
STATUTORY INSTRUMENTS

2019 No. 449

The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019

PART 7

Suspension

Suspension of a definitive safeguarding remedy

39.—(1) The TRA may make a recommendation to the Secretary of State (a “suspension recommendation”) that the application of a definitive safeguarding remedy be suspended for a specified period (the “period of suspension”) in relation to ^{F1}... the goods specified in the public notice made by the Secretary of State under section 13 of the Act.

(2) The TRA may make a suspension recommendation where—

- (a) paragraph (3) applies;
- (b) it is satisfied that a suspension is appropriate; and
- (c) UK producers have been given the opportunity to comment on the suspension proposed in the application for suspension (see regulation 40).

(3) This paragraph applies where the TRA, whether or not as a consequence of considering an application in accordance with regulation 40 (application for suspension), considers that the circumstances in paragraph (4) exist.

(4) Those circumstances are that—

- (a) market conditions have changed temporarily; and
- (b) as a consequence of the change in market conditions, the serious injury caused to UK producers is unlikely to recur if the application of a definitive safeguarding remedy were to be suspended.

(5) In considering whether to make a suspension recommendation, the TRA may take such steps as it considers appropriate.

(6) Where the TRA rejects an application for suspension, the TRA must notify the applicant.

(7) Where the TRA considers that it is not appropriate to make a suspension recommendation, it must—

- (a) publish a notice of the reasons for its determination; and
- (b) notify the Secretary of State and interested parties.

(8) Where the TRA considers that it is appropriate to make a suspension recommendation, the recommendation must include—

- (a) the reasons for the TRA's determination;
- (b) the recommended period of suspension, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the recommendation; and

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- (c) any other information the TRA considers relevant.
- (9) If the TRA makes a suspension recommendation, the Secretary of State must decide whether to ^{F2}—
- (a) accept or reject the recommendation; or
 - (b) request that the TRA reassess its recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation].
- (10) The Secretary of State may only reject a suspension recommendation where the Secretary of State considers that it is not in the public interest to accept it.
- ^{F3}(10A) Paragraph (10B) applies if the recommendation is rejected.
- (10B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to vary the recommended period of suspension, subject to regulation 41(1).
- (10C) Where the Secretary of State makes a decision under paragraph (10B), the Secretary of State must lay a statement before the House of Commons setting out the reasons for making the decision.]
- (11) Where the Secretary of State rejects a suspension recommendation, ^{F4}and does not make a decision under paragraph (10B)] the Secretary of State must—
- (a) publish a notice containing the information referred to in paragraph 13 of the Schedule;
 - (b) notify interested parties; and
 - (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.
- (12) Where the application of a definitive safeguarding remedy is suspended under this Part, the period of suspension counts towards the specified period of the definitive safeguarding remedy as stated in the relevant public notice.
- ^{F5}(13) The Secretary of State may only make a request under paragraph (9)(b) where the Secretary of State considers that—
- (a) there is information that the TRA did not take into account in its consideration of whether the circumstances in paragraph (4) exist that is relevant to that consideration;
 - (b) the TRA made an error in relation to its recommendation; or
 - (c) exceptional circumstances make the request appropriate.
- (14) Before making a request under paragraph (9)(b), the Secretary of State must consult the TRA.
- (15) Where the Secretary of State makes a request under paragraph (9)(b), the TRA must—
- (a) comply with the request; and
 - (b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request.]

Textual Amendments

- F1** Words in reg. 39(1) omitted (1.3.2020) by virtue of [The Trade Remedies \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/99\)](#), regs. 1, **9**
- F2** Words in reg. 39(9) substituted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), regs. 1(2), **16(a)** (with reg. 2)
- F3** Reg. 39(10A)-(10C) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), regs. 1(2), **16(b)** (with reg. 2)

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- F4** Words in [reg. 39\(11\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\), 16\(c\)](#) (with [reg. 2](#))
- F5** [Reg. 39\(13\)-\(15\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\), 16\(d\)](#) (with [reg. 2](#))

Commencement Information

- I1** [Reg. 39](#) in force at 6.3.2019 with effect in accordance with [reg. 1\(3\)-\(8\)](#), see [reg. 1\(2\)](#)

Application for suspension

40.—(1) An application for suspension of a definitive safeguarding remedy (a “suspension application”) in accordance with regulation 39 (suspension of a definitive safeguarding remedy) may be made by or on behalf of an interested party.

