

# **Trade (Safeguard Measures) Bill**

Government Bill

As reported from the committee of the whole  
House



Trade (Safeguard Measures) Bill

---

**Key to symbols used in reprinted bill**

**As reported from the committee of the whole  
House**

text inserted

text deleted

---



*Hon Craig Foss*

## **Trade (Safeguard Measures) Bill**

Government Bill

### **Contents**

		Page
1	Title	2
2	Commencement	2
<b>Part 1</b>		
<b>Safeguard investigations, provisional safeguard duty, and safeguard measures</b>		
3	Purpose	3
3A	Overview of safeguards	3
4	Interpretation	3
5	Act binds the Crown	5
6	Notification of decision or report	5
<i>Safeguard investigation</i>		
7	Initiation of safeguard investigation	6
8	Application for safeguard investigation	6
9	Submissions and information relating to safeguard investigation	7
10	Access to information relevant to safeguard investigation and treatment of confidential information	7
11	Duration of safeguard investigation	8
12	Safeguard investigation	9
<i>Provisional safeguard duty</i>		
13	Imposition of provisional safeguard duty	10
14	Duration of provisional safeguard duty	11
15	Termination or reduction of provisional safeguard duty	11

cl 1	<b>Trade (Safeguard Measures) Bill</b>	
<hr/>		
16	Effect on provisional safeguard duty of imposition (or not) of relevant duty	12
	<i>Safeguard measure</i>	
17	Safeguard measure	12
18	Imposition of safeguard measure	13
19	Duration of safeguard measure	14
	<i>Safeguard review</i>	
20	Initiation of safeguard review	15
21	Safeguard review investigation	16
22	Extension of safeguard measure	16
23	Duration of extended safeguard measure	18
	<i>Duty must be paid to, and collected by, Customs</i>	
24	Duty must be paid to, and collected by, Customs	19
	<i>Termination or reduction of safeguard measure</i>	
25	Termination or reduction of safeguard measure	19
	<b>Part 2</b>	
	<b>Miscellaneous matters</b>	
26	Temporary Safeguard Authority abolished with no compensation for loss of office	20
27	Transitional provision	20
28	Consequential amendments to Customs and Excise Act 1996	20
29	Consequential amendment to Official Information Act 1982	21
30	Consequential amendment to Trans-Tasman Mutual Recognition Act 1997	21
31	Repeal	21

**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Trade (Safeguard Measures) Act **2008**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent. 5

**Part 1**  
**Safeguard investigations, provisional  
safeguard duty, and safeguard measures**

- 3 Purpose** 5  
The purpose of this Act is to enable New Zealand to apply safeguard measures and provisional safeguard duties at its border in accordance with the Agreement establishing the World Trade Organization adopted at Marrakesh on 15 April 1994 (the **WTO Agreement**). Such measures and duties are intended to— 10
- (a) provide temporary protection to a domestic industry from serious injury caused by increased imports; and
  - (b) facilitate adjustment by a domestic industry to increased competition from increased imports.
- 3A Overview of safeguards** 15
- (1) Safeguard measures and provisional safeguard duties imposed under this Act are trade remedies.
  - (2) Trade remedies are remedies against certain imports that are causing injury to New Zealand industries.
  - (3) New Zealand’s other trade remedies are— 20
    - (a) anti-dumping duties under the Dumping and Countervailing Duties Act 1988 in relation to goods that are imported into New Zealand at less than their normal value in the exporting country:
    - (b) countervailing duties under the Dumping and Countervailing Duties Act 1988 in relation to goods imported into New Zealand that are subsidised by a foreign government: 25
    - (c) transitional safeguard measures (including provisional ones) under sections 15A to 15H of the Tariff Act 1988 in relation to imports from a country that is a party to certain free trade agreements with New Zealand. 30
  - (4) This section is intended as a guide only.
- 4 Interpretation** 35  
In this Act, unless the context otherwise requires,—  
**chief executive** means the chief executive of the Ministry

