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STATUTORY INSTRUMENTS

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**2013 No. 3113**

The Waste Electrical and Electronic  
Equipment Regulations 2013

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(1).

(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
- (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.