

---

STATUTORY INSTRUMENTS

---

**2013 No. 3113**

The Waste Electrical and Electronic  
Equipment Regulations 2013

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\(1\)](#) are applied; and
- (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.

---

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

(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.