- Customs** means the New Zealand Customs Service
- directly competitive goods**, in relation to imported goods, means goods that, as a matter of fact and commercial common sense, are substitutable for the imported goods
- domestic industry** means— 5
- (a) producers who produce like goods or directly competitive goods in New Zealand; or
  - (b) producers whose collective production constitutes a major proportion of the production in New Zealand of like goods or directly competitive goods 10
- extended safeguard duty** means a safeguard duty extended under **section 22(2)(a)**
- extended safeguard measure** means a safeguard measure extended under **section 22(2)**
- import** has the same meaning as importation in section 2(1) of the Customs and Excise Act 1996 15
- increased imports** means increased imports of goods into New Zealand, whether it is an absolute increase or a relative increase as compared with the amount of like goods or directly competitive goods produced in New Zealand 20
- like goods**, in relation to imported goods, means—
- (a) goods that are like the imported goods in all respects; or
  - (b) in the absence of goods referred to in **paragraph (a)**, goods that have characteristics closely resembling the imported goods 25
- Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act
- Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 30
- provisional safeguard duty** means a duty imposed under **section 13(1)**
- safeguard duty** means a duty imposed under **section 18(2)(a)** 35
- safeguard investigation** means an investigation by the chief executive initiated by the Minister under **section 7**



**safeguard measure** has the meaning given by **section 17**

**serious injury** means a significant overall impairment in the position of a domestic industry

**threat of serious injury** means a serious injury that is clearly imminent 5

**working day** means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year. 10

## 5 Act binds the Crown

This Act binds the Crown.

## 6 Notification of decision or report 15

(1AA) For the purposes of this Act, a reference to **notifying a decision** means giving notice in the following ways that the decision has been made and the date on which it was made:

(a) in the *Gazette*; and

(b) free of charge, at all reasonable times, on an Internet site maintained by, or on behalf of, the Ministry. 20

(1) For the purposes of this Act, a reference to **notifying a report** means giving notice in the *Gazette* that—

(a) the report has been made and the date on which it was made; and 25

(b) a copy of the report is available for inspection during working hours, free of charge, and the place at which it can be inspected; and

(c) a copy of the report is available on an Internet site, free of charge, and the Internet site address. 30

(2) In addition to notifying a report as provided in **subsection (1)**, a copy of the report must be made available—

(a) for inspection, during working hours, free of charge at the head office of the Ministry; and

(b) free of charge, at all reasonable times, on an Internet site maintained by, or on behalf of, the Ministry. 35

- (3) A failure to notify a decision or report under **subsection (1AA) or (1)** or to take the actions required by **subsection (2)** does not invalidate the decision or report.

*Safeguard investigation*

- 7 Initiation of safeguard investigation** 5
- (1) The Minister may initiate a safeguard investigation by the chief executive into increased imports if the Minister is satisfied that there are reasonable grounds for an investigation into whether increased imports are causing serious injury or a threat of serious injury. 10
- (2) The Minister may initiate a safeguard investigation either after an application or at the Minister's discretion.
- (3) The Minister must notify the decision to initiate a safeguard investigation, and that notification must state the date on which the investigation was initiated. 15
- 8 Application for safeguard investigation**
- (1) An application for a safeguard investigation may be made by any person.
- (2) An application for a safeguard investigation must include the following information: 20
- (a) a complete description of the imported goods and the like goods or directly competitive goods:
- (b) the name of the applicant and whether the applicant is a producer in the domestic industry:
- (c) whether the applicant seeks the imposition of a provisional safeguard duty. 25
- (3) An application for a safeguard investigation must include as much of the following information as is reasonably possible:
- (a) whether there have been increased imports:
- (b) whether there is serious injury or a threat of serious injury: 30
- (c) a causal link between the increased imports and the serious injury or threat of serious injury:
- (d) whether the increased imports were due to unforeseen developments: 35

- (e) the level of support (if any) from domestic industry producers (apart from the applicant if the applicant is a producer in the domestic industry):
- (f) the names of domestic industry producers:
- (g) details of the volume and value of the domestic industry's production of the like goods or directly competitive goods in New Zealand by—
  - (i) the applicant; and
  - (ii) the producers referred to in **paragraph (e)**; and
  - (iii) the producers referred to in **paragraph (f)**.

