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STATUTORY INSTRUMENTS

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**2013 No. 3113**

The Waste Electrical and Electronic  
Equipment Regulations 2013

PART 1

GENERAL

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Waste Electrical and Electronic Equipment Regulations 2013.

(2) Subject to paragraphs (3), (4) and (5) these Regulations shall come into force on 1st January 2014.

(3) Regulation 66(6) and Schedule 11, Part 2, paragraph 23 shall come into force on 1st January 2016.

(4) Regulations 6, 11(11)(a)(ii), 11(13)(b), 17(1)(d)(ii), 20(2) 28(8)(a)(ii), 28(10)(b), 36, 38, 41, 57(g)(ii), 58(3)(c)(ii), 66(7) and (8), schedule 7, Part 1, paragraph 6(c), schedule 8 Part 3 and schedule 11, Part 2, paragraph 24 shall come into force on 1st January 2019.

(5) Regulations 59, 65 and 94 do not extend to Northern Ireland.

**Interpretation**

2. In these Regulations—

“the Directive” means Directive 2012/19/EU of the European Parliament and of the Council of 4th July 2012 on waste electrical and electronic equipment of the European Parliament and of the Council of 8th December 2003 on waste electrical and electronic equipment (WEEE)(1) which replaces [Directive 2002/96/EC\(2\)](#) as amended by [Directive 2003/108/EC\(3\)](#) and [Directive 2008/34/EC\(4\)](#);

“AATF” means an approved authorised treatment facility;

“the Waste Directive” means [Directive 2008/98/EC\(5\)](#) of the European Parliament and of the Council on Waste;

“active implantable medical device” means an active implantable medical device within the meaning of point (c) of Article 1(2) of Council [Directive 90/385/EEC\(6\)](#) of 20 June 1990 on the approximation of laws of the Member States relating to active implantable medical devices which are EEE;

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(1) OJ No L 197, 24.7.2012, p.38.

(2) OJ No L 37, 13.2.2003, p.24.

(3) OJ No L 345, 31.12.2003, p.106.

(4) OJ No L 81, 20.3.2008, p.65.

(5) OJ No L 312, 22.11.2008, p.3.

(6) OJ No L 189, 20.7.1990, p.17.

“appliances containing refrigerants” means—

- (a) large cooling appliances;
- (b) refrigerators;
- (c) freezers; and
- (d) other large appliances for refrigeration, conservation and storage of food that fall within category 1 of Schedule 1;

“approved authorised treatment facility” means an authorised treatment facility which is approved under regulation 61;

“approved exporter” means an exporter who is approved under regulation 61;

“appropriate authority” means—

- (a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in England, the Environment Agency;
- (b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate body in Wales, the Natural Resources Body for Wales;
- (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Scotland, SEPA;
- (d) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Northern Ireland, the Department of the Environment;
- (e) for the purposes of Part 3 relating to the obligations of a producer or authorised representative under regulations 11, 14, 19 and 20 the appropriate authority who has registered that producer in respect of the relevant compliance period, or the relevant part of a compliance period, under regulation 26;
- (f) for the purposes of Part 3 relating to the obligations of a producer under regulation 14—
  - (i) where the producer’s registered office or principal place of business is in England, the Environment Agency;
  - (ii) where the producer’s registered office or principal place of business is in Wales, the Natural Resources Body for Wales;
  - (iii) where the producer’s registered office or principal place of business is in Scotland, SEPA;
  - (iv) where the producer’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;
- (g) for the purposes of Part 4 relating to the obligations of an operator of a scheme, the appropriate authority which granted approval of that operator’s scheme under regulation 55;
- (h) for the purposes of Part 7 relating to the approval of schemes—
  - (i) where the operator of the scheme’s registered office or principal place of business is in England, the Environment Agency;
  - (ii) where the operator of the scheme’s registered office or principal place of business is in Wales, the Natural Resources Body for Wales;
  - (iii) where the operator of the scheme’s registered office or principal place of business is in Scotland, SEPA;
  - (iv) where the operator of the scheme’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;

- (i) for the purposes of Part 8 relating to the approval of authorised treatment facilities and exporters—
  - (i) where the registered office or principal place of business of the operator of the ATF or of the exporter is in England, the Environment Agency;
  - (ii) where the registered office or principal place of business of the operator of the ATF or of the exporter is in Wales, the Natural Resources Body for Wales;
  - (iii) where the registered office or principal place of business of the operator of the ATF or of the exporter is in Scotland, SEPA; and
  - (iv) where the registered office or principal place of business of the operator of the ATF or of the exporter is in Northern Ireland, the Department of the Environment;
- (j) for the purposes of Schedule 12 relating to designated collection facilities—
  - (i) where the operator of the collection facility’s registered office or principal place of business is in England, the Environment Agency;
  - (ii) where the operator of a the collection facility’s registered office or principal place of business is in Wales, the Natural Resources Body for Wales;
  - (iii) where the operator of the collection facility’s registered office or principal place of business is in Scotland, SEPA; and
  - (iv) where the operator of the collection facility’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;

“ATF” means an authorised treatment facility;

“authorised representative” means any person who is established in the United Kingdom and who has been appointed by a producer under regulation 14(2);

“authorised treatment facility” means any facility operated by an establishment or undertaking carrying out treatment and which is licensed or otherwise permitted under or by virtue of any legislation made in the United Kingdom, or in any part of the United Kingdom, which implements Article 9 of the Directive;

“collection” has the meaning given by Article 3 the Waste Directive;

“code of practice” means the code of practice issued by the Secretary of State under regulation 72;

“compliance fee” means a fee calculated in accordance with the methodology approved by the Secretary of State under regulation 76;

“compliance period” means—

- (a) the first compliance period; or
- (b) any year following the first compliance period;

“dangerous substance or mixture” means any mixture which has to be considered dangerous under [Directive 1999/45/EC\(7\)](#) of the European Parliament and of the Council of 31st May 1999 concerning the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations or any substance which fulfils the criteria for any of the following hazard classes or categories set out in Annex I of Regulation [\(EC\) No 1272/2008\(8\)](#) of the European Parliament and of the Council of 16th December 2008 on classification, labelling and packaging of substances and mixtures:

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(7) OJ No L 200, 30.7.1999, p.1.

(8) OJ No L 353, 31.12.2008, p.1.

- (i) hazard classes 2.1 to 2.4, 2.6 and 2.7, 2.8 types A and B, 2.9, 2.10, 2.12, 2.13 categories 1 and 2, 2.14 categories 1 and 2, 2.15 types A to F,
- (ii) hazard classes 3.1 to 3.6, 3.7 adverse effects on sexual function and fertility or on development, 3.8 effects other than narcotic effects, 3.9 and 3.10,
- (iii) hazard class 4.1, and
- (iv) hazard class 5.1;

“declaration of compliance” means the declaration of compliance referred to in regulation 19(1) or 39(1);

“Department of the Environment” means the Department of the Environment in Northern Ireland;

“designated collection facility” means any establishment or undertaking carrying out collection operations and which is approved by the Secretary of State under regulation 70;

“display equipment” means—

- (a) personal computer screens that fall within category 3 of Schedule 1, and
- (b) television sets that fall within category 4 of Schedule 1;

“disposal” has the meaning given by Article 3 the Waste Directive;

“distributor” means any person in the supply chain who makes an item of EEE available on the market but a distributor may also be a producer;

“distributor take back scheme” means a distributor take back scheme approved by the Secretary of State under regulation 68;

“EEE” means electrical and electronic equipment;

“EEE producer registration number” means the registration number issued to a producer or their authorised representative by the appropriate authority under regulation 26;

“electrical and electronic equipment” means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

“end-user” means any person who uses a piece of EEE;

“enforcement authority” has the meaning given in regulation 87(5);

“enforcement notice” means a notice in writing served in accordance with regulation 88;

“enforcement officer” has the meaning given in regulation 89(15)(b);

“Environment Agency” means the body established under section 1(1) of the Environment Act 1995(9);

“evidence note” means an evidence note issued, in the format approved by the Secretary of State under regulation 73, by—

- (a) an operator of an AATF, as evidence of the receipt of tonnage of WEEE specified in the note for
  - (i) reuse as a whole appliance, or
  - (ii) treatment at an ATF, or
 an approved exporter, as evidence of the receipt for export of tonnage specified in the note for:
  - (iii) WEEE for reuse as a whole appliance outside the United Kingdom, or

- (iv) used EEE for reuse as a whole appliance outside the United Kingdom;
- “exporter” means a person who, in the ordinary course of conduct of a trade, occupation or profession, exports—
- (a) used EEE for reuse as a whole appliance outside the United Kingdom; or
  - (b) WEEE for treatment, recovery or recycling outside the United Kingdom;
- “financial year” in relation to a scheme member—
- (a) where that scheme member is a company is determined as provided in—
    - (i) section 390(1) to (3) of the Companies Act 2006<sup>(10)</sup>, or
    - (ii) article 231(1) to (3) of the Companies (Northern Ireland) Order 1986<sup>(11)</sup>; and
  - (b) in any other case has the meaning given in—
    - (i) section 390(4) of the Companies Act 2006, or
    - (ii) article 231(4) of the Companies (Northern Ireland) Order 1986,
- but as if the reference there to an undertaking were a reference to that scheme member;
- “first compliance period” means the period commencing on 1st January 2014 and ending with 31st December 2014;
- “first quarter period” means a period commencing on 1st January and ending with 31st March;
- “fourth quarter period” means a period commencing on 1st October and ending with 31st December;
- “gas discharge lamp” means a gas discharge lamp that falls within category 5 of Schedule 1;
- “hazardous waste” has the meaning given by Article 3 of the Waste Directive;
- “in vitro diagnostic medical device” means an in vitro diagnostic device or accessory within the meaning of respectively, point (b) or (c) of Article 1(2) of [Directive 98/79/EC](#)<sup>(12)</sup> of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices which are EEE;
- “issue” in relation to an evidence note means to sell or otherwise supply to any person;
- “large-scale stationary industrial tools” means a large-scale assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;
- “large scale fixed installations” means a large-size combination of several types of apparatus and, where applicable, other devices which:
- (a) are assembled, installed and de-installed by professionals
  - (b) are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location; and
  - (c) can only be replaced by the same specifically designed equipment;
- “LED light source” means a product that falls within category 5 of Schedule 1 and which uses an integrated light emitting diode as its light source;
- “making available on the market” means any supply of a product for distribution, consumption or use on the market of a Member State in the course of a commercial activity, whether in return for payment or free of charge;

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<sup>(10)</sup> 2006 c. 46.

<sup>(11)</sup> S.I. 1986/1032 (N.I.6).

<sup>(12)</sup> OJ No L 331, 7.12.1998, p.1.

“medical device” means a medical device or accessory within the meaning of, respectively, point (a) or (b) of Article 1(2) of Council [Directive 93/42/EEC](#)(**13**) of 14 June 1993 concerning medical devices which are WEEE;

“Member State” includes Norway, Iceland and Lichtenstein(**14**) ;

“Natural Resources Body for Wales” means the body established by article 3 of the Natural Resources Body for Wales (Establishment) Order 2012(**15**);

“new scheme” has the meaning given in regulation 14(9)(a);

“non-obligated WEEE” means WEEE received by an AATF or approved exporter other than from or on behalf of a scheme;

“non-road mobile machinery” means machinery, with an on-board power source, the operation of which requires either mobility or continuous or semi-continuous movement between a succession of fixed working locations while working;

“old scheme” has the meaning given in regulation 14(9);

“operator of an AATF” means the operator of a treatment facility that has been approved under regulation 61;

“operator of a collection facility” means the operator of an establishment or undertaking carrying out collection operations;

“operator of a scheme” means the operator of a scheme that has been approved under regulation 55;

“operator of a proposed scheme” means the operator of a proposed scheme that is the subject of an application for approval made under regulation 55;

“placing on the market” means the first making available of a product on the market within the territory of a Member State on a professional basis;

“Planning Appeals Commission” means the Planning Appeals Commission constituted under Article 110 of the Planning (Northern Ireland) Order 1991(**16**);

“premises” includes any land or means of transport;

“preparing for re-use” has the meaning given by Article 3 of, and Annex I of the Waste Directive;

“prevention” has the meaning given by Article 3 of, and Annex I of the Waste Directive;

“producer” means any natural or legal person who, irrespective of the selling technique used, including by means of distance communication in accordance with [Directive 97/7/EC](#)(**17**) of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts—

- (a) is established in a Member State and manufactures EEE under his own name or trademark, or has EEE designed or manufactured and markets it under his own name or trademark within the territory of that Member State;
- (b) is established in a Member State and resells within the territory of that Member State, under his own name or trademark, equipment produced by other suppliers, a reseller not being regarded as the “producer” if the brand of the producer appears on the equipment, as provided for in sub-paragraph (a);

(13) OJ No. L169, 12.7.1993, p.1.

(14) The Directive applies to Norway, Iceland and Lichtenstein by Decision 82/2004 of the European Economic Area Joint Committee of 8th June 2004. OJ No. L349, 25.11.2004, p.39.

(15) [S.I. 2012/1903 \(W.230\)](#) to which there are amendments not relevant to these Regulations.

(16) [S.I. 1991/1220 \(N.I. 19\)](#) as amended by [S.I. 1999/663](#) and [S.I. 2003/430 \(N.I.8\)](#).

(17) OJ No. L144, 4.6.1997, p. 19.

- (c) is established in a Member State and places on the market of that Member State, on a professional basis, EEE from a third country or from another Member State; or
- (d) sells EEE by means of distance communication directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.

“proposed scheme” means a proposed scheme that is the subject of an application for approval made under regulation 55;

“quarter period” means—

- (a) the first quarter period;
- (b) the second quarter period;
- (c) the third quarter period;
- (d) the fourth quarter period;

“recovery” has the meaning given by Article 3 of and Annex II of the Waste Directive, and “recover”, “recovered” and “recovery operation” shall be construed accordingly;

“recycling” has the meaning given by Article 3 of the Waste Directive and “recycled” and “recycling operation” shall be construed accordingly;

“register of producers” means the register of producers maintained by the appropriate authority under regulation 77;

“registered in the United Kingdom” means—

- (a) registered under the Companies Act 2006 or under the former Companies Acts (as defined in that Act); or
- (b) registered, or deemed to be registered, under the Companies (Northern Ireland) Order 1986 or under the former Companies Acts (as defined in that Order);

“relevant approval period” has the meaning given in regulation 61(7);

“relevant authorisation” means—

- (a) a permit granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2010<sup>(18)</sup> or regulation 11 of the Pollution Prevention and Control (Scotland) Regulations 2012<sup>(19)</sup>;
- (b) an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2010 or any other operation exempt from the requirements of section 33(1) (a) and (b) of the Environmental Protection Act 1990 under those Regulations;
- (c) an exemption registered or otherwise permitted under regulations 17 and 19 of the Waste Management Licensing (Scotland) Regulations 2011<sup>(20)</sup>;
- (d) a permit granted under regulation 10 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013<sup>(21)</sup>;
- (e) an exemption registered under regulation 18 of the Waste Management Licensing Regulations (Northern Ireland) 2003<sup>(22)</sup>, or
- (f) a waste management licence granted under article 8 of the Waste and Contaminated Land (Northern Ireland) Order 1997<sup>(23)</sup>;

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<sup>(18)</sup> S.I. 2010/675 to which there are amendments not relevant to these Regulations.

<sup>(19)</sup> S.S.I. 2012/360.

<sup>(20)</sup> S.S.I 2011/228.

<sup>(21)</sup> S.R. (NI) 2013 No 160.

<sup>(22)</sup> S.R. (NI) 2003 No 493.

<sup>(23)</sup> S.I. 1997/2778 (N.I. 19).

