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STATUTORY INSTRUMENTS

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**2020 No. 1637**

**The Agricultural Products, Food and Drink  
(Amendment etc.) (EU Exit) Regulations 2020**

**PART 5**

Amendment of retained direct EU legislation

**Regulation (EU) No 251/2014 of the European Parliament and of the Council**

**21.**—(1) Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products is amended as follows.

(2) In Article 1(3)—

(a) for “the Union”, in both places it occurs, substitute “ Great Britain ”;

(b) for “the Member States” substitute “ Great Britain, in Northern Ireland ”.

(3) In Article 2, after point (3) insert the new points (4) to (19) in Part 1 of Schedule 4.

(4) In Article 4—

(a) in paragraph 2—

(i) in the first subparagraph, for the words from “Commission” to “33” substitute “ Secretary of State may make regulations ”;

(ii) in the second subparagraph, for “Commission” substitute “ Secretary of State ”;

(b) in paragraph 3—

(i) in the first subparagraph—

(aa) for the words from “Commission” to “acts,” substitute “ Secretary of State may, by regulations, specify the ”;

(bb) omit the third sentence;

(ii) omit the second subparagraph.

(5) In Article 5(1), for “the Union” substitute “ Great Britain ”.

(6) In Article 7 omit “Member State or third”.

(7) Omit Article 9.

(8) In Chapter 3 insert, as the first Article in that Chapter, the new Article 9a in Part 2 of Schedule 4.

(9) In Article 10—

(a) in paragraph 2(f)—

(i) omit the words from “laid down” to “indication”;

(ii) for “Union”, in the second place it occurs, substitute “ retained EU ”;

(b) after paragraph 2 insert—

“3. In this Article:

- (a) ‘the applicable requirements’ means:
- (i) where the geographical area concerned is located in, or partly in, Great Britain, provisions in any enactment regulating the use of the geographical indication in Great Britain;
  - (ii) where the geographical area concerned is located in, or partly in, Northern Ireland, requirements laid down in law regulating the use of the geographical indication in Northern Ireland, including, so far as it applies to Northern Ireland, any legislation that forms part of domestic law of Northern Ireland by virtue of section 7A of the EUWA and the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
  - (iii) where the geographical area concerned is located in, or partly in, a third country:
    - (aa) requirements laid down in law regulating the use of the geographical indication in the third country in which the relevant geographical area is located or partly located, and
    - (bb) where they must be complied with in the third country in which the relevant geographical area is located, or partly located, provisions laid down by an organisation that manages the geographical indication regulating the use of the geographical indication in that country;
- (b) ‘enactment’ means the following legislation whenever passed or made:
- (i) an Act, and an enactment contained in any Order in Council, order, rules, regulations or other instrument made under an Act, except to the extent that they extend to Northern Ireland;
  - (ii) retained direct EU legislation, except to the extent that it extends to Northern Ireland;
  - (iii) an Act of the Scottish Parliament, and an enactment contained in an instrument made under an Act of the Scottish Parliament;
  - (iv) a Measure or Act of Senedd Cymru and an enactment contained in an instrument made under a Measure or Act of Senedd Cymru.”.

(10) In Article 11(2), for “Commission” substitute “ Secretary of State ”.

(11) Omit Article 13.

(12) Before Article 14 insert—

*“Article 13a*

*Application for protection relating to a geographical area in the United Kingdom*

An application for the protection of a geographical indication for an aromatised wine product originating in the United Kingdom must be submitted to the Secretary of State.”.

(13) In Article 14—

- (a) in the heading, for “Commission” substitute “ Secretary of State ”;
- (b) in paragraph 1, for “Commission” substitute “ Secretary of State ”;
- (c) in paragraph 2—

- (i) for “Commission” substitute “ Secretary of State ”;
- (ii) for “referred to in Article 13(5)” substitute “ submitted to the Secretary of State ”;
- (d) in paragraph 3—
  - (i) for “Commission” substitute “ Secretary of State ”;
  - (ii) for the words from “it” to the end substitute “ the Secretary of State must publish the product specification referred to in Article 10(1)(c), and the single document referred to in Article 10(1)(d), in such manner as appears appropriate to the Secretary of State from time to time ”;
- (e) in paragraph 4—
  - (i) for “Commission” substitute “ Secretary of State ”;
  - (ii) for the words from “it” to “decide to” substitute “ the Secretary of State must ”;
  - (iii) for the second sentence substitute—

