GUIDANCE NOTE ON THE PRICE MARKING ORDER 2004

The Price Marking Order 2004 (Statutory Instrument No 102) implements Directive 98/6/EC and came into force on 22nd July 2004. This note outlines some of the main provisions of the Order, and provides guidance on it. It should not be treated as a substitute for the Order itself, which is available from the Stationery Office.

Coverage and requirements

2. The Order covers products, not services, and is limited to sales between traders and consumers. It requires the selling price and, where appropriate, the unit price of products to be clearly displayed. The unit price (which is the price per kilogram, litre etc of goods sold by quantity) is required for products sold loose from bulk (e.g. fruit and vegetables) and pre-packaged products which are required by Weights and Measures (W&M) legislation to be marked with quantity or to be made up in a prescribed quantity – i.e. those where quantity is a relevant consideration in the decision to buy. Information about the quantity marking requirements under W&M legislation is annexed to this note.

Units to be used for unit pricing purposes

3. The standard units of quantity to be used for unit pricing purposes are one kilogram, litre, metre, square metre or cubic metre and the unit ‘one’ for goods sold by number. Some exceptions are allowed and the Order contains a list of products that must be unit priced using different units of quantity - usually 100g or 100ml. Similar products should use the same unit for unit pricing purposes to allow consumers to readily compare prices between them. In exceptional circumstances this may mean that a product required to show a unit price per kilogram, for example, could usefully show a further price per 100g.

Pricing information

4. Prices must be in sterling. Where a trader indicates a willingness to accept a foreign currency for the purchase of a product the Order provides that, in addition to the sterling price indication, further specific information must also be given about exchange rates, commission etc. All prices must be inclusive of VAT and all other taxes. Postage, packing or delivery charges, however, may be shown separately as long as they are unambiguous, easily identifiable and clearly legible.

Display of pricing information

5. The Order requires that prices must be "unambiguous, easily identifiable and clearly legible" but it is not prescriptive about the way in which those requirements are met. It does, however, require that consumers should not have to ask for assistance in order to be able to see a price. Legibility of
price indications in this context means legible to a consumer with normal sight. Traders are, however, reminded of their obligations under the Disability Discrimination Act 1995 and to take account of the special needs of the elderly and disabled groups. When considering the needs of those with less than perfect eyesight, traders are encouraged to take account of the Royal National Institute for the Blind’s Clear Print Guidelines.

6. 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. If counter catalogues are used then there should be sufficient copies for consumers to refer to. Goods kept out of sight of the consumer are exempt from price marking until an indication is given that they are for sale.

7. Price indications given in the course of conducting a sale by telephone clearly cannot meet the Order’s “legibility” requirement. However, such indications must be clearly audible and linked to the subject of the sales transaction if they are to meet the Order’s requirements of “unambiguous, easily identifiable” and to be in keeping with the “proximity” requirement.

**Special provisions relating to general reductions and precious metals**

8. Where a trader wants to reduce the price of products that are already priced as the Order requires he may indicate the final selling and/or unit price of the product by displaying a general notice (or by any other visible means) that the products are for sale at a reduction, provided that the details of the reduction are prominently displayed, unambiguous, easily identifiable and clearly legible.

9. In the case of products the selling price of which varies from day to day according to the price of the precious metals contained in them, the obligation to indicate the selling price may be complied with by indicating, in a manner which is unambiguous, easily identifiable and clearly legible, the weight, type and standard of fineness of each precious metal contained in the product, the price per unit of weight and any element of the selling price which is not referable to weight.

**Window displays**

10. Window and similar displays, which contain products that are actually removed and sold to consumers – e.g. in a jeweller’s or a baker’s shop - must display selling and unit prices (where relevant) on their products. Special requirements apply where consumer and staff safety may be compromised by the display of particular high value products (i.e. items of jewellery, watches and precious metal with a selling price in excess of £3,000) and these are described in the Order. Window displays, which do not contain products that are removed and sold to consumers may be regarded as being purely promotional, in which case they will fall within the definition of
"advertisement". A unit price is required to be displayed in an advertisement only if a selling price is shown (see paragraph 10(b) below).