“relevant compliance period” means any compliance period, or any part of a compliance period, in respect of which any person has any obligation under these Regulations;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling and who holds a relevant authorisation;

“removal” means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, mixtures and components are contained in an identifiable stream or are in an identifiable part of a stream within the treatment process. A substance, mixture or component is identifiable if it can be monitored to verify environmentally safe treatment;

“reuse” has the meaning given by Article 3 of, and Annex I of the Waste Directive and “reused” shall be construed accordingly;

“scheme” means a scheme that operates in the United Kingdom and has been approved the relevant appropriate authority under regulation 55;

“scheme member” means—

- (a) a producer who is a member of a scheme on their own behalf; or
- (b) where a producer has appointed an authorised representative under regulation 14, the authorised representative on behalf of the producer who has appointed them

“Scottish Environment Protection Agency” means the body established under section 20(1) of the Environment Act 1995;

“second quarter period” means a period commencing on 1st April and ending with 30th June;

“SEPA” means the Scottish Environment Protection Agency;

“small producer” means a person falling within the definition of producer and who places less than 5 tonnes of EEE onto the market in a compliance period;

“the transitional period” means 1st January 2014 until 31st December 2018;

“third quarter period” means a period commencing on 1st July and ending with 30th September;

“separate collection” has the meaning given by Article 3 of the Waste Directive;

“treatment” has the meaning given by Article 3 of the Waste Directive, and “treat”, “treated” and “treatment operation” shall be construed accordingly;

“turnover” means, in relation to a scheme member, their turnover as defined in—

- (a) section 474(1) of the Companies Act 2006, or
- (b) article 270(1) of the Companies (Northern Ireland) Order 1986, but as if the references to a company were references to that person;

“very small EEE” means an item of EEE with no external dimension more than 25cm;

“waste electrical and electronic equipment” means electrical or electronic equipment which is waste within the meaning of Article 3(1) of the Waste Directive including all components, subassemblies and consumables which are part of the product at the time of discarding;

“WEEE” means waste electrical and electronic equipment;

“WEEE collection stream” means—

- (a) large household appliances
- (b) appliances containing refrigerants
- (c) display equipment
- (d) lamps



(e) all other WEEE that is separately collected at a designated collection facility during a compliance period

(f) photovoltaic Panels

“WEEE from private households” means WEEE which comes from private households and WEEE which comes from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households. Waste from EEE likely to be used by both private households and users other than private households shall in any event be considered to be WEEE from private households;

“writing” includes text that is—

(a) transmitted by electronic means,

(b) received in legible form, and

(c) capable of being used for subsequent reference; and

“year” means a calendar year commencing on 1st January.

### **Interpretation of documents**

**3.** In these Regulations—

(a) any document which is to be provided or given to any person may be provided or given to that person by electronic means if the document is capable of being reproduced by that person in legible form;

(b) any requirement to make, keep or retain a record or to maintain any register may be satisfied in electronic form if the text is capable of being produced in a legible documentary form by the person who is subject to the requirement;

(c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and

(d) for the purposes of paragraph (c), “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

### **Service of documents**

**4.—(1)** Any document required or authorised by these Regulations to be served on a person may be so served—

(a) by delivering it to him at or by leaving it at—

(i) the address provided by that person in accordance with these Regulations, or

(ii) his proper address;

(b) by sending it by post to him at either of the addresses mentioned in sub-paragraph (a);

(c) where the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or on a person having control or management of the partnership business;

(d) where the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary or clerk of that body corporate; or

(e) where the person is an unincorporated body, by serving it in accordance with sub-paragraph (a) or (b) on a person having control or management of that body.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978(24) (which relates to the service of documents by post) in its application to that paragraph,

the proper address of any person on whom a document is to be served in accordance with these Regulations will be his last known address except that—

- (a) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it will be the principal place of business in the United Kingdom of the partnership;
- (b) in the case of service on a body registered in the United Kingdom or its secretary or clerk, it will be the address of the registered office or principal place of business in the United Kingdom of the body; and
- (c) in the case of service on a body that is not registered in the United Kingdom, it will be the address of the principal place of business in the United Kingdom of the body.

## PART 2

### APPLICATION

#### **Application during the transitional period**

5.—(1) During the transitional period, these Regulations apply to EEE that is within the numbered categories set out in Schedule 1.

(2) Schedule 2 is an indicative list of those types of EEE which fall within the numbered categories set out in Schedule 1.

#### **Application from 1st January 2019**

6.—(1) From 1st January 2019, these Regulations apply to EEE that is within the numbered categories set out in Schedule 3.

(2) Schedule 4 is a non-exhaustive list of those types of EEE which fall within the numbered categories set out in Schedule 3.

#### **Exemptions**

7. These Regulations do not apply to EEE which is—
- (a) necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes;
  - (b) specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment;
  - (c) filament bulbs.

#### **Exclusions**

8. These Regulations do not apply to the following EEE—
- (a) equipment designed to be sent into space;
  - (b) large-scale stationary tools;
  - (c) large-scale fixed installations;
  - (d) any EEE constituting a means of transport for persons or goods, excluding electric two wheeled vehicles which are not type-approved;
  - (e) non-road mobile machinery made available exclusively for professional use;

- (f) equipment specifically designed solely for the purposes of research and development that is only made available on a business-to-business basis;
- (g) medical devices and in vitro diagnostic devices, where such devices are expected to be infective prior to end of life, and active implantable medical devices.

### **First compliance period**

9. These Regulations will apply in relation to the first compliance period in accordance with the provisions set out in Schedule 5.

### **Existing Union Legislation**

10. Nothing in these Regulations will affect the application of existing EU legislation imposing requirements on—

- (a) safety and health;
- (b) chemicals, in particular Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18th December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency;
- (c) waste management; or
- (d) product design.

## **PART 3**

### **PRODUCER OBLIGATIONS**

#### **Financing: WEEE from private households**

11.—(1) In each compliance period, the financing of the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households, that—

- (a) is deposited at a designated collection facility; or
- (b) is returned under regulation 43 or 52 but is not deposited at a designated collection facility;

during that compliance period (“the relevant WEEE”) will be the responsibility of all producers or their authorised representatives, who placed EEE onto the market in the United Kingdom in the previous compliance period, excluding producers or their authorised representatives who have registered as small producers in that compliance period.

(2) Each producer or authorised representative to whom paragraph (1) applies will be responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of an amount of the relevant WEEE.

(3) Where a producer or an authorised representative is responsible for financing an amount of WEEE under paragraph (2) the appropriate authority will calculate the amount of WEEE in tonnes to be collected by each producer or authorised representative in each category of EEE.

(4) Where a producer or authorised representative has put no EEE onto the market falling within a particular category of EEE, that producer or authorised representative will not be given an amount of WEEE in tonnes to collect and finance within that category in the following year.

(5) The amount of WEEE referred to in paragraph (2) will be calculated using information that has been provided to the appropriate authority by the producer or their authorised representative

which indicates the amount of EEE which was placed onto the market in each category of EEE in the United Kingdom by that producer in the previous compliance period.

(6) The amount of WEEE for which each producer or authorised representative will be responsible under paragraph (2) will be calculated in relation to each of the categories of EEE as follows—

$$(A \div B) \times C$$

where—

“A” is the total amount in tonnes of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been placed on the market in the United Kingdom by that producer or authorised representative in the previous compliance period, or part of the previous compliance period, (“the relevant compliance period”);

“B” is the total amount in tonnes of EEE intended for use by private households and falling within the relevant category that has been placed on the market in the United Kingdom by all producers and authorised representatives in the same compliance period used in “A”; and

“C” is the total amount in tonnes of WEEE from private households which is waste from electrical or electronic equipment that falls within the relevant category which the Secretary of State has determined under paragraph (7), to be the total amount in tonnes to be financed by producers and authorised representatives in that category in the compliance period that follows compliance period used in “A”.

(7) For each compliance period, the Secretary of State will, after consultation with such persons or bodies as appear to him to be representative of the interests concerned—

- (a) set the amount in tonnes of WEEE falling within each category of EEE, that is to be financed by all producers to whom paragraph (1) applies who have placed EEE onto the market in the same compliance period used in A; and
- (b) determine whether it is appropriate to deduct any of the following—
  - (i) an estimate of non-obligated WEEE,
  - (ii) an estimate of WEEE arising, that has been properly treated in compliance with the requirements of the Directive outside the system for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE,
  - (iii) an estimate of WEEE arising that will be retained under regulation 53;

from the amount in tonnes of WEEE to be collected in the United Kingdom in each compliance period.

(8) Where regulation 14(10)(a) applies to a producer—

- (a) it will be the duty of the appropriate authority to determine the amount of relevant WEEE for which that producer or the authorised representative will be responsible under paragraph (2) by using the calculation set out in paragraph (6); and
- (b) the appropriate authority will serve a notification in writing on that producer or the authorised representative specifying the amount in tonnes of WEEE for which he will be responsible under this regulation within 28 days of the date on which it notifies the producer or authorised representative that approval has been withdrawn from the scheme of which they are a member in accordance with regulation 58(3).

(9) The amount in tonnes of WEEE for which a producer is responsible in the relevant compliance period is the aggregate of their obligations in each category of EEE in that compliance period. Where a producer places no EEE onto the market which falls within a particular category of EEE in the previous compliance period they will have no obligation in respect of that category in the relevant compliance period.

- (10) A notification served under paragraph (8)(b) will include the following information—
- (a) the relevant compliance period;
  - (b) the amount in tonnes of the relevant WEEE, by reference to the categories of EEE, for which the appropriate authority has determined under paragraph (8) that that producer or the authorised representative will be responsible under paragraph (2);
  - (c) an explanation of how the amount of the relevant WEEE referred to in sub-paragraph (b) has been determined using the calculation set out in paragraph (6).
- (11) For the purpose of determining the amount of relevant WEEE for which a producer or an authorised representative is responsible under paragraph (2) using the calculation set out in paragraph (6)—
- (a) the appropriate authority will take account of the information provided to it—
    - (i) during the transitional period, in compliance with regulations 35 and 37 in relation to the previous compliance period; or
    - (ii) from 1st January 2019, in compliance with regulations 36 and 38 in relation to the previous compliance period; and
    - (iii) where sub-paragraph (i) or (ii) applies, by that producer or the authorised representative in compliance with a notification served under regulation 59(3);
  - (b) where any of the information referred to in sub-paragraph (a) has not been provided to it for any reason, the appropriate authority will make a reasonable estimate of what such information would have been had it been provided as required.
- (12) Where paragraph (11)(b) applies, the appropriate authority will take account of any relevant information that is available to it in making a reasonable estimate.
- (13) In this regulation—
- (a) during the transitional period, “categories of EEE” means—
    - (i) the categories of EEE listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
    - (ii) display equipment,
    - (iii) appliances containing refrigerants,
    - (iv) gas discharge lamps and LED light sources; and
    - (v) photovoltaic panels;
  - (b) from 1st January 2019, “categories of EEE” means the categories of EEE listed in Schedule 3.

### **Financing: WEEE from users other than private households**

**12.—(1)** Each producer or authorised representative will finance the costs of collection, treatment, recovery and environmentally sound disposal of—

- (a) WEEE from users other than private households arising during a compliance period from EEE placed on the market in the United Kingdom on or after 13 August 2005 (“the relevant WEEE”) by that producer or authorised representative; and
- (b) WEEE from users other than private households arising during a compliance period from EEE placed on the market in the United Kingdom before 13 August 2005 where that producer or authorised representative is supplying new EEE that—
  - (i) is intended to replace the relevant WEEE, and
  - (ii) is of an equivalent type or is fulfilling the same function as the relevant WEEE.

(2) Nothing in paragraph (1) will prevent a producer from concluding an agreement with users other than private households to make alternative arrangements between themselves to finance the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE.

### **Producers supplying EEE by means of distance communication**

**13.** A producer who is established in the United Kingdom and who places EEE onto the market in any Member State other than the United Kingdom by means of distance communication will comply with their obligations under the Directive in that Member State.

### **Obligation to join a scheme**

**14.—(1)** A producer who is established in the United Kingdom will be a member of a scheme in respect of any compliance period or part of a compliance period, during which he puts EEE on to the market and the compliance period following the last compliance period during which he puts EEE on to the market in the United Kingdom unless paragraph (11) applies.

(2) A producer who is established in a Member State other than the United Kingdom and who either—

- (a) places EEE onto the market in the United Kingdom; or
- (b) sells EEE by means of distance communication directly to consumers in the United Kingdom will either—
  - (i) appoint an authorised representative in the United Kingdom to fulfil their producer obligations under these Regulations on their behalf, or
  - (ii) comply with the requirements of paragraph (1).

(3) Any authorised representative appointed under paragraph (2)(b)(i) will—

- (a) be a member of a scheme, on behalf of the producer that they represent in respect of any compliance period, or any part of a compliance period during which the producer they represent places EEE on the market and the compliance period following the last compliance period during which he places EEE on the market in the United Kingdom, unless paragraph 10 applies; and
- (b) be appointed by way of written mandate.

(4) Subject to paragraph (5), a producer who is required by paragraph (1) to be a member of a scheme or an authorised representative who has been appointed under paragraph (2) will in respect of any compliance period join a scheme on or before 15th November in the year immediately preceding the commencement of that compliance period.

(5) Where a producer does not place, or form the intention of placing, EEE on the market in the United Kingdom until after the date by which that producer or the authorised representative should have joined a scheme under paragraph (4), that producer or the authorised representative will join a scheme within 28 days of the date that he puts or forms the intention of putting EEE on the market in the United Kingdom.

(6) Where paragraph (1) or (2) applies—

- (a) a producer or an authorised representative who has obligations under both regulations 11 and 12 in respect of any compliance period or any part of a compliance period may join—
  - (i) one scheme that has been approved under regulation 55 for the purposes of regulations 28 and 29, or
  - (ii) one scheme that has been approved under regulation 55 for the purposes of regulation 28 and one scheme that has been approved under regulation 55 for the purposes of regulation 29; and

(b) a producer or authorised representative who has obligations under regulation 11 or 12 but not both in respect of any compliance period, or any part of a compliance period, may join—

(i) in the case of a producer or authorised representative who has obligations under regulation 11, one scheme that has been approved under regulation 55 for the purposes of regulation 28, or

(ii) in the case of a producer or authorised representative who has obligations under regulation 12, one scheme that has been approved under regulation 55 for the purposes of regulation 29.

(7) Subject to paragraph (10), where a producer or authorised representative is a member of a scheme that has been approved under regulation 55 for the purposes of regulation 28, that producer or authorised representative will be exempt from complying with any obligation that he has under regulation 11(1) or (2) in respect of a relevant compliance period during which his membership of that scheme subsists.

(8) Subject to paragraph (10), where a producer or authorised representative is a member of a scheme that has been approved under regulation 55 for the purposes of regulation 29, that producer or authorised representative will be exempt from complying with any obligation that he has under regulation 12(1) in respect of a relevant compliance period during which his membership of that scheme subsists.

(9) Where a producer or the authorised representative is a member of a scheme and he has been notified by the appropriate authority under regulation 58(3) that approval of that scheme (“the old scheme”) has been withdrawn under regulation 58(1)—

(a) that producer or the authorised representative will, within 28 days of the date of the notification served on him by the appropriate authority under regulation 58(3), become a member of a scheme (“the new scheme”); or

(b) that producer or the authorised representative will—

(i) within 28 days of the date of the notification served on him by the appropriate authority under regulation 58(3), notify the appropriate authority of his intention to become a member of a proposed scheme which is the subject of an application for approval made under regulation 55(2); and

(ii) in the case where that proposed scheme is—

(aa) approved by a decision made under regulation 55, become a member of a scheme within 28 days of the date of a notification given to that producer under regulation 55(8); or

(bb) not approved by a decision made under regulation 55, become a member of a scheme within 28 days of the date of a notification given to that producer or authorised representative under regulation 56(3).

