
STATUTORY INSTRUMENTS

2019 No. 449

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

PART 6

Reviews

[^{F1}Powers of the Secretary of State in relation to the TRA's recommendation]

38.—(1) Where the TRA makes a recommendation in accordance with regulation 37(1), the Secretary of State must [^{F2}—

- (a) accept or reject the recommendation; or
- (b) except in the case of a recommendation made in relation to an early review under regulation 33A, 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.]

[^{F3}(1A) Where the Secretary of State accepts a recommendation which contains options given in reliance on paragraph 37(2A), the Secretary of State must decide which of those options to adopt.]

(2) The Secretary of State may reject the recommendation only if the Secretary of State is satisfied [^{F4}that it is not in the public interest to accept it].

[^{F5}(2A) In considering the public interest under paragraph (2), where regulation 37(2E) applies the Secretary of State must have regard to the TRA's advice on whether extending the application of a definitive safeguarding remedy in accordance with a recommendation, or in accordance with each option, as the case may be, would meet the economic interest test.

(2B) Paragraph (2C) applies if—

- (a) the TRA makes a recommendation to vary or replace the application of a definitive safeguarding remedy; and
- (b) the Secretary of State rejects the recommendation.

(2C) If the Secretary of State considers that it is in the public interest to do so, the Secretary of State may decide that the application of the definitive safeguarding remedy should be—

- (a) varied or replaced other than in accordance with the recommendation, subject to paragraph (2D) where applicable; or
- (b) revoked.

(2D) Where the Secretary of State decides to vary a recommendation made by the TRA following a determination by the TRA under regulation 35B(7)(b), the restrictions in regulation 35B(8) apply to the Secretary of State's decision under paragraph (2C)(a).]

(3) Where the Secretary of State rejects the recommendation [^{F6}and does not make a decision under paragraph (2C)], the Secretary of State must—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) publish a notice containing the information referred to in paragraph 10 or 11 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.

[^{F7}(4) The Secretary of State may only make a request under paragraph (1)(b) where the Secretary of State considers that—

- (a) there is information that the TRA did not take into account in its review 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.

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

(6) Where the Secretary of State makes a request under paragraph (1)(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** Reg. 38 heading 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), **14(a)** (with reg. 2)
- F2** Words in reg. 38(1) 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), **14(b)** (with reg. 2)
- F3** Reg. 38(1A) 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), **14(c)** (with reg. 2)
- F4** Words in reg. 38(2) 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), **14(d)** (with reg. 2)
- F5** Reg. 38(2A)-(2D) 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), **14(e)** (with reg. 2)
- F6** Words in reg. 38(3) 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), **14(f)** (with reg. 2)
- F7** Reg. 38(4)-(6) 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), **14(g)** (with reg. 2)

Commencement Information

- I1** Reg. 38 in force at 6.3.2019 with effect in accordance with reg. 1(3)-(8), see [reg. 1\(2\)](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- reg. 38(2D) words omitted by [S.I. 2024/545 reg. 37\(4\)\(a\)\(ii\)](#)
- reg. 38(2D) words substituted by [S.I. 2024/545 reg. 37\(4\)\(a\)\(i\)](#)

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\(8\)](#)