## **9 Submissions and information relating to safeguard investigation**

- (1) The chief executive must seek submissions relating to a safeguard investigation from interested persons (giving an appropriate time period) and must consider any submissions received. 15
- (2) The chief executive may require, at any time during a safeguard investigation, that the application under **section 8** for the safeguard investigation, or any submission or any other information relating to the safeguard investigation, be supported by a statutory declaration made in the manner provided for by section 9 of the Oaths and Declarations Act 1957. 20
- (3) The chief executive may disregard any information relating to a safeguard investigation that the chief executive considers to be unreliable. 25

## **10 Access to information relevant to safeguard investigation and treatment of confidential information**

- (1) All interested persons are entitled to access all information relevant to a safeguard investigation, except for—
  - (a) confidential information (unless the submitter of the confidential information consents to the confidential information being made available); or 30
  - (b) other information that the chief executive considers should be withheld under the Official Information Act 1982. 35

- (b) other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982.
- (2) The chief executive may request a submitter of information to provide to the chief executive— 5
- (a) ~~a summary, for access by all interested persons, of confidential information or other information that the chief executive considers should be withheld under the Official Information Act 1982; or~~
- (a) a summary, for access by all interested persons, of confidential information or other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982; or 10
- (b) reasons why such a summary cannot be provided.
- (3) If no document is provided after a request under **subsection (2)**, or if the chief executive is not satisfied with such a document, the chief executive may disregard the relevant information. 15
- (4) For the purposes of this section, **confidential information** means information about which the submitter of the information has shown a good reason for the chief executive to believe 20  
1 or more of the following:
- (a) making the information available would give a significant competitive advantage to a competitor of the submitter of confidential information: 25
- (b) making the information available would have a significantly adverse effect upon the submitter of confidential information:
- (c) the information should be treated as confidential for reasons other than the reasons described in **paragraph (a) or (b).** 30

Compare: 1987 No 88 s 5(4)–(8)

## 11 Duration of safeguard investigation

- (1) The chief executive must make reasonable efforts to report to the Minister about a safeguard investigation within 75 working days after the date on which the Minister initiated the investigation. 35

- (2) **Subsection (1)** does not apply, and the chief executive must make reasonable efforts to report to the Minister within 85 working days after the date on which the Minister initiated the investigation, in the following circumstances:
- (a) if the applicant seeks a provisional safeguard duty; or 5
  - (b) if a provisional safeguard duty is imposed under **section 13**.
- (3) If the chief executive is unable to report within the time period required by **subsection (1) or (2)**, the chief executive must give the Minister written reasons for being unable to report within the time period. 10
- (4) The Minister must set out any written reasons given by the chief executive under **subsection (3)** when the Minister notifies the chief executive's report under **section 18(4)(b)**.
- 12 Safeguard investigation** 15
- (1) The matters the chief executive must investigate in a safeguard investigation include the following:
- (a) whether increased imports have caused serious injury or a threat of serious injury:
  - (b) whether the increased imports were due to unforeseen developments: 20
  - (c) whether a safeguard measure is necessary—
    - (i) to prevent or remedy serious injury; and
    - (ii) to facilitate adjustment by the domestic industry to the increased competition from the increased imports: 25
  - (d) if a safeguard measure is necessary,—
    - (i) which goods should be subject to a measure; and
    - (ii) which measure is appropriate; and
    - (iii) what is the appropriate extent and duration of the measure: 30
  - (e) the public interest, which may entail, among other matters, a consideration of the following:
    - (i) the likely effectiveness of a safeguard measure in assisting the domestic industry: 35
    - (ii) the alternatives to a safeguard measure:
    - (iii) the likely effect of a safeguard measure on the market (including on consumers):

- (iv) New Zealand's international relations and trade goals:
- (v) the strategic importance of the domestic industry.
- (2) In investigating whether there is serious injury or a threat of serious injury for the purposes of **subsection (1)(a)**, the chief executive must consider the impact of the increased imports on the domestic industry, including actual and potential decline in output, sales, market share, profits, productivity, employment, and utilisation of production capacity. 5
- (3) In investigating whether the increased imports have caused serious injury or a threat of serious injury for the purposes of **subsection (1)(a)**, the chief executive must consider— 10
  - (a) the nature and extent of imports of the goods by the domestic industry, including the value, quantity, frequency, and purpose of the imports; and 15
  - (b) factors other than the imports that have injured, or are injuring, the domestic industry.