(10) Where paragraph (9) applies and a producer or authorised representative has benefited from an exemption under paragraph (7) or (8) by virtue of his membership of the old scheme, the exemption in that paragraph will cease to apply to him and he will comply with—

(a) any obligation that he has under regulations 11(1) or 12(1) until the date he joins a new scheme; and

(b) regulation 19.

(11) A small producer or their authorised representative will not be required to join a producer compliance scheme provided that they are registered with the appropriate authority as a small producer in accordance with regulation 16.

### Registration of small producers

**15.** A small producer or an authorised representative who puts EEE onto the market for the first time in the United Kingdom during any compliance period or part of a compliance period must register with the appropriate authority in that compliance period unless—

- (a) the details of the small producer or authorised representative already appear on a register kept by the appropriate authority under regulation 77; or
- (b) the producer or authorised representative is a member of a producer compliance scheme.

### Application to register as a small producer

**16.—(1)** A small producer or authorised representative who is required to register with the appropriate authority under regulation 15, must make an application for registration as a small producer—

- (a) by 31st January in the compliance period to which the registration relates; or
  - (b) within 28 days of the date on which that producer places EEE on the market for the first time in the United Kingdom.
- (2) The application for registration which is submitted to the appropriate authority must—
- (a) be made in writing;
  - (b) be signed—
    - (i) where the producer or authorised representative is an individual, by that individual,
    - (ii) where the producer is a partnership, by a partner,
    - (iii) where the producer is a body registered in the United Kingdom, by a director or the company secretary of that body,
  - (c) contain the information set out in Part 4 of Schedule 8; and
  - (d) be accompanied by—
    - (i) tonnage data, broken down by each category of EEE, which establishes that the small producer placed less than 5 tonnes of EEE onto the market during the preceding compliance period; and
    - (ii) where the appropriate authority is the Environment Agency, the Natural Resources Body for Wales or SEPA, the application charge specified in regulation 59(2); and
    - (iii) where the appropriate authority is the Department of the Environment, the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006<sup>(25)</sup>.
- (3) The application for registration will be granted where—
- (a) the producer has complied with the requirements of paragraph (2); and
  - (b) the producer who is the subject of the application for registration is not already registered with an appropriate authority under this regulation in relation to the compliance period in which the application is made.
- (4) Where a small producer or authorised representative submits an application in accordance with—
- (a) regulation 16(1)(a), the appropriate authority will notify the producer or authorised representative in writing of the outcome of their application by no later than 28th February in the compliance period to which the application relates; or

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(25) S.R. (NI) 2006 No 509.



(b) regulation 16(1)(b), the appropriate authority will notify the producer or authorised representative in writing of the outcome of their application within 28 days of the date on which the application was received by the appropriate authority.

(5) Where a small producer or authorised representative is notified that their application has been granted under paragraph (4), the approval will cover the compliance period to which the application relates.

(6) A small producer or authorised representative who has been appointed to act on behalf of a producer, who is established in the United Kingdom who places EEE onto the market in any Member State other than the United Kingdom, including by means of distance communication, will comply with their obligations under the Directive in that Member State.

### **Small producers: Conditions of registration**

17.—(1) Registration of a producer as a small producer or of an authorised representative appointed by a small producer will be subject to the following conditions—

- (a) the producer complies with his obligations under Part 3, as applicable;
- (b) that the producer will provide any information reasonably requested by the appropriate authority with regard to the obligations referred to in paragraph (a);
- (c) that the producer will pay the fee specified in regulation 59(2)(b) by 31st January in each compliance period or part of a compliance period during which they place EEE onto the market in the United Kingdom;
- (d) that the producer will, in relation to a compliance period, or any part of a compliance period, keep records in writing of the following information and submit these records to the appropriate authority by no later than 31st January in the year following the year to which the data relates—
  - (i) the amount in tonnes of all EEE which they have placed on the market in the United Kingdom during the compliance period which, during the transitional period, falls within—
    - (aa) each of the categories listed in Schedule 1 (excluding display equipment, equipment containing refrigerants gas discharge lamps and photovoltaic panels),
    - (bb) display equipment,
    - (cc) appliances containing refrigerants,
    - (dd) gas discharge lamps and LED light sources; and
    - (ee) photovoltaic panels; and
  - (ii) from 1st January 2019, the amount in tonnes of all EEE which they have placed on the market in the United Kingdom during the compliance period which falls within each of the categories listed in Schedule 3;
  - (iii) for each category referred to in sub-paragraphs (i) and (ii) the amount of tonnes of EEE intended for use by—
    - (aa) private households; and
    - (bb) users other than private households.
- (e) The records referred to in paragraph (d) will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

(2) Where a producer or authorised representative who has registered as a small producer in a particular compliance period places 5 tonnes of EEE or more onto the market during that compliance

period, that producer or authorised representative must notify the appropriate authority that they are no longer a small producer within 28 days of the date on which they placed 5 tonnes or more of EEE onto the market.

(3) Any producer or authorised representative to whom paragraph (2) applies must join a producer compliance scheme within 28 days of the date on which they placed 5 tonnes of EEE or more onto the market in a particular compliance period.

### **Information provided to operators of schemes**

**18.**—(1) Where a producer or an authorised representative is a member of a scheme, he will provide to the operator of that scheme any information which that operator will need to rely on for the purposes of—

- (a) making an application to register a producer under regulation 26;
- (b) making a notification under regulation 27;
- (c) complying with a reporting requirement under regulations 37 or 38; and
- (d) complying with a demand to produce records under regulation 40 or 41.

(2) A producer or authorised representative who provides to the operator of the scheme information to which paragraph (1) applies will—

- (a) ensure that the information is in writing and is signed by—
  - (i) where the producer or authorised representative is an individual, that individual,
  - (ii) where the producer is a partnership, a partner,
  - (iii) where the producer is a body registered in the United Kingdom, a director or the company secretary of that body; and
- (b) inform the operator of the scheme in writing of any material change in the information provided to that operator in accordance with this regulation within 28 days of the occurrence of any such change.

### **Declaration of Compliance**

**19.**—(1) Where regulation 14(10) applies and a producer or an authorised representative has any obligation under regulations 11 and 12 during a relevant compliance period, or any part of a relevant compliance period, he will provide a declaration of compliance to the appropriate authority on or before 31st March in the year that immediately follows the end of that compliance period.

(2) A declaration of compliance will—

- (a) be in writing;
- (b) include the information set out in Part 1 of Schedule 7; and
- (c) be accompanied by copies of all evidence notes acquired in respect of the relevant compliance period to which the declaration relates.

(3) Where a producer or authorised representative is under an obligation to provide a declaration of compliance under this regulation, that declaration will be signed by—

- (a) where the producer or authorised representative is an individual, that individual;
- (b) where the producer is a partnership, a partner;
- (c) where the producer is a body registered in the United Kingdom, a director of that body.

## **Record keeping**

**20.**—(1) A producer to whom the obligation in regulation 14(1) applies or an authorised representative appointed by a producer under regulation 14(2) in relation to a compliance period, or any part of a compliance period, will keep records in writing of the following information during the transitional period—

- (a) the amount in tonnes of all EEE which he has placed on the market in the United Kingdom during that compliance period which falls within—
  - (i) each of the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
  - (ii) display equipment,
  - (iii) appliances containing refrigerants,
  - (iv) gas discharge lamps and LED light sources and
  - (v) photovoltaic panels; and
- (b) for each category referred to in sub-paragraph (a), the amount in tonnes of EEE intended for use by—
  - (i) private households; and
  - (ii) users other than private households.

(2) From 1st January 2019, a producer to whom the obligation in regulation 14(1) applies or an authorised representative appointed by a producer under regulation 14(2) in relation to a compliance period, or any part of a compliance period, will, keep records in writing of the amount in tonnes of all EEE which he has placed on the market in the United Kingdom during that compliance period which falls within each of the categories listed in Schedule 3.

(3) The records referred to in paragraph (2) will, for each category referred to in Schedule 3, show the amount in tonnes of EEE intended for use by—

- (i) private households; and
- (ii) users other than private households.

(4) The records referred to in this regulation will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

## **Declaration of EEE producer registration number**

**21.** A producer or where one has been appointed, an authorised representative, will declare either—

- (a) his EEE producer registration number; or
- (b) the producer registration number of the producer that he has been appointed to represent; to any distributor to whom he intends to sell, sells, or otherwise supplies EEE.

## **Marking EEE with the crossed out wheeled bin symbol**

**22.**—(1) A producer or authorised representative will mark EEE that he puts on the market with the symbol shown in Schedule 6 (“the crossed out wheeled bin symbol”).

(2) Except where paragraph (3) applies, the crossed out wheeled bin symbol will be affixed in a visible, legible and indelible form to each item of equipment.

(3) In exceptional cases, where this is necessary because of the size or function of the product, the crossed out wheeled bin symbol will be printed on—

- (a) the packaging;
- (b) the instructions for use; and
- (c) the accompanying warranty.

#### **Marking EEE with a date mark**

**23.**—(1) A producer or authorised representative will mark EEE that he puts on the market in such a manner that the equipment can be easily identified as having been placed on the market after 13th August 2005 (“the date mark”).

(2) The date mark will be affixed in a visible, legible and indelible form to each item of equipment.

#### **Information on new types of EEE**

**24.**—(1) A producer or an authorised representative will provide information free of charge, about preparation for reuse and environmentally sound treatment for each new type of EEE that has been placed on the market for the first time by that producer within one year of such equipment being placed on the market.

(2) The information mentioned in paragraph (1) will identify so far as it may be reasonably required by any person carrying out treatment activities—

- (a) the different components and materials of the EEE; and
- (b) the location of any dangerous substances and mixtures in the EEE.

(3) A producer or authorised representative will make the information mentioned in paragraph (1) available to any person carrying out treatment activities in the form of manuals or by means of electronic media.

## **PART 4**

### **SCHEME OBLIGATIONS**

#### **Registration of producers**

**25.**—(1) Subject to paragraph (2), an operator of a scheme will register each scheme member, with the appropriate authority for each compliance period, or part of a compliance period, during which that producer’s membership of the scheme subsists.

(2) Paragraph (1) will not apply where regulation 27 applies.

#### **Application to register producers and authorised representatives**

**26.**—(1) Subject to paragraph (2), an operator of a scheme who is required by regulation 25 to register the scheme members of that scheme will for the purpose of registering scheme members for any compliance period, or any part of a compliance period, make an application to the appropriate authority on or before 30th November in the year immediately preceding the commencement of that compliance period.

(2) Where a producer or an authorised representative becomes a member of a scheme after 15th November in the year immediately preceding the commencement of the relevant compliance period, the operator of the scheme will make an application to register that producer or authorised

representative to the appropriate authority within 28 days of the date when that producer or authorised representative becomes a member of the scheme.

(3) Where the operator of the scheme is a partnership, an application for registration made under paragraphs (1) or (2) will be made by any partner acting on behalf of the partnership.

(4) An application for registration made under paragraph (1) or (2) will—

- (a) be submitted in writing or online;
- (b) contain the information set out in Schedule 8 which, will be submitted in the format published by the appropriate authority under regulation 77; and
- (c) be accompanied by evidence that the operator of the scheme has been approved by the appropriate authority under regulation 55.

(5) An application for registration will be granted where—

- (a) the operator of the scheme has complied with the requirements of paragraph (4);
- (b) the scheme has been approved by the appropriate authority under regulation 55; and
- (c) the producer or the authorised representative who is the subject of the application is not already registered with an appropriate authority under this regulation in relation to the relevant compliance period.

(6) Where an application for registration is granted in respect of any compliance period, the appropriate authority will, on or before 15th January of that compliance period or within 28 days of the date of an application made under paragraph (2), whichever is the later—

- (a) confirm to the operator of the scheme in writing that specified scheme members are registered with it for that compliance period; and
- (b) subject to paragraph (11), issue an EEE producer registration number for each registered scheme member.

(7) Where an application for registration made under paragraph (1) is granted, the registration of any scheme member who is the subject of that application will take effect for the whole of the compliance period in respect of which the application was made.

(8) Where an application for registration made under paragraph (2) is granted, the registration of any scheme member who is the subject of that application will take effect from the date the application is granted or the date of the commencement of the relevant compliance period, whichever is the later, until the end of the relevant compliance period.

(9) Any information provided to the appropriate authority under this regulation will be as accurate and complete as reasonably possible.

(10) Where a scheme member notifies a scheme operator of a change in their details under regulation 18(2), a scheme operator will notify the appropriate authority of this change within 28 days of receiving notification from the scheme member.

(11) Where a scheme member has been issued with an EEE producer registration number by an appropriate authority in respect of a previous application made under this regulation within the last five years, the appropriate authority will not issue a new EEE producer registration number but will confirm to the operator of the scheme that that scheme member will retain his previous EEE producer registration number.

### **Notification of new scheme**

27.—(1) Where a producer or an authorised representative becomes a member of a scheme in respect of a particular compliance period and is already registered with an appropriate authority in relation to that compliance period, the operator of the scheme will notify that appropriate authority

within 28 days of the date when that producer or authorised representative becomes a member of the scheme.

- (2) A notification made under paragraph (1) will—
- (a) be made in writing;
  - (b) contain the information set out in Schedule 8, which will be submitted in the format published by the appropriate authority under regulation 77; and
  - (c) be accompanied by evidence that the scheme has been approved by the appropriate authority under regulation 55.
- (3) Any information provided to the appropriate authority under this regulation will be as complete and accurate as reasonably possible.

### **Financing: WEEE from private households**

**28.**—(1) Where regulation 14(7) applies in relation to a scheme, the operator of that scheme will be responsible for financing the costs referred to in regulation 11(1) for which each scheme member is responsible under regulation 11 in any compliance period, or any part of a compliance period, during which his membership of that scheme subsists.

(2) It will be the duty of the appropriate authority to determine the amount of relevant WEEE for which each operator of a scheme will be responsible under paragraph (1) by applying the calculation set out in paragraph (3).

(3) The amount of the relevant WEEE for which each operator of a scheme will be responsible under paragraph (2) will be calculated in relation to each of the categories of EEE as follows—

$$(A \div B) \times C$$

where—

“A” is the total amount in tonnes of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been placed on the market in the United Kingdom by all scheme members in the previous compliance period, or part of the previous compliance period (“the relevant compliance period”) during which their membership of that scheme subsists;

“B” is the total amount in tonnes of EEE intended for use by private households and falling within the relevant category that has been placed on the market in the United Kingdom by all producers in the same compliance period used in “A”; and

“C” is the total amount in tonnes of WEEE from private households which is waste from electrical or electronic equipment that falls within the relevant category which the Secretary of State has determined under paragraph (5) to be the total amount in tonnes to be financed by producers in that category in the compliance period that follows compliance period used in “A”.

