

The draft Fulfilment Businesses (Approval Scheme) Regulations 2018 were the subject of a technical consultation which ended on 15 December 2017. This note sets out the outcome of that consultation.

Background

The regulations include provisions for the application process, obligations of third country goods fulfilment businesses, and penalties. The technical consultation sought comments from stakeholders on the draft statutory instrument. In particular, a better understanding of:

- a) The impact on fulfilment businesses in applying the obligations of the scheme, including record-keeping requirements
- b) Whether the provisions for group registrations in former Part 5 would be beneficial to group companies
- c) The impact of the scheme on small and micro businesses.

Summary

The government received 8 responses – and also met with affected businesses, professional bodies and trade associations to discuss the draft legislation in some detail. The responses were mainly focused around the practicality of some aspects of record keeping and due diligence, and the wider impact of the scheme. The discussions and responses have enabled HMRC to better understand the impact on business of administering the scheme.

Taking account of the comments that have been received, the government has modified some aspects of the scheme to minimise the impact on legitimate businesses. Key components of the compliance regime remain to ensure the scheme is effective and remains robust. HMRC will address some other concerns when it sets out the detail of the scheme in guidance.

Key issues/changes

The regulations have been consolidated and restructured. As a result, some of the numbering has changed.

- Non-compliance: Regulation 8 (customers not meeting UK VAT or duty obligations) – Fulfilment businesses (FB) are required to notify HMRC if they find a customer is not meeting their VAT or duty obligations. The legislation has been amended to give FBs a reasonably practicable period in which to cease trading with a non-compliant customer in cases where, 60 days after the FB first becomes aware a customer is non-compliant, the FB still knows or suspects the customer is non-compliant. This change was introduced to ensure policy intention was met in technical regulations.
- Delivery address: Regulation 10(1)(e) - Some respondents told HMRC that retaining the final delivery address of the goods would be challenging. As a consequence, the government proposes limiting this information to the final country of delivery. This should make it much easier for businesses to comply with and ensure they retain only the necessary information to enable HMRC to undertake its compliance checks.
- VAT registration number: Regulation 10(1)(b) and Regulation 11– A small number of respondents advised HMRC that it would not always be possible to retain and verify

an overseas customer's VAT registration number, in circumstances where the overseas customer legitimately did not have one. The legislation has been changed to take account of these limited circumstances. HMRC will set out in guidance how the verification of both overseas customers' VAT registration numbers and VAT exemption reference numbers will be done.

- Import entry number: Regulation 10(1)(d) – Respondents highlighted the difficulty in some circumstances of obtaining import entry numbers. Some expressed concern that they would not be able to validate the import entry number. The requirement to retain an import entry number is an important aspect of the compliance regime and this aspect of the scheme remains. However, the legislation has been amended to reflect that an import entry number will not always be allocated. Businesses are not expected to undertake any validation checks on the import entry number; but where a number has been allocated, a record must be kept.
- Time limits for verification: Regulation 11(2)(a)(iii) - Taking account of concerns by some respondents who suggested that the proposed 30 days was insufficient time to verify the VAT registration of their customer, the deadline has been extended to 60 days. This will allow businesses further time for this process to be completed.
- Group registration: Despite a specific question on whether the draft legislation at former Part 5 (group registration) was necessary, there was very limited feedback from stakeholders. Some respondents suggested that they would not apply to register as a group. The government has therefore removed the provisions for groups to register from the regulations as there is no identified interest.

These changes will have no impact on the scheme's effectiveness.

Further information

Guidance on the scheme can be found at www.gov.uk/hmrc/fulfilmenthouses. HMRC will continue to work closely with stakeholders to ensure the scheme is effective and straightforward and will clarify any further issues in the guidance as the scheme is introduced.