Products that fall outside the scope of the Order

11. The following products fall outside the scope of the Order:

   a. Products that are supplied in the course of the provision of a service (e.g. shampoo used at a hairdressers, food and drink consumed in pubs or restaurants, heated take-away foods¹ etc). Delivery of a product or products does not constitute a service for the purposes of this exemption. A product, which may be bought with or without a service (e.g. curtain material which may also be bought made up into curtains) will have to display the price (of the material in this example) without the service for the benefit of consumers who do not wish to avail themselves of the service. Goods manufactured to order do not have to be price marked but where only a limited number of choices are possible – e.g. a sofa available in 3 different types of material at different prices - then prices should be given.

   b. Sales by auction and sales of works of art and antiques do not have to indicate selling or unit prices.

Exemptions from the requirement to price mark

12. There are limited exemptions from the requirement to price mark, i.e.:

   a. A unit price is not required when the selling and unit price of the product are identical.

   b. The Order does not require advertisements to show a selling price but some advertisers might choose to include one. If they do, the advertisement must also show a unit price where one is normally required under the terms of the Order. However, selling and unit prices are always required (notwithstanding any other exemptions) when the advertisement is actually inviting consumers to conclude a distance contract as opposed to merely seeking to encourage them to visit another retail outlet where prices will be displayed. Examples of advertisements that invite consumers to conclude a distance contract are mail order advertisements in newspapers and goods sold direct from the Internet or the media. Catalogues do not fall within the definition of advertisement and are required to show selling and unit prices as relevant.

   c. Where unit pricing would not be useful to the consumer or would be confusing, then an exemption from unit pricing only may be allowed. The exemption applies to:

¹ Food prepared or heated at the request of a consumer or supplied as heated meals is covered by the Price Marking (Food and Drink Services) Order 2003 (S.I. 2003 No. 2253).
i. Advertisements (as defined in the Order) with brief exposure times (e.g. radio and television) and advertisements in a small shop.

ii. Promotional offers where the price has been reduced because of the damaged condition of the product and/or the danger of its deterioration. In these cases the condition of the product renders comparisons with perfect equivalents less than useful.

iii. An assortment of different items sold in a single packet - where individual unit prices may be confusing and a single one misleading. This includes different items packaged together from which a mixture is to be prepared (e.g. a cake mix).

iv. Any product where the unit price (as a result of the provisions for decimal places and rounding of unit prices) would be 0.0p.

d. Small shops, with an internal sales/display area not exceeding 280 square metres, itinerant traders and vending machines are all exempt from the requirement to unit price pre-packaged products in constant quantities. However, there is no exemption from the requirement to unit price products sold loose from bulk or pre-packaged in variable quantities. In measuring area for the purposes of the small shops exemption only that used for the retail sale or display of products should be included. Concessions operating within larger outlets should additionally be able to demonstrate that they are a separate business and may thus benefit from the exemption.

e. Itinerant traders, includes barrows in shopping malls, and other movable premises and vehicles of all sorts. "Pitching" in markets is allowed by the Order but once the market trader has revealed the final price for which the goods will actually change hands then that price must be given in writing. Catalogues used by itinerant traders must be unit priced but where the trader uses his discretion to offer a selling price different from that shown in the catalogue then a new unit price does not have to be calculated.

Promotions

13. Promotional offers should be unit priced to reflect the single standard product. This is to ensure that the consumer who does not want to take advantage of, e.g. a "3 for the price of 2" offer, will have details of the unit price of the single product. Retailers are free to give additional information if they wish – e.g. in the case of "3 for 2" offers, an additional unit price reflecting the price of the 3 products together may be shown, as long as it is clear to which products it relates. In cases where more than one product must be bought together then the unit price should reflect the quantity that must be bought.
14. Limited period promotions, which relate to individual products (e.g. 10% extra free), may retain the unit price of the standard product for the period of the offer. The intention is that consumers will not be misled by a lower unit price in the final days of the offer when restocking results in standard products joining offer products on the shelves. Retailers may give additional information if they wish – e.g. show the unit prices of both the standard and promotional products but it must be absolutely clear to which products they relate.

