

## SCHEDULE 5

Regulation (EU) 2019/787: new provisions

### PART 3

New Annex 1A

“ANNEX 1A

#### TYPES OF GEOGRAPHICAL INDICATION TO WHICH ARTICLE 36A APPLIES

### PART 1

Interpretation

1. In the table in Part 3:
  - (a) ‘the paragraph 1 trade mark application’ means the application to register a trade mark referred to in Article 36a(1);
  - (b) ‘the relevant pre-IP completion day legislation’ means:
    - (i) in the case of an application to register a geographical indication submitted to the European Commission under EU Regulation 110/2008, Article 17 of that Regulation;
    - (ii) in the case of an application to register a geographical indication submitted to the European Commission under EU Regulation 2019/787, Article 24 of that Regulation;
  - (c) ‘the relevant trade mark application’ means the application to register a trade mark referred to in Article 36a(2) or (3)(a), as relevant;
  - (d) ‘the relevant EUIA-based date’ means the date determined in accordance with Part 2.

### PART 2

The relevant EUIA-based date

2. In the table in Part 3, in a case where the relevant EUIA-based date applies, the relevant EUIA-based date means:
  - (a) the date provided for in paragraph 3, or
  - (b) where paragraph 3 does not apply, the date provided for in the relevant point of paragraph 4, or paragraph 5, as relevant to the geographical indication.
3. In a case where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to a geographical indication contained priority provisions that applied to the geographical indication, the relevant EUIA-based date is the priority date provided for in the EUIA that applied to that geographical indication.
4. In a case of a type 2A, 2B, 3A or 3B geographical indication to which paragraph 3 does not apply, the relevant EUIA-based date is:
  - (a) in a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to an amendment made to the EUIA

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(without the need for further action to be taken under the EUIA), the date on which the amendment entered into force;

- (b) in a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to a provision in the EUIA that was provisionally applied before IP completion day (without the need for further action to be taken under the EUIA), the date on which the provision was provisionally applied;
- (c) in a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to an amendment made to the EUIA that was provisionally applied before IP completion day (without the need for further action to be taken under the EUIA), the date on which the amendment was provisionally applied;
- (d) in a case where the geographical indication was protected in the European Union immediately before IP completion day following the submission and processing of a request, or application, for protection or assessment (however described) under a provision in the EUIA providing for such requests, or applications, the date on which the request, or application, for protection or assessment was submitted under the EUIA;
- (e) in any other case, including a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to provisions in the EUIA that applied from the date that the EUIA entered into force (without the need for further action to be taken under the EUIA), the date on which the relevant EUIA entered into force.

**5.** In a case of a type 4A or 4B geographical indication to which paragraph 3 does not apply and for which a request, or application, for protection or assessment (however described) was submitted before IP completion day in accordance with provisions in the EUIA, the relevant EUIA-based date is the date on which the request, or application, for protection or assessment was submitted in accordance with the EUIA.

**6.** Any reference in this Part to:

- (a) ‘the priority date’ means the date provided for in priority provisions in an EUIA as the date that must be taken into account when determining whether an application for a trade mark may be granted, including:
  - (i) a calendar date specified in the EUIA;
  - (ii) a date relating to the happening of a specified event;
- (b) ‘priority provisions’ means provisions in an EUIA that governed the relationship between trade marks and geographical indications that provided (however expressed):
  - (i) that, in the circumstances specified in the EUIA, an application for a trade mark must be refused if the application for the trade mark was made after a date provided for in the EUIA,
  - (ii) that, in the circumstances specified in the EUIA, the registration of a trade mark must be invalidated if the application that resulted in the registration of that trade mark was made after a date provided for in the EUIA, or
  - (iii) for both the refusal of applications for trade marks, and the invalidation of the registration of trade marks, as provided for in points (i) and (ii);
- (c) ‘without the need for further action to be taken under the EUIA’, in relation to a geographical indication protected in the European Union immediately before IP completion day pursuant to an EUIA, means:
  - (i) that the provisions in the EUIA providing for the geographical indication to be protected in the European Union did not require a request or application (however

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- described) to be submitted by the contracting third country under the EUIA in relation to the protection of the geographical indication, or
- (ii) require an assessment to be carried out under the EUIA in relation to the geographical indication.

### PART 3

#### Types of geographical indication (the Types Table)

<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
1.	An established geographical indication.	Not applicable.	Not applicable.	<p>1. In a case where the geographical indication was listed in Annex 2 to <a href="#">Council Regulation (EEC) No 1576/89</a> laying down general rules on the definition, description and presentation of spirit drinks before 1st January 1996, 1st January 1996.</p> <p>2. In a case where the geographical indication was added to Annex 2 to <a href="#">Regulation (EEC) No 1576/89</a> on or after 1st January 1996, the date on which the entry adding that geographical indication to Annex 2 first applies.</p> <p>3. In a case where the geographical indication was not listed in Annex 2 to</p>