*Provisional safeguard duty*

- 13 Imposition of provisional safeguard duty**
- (1) After the Minister has initiated a safeguard investigation under **section 7(1)**, the Minister may order that a provisional safeguard duty be imposed on imported goods if the Minister is satisfied that there are reasonable grounds to believe that— 20
    - (a) a delay in imposing a safeguard measure would cause damage that would be difficult to repair; and 25
    - (b) increased imports are causing serious injury or a threat of serious injury.
  - (2) The Minister may exempt imported goods from certain exporting countries from a provisional safeguard duty at any time, including after the duty has been imposed, if the Minister is satisfied that an exemption— 30
    - (a) is necessary to comply with New Zealand's international obligations as a party to the WTO Agreement or otherwise; or
    - (b) will further New Zealand's international relations or trade goals. 35

(3) An order under **subsection (1)** and an exemption under **subsection (2)** are regulations for the purposes of the Regulations (Disallowance) Act 1989.

(3) An order under **subsection (1)** and an exemption under **subsection (2)** are legislative instruments and disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 5

#### 14 Duration of provisional safeguard duty

(1) Provisional safeguard duty is due and payable on the demand of the Customs on goods imported on and from the date specified in the order referred to in **section 13(1)**, which must be on or after the commencement of the order. 10

(2) Provisional safeguard duty is due and payable on the demand of the Customs on goods imported until the earliest of— 15

(aa) the date specified in the order referred to in **section 13(1)**; or

(a) the date of the commencement of a safeguard measure; or

(b) 200 calendar days from the date the duty is due and payable under **subsection (1)**; or 20

(c) the date the provisional safeguard duty is terminated under **section 15(1)**.

#### 15 Termination or reduction of provisional safeguard duty

(1) The Minister may order the termination of a provisional safeguard duty, with effect from a specified date that is after the commencement of the order, if the Minister is no longer satisfied that there are reasonable grounds to believe that— 25

(a) a delay in imposing a safeguard measure would cause damage that would be difficult to repair; and 30

(b) increased imports are causing serious injury or a threat of serious injury.

(1A) The Minister may order the reduction of a provisional safeguard duty, with effect from a specified date that is after the commencement of the order, if the Minister is satisfied that there is a good reason to do so. 35

(2) An order under **subsection (1)** and an order under **subsection (1A)** are regulations for the purposes of the Regulations (Disallowance) Act 1989.

(2) An order under **subsection (1)** and an order under **subsection (1A)** are legislative instruments and disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 5

**16 Effect of imposition of safeguard measure—Effect on provisional safeguard duty of imposition (or not) of relevant duty** 10

(1) The imposition of a relevant duty on imported goods has the following effects on any provisional safeguard duty paid on imports of those goods:

(a) if the rate of the relevant duty is less than the rate of the provisional safeguard duty, the Minister must, unless satisfied that there is a good reason for not doing so, require the Customs to remit the amount of the difference to the importers who paid the provisional safeguard duty: 15 20

(b) if the rate of the relevant duty is greater than the rate of the provisional safeguard duty, the importers who paid the provisional safeguard duty need not pay any more duty in relation to those imported goods.

(2) If no relevant duty is imposed on imported goods on which provisional safeguard duty was paid, the Minister must, unless satisfied that there is a good reason for not doing so, require the Customs to remit the amount of the provisional safeguard duty to the importers who paid the provisional safeguard duty. 25

(3) In this section, **relevant duty** means a safeguard measure referred to in **section 17(a) or (b)**. 30

*Safeguard measure*

**17 Safeguard measure**

A **safeguard measure** is any of the following imposed on or in relation to imported goods following a safeguard investigation under this Act: 35



- (a) a safeguard duty;
- (b) a duty or a variation of any rate of duty under the Tariff Act 1988;
- (c) a restriction on importing the goods under the Customs and Excise Act 1996 or the Imports and Exports (Restrictions) Act 1988. 5

