

**THE PRICE MARKING ORDER 2004**

Government response to  
the consultation on proposal  
to amend the provisions  
concerning a change to the  
VAT rate

DECEMBER 2009

# **GOVERNMENT RESPONSE TO THE CONSULTATION ON GOVERNMENT PROPOSAL TO AMEND THE PROVISIONS OF THE PRICE MARKING ORDER 2004 CONCERNING A CHANGE TO THE VAT RATE**

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## **Introduction**

The Department for Business, Innovation and Skills (BIS) issued a consultation document on 26 October 2009 with a proposal to amend the provisions of the Price Marking Order 2004 concerning a change to the VAT rate. For a period of up to 14 days, traders are permitted under the Price Marking Order 2004 (SI 2004/102) to let consumers know, by way of a general notice, that an adjustment in price, to take account of a VAT change will be made at the till. During the 14 day period when the general notice is displayed, retailers need not alter the individual prices for items, in order to incorporate the VAT change.

2 Many retailers had difficulty meeting the 14 day deadline when the standard rate of VAT was reduced to 15% on 1 December 2008, and 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%. The Government therefore proposed to extend the length of time that traders can display a general notice, and need not alter price tickets or labels for goods, from 14 days to 28 days. This change would enable traders to cope better with the demands of one of their busiest trading periods.

## **Consultation**

3 In order to amend the legislation in time for the VAT change on 1 January 2010, the Government needed to consult for a shorter period of time than is usually allowed. Ministers approved a consultation period of four weeks, and the closing date for responses was 23 November 2009. The Government received

18 responses in total and is very grateful to everyone who took the time to comment.

4 Of the responses, 16 were from businesses or business representative organisations, and 2 were representing the views of enforcement and regulatory bodies. All of the respondents are listed in Annex A.

### **Summary of Responses**

5 The responses provided broad support for the Government proposal to extend the notice period to 28 days.

6 Respondents were invited to comment on the following questions:

**1. What are the benefits (or otherwise) – both in terms of costs and operations- in extending the 14 day period to 28 days?**

All the respondents thought that this would spread the burden on retailers, particularly in the post-Christmas sales period. It would allow extra time to adjust pricing on labels and therefore reduce pressure on staff and on costs.

**2. We are of the view that 28 days will give retailers sufficient time to comply with the requirements. Do you think this time period will be sufficient?**

Most respondents felt that 28 days will be sufficient, although a couple felt that this would depend on the nature and size of the business and they would like to see a greater degree of flexibility.

**3. The last change in the standard rate of VAT took place on 1 December 2008. The next one will take place on 1 January 2010. Does the date of the change affect your ability to comply with the 14 day deadline and, if so, to what extent?**

All of the respondents felt that their ability to make the changes will be affected adversely by the change taking place in the middle of the busiest trading period of the year.

**4. If you were trading and registered for VAT in December 2008, did you have any problems complying with the 14 day period?**

Most of the respondents said that they had problems complying with the 14 day period, and that this was not helped by the short notice of the change in the rate.

**5. If you were trading and registered for VAT in December 2008, do you intend to change more, fewer or, broadly the same number of price labels this time?**

Whilst most respondents expected to change broadly the same number of price labels this time, some of the respondents expected to change more labels given their particular individual circumstances ie business restructuring.

**6. What, if any, are the potential disadvantages to consumers in extending the 14 day period to 28 days?**

Some respondents were concerned that an extended compliance period would not benefit consumers - an extended period would only increase the time when consumers could potentially be confused and dissatisfied, especially as the price they pay at the till will be higher than displayed price. One retailer said it would be in the best interests of retailers to implement the required changes in the shortest possible timeframe; customers will want to pay the price they see.

**7. VAT changes are always well publicised and shops which have yet to change price labels following a change in VAT must display a notice informing consumers of the change. Bearing that in mind, are there any significant disadvantages to consumers in a change from a 14 day period to a 28 day one?**

The one respondent to this question was concerned about the wording of this question, and would like to have seen a reference to “any disadvantages” rather than “significant disadvantages”. They believed that there will be frustrations and annoyances for consumers, and were concerned that there will be inconsistencies in the size of the signage used by retailers, some of which may not be obvious to consumers.

**8. What impact would an amendment to the Order have on enforcement bodies?**

The one respondent to this question was concerned that, given the time of the year, enforcement bodies may not have the resources to follow up complaints that are made.

### **Other Issues Raised**

7 Many of the respondents expressed dissatisfaction with the timing of the change in the VAT rate, given that 1 January falls within the busiest trading period of the year for many retailers. They argued that this will result in very limited staffing flexibility to enable the physical in-store pricing changes to be carried out. One retailer referred to the need to update the prices of tens of thousands of products in every store as a result of the change.

8 Whilst acknowledging that the increase to 28 days does represent a major improvement for retailers, a few respondents wanted to see a further level of flexibility and suggested that there should be an obligation to complete the changes within a reasonable period or within a period agreed between the business and its Primary Authority.

9 There were also calls from some respondents for the Government to raise awareness of the change in VAT rate via a public awareness raising campaign.

### **Government Response and Next Steps**

10 Given that there was full support for the proposal to increase the notice period to 28 days, the Government proposes to amend the Price Marking Order in time for the expected VAT change on 1 January 2010. This would be a permanent change – there is no current intention to revert to a 14 day period.

11 The Government has decided not to pursue the suggestion of having a flexible period ie, “within a reasonable period” or by agreement between retailers and their primary authority. The evidence provided indicated that 28 days should be enough in the vast majority of cases, and the Government believes that any flexibility on this in the law could create confusion for consumers, businesses and enforcement agencies, as well as legal uncertainty.

12 The Government appreciates that changing the standard rate of VAT may create administrative challenges for some businesses, and has listened carefully to businesses' suggestions to help reduce those challenges. It is for that reason that the Government has decided to amend the Price Marking Order. It has also given certainty about the end of the temporary reduction with a long lead-time from the announcement at the 2009 Pre-Budget Report and HMRC has set out the arrangements for the period of grace until no later than 6am for those businesses trading across midnight.

## **ANNEX A**

Asda  
Association of Convenience Stores  
BHF-BSSA Group  
Booksellers Association of the UK & Ireland Ltd  
British Retail Consortium  
Cohens Chemist Group  
The Co-operative  
Federation of Small Businesses  
Geo Heaphy and Sons Ltd  
The Independent Retailers Confederation  
LACORS  
Local Better Regulation Office (LBRO)  
The Mobile Broadband Group  
National Pharmacy Association  
National Federation of Retail Newsagents  
Scottish Grocers Federation  
SCS  
Tesco