

SCHEDULE 1

Regulation 4

Regulation (EU) No 1151/2012: new Articles 14c and 14d

“Article 14c

Third Country designations of origin and geographical indications covered by bridging arrangements

1. A designation of origin or geographical indication to which paragraph 2 applies is, for the protection period, to be entered on Great Britain’s PDOs and PGIs Register⁽¹⁾.
2. This paragraph applies to a designation of origin or 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⁽²⁾ to which the European Union and C were contracting parties, and
 - (b) is, before a qualifying international agreement enters into force⁽³⁾, to be protected in Great Britain pursuant to any written arrangements made by the United Kingdom and C (“bridging arrangements”).
3. For the purposes of this Article, ‘the protection period’, in relation to a designation of origin or geographical indication, is the period for which:
 - (a) the relevant bridging arrangements have effect, or
 - (b) if only part of the relevant bridging arrangements relates to the designation of origin or 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.

Article 14d

Transitional provisions: relations between trade marks, designations of origin and geographical indications when bridging arrangements are in effect

1. Where a designation of origin or geographical indication is entered on Great Britain’s PDOs and PGIs Register under Article 14c, Articles 14a and 14b and Annex 1A⁽⁴⁾ apply for the purposes of determining:
 - (a) whether an application to register a trade mark which was pending before IP completion day or was made during the relevant period⁽⁵⁾, must be refused, or
 - (b) if a relevant invalidity application was made, whether the registration of a trade mark must be declared invalid,but subject to the general modifications specified in paragraphs 2 and 3 and any further modifications made by regulations (if any) (see paragraph 4).
2. The modifications mentioned in paragraph 1 are that Articles 14a and 14b and Annex 1A are to be read as if:
 - (a) in the case of a type A term, any reference to a type 3A designation of origin or geographical indication included a reference to a type A term;

(1) “Great Britain’s PDOs and PGIs Register” is defined in Article 3(23). Point (23) is inserted by [S.I. 2020/1637](#).

(2) “EUIA” is defined in Article 3(21). Point (21) is inserted by [S.I. 2020/1637](#).

(3) “Enters into force” is defined in Article 3(17). Point (17) is inserted by [S.I. 2020/1637](#).

(4) Articles 14a and 14b and Annex 1A are inserted by [S.I. 2020/1637](#).

(5) “The relevant period” is defined in Article 3(26). Point (26) is inserted by [S.I. 2020/1637](#).

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(b) in the case of a type B term, any reference to a type 3B designation of origin or geographical indication included a reference to a type B term.

3. In addition, Article 14b and Annex 1A are to be read as if any reference to Article 14a 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 14a or 14b or Annex 1A as the Secretary of State considers necessary for the purpose of ensuring that the relative priorities afforded to designations of origin, geographical indications and trade marks before IP completion day continue to apply appropriately during the relevant period(6).

5. In this Article:

‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 14b(1) and modified by Article 14b(2)) in relation to the registration of a trade mark;

‘type A term’ means a designation of origin or geographical indication which:

- (i) immediately before the application to register a trade mark is accepted, is entered in Great Britain’s PDOs and PGIs Register under article 14c, or
- (ii) is not so entered when the application to register a trade mark is accepted, but is to be protected under bridging arrangements which come into effect before the application to register a trade mark is accepted;

‘type B term’ means a designation of origin or geographical indication which is not entered in Great Britain’s PDOs and PGIs Register under article 14c 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.”

SCHEDULE 2

Regulation 6

Regulation (EU) No 1308/2013: New Articles 102c and 102d

“Article 102c

Third Country designations of origin and geographical indications covered by bridging arrangements

1. A designation of origin or geographical indication to which paragraph 2 applies is, for the protection period, to be entered on Great Britain’s PDOs and PGIs Register(7).

2. This paragraph applies to a designation of origin or 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(8) to which the European Union and C were contracting parties, and

(6) See Article 56 inserted prospectively by [S.I. 2020/1637](#), which insertion is amended by regulation 16(7)(c), for provisions concerning regulations made under Regulation (EU) No 1151/2012.

(7) “Great Britain’s PDOs and PGIs Register” is defined in Article 93(1a)(e). Paragraph (1a) is inserted by [S.I. 2020/1637](#).

(8) “EUIA” is defined in Article 93(1a)(c).