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<i>Column 1</i> Row No.	<i>Column 2</i> Description of the geographical indication	<i>Column 3</i> Type provisions	<i>Column 4</i> A Type provisions	<i>Column 5</i> B	<i>Column 5</i> The column 5 date
					<p>Regulation (EEC) No 1576/89 but was listed in Annex 3 to EU Regulation 110/2008 before IP completion day:</p> <p>(a) where it was listed in Annex 3 to EU Regulation 110/2008 when that Regulation came into force, 20th May 2008;</p> <p>(b) where it was not listed in Annex 3 to EU Regulation 110/2008 when that Regulation came into force, the date on which the entry adding the geographical indication to Annex 3 to EU Regulation 110/2008 first applies.</p> <p>4. In a case where the geographical indication was not listed in Annex 2 to Regulation (EEC) No 1576/89 or Annex 3 to EU Regulation 110/2008 but for which an application for the geographical indication was submitted to the European</p>

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<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
				Commission under the relevant pre-IP completion day legislation before IP completion day, the date on which that application was submitted to the Commission.
2.	<p>A geographical indication that:</p> <p>(a) relates to a geographical area in a third country,</p> <p>(b) was protected in the European Union immediately before IP completion day pursuant to an EUIA to which the European Union and the third country were contracting parties, and</p> <p>(c) must be protected in Great Britain pursuant to—</p> <p>(i) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or</p> <p>(ii) bridging arrangements</p>	<p>1. A geographical indication that is on Great Britain’s GIs Register before the day on which the paragraph 1 trade mark application is accepted or refused and is entered on that register pursuant to Article 33(3) or Article 36c(1).</p> <p>2. A geographical indication that is not on Great Britain’s GIs Register before the day on which the paragraph 1 trade mark application is accepted or refused but must be protected in Great Britain pursuant to—</p> <p>(i) an international agreement to which the United Kingdom and the third country are contracting</p>	<p>A geographical indication that is not on Great Britain’s GIs Register when the relevant trade mark application is accepted but must be protected in Great Britain pursuant to—</p> <p>(i) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or</p> <p>(ii) bridging arrangements between the United Kingdom and the third country made, on or after the date on which the relevant trade mark application is accepted.</p>	<p>The relevant EUIA-based date that applies to the geographical indication in relation to the EUIA referred to in point (b) of column 2.</p>

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<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
	between the United Kingdom and the third country made, during the relevant period.	parties that enters into force, or  (ii) bridging arrangements between the United Kingdom and the third country made,  before the day on which the paragraph 1 trade mark application is accepted or refused.		
3.	A geographical indication that:  (a) relates to a geographical area in a third country, and  (b) was protected in the European Union immediately before IP completion day pursuant to an EUIA to which the European Union and the third country were contracting parties.	1. A geographical indication that is on Great Britain's GIs Register before the day on which the paragraph 1 trade mark application is accepted or refused and is entered on that register following the approval of an application to register the geographical indication submitted to the Secretary of State under Article 24(8) during the relevant period.  2. A geographical indication:  (a) that is not on Great Britain's GIs Register before the day on which the paragraph 1 trade	A geographical indication:  (a) that is not on Great Britain's GIs Register when the relevant trade mark application is accepted, and  (b) for which an application to register the geographical indication is submitted to the Secretary of State under Article 24(8) during the relevant period and that application:  (i) is not submitted before the relevant trade mark application is accepted, or  (ii) is submitted before the	The relevant EUIA-based date that applies to the geographical indication in relation to the EUIA referred to in point (b) of column 2.

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<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
		mark application is accepted or refused,  (b) for which an application to register the geographical indication is submitted to the Secretary of State under Article 24(8) during the relevant period, and  (c) for which an Article 30(5) approval notice relating to the application is published before the day on which the paragraph 1 trade mark application is accepted or refused.	relevant trade mark application is accepted but for which an Article 30(5) notice relating to the application to register the geographical indication is not published before the relevant trade mark application is accepted.	
4.	A geographical indication:  (a) that relates to a geographical area in a third country,  (b) for which an assessment relating to the protection of the geographical indication was being carried out, or a request for protection, or an application for assessment for protection, was	See the entry in row 3 of this column.	See the entry in row 3 of this column.	The relevant EUIA-based date that applies to the geographical indication in relation to the EUIA referred to in point (b) of column 2.

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<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
	submitted, before IP completion day in respect of the geographical indication under an EUIA, and  (c) for which no decision was made pursuant to the EUIA before IP completion day as to whether the geographical indication should be protected in the European Union.			
5.	A geographical indication:  (a) that relates to a geographical area in a third country, and  (b) for which an application to register the geographical indication was submitted to the European Commission under Article 17 of EU Regulation 110/2008 or Article 24(4), (7) or (8) of EU Regulation 2019/787 before IP completion day— i) that was neither refused nor resulted in the addition of the geographical indication to	See the entry in row 3 of this column.	See the entry in row 3 of this column.	The date on which the application referred to in point (b) in column 2 was submitted to the European Commission under the relevant pre-IP completion day legislation.”



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<i>Column 1</i> <i>Row No.</i>	<i>Column 2</i> <i>Description of</i> <i>the geographical</i> <i>indication</i>	<i>Column 3</i> <i>Type</i> <i>provisions</i>	<i>Column 4</i> <i>A</i> <i>Type</i> <i>provisions</i>	<i>Column 5</i> <i>B</i> <i>The column 5</i> <i>date</i>
	Annex 3 to EU Regulation 110/2008, and  ii) for which neither an act of registration nor a decision on rejection made under Article 30 of EU Regulation 2019/787 applies, before IP completion day.			