- (4) Where paragraph (1) applies—
- (a) it will be the duty of the appropriate authority to determine the amount of relevant WEEE for which that operator of a scheme will be responsible under paragraph (2) by using the calculation set out in paragraph (3); and
  - (b) the appropriate authority will serve a notification in writing on that operator of a scheme specifying the total amount in tonnes of WEEE for which he will be responsible under this regulation on or before 31st March of the relevant compliance period.
- (5) For each compliance period, the Secretary of State will, after consultation with such persons or bodies as appear to him representative of the interests concerned—

- (a) set the amount in tonnes of WEEE falling within each category of EEE, that is to be financed by all producers to whom paragraph (1) applies who have placed EEE onto the market in the same compliance period used in A; and
- (b) determine whether it is appropriate to deduct any of the following—
  - (i) an estimate of non-obligated WEEE,
  - (ii) an estimate of WEEE arising, that has been properly treated in compliance with the requirements of the Directive outside the system for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE; and
  - (iii) an estimate of WEEE arising that will be retained under regulation 53from the amount in tonnes of WEEE to be collected in the United Kingdom each compliance period.
- (6) The total amount in tonnes of WEEE for which a scheme is responsible in each compliance period is the aggregate of their obligations in each category of EEE in that compliance period.
- (7) A notification served under paragraph (4)(b) will include the following information—
  - (a) the relevant compliance period;
  - (b) the amount in tonnes of the relevant WEEE, by reference to the categories of EEE, for which the appropriate authority has determined that the scheme will be responsible under paragraph (1);
  - (c) an explanation of how the amount of the relevant WEEE referred to in sub-paragraph (b) has been determined using the calculation set out in paragraph (3).
- (8) For the purpose of determining the amount of relevant WEEE for which a scheme will be responsible under paragraph (1) using the calculation set out in paragraph (3)—
  - (a) the appropriate authority will take account of the information provided to it—
    - (i) during the transitional period, in compliance with regulations 35 and 37 in relation to the previous compliance period, or
    - (ii) from 1st January 2019, in compliance with regulations 36 and 38 in relation to the previous compliance period, and
    - (iii) where sub-paragraph (i) or (ii) applies, by that producer or the authorised representative in compliance with a notification served under regulation 58(3); and
  - (b) where any of the information referred to in sub-paragraph (a) has not been provided to it for any reason, the appropriate authority will make a reasonable estimate of what such information would have been had it been provided as required.
- (9) Where paragraph (8)(b) applies, the appropriate authority will take account of any relevant information that is available to it in making a reasonable estimate.
- (10) In this regulation,
  - (a) during the transitional period, “categories of EEE” means—
    - (i) the categories of EEE listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
    - (ii) display equipment,
    - (iii) appliances containing refrigerants,
    - (iv) gas discharge lamps and LED light sources; and
    - (v) photovoltaic panels; and
  - (b) from 1st January 2019, “categories of EEE” means the categories of EEE listed in Schedule 3.

(11) Where the appropriate authority grants an application made under regulation 26(2) or receives a notification under regulation 26(10) that may have the effect of changing the amount of relevant WEEE for which that operator of a scheme will be responsible under paragraph (1) the appropriate authority will—

- (a) re-determine the amount of relevant WEEE for which that operator of a scheme will be responsible under paragraph (2) by using the calculation set out in paragraph (4)(a); and
- (b) serve a revised notification on that operator of a scheme in accordance with paragraph 4(b) within 28 days of the grant being approved or the notification being received by the appropriate authority.

(12) Where the appropriate authority issues a revised notification under paragraph 11(b), any notification that:

- (a) has been issued under paragraph 4(b), and;
- (b) relates to the same compliance period as the revised notification;

will be superseded by the revised notification issued under paragraph 11(b).

### **Financing: WEEE from users other than private households**

**29.**—(1) Where regulation 14(8) applies in relation to a scheme, the operator of that scheme will be responsible for financing the costs referred to in regulation 12(1) for which each scheme member is responsible under regulation 12 in any compliance period, or any part of a compliance period, during which his membership of that scheme subsists.

(2) Nothing in paragraph (1) will prevent an operator of a scheme who is acting on behalf of a scheme member from concluding an agreement whereby the parties to the agreement make alternative arrangements between themselves to finance the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE.

### **Prioritisation of the reuse of whole appliances**

**30.** In respect of any WEEE for which it is responsible under these Regulations, an operator of a scheme will ensure that systems are set up to prioritise the reuse of whole appliances.

### **Treatment**

**31.**—(1) In respect of any WEEE for which it is responsible under these Regulations, an operator of a scheme will ensure—

- (a) that systems are set up to provide for the separate collection and treatment of such WEEE using the best available collection, treatment, recovery and recycling techniques; and
- (b) that such WEEE is—
  - (i) treated at an ATF, or
  - (ii) exported by an approved exporter for treatment outside the United Kingdom.

(2) Paragraph (1)(b) does not apply to WEEE reused as a whole appliance.

### **Recovery**

**32.**—(1) In respect of any WEEE for which it is responsible under these Regulations, an operator of a scheme will ensure—

- (a) that systems are set up to provide for the recovery of such WEEE; and
- (b) that such WEEE is—



- (i) recovered or recycled by a reprocessor, or
  - (ii) exported by an approved exporter for recovery or recycling outside the United Kingdom.
- (2) Paragraph 1(b) will not apply to WEEE reused as a whole appliance.

### **Payment of a compliance fee**

**33.**—(1) Where a scheme has not financed the collection, treatment, recovery and environmentally sound disposal of the total amount of WEEE in each of the WEEE categories for which its members are responsible under regulation 11, through—

- (a) collecting WEEE from designated collection facilities; or
- (b) collecting WEEE that has been returned under regulation 43 or 52 but is not deposited at a designated collection facility; or
- (c) arrangements with third parties; or
- (d) a combination of (a), (b) and (c);

the operator of that scheme may choose to finance the collection, treatment, recovery and environmentally sound disposal of the amount of WEEE in tonnes which is equal to the amount in tonnes of WEEE which that scheme has not collected within the compliance period by paying a compliance fee.

(2) The amount of WEEE for which any scheme that chooses to pay the compliance fee under paragraph (1) will be responsible, will be calculated in relation to each of the categories of EEE as follows—

$$(A \div B) \times C - D$$

where—

“A” is the total amount in tonnes of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been placed on the market in the United Kingdom by all of the members of a particular scheme in the previous compliance period, or part of the previous compliance period (“the relevant compliance period”) during which their membership of that scheme subsists;

“B” is the total amount in tonnes of EEE intended for use by private households and falling within the relevant category that has been placed on the market in the United Kingdom by all producers in the same compliance period used in “A”;

“C” is the total amount in tonnes of WEEE from private households which is waste from electrical or electronic equipment that falls within the relevant category which the Secretary of State has determined under regulation 28(5) to be the total amount in tonnes to be financed by producers in that category in the compliance period that follows compliance period used in “A”; and

“D” is the total amount in tonnes of WEEE from private households that has been financed by the scheme in the relevant category during the compliance period used in “A”.

(3) A scheme operator who elects to pay the compliance fee referred to in paragraph (1) must ensure that the fee is paid to a third party approved by the Secretary of State under regulation 76 by 31st March in the compliance period following that to which the fee relates.

### **Collection Arrangements**

**34.**—(1) In each compliance period, the operator of a designated collection facility may contact the operator of any scheme that has been approved under regulation 55 for the purposes of complying with the obligations imposed on that scheme under regulation 28 and request that operator of a

scheme arranges for the collection, treatment, recovery and environmentally sound disposal of the WEEE that has been deposited at a facility (“the specified facility”) provided that the operator of the specified facility—

- (a) is a local authority or is acting on behalf of a local authority; and
- (b) has, either during the compliance period in which the request is made or in the previous compliance period, been party to an arrangement with a scheme for the collection, treatment, recovery and environmental disposal of WEEE deposited at its facilities, which has lapsed.

(2) Nothing in this regulation prevents the operator of the specified facility from contacting the operator of more than one scheme before making a request under paragraph (1).

(3) Any scheme that receives a request under paragraph (1) will arrange for collection, treatment, recovery and environmentally sound disposal of the WEEE that has been deposited at the specified facility.

(4) Nothing in this regulation will prevent a scheme who receives a request under paragraph (1) from entering into an arrangement with another scheme or schemes to collect the WEEE that has been deposited at the specified facility.

(5) Nothing in this regulation obliges a scheme receiving a request from a designated collection facility under paragraph (1) to comply with their obligations in that paragraph in relation to WEEE falling within a WEEE stream to which the operator of that facility has received approval to retain under regulation 53 during the compliance period in which the request under paragraph (1) is made.

### **Reporting: WEEE during the transitional period**

**35.**—(1) An operator of a scheme must provide to the appropriate authority information on—

- (a) the total amount in tonnes of WEEE that the operator has been responsible for collecting from a designated collection facility;
- (b) the total amount in tonnes of WEEE that the operator has been responsible for delivering to an AATF for treatment or to an approved exporter for treatment outside the United Kingdom;
- (c) the total amount in tonnes of WEEE that has been returned to the operator under regulation 43;
- (d) the total amount in tonnes of WEEE that the operator has taken back under regulation 50;

during a relevant compliance period.

(2) The information referred to in paragraph (1) must be—

- (a) in writing;
- (b) either submitted in the format published by the appropriate authority under regulation 79 or online; and
- (c) provided—
  - (i) on or before 30th April in a relevant compliance period in respect of the first quarter period in that compliance period,
  - (ii) on or before 31st July in a relevant compliance period in respect of the second quarter period in that compliance period,
  - (iii) on or before 31st October in a relevant compliance period in respect of the third quarter period in that compliance period; and
  - (iv) on or before 31st January in the year immediately following the end of a relevant compliance period in respect of the fourth quarter period in that compliance period.

- (3) The information referred to in paragraph (1) will, during the transitional period—
- (a) specify the amount in tonnes of WEEE by reference to each of the following categories—
    - (i) the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
    - (ii) display equipment,
    - (iii) appliances containing refrigerants,
    - (iv) gas discharge lamps and LED light sources; and
    - (v) photovoltaic panels; and
  - (b) for each category referred to in sub-paragraph (a), specify the amount in tonnes of—
    - (i) WEEE from private households; and
    - (ii) WEEE from users other than private households.
- (4) The information referred to in paragraph (1)(b) will specify to which AATF or approved exporter the relevant WEEE was delivered.

**Reporting: WEEE from 1st January 2019**

**36.**—(1) From 1st January 2019, an operator of a scheme must provide to the appropriate authority information on—

- (a) the total amount in tonnes of WEEE that the operator has been responsible for collecting from a designated collection facility;
  - (b) the total amount in tonnes of WEEE that the operator has been responsible for delivering to an AATF for treatment or to an approved exporter for treatment outside the United Kingdom;
  - (c) the total amount in tonnes of WEEE that has been returned to the operator under regulation 43;
  - (d) the total amount in tonnes of WEEE that the operator has taken back under regulation 50;
- during a relevant compliance period.

- (2) The information referred to in paragraph (1) must be provided—
- (i) on or before 30th April in a relevant compliance period in respect of the first quarter period in that compliance period,
  - (ii) on or before 31st July in a relevant compliance period in respect of the second quarter period in that compliance period,
  - (iii) on or before 31st October in a relevant compliance period in respect of the third quarter period in that compliance period; and
  - (iv) on or before 31st January in the year immediately following the end of a relevant compliance period in respect of the fourth quarter period in that compliance period.
- (3) The information referred to in paragraph (1) must be—
- (a) in writing;
  - (b) either submitted in the format published by the appropriate authority under regulation 79 or online;
  - (c) specify the amount in tonnes of WEEE by reference to each of the categories listed in Schedule 3; and
  - (d) for each category referred to in regulation 35(3)(a), specify the amount in tonnes of—

- (i) WEEE from private households; and
- (ii) WEEE from users other than private households.

(4) The information referred to in paragraph (1)(b) will specify to which AATF or approved exporter the relevant WEEE was delivered.

#### **Reporting: EEE placed on the market during the transitional period**

**37.**—(1) An operator of a scheme must provide to the appropriate authority information on the total amount in tonnes of EEE that each member of that scheme has placed on the market in the United Kingdom in each compliance period, or part of a compliance period, during which his membership of that scheme subsists.

- (2) The information referred to in paragraph (1) will, during the transitional period—
  - (a) be provided in writing or online;
  - (b) specify the amount in tonnes of EEE by reference to each of the following categories—
    - (i) the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
    - (ii) display equipment,
    - (iii) appliances containing refrigerants,
    - (iv) gas discharge lamps and LED light sources; and
    - (v) photovoltaic panels;
  - (c) for each category referred to in sub-paragraph (b), specify the amount in tonnes of—
    - (i) EEE from private households; and
    - (ii) EEE from users other than private households;
  - (d) be provided for EEE intended—
    - (i) for use by private households for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period, and
    - (ii) for use by users other than private households on or before 31st January of the year immediately following the end of the relevant compliance period;
  - (e) be submitted in the format published in regulation 79.

#### **Reporting: EEE placed on the market from 1st January 2019**

**38.**—(1) From 1st January 2019, an operator of a scheme must provide to the appropriate authority information on the total amount in tonnes of EEE that each member of that scheme has placed on the market in the United Kingdom in each compliance period, or part of a compliance period, during which his membership of that scheme subsists.

- (2) From 1st January 2019 the information referred to in paragraph (1) will—
  - (a) be in writing; and
  - (b) specify the amount in tonnes of EEE by reference to each of the categories in Schedule 3;
  - (c) for each category referred to in sub-paragraph (b), specify the amount in tonnes of—
    - (i) EEE from private households; and
    - (ii) EEE from users other than private households.
- (3) The information referred to in paragraph (1) will be provided for EEE intended—

- (a) for use by private households for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period;
- (b) for use by users other than private households on or before 31st January of the year immediately following the end of the relevant compliance period; and
- (c) will be submitted in the format published by the appropriate authority under regulation 79.

### **Declaration of compliance**

**39.**—(1) Where an operator of a scheme has any obligation in relation to—

- (a) WEEE from private households under regulation 28, 31 or 32; or
- (b) WEEE from users other than private households under regulation 29, 31 or 32 during a relevant compliance period

that operator of a scheme will provide a declaration of compliance to the appropriate authority on or before 31st March of the year that immediately follows the end of that compliance period.

(2) A declaration of compliance must—

- (a) be made in writing;
- (b) include the information set out in Part 2 of Schedule 7;
- (c) be accompanied by copies of all evidence notes acquired in respect of the relevant compliance period to which the declaration relates; and
- (d) where a scheme operator has elected to pay a compliance fee in relation to regulation 33, contain evidence that the compliance fee has been paid.

(3) Where an operator of a scheme is under an obligation to provide a declaration of compliance under this regulation, that declaration will be signed by—

- (a) where that operator of a scheme is an individual, that individual;
- (b) where that operator of a scheme is a partnership, a partner;
- (c) where that operator of a scheme is a body registered in the United Kingdom, a director of that body; and
- (d) where that operator of a scheme is a body that is not registered in the United Kingdom, the individual who has control or management of that body.

### **Record keeping: transitional period**

**40.**—(1) Each operator of a scheme who has obligations under regulation 28, 29, 31 or 32 in relation to any compliance period, or any part of a compliance period will, during the transitional period, keep records of the following information—

- (a) the amount in tonnes of all WEEE which that operator of a scheme has delivered to or collected from or caused to be deposited at or collected from—
  - (i) a designated collection facility,
  - (ii) an AATF, or
  - (iii) an approved exporter, during that compliance period, or that part of a compliance period;
- (b) the categories of the WEEE referred to in sub-paragraph (a) by reference to—
  - (i) each of the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
  - (ii) display equipment,

- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources; and
- (v) photovoltaic panels;
- (c) for each category referred to in sub-paragraph (b), specify the amount in tonnes of—
  - (i) WEEE from private households, and
  - (ii) WEEE from users other than private households; and
- (d) the amount in tonnes of WEEE reused as a whole appliance.

