

Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 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, and repealing Regulation (EC) No 110/2008

REGULATION (EU) 2019/787 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

of 17 April 2019

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, and repealing Regulation (EC) No 110/2008

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2) and 114(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Regulation (EC) No 110/2008 of the European Parliament and of the Council<sup>(3)</sup> has proved successful in regulating the spirit drinks sector. However, in the light of recent experience and technological innovation, market developments and evolving consumer expectations, it is necessary to update the rules on the definition, description, presentation and labelling of spirit drinks and to review the ways in which geographical indications for spirit drinks are registered and protected.
- (2) The rules applicable to spirit drinks should contribute to attaining a high level of consumer protection, removing information asymmetry, preventing deceptive practices and attaining market transparency and fair competition. They should safeguard the reputation which the Union's spirit drinks have achieved in the Union and on the world market by continuing to take into account the traditional practices used in the production of spirit drinks as well as increased demand for consumer protection and information. Technological innovation should also be taken into account in respect of spirit drinks, where it serves to improve quality, without affecting the traditional character of the spirit drinks concerned.

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- (3) Spirit drinks represent a major outlet for the Union agricultural sector, and the production of spirit drinks is strongly linked to that sector. That link determines the quality, safety and reputation of the spirit drinks produced in the Union. That strong link to the agri-food sector should therefore be emphasised by the regulatory framework.
- (4) The rules applicable to spirit drinks constitute a special case compared with the general rules laid down for the agri-food sector and should also take into account the traditional production methods in use in the different Member States.
- (5) This Regulation should set out clear criteria for the definition, description, presentation and labelling of spirit drinks as well as for the protection of geographical indications, and should be without prejudice to the diversity of the official languages and alphabets in the Union. It should also set out rules on the use of ethyl alcohol and distillates of agricultural origin in the production of alcoholic beverages and on the use of the legal names of spirit drinks in the presentation and labelling of foodstuffs.
- (6) In order to meet consumer expectations and to conform to traditional practices, ethyl alcohol and distillates used for the production of spirit drinks should be exclusively of agricultural origin.
- (7) In the interests of consumers, this Regulation should apply to all spirit drinks placed on the Union market, whether produced in the Member States or in third countries. In order to maintain and improve the reputation on the world market of spirit drinks produced in the Union, this Regulation should also apply to spirit drinks produced in the Union for export.
- (8) The definitions of and technical requirements for spirit drinks and the categorisation of spirit drinks should continue to take into account traditional practices. Specific rules for certain spirit drinks that are not included in the list of categories should also be laid down.
- (9) Regulations (EC) No 1333/2008<sup>(4)</sup> and (EC) No 1334/2008<sup>(5)</sup> of the European Parliament and of the Council also apply to spirit drinks. However, it is necessary to lay down additional rules concerning colours and flavourings, which should only apply to spirit drinks. It is also necessary to lay down additional rules concerning the dilution and dissolution of flavourings, colours and other authorised ingredients, which should only apply to the production of alcoholic beverages.
- (10) Rules should be laid down regarding the legal names to be used for spirit drinks that are placed on the Union market, in order to ensure that such legal names are used in a harmonised manner throughout the Union and to safeguard the transparency of information to consumers.
- (11) Given the importance and complexity of the spirit drinks sector, it is appropriate to lay down specific rules on the description, presentation and labelling of spirit drinks, in particular as regards the use of legal names, geographical indications, compound terms and allusions in the description, presentation and labelling.
- (12) Regulation (EU) No 1169/2011 of the European Parliament and of the Council<sup>(6)</sup> should apply to the description, presentation and labelling of spirit drinks, save as otherwise

provided for in this Regulation. In that regard, given the importance and the complexity of the spirit drinks sector, it is appropriate to lay down in this Regulation specific rules on the description, presentation and labelling of spirit drinks that go beyond Regulation (EU) No 1169/2011. Those specific rules should also prevent the misuse of the term ‘spirit drink’ and of the legal names of spirit drinks, as regards products which do not meet the definitions and requirements laid down in this Regulation.

- (13) In order to ensure the uniform use of compound terms and allusions in Member States and in order to provide consumers with adequate information, thereby protecting them from being misled, it is necessary to lay down provisions concerning their use for the purpose of presentation of spirit drinks and other foodstuffs. The purpose of such provisions is also to protect the reputation of the spirit drinks used in this context.
- (14) In order to provide consumers with adequate information, provisions on the description, presentation and labelling of spirit drinks which qualify as mixtures or blends should be laid down.
- (15) While it is important to ensure that in general the maturation period or age stated in the description, presentation and labelling of spirit drinks only refers to the youngest alcoholic component, to take account of traditional ageing processes in Member States, it should be possible to provide, by means of delegated acts, for a derogation from that general rule and for appropriate control mechanisms in relation to *brandies* produced using the traditional dynamic ageing system known as the ‘*criaderas y solera*’ system or ‘*solera e criaderas*’ system.
- (16) For reasons of legal certainty and in order to ensure that adequate information is provided to consumers, the use of the names of raw materials or of adjectives as legal names for certain spirit drinks should not preclude the use of the names of such raw materials or of adjectives in the presentation and labelling of other foodstuffs. For the same reasons, the use of the German word ‘*-geist*’ as the legal name of a category of spirit drinks should not preclude the use of that word as a fancy name to supplement the legal name of other spirit drinks or the name of other alcoholic beverages, provided that such use does not mislead the consumer.
- (17) In order to ensure that adequate information is provided to consumers and to enhance quality production methods, it should be possible for the legal name of any spirit drink to be supplemented by the term ‘dry’ or ‘*dry*’, that is to say that term either translated in the language or languages of the relevant Member State, or untranslated as indicated in italics in this Regulation, if that spirit drink has not been sweetened. However, in line with the principle that food information is not to be misleading, particularly by suggesting that the food possesses special characteristics despite the fact that all similar foods possess such characteristics, this rule should not apply to spirit drinks that under this Regulation are not to be sweetened, even for rounding off the taste, in particular to *whisky* or *whiskey*. This rule should also not apply to *gin*, distilled *gin* and *London gin*, to which specific sweetening and labelling rules should continue to apply. Furthermore, it should be possible to label liqueurs characterised in particular by a tart, bitter, tangy, acerbic, sour or citrus taste, regardless of their degree of sweetening, as ‘dry’ or ‘*dry*’. Such labelling is not likely to mislead the consumer, since liqueurs are required to have

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a minimum sugar content. Accordingly, in the case of liqueurs, the term ‘dry’ or ‘dry’ should not be understood to indicate that the spirit drink has not been sweetened.

- (18) To take into account consumer expectations about the raw materials used for vodka especially in the traditional vodka-producing Member States, adequate information should be provided on the raw material used where vodka is made from raw materials of agricultural origin other than cereals or potatoes or both.
- (19) In order to enforce and to check the application of the legislation relating to rules on ageing and labelling, and to combat fraud, the indication of the legal name and the maturation period of any spirit drink in electronic administrative documents should be made mandatory.
- (20) In some cases, food business operators wish to indicate the place of provenance of spirit drinks other than geographical indications and trade marks to draw consumers' attention to the qualities of their product. Therefore, specific provisions on the indication of the place of provenance in the description, presentation and labelling of spirit drinks should be laid down. In addition, the obligation, laid down in Regulation (EU) No 1169/2011, to indicate the country of origin or the place of provenance of a primary ingredient, should not apply in the case of spirit drinks, even if the country of origin or the place of provenance of the primary ingredient of a spirit drink is not the same as the place of provenance indicated in the description, presentation or labelling of that spirit drink.
- (21) In order to protect the reputation of certain spirit drinks, provisions should be laid down governing the translation, transcription and transliteration of legal names for export purposes.
- (22) In order to ensure that this Regulation is applied consistently, Union reference methods should be established for the analysis of spirit drinks and of ethyl alcohol used in the production of spirit drinks.
- (23) The use of lead-based capsules and lead-based foil to cover the closing devices of containers of spirit drinks should continue to be banned, in order to avoid any risk of contamination, in particular by accidental contact with such capsules or foil, and of environmental pollution from waste containing lead from such capsules or foil.
- (24) Concerning the protection of geographical indications, it is important to have due regard to the Agreement on Trade-Related Aspects of Intellectual Property Rights (‘TRIPS Agreement’), and in particular Articles 22 and 23 thereof, and to the General Agreement on Tariffs and Trade (‘GATT Agreement’) including Article V thereof on freedom of transit, which were approved by Council Decision 94/800/EC<sup>(7)</sup>. Within such legal framework, in order to strengthen geographical indication protection and to combat counterfeiting more effectively, such protection should also apply with regard to goods entering the customs territory of the Union without being released for free circulation, and placed under special customs procedures such as those relating to transit, storage, specific use or processing.
- (25) Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>(8)</sup> does not apply to spirit drinks. Rules on the protection of geographical indications of spirit

drinks should therefore be laid down. Geographical indications should be registered by the Commission.

- (26) Procedures for the registration, modification and possible cancellation of Union or third country geographical indications in accordance with the TRIPS Agreement should be laid down whilst automatically recognising the status of existing geographical indications that are protected in the Union. In order to make procedural rules on geographical indications consistent in all the sectors concerned, such procedures for spirit drinks should be modelled on the more exhaustive and well tested procedures for agricultural products and foodstuffs laid down in Regulation (EU) No 1151/2012, while taking into account specificities of spirit drinks. In order to simplify the registration procedures and to ensure that information for food business operators and consumers is electronically available, an electronic register of geographical indications should be established. Geographical indications protected under Regulation (EC) No 110/2008 should automatically be protected under this Regulation and listed in the electronic register. The Commission should complete the verification of geographical indications contained in Annex III to Regulation (EC) No 110/2008, in accordance with Article 20 of that Regulation.
- (27) For reasons of consistency with the rules applicable to geographical indications for food, wine and aromatised wine products, the name of the file setting out the specifications for spirit drinks which are registered as a geographical indication should be changed from 'technical file' to 'product specification'. Technical files submitted as part of any application under Regulation (EC) No 110/2008 should be deemed to be product specifications.
- (28) The relationship between trade marks and geographical indications of spirit drinks should be clarified in relation to criteria for refusal, invalidation and coexistence. Such clarification should not affect rights acquired by holders of geographical indications at national level or that exist by virtue of international agreements concluded by Member States for the period before the establishment of the Union protection system pursuant to Council Regulation (EEC) No 1576/89<sup>(9)</sup>.
- (29) Preserving a high standard of quality is essential if the spirit drinks sector's reputation and value are to be maintained. Member State authorities should be responsible for ensuring that that standard of quality is preserved through compliance with this Regulation. The Commission should be able to monitor and verify such compliance in order to ascertain that this Regulation is being uniformly enforced. Therefore the Commission and the Member States should be required to share relevant information with each other.
- (30) In applying a quality policy and in particular to attain a high level of quality of spirit drinks and diversity in the spirit drinks sector, Member States should be allowed to adopt rules on the production, description, presentation and labelling of spirit drinks produced in their territory that are stricter than those laid down in this Regulation.
- (31) In order to take into account evolving consumer demands, technological progress, developments in the relevant international standards, the need to improve the economic conditions of production and marketing, traditional ageing processes, and the law of the

importing third countries, and in order to safeguard the legitimate interests of producers and food business operators as regards the protection of geographical indications, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union ('the Treaty') should be delegated to the Commission in respect of: amendments to and derogations from the technical definitions and requirements for spirit drinks; authorising new sweetening products; derogations related to the specification of maturation period or age for *brandy* and the setting up of the public register of bodies in charge of supervising ageing processes; the establishment of an electronic register of geographical indications of spirit drinks, and detailed rules on the form and content of that register; further conditions in relation to applications for the protection of a geographical indication and preliminary national procedures, scrutiny by the Commission, the opposition procedure and cancellation of geographical indications; conditions and requirements for the procedure concerning amendments to product specifications; and amendments to and derogations from certain definitions and rules on description, presentation and labelling. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(10)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (32) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission regarding the publication of the single document in the *Official Journal of the European Union*; and regarding decisions on registration of names as geographical indications where there is no notice of opposition or no admissible reasoned statement of opposition, or where there is an admissible reasoned statement of opposition and an agreement has been reached.
- (33) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission regarding: the rules on the use of new sweetening products; the information to be provided by Member States with regard to the bodies appointed to supervise ageing processes; the indication of the country of origin or place of provenance in the description, presentation or labelling of spirit drinks; the use of the Union symbol for protected geographical indications; detailed technical rules on the Union reference methods for the analysis of ethyl alcohol, distillates of agricultural origin and spirit drinks; granting a transitional period for the use of geographical indications and extensions of such periods; rejections of applications where the conditions for registration are not already fulfilled before the publication for opposition; registrations or rejections of geographical indications published for opposition where an opposition has been submitted and no agreement has been reached; approvals or rejections of Union amendments to a product specification; approvals or rejections of requests for cancellation of the registration of a geographical indication; the form of the product specification and measures concerning the information to be provided in the product specification with regard to the link between

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the geographical area and the final product; the procedures for, form and presentation of applications, of oppositions, of applications for amendments and communications concerning amendments, and of the cancellation process with regard to geographical indications; the checks and verifications to be carried out by the Member States; as well as the necessary information to be exchanged for the application of this Regulation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(11)</sup>.