“After making a decision to reject the application, the Secretary of State must publish a notice in such manner as appears appropriate to the Secretary of State from time to time:

    - (a) informing the applicant and the public of the decision made in relation to the application and the reasons for that decision, and
    - (b) providing information about the right to appeal under Article 25a against that decision and the period within which an appeal may be made.”.
- (14) In Article 15, in the first paragraph—
  - (a) for the words from “Member State or” to “or in” substitute “ natural or legal person with a legitimate interest, or the authorities of ”;
  - (b) for “Commission” substitute “ Secretary of State ”.
- (15) In Article 16—
  - (a) for “Commission”, in both places it occurs, substitute “ Secretary of State ”;
  - (b) omit “, by means of implementing acts,”;
  - (c) for “Union law” substitute “ retained EU law by approving the application ”;
  - (d) omit the second sentence;
  - (e) after the existing paragraph insert—

“After making a decision under the first paragraph, 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 25a against that 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.”.
- (16) In Article 18—
  - (a) in paragraph 1—
    - (i) in the second subparagraph, for “Union” substitute “ United Kingdom ”;
    - (ii) in the third subparagraph—

- (aa) in point (a), for “Union” substitute “ United Kingdom ”;
- (bb) in point (b) omit “Union or national”;
- (b) after paragraph 2 insert—

“3. In this Article, ‘the relevant law’ 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.”.

(17) In Article 19—

- (a) in paragraph 1, in the first subparagraph, for “Commission” substitute “ Secretary of State ”;
- (b) in paragraph 2, in the first subparagraph—
  - (i) for the words from “if” to “Union” substitute “ in the United Kingdom ”;
  - (ii) for “Commission” substitute “ Secretary of State ”;
  - (iii) for the words from “by the Directive” to the end substitute “ in, or under, the TMA ”.

(18) After Article 19 insert the new Articles 19a and 19b in Part 3 of Schedule 4.

(19) In Article 20—

- (a) in paragraph 3, for “the Union” substitute “ Great Britain ”;
- (b) omit paragraph 4.

(20) In Article 21—

- (a) number the first paragraph as paragraph 1;
- (b) number the second paragraph as paragraph 11;
- (c) in paragraph 1 (as numbered by sub-paragraph (a)), for the words from “Commission” to “34(2),” substitute “ Secretary of State must ”;
- (d) after paragraph 1 (as numbered by sub-paragraph (a)) insert the new paragraphs numbered 2 to 10 in Part 4 of Schedule 4;
- (e) in paragraph 11 (as numbered by sub-paragraph (b))—
  - (i) for “the Union”, in the first place it occurs, substitute “ Great Britain ”;
  - (ii) for “Union”, in the second place it occurs, substitute “ United Kingdom ”;
  - (iii) for “the first paragraph” substitute “ paragraph 1 ”;
- (f) after paragraph 11 (as numbered by sub-paragraph (b)) insert—

“12. An entry recorded on the register pursuant to paragraph 11 comes into force (and confers the protection provided by Article 20):

- (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 recorded on the register as established during that period, on IP completion day;
- (b) in any other case, immediately the entry is recorded on the register.

13. In this Article:

- (a) ‘decision notice’:
  - (i) in paragraph 2 means a notice published under the second paragraph of Article 16;
  - (ii) in paragraphs 4 and 6 means a notice published under the second paragraph of Article 16 as it applies to an application for an amendment to a product specification that is not minor by virtue of Article 24(2);
  - (iii) in paragraph 8 means a notice published under Article 24(3);
  - (iv) in paragraph 10 means a notice published under the second paragraph of Article 16 as it applies to cancellations by virtue of the second paragraph of Article 25;
- (b) in relation to a notice referred to in this Article, ‘notice period’ means the period of 20 days from the day on which the relevant notice is published by the Secretary of State, beginning with the day on which the notice is published.

14. In this Article a reference to ‘the information recorded in the register pursuant to paragraph 2’ means the information recorded in the register pursuant to paragraph 2 or, where that information has been amended, that information as amended from time to time.”

(21) Omit Article 22.

