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STATUTORY INSTRUMENTS

2014 No. 1771

ENVIRONMENTAL PROTECTION

**The Waste Electrical and Electronic Equipment and Restriction
of the Use of Certain Hazardous Substances in Electrical
and Electronic Equipment (Amendment) Regulations 2014**

<i>Made</i>	- - - -	<i>2nd July 2014</i>
<i>Laid before Parliament</i>		<i>4th July 2014</i>
<i>Coming into force</i>	- -	<i>25th July 2014</i>

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in respect of matters relating to the prevention and recovery of waste electrical and electronic equipment and matters relating to the restriction of the use of Certain hazardous substances in Electrical and Electronic Equipment.

The Secretary of State, in exercise of the powers conferred on him by section 2(2) of that Act, makes the following Regulations.

Citation commencement and application

1. These Regulations—
 - (a) may be cited as the Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (Amendment) Regulations 2014; and
 - (b) come into force on 25th July 2014.

Amendments to the Waste Electrical and Electronic Equipment Regulations 2013

2.—(1) The Waste Electrical and Electronic Equipment Regulations 2013⁽³⁾ are amended as follows.

(1) [S.I. 2004/706](#).
(2) [1972 c. 68](#). Under section 57 of the Scotland Act [1998 \(c. 46\)](#) despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Union law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by him as regards Scotland.
(3) [S.I. 2013/3113](#).

(2) In regulations 16(2)(d)(iii), 55(4)(c)(ii), 57(f)(ii), 61(1)(c)(ii) and 62(1)(c)(ii) for “The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006” substitute “The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2014(4)”.

(3) In regulation 33 (payment of a compliance fee) for the definition of “D” in paragraph (2) substitute—

““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 “C”.”.

(4) In regulation 37 (reporting: EEE placed on the market during the transitional period) for paragraph 2(c) substitute—

“(c) for each category of EEE referred to in sub-paragraph (b), specify the amount in tonnes of—

- (i) EEE intended for use by private households; and
- (ii) EEE intended for use by users other than private households.”.

(5) In regulation 38 (reporting: EEE placed on the market from 1st January 2019) for paragraph (2)(c) substitute—

“(c) for each category of EEE referred to in sub-paragraph (b), specify the amount in tonnes of—

- (i) EEE intended for use by private households; and
- (ii) EEE intended for use by users other than private households.”.

(6) For regulation 51 (prohibition on showing the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households) substitute—

“A person must not 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.”.

(7) In regulation 53 (notification of an intention to retain WEEE falling within certain WEEE streams)—

(a) for paragraph (1) substitute—

“(1) Where the operator of a designated collection facility is a local authority, that operator 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 a designated collection facility that he operates”; and

(b) for paragraph 2(d) substitute—

“(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 six WEEE collection streams that the operator intends to retain; and”.

(8) In regulation 61 (application for approval) for paragraph (3)(b)(iii) substitute—

“(iii) the applicant must comply with the conditions referred to in regulation 63(2); and”.

(9) In regulation 69 (take back: application to use existing collection facilities) for paragraph (1) substitute—

“(1) Where a distributor to whom regulation 42(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 must—

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

(10) In regulation 75 (duties of the appropriate authority in relation to registration of small producers) in paragraphs (1)(c) and (3) for the words “regulation 79” substitute “regulation 77”.

(11) In regulation 76 (approval of compliance fee: methodology and administration) for paragraph (3) substitute—

“(3) The Secretary of State must publish the methodology for the calculation of a compliance fee where one has been approved in accordance with paragraph (1).”.

(12) In regulation 78 (monitoring) for paragraph (g) substitute—

“(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 57(e);”.

(13) In regulation 81 (Approval of authorised treatment facilities and exporters) in paragraph (1) for the words “will be under a duty to” substitute “must”.

(14) In regulation 88 (Enforcement notice) for paragraph (1) substitute—

“(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 and 57;
- (c) regulations 42, 44 and 45, and;
- (d) regulations 54, 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 approved exporter (as the case may be).”

(15) For regulation 91 (Penalties) substitute—

“**91.**—(1) A person who is guilty of an offence under regulation 90(1), (3), (5), (7) or (8) 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), (9), (10), (11), (12), (13) or (15) will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(16) In schedule 12, paragraphs (5) and (6) are deleted.

Substitution of the word ‘will’ for the word ‘must’

3.—(1) The Waste Electrical and Electronic Equipment Regulations 2013 are amended as follows.