- (34) In order to ensure the implementation of the Agreement between the European Union and Japan for an Economic Partnership<sup>(12)</sup>, it was necessary to provide for a derogation from the nominal quantities set out in the Annex to Directive 2007/45/EC of the European Parliament and of the Council<sup>(13)</sup> for spirit drinks in order to allow single distilled *shochu* produced by pot still and bottled in Japan to be placed on the Union market in traditional Japanese bottle sizes. That derogation was introduced by Regulation (EU) 2018/1670 of the European Parliament and of the Council<sup>(14)</sup> and should continue to apply.
- (35) Given the nature and extent of the modifications which need to be made to Regulation (EC) No 110/2008, there is a need for a new legal framework in this area to enhance legal certainty, clarity and transparency. Regulation (EC) No 110/2008 should therefore be repealed.
- (36) In order to protect the legitimate interests of producers or stakeholders concerned as regards benefitting from the publicity given to single documents under the new legal framework, it should be made possible that single documents concerning geographical indications registered in accordance with Regulation (EC) No 110/2008 are published at the request of the Member States concerned.
- (37) Since the rules on geographical indications enhance protection for operators, those rules should apply two weeks from the entry into force of this Regulation. However, provision should be made for appropriate arrangements to facilitate a smooth transition from the rules provided for in Regulation (EC) No 110/2008 to the rules laid down in this Regulation.
- (38) As regards rules not relating to geographical indications, provision should be made to ensure that there is sufficient time to facilitate a smooth transition from the rules provided for in Regulation (EC) No 110/2008 to the rules laid down in this Regulation.
- (39) The marketing of existing stocks of spirit drinks should be allowed to continue after the dates of application of this Regulation, until those stocks are exhausted,

HAVE ADOPTED THIS REGULATION:

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## CHAPTER I

### SCOPE, DEFINITIONS AND CATEGORIES OF SPIRIT DRINKS

#### *F1* Article 1

##### Subject matter and scope

###### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

#### *F1* Article 2

##### Definition of and requirements for spirit drinks

###### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

#### Article 3

##### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘legal name’ means the name under which a spirit drink is placed on the market, within the meaning of point (n) of Article 2(2) of Regulation (EU) No 1169/2011;
- (2) ‘compound term’ means, in relation to the description, presentation and labelling of an alcoholic beverage, the combination of either a legal name provided for in the categories of spirit drinks set out in Annex I or the geographical indication for a spirit drink, from which all the alcohol of the final product originates, with one or more of the following:
  - (a) the name of one or more foodstuffs other than an alcoholic beverage and other than foodstuffs used for the production of that spirit drink in accordance with Annex I, or adjectives deriving from those names;
  - (b) the term ‘liqueur’ or ‘cream’;
- (3) ‘allusion’ means the direct or indirect reference to one or more legal names provided for in the categories of spirit drinks set out in Annex I or to one or more geographical



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indications for spirit drinks, other than a reference in a compound term or in a list of ingredients as referred to in Article 13(2), (3) and (4), in the description, presentation or labelling of:

- (a) a foodstuff other than a spirit drink, or
  - (b) a spirit drink that complies with the requirements of categories 33 to 40 of Annex I;
- (4) ‘geographical indication’ means an indication which identifies a spirit drink as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of that spirit drink is essentially attributable to its geographical origin;
- (5) ‘product specification’ means a file attached to the application for the protection of a geographical indication, in which the specifications with which the spirit drink has to comply are set out, and which was referred to as a ‘technical file’ under [F<sup>2</sup>EU Regulation] 110/2008;
- (6) ‘group’ means any association, irrespective of its legal form, that is mainly composed of producers or processors working with the spirit drinks concerned;
- (7) ‘generic name’ means a name of a spirit drink that has become generic and that, although it relates to the place or the region where the spirit drink was originally produced or marketed, has become the common name of that spirit drink in the [F<sup>3</sup>United Kingdom];
- (8) [F<sup>4</sup>‘EU Regulation 110/2008’ means Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks as it had effect before IP completion day;
- (9) ‘EU Regulation 2019/787’ means 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 as it had effect before IP completion day;
- (9a) [F<sup>5</sup>‘application to register a trade mark’ means an application to register a trade mark made under the TMA;
- (9b) ‘an Article 30(5) approval notice’ means a notice published under Article 30(5) relating to a decision of the Secretary of State to approve an application for a geographical indication;
- (9c) ‘bridging arrangements’ has the meaning given in Article 36c(2)(b);
- (9d) ‘constituent nation’ means England, Northern Ireland, Scotland or Wales;
- (9e) ‘country’, in relation to the United Kingdom, means the United Kingdom as a whole and does not mean an individual constituent nation forming part of the United Kingdom;
- (9f) ‘enters into force’ in relation to an international agreement, includes, where the provisional application of that agreement is agreed between the parties before it enters

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into force, the provisional application of the agreement and ‘entry into force’ is to be construed accordingly;]

- (10) ‘established geographical indication’ means a geographical indication within the meaning of Article 3(4) to which Article 54(2) of the EU withdrawal agreement applies;
- (10a) [<sup>F6</sup>‘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;]
- (11) ‘EUWA’ means the European Union (Withdrawal) Act 2018;  
the spirit drink so produced belongs to the same category of spirit drinks as the original spirit drinks before blending;
- (12) ‘FTT’ means the First-tier Tribunal;
- (13) ‘Great Britain's GIs Register’ means the register established and maintained by the Secretary of State under Article 33(1);
- (14) in Articles 43 and 43a, ‘the original applicant’, in a case where an appeal has been made in respect of a decision made by the Secretary of State in relation to a geographical indication under Article 34, or following the submission of an application under Article 24 or 31, or a request submitted under Article 34, means the person who submitted the application or request;
- (14a) [<sup>F7</sup>‘period’ means the period beginning on IP completion day and expiring at the end of the day that falls nine months after the day on which IP completion day falls;]
- (15) ‘third country’ means—
- (a) for the purposes of the definition of ‘EUIA’ in point (10a), Article 36c and Annex 1A (other than the reference in paragraph (b)), any country other than—
    - i any part of the British Islands, or
    - ii a member state
  - (b) for the purposes of the reference in column 2 of row 5 of the Types Table in Part 3 of Annex 1A, any country other than any part of the British Islands;
  - (c) for all other purposes, any country other than the United Kingdom, and includes:
    - (i) the bailiwick of Guernsey;
    - (ii) the bailiwick of Jersey;
    - (iii) the Isle of Man;]
- (16) [<sup>F8</sup>‘the TMA’ means the Trade Marks Act 1994;
- (17) ‘the Types Table’ means the table in Part 3 of Annex 1A.]

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### Textual Amendments

- F2** Words in Art. 3(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(2)(a)**
- F3** Words in Art. 3(7) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(2)(b)**
- F4** Art. 3(13)-(15) inserted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), 28(2)(c), **Sch. 10 Pt. 1** (as amended by S.I. 2020/1661, regs. 1(2)(b), **16(11)**)
- F5** Art. 3(9a)-(9f) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(2)(a)**
- F6** Art. 3(10a) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(2)(b)**
- F7** Art. 3(14a) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(2)(c)**
- F8** Art. 3(16)(17) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(2)(d)**

## *<sup>F9</sup>Article 4*

### Definitions: types of geographical indication

In Article 36a and Annex 1A any reference to:

- a 'a type 1 geographical indication' means a geographical indication of the type described in column 2 of row 1 of the Types Table;
- b 'a type 2A geographical indication' means a geographical indication of the type described in column 2 of row 2 of the Types Table to which paragraph 1 or 2 in column 3 of that row applies;
- c 'a type 2B geographical indication' means a geographical indication of the type described in column 2 of row 2 of the Types Table to which the provisions in column 4 of that row apply;
- d 'a type 3A geographical indication' means a geographical indication of the type described in column 2 of row 3 of the Types Table to which paragraph 1 or 2 in column 3 of that row applies;
- e 'a type 3B geographical indication' means a geographical indication of the type described in column 2 of row 3 of the Types Table to which the provisions in column 4 of that row apply;
- f 'a type 4A geographical indication' means a geographical indication of the type described in column 2 of row 4 of the Types Table to which paragraph 1 or 2 in column 3 of row 3 of that table applies;
- g 'a type 4B geographical indication' means a geographical indication of the type described in column 2 of row 4 of the Types Table to which the provisions in column 4 of row 3 of that table apply;
- h 'a type 5A geographical indication' means a geographical indication of the type described in column 2 of row 5 of the Types Table to which paragraph 1 or 2 in column 3 of row 3 of that table applies;
- i 'a type 5B geographical indication' means a geographical indication of the type described in column 2 of row 5 of the Types Table to which the provisions in column 4 of row 3 of that table apply.]

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**Textual Amendments**

- F9** Art. 4 inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 1**

*F1 Article 5*

**Definition of and requirements for ethyl alcohol of agricultural origin**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. **3(1)**

*F1 Article 6*

**Ethyl alcohol and distillates used in alcoholic beverages**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. **3(1)**

*F1 Article 7*

**Categories of spirit drinks**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. **3(1)**

*F1 Article 8*

**Delegated and implementing powers**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## CHAPTER II

**DESCRIPTION, PRESENTATION AND LABELLING OF SPIRIT DRINKS AND USE OF THE NAMES OF SPIRIT DRINKS IN THE PRESENTATION AND LABELLING OF OTHER FOODSTUFFS***F1* Article 9**Presentation and labelling**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

*F1* Article 10**Legal names of spirit drinks**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

*F1* Article 11**Compound terms**

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**Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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## *F1* Article 12

### Allusions

#### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## *F1* Article 13

### Additional rules on description, presentation and labelling

#### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## Article 14

### Indication of place of provenance

**F1**1 .....

2 The indication of the country of origin or place of provenance of the primary ingredient as referred to in Regulation (EU) No 1169/2011 shall not be required for spirit drinks.

#### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## *F1* Article 15

### Language used for the names of spirit drinks

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## Article 16

### Use of a <sup>F10</sup> ... symbol for geographical indications

The <sup>F11</sup> ... symbol for protected geographical indications established pursuant to Article 12(7) of Regulation (EU) No 1151/2012 may be used in the description, presentation and labelling of spirit drinks the names of which are geographical indications.

### Textual Amendments

- F10** Word in [Art. 16](#) heading omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(3)(a)**
- F11** Word in [Art. 16](#) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(3)(b)**

## <sup>F1</sup>Article 17

### Prohibition of lead-based capsules and lead-based foil

### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

## <sup>F1</sup>Article 18

### Union reference methods of analysis

### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

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*Changes to legislation:* There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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### *<sup>F1</sup>Article 19*

#### **Delegated powers**

##### **Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

### *<sup>F12</sup>Article 20*

#### **Power to make regulations: symbol**

The Secretary of State may, by regulations, make rules on the use of the symbol referred to in Article 16 in the description, presentation and labelling of spirit drinks.]

##### **Textual Amendments**

- F12** [Art. 20](#) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(4)**

## CHAPTER III

### **GEOGRAPHICAL INDICATIONS**

#### *Article 21*

#### **Protection of geographical indications**

- 1 Geographical indications protected under this Regulation may be used by any operator marketing a spirit drink produced in conformity with the corresponding product specification.
- 2 Geographical indications protected under this Regulation shall be protected against:
  - a any direct or indirect commercial use of a registered name in respect of products not covered by the registration where those products are comparable to the products registered under that name or where using the name exploits the reputation of the protected name, including where those products are used as an ingredient;
  - b any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’, ‘flavour’, ‘like’ or similar, including when those products are used as an ingredient;
  - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product in the description, presentation or labelling of the product liable to convey a false impression as to the origin of the product;



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d any other practice liable to mislead the consumer as to the true origin of the product.

3 Geographical indications protected under this Regulation shall not become generic in [<sup>F13</sup>Great Britain].

4 The protection referred to in paragraph 2 shall also apply with regard to goods entering [<sup>F14</sup>Great Britain] without being released for free circulation there.

#### Textual Amendments

**F13** Words in Art. 21(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(5)(a)**

**F14** Words in Art. 21(4) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(5)(b)**

### Article 22

#### Product specification

1 A geographical indication protected under this Regulation shall comply with a product specification which shall include at least:

- a the name to be protected as a geographical indication, as it is used, whether in trade or in common language, only in the languages which are or were historically used to describe the specific product in the defined geographical area, in the original script and in Latin transcription if different;
- b the category of the spirit drink or the term ‘spirit drink’ if the spirit drink does not comply with the requirements laid down for the categories of spirit drinks set out in Annex I;
- c a description of the characteristics of the spirit drink, including the raw materials from which it is produced, if appropriate, as well as the principal physical, chemical or organoleptic characteristics of the product and the specific characteristics of the product compared to spirit drinks of the same category;
- d the definition of the geographical area delimited with regard to the link referred to in point (f);
- e a description of the method of producing the spirit drink and, where appropriate, the authentic and unvarying local production methods;
- f details establishing the link between a given quality, reputation or other characteristic of the spirit drink and its geographical origin;
- g the names and addresses of the competent authorities or, if available, the names and addresses of the bodies that verify compliance with the provisions of the product specification pursuant to Article 38 and their specific tasks;
- h any specific labelling rule for the geographical indication in question.

Where applicable, requirements regarding packaging shall be included in the product specification, accompanied by a justification showing why the packaging must take place in the defined geographical area to safeguard quality, to ensure the origin or to ensure control <sup>F15</sup>...

2 Technical files submitted as part of any application before 8 June 2019 under [<sup>F16</sup>EU Regulation 110/2008 as it had effect in Great Britain before that day] shall be deemed to be product specifications under this Article.

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

#### Textual Amendments

- F15** Words in Art. 22(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(6)(a)**
- F16** Words in Art. 22(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(6)(b)**

### Article 23

#### Content of application for registration of a geographical indication

1 An application for registration of a geographical indication pursuant to Article 24(5) or (8) shall include at least:

- a the name and address of the applicant group and of the competent authorities or, if available, the bodies that verify compliance with the provisions of the product specification;
- b the product specification provided for in Article 22;
- c a single document setting out the following:
  - (i) the main points of the product specification, including the name to be protected, the category to which the spirit drink belongs or the term ‘spirit drink’, the production method, a description of the characteristics of the spirit drink, a concise definition of the geographical area, and, where appropriate, specific rules concerning packaging and labelling;
  - (ii) a description of the link between the spirit drink and its geographical origin as referred to in point (4) of Article 3, including, where appropriate, the specific elements of the product description or production method justifying the link.