(2) The records referred to in this regulation will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

#### **Record keeping: From 1st January 2019**

**41.**—(1) From 1st January 2019, an operator of a scheme who has obligations under regulation 28, 29, 31 or 32 in relation to any compliance period, or any part of a compliance period, will keep records of the following information—

- (a) the amount in tonnes of all WEEE which that operator of a scheme has delivered to or collected from or caused to be deposited at or collected from—
  - (i) a designated collection facility,
  - (ii) an AATF, or
  - (iii) an approved exporter, during that compliance period, or that part of a compliance period;
- (b) the categories of the WEEE referred to in sub-paragraph (a) by reference to each of the categories listed in Schedule 3; and
- (c) for each category referred to in sub-paragraph (b), specify the amount in tonnes of—
  - (i) WEEE from private households, and
  - (ii) WEEE from users other than private households; and
- (d) the amount in tonnes of WEEE reused as a whole appliance.

(2) The records referred to in this regulation will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

## PART 5

### DISTRIBUTOR OBLIGATIONS AND RIGHTS: WEEE FROM PRIVATE HOUSEHOLDS

#### **Takeback**

**42.**—(1) A distributor who supplies new EEE to a person will ensure that WEEE from private households can be returned to them free of charge and on a one-to-one basis by that person, provided that any such WEEE—

- (a) is of an equivalent type to, and
- (b) has fulfilled the same function as,

the supplied equipment.

(2) A distributor who supplies new EEE from a retail premises with a sales area relating to EEE of at least 400m<sup>2</sup> must provide for the collection of very small WEEE free of charge to the end-user of the EEE with no obligation to buy EEE of an equivalent type. Such collection must take place at the retail premises or in its immediate proximity.

### **Returns**

**43.**—(1) A distributor may return WEEE from private households free of charge to the system that has been set up by an operator of a scheme that has been approved under regulation 55 for the purposes of complying with that operator of a scheme’s obligations in relation to WEEE from private households under regulation 28.

(2) For the purposes of paragraph (1), “system” means a system that an operator of a scheme has set up —

- (a) in accordance with regulations 30, 31 and 32; and
- (b) under regulation 50.

### **Information**

**44.** A distributor who supplies new EEE will make information available in writing to users of EEE in private households on—

- (a) the requirement on each Member State under Article 5(1) of the Directive to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of collection (including separate collection) of WEEE for treatment, recovery and environmentally sound disposal;
- (b) the collection and take-back systems that are available to them;
- (c) their role in contributing to the reuse, recycling and other forms of recovery of WEEE under these Regulations;
- (d) the potential effects on the environment and human health as a result of the presence of hazardous substances in EEE; and
- (e) the meaning of the crossed out wheeled bin symbol shown in Schedule 6.

### **Record keeping**

**45.**—(1) A distributor to whom the regulation 42 applies will keep a record of the number of units of WEEE from private households that are returned to him under that regulation.

(2) A distributor who returns WEEE from private households under regulation 43 will keep a record of the number of units of WEEE from private households returned by him under that regulation.

(3) Each distributor to whom the obligation in regulation 44 applies will keep a record of the information made available under that regulation.

(4) The records referred to in this regulation will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the Secretary of State on demand.

### **Exemption for distributors who are current members of a distributor take back scheme**

**46.** Where a distributor is a member of a distributor take back scheme, they will be exempt from complying with the requirements of regulation 42 and 45(1) for the period during which his membership of the scheme subsists.

## PART 6

### MISCELLANEOUS

#### **Financing obligation: Collection of WEEE from users other than private households**

47.—(1) Where WEEE from a user other than a private household arises from EEE placed on the market in the United Kingdom before 13th August 2005 and regulation 12(1)(b) does not apply, the final user of that WEEE will finance the costs of its collection, treatment, recovery and environmentally sound disposal.

(2) Nothing will prevent a user other than a private household from concluding an agreement with a third party whereby the parties to the agreement make alternative arrangements between themselves to finance the costs of collection, treatment, recovery and environmentally sound disposal of WEEE.

(3) In respect of any WEEE which he is responsible for financing the costs of under paragraph (1), a user other than a private household will ensure that such WEEE is—

- (a) treated at an ATF, or
- (b) exported by an approved exporter for treatment outside the United Kingdom.

(4) Paragraph (3) does not apply to WEEE reused as a whole appliance.

#### **Obligation to optimise the reuse and recycling of WEEE**

48. Any person who collects or transports WEEE in connection with the carrying out of any obligation under regulations 28 or 29 will ensure that all such WEEE is collected and transported in a way that optimises reuse and recycling of that equipment or of components of that equipment.

#### **WEEE from private households which presents a health and safety risk**

49. Nothing in these Regulations will prevent any person from refusing to handle WEEE from private households that presents a health and safety risk to any individual because of contamination.

#### **Take back: WEEE from private households**

50. Nothing in these Regulations will prevent an operator of a scheme from establishing and operating a system to take back WEEE from private households provided that system is consistent with the Directive.

#### **Prohibition on showing the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households**

51. No person will show a purchaser at the time of sale of new EEE the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households.

#### **Final holder right of return: WEEE from private households**

52.—(1) A final holder may return WEEE from private households free of charge to the system that has been set up by an operator of a scheme that has been approved under regulation 55 for the purposes of complying with that operator of a scheme's obligations in relation to WEEE from private households under regulation 28.

(2) For the purposes of paragraph (1), "system" means a system that an operator of a scheme has set up—

- (a) in accordance with regulations 30, 31 and 32; and



(b) under regulation 50.

(3) For the purposes of this regulation, “final holder” means a final holder of WEEE from private households who is not able for any reason to return that WEEE free of charge to a designated collection facility.

#### **Notification of an intention to retain WEEE falling within certain WEEE streams**

**53.**—(1) The operator of a designated collection facility that is operated by a local authority may retain WEEE in any compliance period, which—

- (a) falls within one of the six WEEE collection streams; and
- (b) has been deposited for collection at that operator of a schemes facility

provided that the operator of the facility has notified the Secretary of State of their intention to retain that WEEE.

(2) A notification submitted to the Secretary of State under paragraph (1), will—

- (a) be made in writing;
- (b) be submitted to the Secretary of State by 31st January in the compliance period during which the operator intends to retain WEEE;
- (c) be valid only during the compliance period specified in paragraph (b);
- (d) provide data relating to the tonnage of WEEE deposited at the designated collection facility in the compliance period before the compliance period during which the operator intends to retain WEEE in relation to each of the five WEEE streams that the operator intends to retain; and
- (e) confirm that any WEEE retained by the operator of a designated collection facility in accordance with paragraph (1) will be—
  - (i) prepared for re-use,
  - (ii) treated at an AATF; or
  - (iii) exported by an approved exporter for treatment outside the United Kingdom.

(3) The Secretary of State will acknowledge receipt of any notification submitted under paragraph (2) by 28th February in the compliance period during which the operator intends to retain WEEE falling within a particular WEEE stream.

(4) A notification submitted under paragraph (2) which has been acknowledged by the Secretary of State under paragraph (3) permits the operator of the facility submitting the notification to retain WEEE falling within the WEEE streams listed in the notification during the compliance period during which the notification applies.

(5) By 31st January in the compliance period following that to which a notification made under paragraph (2) relates, the operator of a facility who submitted that notification will provide to the appropriate authority information on the total amount in tonnes of WEEE that has been retained during the previous compliance period.

(6) The information referred to in paragraph (5) will—

- (a) be in writing;
- (b) specify the amount of WEEE retained in each WEEE stream listed in the notification submitted under paragraph (2) in the previous compliance period;
- (c) be submitted in a format published by the Secretary of State.

(7) Any WEEE that is retained by the operator of a designated collection facility under this regulation will—

- (a) be treated at an AATF; or
- (b) exported by an approved exporter for treatment outside the United Kingdom.

### **Shipments of used EEE**

**54.**—(1) An approved exporter who exports used EEE will comply with the requirements of Schedule 9.

(2) The records referred to in Schedule 9 will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

## **PART 7**

### **APPROVAL OF PROPOSED SCHEMES AND WITHDRAWAL OF APPROVAL OF SCHEMES**

#### **Application for approval of a proposed scheme**

**55.**—(1) Subject to paragraph (2), an application for approval of a proposed scheme will be made to the appropriate authority by the operator of the proposed scheme in respect of an application for approval for a compliance period (“the relevant compliance period”), during the period commencing on 1st July and ending with 31st August in the year immediately preceding the commencement of that compliance period.

(2) Where a scheme member has been served with a notification under regulation 58(3) in relation to his membership of a particular scheme (“the old scheme”) and that scheme member has notified the appropriate authority under regulation 14(9) that he intends to join a proposed scheme, the operator of that proposed scheme must make an application under paragraph (1) within 28 days of the date of the notice served on that scheme member under regulation 58(3).

(3) Where the operator of a proposed scheme is a partnership the application for approval will be made by any partner acting on behalf of the partnership.

(4) An application for approval of a proposed scheme will—

- (a) be made in writing;
- (b) include—
  - (i) the information set out in Part 1 of Schedule 10, which will be submitted in the format published by the appropriate authority under regulation 79,
  - (ii) a copy of the constitution of the proposed scheme which must contain the information set out in Part 2 of Schedule 10; and
- (c) be accompanied by—
  - (i) where the appropriate authority is the Environment Agency, the Natural Resources body for Wales, or SEPA the application charge specified in regulation 59(1), and
  - (ii) where the appropriate authority is the Department of the Environment, the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006(26).

(5) An application for approval of a proposed scheme will be granted where—

- (a) the operator of the proposed scheme has complied with all of the requirements of paragraph (4); and
- (b) the appropriate authority is satisfied that the information provided by the operator of the proposed scheme in accordance with paragraph (4) demonstrates that—
  - (i) the operator of the proposed scheme will comply with the code of practice, and
  - (ii) the criteria for approval of a scheme set out in Part 3 of Schedule 10 are met, and will otherwise be refused.
- (6) Where an application for approval under this regulation is granted—
  - (a) the appropriate authority will notify the operator of the scheme in writing of that decision—
    - (i) in the case of an application made under paragraph (1), on or before 30th September of the year immediately preceding the relevant compliance period,
    - (ii) in the case of an application made under paragraph (2), on or before 30th September of the year immediately preceding the relevant compliance period or within 28 days of the date of receipt of that application, whichever is the later, and
    - (iii) in the case of an application made under paragraph (1) or (2) that has been the subject of a decision to refuse to grant approval and in respect of which there has been a successful appeal under regulation 84, on or before 30th September of the year immediately preceding the relevant compliance period or within 28 days of the date of the determination of the appeal, whichever is the later; and
  - (b) the approval will cover the period—
    - (i) in the case of an application made under paragraph (1), from the commencement of the relevant compliance period, and
    - (ii) in the case of an application made under paragraph (2), from the commencement of the relevant compliance period or the date of the decision to grant approval under this regulation, whichever is the later;and will remain in force unless approval is withdrawn for any reason under regulation 58;
  - (c) the appropriate authority will publish the following details of the scheme—
    - (i) name of the scheme,
    - (ii) name and address of the operator of the scheme; and
    - (iii) whether the scheme is approved for the purposes of complying with an operator of a scheme's obligations in relation to—
      - (aa) WEEE from private households under regulation 28;
      - (bb) WEEE from users other than private households under regulation 29; or
      - (cc) both (aa) and (bb).
- (7) A notification served under paragraph (6)(a) will specify whether the scheme is approved for the purposes of complying with that operator of a scheme's obligations in relation to—
  - (a) WEEE from private households under regulation 28;
  - (b) WEEE from users other than private households under regulation 29; or
  - (c) both (a) and (b).
- (8) Where an application for approval made under this regulation by virtue of paragraph (2) is granted, the appropriate authority will notify each member of the old scheme who has served a notice under regulation 14(9)(b)(i) in writing of that decision within 14 days of the date of the decision.

**Notification of a decision to refuse to approve a proposed scheme**

**56.**—(1) Any decision of the appropriate authority under regulation 55 to refuse to approve a proposed scheme will be notified, within 14 days of the decision, to the applicant.

(2) A notification under paragraph (1) will—

- (a) be made in writing;
- (b) give the reasons for the decision; and
- (c) state the right of appeal under Part 12.

(3) Where the appropriate authority has made a decision under regulation 55 to refuse to approve a proposed scheme that is the subject of an application for approval under regulation 55(2), it will notify each member of the old scheme who has served a notice under regulation 14(9)(b)(i) in writing of that decision within 14 days of the date of the decision.

**Conditions of approval**

**57.** Approval of a scheme will be subject to the following conditions—

- (a) that the operator of that scheme will comply with his obligations under Part 4;
- (b) that where the operator of that scheme collects WEEE from a designated collection facility he will comply with the code of practice;
- (c) that the operator of that scheme will provide any information reasonably requested by the appropriate authority with regard to the obligations referred to in paragraph (a);
- (d) that the operator of that scheme will pay any charges imposed upon that scheme under regulation 59, by no later than 28th February in each compliance period or where a scheme accepts a new member after 28th February, within 28 days of the date on which the scheme accepted the new member;
- (e) that the operator of that scheme will inform the appropriate authority in writing, either in hardcopy, by email or online of—
  - (i) any change in the person who is the operator of the scheme and, in the case where the operator of the scheme is a partnership, any change of partners,
  - (ii) any material change in—
    - (aa) the information provided in accordance with regulation 26 or 27;
    - (bb) the information provided in accordance with regulation 55(4)(b)(i);
    - (cc) the constitution submitted in accordance with regulation 55(4)(b)(ii), or
  - (iii) a conviction of the operator of that scheme for an offence under these Regulations, within 28 days of their conviction,
- (f) that—
  - (i) where the appropriate authority is the Environment Agency, the Natural Resources Body for Wales or SEPA, the operator of that scheme, pays the annual producer charge specified in regulation 59(2) to the appropriate authority on receipt of an invoice for such a charge issued by that appropriate authority under regulation 79(3), and
  - (ii) where the appropriate authority is the Department of the Environment, the operator of that scheme pays the annual producer charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006 on receipt of an invoice for such a charge issued by that appropriate authority under regulation 79(3);

- (g) that the operator of that scheme will provide records and reports to the appropriate authority in compliance with—
  - (i) regulations 35 and 37 during the transitional period; or
  - (ii) from 1st January 2019 regulations 36 and 38;
- (h) that the operator of that scheme will accept WEEE from private households free of charge from—
  - (i) a distributor in accordance with regulation 43, and
  - (ii) a final holder in accordance with regulation 52; and
- (i) that the operator of that scheme continues to meet the requirements for approval of a scheme set out in Part 3 of Schedule 10.

### **Withdrawal of approval of a scheme**

**58.**—(1) The appropriate authority may withdraw approval of a scheme where—

- (a) the appropriate authority is satisfied that the operator of that scheme—
  - (i) is in breach of any condition in regulation 57,
  - (ii) knowingly or recklessly supplied false or misleading information in connection with—
    - (aa) the application for approval made under regulation 55;
    - (bb) an application for registration made under regulation 26;
    - (cc) a notification made under regulation 27; or
    - (dd) compliance with any condition in regulation 57;
- (b) the operator of that scheme has been convicted of an offence under these Regulations.

(2) Before the withdrawal of approval of a scheme under paragraph (1) the appropriate authority will serve a notification in writing on the operator of that scheme which will state—

- (a) that approval of the scheme is to be withdrawn;
- (b) the reasons for the decision;
- (c) the right of appeal under Part 12; and
- (d) the date when the withdrawal of approval will take effect, not being earlier than the expiration of the time limit for an appeal against the notification as provided for in Schedule 14.

(3) Where a notification has been served in accordance with paragraph (2) and any appeal against that notification has been dismissed, the appropriate authority will serve a notification in writing on each member of that scheme which will contain—

- (a) a statement that approval of that scheme has been withdrawn and the effective date of the withdrawal of approval;
- (b) the reasons for the decision to withdraw approval;
- (c) a request for details of the amount in tonnes of EEE that that member has placed on the market in the United Kingdom during any compliance period, or any part of a compliance period, where any such information has not been provided to the appropriate authority by the operator of that scheme in compliance with—
  - (i) regulation 35 during the transitional period, or
  - (ii) from 1st January 2019, regulation 36; and

- (iii) where sub-paragraph (i) or (ii) applies, statement of the obligation of a producer to join a new scheme under regulation 14(9).