### **18 Imposition of safeguard measure**

- (1) After receiving the chief executive's report about a safeguard investigation, the Minister may take ~~1 or more~~ 1 or both of the actions set out in **subsection (2)** in relation to imported goods if the Minister is satisfied that— 10
  - (a) increased imports have caused serious injury or a threat of serious injury; and
  - (b) the increased imports were due to unforeseen developments; and 15
  - (c) the safeguard measure is necessary—
    - (i) to prevent or remedy serious injury; and
    - (ii) to facilitate adjustment by the domestic industry to the increased competition from the increased imports; and 20
  - (d) the safeguard measure relates to the appropriate goods, is the appropriate measure, and is of the appropriate extent and duration; and
  - (e) the action is in the public interest; and
  - (f) the particular safeguard measure is not incompatible with New Zealand's international obligations as a party to the WTO Agreement or otherwise. 25
- (2) The actions the Minister may take are to—
  - (a) order that a safeguard duty be imposed; or
  - (b) recommend that the Governor-General make an Order in Council imposing a safeguard measure referred to in **section 17(b) or (c)**. 30
- (3) The Minister may exempt or may recommend that the Governor-General by Order in Council exempt (whichever is appropriate) imported goods from certain exporting countries from a safeguard measure at any time, including after the measure has been imposed, if the Minister is satisfied that an exemption— 35

- (a) is necessary to comply with New Zealand's international obligations as a party to the WTO Agreement or otherwise; or
- (b) will further New Zealand's international relations or trade goals. 5
- (4) The Minister must—
- (a) notify a decision to do nothing after receiving the chief executive's report about a safeguard investigation:
- (b) after deciding to do nothing or taking an action under **subsection (1)**, notify the chief executive's report about a safeguard investigation, except for the following information: 10
- (i) confidential information; and
- (ii) ~~any information that the chief executive considers could be withheld under the Official Information Act 1982.~~ 15
- (ii) other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982.
- (5) ~~An order under **subsection (2)(a)** and an exemption by the Minister under **subsection (3)** are regulations for the purposes of the Regulations (Disallowance) Act 1989.~~ 20
- (5) An order under **subsection (2)(a)** and an exemption under **subsection (3)** are legislative instruments and disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 25

Compare: 1987 No 88 s 7

## 19 Duration of safeguard measure

- (1) Safeguard duty is due and payable on the demand of the Customs on goods imported on and from the date specified in the order referred to in **section 18(2)(a)**, which must be on or after the commencement of the order. 30
- (2) Safeguard duty is due and payable on the demand of the Customs on goods imported until the earliest of— 35
- (aa) the date specified in the order referred to in **section 18(2)(a)**; or

- (a) 4 years after the date of the commencement of the order referred to in **section 13(1)** that any provisional safeguard duty be imposed on that particular type of goods; or
- (b) 4 years from the date the duty is due and payable under **subsection (1)**; or 5
- (c) the date the safeguard duty is terminated under **section 25(1)**.
- (3) An extended safeguard duty is an exception to **subsection (2)(a) and (b)**. 10
- (4) A safeguard measure imposed by an Order in Council recommended by the Minister under **section 18(2)(b)** must come into effect on and from the date specified in the Order in Council, which must be on or after the commencement of the Order in Council. 15
- (5) A safeguard measure imposed by an Order in Council recommended by the Minister under **section 18(2)(b)** must end with effect from the earliest of—
- (aa) the date specified in the Order in Council; or
- (a) 4 years after the commencement of the order referred to in **section 13(1)** that any provisional safeguard duty be imposed on that particular type of goods; or 20
- (b) 4 years from the date the safeguard measure comes into effect under **subsection (4)**; or
- (c) the date the safeguard measure is terminated under **section 25(1)**. 25
- (6) A safeguard measure extended under **section 22(2)(b)** is an exception to **subsection (5)(a) and (b)**.

### *Safeguard review*

- 20 Initiation of safeguard review** 30
- (1) The Minister may initiate a review by the chief executive of a safeguard measure, and **sections 8(1), (2)(a) and (b), (3)(a) to (c) and (e) to (g), 9, 10, and 11(1), (3), and (4)** apply (with any necessary modifications) to the review as if the review were an investigation initiated under **section 7**. 35
- (2) The Minister may initiate a safeguard review either after an application or at the Minister's discretion.