**Enforcement and penalties**

15. Enforcement is the responsibility of Trading Standards Officers. The penalties for failure to comply with the Order are those prescribed in the Act under which it is made - the Prices Act 1974 - as amended by subsequent legislation. They are, on conviction on indictment to an unspecified fine or, on summary conviction, to a fine not exceeding the prescribed sum (currently £5,000).

**Enquiries**

16. Enquiries about provisions of the Order may be addressed to your local trading standards department.

17. Copies of the Order itself may be purchased from the Stationery Office - enquiry telephone number 0870 600 5522, or see local telephone directory.

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[www.dti.gov.uk](http://www.dti.gov.uk)
[www.dti.gov.uk/ccp/](http://www.dti.gov.uk/ccp/)
[www.consumerdirect.gov.uk/](http://www.consumerdirect.gov.uk/)

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NON-EXCLUSIVE LIST OF PRODUCTS SUBJECT TO QUANTITY MARKING AND UNIT PRICING

The obligation to unit price applies only to pre-packaged products, which are required by law to be marked with quantity or sold only in prescribed quantities.

Any package that carries an "e-mark" has to be marked with quantity (in terms of weight or volume). (The effect of an e-mark is that a package manufactured in a member State can be sent to any other member state without further checking).

Most packaged food and drink is required to be marked with quantity, although some exemptions apply, e.g. for small quantities.

The main non-food products which are required to carry a quantity marking by weight, by volume, (or sometimes by weight or volume) are as follows (subject to certain exemptions e.g. for small quantities and for products which are intended to be subjected to a process or treatment in the course of a trade or business rather than being intended for retail sale):

- various construction products (including sand and other ballast, hardcore and aggregates, ready-mixed cement mortar, ready-mixed concrete, Portland cement);
- various decorating products (including paints, enamels and lacquers, paint solvents, paint strippers and thinners, varnishes and similar products, wood preservative, rust remover, petrifying fluid);
- various fuel/oil and car products (including liquid fuel, lubricating oil, mixtures of fuel/oil, lubricating grease, anti-freeze);
- various solid fuel products (coal, coke and solid fuels derived from these);
- various agricultural products (including agricultural liming materials and other calcareous sand, pre-packed fertilisers, inorganic fertilisers, liquid fertilisers, seeds and rolled oats);
- aerosol dispensers;
- cleaning and other household preparations and toilet preparations (including household soap, detergents, conditioners and rinse aids, bleaches, cleaning and scouring powders, polishes and similar products, disinfectants, rinse aids);
- cosmetics (which include perfumes, toilet soap, talcum powder, shampoo, toothpaste, deodorants);
household pet and bird foods;

inks and dyes;

knitting and rug yarns;

tobacco for pipes and for cigarettes rolled by hand or by the use of a device operated only by hand; and

various multi-packs and many-item packs containing a quantity of the same product are also required to be quantity marked.

In some areas, byelaws may require wood fuel to be quantity marked.

The following are required to be marked with number:

Cheroots, cigarettes, cigars;
Postal stationery (paper or cards for use in correspondence) and envelopes;
Nails (or by weight);
Fertiliser pellets;
Animal feed in biscuit or cake form.

The following have to be marked by length:

Bias binding, elastic, ribbon, tape and sewing thread.

The above requirements are set out in detail in schedules 4-7 of the Weights and Measures Act 1985 and in orders and regulations (including the Weights and Measures (Packaged Goods) Regulations 1986) made under that Act. (In addition separate legislation requires certain chemicals, solvents and other dangerous substances and medicines to be marked with quantity. The fact that this other legislation requires quantity marking does not bring it within the terms of the Price Marking Order.).