

SCHEDULE 4

Regulation 9

Commission Delegated Regulation (EU) 2019/33: new articles 32c and 32d

“Article 32c

Third Country traditional terms covered by bridging arrangements

1. A traditional term to which paragraph 2 applies is, for the protection period, to be entered on Great Britain’s Traditional Terms Register(1).
2. This paragraph applies to a traditional term which relates to a wine sector product produced in a third country (“C”) which:
 - (a) was, immediately before IP completion day, protected in the European Union under an EUIA(2) to which the European Union and C were contracting parties, and
 - (b) is, before a qualifying international agreement enters into force(3), to be protected in Great Britain pursuant to any written arrangements made by the United Kingdom and C (“bridging arrangements”).
3. For the purposes of this Article, “the protection period”, in relation to a traditional term, is the period for which:
 - (a) the relevant bridging arrangements have effect, or
 - (b) if only part of the relevant bridging arrangements relates to the traditional term, that part has effect.
4. In this Article “qualifying international agreement” means an international agreement between the United Kingdom and C, which has been initialled.

Article 32d

Transitional provisions: relations between trade marks and traditional terms when bridging arrangements are in effect

1. Where a traditional term is entered on Great Britain’s Traditional Terms Register under Article 32c, Articles 32a and 32b and Annex A1(4) apply for the purposes of determining:
 - (a) whether an application to register a trade mark which was pending before IP completion day or made during the relevant period(5), must be refused, or
 - (b) if a relevant invalidity application was made, whether the registration of a trade mark must be declared invalid,but subject to the general modifications specified in paragraphs 2 and 3 and any further modifications made by regulations (if any) (see paragraph 4).
2. The modifications mentioned in paragraph 1 are that Articles 32a and 32b and Annex A1 are to be read as if:
 - (a) in the case of a type A term, any reference to a type 2A traditional term included a reference to a type A term;
 - (b) in the case of a type B term, any reference to a type 2B traditional term included a reference to a type B term.

(1) “Great Britain’s Traditional Terms Register” is defined in Article 1a(m). Article 1a is inserted by [S.I. 2020/1637](#).

(2) “EUIA” is defined in Article 1a(k).

(3) “Enters into force” is defined in Article 1a(i).

(4) Articles 32a and 32b and Annex A1 were inserted by [S.I. 2020/1637](#).

(5) “The relevant period” is defined in Article 1a (p).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

3. In addition, Article 32b and Annex A1 are to be read as if any reference to Article 32a included a reference to that Article as applied by this Article.

4. The Secretary of State may, by regulations, make such further modifications to Article 32a or 32b or Annex A1 as the Secretary of State considers necessary for the purpose of ensuring that the relative priorities afforded to traditional terms and trade marks before IP completion day continue to apply appropriately during the relevant period.

5. For the purposes of this Article:

‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 32b(1) and modified by Article 32b(2)) in relation to the registration of a trade mark;

‘type A term’ means a traditional term which—

- (i) is, immediately before the application to register a trade mark is accepted, entered in Great Britain’s Traditional Terms Register under Article 32c, or
- (ii) is not so entered when the application to register a trade mark is accepted, but is to be protected under bridging arrangements which come into effect before the application to register a trade mark is accepted;

‘type B term’ means a traditional term which is not entered in Great Britain’s Traditional Terms Register under Article 32c when the relevant trade mark application is accepted but must be protected in Great Britain pursuant to bridging arrangements made on or after the day on which the relevant trade mark application is accepted.

6. The power to make regulations conferred on the Secretary of State by paragraph 4 is exercisable by statutory instrument.

7. A statutory instrument containing regulations under paragraph 4 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

8. Such regulations may:

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

9. In this Article, ‘enactment’ means:

- (a) an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act, except so far as it extends to Northern Ireland;
- (b) regulations made under retained direct principal EU legislation, except so far as they extend to Northern Ireland;
- (c) retained direct minor EU legislation, except so far as it extends to Northern Ireland.”