An application as referred to in Article 24(8) shall also include <sup>F17</sup>... proof that the name of the product is protected in its country of origin.

<sup>F18</sup>2 .....

#### Textual Amendments

- F17** Words in Art. 23(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(7)(a)**
- F18** Art. 23(2) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(7)(b)**

### Article 24

#### Application for registration of a geographical indication

1 Applications for the registration of a geographical indication under this Chapter may only be submitted by groups who work with the spirit drink, the name of which is proposed for registration.

2 An authority designated by [<sup>F19</sup>the Secretary of State may, on application to the Secretary of State,] be deemed to be a group for the purposes of this Chapter if it is not feasible

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for the producers concerned to form a group by reason of their number, geographical locations or organisational characteristics. In such case, the application <sup>F20</sup>... referred to in Article [<sup>F21</sup>23] shall state those reasons.

3 A single natural or legal person may be deemed to be a group for the purpose of this Chapter if both of the following conditions are fulfilled:

- a the person concerned is the only producer willing to submit an application; and
- b the defined geographical area possesses characteristics which differ appreciably from those of neighbouring areas, the characteristics of the spirit drink are different from those produced in neighbouring areas or the spirit drink has a special quality, reputation or other characteristic which is clearly attributable to its geographical origin.

4 In the case of a geographical indication that designates a cross-border geographical area, several groups from different <sup>F22</sup>... countries may submit a joint application for registration.

Where a joint application is submitted, it shall be submitted to the [<sup>F23</sup>Secretary of State] by an applicant group <sup>F24</sup>... or through the authorities [<sup>F25</sup>of a third country concerned, after consultation, in both cases,] of all the authorities and applicant groups concerned. <sup>F26</sup>... The requirements laid down in Article 23 shall be fulfilled [<sup>F27</sup>, as relevant, in all the] countries concerned.

In the case of joint applications, the related national opposition procedures shall be carried out in all the Member States concerned.

5 Where the application relates to a geographical area in [<sup>F28</sup>the United Kingdom], the application shall be submitted to the [<sup>F29</sup>Secretary of State].

<sup>F30</sup>  
...

<sup>F316</sup> .....

<sup>F317</sup> .....

8 Where the application relates to a geographical area in a third country, the application shall be submitted to the [<sup>F32</sup>Secretary of State], either directly or via the authorities of the third country concerned.

9 The documents referred to in this Article which are sent to the [<sup>F33</sup>Secretary of State] shall be in one of the official languages of the Union.

#### Textual Amendments

- F19** Words in Art. 24(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(9)(a)**
- F20** Word in Art. 24(2) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(9)(b)**
- F21** Word in Art. 24(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(9)(c)**
- F22** Words in Art. 24(4) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(10)(a)**
- F23** Words in Art. 24(4) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(10)(b)(i)(aa)**
- F24** Words in Art. 24(4) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(10)(b)(i)(bb)**
- F25** Words in Art. 24(4) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(10)(b)(i)(cc)**

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- F26** Words in Art. 24(4) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(10)(b)(ii)**
- F27** Words in Art. 24(4) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(10)(b)(iii)**
- F28** Words in Art. 24(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(11)(a)(i)**
- F29** Words in Art. 24(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(11)(a)(ii)**
- F30** Words in Art. 24(5) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(11)(b)**
- F31** Art. 24(6)(7) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(12)**
- F32** Words in Art. 24(8) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(13)**
- F33** Words in Art. 24(9) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(14)**

### <sup>F34</sup>Article 25

#### Provisional national protection

#### Textual Amendments

- F34** Art. 25 omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(15)**

### Article 26

#### Scrutiny by the [<sup>F35</sup>Secretary of State] and publication for opposition

1 The [<sup>F36</sup>Secretary of State] shall scrutinise by appropriate means any application that [<sup>F37</sup>the Secretary of State] receives pursuant to Article 24, in order to check that it is reasoned, that it meets the requirements of this Chapter, and that the interests of stakeholders [<sup>F38</sup>both inside and outside of Great Britain] have been taken into account. Such scrutiny shall be based on the single document referred to in point (c) of Article 23(1), shall consist of a check that there are no manifest errors in the application, and, as a general rule, shall not exceed a period of six months. However, where this period is exceeded, the [<sup>F36</sup>Secretary of State] shall immediately indicate in writing to the applicant the reasons for the delay.

The [<sup>F39</sup>Secretary of State] shall, at least each month, make public the list of names for which registration applications have been submitted to [<sup>F40</sup>the Secretary of State], as well as their date of submission. The list shall also contain the name of the [<sup>F41</sup>... country from which the application came. [<sup>F42</sup>In a case of an application relating to an area in more than one country, the names of all the relevant countries must be stated on the list.]

2 Where, based on the scrutiny carried out pursuant to the first subparagraph of paragraph 1, the [<sup>F43</sup>Secretary of State] considers that the requirements of this Chapter are met, [<sup>F44</sup>the Secretary of State must publish the product specification referred to in Article 23(1)(b)

and the single document referred to in Article 23(1)(c) in such manner as appears appropriate to the Secretary of State from time to time].

#### Textual Amendments

- F35** Words in Art. 26 heading substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(a)**
- F36** Words in Art. 26(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(i)(aa)**
- F37** Words in Art. 26(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(i)(bb)**
- F38** Words in Art. 26(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(i)(cc)**
- F39** Words in Art. 26(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(ii)(aa)**
- F40** Words in Art. 26(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(ii)(bb)**
- F41** Words in Art. 26(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(ii)(cc)**
- F42** Words in Art. 26(1) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(b)(ii)(dd)**
- F43** Words in Art. 26(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(c)(i)**
- F44** Words in Art. 26(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(16)(c)(ii)**

#### Article 27

### Opposition procedure

1 Within three months from the date [<sup>F45</sup>on which the product specification and single document are published in accordance with Article 26(2), a natural or legal person having a legitimate interest (whether established in Great Britain or elsewhere), or the authorities of a third country,] may submit a notice of opposition to the [<sup>F46</sup>Secretary of State].

<sup>F47</sup> ...

A notice of opposition shall contain a declaration that the application might infringe the requirements of this Chapter.

A notice of opposition that does not contain such a declaration shall be void.

The [<sup>F48</sup>Secretary of State] shall forward the notice of opposition without delay to the [<sup>F49</sup>applicant or authority] that submitted the application.

2 If a notice of opposition is submitted to the [<sup>F50</sup>Secretary of State] and is followed within two months by a reasoned statement of opposition, the [<sup>F50</sup>Secretary of State] shall check the admissibility of this reasoned statement of opposition.

3 Within two months from the receipt of an admissible reasoned statement of opposition, the [<sup>F51</sup>Secretary of State] shall invite the authority or person that submitted the opposition and the [<sup>F52</sup>applicant or authority] that submitted the application to engage in appropriate

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consultations for a period that shall not exceed three months. That deadline shall start on the date when the invitation to the interested parties is delivered by electronic means.

The authority or person that submitted the opposition and the [F53 applicant or authority] that submitted the application shall start such appropriate consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for registration complies with the requirements of this Chapter. If no agreement is reached, that information shall also be provided to the [F54 Secretary of State].

When the interested parties reach an agreement, the [F55 applicant that submitted the application or the authorities] of the third country from which the application was submitted shall notify the [F56 Secretary of State] of all the factors which enabled that agreement to be reached, including the opinions of the applicant and of the authorities F57 ... of a third country, or of other natural and legal persons having submitted an opposition.

Irrespective of whether an agreement has been reached or not, the notification to the [F58 Secretary of State] shall be made within one month from the end of the consultations.

At any time during those three months, the [F58 Secretary of State] may, at the request of the applicant extend the deadline for the consultations by a maximum of three months.

4 Where, following the appropriate consultations referred to in paragraph 3 of this Article, the details published in accordance with Article 26(2) have been substantially amended, the [F59 Secretary of State] shall repeat the scrutiny referred to in Article 26.

5 The notice of opposition, the reasoned statement of opposition and the related documents which are sent to the [F60 Secretary of State] in accordance with paragraphs 1 to 4 shall be in one of the official languages of the Union.

#### Textual Amendments

- F45 Words in Art. 27(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(a)(i)(aa)**
- F46 Words in Art. 27(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(a)(i)(bb)**
- F47 Words in Art. 27(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(a)(ii)**
- F48 Words in Art. 27(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(a)(iii)(aa)**
- F49 Words in Art. 27(1) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(a)(iii)(bb)**
- F50 Words in Art. 27(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(b)**
- F51 Words in Art. 27(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(c)(i)(aa)**
- F52 Words in Art. 27(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(c)(i)(bb)**
- F53 Words in Art. 27(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(c)(ii)(aa)**
- F54 Words in Art. 27(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(c)(ii)(bb)**
- F55 Words in Art. 27(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(17)(c)(iii)(aa)**



**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

- F56** Words in Art. 27(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(17)(c)(iii)(bb)**
- F57** Words in Art. 27(3) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(17)(c)(iii)(cc)**
- F58** Words in Art. 27(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(17)(c)(iv)**
- F59** Words in Art. 27(4) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(17)(d)**
- F60** Words in Art. 27(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(17)(e)**

## Article 28

### Grounds for opposition

1 A reasoned statement of opposition as referred to in Article 27(2) shall be admissible only if it is received by the [<sup>F61</sup>Secretary of State] within the time limit set out in that Article and if it shows that:

- a the proposed geographical indication does not comply with the definition in point (4) of Article 3 or with the requirements referred to in Article 22;
- b the registration of the proposed geographical indication would be contrary to Article 34 or 35;
- c the registration of the proposed geographical indication would jeopardise the existence of an entirely or partly identical name or of a trade mark or the existence of products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 26(2); or
- d the requirements referred to in Articles 31 and 32 are not complied with.

2 The grounds for opposition shall be assessed in relation to the territory of [<sup>F62</sup>Great Britain, except that, in relation to paragraph 1(b) as it relates to Article 35(1), the opposition must be assessed in relation to the territory of the United Kingdom].

#### Textual Amendments

- F61** Words in Art. 28(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(18)(a)**
- F62** Words in Art. 28(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(18)(b)**

## Article 29

### Transitional periods for use of geographical indications

(1) The [<sup>F63</sup>Secretary of State may, by regulations, grant] a transitional period of up to five years to enable [<sup>F64</sup>a spirit drink, wherever it originates from], and the name of which contravenes Article 21(2), to continue to use the designation under which [<sup>F65</sup>it was marketed in Great Britain] on condition that an admissible statement of opposition under <sup>F66</sup>... Article 27 shows that the registration of the name would jeopardise the existence of:

- a an entirely identical name or of a compound name, one term of which is identical to the name to be registered; or

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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- b other names similar to the name to be registered which refer to spirit drinks which have been legally on the market for at least five years preceding the date of the publication provided for in Article 26(2).

F67  
...

(2) Without prejudice to Article 36, the [F68Secretary of State may, by regulations, extend] the transitional period granted under paragraph 1 up to 15 years, or allowing continued use for up to 15 years in duly justified cases, provided it is shown that:

- a the designation referred to in paragraph 1 has been in legal use consistently and fairly for at least 25 years before the application for protection was submitted to the [F69Secretary of State];
- b the purpose of using the designation referred to in paragraph 1 has not, at any time, been to profit from the reputation of the registered geographical indication; and
- c the consumer has not been nor could have been misled as to the true origin of the product.

F70  
...

(3) When using a designation referred to in paragraphs 1 and 2, the indication of the country of origin shall clearly and visibly appear on the labelling.

#### Textual Amendments

- F63 Words in Art. 29(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(a)(i)(aa)**
- F64 Words in Art. 29(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(a)(i)(bb)**
- F65 Words in Art. 29(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(a)(i)(cc)**
- F66 Words in Art. 29(1) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(a)(i)(dd)**
- F67 Words in Art. 29(1) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(a)(ii)**
- F68 Words in Art. 29(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(b)(i)(aa)**
- F69 Words in Art. 29(2)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(b)(i)(bb)**
- F70 Words in Art. 29(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(19)(b)(ii)**

### Article 30

#### Decision on registration

1 Where, on the basis of the information available to the [F71Secretary of State] from the scrutiny carried out pursuant to the first subparagraph of Article 26(1), the [F71Secretary of State] considers that the conditions for the registration of a proposed geographical indication are not fulfilled, [F72the Secretary of State] shall inform the [F73applicant or the authorities of the third country] concerned of the reasons for rejection and shall give [F74the applicant or the authorities, as applicable,] two months to submit observations. If the [F75Secretary of State] receives no observations or if, despite the observations received, [F76the Secretary of State] still considers



that the conditions for registration are not fulfilled [<sup>F77</sup>the Secretary of State must] reject the application unless the application is withdrawn. <sup>F78</sup>...

2 If the [<sup>F79</sup>Secretary of State] receives no notice of opposition or no admissible reasoned statement of opposition under Article 27, [<sup>F80</sup>the Secretary of State must] to register the name [<sup>F81</sup>in Great Britain's GIs Register].

3 If the [<sup>F82</sup>Secretary of State] receives an admissible reasoned statement of opposition, [<sup>F83</sup>the Secretary of State] shall, following the appropriate consultations referred to in Article 27(3), and taking into account the results thereof, either:

- a if an agreement has been reached, register the name [<sup>F84</sup>in Great Britain's GIs Register] and, if necessary, amend the information published pursuant to Article 26(2) provided such amendments are not substantial; or
- b if an agreement has not been reached, [<sup>F85</sup>decide whether to register the name, and, if the Secretary of State decides to do so, register the name in Great Britain's GIs Register].

4 <sup>F86</sup>...

The act of registration [<sup>F87</sup>under paragraph 5a] shall grant the protection referred to in Article 21 to the geographical indication.