(22) In Article 23(1)—

- (a) in paragraph 1, in the first subparagraph—
  - (i) in the words before point (a), for “the Union” substitute “ Great Britain ”;
  - (ii) in point (a), for “or authorities referred to in Article 22” substitute “ designated by regulation 4 of the Wine Regulations 2011 as it extends to Great Britain ”;
  - (iii) in point (b)—
    - (aa) for “control” substitute “ delegated ”;
    - (bb) for the words from “the second” to “882/2004” substitute “ Article 2 of Regulation (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 ”;
- (b) after paragraph 1 insert—

“1a. In respect of geographical indications protected under this Regulation relating to a geographical area in Northern Ireland, annual verification of compliance with the product specification, during the production and during or after conditioning of the aromatised wine product, must be ensured by:

- (a) the Secretary of State, or
- (b) one or more certification bodies.”;

- (c) in paragraph 3, after “paragraph 1” insert “, point (b) of paragraph 1a ”;
- (d) in paragraph 4, after “paragraph 1” insert “, point (b) of paragraph 1a ”.

(23) In Article 24—

- (a) in paragraph 1, after “may apply” insert “ to the Secretary of State ”;
- (b) in paragraph 2—
  - (i) for “13” substitute “ 14 ”;
  - (ii) for “Commission shall, by means of implementing acts,” substitute “ Secretary of State must ”;
  - (iii) omit the words from “and in” to the end;
- (c) after paragraph 2 insert—

“3. The Secretary of State, after making a decision in relation to an application for a proposed amendment that is minor, 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 25a against that decision and the period within which an appeal may be made, and
- (b) where the application is approved, a copy of the approved amended product specification for the geographical indication.”.

(24) In Article 25—

- (a) in the first paragraph—
  - (i) for “Commission may, on its” substitute “Secretary of State may, on the Secretary of State's”;
  - (ii) omit “a Member State, of”;
  - (iii) omit “, by means of implementing acts,”;
  - (iv) omit the second sentence;
- (b) in the second paragraph, for “13” substitute “ 14 ”.

(25) After Article 25 insert the new Articles 25a and 25b in Part 5 of Schedule 4.

(26) In Article 26—

- (a) in the heading, for “**Existing**” substitute “ **Established** ”;
- (b) in paragraph 1—
  - (i) at the beginning insert “ Established protected ”;
  - (ii) omit the words from “listed” to “2014,”;

- (iii) for the words from “Commission” to “34(2) of this Regulation” substitute “ Secretary of State must ”;
  - (iv) at the end insert as the last sentence—
    - “The entries made to the register are to be treated as taking effect on IP completion day.”;
  - (c) omit paragraphs 2 to 4.
- (27) Omit Article 27.
- (28) In Article 28—
- (a) for the heading substitute— “ Article 28 Power to make regulations ”;
  - (b) in paragraph 1, in the words before point (a), for the words from “Commission” to “33” substitute “ Secretary of State may make regulations ”;
  - (c) in paragraph 2, for the words from “Commission” to “33” substitute “ Secretary of State may make regulations ”;
  - (d) in paragraph 3—
    - (i) in the words before point (a), for the words from “Commission” to “33” substitute “ Secretary of State may make regulations ”;
    - (ii) in point (c), for “Commission” substitute “ Secretary of State ”;
    - (iii) after point (f) insert—
      - “(fa) amend Article 21(3) as regards the date from which protection runs;”;
    - (iv) after point (h) insert—
      - “(ha) amend Article 21(5), (7) or (9) as regards the date on which an amendment enters into force;”;
  - (e) in paragraph 4, for the words from “Commission” to “33” substitute “ Secretary of State may make regulations ”.
- (29) In Article 29—
- (a) for the heading substitute— “ Article 29 Further power to make regulations ”;
  - (b) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) in the words before point (a), for the words from “Commission” to “measures” substitute “ Secretary of State may make regulations ”;
      - (bb) in point (d), for “Member States” substitute “ authorities specified in those regulations ”;
    - (ii) omit the second subparagraph;
  - (c) in paragraph 2—
    - (i) in the first subparagraph—
      - (aa) for the words from “Commission” to “adopt” substitute “ Secretary of State may, by regulations, make provision for ”;
      - (bb) for “ , cancellation, or conversion ” substitute “ or cancellation ”;
      - (cc) for “existing” substitute “ established ”;
    - (ii) omit the second subparagraph.
- (30) In Article 30, for the words from “Commission” to “decide to” substitute “ Secretary of State must ”.