- (2) A suspension application to the TRA must include as far as possible information regarding—
- the change in the market conditions;
 - the temporary nature of that change; and
 - the effect of the change on UK producers.

[^{F6}(2A) Where an application is made under paragraph (1) the TRA must notify the Secretary of State of that application before the end of the second working day after the day on which it receives the application.]

(3) Where a suspension application is withdrawn by the applicant, the TRA may still consider whether it is appropriate to make a suspension recommendation (see regulation 39).

Textual Amendments

- F6** [Reg. 40\(2A\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\), 17](#) (with [reg. 2](#))

Commencement Information

- I2** [Reg. 40](#) in force at 6.3.2019 with effect in accordance with [reg. 1\(3\)-\(8\)](#), see [reg. 1\(2\)](#)

Period of suspension

41.—(1) The period of suspension referred to in regulation 39(1) must not exceed nine months commencing on the day after the publication of the public notice under section 13 of the Act giving effect to the suspension.

(2) Following an application by an interested party, or where the TRA otherwise considers that it is appropriate, the TRA may recommend to the Secretary of State that the period of nine months referred to in paragraph (1) be extended to a maximum of 21 months (“extended period of suspension”).

(3) Where the TRA makes a recommendation in accordance with paragraph (2), but the duration of the extended period of suspension recommended is less than 21 months, the TRA may make a further recommendation to the Secretary of State to increase the duration of the extended period of suspension where it considers it is appropriate to do so, provided that the overall duration of the extended period of suspension does not exceed 21 months.

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(4) Where the TRA rejects an application for an extension of the period of suspension, the TRA must notify the applicant.

(5) Where the TRA considers that it is not appropriate to make a recommendation to extend the period of suspension, it must—

- (a) publish a notice of its determination and the reasons for it; and
- (b) notify the Secretary of State and interested parties.

(6) Where the TRA considers that it is appropriate to make a recommendation to extend the period of suspension, the recommendation must include—

- (a) the reasons for its recommendation;
- (b) the recommended extended period of suspension, which must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the recommendation; and
- (c) any other information the TRA considers relevant.

(7) If the TRA makes a recommendation in accordance with this regulation, the Secretary of State must decide whether to ^{F7}—

- (a) accept or reject the recommendation; or
- (b) request that the TRA reassess its recommendation, by reference to any matters specified in the request, with a view to amending or replacing the recommendation].

(8) The Secretary of State may only reject a recommendation where the Secretary of State considers that it is not in the public interest to accept the recommendation.

^{F8}(8A) Paragraph (8B) applies if the recommendation is rejected.

(8B) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide to vary the recommended extended period of suspension, subject to paragraph (8C).

(8C) Where the Secretary of State decides to vary the extended period of suspension—

- (a) the overall duration of the extended period of suspension must not exceed 21 months; and
- (b) the extended period of suspension must begin on the day after the date of publication of the public notice under section 13 of the Act giving effect to the decision.

(8D) Where the Secretary of State makes a decision under paragraph (8B) the Secretary of State must lay a statement before the House of Commons setting out the reasons for making the decision.]

(9) Where the Secretary of State rejects a recommendation ^{F9}and does not make a decision under paragraph (8B)], the Secretary of State must—

- (a) publish a notice containing the information referred to in paragraph 14 of the Schedule;
- (b) notify interested parties; and
- (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

^{F10}(10) The Secretary of State may only make a request under paragraph (7)(b) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its recommendation that is relevant to the recommendation;
- (b) the TRA made an error in relation to its recommendation; or
- (c) exceptional circumstances make the request appropriate.

(11) Before making a request under paragraph (7)(b), the Secretary of State must consult the TRA.

