

Statutory Document No. 2018/0119

*Value Added Tax Act 1996*

VALUE ADDED TAX ACT 1996 (ONLINE MARKETPLACES) ORDER 2018

*Approved by Tynwald: 16 May 2018**Coming into Operation: in accordance with article 2*

The Treasury makes the following Order under section 95 and 96(1) of the Value Added Tax Act 1996.

1 Title

This Order is the Value Added Tax Act 1996 (Online Marketplaces) Order 2018.

2 Commencement

This Order comes into operation on 1 April 2018¹.

3 Amendment of the Value Added Tax Act 1996

(1) The Value Added Tax Act 1996 is amended as follows.

(2) In section 69(1)² (breaches of regulatory provisions) after paragraph (f), insert —

⌚; or

(g) section 77F (display of VAT registration numbers on online marketplaces),³

(3) Before section 77C³ insert —

⌚ *Online marketplaces* ⌚.

(4) In section 77C (joint and several liability: operators of online marketplaces) —

¹ An order made under section 96 must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve the order, the order shall thereupon cease to have effect.

² Section 69(1) has been previously amended by SD 375/96, SD 501/96, SD 441/07, SD 168/00 and SD 0588/12.

³ Sections 77B to 77E were inserted into the Value Added Tax Act 1996 by SD 2016/0274.

- (a) in the heading for “operators of online marketplaces” substitute **43** sellers identified as non-compliant by the Treasury **22**;
- (b) in subsection (1) omit “who is not Island-established”;
- (c) omit subsection (10);
- (d) in subsection (12) after “online marketplace;” insert **43** and **22** and omit “; and “Island-established””.

(5) After section 77C insert —

43 77CA Joint and several liability: non-Island sellers in breach of Schedule 2A registration requirement

- (1) This section applies where —
 - (a) a person (“P”) who makes taxable supplies of goods through an online marketplace is in breach of a Schedule 2A registration requirement; and
 - (b) the operator of the online marketplace knows, or should know, that P is in breach of a Schedule 2A registration requirement.
- (2) If the operator of the online marketplace does not secure the result in subsection (3), subsection (4) applies.
- (3) The result referred to in subsection (2) is that P does not offer goods for sale through the online marketplace in any period between —
 - (a) the end of the period of 60 days beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 2A registration requirement; and
 - (b) P ceasing to be in breach of a Schedule 2A registration requirement.
- (4) The operator is jointly and severally liable to the Treasury for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the relevant period.
- (5) The relevant period is the period —
 - (a) beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 2A registration requirement; and
 - (b) ending with P ceasing to be in breach of a Schedule 2A registration requirement.
- (6) But if the operator has been given a notice under section 77C in respect of P, the relevant period does not include —

- (a) any period for which the operator is jointly and severally liable for the amount mentioned in subsection (4) by virtue of section 77C; or
 - (b) if the operator secures the result mentioned in section 77C(3), the period beginning with the day on which the operator is given the notice and ending with the day on which the operator secures that result.
 - (7) P is in breach of a Schedule 2A registration requirement if P is liable to be registered under Schedule 2A to this Act, but is not so registered.
 - (8) In this section “**online marketplace**” and “**operator**”, in relation to an online marketplace, have the same meaning as in section 77C. **22**.
- (6) In section 77D (assessments) —
 - (a) in the heading after “section 77C” insert **63** or 77CA **22**;
 - (b) in subsection (1) after “section 77C” insert **63** or 77CA **22**;
 - (c) for subsection (9) substitute —
 - 63**(9) In this section “**online marketplace**” and “**operator**”, in relation to an online marketplace, have the same meaning as in section 77C. **22**.
- (7) In section 77E (interest) —
 - (a) in the heading after “section 77C” insert **63** or 77CA **22**;
 - (b) for subsection (7) substitute —
 - 63**(7) In this section “**online marketplace**” and “**operator**”, in relation to an online marketplace, have the same meaning as in section 77C. **22**.
- (8) After section 77E insert —
 - 63** 77F **Display of VAT registration numbers**
 - (1) This section applies where a person (“P”) offers, or proposes to offer, goods for sale through an online marketplace.
 - (2) The operator of the online marketplace must take reasonable steps to check that —
 - (a) any number provided to the operator (by P or another person) as P’s VAT registration number is valid; and
 - (b) any number displayed on the online marketplace as P’s VAT registration number (under subsection (3) or otherwise) is valid.

- (3) If a number is provided to the operator (by P or another person) as P's VAT registration number and the number is valid, the operator must secure that it is displayed on the online marketplace as P's VAT registration number no later than the time mentioned in subsection (4).
- (4) The time is —
- (a) the end of the period of 10 days beginning with the day on which the operator is provided with the number; or
 - (b) if the number is provided before P offers goods for sale through the online marketplace, the later of —
 - (i) the end of the period in paragraph (a); and
 - (ii) the end of the day on which P first offers goods for sale through the online marketplace.
- (5) If the operator becomes aware that a number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is not valid, the operator must secure that it is removed from the online marketplace before the end of the relevant period.
- (6) The relevant period is the period of 10 days beginning with the day on which the operator first became aware that the number was not valid.
- (7) A number is provided or displayed as P's VAT registration number only if it is provided or displayed in connection with P offering, or proposing to offer, goods for sale through the online marketplace.
- (8) A number provided or displayed as P's VAT registration number is valid only if —
- (a) P is registered under this Act; and
 - (b) the number is P's VAT registration number.
- (9) In this section —
- “**online marketplace**” and “**operator**”, in relation to an online marketplace, have the same meaning as in section 77C;
 - “**VAT registration number**” means the number allocated by the Treasury to a person registered under this Act. **22**.

MADE 16 MARCH 2018

A L CANNAN
Minister for the Treasury

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order amends the Value Added Tax Act 1996 (“the Act”), by inserting new sections 77CA and 77F as a consequence of amendments made in the United Kingdom by the Finance Act 2018 (of Parliament).

The new provisions are intended to encourage non-compliant Isle of Man and non-Isle of Man businesses that sell goods through online marketplaces to register for VAT, comply with their obligations under the Act and pay the VAT due on sales made in the Isle of Man. Businesses who are not established in the Island or UK, but sell goods into the Island or UK, are required to be VAT registered, regardless of their turnover.

This Order —

- a) extends the scope of existing joint and several liability provisions so that an operator of an online marketplace can be held jointly and severally liable for VAT payable by any person selling goods through the online marketplace who fails to comply with any requirement imposed by the Act (section 77CA);
- b) introduces a new requirement on online marketplace operators to display valid VAT registration numbers on their online marketplaces and conduct due diligence checks in relation to VAT registration numbers (section 77F); and
- c) introduces a penalty for a breach of the requirements in section 77F.