[<sup>F88</sup>5 After making a decision under this Article, the Secretary of State must publish in such manner as appears appropriate to the Secretary of State from time to time:

- a) a notice:
  - i) informing the applicant and the public of the decision made in relation to the application and the reasons for that decision, and
  - ii) providing information about the right to appeal under Article 43 against the decision and the period within which an appeal may be made, and
- b) where the application is approved, a copy of the approved product specification.

[<sup>F89</sup>5a Where the Secretary of State publishes a notice under paragraph 5 giving notice of the Secretary of State's decision to register a geographical indication, the Secretary of State must as soon as possible after the notice period has expired:

- a) record the relevant data relating to the geographical indication in the register, and
- b) attach a copy of the product specification for the geographical indication to the register.

5b An entry for a geographical indication added to the register pursuant to paragraph 5a(a), and the provisions in the product specification attached to the register pursuant to paragraph 5a(b), take effect in relation to the registration of a geographical indication immediately after:

- a) the entry has been made in the register, and
- b) the product specification has been attached to the register.]

6 An implementing act to which paragraph 7 applies is revoked.

7 This paragraph applies to an implementing act adopted by the European Commission under Article 30 of EU Regulation 2019/787 and incorporated into domestic law by section 3(1) of the EUWA.]

[<sup>F90</sup>8 In this Article:

- a) 'notice period' means the period of 20 days from the day on which the notice referred to in paragraph 5 is published, beginning with the day on which the notice is published;
- b) the reference to 'the relevant data' in paragraph 5a(a) means the product category, the geographical indication and the country of origin.]

*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

### Textual Amendments

- F71** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(i)(aa)**
- F72** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(i)(bb)**
- F73** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(i)(cc)**
- F74** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(i)(dd)**
- F75** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(ii)(aa)**
- F76** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(ii)(bb)**
- F77** Words in Art. 30(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(ii)(cc)**
- F78** Words in Art. 30(1) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(a)(iii)**
- F79** Words in Art. 30(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(b)(i)**
- F80** Words in Art. 30(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(b)(ii)**
- F81** Words in Art. 30(2) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(b)(iii)**
- F82** Words in Art. 30(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(c)(i)(aa)**
- F83** Words in Art. 30(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(c)(i)(bb)**
- F84** Words in Art. 30(3)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(c)(ii)**
- F85** Words in Art. 30(3)(b) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(c)(iii)**
- F86** Words in Art. 30(4) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(4)(a)(i)**
- F87** Words in Art. 30(4) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(4)(a)(ii)**
- F88** Art. 30(5)-(7) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(20)(d)**
- F89** Art. 30(5a)(5b) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(4)(b)**
- F90** Art. 30(8) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), regs. 1(3), **10(4)(c)**

## Article 31

### Amendment to a product specification

1 Any group having a legitimate interest may apply for approval of an amendment to a product specification.

Applications shall describe and give reasons for the amendments requested.

2 Amendments to a product specification shall be classified into two categories as regards their importance:

- a [F91non-standard] amendments requiring an opposition procedure [F92under Article 27, as applied to applications for non-standard amendments by paragraph 9];
- b standard amendments[F93. Standard amendments to a product specification for a geographical indication relating to an area in a third country are] to be dealt with at F94 ... third country level.

3 An amendment shall be considered a [F95non-standard] amendment if it:

- a includes a change in the name or any part of the name of the geographical indication registered under this Regulation;
- b consists of a change of the legal name or the category of the spirit drink;
- c risks voiding the given quality, reputation or other characteristic of the spirit drink that is essentially attributable to its geographical origin; or
- d entails further restrictions on the marketing of the product.

Any other amendments shall be considered standard amendments.

[F964 Standard amendments are classified into four sub-categories taking into account the geographical area of the geographical indication affected by the amendment, the reason for the amendments and whether the amendments are being applied for on a temporary basis, as follows:

- a) UK standard amendments;
- b) UK temporary amendments;
- c) third country standard amendments;
- d) third country temporary amendments.

5 A UK standard amendment is a standard amendment of a product specification for a geographical indication relating to a geographical area in the United Kingdom.

6 A UK temporary amendment is a standard amendment concerning a temporary change in a product specification for a geographical indication relating to a geographical area in the United Kingdom:

- a) resulting from the imposition of obligatory sanitary and phytosanitary measures, or linked to natural disasters formally recognised, by the Secretary of State, or imposed or formally recognised by:
  - i) the Environment Agency in a case where, and to the extent that, a relevant geographical area in England is affected;
  - ii) the Department of Agriculture, Environment and Rural Affairs, or the Department of Health, in a case where, and to the extent that, a relevant geographical area in Northern Ireland is affected;
  - iii) the Scottish Ministers, Food Standards Scotland or the Scottish Environment Protection Agency, in a case where, and to the extent that, a relevant geographical area in Scotland is affected;
  - iv) the Welsh Ministers, or the Natural Resources Body for Wales, in a case where, and to the extent that, a relevant geographical area in Wales is affected;
  - v) the Food Standards Agency in a case where, and to the extent that, a relevant geographical area in England, Northern Ireland or Wales is affected, or
- b) linked to adverse weather conditions formally recognised by the Met Office of [F97the Department for Science, Innovation and Technology].

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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7 A third country standard amendment is a standard amendment of a product specification for a geographical indication relating to a geographical area in a third country.]

[<sup>F98</sup>8] A [<sup>F99</sup>third country] standard amendment shall also be considered a [<sup>F100</sup>third country] temporary amendment when it concerns a temporary change in the product specification resulting from the imposition of obligatory sanitary and phytosanitary measures by the public authorities [<sup>F101</sup>of the third country concerned] or is linked to natural disasters or adverse weather conditions formally recognised by the competent authorities [<sup>F101</sup>of the third country concerned].

[<sup>F102</sup>9] [<sup>F103</sup>Non-standard] amendments shall be approved by the [<sup>F104</sup>Secretary of State] . The approval procedure shall follow, *mutatis mutandis*, the procedure laid down in Article 24 and Articles 26 to 30. Applications for [<sup>F105</sup>non-standard] amendments submitted by a third country or by third country producers shall contain proof that the requested amendment complies with the laws applicable in that third country to the protection of geographical indications.

[<sup>F106</sup>10] A UK standard amendment and a UK temporary amendment must be approved by the Secretary of State.]

[<sup>F107</sup>11] <sup>F108</sup>.... [<sup>F109</sup>Third country standard amendments and third country temporary] amendments shall be approved in accordance with the law applicable in the third country concerned.

[<sup>F110</sup>12] The scrutiny of the application for amendment shall only address the proposed amendment.

[<sup>F111</sup>13] An implementing act to which paragraph 14 applies is revoked.

14 This paragraph applies to an implementing act:

- a concerning a decision of the European Commission relating to an application to amend a product specification for a geographical indication protected in the European Union at the time the application was submitted,
- b adopted by the European Commission pursuant to Article 31 of EU Regulation 2019/787 following the procedure referred to in paragraph 4 of that Article, and
- c incorporated into domestic law by section 3(1) of the EUWA.]

#### Textual Amendments

- F91** Word in Art. 31(2)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(e)(i)(aa)**
- F92** Words in Art. 31(2)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(e)(i)(bb)**
- F93** Words in Art. 31(2)(b) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(e)(ii)(aa)**
- F94** Words in Art. 31(2)(b) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(e)(ii)(bb)**
- F95** Word in Art. 31(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(f)**
- F96** Art. 31(4)-(7) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(g)**
- F97** Words in Art. 31(6)(b) substituted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 82** (with art. 17)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

- F98** Words in Art. 31(3)renumbered as Art. 31(8) (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(a)**
- F99** Words in Art. 31(8) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(h)(i)**
- F100** Words in Art. 31(8) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(h)(ii)**
- F101** Words in Art. 31(8) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(h)(iii)**
- F102** Art. 31(4) renumbered as Art. 31(9) (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(b)**
- F103** Word in Art. 31(9) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(i)**
- F104** Words in Art. 31(9) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(ii)**
- F105** Word in Art. 31(9) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(iii)**
- F106** Art. 31(10) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(j)**
- F107** Art. 31(5) renumbered as Art. 31(11) (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(c)**
- F108** Words in Art. 31(11) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(k)(i)**
- F109** Words in Art. 31(11) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(k)(ii)**
- F110** Art. 31(6) renumbered as Art. 31(12) (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(d)**
- F111** Art. 31(13)(14) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(21)(l)**

### Article 32

#### Cancellation

1 The [<sup>F112</sup>Secretary of State may, on the Secretary of State's] own initiative or at the request of any natural or legal person having a legitimate interest, <sup>F113</sup>... cancel the registration of a geographical indication in either of the following cases:

- a where compliance with the requirements for the product specification can no longer be ensured;
- b where no product has been placed on the market under the geographical indication for at least seven consecutive years.

Articles 24, 26, 27, 28 and 30 shall apply *mutatis mutandis* to the cancellation procedure.

2 Notwithstanding paragraph 1, the [<sup>F114</sup>Secretary of State] may, at the request of the producers of the spirit drink marketed under the registered geographical indication, [<sup>F115</sup>cancel] the corresponding registration.

3 In the cases referred to in paragraphs 1 and 2, before [<sup>F116</sup>taking a decision to cancel a geographical indication, the Secretary of State must consult the original applicant. In the case of a geographical indication relating to an area in a third country, the Secretary of State must, where possible, consult the third country applicant who originally applied for the registration of the geographical indication or, where this is not possible, the authorities of the relevant third

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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country. The provisions of this paragraph do not apply if] the cancellation is directly requested by [<sup>F117</sup>the original applicant].

<sup>F118</sup>4 .....

[<sup>F119</sup>5 An implementing act to which paragraph 6 applies is revoked.

6 This paragraph applies to an implementing act adopted by the European Commission under Article 32 of EU Regulation 2019/787 and incorporated into domestic law by section 3(1) of the EUWA.

7 In this Article, in relation to a geographical indication to which paragraph 1 or 2 applies, ‘the original applicant’ means the person who submitted the application to the Secretary of State under Article 24 that resulted in the Secretary of State making the decision to register the geographical indication under this Regulation.]

#### Textual Amendments

- F112** Words in Art. 32(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(a)(i)**
- F113** Words in Art. 32(1) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(a)(ii)**
- F114** Words in Art. 32(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(b)(i)**
- F115** Word in Art. 32(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(b)(ii)**
- F116** Words in Art. 32(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(c)(i)**
- F117** Words in Art. 32(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(c)(ii)**
- F118** Art. 32(4) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(d)**
- F119** Art. 32(5)-(7) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(22)(e)**

### Article 33

#### Register of geographical indications of spirit drinks

1 The [<sup>F120</sup>Secretary of State must establish and maintain] a publicly accessible electronic register, which is kept up to date, of geographical indications of spirit drinks recognised under this scheme (‘the register’).

2 The name of a geographical indication shall be registered in its original script. Where the original script is not in Latin characters, a transcription or transliteration in Latin characters shall be registered together with the name in its original script.

For geographical indications registered under this Chapter, the register shall [<sup>F121</sup>contain a copy of the single document and product specification for each geographical indication].

For geographical indications registered before 8 June 2019, the register shall provide direct access to the main specifications of the technical file as set out in Article 17(4) of Regulation (EC) No 110/2008.



The <sup>F122</sup>Secretary of State may make regulations] laying down further detailed rules on the form and content of the register.

3 Geographical indications of spirit drinks produced in third countries that are protected in <sup>F123</sup>Great Britain] pursuant to an international agreement to which the <sup>F124</sup>United Kingdom] is a contracting party may be entered in the register as geographical indications.

<sup>F125</sup>The entry in the register 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 day following the day on which IP completion day falls and the entry is in the register as established during that period, on IP completion day;
- b) in any other case, immediately the entry is entered in the register.]

#### Textual Amendments

- F120** Words in Art. 33(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(a)**
- F121** Words in Art. 33(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(b)(i)**
- F122** Words in Art. 33(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(b)(ii)**
- F123** Words in Art. 33(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(c)(i)**
- F124** Words in Art. 33(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(c)(ii)**
- F125** Words in Art. 33(3) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(23)(c)(iii)**

### Article 34

#### Homonymous geographical indications

1 If a name for which an application is submitted is a whole or partial homonym of a name already registered under this Regulation, the name shall be registered with due regard to local and traditional usage and any risk of confusion.

2 A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of those products is concerned.

3 The use of a registered homonymous geographical indication shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already in the register, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.

4 The protection of geographical indications of spirit drinks referred to in Article 21 of this Regulation shall be without prejudice to the protected geographical indications and designations of origin of products under Regulations (EU) No 1308/2013 and (EU) No 251/2014.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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## Article 35

### Specific grounds for refusal of protection

(1) A generic name shall not be protected as a geographical indication.

To establish whether or not a name has become a generic name, account shall be taken of all relevant factors, in particular:

- a the existing situation in [<sup>F126</sup>Great Britain], in particular in areas of consumption;
- b the relevant <sup>F127</sup>... legislation.

(2) A name shall not be protected as a geographical indication where, in the light of a trade mark's reputation and renown, protection could mislead the consumer as to the true identity of the spirit drink.

(3) A name shall only be protected as a geographical indication if the production steps which give the spirit drink the quality, reputation or other characteristic that is essentially attributable to its geographical origin, take place in the relevant geographical area.

(<sup>F128</sup>4) In this Article, 'the relevant legislation' means the following legislation whenever passed or made:

- a) an Act and an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act;
- b) retained direct EU legislation;
- c) Northern Ireland legislation, an enactment contained in an instrument made under Northern Ireland legislation, and, so far as it applies to Northern Ireland, anything that forms part of domestic law by virtue of section 7A of the EUWA and the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
- d) an Act of the Scottish Parliament and an enactment contained in an instrument made under an Act of the Scottish Parliament;
- e) a Measure or Act of Senedd Cymru and an enactment contained in an instrument made under a Measure or Act of Senedd Cymru.]