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- (b) is, before a qualifying international agreement enters into force⁽⁹⁾, 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 designation of origin or geographical indication, is the period for which:
- (a) the relevant bridging arrangements have effect, or
 - (b) if only part of the relevant bridging arrangements relates to the designation of origin or 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.

Article 102d

Transitional provisions: relations between trade marks, designations of origin and geographical indications when bridging arrangements are in effect

1. Where a designation of origin or geographical indication is entered on Great Britain’s PDOs and PGIs Register under Article 102c, Articles 102a and 102b and Annex 9A⁽¹⁰⁾ 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⁽¹¹⁾ 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 102a and 102b and Annex 9A are to be read as if:
- (a) in the case of a type A term, any reference to a type 3A designation of origin or geographical indication included a reference to a type A term;
 - (b) in the case of a type B term, any reference to a type 3B designation of origin or geographical indication included a reference to a type B term.
3. In addition, Article 102b and Annex 9A are to be read as if any reference to Article 102a 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 102a or 102b or Annex 9A as the Secretary of State considers necessary for the purpose of ensuring that the relative priorities afforded to designations of origin, geographical indications and trade marks before IP completion day continue to apply appropriately during the protection period⁽¹²⁾.
5. For the purposes of this Article:
- ‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 102b(1) and modified by Article 102b(2)) in relation to the registration of a trade mark;

⁽⁹⁾ “Enters into force” is defined in Article 93(1a)(b).

⁽¹⁰⁾ Articles 102a and 102b and Annex 9A are inserted by [S.I. 2020/1637](#).

⁽¹¹⁾ “The relevant period” is defined in Article 93(1a)(f).

⁽¹²⁾ See Article 228 inserted prospectively by [S.I. 2019/831](#), which insertion is amended by regulation 15(2), for provisions concerning the procedural requirements associated with regulations made under Regulation (EU) No 1308/2013.

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- ‘type A term’ means a designation of origin or geographical indication which—
- (i) is, immediately before the application to register a trade mark is accepted, entered in Great Britain’s PDOs and PGIs Register under article 102c, or
 - (ii) is not so entered when the application to register a trade mark is accepted, but is to be protected under bridging arrangements which come into effect before the application to register a trade mark is accepted;
- ‘type B term’ means a designation of origin or geographical indication which is not entered in Great Britain’s PDOs and PGIs Register under article 102c 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.”

SCHEDULE 3

Regulation 7

Regulation (EU) No 251/2014: new articles 19c and 19d

“Article 19c

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**(13)**.
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**(14)** to which the European Union and C were contracting parties, and
 - (b) is, before a qualifying international agreement enters into force**(15)**, 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:
 - (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.

Article 19d

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

1. Where a geographical indication is entered on Great Britain’s GIs Register under Article 19c, Articles 19a and 19b and Annex 2A**(16)** apply for the purposes of determining:

(13) “Great Britain’s GIs Register” is defined in Article 2(13). Point 13 of Article 2 is inserted by [S.I. 2020/1637](#).

(14) “EUIA” is defined in Article 2(10). Point (10) of Article 2 is inserted by [S.I. 2020/1637](#).

(15) “Enters into force” is defined in Article 2(8). Point (8) is inserted by [S.I. 2020/1637](#).

(16) Articles 19a and 19b and Annex 2A are inserted by [S.I. 2020/1637](#).

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- (a) whether an application to register a trade mark which was pending before IP completion day or was made during the relevant period⁽¹⁷⁾, 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 19a and 19b and Annex 2A are to be read as if:

- (a) in the case of a type A term, any reference to a type 1A geographical indication included a reference to a type A term;
- (b) in the case of a type B term, any reference to a type 1B designation of origin or geographical indication included a reference to a type B term.

3. In addition, Article 19b and Annex 2A are to be read as if any reference to Article 19a 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 19a or 19b or Annex 2A 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⁽¹⁸⁾.

5. For the purposes of this Article:

‘relevant invalidity application’ means an application for a declaration of invalidity made under the TMA (as applied by Article 19b(1) and modified by Article 19b(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 19c, or
- (ii) is not so entered when the application to register a trade mark is accepted, but is to be protected under bridging arrangements which come into effect before the application to register a trade mark is accepted;

‘type B term’ means a geographical indication which is not entered in the register under Article 19c 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.”

⁽¹⁷⁾ “The relevant period” is defined in article 2(15). Point (15) is inserted by [S.I. 2020/1637](#).

