

Changes to legislation: There are currently no known outstanding effects for the Trade Act 2021, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 6(2)

THE TRADE REMEDIES AUTHORITY

Status

- 1 (1) The TRA is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The TRA's property is not to be regarded—
 - (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Commencement Information

11 Sch. 4 para. 1 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Membership

- 2 (1) The TRA is to consist of—
 - (a) a Chair appointed by the Secretary of State,
 - (b) other non-executive members appointed by the Secretary of State,
 - (c) a chief executive appointed by the Chair with the approval of the Secretary of State or, if the first Chair has not been appointed, by the Secretary of State, and
 - (d) other executive members appointed by the Chair.
- (2) The total number of members must not exceed nine.
- (3) The Secretary of State must consult the Chair before appointing the other non-executive members.
- (4) The Secretary of State and the Chair must ensure, so far as practicable, that the number of non-executive members is at all times greater than the number of executive members.

Commencement Information

12 Sch. 4 para. 2 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

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Terms of appointment and tenure of members

- 3 A person holds and vacates office as a member of the TRA in accordance with the terms and conditions of the person's appointment.

Commencement Information

I3 Sch. 4 para. 3 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 4 The terms and conditions of a person's appointment as a non-executive member of the TRA are to be determined by the Secretary of State; but that is subject to the following provisions of this Schedule.

Commencement Information

I4 Sch. 4 para. 4 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 5 The terms and conditions of a person's appointment as an executive member of the TRA are to be determined by the Chair with the approval of the Secretary of State; but that is subject to the following provisions of this Schedule.

Commencement Information

I5 Sch. 4 para. 5 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 6 The terms and conditions of a person's appointment may cover, among other things—
- (a) the period for which the person is to hold office;
 - (b) the person's eligibility for re-appointment;
 - (c) circumstances in which a person's membership may be suspended.

Commencement Information

I6 Sch. 4 para. 6 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 7 A person may resign from office as a non-executive member of the TRA by notifying the Secretary of State.

Commencement Information

I7 Sch. 4 para. 7 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 8 A person may resign from office as an executive member of the TRA by notifying the Chair.

Commencement Information

I8 Sch. 4 para. 8 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

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- 9 The Secretary of State may remove a person from office as a non-executive member of the TRA if, in the opinion of the Secretary of State, the person is unable or unfit to carry out the functions of the office.

Commencement Information

I9 Sch. 4 para. 9 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 10 The Chair may remove a person from office as an executive member of the TRA if, in the opinion of the Chair, the person is unable or unfit to carry out the functions of the office.

Commencement Information

I10 Sch. 4 para. 10 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Remuneration of members

- 11 The TRA must pay to non-executive members of the TRA such remuneration as the Secretary of State may determine.

Commencement Information

I11 Sch. 4 para. 11 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 12 The TRA must pay to executive members of the TRA such remuneration as the Chair may determine with the approval of the Secretary of State.

Commencement Information

I12 Sch. 4 para. 12 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 13 The TRA must pay, or make provision for paying, to or in respect of any person who is or has been a non-executive member of the TRA, such sums as the Secretary of State may determine in respect of allowances, expenses and gratuities.

Commencement Information

I13 Sch. 4 para. 13 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 14 The TRA must pay, or make provision for paying, to or in respect of any person who is or has been an executive member of the TRA, such sums as the Chair may determine with the approval of the Secretary of State in respect of pension, allowances, expenses and gratuities.

Commencement Information

I14 Sch. 4 para. 14 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

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- 15 If a person ceases to be a non-executive member of the TRA and the Secretary of State determines that the person should be compensated because of special circumstances, the TRA must pay compensation of such amount as the Secretary of State may determine.

Commencement Information

I15 Sch. 4 para. 15 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 16 If a person ceases to be an executive member of the TRA and the Chair determines with the approval of the Secretary of State that the person should be compensated because of special circumstances, the TRA must pay compensation of such amount as the Chair may, with the approval of the Secretary of State, determine.