(2) In the regulations, schedule and part of a schedule set out in Schedule 1 to these Regulations for every use of the word ‘will’ substitute the word ‘must’.

(3) In the regulations set out in schedule 2 to these Regulations, substitute the word ‘will’ for ‘must,’ as set out in column 3 of that schedule.

Amendments to the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012

4.—(1) The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012⁽⁵⁾ are amended as follows.

(2) In regulation 23, for paragraph (b)(iii) substitute—

“(iii) complied with regulation 18 (information identifying EEE and manufacturer).”

(3) In regulation 23, delete paragraph (b)(iv).

2nd July 2014

Michael Fallon
Parliamentary Under Secretary of State for
Business, Innovation and Skills
Department for Business, Innovation and Skills

SCHEDULES

SCHEDULE 1

Regulation 3(2)

Provisions in which the word ‘must’ replaces all use of the word ‘will’

PART 1

Regulations

1. Regulation 13 (producers supplying EEE by means of distance communication)
2. Regulation 19 (declaration of Compliance)
3. Regulation 20 (record Keeping)
4. Regulation 21 (declaration of EEE producer registration number)
5. Regulation 22 (marking EEE with the crossed out wheeled bin symbol)
6. Regulation 23 (marking EEE with a date mark)
7. Regulation 24 (information on new types of EEE)
8. Regulation 27 (notification of a new scheme)
9. Regulation 30 (prioritisation of the reuse of whole appliances)
10. Regulation 31 (treatment)
11. Regulation 35 (reporting: WEEE during the transitional period)
12. Regulation 36 (reporting: WEEE from 1st January 2019)
13. Regulation 37 (reporting: EEE placed on the market during the transitional period)
14. Regulation 38 (reporting: EEE placed on the market from 1st January 2019)
15. Regulation 39 (declaration of compliance)
16. Regulation 40 (record keeping: transitional period)
17. Regulation 41 (record keeping: From 1st January 2019)
18. Regulation 42 (takeback)
19. Regulation 44 (information)
20. Regulation 45 (record keeping)
21. Regulation 48 (obligation to optimise the reuse and recycling of WEEE)
22. Regulation 53 (notification of an intention to retain WEEE falling within certain WEEE streams)
23. Regulation 54 (shipments of used EEE)
24. Regulation 56 (notification of a decision to refuse to approve a proposed scheme)

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- 25. Regulation 60 (requirement for approval)
- 26. Regulation 63 (conditions of approval)
- 27. Regulation 66 (reporting)
- 28. 28. Regulation 67 (record keeping)
- 29. Regulation 72 (code of Practice)
- 30. Regulation 80 (information)

PART 2

Schedules

- 31. Schedule 11, Part 2 (conditions of approval of authorised treatment facilities)
- 32. Schedule 14 (procedure of appeals)

SCHEDULE 2

Regulation 3(3)

Provisions in which specific uses of the word ‘will’ are substituted by the word ‘must’ as set out in this schedule

PART 1

Regulations

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
Regulation	Provision	Use of the word ‘will’ to be substituted for ‘must’
11	(7)	The first time that it appears
	(8)	The third time that it appears
	(10)	The first time that it appears
	(11)	The first time that it appears
	(12)	The only time that it appears
14	(1)	The only time that it appears
	(2)	The only time that it appears
	(4)	The only time that it appears
	(5)	The only time that it appears
	(9)	Both times that it appears
16	(10)	The second time that it appears
	(3)	The only time that it appears

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
	(4)	Both times that it appears
	(6)	The only time that it appears
17	(1)	The second, third, fourth, fifth and sixth times that it appears
18	(1)	The first time that it appears
	(2)	The only time that it appears
25	(1)	The only time that it appears
26	(1)	The only time that it appears
	(2)	The only time that it appears
	(3)	The only time that it appears
	(4)	Both times that it appears
	(5)	The only time that it appears
	(6)	The only time that it appears
	(9)	The only time that it appears
	(10)	The only time that it appears
	(11)	The first and second times that it appears
28	(4)	The third time that it appears
	(5)	The first time that it appears
	(7)	The first time that it appears
	(8)	The second time that it appears
	(9)	The only time that it appears
	(11)	The second time that it appears
32	(1)	The only time that it appears
34	(3)	The only time that it appears
47	(3)	The only time that it appears
55	(1)	The only time that it appears
	(3)	The only time that it appears
	(4)	Both times that it appears
	(5)	Every time that it appears
	(6)	The first and fourth times that it appears
	(7)	The only time that it appears
	(8)	The only time that it appears
57		The second, third, fourth, fifth and sixth times that it appears