⁽¹⁸⁾ See Article 33 inserted prospectively by [S.I. 2020/1637](#), which insertion is amended by regulation 16(9)(c), for provisions concerning the procedural requirements associated with regulations made under Regulation (EU) No 251/2014.

SCHEDULE 4

Regulation 9

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

*“Article 32c**Third Country traditional terms covered by bridging arrangements*

1. A traditional term to which paragraph 2 applies is, for the protection period, to be entered on Great Britain’s Traditional Terms Register⁽¹⁹⁾.
2. This paragraph applies to a traditional term which relates to a wine sector product produced in a third country (“C”) which:
 - (a) was, immediately before IP completion day, protected in the European Union under an EUIA⁽²⁰⁾ to which the European Union and C were contracting parties, and
 - (b) is, before a qualifying international agreement enters into force⁽²¹⁾, to be protected in Great Britain pursuant to any written arrangements made by the United Kingdom and C (“bridging arrangements”).
3. For the purposes of this Article, “the protection period”, in relation to a traditional term, is the period for which:
 - (a) the relevant bridging arrangements have effect, or
 - (b) if only part of the relevant bridging arrangements relates to the traditional term, that part has effect.
4. In this Article “qualifying international agreement” means an international agreement between the United Kingdom and C, which has been initialled.

*Article 32d**Transitional provisions: relations between trade marks and traditional terms when bridging arrangements are in effect*

1. Where a traditional term is entered on Great Britain’s Traditional Terms Register under Article 32c, Articles 32a and 32b and Annex A1⁽²²⁾ 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⁽²³⁾, must be refused, or
 - (b) if a relevant invalidity application was made, whether the registration of a trade mark must be declared invalid,
 but subject to the general modifications specified in paragraphs 2 and 3 and any further modifications made by regulations (if any) (see paragraph 4).
2. The modifications mentioned in paragraph 1 are that Articles 32a and 32b and Annex A1 are to be read as if:
 - (a) in the case of a type A term, any reference to a type 2A traditional term included a reference to a type A term;
 - (b) in the case of a type B term, any reference to a type 2B traditional term included a reference to a type B term.

⁽¹⁹⁾ “Great Britain’s Traditional Terms Register” is defined in Article 1a(m). Article 1a is inserted by [S.I. 2020/1637](#).

⁽²⁰⁾ “EUIA” is defined in Article 1a(k).

⁽²¹⁾ “Enters into force” is defined in Article 1a(i).

⁽²²⁾ Articles 32a and 32b and Annex A1 were inserted by [S.I. 2020/1637](#).

⁽²³⁾ “The relevant period” is defined in Article 1a (p).

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

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

5. For the purposes of this Article:

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

‘type A term’ means a traditional term which—

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

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

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

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

8. Such regulations may:

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

9. In this Article, ‘enactment’ means:

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

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SCHEDULE 5

Regulation 10

Regulation (EU) 2019/787: new provisions

PART 1

New Article 4

“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.”

PART 2

New Articles 36a to 36d

“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:

- (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.

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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⁽²⁴⁾ for the existing EUTM application;
 - (ii) in the case of an ITM-based trade mark application, means:
 - (aa) in the case of an application for the registration of a trade mark to which paragraph 28 of Schedule 2B to the TMA⁽²⁵⁾ 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;
- (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

⁽²⁴⁾ Schedule 2A is prospectively inserted in the Trade Marks Act 1994 by [S.I. 2019/269](#).

⁽²⁵⁾ Schedule 2B is prospectively inserted in the Trade Marks Act 1994 by [S.I. 2019/638](#).

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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⁽²⁶⁾;
 - (ii) a certification mark as defined in section 50(1) of the TMA⁽²⁷⁾.

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⁽²⁸⁾ (definition of ‘the court’);
- (f) section 76⁽²⁹⁾ (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:
 - (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’;

⁽²⁶⁾ Section 49(1) was substituted by [S.I. 2018/825](#).

⁽²⁷⁾ Section 50(1) was amended by [S.I. 2018/825](#).

⁽²⁸⁾ Section 75 was amended by the Crime and Courts Act 2013 (c. 22), Schedule 9, paragraph 134, [S.I. 2005/587](#).

⁽²⁹⁾ Section 76(6) was inserted by [S.I. 2005/587](#).

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- (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).

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(30).

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(31) to which the European Union and C were contracting parties, and
- (b) is, before a qualifying international agreement enters into force(32), 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:

- (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.