(12) Where the Secretary of State makes a request under paragraph (7)(b), the TRA must—

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- (a) comply with the request; and
- (b) in reassessing its recommendation, have regard to any particular considerations which the Secretary of State may specify in the request.]

Textual Amendments

- F7** Words in [reg. 41\(7\)](#) substituted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\)](#), [18\(a\)](#) (with [reg. 2](#))
- F8** [Reg. 41\(8A\)-\(8D\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\)](#), [18\(b\)](#) (with [reg. 2](#))
- F9** Words in [reg. 41\(9\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\)](#), [18\(c\)](#) (with [reg. 2](#))
- F10** [Reg. 41\(10\)-\(12\)](#) inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), [regs. 1\(2\)](#), [18\(d\)](#) (with [reg. 2](#))

Commencement Information

- I3** [Reg. 41](#) in force at 6.3.2019 with effect in accordance with [reg. 1\(3\)-\(8\)](#), see [reg. 1\(2\)](#)

Reinstatement of a definitive safeguarding remedy

42.—(1) The TRA may make a recommendation to the Secretary of State to reinstate a definitive safeguarding remedy where it determines that the circumstances in [regulation 39\(4\)](#) no longer exist.

(2) Where the TRA makes a recommendation in accordance with this regulation, the recommendation must include—

- (a) the reasons for the TRA's determination; and
- (b) any other information the TRA considers relevant.

(3) If the TRA makes a recommendation under paragraph (1), the Secretary of State must decide whether to accept or reject it.

(4) Where the Secretary of State accepts the recommendation, the Secretary of State must—

- (a) publish a public notice under [section 13](#) of the Act containing the information referred to in [paragraph 15](#) of the Schedule; and
- (b) notify interested parties.

(5) The Secretary of State may only reject a recommendation where the Secretary of State considers that it is not in the public interest to accept the recommendation.

(6) Where the Secretary of State rejects a recommendation, the Secretary of State must—

- (a) publish a notice containing the information referred to in [paragraph 15](#) of the Schedule;
- (b) notify interested parties; and
- (c) lay a statement before the House of Commons setting out the reasons for rejecting the recommendation.

Commencement Information

- I4** [Reg. 42](#) in force at 6.3.2019 with effect in accordance with [reg. 1\(3\)-\(8\)](#), see [reg. 1\(2\)](#)

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[^{F11}Power to request assistance etc from TRA

42ZA.—(1) The Secretary of State may request that the TRA give advice, information or other support to the Secretary of State for the purpose of allowing the Secretary of State to decide whether to make a decision under regulation 39(10B) or regulation 41(8B).

(2) The Secretary of State may include in a request under paragraph (1) a requirement that the TRA investigate and provide a report on any matter specified in the request.

(3) Before making a request under paragraph (1), the Secretary of State must consult the TRA.

(4) The TRA must comply with a request under paragraph (1).]

Textual Amendments

F11 Reg. 42ZA inserted (25.9.2023) by [The Trade Remedies \(Increase in Imports Causing Serious Injury to UK Producers\) \(EU Exit\) \(Amendment\) Regulations 2023 \(S.I. 2023/954\)](#), regs. 1(2), **19** (with reg. 2)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. para. 4(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(a\)\(ii\)](#)
- Sch. para. 6(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(b\)\(i\)\(bb\)](#)
- Sch. para. 6(g)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(b\)\(ii\)\(bb\)](#)
- Sch. para. 10(f)(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(c\)\(ii\)](#)
- Sch. para. 18(i)para. 18(i)(cc) and word inserted by [S.I. 2024/545 reg. 37\(9\)\(d\)\(ii\)](#)
- reg. 33A(5A)(5B) inserted by [S.I. 2024/545 reg. 37\(2\)\(a\)](#)
- reg. 36(3A) inserted by [S.I. 2024/545 reg. 37\(3\)](#)
- reg. 38(2E) inserted by [S.I. 2024/545 reg. 37\(4\)\(b\)](#)
- reg. 42I(3D) inserted by [S.I. 2024/545 reg. 37\(8\)](#)