
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 some or all of 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

(c) any other information the TRA considers relevant.

(9) If the TRA makes a suspension recommendation, the Secretary of State must decide whether to accept or reject it.

(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.

(11) Where the Secretary of State rejects a suspension recommendation, 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.

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—

- (a) the change in the market conditions;
- (b) the temporary nature of that change; and
- (c) the effect of the change on UK producers.

(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).

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.

(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 accept or reject it.

(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.

(9) Where the Secretary of State rejects a recommendation, 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.

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.