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STATUTORY INSTRUMENTS

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**2013 No. 3113**

The Waste Electrical and Electronic  
Equipment Regulations 2013

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(1).

(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>(2)</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>(3)</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.

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(2) 1994 c. 23.

(3) 1995 c. 25.

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**Status:** *This is the original version (as it was originally made).*

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