## Charges

**59.**—(1) The application charge referred to in regulation 55(4)(c)(i) will be £12,150 for each scheme.

(2) Subject to paragraph (3), the annual producer charge referred to in regulation 57(f)(i) will be—

- (a) £30 for each scheme member who is not, and is not required to be, registered under the Value Added Tax Act 1994<sup>(27)</sup>;
- (b) £30 each small producer;
- (c) £210 for each scheme member who is, or is required to be, registered under the Value Added Tax Act 1994 and who had a total turnover of £1 million or less in the last financial year; and
- (d) £445 for each scheme member who had a total turnover of more than £1 million in the last financial year.

(3) Where an operator of a scheme does not provide the appropriate authority with evidence to support a claim that a scheme member is eligible for the charge specified in paragraph (2)(a),(b) or (c), that scheme member will be deemed to be eligible for the charge specified in paragraph (2)(d).

(4) Where a small producer has submitted an application under regulation 17 for registration as a small producer in a particular compliance period the annual producer charge will be the same as that set out in regulation 59(2)(b).

(5) Where a small producer is required to pay an annual producer charge as a condition of his registration as a small producer under regulation 17 in a particular compliance period the annual producer charge will be the same as that set out in regulation 59(2)(b).

(6) Where for any reason approval is refused under regulation 55 or is withdrawn under regulation 58 the appropriate authority will not be under any obligation to refund the whole or any part of the application charge that has been paid in accordance with regulation 55(4)(c)(i).

(7) The provisions of paragraphs (1), (2), (3), (4) (5) and (6) will not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995<sup>(28)</sup>—

- (a) by the Environment Agency in respect of applications for approval made under regulation 55 to that appropriate authority;
- (b) by the Natural Resources Body for Wales in respect of applications for approval made under regulation 55 to that appropriate authority; or
- (c) by SEPA in respect of applications for approval made under regulation 56 to that appropriate authority.

(8) A charging scheme made under section 41 of the Environment Act 1995 will specify the extent to which it supersedes any of the provisions in paragraphs (1), (2), (3) (4), (5) and (6).

(9) To the extent that any of the provisions of paragraphs (1), (2), (3) (4), (5) and (6) are superseded in accordance with paragraph (7), any reference in these Regulations to a charge specified in paragraph (1), (2) (3), (4) or (5) will be read as a reference to the charge which supersedes that charge and which is prescribed by a charging scheme.

<sup>(27)</sup> 1994 c. 23.

<sup>(28)</sup> 1995 c. 25.

## PART 8

### APPROVAL OF AUTHORISED TREATMENT FACILITIES AND EXPORTERS

#### Requirement for approval

**60.**—(1) A person will not issue an evidence note under regulation 61(2) unless they are at the time of issue an operator of an AATF and that evidence relates to WEEE received by, or on behalf of, that AATF in a relevant approval period.

(2) A person will not issue an evidence note under regulation 61(2)(b) unless they are at the time of issue an approved exporter and that evidence relates to WEEE received by them in a relevant approval period for export.

#### Application for approval

**61.**—(1) An application for approval of an ATF or an exporter under this Part will be made to the appropriate authority and will—

- (a) be made in writing,
- (b) contain the information set out in Part 1 of Schedule 11, which must be submitted in the format published by the appropriate authority under regulation 81; and
- (c) be accompanied by—

- (i) where the appropriate authority is the Environment Agency, the Natural Resources Body for Wales or SEPA,

- (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates, the application charge specified in regulation 65(1)(a); and

- (bb) in any other case, the application charge specified in regulation 65(1)(b); or

- (ii) where the appropriate authority is the Department of the Environment;

- (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates; and

- (bb) in any other case,

- the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006<sup>(29)</sup>.

(2) An application for approval made by—

- (a) an operator of an ATF, to issue an evidence note in relation to WEEE received; or
- (b) an exporter, to issue an evidence note in relation to—
  - (i) WEEE that is received for treatment, recovery or recycling in one or more specified reuse, treatment, recovery or recycling operations at a specified site outside the United Kingdom or a combination of such operations, or
  - (ii) used EEE that is received for export for reuse as a whole appliance,

will be granted where the appropriate authority is satisfied as to the matters set out in paragraph (3) and will otherwise be refused.

(3) The matters referred to—

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<sup>(29)</sup> S.R. (NI) 2006 No 509.

- (a) in paragraph (2)(a) are—
  - (i) that the applicant is an operator of an ATF,
  - (ii) that the applicant will comply with the conditions referred to in regulation 63(1); and
  - (iii) that the application has been made in accordance with paragraph (1); and
- (b) in paragraph (2)(b) are—
  - (i) that the applicant is an exporter,
  - (ii) where the application for approval relates to one or more reuse, treatment, recovery or recycling sites outside the EEA, that the requirements of Article 9(3) of the Directive will be met in respect of each such site,
  - (iii) that the applicant will comply with the conditions referred to in regulation 64(2); and
  - (iv) that the application has been made in accordance with paragraph (1).
- (4) The appropriate authority will notify the applicant in writing of its decision under paragraph (2) no later than 12 weeks after the application was made and, if the decision is a decision to refuse approval, such a notification will state—
  - (a) the reasons for the decision; and
  - (b) the right of appeal under Part 12.
- (5) Subject to regulation 64, where approval is granted under paragraph (2), it will take effect—
  - (a) where the application is made in the preceding year to that in which the person has applied to be approved—
    - (i) from 1st January where the decision to grant approval was made before that date, and
    - (ii) in all other cases, from the date of the decision, and
 will remain in force until 31st December in the year for which the person has applied to be approved;
  - (b) where the application is made during the year in which the person has applied to be approved, from the date of the decision, and will remain in force until 31st December in that year.
- (6) Where an operator of an ATF or an exporter who has—
  - (a) given the undertaking referred to in paragraph (1)(c)(i)(aa); and
  - (b) paid the application charge specified in regulation 65(1)(a),
 subsequently breaches that undertaking, that operator of an ATF will from the date of that breach be liable to pay the appropriate authority the balance of the charge which would have been payable under paragraph (1)(c)(i)(bb) had the undertaking not been given.
- (7) In this Part, “relevant approval period” means the period in respect of which a grant of approval that has been made under this regulation remains in force.

#### **Application for extension of approval of an exporter to an additional site**

**62.**—(1) An application to extend a grant of approval of an exporter made by an appropriate authority under regulation 61 during a relevant approval period to include an additional site to which he wants to export WEEE for reuse, treatment, recovery or recycling will be made to that appropriate authority and will—

- (a) be made in writing;
- (b) contain the information referred to in Part 1 of Schedule 11, which will be submitted in the format published by the appropriate authority under regulation 81; and
- (c) be accompanied by—



- (i) where the appropriate authority is the Environment Agency, the Natural Resources body for Wales or SEPA the extension of approval charge specified in regulation 65(2), and
- (ii) where the appropriate authority is the Department of the Environment, the extension of approval charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006.

(2) An application to extend an exporter's approval to include an additional site located within the EEA will be granted by the appropriate authority where it is satisfied that the application has been made in accordance with regulation 61, and will otherwise be refused.

(3) An application to extend an exporter's approval to include an additional site located outside the EEA will be granted by the appropriate authority where it is satisfied that that site meets the requirements of Article 9(3) of the Directive and is satisfied that the application was made in accordance with regulation 61, and will otherwise be refused.

(4) The appropriate authority will notify the applicant in writing of a decision made under paragraph (2) or (3) no later than 12 weeks after the application was made and, if the decision is a decision to refuse approval, such a notification will state—

- (a) the reasons for the decision; and
- (b) the right of appeal under Part 12.

(5) Subject to regulation 64, where an application is granted under paragraph (2) or (3), it will take effect from the date of that decision or the date that the applicant's grant of approval under regulation 61 took effect, whichever is the later date, and will remain in force until the date that the applicant's approval granted under regulation 61 expires.

### **Conditions of approval**

**63.**—(1) An operator of an AATF will comply with the conditions specified in Part 2 of Schedule 11.

(2) An approved exporter will comply with the conditions specified in Part 3 of Schedule 11.

### **Suspension and cancellation of approval**

**64.**—(1) The appropriate authority may suspend or cancel the approval of an ATF or exporter where it appears to it that—

- (a) in the case of an AATF, the operator of that AATF has failed, or is likely to fail, to comply with any of the conditions specified in Part 2 of Schedule 11;
- (b) in the case of an exporter, the person who is approved has failed, or is likely to fail, to comply with any of the conditions specified in Part 3 of Schedule 11; or
- (c) the operator of an AATF or the approved exporter has knowingly or recklessly supplied false or misleading information—
  - (i) in his application for approval made under regulation 61 or 62,
  - (ii) in the case of an AATF, in connection with compliance with any of the conditions specified in Part 2 of Schedule 11, or
  - (iii) in the case of an approved exporter, in connection with compliance with any of the conditions specified in Part 3 of Schedule 11.

(2) Where the appropriate authority is no longer satisfied that the requirements of Article 9(3) of the Directive are met in relation to WEEE exported to a site outside the EEA, the appropriate authority will cancel the approval of an exporter to the extent that it relates to that site.

- (3) Where the appropriate authority suspends or cancels a grant of approval under paragraph (1) or cancels the approval of an exporter to the extent that it relates to a site under paragraph (2), it will serve on the operator of the ATF or the exporter concerned a notification in writing stating—
- (a) its decision to cancel or suspend (as the case may be) the grant of approval;
  - (b) its reasons for the decision;
  - (c) the right of appeal under Part 12;
  - (d) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice as provided for in Schedule 14; and
  - (e) in the case of a suspension,
    - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notification, and
    - (ii) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.
- (4) The approval of an ATF or an exporter will be deemed to be cancelled—
- (a) on the date on which the approved facility ceases to be an ATF;
  - (b) on the date on which the person who is approved ceases to be an exporter;
  - (c) in the case where operator of an AATF requests that a grant of approval that relates to that AATF should be cancelled, with effect from the date of cancellation specified by that operator; or
  - (d) in the case where an approved exporter requests that a grant of approval that relates to him should be cancelled, with effect from the date of cancellation specified by that exporter.

## Charges

- 65.**—(1) The application charge referred to in—
- (a) regulation 61(1)(c)(i)(aa) will be £500; and
  - (b) regulation 61(1)(c)(i)(bb) will be £2,570.
- (2) The extension of approval charge referred to in regulation 62(1)(c)(i) will be £110.
- (3) Where for any reason approval is refused under regulation 61 or 62 or is suspended or cancelled under regulation 64 the appropriate authority will not be under any obligation to refund the whole or any part of the application fee that has been paid in accordance with regulation 61(1)(c)(i)(aa), 61(1)(c)(i)(bb) or 62(1)(c)(i).
- (4) The provisions of paragraphs (1), (2) and (3) will not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995—
- (a) by the Environment Agency in respect of applications for approval made under regulation 61 or 62 to that appropriate authority;
  - (b) by the Natural Resources Body for Wales in respect of applications for approval made under regulation 61 or 62 to that appropriate authority; or;
  - (c) by SEPA in respect of applications for approval made under regulation 61 or 62 to that appropriate authority.
- (5) A charging scheme made under section 41 of the Environment Act 1995 will specify the extent to which it supersedes any of the provisions in paragraphs (1), (2) and (3).
- (6) To the extent that any of the provisions of paragraphs (1), (2) and (3) are superseded in accordance with paragraph (4), any reference in these Regulations to a charge specified in

paragraph (1) or (2) will be read as a reference to the charge which supersedes that charge and which is prescribed by a charging scheme.

## Reporting

**66.**—(1) An operator of an AATF or an approved exporter will provide reports to the appropriate authority—

- (a) on or before 30th April in a relevant approval period in respect of the first quarter period in that approval period;
- (b) on or before 31st July in a relevant approval period in respect of the second quarter period in that approval period;
- (c) on or before 31st October in a relevant approval period in respect of the third quarter period in that approval period; and
- (d) on or before 31st January in the year immediately following the end of a relevant approval period in respect of the fourth quarter period in that approval period.

(2) During the transitional period, the reports referred to in paragraph (1) will, include details of—

- (a) in the case of an AATF—
  - (i) the total amount in tonnes of WEEE received for treatment under these Regulations, and
  - (ii) the total amount in tonnes of WEEE delivered to another ATF for treatment under these Regulations,
  - (iii) where sub-paragraph (a)(ii) applies
    - (aa) the name and address of the operator of the ATF referred to in that sub-paragraph; and
    - (bb) the address of the ATF where the treatment referred to in that sub-paragraph was carried out;
  - (iv) the total amount in tonnes of WEEE in respect of which evidence of reuse as a whole appliance has been issued by that AATF under these Regulations,
  - (v) where sub-paragraph (iv) applies and the evidence relates to WEEE that has not been received at the premises of that AATF, the name and address of the reuse establishment or undertaking in receipt of that WEEE, and
  - (vi) where sub-paragraph (a)(i), (ii) or (iv) applies, details of the amounts in tonnes of WEEE will be provided by reference to the following categories—
    - (aa) each of the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
    - (bb) display equipment,
    - (cc) appliances containing refrigerants,
    - (dd) gas discharge lamps, and LED light sources; and
    - (ee) photovoltaic panels

and in the case of each category will specify the amount in tonnes of WEEE from private households, WEEE from users other than private households and from or on behalf of which scheme it was received;

- (b) in the case of an approved exporter, the total amount of WEEE in tonnes received and the total amount of WEEE in tonnes exported for reuse as a whole appliance, treatment, recovery or recycling by reference to the following categories—

- (i) each of the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and;
- (v) photovoltaic panels

and in the case of each category will specify the amount in tonnes of WEEE from private households, WEEE from users other than private households and from or on behalf of which scheme it was received; and

- (c) in relation to each scheme to whom an evidence note has been issued—
  - (i) the name of the scheme; and
  - (ii) the total tonnage of WEEE stated in all evidence notes issued to that scheme.

(3) In addition to the requirements in paragraph (2), the reports referred to in paragraph (1) will include details of the total amount in tonnes of non-obligated WEEE received by the AATF or approved exporter and will also specify the total amount in tonnes of non-obligated WEEE received by the AATF that was retained by the operator of a designated collection facility under regulation 53, by reference to the following categories—

- (a) each of the categories listed in Schedule 1 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels);
- (b) display equipment;
- (c) appliances containing refrigerants;
- (d) gas discharge lamps and LED light sources; and
- (e) photovoltaic panels.

(4) In addition to the requirements in paragraph (2), the report referred to in paragraph (1)(d) will include all of the information provided in the quarterly reports that relate to the relevant approval period.

(5) From 1st January 2014 until 31st December 2015 an operator of an AATF or an approved exporter will allow the appropriate authority to assess whether the conditions in Schedule 11 part 2 paragraph 22 have been met during the relevant approval period.

(6) From 1st January 2016 until 31st December 2018 an operator of an AATF or an approved exporter will allow the appropriate authority to assess whether the conditions in Schedule 11 part 2 paragraph 23 have been met during the relevant approval period.

(7) From 1st January 2019, an operator of an AATF or an approved exporter will allow the appropriate authority to assess whether the conditions in Schedule 11 part 2 paragraph 16 have been met during the relevant approval period.