#### Textual Amendments

**F126** Words in Art. 35(1)(a) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(24)(a)(i)**

**F127** Words in Art. 35(1)(b) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(24)(a)(ii)**

**F128** Art. 35(4) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(24)(b)**

## Article 36

### Relationship between trade marks and geographical indications

1 The registration of a trade mark the use of which corresponds or would correspond to one or more of the situations referred to in Article 21(2) shall be refused or invalidated.



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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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2 A trade mark the use of which corresponds to one or more of the situations referred to in Article 21(2), which has been applied for, registered, or established by use, <sup>F129</sup>... in good faith within the territory of the [<sup>F130</sup>United Kingdom], before the date on which the application for protection of the geographical indication was submitted to the [<sup>F131</sup>Secretary of State], may continue to be used and renewed notwithstanding the registration of a geographical indication, provided that no grounds for its invalidity or revocation exist [<sup>F132</sup>in, or under, the Trade Marks Act 1994].

#### Textual Amendments

- F129** Words in Art. 36(2) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(25)(a)**
- F130** Words in Art. 36(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(25)(b)**
- F131** Words in Art. 36(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(25)(c)**
- F132** Words in Art. 36(2) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(25)(d)**

#### [<sup>F133</sup> Article 36a

#### Transitional provision: relationship between trade marks and geographical indications

1. Unless paragraph 4 applies, an application to register a trade mark that was pending immediately before IP completion day or made during the relevant period must be refused where, if the trade mark is registered, the use of the trade mark will contravene Article 21(2) in relation to a category A geographical indication.
2. Unless paragraph 4 applies, an application to register a trade mark that was pending immediately before IP completion day or made during the relevant period must be refused where:
  - a if the trade mark is registered, the use of the trade mark will contravene Article 21(2) in relation to a category B geographical indication, and
  - b after the application for the trade mark is accepted but before the trade mark is registered:
    - i in the case of a type 2B geographical indication:
      - aa the international agreement referred to in paragraph (c) of column 2 of row 2 of the Types Table enters into force or the bridging arrangements referred to in that column are made, and
      - bb the entry into force of the international agreement or the making of the bridging arrangements is brought to the attention of the registrar before the trade mark is registered;
    - ii in the case of any other category B geographical indication:
      - aa the Secretary of State publishes an Article 30(5) approval notice relating to the geographical indication, and
      - bb the Article 30(5) approval notice is brought to the attention of the registrar before the trade mark is registered.
3. Where an application for a declaration of invalidity is made under the TMA (as applied by Article 36b(1) and modified by Article 36b(2)) in relation to the registration of a trade mark, the registration of the trade mark must be declared to be invalid, unless paragraph 4 applies, if:

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- a the application to register the trade mark was pending immediately before IP completion day or made during the relevant period,
  - b the use of the trade mark contravenes, or will, if used, contravene, Article 21(2) in relation to a category B geographical indication, and
  - c in the case of a type 3B, 4B or 5B geographical indication, the Secretary of State publishes an Article 30(5) approval notice relating to the geographical indication on or after the day on which the trade mark application is accepted.
4. This paragraph applies where a column 5 date applies in relation to the category A or B geographical indication and, taking account of any priority claimed in respect of an application to register the trade mark referred to in paragraph 1, 2 or 3(a) (as relevant) and on the basis of the information available to the registrar, it appears to the registrar that the date of filing of the trade mark application is earlier than the column 5 date that applies to the relevant geographical indication.
5. As regards paragraphs 1 and 2, a column 5 date does not apply in relation to a type 2A, 3A or 4A geographical indication, in the case of paragraph 1, or in relation to a type 2B, 3B or 4B geographical indication, in the case of paragraph 2, where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to the geographical indication provides that an application for a trade mark must be refused, regardless of when that application is made, if the trade mark, if registered, will contravene a provision in the EUIA providing for the protection of the use of the geographical indication
6. As regards paragraph 3, a column 5 date does not apply in relation to a type 2B, 3B or 4B geographical indication where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to the geographical indication provides that the registration of a trade mark must be invalidated if, regardless of when the application that resulted in the registration of the trade mark is made, the use of the trade mark contravenes a provision in the EUIA providing for the protection of the use of the geographical indication.
7. Where a geographical indication falls within the definition of more than one type of geographical indication in Article 4, the column 5 date to be taken into account for the purpose of paragraph 4 is the earliest of the column 5 dates for the relevant types of geographical indication.
8. In a case of a category A or B geographical indication that is not on Great Britain's GIs Register at the time an assessment is carried out under paragraph 1, 2 or 3, the geographical indication is to be treated, for the purpose of the assessment, as being a geographical indication protected under this Regulation in determining whether the use of the trade mark will contravene Article 21(2) in relation to that geographical indication.
9. A trade mark that could be used in the United Kingdom under Article 36(2) of EU Regulation 2019/787 immediately before IP completion day may continue to be used in Great Britain on and after IP completion day:
- a notwithstanding that the use of the trade mark would contravene Article 21(2) of this Regulation in relation to a geographical indication registered by the Secretary of State under this Regulation;
  - b provided that no grounds for the invalidation or revocation of the trade mark exist in, or under, the TMA.
10. Nothing in this Regulation prevents a trade mark that could be renewed in the United Kingdom pursuant to Article 36(2) of EU Regulation 2019/787 immediately before IP completion day from being renewed after IP completion day:

- a notwithstanding that the use of the renewed trade mark would contravene Article 21(2) in Great Britain in relation to a geographical indication registered by the Secretary of State under this Regulation;
  - b provided that no grounds for the invalidation or revocation of the trade mark exist in, or under, the TMA.
11. Where paragraph 9 or 10 applies to the use or renewal of a trade mark, this does not affect the use of:
- a a geographical indication entered on Great Britain's GIs Register by the Secretary of State following a decision by the Secretary of State to approve an application made under Article 24;
  - b a geographical indication entered on Great Britain's GIs Register by the Secretary of State under Article 33(3) or Article 36c(1);
  - c an established geographical indication entered on Great Britain's GIs Register pursuant to Article 37(1).
12. In this Article:
- a a category A geographical indication' means a type 1, 2A, 3A, 4A or 5A geographical indication;
  - b 'a category B geographical indication' means a type 2B, 3B, 4B or 5B geographical indication;
  - c 'column 5 date', in relation to a geographical indication that is a category A or B geographical indication, means the date specified, or provided for, in column 5 of the Types Table in the row relating to the relevant type of geographical indication;
  - d 'date of filing':
    - i in the case of an EUTM-based trade mark application, means the filing date referred to in paragraph 25(2)(a)(i) of Schedule 2A to the TMA(1) for the existing EUTM application;
    - ii in the case of an EUTM-based trade mark application, means the filing date referred to in paragraph 25(2)(a)(i) of Schedule 2A to the TMA(1) for the existing EUTM application;
      - aa in the case of an application for the registration of a trade mark to which paragraph 28 of Schedule 2B to the TMA applies, the date referred to in paragraph 28(2)(a) of that Schedule for the existing ITM application or existing request for EU extension (as the case may be);
      - bb in the case of an application for the registration of a trade mark to which paragraph 29 of Schedule 2B to the TMA applies, the date referred to in paragraph 29(2)(a) of that Schedule for the existing ITM application or existing request for EU extension (as the case may be);
    - iii in any other case, has the meaning given by section 33 of the TMA;
  - e 'EUTM-based trade mark application' means an application to register a trade mark to which paragraph 25(1) of Schedule 2A to the TMA applies that is made within the period specified in paragraph 25(2) of that Schedule;
  - f 'existing EUTM application' has the same meaning as in paragraph 24 of Schedule 2A to the TMA;
  - g 'existing ITM application' has the same meaning as in paragraph 27(1)(a) of Schedule 2B to the TMA;
  - h 'existing request for EU extension' has the same meaning as in paragraph 27(1)(b) of Schedule 2B to the TMA;

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- i ‘ITM-based trade mark application’ means an application to register a trade mark to which paragraph 28(1) or 29(1) of Schedule 2B to the TMA applies that is made within the period specified in paragraph 28(1)(c) or 29(1)(c) (as the case may be) of that Schedule;
  - j ‘the registrar’ has the meaning given by section 62 of the TMA.
13. Any reference in this Article to:
- a) ‘priority claimed in respect of an application’:
    - i) in the case of an EUTM-based trade mark application, means any priority claimed in respect of the existing EUTM application referred to in paragraph 25(2)(a)(ii) of Schedule 2A to the TMA;
    - ii) in the case of an ITM-based trade mark application, means any priority claimed in respect of the existing ITM application or the existing request for EU extension referred to in paragraph 28(2)(b) or 29(2)(b) (as the case may be) of Schedule 2B to the TMA;
    - iii) in any other case, means any priority claimed in respect of the application pursuant to section 35 of the TMA;
  - b) an application to register a trade mark that was ‘pending immediately before IP completion day’ is a reference to an application that was neither refused, nor resulted in the registration of the trade mark that is the subject of the application, before IP completion day;
  - c) a trade mark includes a reference to:
    - i) a collective mark as defined in section 49(1) of the TMA;
    - ii) a certification mark as defined in section 50(1) of the TMA.

#### Textual Amendments

**F133** Arts. 36a-36d inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 2**

### Article 36b

#### Application and modification of trade mark provisions

1. For the purpose of Article 36a, the following provisions of the TMA apply, with the modifications, in the case of sections 47(3) and (5), 74(1), 76(1) and 77(1), specified in paragraph 2:
  - a) subsections (3) to (5) and (6) of section 47 (invalidation of trade marks) in relation to an application to invalidate a trade mark referred to in Article 36a(3);
  - b) section 72 (registration to be prima face evidence of validity);
  - c) section 73 (certificate of validity of contested application);
  - d) section 74 (registrar’s appearance in proceedings involving the register of trade marks);
  - e) section 75 (definition of ‘the court’);
  - f) section 76 (appeals) except for subsection (5);
  - g) section 77(1) (persons appointed to hear and determine appeals).
2. The modifications are:
  - a) section 47 applies as if:

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- i) in subsection (3), in the words before paragraph (a), after ‘invalidity’ there were inserted ‘made under this section, as applied by Article 36b(1) 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,’;
    - ii) in subsection (5), for ‘grounds of invalidity’ there were substituted ‘ground for invalidity specified in Article 36a(3) of Regulation (EU) 2019/787 of the European Parliament and of the Council exists’;
  - b) section 74(1) applies as if, for the words from ‘for’ to ‘the registrar’ there were substituted ‘for a declaration of the invalidity of the registration of a trade mark, the registrar’;
  - c) section 76(1) applies as if:
    - i) in the first paragraph, for the words from ‘under’ to the end there were substituted ‘made under Article 36a(3) of Regulation (EU) 2019/787 of the European Parliament and of the Council’;
    - ii) the second paragraph were omitted;
  - d) section 77(1) applies as if, at the end there were inserted ‘as applied by Article 36b(1) of Regulation (EU) 2019/787 of the European Parliament and of the Council’.
3. In the case of the following proceedings, the rules made under section 68 or 69 of the TMA apply to those proceedings as they apply to proceedings involving an application of the type referred to in section 74(1)(b) of the TMA:
- a) an application to invalidate a trade mark referred to in Article 36a(3);
  - b) an appeal to an appointed person from a decision of the registrar in relation to an application referred to in paragraph (a).

#### Textual Amendments

**F133** Arts. 36a-36d inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 2**

### Article 36c

#### Third Country geographical indications covered by bridging arrangements

1. A geographical indication to which paragraph 2 applies is, for the protection period, to be entered on Great Britain’s GIs Register.
2. This paragraph applies to a geographical indication which relates to a geographical area in a third country (“C”) which:
  - a) was, immediately before IP completion day, protected in the European Union under an EUIA to which the European Union and C were contracting parties, and
  - b) is, before a qualifying international agreement enters into force, 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 geographical indication, is the period for which:

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- a) the relevant bridging arrangements have effect, or
  - b) if only part of the relevant bridging arrangements relates to the geographical indication, 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.

#### **Textual Amendments**

**F133** Arts. 36a-36d inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 2**

### *Article 36d*

#### **Transitional provisions: relations between trade marks and geographical indications when bridging arrangements are in effect**

1. Where a geographical indication is treated as entered on Great Britain’s GIs Register under Article 36c, Articles 36a and 36b and Annex 1A 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, 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 36a and 36b and Annex 1A are to be read as if:
- a) in the case of a type A term, any reference to a type 2A geographical indication included a reference to a type A term;
  - b) in the case of a type B term, any reference to a type 2B geographical indication included a reference to a type B term.
3. In addition, Article 36b and Annex 1A are to be read as if any reference to Article 36a 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 36a or 36b or Annex 1A as the Secretary of State considers necessary for the purpose of ensuring that the relative priorities afforded to geographical indications and trade marks before IP completion day continue to apply appropriately during the relevant period.
5. In this Article:
- ‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 36b(1) and modified by Article 36b(2)) in relation to the registration of a trade mark;
  - ‘type A term’ means a geographical indication which—
    - i is, immediately before the application to register a trade mark is accepted, entered in Great Britain’s GIs Register under Article 36c, or

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- 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 geographical indication which is not entered in Great Britain’s GIs Register under Article 36c 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.]

#### Textual Amendments

**F133** Arts. 36a-36d inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1661), reg. 1(3), **Sch. 5 Pt. 2**

### Article 37

#### [<sup>F134</sup>Established] geographical indications

[<sup>F135</sup>1] [<sup>F136</sup>Established geographical indications] shall automatically be protected as geographical indications under this Regulation. The [<sup>F137</sup>Secretary of State] shall list them in the register referred to in Article 33 of this Regulation [<sup>F138</sup>and the registration takes effect on IP completion day].

