

SCHEDULE 10

Regulation 28

Regulation (EU) 2019/787 of the European Parliament and of the Council: new provisions

PART 1

Article 3: new points (8) to (15)

“(8) ‘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;

(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;

(11) ‘EUWA’ means the European Union (Withdrawal) Act 2018;

(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;

(15) ‘third country’ means a country, other than the United Kingdom, and includes:

- (a) the Bailiwick of Guernsey;
- (b) the Bailiwick of Jersey;
- (c) the Isle of Man.”

PART 2

New Chapter 4

“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;

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- (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.

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.”

PART 3

New Annex 2

“ANNEX 2

APPEALS

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

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Decision	Persons who may appeal against the decision	FTT powers
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

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Decision	Persons who may appeal against the decision	FTT powers
Decision of the Secretary of State to reject an application submitted under Article 24 to register a geographical indication.	<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 register the geographical indication.</p>	<p>reconsideration and fresh decision.</p> <p>Power to:</p> <p>(a) quash the decision and direct the Secretary of State to register the geographical indication by:</p> <p>(i) making an entry for the geographical indication in Great Britain’s GIs Register, and</p> <p>(ii) attaching a copy of the product specification for the geographical indication to the register, or</p> <p>(b) remit the matter to the Secretary of State for reconsideration and fresh decision.</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>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</p>

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Decision	Persons who may appeal against the decision	FTT powers
Decision of the Secretary of State to reject an application submitted under Article 31 to amend a product specification for 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 amend the product specification.	reconsideration and fresh decision. Power to: (a) quash the decision and (as appropriate) direct the Secretary of State: (i) in the case of an amendment to the product specification that is not a temporary amendment: (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; (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; (ii) in the case of a temporary amendment to the product specification, to make an appropriate entry relating to the temporary amendment to 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	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,

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Decision	Persons who may appeal against the decision	FTT powers
	a geographical indication by virtue of the second subparagraph of Article 32(1));	and
	(b) a person marketing a product that is, or may be, affected by the cancellation of the geographical indication.	(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));	Power to: (a) quash the decision and direct the Secretary of State to:
	(b) a person marketing a product that is, or may be, affected by the cancellation of the geographical indication.	(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 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;	Power to: (a) quash the decision and direct the Secretary of State to;
	(b) a person marketing a product that is, or may be,	(i) remove the entry for the geographical indication from

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Decision	Persons who may appeal against the decision affected by the decision not to cancel the geographical indication.	FTT powers 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."