(8) From 1st January 2019, the reports referred to in paragraph (1) will, include details of—

- (a) in the case of an AATF—
  - (i) the total amount in tonnes of WEEE received for treatment under these Regulations, and
  - (ii) the total amount in tonnes of WEEE delivered to another ATF for treatment under these Regulations,
  - (iii) where sub-paragraph (a)(ii) applies

- (aa) the name and address of the operator of the ATF referred to in that sub-paragraph; and
  - (bb) the address of the ATF where the treatment referred to in that sub-paragraph was carried out;
  - (iv) the total amount in tonnes of WEEE in respect of which evidence of reuse as a whole appliance has been issued by that AATF under these Regulations,
  - (v) where sub-paragraph (iv) applies and the evidence relates to WEEE that has not been received at the premises of that AATF, the name and address of the reuse establishment or undertaking in receipt of that WEEE; and
  - (vi) where sub-paragraph (a)(i), (ii) or (iv) applies, details of the amounts in tonnes of WEEE will be provided by reference to each of the categories listed in Schedule 3 and in the case of each category will specify the amount in tonnes of WEEE from private households, WEEE from users other than private households and from or on behalf of which scheme it was received,
- (b) in the case of an approved exporter, the total amount of WEEE in tonnes received and the total amount of WEEE in tonnes exported for reuse as a whole appliance, treatment, recovery or recycling by reference to each of the categories listed in Schedule 3 and in the case of each category will specify the amount in tonnes of WEEE from private households, WEEE from users other than private households and from or on behalf of which scheme it was received; and
- (c) in relation to each scheme to whom an evidence note has been issued—
- (i) the name of the scheme, and
  - (ii) the total tonnage of WEEE stated in all evidence notes issued to that scheme.
- (9) In addition to the requirements in paragraph (8) the reports referred to in paragraph (1) will include details of the total amount in tonnes of non-obligated WEEE received by the AATF and the approved exporter by reference to each of the categories listed in Schedule 3.
- (10) In addition to the requirements in paragraph (8), the report referred to in paragraph (1) (d) will include all of the information provided in the quarterly reports that relate to the relevant approval period.

### **Record keeping**

**67.**—(1) An AATF or an approved exporter will maintain records that enable completion of the reports referred to in regulation 66(1), 66(2), 66(5), 66(6) and 66(7) for each quarter period in a relevant approval period.

(2) The records referred to in paragraph (1) will be kept for a period of at least four years commencing on the date on which any such record is made and will be made available to the appropriate authority on demand.

## **PART 9**

### **POWERS AND DUTIES OF THE SECRETARY OF STATE**

#### **Distributor take back scheme**

**68.** The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve a distributor take back scheme to carry out the functions of—

- (a) providing a system that will ensure the availability and accessibility free of charge of designated collection facilities in the United Kingdom for the purpose of achieving a high level of collection of WEEE from private households at such facilities; and
- (b) providing distributors with an alternative means of discharging the obligation under regulation 42(1).

#### **Take back: Application to use existing collection facilities**

**69.**—(1) Where a distributor to whom regulation 43(2) applies, does not provide in-store take back and has not joined a distributor take back scheme approved by the Secretary of State under regulation 68 he will be required to—

- (a) comply with all of the obligations which a take back scheme will discharge on behalf of its members; or
- (b) submit an application to the Secretary of State requesting permission to use existing take back facilities.

(2) The application referred to in paragraph (1)(b) will—

- (a) be submitted in writing or online;
- (b) be submitted to the Secretary of State on or before 1st November in the year immediately preceding the commencement of the compliance period in which the exemption applied for is to apply;
- (c) provide details of the alternative collection facilities available; and
- (d) provide evidence that these facilities are likely to be at least as effective either providing in-store take back or joining a take back scheme approved under regulation 68 and commit to publish this evidence.

(3) An application to use existing collection schemes under paragraph (1)(b) will be granted where the Secretary of State is satisfied that—

- (a) alternative existing collection schemes are likely to be at least as effective as in-store take back or membership of a scheme; and
- (b) that the WEEE collected by alternative existing schemes will be—
  - (i) treated by an ATF, or
  - (ii) exported by an approved exporter for treatment outside of the United Kingdom.

(4) Where the application referred to in paragraph (3) is granted, in respect of any compliance period, the Secretary of State will, on or before 15th January provide written notification to the distributor that their application has been approved.

#### **Approval of designated collection facilities**

**70.**—(1) The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve any establishment or undertaking carrying out collection operations as a designated collection facility.

(2) The Secretary of State will not approve any establishment or undertaking under paragraph (1) unless he is satisfied that the criteria set out in Schedule 12 are met.

(3) The Secretary of State may review any decision made under paragraph (1) at any time.

(4) It will be the duty of the Secretary of State to publish details of all designated collection facilities.

### **Withdrawal of approval of designated collection facilities**

71.—(1) The Secretary of State may decide to withdraw his approval of a designated collection facility where he is satisfied that it—

- (a) no longer meets the criteria set out in Schedule 12; or
- (b) is jeopardising or is likely to jeopardise the achievement of the United Kingdom's obligations under the Directive.

(2) Where the Secretary of State decides to withdraw approval of a designated collection facility under paragraph (1), within 14 days of that decision being made, he will notify the operator of the collection facility in writing—

- (a) of his decision to withdraw approval of the designated collection facility;
- (b) of the reasons for that decision;
- (c) of the date when the decision will take effect, not being earlier than 28 days from the date of the notification; and
- (d) that the operator of the collection facility may make representations in writing to the Secretary of State in relation to the decision within 14 days of the date of the notification.

(3) The Secretary of State will consider any representations made to him in writing by the operator of the collection facility under paragraph (2)(d) at any time before the decision mentioned in paragraph (1) takes effect.

(4) The Secretary of State may decide against withdrawing his approval of the designated collection facility at any time before the decision mentioned in paragraph (1) takes effect.

### **Code of Practice**

72.—(1) The Secretary of State will, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing practical guidance on the standards that must be met by—

- (a) the operator of a designated collection facility; and
- (b) by the operator of a scheme that collects WEEE from private households from a designated collection facility.

(2) The Secretary of State may revise the code of practice issued under paragraph (1) by revoking, amending or adding to the provisions of the code.

### **Evidence notes**

73. It will be the duty of the Secretary of State to approve the format of evidence notes issued by an operator of an AATF or an approved exporter.

### **Product Design**

74.—(1) It will be the duty of the Secretary of State to encourage the design and production of EEE that takes into account and facilitates dismantling and recovery, in particular the reuse and recycling of WEEE, including components and materials.

(2) In carrying out the duty mentioned in paragraph (1), the Secretary of State will take appropriate measures so that—

- (a) eco-design requirements facilitating the re-use and treatment of WEEE established in the framework of [Directive 2009/125/EC\(30\)](#) are applied; and

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(30) OJ No L 285, 31.10.2009, p.10.

- (b) producers do not prevent, through specific design features or manufacturing processes, WEEE from being reused, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment or safety requirements.

#### **Duties of the appropriate authority in relation to registration of small producers**

**75.**—(1) The appropriate authority must grant an application for registration where an applicant—

- (a) has complied with the requirements of regulation 16;
- (b) is not a member of a producer compliance scheme; and
- (c) does not appear in the register of producers maintained by the appropriate authority under regulation 79,

otherwise the appropriate authority must refuse the application.

(2) Where the application for registration is granted, the Secretary of State must, within 28 days of receipt of the application—

- (a) confirm to the applicant that he is registered with the appropriate authority; and
- (b) subject to paragraph (3), allocate a new producer registration number to the producer and confirm it in writing.

(3) If the applicant appeared on the register maintained under regulation 79 during any of the five previous compliance periods preceding the compliance period during which the application for registration is made, the appropriate authority must, instead of allocating a new producer registration number, allocate the applicant's most recently allocated producer registration number.

#### **Approval of compliance fee; methodology and administration**

**76.**—(1) The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve—

- (a) a methodology for the calculation of a compliance fee; and
- (b) the appointment of a third party to oversee the administration of that compliance fee.

(2) Any person or body referred to in paragraph (1) may submit a proposed methodology to the Secretary of State by no later than 30th September in the compliance period in which the methodology will apply.

(3) The Secretary of State will publish the methodology for the calculation of the compliance fee.

(4) Any methodology approved by the Secretary of State in accordance with paragraph (1) will take into account the different costs associated with the collection, treatment, recovery and environmentally sound disposal of each of the WEEE collection streams and will be set at a level which encourages schemes to take all reasonable steps to meet their collection target without recourse to the compliance fee.

(5) The Secretary of State will only approve one methodology in each compliance period.



## PART 10

### DUTIES OF THE APPROPRIATE AUTHORITIES

#### **Registration of producers and authorised representatives**

77.—(1) The appropriate authority will maintain and make available in accordance with this regulation a register containing the information specified in Schedule 13, relating to those producers and authorised representatives who are registered with it in accordance with regulations 15 and 25.

(2) The appropriate authority will—

- (a) ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours;
- (b) permit members of the public to obtain copies of entries in the register on payment of a reasonable charge.

(3) The register may be kept in any form but will be indexed and arranged so that members of the public can readily trace information contained in it.

(4) The appropriate authority will amend the relevant entry in the register to record any change to the information entered and will note the date on which the amendment is made.

(5) Nothing in this regulation will require a register maintained by the appropriate authority to contain any information which has been superseded by later information after four years have elapsed from that later information being entered in the register.

(6) The appropriate authority will—

- (a) publish the format in which the information referred to in Schedule 8 will be submitted to it in an application for registration made under regulation 26 or in a notification made under regulation 27, and;
- (b) publish details of how producers and authorised representatives may complete their registration and provide the information referred to in schedule 8 online.

#### **Monitoring**

78. The appropriate authority will monitor—

- (a) compliance with their obligations under regulations 11 to 14 and 18 to 20 of these Regulations by persons who are or may be producers or authorised representatives;
- (b) the accuracy of the information provided in, or in connection with, a declaration of compliance submitted under regulation 19 or 39;
- (c) operators of schemes that have been approved under Part 7;
- (d) the accuracy of the information provided by operators of schemes in support of or in connection with an application for registration made under regulation 26;
- (e) the accuracy of the information provided by operators of schemes in support of or in connection with a notification made under regulation 27;
- (f) the accuracy of the information provided by any person in or in connection with the reporting requirements in—
  - (i) regulations 35 and 37 and 66 during the transitional period; or
  - (ii) from 1st January 2019, regulations 36 and 38 and 66;
- (g) the accuracy of the information provided by operators of schemes in support of or in connection with an application for approval under regulation 55, together with any changes notified in accordance with regulation 56;

- (h) the accuracy of the information provided by an operator of an AATF or an approved exporter in support of or in connection with an application for approval made under regulation 61;
- (i) the accuracy of the information provided by an approved exporter in support of or in connection with an application for an extension of a grant of approval made under regulation 62; and
- (j) the register of producers maintained under regulation 77.

### **Approval of schemes**

**79.**—(1) The appropriate authority will maintain and publish a register of—

- (a) all schemes that it has approved under regulation 55; and
- (b) the operators of the schemes referred to in sub-paragraph (a).

(2) A register maintained by the appropriate authority in accordance with paragraph (1) will not be required to contain any information that has been superseded by later information after four years have elapsed from that later information being entered in the list.

(3) The appropriate authority will issue an invoice for payment of the annual producer charge referred to in regulation 59 to each operator of a scheme that it has approved under regulation 55.

(4) The appropriate authority will publish the format in which—

- (a) the information referred to in Part 1 of Schedule 10 must be submitted to it in an application for approval made under regulation 55; and
- (b) the information referred to in regulation 35 or 37 must be submitted to it in accordance with that regulation; or
- (c) the information referred to in regulation 36 or 38 must be submitted to it in accordance with that regulation.

### **Information**

**80.**—(1) An appropriate authority will publish information—

- (a) on the total amount of EEE placed on the market in the United Kingdom by producers in a compliance period, or any part of a compliance period; and
- (b) on the total amount of WEEE that—
  - (i) is deposited at a designated collection facility, or
  - (ii) is returned under regulation 43 or 52 but is not deposited at a designated collection facility,
 in a compliance period, or any part of a compliance period.

(2) The information referred to in paragraph (1) will be based on the information provided to the appropriate authority—

- (a) by the operator of a scheme under regulation—
  - (i) 35 or 37 during the transitional period and,
  - (ii) 36 or 38 from 1st January 2019,
- (b) by a producer in relation to a request made in a notification served under regulation 58(3); or
- (c) by another appropriate authority.

### **Approval of authorised treatment facilities and exporters**

**81.**—(1) The appropriate authority will be under a duty to maintain and publish a list of all AATFs, operators of AATFs and approved exporters.

(2) The appropriate authority will publish the format in which the information referred to in Part 1 of Schedule 11 must be submitted to it in an application for approval made under regulation 61 or in an application for an extension of a grant of approval made under regulation 62.

## **PART 11**

### **DISCLOSURE OF INFORMATION**

#### **Disclosure of information**

**82.**—(1) Subject to paragraph (2), information of any description may be disclosed by—

- (a) the Secretary of State;
- (b) an appropriate authority; or
- (c) an enforcement authority,

to any person for the purpose of facilitating the carrying out by the Secretary of State, that appropriate authority or that enforcement authority of any of his or its functions under these Regulations.

(2) Nothing in paragraph (1) authorises a disclosure of information—

- (a) to a person other than the Secretary of State, an appropriate authority or an enforcement authority where disclosure of that information would, in the opinion of the Secretary of State, be contrary to the interests of national security; or
- (b) which contravenes any other legislation made in the United Kingdom, or in any part of the United Kingdom.

(3) No information disclosed to any person under or by virtue of paragraph (1) will be disclosed by that person to any other person otherwise than in accordance with the provisions of this paragraph or any provision of any other legislation made in the United Kingdom, or in any part of the United Kingdom, which authorises or requires disclosure, where that information is information—

- (a) which relates to a trade secret of any person or which otherwise is or might be commercially confidential in relation to any person; or
- (b) whose disclosure otherwise than under or by virtue of paragraph (1) would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(4) Any authorisation under or by virtue of paragraph (1) of the disclosure of information by or to any person will also be taken to authorise the disclosure of that information by or to any officer of his who is authorised by him to make the disclosure or to receive the information.

(5) Subject to paragraph (6), no person will be subject to any civil or criminal liability in consequence of any disclosure made under or by virtue of paragraph (1).

(6) A person commits an offence if he discloses information in contravention of paragraph (3).

## PART 12

### APPEALS

#### Right of appeal

- 83.**—(1) An operator of a scheme or an operator of a proposed scheme may appeal—
- (a) to the Secretary of State against a decision of the Environment Agency;
  - (b) to the Welsh Ministers against a decision of the Natural Resources Body for Wales;
  - (c) to the Scottish Ministers against a decision of SEPA; and
  - (d) to the Planning Appeals Commission against a decision of the Department of the Environment.
- (2) For the purposes of paragraph (1), a decision means a decision—
- (a) to refuse to grant an approval allowing a distributor to rely on existing take back facilities, under regulation 69;
  - (b) to refuse to grant approval of that operator’s proposed scheme under regulation 55; or
  - (c) to withdraw approval of that operator’s scheme under regulation 58.
- (3) An operator of an ATF or an exporter may appeal—
- (a) to the Secretary of State against a decision of the Environment Agency;
  - (b) to the Welsh Ministers against a decision of the Natural Resources Body for Wales;
  - (c) to the Scottish Ministers against a decision of SEPA; and
  - (d) to the Planning Appeals Commission against a decision of the Department of the Environment.
- (4) For the purposes of paragraph (3), a decision means a decision—
- (a) to refuse to grant an application for approval made by that operator of an ATF or that exporter under regulation 61;
  - (b) to refuse to grant an extension of a grant of approval made to that exporter under regulation 62; or
  - (c) to suspend or cancel a grant of approval made in relation to that ATF or that exporter under regulation 64.
- (5) For the purposes of this Part and Schedule 14, “appeal body” means one of the following—
- (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) the Scottish Ministers; or
  - (d) the Planning Appeals Commission.