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(33) apply for the purposes of determining:

(30) “Great Britain’s GIs Register” is defined in Article 3(13). Point (13) was inserted by [S.I. 2020/1637](#).

(31) “EUIA” is defined in Article 3(10a). Point 10(a) is inserted by regulation 10(2)(b).

(32) “Enters into force” is defined in Article 3(9f). Point (9f) is inserted by regulation 10(2)(a).

(33) Articles 36a and 36b and Annex 1A are inserted by [S.I. 2019/1366](#).

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- (a) whether an application to register a trade mark which was pending before IP completion day or made during the relevant period⁽³⁴⁾, 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⁽³⁵⁾.

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
- (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.”

⁽³⁴⁾ “The relevant period” is defined in Article 3(14a). Point (14a) is inserted by regulation 10(2)(c).

⁽³⁵⁾ See Article 46 inserted prospectively by [S.I. 2020/1637](#), which insertion is amended by regulation 16(6), for provisions concerning the procedural requirements associated with regulations made under Regulation (EU) 2019/787.

PART 3

New Annex 1A

“ANNEX 1A

TYPES OF GEOGRAPHICAL INDICATION TO WHICH ARTICLE 36A APPLIES

PART 1

Interpretation

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

PART 2

The relevant EUIA-based date

2. In the table in Part 3, in a case where the relevant EUIA-based date applies, the relevant EUIA-based date means:
 - (a) the date provided for in paragraph 3, or
 - (b) where paragraph 3 does not apply, the date provided for in the relevant point of paragraph 4, or paragraph 5, as relevant to the geographical indication.
3. In a case where the EUIA referred to in paragraph (b) in column 2 of the row of the Types Table relating to a geographical indication contained priority provisions that applied to the geographical indication, the relevant EUIA-based date is the priority date provided for in the EUIA that applied to that geographical indication.
4. In a case of a type 2A, 2B, 3A or 3B geographical indication to which paragraph 3 does not apply, the relevant EUIA-based date is:
 - (a) in a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to an amendment made to the EUIA (without the need for further action to be taken under the EUIA), the date on which the amendment entered into force;
 - (b) in a case where the geographical indication was protected in the European Union immediately before IP completion day pursuant to a provision in the EUIA that was

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provisionally applied before IP completion day (without the need for further action to be taken under the EUIA), the date on which the provision was provisionally applied;

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

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

6. Any reference in this Part to:

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

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PART 3

Types of geographical indication (the Types Table)

<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
1.	An established geographical indication.	Not applicable.	Not applicable.	<p>1. In a case where the geographical indication was listed in Annex 2 to Council Regulation (EEC) No 1576/89 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 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</p>

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

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

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<i>Column 1 Row No.</i>	<i>Column 2 Description of the geographical indication</i>	<i>Column 3 Type provisions</i>	<i>Column 4 A Type provisions</i>	<i>Column 5 B The column 5 date</i>
	during the relevant period.	and the third country made, before the day on which the paragraph 1 trade mark application is accepted or refused.		
3.	A geographical indication that: (a) relates to a geographical area in a third country, and (b) was protected in the European Union immediately before IP completion day pursuant to an EUIA to which the European Union and the third country were contracting parties.	1. A geographical indication that is on Great Britain’s GIs Register before the day on which the paragraph 1 trade mark application is accepted or refused and is entered on that register following the approval of an application to register the geographical indication submitted to the Secretary of State under Article 24(8) during the relevant period. 2. A geographical indication: (a) that is not on Great Britain’s GIs Register before the day on which the paragraph 1 trade mark application is accepted or refused, (b) for which an application to register the	A geographical indication: (a) that is not on Great Britain’s GIs Register when the relevant trade mark application is accepted, and (b) for which an application to register the geographical indication is submitted to the Secretary of State under Article 24(8) during the relevant period and that application: (i) is not submitted before the relevant trade mark application is accepted, or (ii) is submitted before the relevant trade mark application is accepted but for which an Article 30(5) notice relating to the 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.

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

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

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<i>Column 1</i> <i>Row No.</i>	<i>Column 2</i> <i>Description of</i> <i>the geographical</i> <i>indication</i>	<i>Column 3</i> <i>Type</i> <i>provisions</i>	<i>Column 4</i> <i>A</i> <i>Type</i> <i>provisions</i>	<i>Column 5</i> <i>B</i> <i>The column 5</i> <i>date</i>
	nor a decision on rejection made under Article 30 of EU Regulation 2019/787 applies, before IP completion day.			