



Finance Act 2022

2022 CHAPTER 3

PART 5 U.K.

OTHER TAXES

Import duty

74 Transitioned trade remedies: decisions by Secretary of State U.K.

- (1) Subsections (2) to (10) apply where a relevant review or reconsideration of a transitioned trade remedy has been initiated by the Trade Remedies Authority (“the TRA”) but has not been concluded.
- (2) The Secretary of State may notify the TRA in writing that, in relation to the matters under review or reconsideration, the Secretary of State is to decide whether to—
 - (a) vary, maintain or revoke a tariff rate quota, anti-dumping amount or countervailing amount that is applicable to the goods to which the review or reconsideration relates, or
 - (b) replace a tariff rate quota that is applicable to the goods to which the review or reconsideration relates with an additional amount of import duty.
- (3) Accordingly—
 - (a) functions of the TRA that would otherwise be exercisable in relation to the matters under review or reconsideration cease to be exercisable by the TRA (but this is subject to subsection (6)(d));
 - (b) the Secretary of State’s decision need not be based on a recommendation or decision of the TRA in relation to the matters under review or reconsideration;
 - (c) provisions made by the Safeguards Regulations, the Dumping and Subsidisation Regulations and the Reconsideration and Appeals Regulations have effect subject to provision made by or under this section.
- (4) The Secretary of State must publish notice giving effect to a decision under subsection (2).

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2022, Cross Heading: Import duty. (See end of Document for details)

- (5) The Secretary of State may by regulations make provision for the purposes of subsection (2).
- (6) The following are examples of provision that regulations under subsection (5) may make in relation to a decision under subsection (2)—
- (a) provision specifying steps that are to be taken by the Secretary of State before notifying the TRA under subsection (2),
 - (b) provision specifying factors that are, or are not, to be taken into account by the Secretary of State in making the decision,
 - (c) provision treating steps taken by the TRA in relation to the matters under review or reconsideration as steps taken by the Secretary of State,
 - (d) provision requiring the TRA to do specified things of any kind (including things specified by the Secretary of State in directions) for the purpose of assisting the Secretary of State in making the decision,
 - (e) provision authorising the disclosure of information between the Secretary of State and the TRA,
 - (f) provision treating notice of the decision and anything having effect under the decision as having effect under TCTA 2018,
 - (g) provision for and in connection with appeals against the decision, and
 - (h) provision amending or otherwise modifying the Safeguards Regulations, the Dumping and Subsidisation Regulations or the Reconsideration and Appeals Regulations.
- (7) For the purposes of this section—
- (a) a relevant review or reconsideration of a transitioned trade remedy is initiated when—
 - (i) the TRA publishes notice of initiation of a review under regulation 49(2)(a) of the Safeguards Regulations or regulation 98(1) of the Dumping and Subsidisation Regulations,
 - (ii) the TRA publishes notice of initiation of a reconsideration of an original decision under regulation 12(1) of the Reconsideration and Appeals Regulations, or
 - (iii) the Upper Tribunal refers an original decision back to the TRA under regulation 18(3) of the Reconsideration and Appeals Regulations;
 - (b) a relevant review or reconsideration of a transitioned trade remedy is concluded when—
 - (i) the Secretary of State accepts or rejects the TRA’s recommendation or decision following the review or reconsideration,
 - (ii) the TRA publishes notice or notifies the Secretary of State that it is upholding the original decision under regulation 14(5) of the Reconsideration and Appeals Regulations (whichever is earlier), or
 - (iii) the TRA makes a new decision following a referral by the Upper Tribunal under regulation 18(3) of the Reconsideration and Appeals Regulations.
- (8) For the purposes of subsection (7), an “original decision” means a recommendation made by the TRA to the Secretary of State under—
- (a) regulation 100(1) of the Dumping and Subsidisation Regulations, or
 - (b) regulation 51(1) of the Safeguards Regulations.

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- (9) Section 32(7) and (8) of TCTA 2018 apply to regulations made under this section as if they were regulations made under Part 1 of that Act.
- (10) Regulations under this section are to be made by statutory instrument; and an instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) In regulation 14 of the Reconsideration and Appeals Regulations, after paragraph (5) insert—
- “(5A) Where the original decision is a recommendation under regulation 100(1) of the Dumping and Subsidisation Regulations or regulation 51(1) of the Safeguards Regulations, the TRA must notify the Secretary of State of its intention to uphold the original decision at least 30 days before taking the steps under paragraph (5).”
- (12) In this section—
- “the Safeguards Regulations” means the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (S.I. 2019/449);
- “the Dumping and Subsidisation Regulations” means the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450);
- “the Reconsideration and Appeals Regulations” means the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (S.I. 2019/910).
- (13) This section is treated as having come into force on 3 November 2021.

75 **Reference documents: amount of import duty** **U.K.**

After section 32 of TCTA 2018 insert—

“32A Reference documents

- (1) This section applies where regulations made under any of sections 8 to 19 make provision by reference to a document.
- (2) The reference is to be construed—
- (a) as a reference to the document as modified by notice by the appropriate authority from time to time;
- (b) if the appropriate authority declares by notice that the document is replaced by another document, as a reference to that other document.
- (3) Subsection (2) does not apply to the extent that the effect of the modification or replacement of the document would be to alter the amount of import duty applicable under this Part to any goods.
- (4) A notice under this section must be published in such manner as the authority issuing it considers appropriate.
- (5) Section 32(10) applies to a notice under this section as it applies to a public notice.
- (6) In this section—

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“appropriate authority”, in relation to regulations that make provision by reference to a document, means the person who made the regulations;

“modified” means amended, added to or omitted from.”

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