#### Procedure of appeals

- 84.**—(1) Where an appeal is made to an appeal body under regulation 83, that body may—
- (a) appoint any person to exercise on its behalf, with or without payment, the function of determination of the appeal; or
  - (b) refer any matter involved in the appeal to such person as that body may appoint for the purpose, with or without payment.

(2) If the appellant so requests, or the appeal body so decides, the appeal will be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).

(3) Schedule 14 will have effect with respect to the procedure of any such appeal.

### **Determination of appeals**

**85.** Where, on an appeal made under regulation 83, the appeal body determines that the decision of the appropriate authority will be altered it will be the duty of that appropriate authority to give effect to the determination.

### **Status of a decision pending appeal**

**86.** Where an appeal made under regulation 83 is pending in a case falling within regulation 58 or 64—

(a) a decision—

(i) to withdraw approval of a scheme, or

(ii) to cancel approval of an ATF or an exporter,

will be ineffective until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision will become effective from the end of the day on which the appeal is dismissed or withdrawn; and

(b) a decision to suspend approval will remain in force.

## **PART 13**

### **ENFORCEMENT**

#### **Enforcement**

**87.—**(1) Subject to paragraph (2), it will be the duty of the Secretary of State to enforce these Regulations and in carrying out his duties he may appoint any person to act on his behalf.

(2) It will be the duty of the following authorities to enforce regulations 11 to 20, 33, 34 48, 54, 57, 60, 61 63, 66 and 67 and Part 4 —

(a) in England, the Environment Agency;

(b) in Wales, the Natural Resources Body for Wales;

(c) in Scotland, SEPA; and

(d) in Northern Ireland, the Department of the Environment.

(3) No proceedings for an offence under these Regulations may be instituted in the United Kingdom, or in any part of the United Kingdom, except by or on behalf of an enforcement authority.

(4) Nothing in these Regulations will authorise an enforcement authority to bring proceedings in Scotland for an offence.

(5) In this Part, “enforcement authority” means any person mentioned in this regulation.

#### **Enforcement notice**

**88.—**(1) Where an enforcement authority has reasonable grounds for suspecting that any of the requirements of the following regulations have not been complied with—

- (a) regulations 11 to 24;
- (b) regulations 25 to 41, 54 and 57;
- (c) regulations 42, 43 and 45, and;
- (d) regulations 61, 63, 66 and 67;

it may serve an enforcement notice on—

- (i) in a case under sub-paragraph (a), the producer or an authorised representative,
- (ii) in a case under sub-paragraph (b), the operator of the scheme,
- (iii) in a case under sub-paragraph (c), the distributor, and
- (iv) in a case under sub-paragraph (d), the operator of the AATF or the approved exporter (as the case may be).

(2) A notice which is served under paragraph (1) will—

- (a) state that the enforcement authority suspects that a specified requirement of these Regulations has been contravened;
- (b) specify the reason it is suspected that a requirement of these Regulations has been contravened;
- (c) require the person to whom the enforcement notice is given (“the relevant person”)—
  - (i) to comply with the requirements of these Regulations; or
  - (ii) to provide evidence to the enforcement authority demonstrating that the requirements of these Regulations have been met;
- (d) specify the period of time within which the relevant person must comply with the enforcement notice issued by the enforcement authority; and
- (e) warn the relevant person that unless the requirement is complied with, or evidence has been provided within the period specified in the notice, he may be prosecuted.

(3) Where an enforcement authority serves an enforcement notice on a person under this regulation, proceedings for an offence under regulation 90 will not commence unless the time limit specified for compliance in the enforcement notice has expired.

### **Entry and inspection**

**89.**—(1) For the purposes of carrying out his functions under these Regulations, an enforcement officer may exercise the powers of entry and inspection referred to in this regulation.

(2) Subject to the production if so requested of his credentials, an enforcement officer may—

- (a) enter at any reasonable time any business premises which he considers necessary for him to enter;
- (b) on entering any business premises by virtue of sub-paragraph (a), take with him—
  - (i) such other persons as may appear to him necessary and, where there is reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable, and
  - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) make such examination and investigation as may in any circumstances be necessary;
- (d) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);

- (e) take samples, or cause samples to be taken, of any records, parts of any records, copies of any records, copies of parts of any records, products and parts of products found in or on any premises which the enforcement officer has power to enter;
  - (f) in the case of any such sample of a record or product as is mentioned in sub-paragraph (e), to take possession of it and detain it for 90 days from the date of seizure for any of the following purposes—
    - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has the power to do under that paragraph,
    - (ii) to ensure that it is not tampered with before examination of it is completed; and
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations or in any other proceedings relating to an enforcement notice under regulation 88,any record, products or parts of products seized in accordance with this paragraph may be detained for longer than 90 days if it is to be used as evidence;
  - (g) require any person who is considered to be able to give information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of any person other than a person nominated by that person to be present and any person whom the enforcement officer may allow to be present) such questions as the enforcement officer thinks fit to ask and to sign a declaration of the truth of his answers;
  - (h) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records—
    - (i) which are required to be kept under these Regulations, or
    - (ii) which it is necessary to see for the purposes of an examination or investigation under sub-paragraph (c), and inspect and take copies of, or of any entry in, the records; and
  - (i) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the enforcement officer to exercise any of the powers conferred on them by this regulation.
- (3) Where records, products, or parts of products are seized in accordance with paragraph (2) the enforcement officer will—
- (a) allow the trader to make copies of any records seized, if requested to do so;
  - (b) provide the trader with a receipt for the records, products or parts of products seized.
- (4) Any receipt issued in accordance with paragraph (3)(b) will state the date on which the records, products or parts of products were seized.
- (5) In the application of paragraph (2)(b)(i) to Northern Ireland, “constable” has the meaning given in the Interpretation Act (Northern Ireland) 1954(31).
- (6) If a justice of the peace, on written information on oath—
- (a) is satisfied that there are reasonable grounds to believe that any information or material relevant to any examination or investigation under paragraph (2)(c) is on any premises, and;
  - (b) is also satisfied either that—
    - (i) admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or

(ii) an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied and the occupier is temporarily absent,

the justice may by warrant under his hand, which will continue in force for a period of one month, authorise the enforcement officer to enter the premises, if need be by force.

(7) In the application of paragraph (6)—

- (a) to Scotland, “justice of the peace” includes a sheriff and references to written information on oath will be construed as references to evidence on oath; and
- (b) to Northern Ireland, the references to a “justice of the peace” will be construed as being references to a “lay magistrate” as defined in section 9 of the Justice (Northern Ireland) Act 2002<sup>(32)</sup>.

(8) An enforcement officer on entering any premises by virtue of this regulation may direct that those premises, or any part of them, or anything in them, will be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (2)(c).

(9) Where an enforcement officer leaves any premises that he has entered by virtue of this regulation and such premises are unoccupied or the occupier of which is temporarily absent, he will leave them as effectively secured against a trespasser as he found them.

(10) If an enforcement officer or other person who enters any premises by virtue of this regulation discloses to any person any information obtained by him in the premises with regard to any secret manufacturing process or trade secret, he will, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(11) It will not be an offence under paragraph (10) for a person to disclose information in circumstances where—

- (a) the person from whom the information was received has consented to the disclosure; or
- (b) the information is disclosed more than 49 years after it was received.

(12) Nothing in this regulation will authorise any person to stop any vehicle on a highway.

(13) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(g) will be admissible in evidence in England, Wales and Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.

(14) Nothing in this regulation will be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

(15) In this regulation—

- (a) “business premises” means any premises which are not wholly or mainly used as a private dwelling;
- (b) “enforcement officer” means—
  - (i) an officer of an enforcement authority who is authorised in writing by that authority to act as an enforcement officer for the purposes of this Part, and
  - (ii) a person appointed by the Secretary of State who is authorised in writing by the Secretary of State to act as an enforcement officer for the purposes of this Part; and
 “credentials” means evidence of authorisation as an enforcement officer.

(32) 2002 c. 26.



## PART 14

### OFFENCES AND PENALTIES

#### Offences

- 90.**—(1) A producer or authorised representative will be guilty of an offence if he—
- (a) contravenes or fails to comply with any requirements of regulation 11, 12, 13, 14, 15, 16, 17, 18, 19 or 20;
  - (b) furnishes information under regulation 16 or 18 and either—
    - (i) knows the information provided to be false or misleading in a material particular, or
    - (ii) furnishes such information recklessly and it is false or misleading in a material particular; or
  - (c) furnishes a declaration of compliance under regulation 19 and either—
    - (i) knows the information provided in, or in connection with, the declaration to be false or misleading in a material particular, or
    - (ii) furnishes such information recklessly and it is false or misleading in a material particular.
- (2) A producer or authorised representative will be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 21, 22, 23 or 24.
- (3) An operator of a scheme will be guilty of an offence if he—
- (a) contravenes or fails to comply with any requirements of regulation 26, 27, 28, 29, 31, 32, 35, 36, 37, 38, 39, 40, 41 or 57;
  - (b) furnishes a report under either regulation 35 or 37; and 36 or 38 and either—
    - (i) knows the information provided in, or in connection with, the report to be false or misleading in a material particular, or
    - (ii) furnishes such information recklessly and it is false or misleading in a material particular; or
  - (c) furnishes a declaration of compliance under regulation 39 and either—
    - (i) knows the information provided in, or in connection with, the declaration to be false or misleading in a material particular, or
    - (ii) furnishes such information recklessly and it is false or misleading in a material particular.
- (4) An operator of a scheme will be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 30.
- (5) A distributor will be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 42 or 69.
- (6) A distributor will be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 44 or 45.
- (7) An operator of an AATF or an approved exporter is guilty of an offence if he—
- (a) contravenes or fails to comply with any requirements of regulation 54, 61, 63, 66 or 67; or
  - (b) furnishes a report under regulation 66 and either—
    - (i) knows the information provided in, or in connection with, the report to be false or misleading in a material particular, or

- (ii) furnishes such information recklessly and it is false or misleading in a material particular.
- (8) A person will be guilty of an offence if he—
  - (a) contravenes or fails to comply with any requirements of regulation 47, 51 or 60;
  - (b) without reasonable cause, fails to comply with an enforcement notice served under regulation 88;
  - (c) without reasonable cause, fails to comply with a requirement imposed under regulation 89;
  - (d) intentionally obstructs any person acting in the execution of these Regulations;
  - (e) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
  - (f) without reasonable cause, fails to produce information when required to do so to any person acting in the execution of these Regulations;
  - (g) furnishes to any person acting in the execution of these Regulations any information which he—
    - (i) knows the information to be false or misleading in a material particular, or
    - (ii) furnishes such information recklessly and it is false or misleading in a material particular.
- (9) A person will be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 48.
- (10) If an offence under these Regulations committed by a body corporate is shown—
  - (a) to have been committed with the consent or connivance of an officer, or
  - (b) to be attributable to any neglect on the part of the officer,
  - (c) the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (11) If the affairs of a body corporate are managed by its members, paragraph (10) applies in relation to the acts and defaults of a member in connection with the functions of management of that member as if the member were a director of the body.
- (12) If an offence under these Regulations committed by a partnership is shown—
  - (a) to have been committed with the consent or connivance of a partner; or
  - (b) to be attributable to neglect on the part of a partner,the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (13) If an offence under these Regulations committed by an unincorporated body, other than a partnership, is shown—
  - (a) to have been committed with the consent or connivance of an officer of the body or a
  - (b) member of its governing body, or
  - (c) to be attributable to any neglect on the part of such an officer or member,
  - (d) that officer or member as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.
- (14) In this regulation—

- (a) “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) “partner” includes a person purporting to act as a partner.

(15) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership will be guilty of that offence and will be liable to be proceeded against and punished accordingly.

### **Penalties**

**91.**—(1) A person who is guilty of an offence under regulation 90(1), (3), (5), (7), (8), (12), (13) or (15) will be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(2) A person who is guilty of an offence under regulation 82(6), 89(10) or 90(2), (4), (6) or (9) will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Commencement of proceedings**

**92.**—(1) In England and Wales a magistrates’ court may try an information, and in Northern Ireland a magistrates’ court may try a complaint, in relation to an offence under these Regulations if the information is laid or if the complaint is made within twelve months from the time when the offence is committed.

(2) In Scotland proceedings in relation to any offence which under these Regulations is triable only by way of summary proceedings, may be begun at any time within twelve months from the time when the offence is committed.

### **Review**

**93.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

**Consequential amendments**

**94.** In section 56 (interpretation of Part 1) of the Environment Act 1995<sup>(33)</sup>, in subsection (1) in the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Environment Agency and the National Resources Body for Wales—

- (a) for paragraph (l) substitute “(l) approval of a scheme under regulation 55 of the Waste Electrical and Electronic Regulations 2013 (“the WEEE Regulations”).”
- (b) for paragraph (m) substitute “(m) compliance with the condition in regulation 57(f)(i) of the WEEE Regulations in relation to a scheme mentioned in paragraph (l).”
- (c) for paragraph (n) substitute “(n) approval of an authorised treatment facility or exporter under regulation 61 of the WEEE Regulations.”; and
- (d) for paragraph (o) substitute “(o) extension of approval of an exporter under regulation 62 of the WEEE Regulations.”.

(2) In the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Scottish Environmental Protection Agency—

- (a) for paragraph (l) substitute “(l) approval of a scheme under regulation 55 of the Waste Electrical and Electronic Regulations 2013 (“the WEEE Regulations”).”
- (b) for paragraph (m) substitute “(m) compliance with the condition in regulation 57(f)(i) of the WEEE Regulations in relation to a scheme mentioned in paragraph (l).”
- (c) for paragraph (n) substitute “(n) approval of an authorised treatment facility or exporter under regulation 61 of the WEEE Regulations.”; and
- (d) for paragraph (o) substitute “(o) extension of approval of an exporter under regulation 62 of the WEEE Regulations.”.

**Transitional provisions**

**95.**—(1) Any application made or approval granted by an appropriate authority under regulations 10, 20 or 47 of the Waste Electrical and Electronic Equipment Regulations 2006 will continue to have effect as though it had been granted in accordance with these Regulations.

(2) Any environmental licence granted by an appropriate authority under regulation 4 of the Waste Electrical and Electronic Equipment Regulations 2006 will continue to have effect as though it had been granted under these Regulations.

**Revocations and Savings**

**96.**—(1) The following instruments are revoked by these Regulations—

- (a) The Waste Electrical and Electronic Equipment (Amendment) Regulations (SI 2007/3454);
- (b) The Waste Electrical and Electronic Equipment (Amendment) Regulations 2009 (SI 2009/2957);
- (c) The Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2009 (SI 2009/3216);
- (d) The Waste Electrical and Electronic Equipment (Amendment) Regulations 2010 (SI 2010/1155);

(2) Subject to paragraphs (3) and (4) the Waste Electrical and Electronic Equipment Regulations 2006 (SI 2006/3289) are revoked.

(33) 1995 c. 25.

(3) Regulation 4 of the Waste Electrical and Electronic Equipment Regulations 2006 ([SI 2006/3289](#)) will continue to have effect.

(4) Regulation 66 and Schedule 11 of the Waste Electrical and Electronic Equipment Regulations 2006 will continue to have effect in respect of appeals commenced on or before 31st December 2013.

(5) The provisions referred to in paragraphs (3) and (4) will continue to apply as they did immediately before their revocation for all of the purposes in relation to the collection, treatment and recycling of WEEE.

7th December 2013

*Michael Fallon*  
Minister of State for Business and Energy  
Department for Business, Innovation and Skills