Commencement Information

I16 Sch. 4 para. 16 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

A chief executive appointed by the Secretary of State

- 17 Paragraphs 18 to 23 apply in respect of a person who is appointed as chief executive by the Secretary of State under paragraph 2(1)(c).

Commencement Information

I17 Sch. 4 para. 17 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 18 The terms and conditions of a person's appointment as chief executive are to be determined by the Secretary of State; but that is subject to the other provisions of this Schedule.

Commencement Information

I18 Sch. 4 para. 18 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 19 If the first Chair has not been appointed, a person appointed as chief executive may resign from office by notifying the Secretary of State.

Commencement Information

I19 Sch. 4 para. 19 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 20 The Secretary of State may remove a person from office as the chief executive if—
- (a) the first Chair has not been appointed, and
 - (b) in the opinion of the Secretary of State, the person is unable or unfit to carry out the functions of the office.

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Commencement Information

I20 Sch. 4 para. 20 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 21 The TRA must pay to a person appointed as chief executive—
- (a) such remuneration as the Secretary of State may determine, or
 - (b) following the appointment of the first Chair, such remuneration as the Chair may determine with the approval of the Secretary of State.

Commencement Information

I21 Sch. 4 para. 21 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 22 The TRA must pay, or make provision for paying, to or in respect of a person who is or has been the chief executive—
- (a) such sums in respect of pension, allowances, expenses and gratuities as the Secretary of State may determine, or
 - (b) following appointment of the first Chair, such sums in respect of pension, allowances, expenses and gratuities as the Chair may determine with the approval of the Secretary of State.

Commencement Information

I22 Sch. 4 para. 22 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 23 If a person ceases to be the chief executive of the TRA at a time when the first Chair has not been appointed and the Secretary of State determines that the person should be compensated because of special circumstances, the TRA must pay compensation of such amount as the Secretary of State may determine.

Commencement Information

I23 Sch. 4 para. 23 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Staffing of the TRA

- 24 (1) The TRA may—
- (a) appoint employees, and
 - (b) make such other arrangements for the staffing of the TRA as it considers appropriate.
- (2) The terms and conditions of appointment as an employee are to be determined by the TRA.
- (3) The TRA may pay its employees such remuneration as the TRA may determine.
- (4) The TRA may pay, or make provision for paying, to or in respect of any person who is or has been an employee of the TRA, such sums as the TRA may determine in respect of pension, allowances, expenses or gratuities.

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- (5) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ Trade Remedies Authority. ”
- (6) The TRA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (5) in the sums payable out of money provided by Parliament under the 1972 Act.
- (7) Sub-paragraphs (1) to (4) apply in respect of employees that are not executive members of the TRA.

Commencement Information

I24 Sch. 4 para. 24 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Committees

- 25 (1) The TRA may establish committees, and any committee so established may establish sub-committees.
- (2) A committee or sub-committee so established is referred to in this Schedule as a “TRA committee”.
- (3) A TRA committee may consist of or include persons who are neither members, nor employees, of the TRA.
- (4) The TRA must pay such allowances as it may determine to any person who—
- (a) is a member of a TRA committee, but
 - (b) is neither a member, nor an employee, of the TRA.
- (5) The TRA must keep under review—
- (a) the structure of the TRA committees, and
 - (b) the scope of each committee's activities.

Commencement Information

I25 Sch. 4 para. 25 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Procedure

- 26 The TRA may determine its own procedure and the procedure of any TRA committee (including quorum).

Commencement Information

I26 Sch. 4 para. 26 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

- 27 The validity of any proceedings of the TRA is not affected by a vacancy or defective appointment.

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Commencement Information

I27 Sch. 4 para. 27 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Delegation of functions

- 28 (1) The TRA may delegate any of its functions to—
- (a) a member of the TRA,
 - (b) an employee, or other member of staff, authorised for that purpose, or
 - (c) a TRA committee.
- (2) But a function may not be delegated to a committee that includes a person who is neither a member, nor an employee, of the TRA insofar as the function could be exercised in relation to a specific trade remedies investigation.
- (3) Otherwise, a function is delegated under this paragraph to the extent, and on the terms, that the TRA determines.
- (4) In this Schedule “trade remedies investigation” means an investigation by the TRA under provision made by or under Part 1 of the Taxation (Cross-border Trade) Act 2018.