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<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
58	(2)	The first and second times that it appears
	(3)	Both times that it appears
61	(1)	Both times that it appears
	(2)	The only time that it appears
	(4)	Both times that it appears
62	(1)	Every time that it is used
	(2)	Both times that it is used
	(3)	Both times that it is used
	(4)	Both times that it is used
64	(2)	The only time that it is used
	(3)	The first time that it is used
69	(1)	The second time that it appears
	(2)	The only time that it appears
	(3)	The only time that it appears
	(3)	Both times that it appears
	(4)	The only time that it appears
70	(2)	The only time that it appears
71	(2)	The first time that it appears
	(3)	The only time that it appears
74	(2)	The only time that it appears
76	(3)	The only time that it appears
77	(1)	The only time that it appears
	(2)	The only time that it appears
	(3)	The only time that it appears
	(4)	The only time that it appears
	(6)	Both times that it appears
78		The only time that it appears
79	(1)	The only time that it appears
	(3)	The only time that it appears
	(4)	The only time that it appears
80	(1)	The only time that it appears
81	(2)	The only time that it appears
88	(2)	The only time that it appears
89	(3)	The only time that it appears

(1)	(2)	(3)
	(4)	The only time that it appears
	(9)	The only time that it appears

PART 2
Schedules

(1)	(2)	(3)
Schedule	Paragraph	Use of the word ‘will’ to be substituted for ‘must’
10	19	The only time that it appears
	20	The only time that it appears
11	28	The first time that it appears
	29	The only time that it appears
	30	The only time that it appears
	31	The only time that it appears
	32	The first time that it appears
	33	The only time that it appears
	34	The only time that it appears
	35	The only time that it appears
	36	The only time that it appears
	38	The only time that it appears

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste Electrical and Electronic Equipment Regulations 2013 ([S.I. 3113/2013](#)) (“the 2013 regulations”) and the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 ([S.I. 2012/3032](#)). The 2013 regulations implement Directive 2012/19/EU of the European Parliament and of the Council of 4th July 2012 on waste electrical and electronic equipment (OJ No L 197, 24.07.2012, p.38).

Regulation 2 substitutes references to The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006 with references to The Waste Electrical and Electronic Equipment Regulations (Northern Ireland) 2014. Regulation 2 also corrects minor drafting errors in regulation 33 (payment of a compliance fee), regulation 37 (reporting: EEE placed on the market

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during the transitional period) and regulation 38 (reporting: EEE placed on the market from 1st January 2019) regulation 53 (notification of the intention to retain WEEE failing within certain WEEE streams), regulation 61 (application for approval), regulation 69 (take back: Application to use existing collection facilities), regulation 75 (duties of the appropriate authority in relation to registration of small producers), regulation 76 (approval of compliance fee: methodology and administration), regulation 78 (monitoring), regulation 81 (approval of authorised treatment facilities and exporters), regulation 88 (enforcement notice), regulation 91 (penalties) and deletes paragraphs (5) and (6) of Schedule 12 of the 2013 regulations.

Regulation 3 and Schedules 1 and 2 of these Regulations also amend the 2013 regulations to reflect the observations of the Joint Committee on Statutory Instruments in their Twentieth Report of session 2013-14.

Regulation 4 amends the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 in order to implement the Corrigendum to Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ No L 44, 14.02.2014, p 55).

No impact assessment has been carried out on this instrument as no effect on the cost of business and the voluntary sector is foreseen. Two full impact assessments of the effect that the Waste Electrical and Electronic Equipment Regulations 2013 will have on the cost to business and the voluntary sector have been prepared. A full impact assessment of the effect that the Restriction of the use of certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 will have on the cost of business and the voluntary sector has also been prepared. These impact assessments can be obtained from the Advanced Manufacturing Services Directorate, Department for Business Innovation and Skills, 1 Victoria Street, London SW1H 0ET and at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249743/bis-13-1181-impact-assessment-waste-electrical-and-electronic-equipment-weee-system.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186971/bis-13-763-impact-assessment-of-recast-directive-2012-19-eu-on-waste-electrical-and-electronic-equipment-weee.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255814/bis-12-1277-final-impact-recast-restriction-of-hazardous-substances-directive.pdf