[<sup>F139</sup>2] The geographical indication for which the names ‘*Irish Whiskey*’, ‘*Uisce Beatha Eireannach*’ and ‘*Irish Whisky*’ are listed in category 2 of the table in Annex 3 to EU Regulation 110/2008 covers whisky/whiskey produced in Ireland, Northern Ireland or in both Ireland and Northern Ireland.

3 The protection of the geographical indication ‘*Pisco*’ (as listed in category 9 of the table in Annex 3 to EU Regulation 110/2008) under this Regulation is without prejudice to the use of the name ‘*Pisco*’ for products originating in Chile protected under the Association Agreement between the United Kingdom and Chile.

4 The product specification relating to the geographical indication ‘*Somerset Cider Brandy*’ (as listed in category 10 of the table in Annex 3 to EU Regulation 110/2008) is deemed to include a requirement that the use of that geographical indication must be accompanied by the sales denomination ‘cider spirit’.

5 The product specification relating to the geographical indication for which the names ‘*Polska Wódka*’ and ‘*Polish Vodka*’ are listed in category 15 of the table in Annex 3 to EU Regulation 110/2008 is deemed to include a requirement that the use of the geographical indication must be accompanied by the sales denomination ‘flavoured vodka’. The term ‘flavoured’ may be replaced by the name of the predominant flavour.

6 The geographical indication ‘*Irish Cream*’ (as listed in category 32 of the table in Annex 3 to EU Regulation 110/2008) covers the corresponding liqueur produced in Ireland, Northern Ireland or in both Ireland and Northern Ireland.

7 The geographical indication for which the names ‘*Irish Potteen*’ or ‘*Irish Poitín*’ are listed in the category ‘Other spirit drinks’ of the table in Annex 3 to EU Regulation 110/2008 covers the corresponding spirit drink produced in Ireland, Northern Ireland or in both Ireland and Northern Ireland.



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8 When adding an entry relating to a geographical indication covered by any of paragraphs 2 to 7 to the register, the Secretary of State must include a note in the register relating to the matter specified in the relevant paragraph.]

#### Textual Amendments

- F134** Word in [Art. 37](#) heading substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(26)(a)**
- F135** [Art. 37](#) renumbered as [Art. 37\(1\)](#) (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), regs. 1(3), **10(6)(a)**
- F136** Words in [Art. 37](#) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(26)(b)**
- F137** Words in [Art. 37](#) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(26)(c)(i)**
- F138** Words in [Art. 37](#) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(26)(c)(ii)**
- F139** [Art. 37\(2\)-\(8\)](#) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), regs. 1(3), **10(6)(b)**

### Article 38

#### Verification of compliance with the product specification

1 <sup>[F140]</sup>The Secretary of State] shall draw up and keep up to date a list of operators that produce spirit drinks <sup>[F141]</sup>in Great Britain] with a geographical indication registered under this Regulation.

2 In respect of the geographical indications that designate spirit drinks originating within <sup>[F142]</sup>Great Britain] registered under this Regulation, verification of compliance with the product specification referred to in Article 22, before placing the product on the market, shall be carried out by:

- <sup>[F143]</sup>a the authority designated for that purpose by regulation 5 of the Spirit Drinks Regulations 2008 as that regulation extends to Great Britain; or]
- b <sup>[F144]</sup>delegated] bodies within the meaning of point 5 of the second subparagraph of Article 2 of <sup>[F145]</sup>(EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products], operating as a product certification body.

Where <sup>[F146]</sup>Article 24(2) applies], verification of compliance with the product specification shall be ensured by an authority other than that deemed to be a group under that paragraph.

<sup>F147</sup> ...

<sup>[F148]</sup>2a But, to the extent specified in paragraph 2b, paragraph 2 does not apply where the authority referred to in paragraph 2(a) or a delegated body referred to in paragraph 2(b) has previously verified that the relevant spirit drink complies with the specifications in a corresponding EU product specification for a corresponding EU geographical indication in connection with the placing of the relevant spirit drink on the market in Northern Ireland.

2b But, to the extent specified in paragraph 2b, paragraph 2 does not apply where the authority referred to in paragraph 2(a) or a delegated body referred to in paragraph 2(b)



has previously verified that the relevant spirit drink complies with the specifications in a corresponding EU product specification for a corresponding EU geographical indication in connection with the placing of the relevant spirit drink on the market in Northern Ireland.]

3 In respect of the geographical indications that designate spirit drinks originating within [<sup>F149</sup>Northern Ireland or] a third country registered under this Regulation, verification of compliance with the product specification, before placing the product on the market, shall be carried out by:

- [<sup>F150</sup>aa in relation to a product produced in Northern Ireland, the authority designated for that purpose by regulation 5 of the Spirit Drinks Regulations 2008 as that regulation extends to Northern Ireland;]
- a [<sup>F151</sup>in relation to a product produced in a third country,] a public competent authority designated by the third country; or
- b [<sup>F152</sup>in relation to a product produced in Northern Ireland or a third country,] a product certification body.

[<sup>F153</sup>4 The Secretary of State must:

- a) publish, in such manner as appears appropriate to the Secretary of State, the names and addresses of the competent authorities and bodies referred to in paragraphs 2 and 3, and
- b) update that information in such manner as appears appropriate to the Secretary of State from time to time.]

5 The [<sup>F154</sup>delegated] bodies referred to in point (b) of paragraph 2 and the product certification bodies referred to in point (b) of paragraph 3 shall comply with and be accredited in accordance with European standard ISO/IEC 17065:2012 <sup>F155</sup>....

6 The competent authorities referred to in paragraphs 2 and 3 that verify compliance of the geographical indication protected under this Regulation with the product specification shall be objective and impartial. They shall have at their disposal the qualified staff and resources necessary to carry out their tasks.

7 [<sup>F156</sup>In relation to a relevant spirit drink that is to be placed on the market in Great Britain—

- a) ‘a corresponding EU geographical indication’ means a geographical indication which is protected in the European Union under EU Regulation 2019/787 and that corresponds to the registered geographical indication;
- b) ‘a corresponding EU product specification’ means—
  - i) a product specification for a corresponding EU geographical indication, as that product specification stands at the time when, but for paragraph 2a, the authority or a delegated body referred to in paragraph 2 would otherwise be obliged, under paragraph 2, to verify that the relevant spirit drink complies with the specifications in the GB product specification for the registered geographical indication, or
  - ii) a technical file for a corresponding EU geographical indication that is deemed to be a product specification under Article 22 of EU Regulation 2019/787 by virtue of Article 22(2) of that Regulation as that product specification stands at the time when, but for paragraph 2a, the authority or a delegated body referred to in paragraph 2 would otherwise be obliged, under paragraph 2, to verify that the relevant spirit drink complies with the specifications in the GB product specification for the registered geographical indication;
- c) ‘the GB product specification’ means the product specification referred to in Article 22(1) for the registered geographical indication and includes a technical file for a

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registered geographical indication that is deemed to be a product specification under that Article by virtue of Article 22(2).]

#### Textual Amendments

- F140** Words in Art. 38(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(28)(a)**
- F141** Words in Art. 38(1) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(28)(b)**
- F142** Words in Art. 38(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(a)(i)**
- F143** Art. 38(2)(a) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(a)(ii)**
- F144** Word in Art. 38(2)(b) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(a)(iii)(aa)**
- F145** Words in Art. 38(2)(b) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(a)(iii)(bb)**
- F146** Words in Art. 38(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(b)**
- F147** Words in Art. 38(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(29)(c)**
- F148** Art. 38(2a)(2b) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(30)**
- F149** Words in Art. 38(3) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(31)(a)**
- F150** Art. 38(3)(aa) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(31)(b)**
- F151** Words in Art. 38(3)(a) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(31)(c)**
- F152** Words in Art. 38(3)(b) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(31)(d)**
- F153** Art. 38(4) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(32)**
- F154** Word in Art. 38(5) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(33)(a)**
- F155** Words in Art. 38(5) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(33)(b)**
- F156** Art. 38(7) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(34)**

#### Article 39

##### Surveillance of the use of names in the market place

1 [F157 Checks must be carried out], based on a risk analysis, as regards the use, in the market place, of the geographical indications registered under this Regulation and F158 ... all necessary measures [F159 must be taken] in the event of breaches of the requirements of this Chapter.

2 F160 ... Appropriate administrative and judicial steps [F161 must be taken] to prevent or stop the unlawful use of the names of products or services that are produced or marketed

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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in [F162Great Britain] and that are covered by geographical indications registered under this Regulation.

To that end, [F163the authorities designated in regulation 6 of the Spirit Drinks Regulations 2008 in relation to this Article, as that regulation extends to Great Britain,] are responsible for taking those steps F164 ...

Those authorities shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their tasks.

3 F165 ... The [F166Secretary of State] shall make public the names and addresses of those authorities [F167in such manner as appears appropriate to the Secretary of State from time to time].

#### Textual Amendments

- F157 Words in Art. 39(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(a)(i)**
- F158 Words in Art. 39(1) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(a)(ii)**
- F159 Words in Art. 39(1) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(a)(iii)**
- F160 Words in Art. 39(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(b)(i)(aa)**
- F161 Words in Art. 39(2) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(b)(i)(bb)**
- F162 Words in Art. 39(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(b)(i)(cc)**
- F163 Words in Art. 39(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(b)(ii)(aa)**
- F164 Words in Art. 39(2) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(b)(ii)(bb)**
- F165 Words in Art. 39(3) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(c)(i)**
- F166 Words in Art. 39(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(c)(ii)(aa)**
- F167 Words in Art. 39(3) inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(35)(c)(ii)(bb)**

### Article 40

#### Procedure and requirements, and planning and reporting of control activities

1 The procedures and requirements laid down in Regulation [F168(EU) 2017/625] shall apply *mutatis mutandis* to the checks provided for in Articles 38 and 39 of this Regulation.

2 [F169The Secretary of State] shall ensure that activities for the control of obligations under this Chapter are specifically included in a separate section within the multi-annual national control plans in accordance with Articles [F170109(1), 110(2) and 111(2) of Regulation (EU) 2017/625].

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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3 The annual reports referred to in [F171 Article 113(1) of Regulation (EU) 2017/625] shall include in a separate section the information referred to in that provision concerning the control of the obligations established by this Regulation.

#### Textual Amendments

- F168** Words in Art. 40(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(36)(a)**
- F169** Words in Art. 40(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(36)(b)(i)**
- F170** Words in Art. 40(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(36)(b)(ii)**
- F171** Words in Art. 40(3) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(36)(c)**

#### Article 41

#### [F172 Power to make supplementary provisions by regulations]

1 The [F173 Secretary of State may make regulations] supplementing this Regulation by setting out further conditions to be followed, including in cases where a geographical area includes more than one country, in respect of:

- a an application for the registration of a geographical indication as referred to in Articles 23 and 24; and
- b [F174 ... scrutiny by the [F175 Secretary of State], the opposition procedure, and the cancellation of geographical indications.

2 The [F176 Secretary of State may make regulations] supplementing this Regulation by establishing conditions and requirements for the procedure concerning [F177 non-standard] amendments and standard amendments, including temporary amendments, to product specifications as referred to in Article 31.

#### Textual Amendments

- F172** Art. 41 heading substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(a)**
- F173** Words in Art. 41(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(b)(i)**
- F174** Words in Art. 41(1)(b) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(b)(ii)(aa)**
- F175** Words in Art. 41(1)(b) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(b)(ii)(bb)**
- F176** Words in Art. 41(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(c)(i)**
- F177** Word in Art. 41(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(37)(c)(ii)**

## Article 42

### [<sup>F178</sup>Article 42 Power to make detailed rules by regulations]

1 The [<sup>F179</sup>Secretary of State may make regulations] laying down detailed rules concerning:

- a the form of the product specification referred to in Article 22, and measures on the information to be provided in the product specification with regard to the link between the geographical area and the final product as referred to in point (f) of Article 22(1);
- b the procedures for, form and presentation of, oppositions as referred to in Articles 27 and 28;
- c the form and presentation of applications for [<sup>F180</sup>non-standard, UK standard and UK temporary amendments as referred to in Article 31(3), (5) and (6) respectively] and of communications concerning [<sup>F181</sup>third country standard and third country] temporary amendments as referred to in Article [<sup>F182</sup>31(7) and (8)] respectively;
- d the procedures for and form of the cancellation process referred to in Article 32, as well as on the presentation of the requests for cancellation; and
- e the checks and verifications to be carried out <sup>F183</sup>..., including testing, as referred to in Article 38.

2 The [<sup>F184</sup>Secretary of State may make regulations] laying down detailed rules concerning the procedures for, form and presentation of, applications as referred to in Articles 23 and 24, including for applications concerning more than one national territory.

<sup>F185</sup>3 .....

