
STATUTORY INSTRUMENTS

2006 No. 3289

**The Waste Electrical and Electronic
Equipment Regulations 2006**

PART 7

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

Application for approval of a proposed scheme

41.—(1) Subject to paragraph (2), an application for approval of a proposed scheme shall 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 notice under regulation [44\(3\)](#) in relation to his membership of a particular scheme (“the old scheme”) and that scheme member has notified the appropriate authority under regulation [10\(7\)](#) that he intends to join a proposed scheme, the operator of that proposed scheme shall make an application under paragraph (1) within 28 days of the date of the notice served on that scheme member under regulation [44\(3\)](#).

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

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

(a) be in writing;

(b) include—

- (i) the information set out in Part 1 of Schedule 7, which shall be submitted in the format published by the appropriate authority under regulation [62](#);
- (ii) a copy of the constitution of the proposed scheme which must contain the information set out in Part 2 of Schedule 7;
- (iii) a copy of the operational plan which must contain the information set out in Part 3 of Schedule 7; and

(c) be accompanied by—

- (i) where the appropriate authority is the Environment Agency or SEPA, the application charge specified in regulation [45\(1\)](#); 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 shall 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 proposed scheme is likely to subsist for a period of at least three compliance periods;
 - (ii) the operator of the proposed scheme will comply with the code of practice; and
 - (iii) the criteria for approval of a scheme set out in Part 4 of Schedule 7 are met,and shall otherwise be refused.
- (6) Where an application for approval under this regulation is granted—
 - (a) the appropriate authority shall 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 1st October of the year immediately preceding the relevant compliance period;
 - (ii) in the case of an application made under paragraph (2), on or before 1st October 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 68, on or before 1st October 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;
 - (b) the approval shall take effect—
 - (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 shall remain in force for three compliance periods unless approval is withdrawn for any reason under regulation 44; and
 - (c) the appropriate authority shall 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 22;
 - (bb) WEEE from users other than private households under regulation 23; or
 - (cc) both (aa) and (bb).
- (7) A notification served under paragraph (6)(a) shall 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 22;
 - (b) WEEE from users other than private households under regulation 23; 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 shall notify each member of the old scheme who has served a notice under regulation 10(7)(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

42.—(1) Any decision of the appropriate authority under regulation 41 to refuse to approve a proposed scheme shall be notified, within 14 days of the decision, to the applicant.

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

- (a) be 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 41 to refuse to approve a proposed scheme that is the subject of an application for approval under regulation 41(2), it shall notify each member of the old scheme who has served a notice under regulation 10(7)(b)(i) in writing of that decision within 14 days of the date of the decision.

Conditions of approval

43. Approval of a scheme shall be subject to the following conditions—

- (a) that the operator of that scheme shall comply with his obligations under Part 4;
- (b) that where the operator of that scheme collects WEEE from a designated collection facility he shall comply with the code of practice;
- (c) that the operator of that scheme shall 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 shall inform the appropriate authority in writing 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 20;
 - (bb) the information provided in accordance with regulation 41(4)(b)(i),
 - (cc) the constitution submitted in accordance with regulation 41(4)(b)(ii), or
 - (dd) the operational plan submitted in accordance with regulation 41(4)(b)(iii);
 - (iii) a conviction of the operator of that scheme for an offence under these Regulations, within 28 days of the occurrence of any such change;
- (e) that—
 - (i) where the appropriate authority is the Environment Agency or SEPA, the operator of that scheme pays the annual producer charge specified in regulation 45(2) to the appropriate authority on receipt of an invoice for such a charge issued by that appropriate authority under regulation 62(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 62(3);

- (f) that the operator of that scheme shall provide records and reports to the appropriate authority in compliance with regulations 27 and 28;
- (g) that the operator of that scheme shall accept WEEE from private households from a distributor free of charge in accordance with regulation 32;
- (h) that, where any of the information specified in Part 3 of Schedule 7 has not been submitted in accordance with regulation 41(4)(b)(iii), it shall be submitted to the appropriate authority within 28 days of the date of a notification of approval served on the operator of that scheme under regulation 41(6)(a); and
- (i) that the operator of that scheme continues to meet the requirements for approval of a scheme set out in Part 4 of Schedule 7.

Withdrawal of approval of a scheme

- 44.**—(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 43;
 - (ii) knowingly or recklessly supplied false information in connection with—
 - (aa) the application for approval made under regulation 41;
 - (bb) an application for registration made under regulation 20;
 - (cc) a notification made under regulation 21; or
 - (dd) compliance with any condition in regulation 43;
 - (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 shall serve a notification in writing on the operator of that scheme which shall 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 11.
- (3) Where a notification has been served in accordance with paragraph (2) and any appeal against that notification has been determined, the appropriate authority shall serve a notification in writing on each member of that scheme which shall contain—
- (a) a statement that approval of that scheme has been withdrawn and the effective date when 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 put 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 regulation 28; and
 - (d) the obligation of a producer to join a new scheme under regulation 10(7).

Charges

- 45.**—(1) The application charge referred to in regulation 41(4)(c)(i) shall be £12,174 for each scheme.

(2) Subject to paragraph (3), the annual producer charge referred to in regulation 43(e)(i) shall be—

- (a) £30 for each scheme member who is not, and is not required to be, registered under the Value Added Tax Act 1994⁽²⁾;
- (b) £220 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
- (c) £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) or (b), that scheme member shall be deemed to be eligible for the charge specified in paragraph (2)(c).

(4) Where for any reason approval is refused under regulation 41 or is withdrawn under regulation 44 the appropriate authority shall not be under any obligation to refund the whole or any part of the application charge that has been paid in accordance with regulation 41(4)(c)(i).

(5) The provisions of paragraphs (1), (2), (3) and (4) shall 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⁽³⁾—

- (a) by the Environment Agency in respect of applications for approval made under regulation 41 to that appropriate authority; or
- (b) by SEPA in respect of applications for approval made under regulation 41 to that appropriate authority.

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

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

(2) 1994 c.23.

(3) 1995 c.25.