
STATUTORY INSTRUMENTS

2020 No. 1438

The Trade Preference Scheme (EU Exit) Regulations 2020

PART 11

General provision about notices and warning and assessment procedure

General

25.—(1) In addition to the information otherwise required by these Regulations, a notice published, or a notification given—

- (a) may contain such other information as the Secretary of State considers appropriate;
- (b) may make different provision for different cases or for different purposes;
- (c) may be amended to include additional or different information; and
- (d) must be made in writing, which may include by electronic means and a requirement to notify is to be read accordingly.

(2) Where a notice is published, or a notification is given under these Regulations that notice or notification—

- (a) may be published or provided in consolidated form with one or more other notices or notifications, as the Secretary of State considers appropriate; and
- (b) may be revoked by a subsequent notice or notification.

(3) For the purpose of these Regulations—

- (a) a notice is published by—
 - (i) posting electronically on <https://www.gov.uk>; and
 - (ii) making a hard copy available for inspection free of charge at the principal offices of HMRC⁽¹⁾; and
- (b) a notification to a GSP country is given to such person or competent body as the Secretary of State considers appropriate in a particular case, by—
 - (i) posting electronically or by hard copy; and
 - (ii) using such address as the Secretary of State considers appropriate, taking account of an electronic or postal address that a GSP country has notified to the Secretary of State for a purpose under these Regulations.

Warning and Assessment Procedure

26.—(1) Before taking an action specified in paragraph (2), the Secretary of State—

- (a) must follow the warning and assessment procedure specified in paragraph (3) unless otherwise stated in paragraph 2;

⁽¹⁾ HMRC principal offices are at 100 Parliament Street, London, SW1A 2BQ.

- (b) may follow a single warning and assessment procedure for more than one circumstance requiring such a procedure under these Regulations, if the Secretary of State considers this appropriate;
 - (c) must follow procedures specified as mandatory in a particular case, in a notice published as provided for by paragraph (4); and
 - (d) may follow procedures specified as discretionary in a particular case in that notice.
- (2) The actions specified for the purposes of paragraph (1) are—
- (a) the suspension of a country from the EF, as provided for under regulation 19;
 - (b) the suspension of a country from the GSP, or the suspension or variation of GSP rates on certain GSP goods originating from that country under regulation 21, except in a case where regulation 21(4) applies ; or
 - (c) the application of a trade preference safeguard measure on GSP goods under regulation 23 except in a case where an urgent trade safeguard notice is published.
- (3) The Secretary of State must take the following steps by way of a warning and assessment procedure—
- (a) publish a warning notice;
 - (b) in the case where the actions referred to in paragraph (2)(a) and (b) are being considered, notify the warning notice to the affected GSP country;
 - (c) carry out an assessment of the circumstances giving rise to the publication of a warning notice;
 - (d) consider in carrying out an assessment—
 - (i) whether the circumstances giving rise to the issue of a warning notice and specified in that notice, continue to apply;
 - (ii) representations received;
 - (iii) in the case of the actions referred to in paragraph (2)(a) and (b), remedial steps taken by the GSP country, relating to the circumstances, since the service of the warning notice; and
 - (iv) in the case of a trade preference safeguard measure, whether the circumstances in paragraph 1(a) and (b) of Schedule 4 apply;
 - (e) conclude the assessment after the end of the representations period or after any other period specified in the warning notice;
 - (f) publish an assessment notice, before the expiry of the validity period (including one extended under regulation 27(3)(c) in a relevant warning notice; and
 - (g) in a case where the actions referred to in paragraph (2)(a) and (b) are being considered, notify the assessment notice to the affected GSP country.
- (4) The Secretary of State may—
- (a) publish a notice making further provision for procedures in relation to warning and assessment, including—
 - (i) procedures that must or may be followed by the Secretary of State; or
 - (ii) procedures that qualifying GSP countries or other persons must follow in order to submit evidence or make representations; and
 - (b) take into account, when carrying out an assessment, other evidence that the Secretary of State considers to be relevant and reasonably available.