- (3) The Minister must notify the decision to initiate a review of a safeguard measure, and that notification must state the date on which the review was initiated.

## 21 Safeguard review investigation

The matters the chief executive must investigate in a review of a safeguard measure include the following: 5

- (a) whether it is necessary to extend a safeguard measure in order to prevent or remedy serious injury;
- (b) whether there is evidence that the domestic industry is adjusting to increased competition from increased imports: 10
- (c) if an extended safeguard measure is necessary,—
  - (i) which goods should be subject to ~~a~~the measure; and
  - (iii) what is the appropriate extent and duration of the measure: 15
- (d) the public interest, which may entail, among other matters, a consideration of the following:
  - (i) the likely effectiveness of an extended safeguard measure in assisting the domestic industry: 20
  - (ii) the alternatives to an extended safeguard measure:
  - (iii) the likely effect of an extended safeguard measure on the market (including on consumers):
  - (iv) New Zealand's international relations and trade goals: 25
  - (v) the strategic importance of the domestic industry.

## 22 Extension of safeguard measure

- (1) After receiving the chief executive's report about the review of a safeguard measure, the Minister may take ~~1 or more 1 or~~ both of the actions set out in **subsection (2)** if the Minister is satisfied that— 30
- (a) this is necessary to prevent or remedy serious injury; and
  - (b) an extension is appropriate having regard to the extent to which the domestic industry is adjusting to increased competition from increased imports; and 35

- (c) the proposed extended safeguard measure relates to the appropriate goods and is of the appropriate extent and duration; and
- (d) the action is in the public interest; and
- (e) the particular extended safeguard measure is not incompatible with New Zealand's international obligations as a party to the WTO Agreement or otherwise. 5
- (2) The actions the Minister may take are,—
- (a) in relation to any safeguard duty that has been imposed, to order that an extended safeguard duty be imposed; or 10
- (b) in relation to any safeguard measure referred to in **section 17(b) or (c)** that has been imposed, to recommend that the Governor-General make an Order in Council extending that safeguard measure.
- (3) The Minister may exempt or may recommend that the Governor-General by Order in Council exempt (whichever is appropriate) imported goods from certain exporting countries from an extended safeguard measure at any time, including after the measure has been extended, if the Minister is satisfied that an exemption— 20
- (a) is necessary to comply with New Zealand's international obligations as a party to the WTO Agreement or otherwise; or
- (b) will further New Zealand's international relations or trade goals. 25
- (4) The Minister must—
- (a) notify a decision to do nothing after receiving the chief executive's report about the review of a safeguard measure:
- (b) after deciding to do nothing or taking an action under **subsection (1)**, notify the chief executive's report about the review of a safeguard measure, except for the following information: 30
- (i) confidential information; and
- (ii) ~~any information that the chief executive considers could be withheld under the Official Information Act 1982.~~ 35

- (ii) other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982.
- (5) An order under **subsection (2)(a)** and an exemption by the Minister under **subsection (3)** are regulations for the purposes of the Regulations (Disallowance) Act 1989. 5
- (5) An order under **subsection (2)(a)** and an exemption under **subsection (3)** are legislative instruments and disallowable instruments for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 10
- 23 Duration of extended safeguard measure**
- (1) Extended safeguard duty is due and payable on the demand of the Customs on goods imported on and from the date specified in the order referred to in **section 22(2)(a)**, which must be on or after the commencement of the order. 15
- (2) Extended safeguard duty is due and payable on the demand of the Customs on goods imported until the earliest of—
- (aa) the date specified in the order under **section 22(2)(a)**; or 20
- (a) 8 years after the date of the commencement of the order under **section 13(1)** that any provisional safeguard duty be imposed on that particular type of goods; or
- (b) 8 years from the date the duty is due and payable under **section 19(1)**; or 25
- (c) the date the safeguard duty is terminated under **section 25(1)**.
- (3) A safeguard measure extended by an Order in Council recommended by the Minister under **section 22(2)(b)** must come into effect on and from the date specified in the order referred to in **section 22(2)(b)**, which must be on or after the commencement of the order. 30
- (4) A safeguard measure extended by an Order in Council recommended by the Minister under **section 22(2)(b)** must end with effect from the earliest of— 35
- (aa) the date specified in the Order in Council; or

- (a) 8 years after the date of the commencement of the order under **section 13(1)** that any provisional safeguard duty be imposed on that particular type of goods; or
- (b) 8 years from the date the safeguard measure comes into effect under **section 19(4)**; or 5
- (c) the date the safeguard measure is terminated under **section 25(1)**.

