

**EXPLANATORY MEMORANDUM TO
THE PRICE MARKING (AMENDMENT) ORDER 2009**

2009 No. 3231

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills (BIS) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 This Order amends the Price Marking Order 2004 (SI 2004/102) to allow traders to indicate changes to the Value Added Tax rate on goods by way of a general notice for a period of up to 28 days. The 2004 Order currently allows traders to display a general notice for 14 days.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 The Price Marking Order 2004 (PMO) implements European Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers. The Order came into force on 22 July 2004. It covers products, not services, and is limited to sales between traders and consumers. The Order requires the selling price and, where appropriate, the unit price of products to be clearly displayed. All prices must be inclusive of VAT and must be “unambiguous, easily identifiable and clearly legible”. There is no requirement to price mark items individually. Prices can be shown on the goods themselves, on a ticket or notice on or near to them, or grouped together with other prices on a list or catalogue(s) in close proximity to them.

4.2 The PMO also provides that where there is a change to the VAT rate, a trader is permitted to notify consumers by way of a general notice that a VAT adjustment will be made to any purchases. The general notice must itself be unambiguous, easily identifiable and clearly legible, and “in proximity” to the product. However, the general notice is permitted only for a period of 14 days, after which, the retailer must provide for proper pricing information in accordance with the PMO. A failure to do so would be in breach of the PMO, and a breach of the Order is an offence under the Prices Act 1974. This Order amends Section 11(a) of the PMO to increase the period by which a general notice is permissible to 28 days.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Many retailers had difficulty meeting the requirements of the PMO when the standard rate of VAT was reduced to 15% on 1 December 2008. Even more expect to have difficulty in complying with the change on 1 January 2010, when the standard rate of VAT will revert to 17.5%, as the change will coincide with a public holiday, and fall within the busiest trading period of the year. The Government has therefore consulted on a proposal to extend the length of time that traders can display a general notice, and need not alter price tickets, labels, lists or catalogues for goods, from 14 days to 28 days. In order to amend the legislation in time for the expected VAT change on 1 January 2010, Ministers approved a shortened period of consultation of four weeks. The key organisations were sent the consultation directly to ensure a maximum response. Retailers had indicated that 28 days would provide them with sufficient time to comply with the pricing requirements.

8. Consultation outcome

8.1 The consultation has confirmed that there is overwhelming support from retailers and enforcement bodies for an increase in the number of days that a general notice might be displayed from 14 days to 28 days.

9. Guidance

9.1 BIS's Prices Practices Guide offers guidance to traders on good practice in giving information about prices. The guidance will be updated to reflect the change.

10. Impact

10.1 An impact assessment has not been produced as it has no significant impact on the costs of business.

11. Regulating small business

11.1 We are not expecting any costs to VAT-registered businesses, including small businesses by this change. Businesses may be able to plan the introduction of the changes better and by having more time to do so may be more sure of complying. Absorbing the costs of compliance at a slightly later date will provide more scope for flexibility in labour costs so could actually reduce the costs for business.

12. Monitoring and review

12.1 The Price Marking Order implements European legislation which is subject to periodical review.

13. Contact

13.1 Beccy Eggleton, Consumer and Competition Policy Directorate, the Department for Business, Innovation and Skills, (0207 215 1748). can answer any queries regarding the instrument.