#### Textual Amendments

- F178** Art. 42 heading substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(a)**
- F179** Words in Art. 42(1) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(b)(i)**
- F180** Words in Art. 42(1)(c) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(b)(ii)(aa)**
- F181** Words in Art. 42(1)(c) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(b)(ii)(bb)**
- F182** Words in Art. 42(1)(c) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(b)(ii)(cc)**
- F183** Words in Art. 42(1)(e) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(b)(iii)**
- F184** Words in Art. 42(2) substituted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(e)**
- F185** Art. 42(3) omitted (31.12.2020) by virtue of The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), **28(38)(d)**

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## [<sup>F186</sup>CHAPTER 4

### GEOGRAPHICAL INDICATIONS: APPEALS

#### Article 43

#### Appeals

- 1 An appeal may be made to the FTT against a decision of the Secretary of State specified in column 1 of the table in Part 2 of Annex 2.
- 2 Such an appeal may be made:
  - a in all cases, by a person specified in the corresponding entry in column 2 of the table in Part 2 of Annex 2;
  - b in the case of a decision affecting an application submitted by the authorities of a third country, by the authorities of that third country.
3. In determining such an appeal the FTT:
  - a must consider the decision appealed against afresh;
  - b may take into account evidence that was not available to the Secretary of State.
4. The FTT may:
  - a dismiss the appeal, or
  - b if it allows the appeal, exercise any power specified in the corresponding entry in column 3 of the table in Part 2 of Annex 2.
5. Where the FTT remits a matter to the Secretary of State for reconsideration and fresh decision:
  - a the Secretary of State, after making a fresh decision, must publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the original applicant, the appellant (if different) and the public of that fresh decision and the reasons for that decision;
  - b the provisions of this Chapter and Annex 2 apply to the fresh decision made by the Secretary of State.
6. An appeal made under paragraph 1 in relation to a decision of the Secretary of State specified in column 1 of the table in Part 2 of Annex 2 does not prevent an entry recorded on Great Britain's GIs Register by the Secretary of State following that decision from having effect.
7. The entry referred to in paragraph 6 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 take specified action, 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.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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### *Article 43a*

#### **Secretary of State decision to consider a decision afresh and the effect of that decision on an appeal**

- 1 The Secretary of State may consider a decision specified in column 1 of the table in Part 2 of Annex 2 ('the original decision') 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.
- 2 Paragraph 1 applies even though an appeal has been made in respect of the original decision.
3. 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:
  - a the Secretary of State must notify the FTT of the Secretary of State's decision to consider the original decision afresh and publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the appellant, the original applicant (if different) and the public of that decision;
  - b 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;
  - c the Secretary of State must, following the making of the fresh decision, notify the FTT of that decision and publish, in such manner as appears appropriate to the Secretary of State from time to time, a notice informing the appellant, the original applicant (if different) and the public of that decision and the reasons for that decision.
4. If the Secretary of State makes the same decision again, the appeal to the FTT restarts.
5. If the Secretary of State makes a different decision, the appeal to the FTT ceases unless the FTT directs otherwise.]

### *F1 Article 44*

#### **Exchange of information**

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#### **Textual Amendments**

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

### *F1 Article 45*

#### **Member States' legislation**

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*Changes to legislation:* There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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#### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

#### Textual Amendments

- F186** Ch. 4 inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 28(39), **Sch. 10 Pt. 2**

## CHAPTER V

### DELEGATION OF POWER, IMPLEMENTING PROVISIONS, TRANSITIONAL AND FINAL PROVISIONS

#### SECTION 1

#### *Delegation of power and implementing provisions*

#### *<sup>F187</sup>Article 46*

#### **Regulations**

- 1 Regulations made under this Regulation are to be made by statutory instrument.
- 1A A statutory instrument containing regulations under Article 36d(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.
- 1B Any other statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
- 2 Such regulations may:
- contain supplementary, incidental, consequential, transitional or saving provision (including provision amending, repealing or revoking an enactment);
  - make different provision for different purposes.
- 3 In this Article, ‘enactment’ means:
- an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act, except to the extent that the enactment extends to Northern Ireland;
  - regulations made under retained direct principal EU legislation, except to the extent that they extend to Northern Ireland;
  - retained direct minor EU legislation, except to the extent that it extends to Northern Ireland.]



**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

**Textual Amendments**

**F187** Art. 46 substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(40)** (as amended by [S.I. 2020/1661](#), regs. 1(2)(b), **16(6)**)

*F188* Article 47

**Committee procedure**

**Textual Amendments**

**F188** Art. 47 omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(41)**

SECTION 2

**Derogation, transitional and final provisions**

*F1* Article 48

**Derogation from nominal quantities requirements in Directive 2007/45/EC**

**Textual Amendments**

**F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. **3(1)**

Article 49

**Repeal**

- F189**<sub>1</sub> .....
- F189**<sub>2</sub> .....

3 References to Regulation (EC) No 110/2008 shall [<sup>F190</sup>, so far as they relate to matters previously covered by Chapter 3 of Regulation (EC) No 110/2008 as it had effect in EU law before it was repealed by Article 49 of EU Regulation 2019/787,] be construed as references to this Regulation and be read in accordance with the [<sup>F191</sup>entries in the correlation table relating to that Chapter] set out in Annex IV to this Regulation.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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### Textual Amendments

- F189** Art. 49(1)(2) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(42)(a)**
- F190** Words in Art. 49(3) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(42)(b)(i)**
- F191** Words in Art. 49(3) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(42)(b)(ii)**

## Article 50

### Transitional measures

- F192**<sup>1</sup> .....
- F1**<sup>2</sup> .....
- F1**<sup>3</sup> .....
- F193**<sup>4</sup> .....
- F1**<sup>5</sup> .....

6 In respect of [<sup>F194</sup>an established geographical indication originally registered in accordance with EU Regulation 110/2008 the Secretary of State must, at the request of any natural or legal person having a legitimate interest, or, in the case of an established geographical indication relating to an area in a third country, via the authorities of the third country, publish a single document relating to the geographical indication submitted by that applicant or authority]. That publication shall be accompanied by [<sup>F195</sup>a copy] of the product specification and [<sup>F196</sup>, unless the Secretary of State decides otherwise,] shall not be followed by an opposition procedure

### Textual Amendments

- F1** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. **3(1)**
- F192** Art. 50(1) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(43)(a)**
- F193** Art. 50(4) omitted (31.12.2020) by virtue of [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(43)(b)**
- F194** Words in Art. 50(6) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(43)(c)(i)**
- F195** Words in Art. 50(6) substituted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(43)(c)(ii)(aa)**
- F196** Words in Art. 50(6) inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), **28(43)(c)(ii)(bb)**

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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## Article 51

### Entry into force and application

1 This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 25 May 2021.

[<sup>X12</sup> Notwithstanding paragraph 1, Article 14(2), Article 16, point (c) of Article 20, Articles 21, 22 and 23, Article 24(1), (2) and (3), the first and second subparagraphs of Article 24(4), Article 24(8) and (9), Articles 25 to 42, Articles 46 and 47, Article 50(1), (4) and (6), points 39(d) and 40(d) of Annex I and the definitions set out in Article 3 relating to those provisions shall apply from 8 June 2019.]

3 The delegated acts provided for in Articles 8, 19 and 50, adopted in accordance with Article 46, and the implementing acts provided for in Article 8(4) and Articles 20, 43 and 44, adopted in accordance with Article 47, shall apply from 25 May 2021.

#### Editorial Information

**X1** Substituted by [Corrigendum to Regulation \(EU\) 2019/787 of the European Parliament and of the Council of 17 April 2019 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, and repealing Regulation \(EC\) No 110/2008 \(Official Journal of the European Union L 130 of 17 May 2019\)](#).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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## ANNEX I

## CATEGORIES OF SPIRIT DRINKS

F197<sup>1</sup>. **Rum**

.....

**Textual Amendments**

**F197** Regulation, so far as not operative immediately before IP completion day, does not form part of domestic law on and after IP completion day, see [European Union \(Withdrawal\) Act 2018 \(c. 16\), s. 3\(1\)](#)

F197<sup>2</sup>. ***Whisky or whiskey***

.....

F197<sup>3</sup>. **Grain spirit**

.....

F197<sup>4</sup>. **Wine spirit**

.....

F197<sup>5</sup>. ***Brandy or Weinbrand***

.....

F197<sup>6</sup>. **Grape marc spirit or grape marc**

.....

F197<sup>7</sup>. **Fruit marc spirit**

.....

F197<sup>8</sup>. **Raisin spirit or *raisin brandy***

.....

F197<sup>9</sup>. **Fruit spirit**

.....

F197<sup>10</sup>. **Cider spirit, perry spirit and cider and perry spirit**

.....

F197<sup>11</sup>. **Honey spirit**

.....

F197<sup>12</sup>. ***Hefebrand* or lees spirit**

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F197<sup>13</sup>. **Beer spirit**

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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.....  
F<sup>197</sup>14. ***Topinambur*** or Jerusalem artichoke spirit

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F<sup>197</sup>15. **Vodka**

.....  
F<sup>197</sup>16. **Spirit (supplemented by the name of the fruit, berries or nuts) obtained by maceration and distillation**

.....  
F<sup>197</sup>17. ***Geist*** (supplemented by the name of the fruit or the raw materials used)

.....  
F<sup>197</sup>18. **Gentian**

.....  
F<sup>197</sup>19. **Juniper-flavoured spirit drink**

.....  
F<sup>197</sup>20. ***Gin***

.....  
F<sup>197</sup>21. **Distilled *gin***

.....  
F<sup>197</sup>22. ***London gin***

.....  
F<sup>197</sup>23. **Caraway-flavoured spirit drink or *Kümmel***

.....  
F<sup>197</sup>24. ***Akvavit*** or *aquavit*

.....  
F<sup>197</sup>25. **Aniseed-flavoured spirit drink**

.....  
F<sup>197</sup>26. ***Pastis***

.....  
F<sup>197</sup>27. ***Pastis de Marseille***

.....  
F<sup>197</sup>28. ***Anis*** or *janeževec*

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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.....  
 F<sup>197</sup>29. **Distilled anis**

.....  
 F<sup>197</sup>30. **Bitter-tasting spirit drink or bitter**

.....  
 F<sup>197</sup>31. **Flavoured vodka**

.....  
 F<sup>197</sup>32. **Sloe-aromatised spirit drink or pacharán**

.....  
 F<sup>197</sup>33. **Liqueur**

.....  
 F<sup>197</sup>34. **Crème de (supplemented by the name of a fruit or other raw material used)**

.....  
 F<sup>197</sup>35. **Sloe gin**

.....  
 F<sup>197</sup>36. **Sambuca**

.....  
 F<sup>197</sup>37. **Maraschino, marrasquino or maraskino**

.....  
 F<sup>197</sup>38. **Nocino or orehovec**

.....  
 39. **Egg liqueur or advocaat or avocat or advokat**

(a) F<sup>197</sup> ...

(b) F<sup>197</sup> ...

(c) F<sup>197</sup> ...

(d) Milk products may be used in the production of egg liqueur or *advocaat* or *avocat* or *advokat*.

40. **Liqueur with egg**

(a) F<sup>197</sup> ...

(b) F<sup>197</sup> ...

(c) F<sup>197</sup> ...

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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(d) Milk products may be used in the production of liqueur with egg.

<sup>F197</sup>41. **Mistrà**

.....

<sup>F197</sup>42. **Väkevü glögi or spritglögg**

.....

<sup>F197</sup>43. **Berenburg or Beerenburg**

.....

<sup>F197</sup>44. **Honey nectar or mead nectar**

.....

### <sup>F198</sup>ANNEX IA

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

### Textual Amendments

**F198** Annex 1A inserted (31.12.2020) by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 3**

## PART 1

### Interpretation

1. In the table in Part 3:

## 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:

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:

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

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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:

### PART 3

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

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type A provisions</i>	<i>Type B provisions</i>	<i>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 Regulation (EEC) No 1576/89 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</p>



**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type provisions A</i>	<i>Type provisions B</i>	<i>The column 5 date</i>
				<p>indication was not listed in Annex 2 to 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</p>

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type A provisions</i>	<i>Type B provisions</i>	<i>The column 5 date</i>
				for which an application for the geographical indication was submitted to the European 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.	A geographical indication that: (a) relates to a geographical area in a third country, (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 (c) must be protected in Great Britain pursuant to— (i) an international agreement to which the United Kingdom and the third country are contracting	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). 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	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— (i) an international agreement to which the United Kingdom and the third country are contracting parties that enters into force, or (ii) bridging arrangements between the United Kingdom and the third country made, on or after the date on which	The relevant EUIA-based date that applies to the geographical indication in relation to the EUIA referred to in point (b) of column 2.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type A provisions</i>	<i>Type B provisions</i>	<i>The column 5 date</i>
	parties that enters into force, or (ii) bridging arrangements between the United Kingdom and the third country made, during the relevant period.	Great Britain pursuant to— (i) an international agreement to which the United Kingdom and the third country are contracting 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.	the relevant trade mark application is accepted.	
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	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:	The relevant EUIA-based date that applies to the geographical indication in relation to the EUIA referred to in point (b) of column 2.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type A provisions</i>	<i>Type B provisions</i>	<i>The column 5 date</i>
		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 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.	(i) is not submitted before the relevant trade mark application is accepted, or (ii) is submitted before the 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,	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

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type provisions A</i>	<i>Type provisions B</i>	<i>The column 5 date</i>
	(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 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.			EUIA referred to in point (b) of column 2.
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	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.]

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Row No.</i>	<i>Description of the geographical indication</i>	<i>Type provisions A</i>	<i>Type provisions B</i>	<i>The column 5 date</i>
	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 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.			

[<sup>F199</sup>ANNEX 2

## APPEALS

### Textual Amendments

**F199** Annex 2 inserted (31.12.2020) by The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1637), regs. 1(7), 28(44), **Sch. 10 Pt. 3**

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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## PART 1

### Interpretation

In the table in Part 2, ‘a valid notice of opposition’ means a notice of opposition that contains the declaration required by the second subparagraph of Article 27(1).

