisations”.

(5) In Article 22, for the first sentence substitute—

“The Secretary of State must ensure that a unique identification system applies to producer organisations and associations of producer organisations with regard to their aid applications.”.

(a) EUR 2017/892. Under Article 138 of the withdrawal agreement (as defined in s39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1)) and s7A of the European Union (Withdrawal) Act 2018 (c. 16), certain common organisation of the markets and rural development measures committed under the multiannual financial framework 2014-20 and previous financial perspectives continue to be governed by directly applicable EU law.

(b) S.I. 2020/1445 inserts Article 1A into Regulation (EU) 2017/892.

(c) Article 9(6) is also amended by S.I. 2020/1445.

(d) Article 21 is also amended by S.I. 2020/1445.

(6) At the end of Article 23(a), insert “, and the procedures for the submission of requests for recognition are those published from time to time by the Secretary of State”.

(7) In Article 24—

(a) in paragraph 1, for “Member States” substitute “the Secretary of State”;

(b) in paragraph 2, for “Member States” substitute “The Secretary of State”.

(8) At the end of Article 28, insert—

“3. If the check reveals any non-compliance with the recognition criteria, the producer organisation or association of producer organisations concerned must send a copy of the report to the Secretary of State within 28 days of the date on which the final version of the report is sent to the producer organisation or association of producer organisations.”.

(9) Omit Articles 32 and 33.

(10) At the end of Article 34(b), insert—

“If a check reveals any non-compliance with the recognition criteria, a detailed report must be made and sent to the Secretary of State in accordance with Article 28.”.

(11) In Article 35(c), after “appropriate authority”, in both places it occurs, insert “or the Secretary of State (as the case may be)”.

(12) Omit Chapter V.

(13) In Annex 2(d), in the words before Section 1 (*Administrative Information*)—

(a) in the section entitled “Structure of the Annual Report – Part A”—

(i) in point 2—

(aa) in the heading, for the words from “, transnational producer” to the end, substitute “and associations of producer organisations”;

(bb) omit the rows beginning “Table 2.2.” and “Table 2.4.”;

(ii) in point 3, in the rows beginning “Table 3.1.” and “Table 3.2.”, for the words from “, transnational producer” to the end, substitute “and associations of producer organisations”;

(iii) in point 4, in the row beginning “Table 4.1.”, for the words from “transnational producer” to the end, substitute “associations of producer organisations”;

(b) in the section entitled “Explanatory Notes”—

(i) in the subsection entitled “Abbreviations”, omit the rows beginning “Transnational producer organisation” and “Transnational association of producers organisation”;

(ii) in the subsection entitled “Code number (ID) of POs, TPOs, APOs, TAPOs and PGs”—

(aa) in the heading, for “, TPOs, APOs, TAPOs” substitute “and APOs”;

(bb) for “, TPO, APO, TAPO”, in both places it occurs, substitute “or APO”.

(14) In Annex 2, in Section 2 (*Information Related to POs, TPOs, APOs and PGs*)—

(a) in the heading, for “, TPOs, APOs, TAPOs” substitute “AND APOs”;

(b) in Table 2.1., omit “/TPO(s)/TAPO(s)”, in both places it occurs;

(c) omit Table 2.2.;

(d) in Table 2.3., omit “/TAPO(s)”, in both places it occurs;

(e) omit Table 2.4..

(a) Article 23 is substituted by S.I. 2020/1445.

(b) Article 34 is also amended by S.I. 2020/1445.

(c) S.I. 2020/1445 amends Article 35 to replace the reference to the “competent authority of the Member State concerned” with “appropriate authority”.

(d) Annex 2 is also amended by S.I. 2020/1445.

- (15) In Annex 2, in Section 3 (*Expenditures Information*)—
- (a) in Table 3.1.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”;
 - (b) in Table 3.2.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”.
- (16) In Annex 2, in Section 4 (*Monitoring of Operational Programmes*)—
- (a) in the words before Table 4.1.—
 - (i) for “, associations” substitute “and associations”;
 - (ii) omit “, transnational organisations”;
 - (b) in Table 4.1.—
 - (i) in the heading, for “, TPOs, APOs and TAPOs” substitute “and APOs”;
 - (ii) omit the columns headed “All TPOs” and “All TAPOs”.

PART 3

Amendment of domestic regulations

7.—(1) The Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019^(a) is amended as follows.

(2) In regulation 4(b), for “exit day” substitute “IP completion day”.

(3) In regulation 6, in the inserted text—

(a) after paragraph 2, insert—

“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;

^(a) S.I. 2019/828.

- (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.”;
- (b) in paragraph 3, for “paragraph 1 or 2” substitute “paragraph 1, 2, 2A, 2B, 2C or 2D”;
- (c) after paragraph 4(c), insert—
 - “(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.”;
- (d) in paragraph 5, for “paragraph 1 or paragraph 2” substitute “paragraph 1, 2, 2A, 2B, 2C or 2D”;
- (e) after paragraph 8 of Article 99a, insert—

“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.”;
- (f) omit the words from “Article 99b” to the end of the regulation.

(4) Regulation 7 is revoked.

PART 4

Revocations

Revocation of certain implementing acts relating to EU wine designations of origin, geographical indications, and traditional terms

8. Any implementing act adopted under the following provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council prior to IP completion day and forming part of domestic law by virtue of section 3(1) of the European Union (Withdrawal) Act 2018 is revoked—

- (a) Article 97(3) and (4);
- (b) Article 99;
- (c) Article 106;
- (d) Article 115(2).

Victoria Prentis

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

7th December 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 of these Regulations makes amendments to Commission Delegated Regulation (EU) No 880/2012 and Commission Delegated Regulation (EU) 2016/232 concerning transnational cooperation.

It also amends provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council in relation to protected geographical indications, protected designations of origin and traditional terms in the wine sector.

It also makes amendments to Commission Delegated Regulation (EU) 2017/891 and Commission Implementing Regulation (EU) 2017/892 concerning producer organisations and notifications in the fruit and vegetables and processed fruit and vegetables sectors.

Part 3 amends the Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments) (EU Exit) Regulations 2019 to replace a reference to exit day with IP completion day, to provide more detail on the appeal mechanism, and to revoke a provision which is replaced by this instrument.

Part 4 revokes certain implementing acts relating to EU wine designations of origin, geographical indications, and traditional terms.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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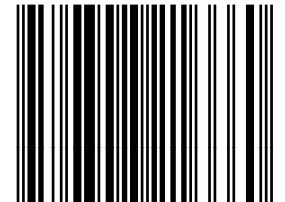
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK202012071016 12/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/1446>

ISBN 978-0-34-821666-0



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