- (31) In Article 31—
- (a) omit paragraph 1;
  - (b) in paragraph 2—
    - (i) in the first subparagraph—
      - (aa) for the words from “Commission” to “rules” substitute “ Secretary of State may make regulations ”;
      - (bb) omit “by the Member States”;
      - (cc) after “application of” insert “ Chapter 2 of ”;
    - (ii) omit the second subparagraph;
    - (iii) insert as the last subparagraph—
 

“The Secretary of State may make regulations concerning the administrative and physical checks to be conducted with regard to the respect of obligations resulting from the application of Chapter 3 of this Regulation.”.
- (32) In Article 32—
- (a) in paragraph 1—
    - (i) for “Member States and the Commission” substitute “ The specified authorities in Great Britain ”;
    - (ii) after “authorities of” insert “ Northern Ireland and ”;
  - (b) in paragraph 2, in the words before point (a), for the words from “Commission” to “lay” substitute “ Secretary of State may make regulations laying ”;
  - (c) in paragraph 3—
    - (i) in the first subparagraph—
      - (aa) for the words before point (a) substitute—
 

“The Secretary of State may, by regulations, make”;
      - (bb) in point (c), for “Member States, the competent authorities” substitute “ specified authorities in Great Britain, authorities in Northern Ireland and ”;
    - (ii) omit the second subparagraph;
  - (d) after paragraph 3 insert—
 

“4. The specified authorities in Great Britain for the purpose of this article are:

    - (a) in relation to England, the Secretary of State;
    - (b) in relation to Scotland, the Scottish Ministers;
    - (c) in relation to Wales, the Welsh Ministers.”.
- (33) For Article 33 substitute the new Article 33 in Part 6 of Schedule 4.
- (34) Omit Article 34.
- (35) In Article 36—
- (a) omit paragraph 1;
  - (b) in paragraph 2—
    - (i) for “have been” substitute “ were ”;
    - (ii) after “1601/91 <sup>M1</sup>” insert “ as it had effect in Great Britain immediately ”;
  - (c) in paragraph 3—



- (i) omit “and Article 9” in both places it occurs;
  - (ii) for “have been” substitute “ were ”;
  - (iii) after “1601/91” insert “ , as that Regulation had effect in Great Britain immediately before it was repealed, ”.
- (36) In Article 37 omit the second paragraph.
- (37) After Article 37 omit the words from “This Regulation” to “States.”.
- (38) In Annex 1, in point (5)—
- (a) in the second subparagraph, for the words from “Directive 2009/54/EC<sup>M2</sup>” to “Directive 98/83/EC<sup>M3</sup>” substitute “ any relevant water quality legislation ”;
  - (b) after the third subparagraph insert the new subparagraph in Part 7 of Schedule 4.
- (39) In Annex 2, in Part B—
- (a) in point (3), in the second paragraph—
    - (i) for “other Member States” substitute “ another country ”;
    - (ii) for “Member State” substitute “ country ”;
  - (b) in point (4), in the second paragraph—
    - (i) for “other Member States” substitute “ another country ”;
    - (ii) for “Member State” substitute “ country ”;
  - (c) in point (13), in the second paragraph—
    - (i) for “other Member States” substitute “ another country ”;
    - (ii) for “Member State” substitute “ country ”.
- (40) After Annex 2 insert the new Annexes 2A and 2B in Part 8 of Schedule 4.

#### Commencement Information

**II** Reg. 21 in force at 31.12.2020, see reg. 1(7)

#### Marginal Citations

- M1** This is a reference to Council Regulation (EEC) No 1601/91 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails (OJ No. L 149, 14.6.1991, p. 1), as last amended (before its repeal) by Regulation (EC) No 1334/2008 of the European Parliament and of the Council (OJ No. L 354, 31.12.2008, p. 34). It was repealed by Regulation (EU) No 251/2014 of the European Parliament and of the Council (OJ No. L 84, 20.3.2014, p. 14).
- M2** OJ No. L 164, 26.6.2009, p. 45.
- M3** OJ No. L 330, 5.12.1998, p. 32, last amended by Commission Directive (EU) 2015/1787 (OJ No. L 260, 7.10.2015, p. 6).

**Changes to legislation:**

There are currently no known outstanding effects for the The Agricultural Products, Food and Drink (Amendment etc.) (EU Exit) Regulations 2020, Section 21.