Warning notice

- 27.**—(1) A “warning notice” means—
- (a) a notice that contains the information specified in paragraph (2); and
 - (b) which is required to be published under regulation 26(3)(a) and where appropriate, notified to a country under regulation 26(3)(b).
- (2) A warning notice must contain the following information—
- (a) the matters leading the Secretary of State to consider whether, as the case may be—
 - (i) to suspend a country from the EF, on the grounds that the criteria in regulation 15(1)(b), (c) or (d) are no longer satisfied by an EF country;
 - (ii) to take an action specified in regulation 21(1), by reason of circumstances specified in regulation 21(2); or
 - (iii) to apply a trade preference safeguard measure;
 - (b) the period within which representations may be made (“the representations period”) by—
 - (i) a qualifying GSP country specified in the notice;
 - (ii) in a case to which sub-paragraph (a)(i) or (ii) apply, an interested party; or
 - (iii) in a case to which sub-paragraph (a)(iii) applies, a person affected, as defined in paragraph 3 of Schedule 4;
 - (c) actions the Secretary of State may take as specified in regulation 26(2)—
 - (i) after the end of the representations period; and
 - (ii) after the issue of an assessment notice.
- (3) The Secretary of State may—
- (a) serve more than one warning notice (whether or not at the same time);
 - (b) specify different actions under sub-paragraph (2)(c) in such notices; or
 - (c) extend the period of a warning notice, by publishing a further such notice that gives reasons for the extension and in a case covered by regulation 26(3)(b), notifying the country of the extension.
- (4) Unless extended in accordance with paragraph (3)(c), a warning notice is valid for a period which—
- (a) begins with the day the warning notice is published; and
 - (b) ends on the earlier of—
 - (i) the day on which an assessment notice is published; or
 - (ii) the day that is 12 months after the day of publication.

Assessment notice

- 28.**—(1) An “assessment notice” means a notice that—
- (a) sets out the outcome of the assessment carried out by the Secretary of State under a warning and assessment procedure;
 - (b) is required to be published under regulation 26(3)(f); and
 - (c) when regulation 26(3)(g) applies—
 - (i) is required to be notified to a country; and
 - (ii) may be published and notified with a suspension or variation notice (whether consolidated with such a notice or not).

(2) Subject to regulation 27(3)(c), an assessment notice must be published before the expiry of the validity period of a warning notice.

(3) Where these Regulations require the Secretary of State to serve an assessment notice, that notice must state whether the Secretary of State considers it appropriate to—

- (a) take no further action for the time being;
- (b) undertake further monitoring of compliance with the EF;
- (c) undertake further review or assessment of—
 - (i) compliance with conditions specified in a customs cooperation notice;
 - (ii) the circumstances under regulation 21(2) that have led to the publication and notification of a warning notice; or
 - (iii) circumstances relevant to the application of a trade preference safeguard measure;
- (d) issue a further warning notice;
- (e) suspend a country from the EF under regulation 19;
- (f) suspend a country from the GSP or to suspend or vary GSP rates on specified goods, under regulation 21;
- (g) publish a trade preference safeguard notice under regulation 23 and Schedule 4.

Suspension and variation notices

29.—(1) A “suspension notice” means a notice published by the Secretary of State and notified to an affected country that suspends—

- (a) that country from the GSP under regulation 21(1)(a)(i);
- (b) an EF country from the EF, under regulation 18 or 19; or
- (c) the GSP rate on specified goods originating from a specified country, under regulation 21(1)(a)(ii).

(2) A suspension notice referred to in paragraph (1)(b) must apply the GF to the country suspended from the EF provided—

- (a) it is still an eligible developing country, but not a least developed country; and
- (b) that notice (or a different suspension notice) does not suspend the country from the GSP under regulation 21(1)(a)(i).

(3) A “variation notice” means a notice under regulation 21(1)(b) that varies the GSP rate on specified goods originating from a specified country for a specified period.

(4) The period of suspension or variation in a suspension or variation notice respectively must—

- (a) not exceed 12 months; and
- (b) not begin earlier than 28 days from the day starting with publication of the notice.

(5) Such notices must specify —

- (a) the regulation pursuant to which the notice has been published;
- (b) the country and where appropriate, the goods to which the suspension or variation applies;
- (c) the days on which the period of suspension or variation begin and end; and
- (d) in a case where the notice applies the GF to the country under paragraph (2), the fact that the GF will apply from the day that the EF is suspended.

(6) The publication of suspension or variation notice does not affect the right of the Secretary of State to make regulations at any time to—

- (a) withdraw a country from the GSP or a GSP framework;

- (b) withdraw GSP rates from GSP goods; or
- (c) vary GSP rates on specified GSP goods.