Commencement Information

I28 Sch. 4 para. 28 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Funding

- 29 The Secretary of State must pay to the TRA such sums as the Secretary of State considers appropriate for the purpose of enabling the TRA to perform its functions.

Commencement Information

I29 Sch. 4 para. 29 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Accounts and audit

- 30 (1) The TRA must—
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) its content and form;
 - (b) the methods and principles to be applied in preparing it;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.

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- (3) The TRA must send a copy of the statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as reasonably practicable after the end of the financial year to which it relates.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts, and
 - (b) send a copy of each report and certified statement to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of each such report and certified statement.
- (6) The chief executive of the TRA is to be its accounting officer.
- (7) In this Schedule “financial year” means—
 - (a) the period beginning with the date on which the TRA is established and ending with the second 31 March following that date, and
 - (b) each successive period of 12 months.

Commencement Information

I30 Sch. 4 para. 30 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Annual report

- 31
- (1) The TRA must prepare a report on the performance of its functions during each financial year.
 - (2) The report must include the statement of accounts in respect of that year.
 - (3) The report must be prepared as soon as reasonably practicable after the end of the financial year to which it relates.
 - (4) The TRA must send the report to the Secretary of State.
 - (5) The Secretary of State must lay the report before Parliament.

Commencement Information

I31 Sch. 4 para. 31 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Seal and evidence

- 32
- (1) The application of the TRA's seal must be authenticated by the signature of—
 - (a) a member of the TRA, or
 - (b) an employee of the TRA authorised for that purpose.
 - (2) A document purporting to be duly executed under the TRA's seal or signed on its behalf—
 - (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.

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(3) This paragraph does not apply in Scotland.

Commencement Information

I32 Sch. 4 para. 32 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Supplementary powers

- 33 (1) The TRA may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) Under sub-paragraph (1), the TRA may among other things—
- (a) acquire and dispose of land and other property,
 - (b) enter into contracts, and
 - (c) accept gifts of money, land or other property.

Commencement Information

I33 Sch. 4 para. 33 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Guidance

- 34 (1) In performing its functions, the TRA must have regard to guidance published by the Secretary of State.
- (2) Sub-paragraph (1) does not apply in respect of an ongoing trade remedies investigation if the guidance is published during that investigation.
- (3) Before publishing guidance, the Secretary of State must—
- (a) consult the TRA, and
 - (b) have regard to the expertise of the TRA and to the need to protect—
 - (i) its operational independence, and
 - (ii) its ability to make impartial assessments when performing its functions.
- (4) In particular, the Secretary of State may not publish guidance in relation to a specific trade remedies investigation.

Commencement Information

I34 Sch. 4 para. 34 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Public records

- 35 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place insert— “ Trade Remedies Authority. ”

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I35 Sch. 4 para. 35 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Investigation by the Parliamentary Commissioner

- 36 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments subject to investigation), at the appropriate place insert— “ Trade Remedies Authority. ”

Commencement Information

I36 Sch. 4 para. 36 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

House of Commons disqualification

- 37 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which members are disqualified), at the appropriate place insert— “ The Trade Remedies Authority. ”

Commencement Information

I37 Sch. 4 para. 37 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Northern Ireland Assembly disqualification

- 38 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which members are disqualified), at the appropriate place insert— “ The Trade Remedies Authority. ”

Commencement Information

I38 Sch. 4 para. 38 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Freedom of information

- 39 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which this Act applies), at the appropriate place insert— “ The Trade Remedies Authority. ”

Commencement Information

I39 Sch. 4 para. 39 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Public sector equality duty

- 40 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), in the group of entries under the heading “Industry, Business, Finance etc”, at the appropriate place insert— “ The Trade Remedies Authority. ”

Changes to legislation: There are currently no known outstanding effects
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Commencement Information

I40 Sch. 4 para. 40 in force at 1.6.2021 by S.I. 2021/550, reg. 3(c)

Changes to legislation:

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