*Duty must be paid to, and collected by, Customs*

**24 Duty must be paid to, and collected by, Customs**

All duty imposed under this Act must be paid to, and collected by, the Customs. 10

*Termination or reduction of safeguard measure*

**25 Termination or reduction of safeguard measure**

- (1) The Minister may, if the Minister is satisfied that there is a good reason to do so,— 15
  - (a) order the termination or reduction, with effect from a specified date that is after the commencement of the order, of a safeguard measure referred to in **section 17(a)** (including if it has been extended under **section 22(2)**); or 20
  - (b) recommend the termination or reduction, with effect from a specified date that is after the commencement of the recommended Order in Council, of a safeguard measure referred to in **section 17(b) or (c)** (including if it has been extended under **section 22(2)**). 25
- (2) An order under **subsection (1)(a)** is a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- (2) An order under **subsection (1)(a)** is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 30

## Part 2

### Miscellaneous matters

- 26 Temporary Safeguard Authority abolished with no compensation for loss of office**
- (1) Except as necessary for the purposes of **section 27**, all Temporary Safeguard Authorities appointed under the Temporary Safeguard Authorities Act 1987 are abolished. 5
- (2) No member of a Temporary Safeguard Authority is entitled to compensation for loss of office.
- 27 Transitional provision** 10
- The following apply in relation to an inquiry by a Temporary Safeguard Authority under the Temporary Safeguard Authorities Act 1987 that the Minister requested before this Act came into force:
- (a) the inquiry must be completed under that Act as if this Act had not been passed; and 15
- (b) the Temporary Safeguard Authority has all the powers it would have had if this Act had not been passed; and
- (c) the Minister may take any action in response to the Temporary Safeguard Authority's report as if this Act had not been passed. 20
- 28 Consequential amendments to Customs and Excise Act 1996**
- (1) This section amends the Customs and Excise Act 1996.
- (2) The definition of **duty** in section 2(1) is amended by inserting the following paragraph after paragraph (b): 25
- “(ba) provisional safeguard duty, safeguard duty, and extended safeguard duty imposed under the Trade (Safeguard Measures) Act **2008**.”
- (3) Section 102(4) is amended by adding “or under the Trade (Safeguard Measures) Act **2008**”. 30
- (4) Section 113(5) is amended by adding “or under the Trade (Safeguard Measures) Act **2008**”.
- (5) Section 116(7) is amended by adding “or under the Trade (Safeguard Measures) Act **2008**”. 35



---

**Trade (Safeguard Measures) Bill**

---

- (6) Section 117(8) is amended by adding “or under the Trade (Safeguard Measures) Act **2008**”.

**29 Consequential amendment to Official Information Act 1982**

- (1) This section amends the Official Information Act 1982. 5
- (2) Schedule 1 is amended by omitting the item relating to Temporary Safeguard Authorities appointed under the Temporary Safeguard Authorities Act 1987.

**30 Consequential amendment to Trans-Tasman Mutual Recognition Act 1997**

- (1) This section amends the Trans-Tasman Mutual Recognition Act 1997. 10
- (2) Schedule 1 is amended by omitting “Temporary Safeguard Authorities Act 1987” and substituting “Trade (Safeguard Measures) Act **2008**”. 15

**31 Repeal**

The Temporary Safeguard Authorities Act 1987 (1987 No 88) is repealed.

---

**Legislative history**

9 September 2008	Introduction (Bill 294–1)
11 March 2009	First reading and referral to Foreign Affairs, Defence and Trade Committee
7 July 2009	Report of the Foreign Affairs Defence and Trade Committee (Bill 394–2)
28 March 2012	Second reading
2 May 2012	Committee of the whole House
8 April 2014	Reported from the committee of the whole House (Bill 294–3)

---