## PART 2

### Appellants and powers of the FTT on appeal

<b>Column 1 Decision</b>	<b>Column 2 Persons who may appeal against the decision</b>	<b>Column 3 FTT powers</b>
Decision of the Secretary of State to approve an application submitted under Article 24 to register a geographical indication.	The persons are: (a) a person who submits a valid notice of opposition in relation to the application; (b) a person marketing a product that is, or may be, affected by the registration of the geographical indication.	Power to: (a) quash the decision and direct the Secretary of State to: (i) remove the entry for the geographical indication from Great Britain's GIs Register, and (ii) remove the copy of the product specification for the geographical indication attached to Great Britain's GIs Register, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.
Decision of the Secretary of State to reject an application submitted under Article 24 to register a geographical indication.	The persons are: (a) the person who submitted the application; (b) a person marketing a product that is, or may be, affected by the decision not to register the geographical indication.	Power to: (a) quash the decision and direct the Secretary of State to register the geographical indication by: (i) making an entry for the geographical indication in Great Britain's GIs Register, and (ii) attaching a copy of the product specification for the geographical indication to the register, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

<p>Decision of the Secretary of State to approve an application submitted under Article 31 to amend a product specification for a geographical indication.</p>	<p>The persons are:</p> <p>(a) a person who submits a valid notice of opposition in relation to the application under Article 27(1) (as it applies to an application to amend a product specification by virtue of Article 31(9));</p> <p>(b) a person marketing a product that is, or may be, affected by the amendment of the product specification.</p>	<p>Power to:</p> <p>(a) quash the decision and (as appropriate) direct the Secretary of State to:</p> <p>(i) restore the data in the entry for the geographical indication in Great Britain's GIs Register;</p> <p>(ii) remove the copy of the modified product specification for the geographical indication attached to Great Britain's GIs Register and replace it with a copy of the product specification that was attached to Great Britain's GIs Register immediately before the Secretary of State decided to approve the application, or</p> <p>(b) remit the matter to the Secretary of State for reconsideration and fresh decision.</p>
<p>Decision of the Secretary of State to reject an application submitted under Article 31 to amend a product specification for a geographical indication.</p>	<p>The persons are:</p> <p>(a) the person who submitted the application;</p> <p>(b) a person marketing a product that is, or may be, affected by the decision not to amend the product specification.</p>	<p>Power to:</p> <p>(a) quash the decision and (as appropriate) direct the Secretary of State:</p> <p>(i) in the case of an amendment to the product specification that is not a temporary amendment:</p> <p>(aa) to make such change to the data in the entry for the geographical indication in Great Britain's GIs Register as the amendment to the product specification may entail;</p> <p>(bb) to replace the copy of the product specification for the geographical indication attached to Great Britain's GIs Register with a copy of the modified product specification;</p> <p>(ii) in the case of a temporary amendment to the product specification, to make an appropriate entry relating to the temporary amendment to</p>



**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

		the product specification for the geographical indication in Great Britain's GIs Register, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.
Decision of the Secretary of State under Article 32, on the Secretary of State's own initiative, to cancel the registration of a geographical indication.	The persons are: (a) a person who submits a valid notice of opposition under Article 27(1) in relation to the proposed decision (as it applies to a decision to cancel the registration of a geographical indication by virtue of the second subparagraph of Article 32(1)); (b) a person marketing a product that is, or may be, affected by the cancellation of the geographical indication.	Power to: (a) quash the decision and direct the Secretary of State to: (i) restore the entry for the geographical indication in Great Britain's GIs Register, and (ii) reattach to Great Britain's GIs Register a copy of the product specification for the geographical indication that was attached to the register immediately before the Secretary of State decided to cancel the registration of the geographical indication, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.
Decision of the Secretary of State to approve a request submitted under Article 32 to cancel the registration of a geographical indication.	The persons are: (a) a person who submits a valid notice of opposition under Article 27(1) in relation to the request (as it applies to a request to cancel a geographical indication by virtue of the second subparagraph of Article 32(1)); (b) a person marketing a product that is, or may be, affected by the cancellation of the geographical indication.	Power to: (a) quash the decision and direct the Secretary of State to: (i) restore the entry for the geographical indication in Great Britain's GIs Register, and (ii) reattach to Great Britain's GIs Register a copy of the product specification for the geographical indication that was attached to the register immediately before the Secretary of State decided to cancel the registration of the geographical indication, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

Decision of the Secretary of State to reject a request submitted under Article 32 to cancel the registration of a geographical indication.	The persons are: (a) the person who submitted the request; (b) a person marketing a product that is, or may be, affected by the decision not to cancel the geographical indication.	Power to: (a) quash the decision and direct the Secretary of State to; (i) remove the entry for the geographical indication from Great Britain's GIs Register, and (ii) remove the copy of the product specification for the geographical indication attached to Great Britain's GIs Register, or (b) remit the matter to the Secretary of State for reconsideration and fresh decision.]
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### ANNEX III

#### **DYNAMIC OR ‘CRIADERAS Y SOLERA’ OR ‘SOLERA E CRIADERAS’ AGEING SYSTEM**

The dynamic or ‘*criaderas y solera*’ or ‘*solera e criaderas*’ ageing system consists in the execution of periodical extractions of a portion of the *brandy* contained in each of the oak casks and containers that form an ageing scale and the corresponding replenishments with *brandy* extracted from the preceding ageing scale.

#### Definitions

‘Ageing scale’ means each group of oak casks and containers with the same level of maturation, through which the *brandy* progresses in the course of its ageing process. Each scale is known as ‘*criadera*’, except the last one, previous to the expedition of the *brandy*, known as the ‘*solera*’.

‘Extraction’ means the partial volume of *brandy* drawn from each oak cask and container in an ageing scale, for its incorporation into the oak casks and containers in the next ageing scale or, in the case of the *solera*, for its shipping.

‘Replenishment’ means the volume of *brandy* from the oak casks and containers of a given ageing scale that is incorporated into and blended with the content of the oak casks and containers of the following scale in terms of age.

‘Average age’ means the period of time corresponding to the rotation of the total stock of *brandy* that is undergoing the ageing process, calculated by dividing the total volume of *brandy* contained in all the ageing scales by the volume of the extractions made from the last scale – the *solera* – in one year.

The average age of the *brandy* drawn from the *solera* shall be calculated using the following formula:  $t = V_t/V_e$ , in which:

- $t$  is the average age, expressed in years;
- $V_t$  is the total volume of stocks in the ageing system, expressed in litres of pure alcohol;
- $V_e$  is the total volume of product extracted for shipping during a year, expressed in litres of pure alcohol.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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In the case of oak casks and containers of less than 1 000 litres, the number of annual extractions and replenishments shall be equal to or lower than twice the number of scales in the system, in order to guarantee that the youngest component has an age equal to or higher than six months.

In the case of oak casks and containers of 1 000 litres or more, the number of annual extractions and replenishments shall be equal to or lower than the number of scales in the system, in order to guarantee that the youngest component has an age equal to or higher than one year.

## ANNEX IV

### Correlation table

<b>This Regulation</b>	<b>Regulation (EC) No 110/2008</b>
Article 1(1) and (2)	Article 1(1) and (2)
Article 2, points (a) to (d)	Article 2(1) and (3)
Article 2, point (e)	Article 2(2)
Article 2, point (f)	Annex I, point 6
Article 3(1)	Article 8
Article 3(2) and (3)	Article 10
Article 3(4)	Article 15(1)
Article 3(5)	—
Article 3(6)	—
Article 3(7)	Article 15(3), third subparagraph
Article 3(8)	—
Article 3(9) and (10)	Article 11(2) and Annex I, point 4
Article 3(11) and (12)	Annex I, point (7)
Article 4(1)	Article 7 and Annex I, point (14)
Article 4(2)	Article 7 and Annex I, point (15)
Article 4(3)	Article 7 and Annex I, point (16)
Article 4(4)	—
Article 4(5)	Annex I, point (17)
Article 4(6)	—
Article 4(7)	Annex I, point (2)
Article 4(8)	Annex I, point (3)
Article 4(9)	Annex I, point (3)
Article 4(10)	Annex I, point (5)
Article 4(11)	Annex I, point (8)

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

Article 4(12)	Annex I, point (9)
Article 4(13)	—
Article 4(14)	—
Article 4(15)	—
Article 4(16)	—
Article 4(17)	—
Article 4(18)	—
Article 4(19) and (20)	Annex I, point (10)
Article 4(21)	—
Article 4(22)	—
Article 4(23)	Annex I, point (11)
Article 4(24)	Annex I, point (12)
Article 5	Annex I, point (1)
Article 6(1)	Article 3(1)
Article 6(2)	Article 3(3)
Article 6(3)	Article 3(4)
Article 7(1)	Article 4
Article 7(2)	Article 5(1)
Article 7(3)	Article 5(2)
Article 7(4)	Article 5(3)
Article 8(1)	Article 26
Article 8(2)	Article 1(3)
Article 8(3)	—
Article 8(4)	—
Article 9	—
Article 10(1)	—
Article 10(2)	Article 9(1)
Article 10(3)	Article 9(2)
Article 10(4)	Article 9(3)
Article 10(5)	Article 9(5) and (6)
Article 10(6), points (a) to (c), (e) and (f)	—
Article 10(6)(d)	Article 12(2)
Article 10(7), first subparagraph	Article 9(4) and (7)
Article 10(7), second subparagraph	—

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

Article 11(1)	Article 10(1) and (2)
Article 11(2) and (3)	—
Article 12(1)	Article 10(1)
Article 12(2),(3) and (4)	—
Article 13(1)	Article 12(1)
Article 13(2)	Article 9(9)
Article 13(3), first and second subparagraph	Article 11(4)
Article 13(3), third subparagraph	Article 11(5)
Article 13(3), fourth subparagraph	—
Article 13(4), first subparagraph	Article 11(3)
Article 13(4), second subparagraph	Article 11(4)
Article 13(4), third subparagraph	Article 11(5)
Article 13(5)	—
Article 13(6)	Article 12(3)
Article 13(7)	—
Article 14(1)	Annex I, point (13)
Article 14(2)	—
Article 15(1)	Article 14(2)
Article 15(2)	—
Article 16	—
Article 17	Article 13
Article 18	—
Article 19(1)	Article 12(3)
Article 19(2)	—
Article 20, point (a)	—
Article 20, point (b)	Article 28(2)
Article 20, point (c)	—
Article 20, point (d)	—
Article 21(1)	—
Article 21(2)	Article 16
Article 21(3)	Article 15(3), first subparagraph
Article 21(4)	—
Article 22(1), first subparagraph	Article 17(4)
Article 22(1), second subparagraph	—

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)*

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Article 22(2)	—
Article 23(1), introductory wording and points (a), (b) and (c)	—
Article 23(1), second subparagraph	Article 17(3)
Article 23(2)	Article 17(1), second sentence
Article 24(1) to (4)	—
Article 24(5), (6) and (7)	Article 17(2)
Article 24(8)	Article 17(3)
Article 24(9)	Article 17(1), first sentence
Article 25	—
Article 26(1), first subparagraph	Article 17(5)
Article 26(1), second subparagraph	—
Article 26(2)	Article 17(6)
Article 27(1)	Article 17(7), first sentence
Article 27(2), (3) and (4)	—
Article 27(5)	Article 17(7), second sentence
Article 28	—
Article 29	—
Article 30(1), (2) and (3)	Article 17(8), first sentence
Article 30(4), first subparagraph	Article 17(8), second sentence
Article 30(4), second subparagraph	—
Article 31	Article 21
Article 32	Article 18
Article 33(1)	Article 15(2)
Article 33(2) and (3)	—
Article 34(1), (2) and (3)	Article 19
Article 34(4)	—
Article 35(1), first subparagraph	Article 15(3), second subparagraph
Article 35(1), second subparagraph	—
Article 35(2)	Article 23(3)
Article 35(3)	—
Article 36(1)	Article 23(1)
Article 36(2)	Article 23(2)
Article 37	—

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

Article 38(1)	—
Article 38(2)	Article 22(1)
Article 38(3)	Article 22(2)
Article 38(4)	—
Article 38(5)	Article 22(3)
Article 38(6)	Article 22(4)
Article 39(1)	—
Article 39(2) and (3)	—
Article 40	—
Article 41	—
Article 42	—
Article 43(1)	Article 24(1)
Article 43(2)	Article 24(3)
Article 44(1)	Article 24(2)
Article 44(2)	—
Article 45	Article 6
Article 46	—
Article 47	Article 25
Article 48	—
Article 49	Article 29
Article 50	Article 28
Article 51	Article 30
Annex I, categories 1 to 31	Annex II, categories 1 to 31
Annex I, category 32	Annex II, category 37a
Annex I, category 33	Annex II, category 32
Annex I, category 34	Annex II, category 33
Annex I, category 35	Annex II, category 37
Annex I, category 36	Annex II, category 38
Annex I, category 37	Annex II, category 39
Annex I, category 38	Annex II, category 40
Annex I, category 39	Annex II, category 41
Annex I, category 40	Annex II, category 42
Annex I, category 41	Annex II, category 43
Annex I, category 42	Annex II, category 44

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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Annex I, category 43	Annex II, category 45
Annex I, category 44	Annex II, category 46
Annex II	Annex II, part under the Title ‘Other spirit drinks’
Annex III	—
Annex IV	—



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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council. (See end of Document for details)

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- (1) [OJ C 209, 30.6.2017, p. 54.](#)
- (2) Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) and decision of the Council of 9 April 2019.
- (3) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 ([OJ L 39, 13.2.2008, p. 16](#)).
- (4) Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ([OJ L 354, 31.12.2008, p. 16](#)).
- (5) Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC ([OJ L 354, 31.12.2008, p. 34](#)).
- (6) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 ([OJ L 304, 22.11.2011, p. 18](#)).
- (7) Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) ([OJ L 336, 23.12.1994, p. 1](#)).
- (8) Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ([OJ L 343, 14.12.2012, p. 1](#)).
- (9) Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ([OJ L 160, 12.6.1989, p. 1](#)).
- (10) [OJ L 123, 12.5.2016, p. 1.](#)
- (11) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([OJ L 55, 28.2.2011, p. 13](#)).
- (12) [OJ L 330, 27.12.2018, p. 3.](#)
- (13) Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for prepacked products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC ([OJ L 247, 21.9.2007, p. 17](#)).
- (14) Regulation (EU) 2018/1670 of the European Parliament and of the Council of 23 October 2018 amending Regulation (EC) No 110/2008 as regards nominal quantities for the placing on the Union market of single distilled *shochu* produced by pot still and bottled in Japan ([OJ L 284, 12.11.2018, p. 1](#)).

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) 2019/787 of the European Parliament and of the Council.