

2015 No. 1968

ENVIRONMENTAL PROTECTION

**The Waste Electrical and Electronic Equipment (Amendment)
Regulations 2015**

<i>Made</i>	- - - -	<i>1st December 2015</i>
<i>Laid before Parliament</i>		<i>3rd December 2015</i>
<i>Coming into force</i>	- -	<i>25th December 2015</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in respect of matters relating to the prevention and recovery of waste electrical and electronic equipment.

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

Citation and commencement

1. These Regulations may be cited as the Waste Electrical and Electronic Equipment (Amendment) Regulations 2015 and come into force on 25th December 2015.

Amendment to the Waste Electrical and Electronic Equipment Regulations 2013

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

(2) In regulation 1—

- (a) in paragraph (3), for “paragraph 15”, substitute “paragraph 23”;
- (b) in paragraph (4), for “paragraph 16”, substitute “paragraph 24”.

(3) In regulation 2—

- (a) in the definition of “appropriate authority”—
 - (i) omit sub-paragraph (e);
 - (ii) in sub-paragraph (f)—
 - (aa) for the words before sub-paragraph (i), substitute “subject to sub-paragraph (fa), for the purposes of Part 3 relating to the obligations of a producer”;

(a) S.I. 2004/706.

(b) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). 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.

(c) S.I. 2013/3113, as amended by S.I. 2014/1771.

- (bb) after sub-paragraph (iv), insert—
 - “(v) where the producer’s registered office or principal place of business is outside the United Kingdom, the Environment Agency;”;
 - (iii) after sub-paragraph (f), insert—
 - “(fa)for the purposes of regulations 14(9) and 20(4) relating to the obligations of a producer or an authorised representative, who is a member of a scheme, the authority which granted the approval of that scheme under regulation 55;”;
 - (b) for the definition of “evidence note”, substitute—
 - ““evidence note” means an evidence note issued, in the format approved by the Secretary of State under regulation 73, by—
 - (a) an operator of an AATF, as evidence of the receipt of tonnage of WEEE specified in the note for—
 - (i) reuse as a whole appliance; or
 - (ii) treatment at an ATF;
 - (b) an approved exporter, as evidence of the receipt of tonnage of WEEE for export specified in the note for reuse as a whole appliance outside the United Kingdom;”;
 - (c) for the definition of “very small EEE”, substitute ““very small WEEE” means an item of WEEE with no external dimension more than 25cm;”.
- (4) In regulation 4(1)(b), at the end, insert “or by electronic means to the person’s email address provided by that person in accordance with these Regulations”.
- (5) In regulation 11—
- (a) in paragraph (1)(b)—
 - (i) for “43”, substitute “43, 50”;
 - (ii) after “small producers”, insert “under regulation 16”;
 - (b) in paragraph (8)(b), for “on which it notifies”, substitute “of the notification informing”;
 - (c) for paragraph (11)(a)(iii), substitute—
 - “(iii) where applicable, by that producer or that authorised representative in compliance with a notification served under regulation 58(3);”.
- (6) In regulation 14—
- (a) for paragraph (2), substitute—
 - “(1A) Paragraph 2 applies to a producer who is established in a Member State other than the United Kingdom and who either—
 - (a) places EEE on to the market in the United Kingdom; or
 - (b) sells EEE by means of distance communication directly to consumers in the United Kingdom.
 - (2) Where this paragraph applies, a producer must either—
 - (a) appoint an authorised representative in the United Kingdom to fulfil his producer obligations under these Regulations on his behalf; or
 - (b) comply with the requirements of paragraph (1).”;
 - (b) in paragraph (3), for “(2)(b)(i)”, substitute “(2)(a)”.
- (7) In regulation 16—
- (i) in paragraph (2)(d)(ii), for “59(2)”, substitute “59(4)”;
 - (ii) omit paragraph (6).
- (8) In regulation 17, omit paragraph (1)(c).
- (9) In regulation 18—

- (a) in paragraph (1)(c), for “regulations 37 or 38”, substitute “regulation 37 or 38, as specified in Parts 2 and 3 of Schedule 8”;
- (b) after paragraph (2), insert—
 - “(3) In paragraph (2)(b), the meaning of “material change” includes the details of any incapacity, bankruptcy, or entry into liquidation, receivership or administration, including the date on which the event occurred and, if applicable, the date on which it concluded.”.
- (10) For regulation 20(1)(b)(ii), substitute—
 - “(ii) users other than private households;
 - (c) for each category referred to in sub-paragraph (a), where the information is available, the amount in tonnes of EEE which he has placed on the market in the United Kingdom during that compliance period that was exported in the same compliance period.”.
- (11) For regulation 21, substitute—

“Declaration of EEE producer registration number

21. A producer, or where one has been appointed, an authorised representative, must declare his EEE producer registration number to any distributor to whom he intends to sell, sells, or otherwise supplies EEE.”.

- (12) In regulation 26(4)(b), for “Schedule 8”, substitute “Part 1 of Schedule 8”.
- (13) In regulation 27—
 - (a) in the heading, at the end, insert “member”;
 - (b) in paragraph (2)(b), for “Schedule 8”, substitute “Part 1 of Schedule 8”.
- (14) After regulation 27, insert—

“Notification of scheme member in liquidation etc. and obligations in relation to that scheme member

27A.—(1) Where, in any compliance period, a scheme member goes into liquidation or receivership or enters administration, the scheme ceases to have obligations under regulation 28(1) or 29(1) in relation to that scheme member for—

- (a) the remainder of the compliance period; and
- (b) if the scheme member is already registered with that scheme for that compliance period, the following compliance period.

(2) Where paragraph (1) applies, the operator of that scheme must notify the appropriate authority within 28 days of the date that the operator was notified of the liquidation, receivership or administration.

(3) A notification made under paragraph (1) must—

- (a) be made in writing;
- (b) inform the authority of the fact and the date of the liquidation, receivership or administration;
- (c) be accompanied by evidence that the scheme member has gone into liquidation or receivership or entered administration.

(4) If, on the date of entry into liquidation, receivership or administration, the scheme member is already registered with the scheme for the following compliance period, the operator of the scheme must notify the appropriate authority in writing of the details of the conclusion of the liquidation, receivership or administration.

(5) The notification referred to in paragraph (4) must be made within 28 days of the operator of the scheme receiving notification of the information referred to in that paragraph.

(6) In this regulation, in relation to a producer who is an individual, the references to a person going into liquidation or receivership or entering into administration are to be construed as references to a person dying or becoming bankrupt or incapacitated, and cognate expressions are to be construed accordingly.”.

(15) In regulation 28—

- (a) in paragraph (3)—
 - (i) in the definition of “B”, after “producers”, insert “and authorised representatives”;
 - (ii) in the definition of “C”, after “producers”, insert “and authorised representatives”;
- (b) in paragraph (8)(a)(iii), for “where sub-paragraph (i) or (ii) applies”, substitute “where applicable”;
- (c) in paragraph (11)—
 - (i) for “regulation 26(10)”, substitute “regulation 26(10), 27(1) or 27A(2) or (4)”;
 - (ii) in paragraph (a), for “using”, substitute “adjusting as appropriate the figure “A” in”;
- (d) in paragraph (12)(a), after “paragraph 4(b)”, insert “or 11(b)”.

(16) In regulation 33—

- (a) for paragraph (1)(d), substitute—
 - “(d) collecting WEEE under regulation 50; or
 - (e) a combination of (a), (b), (c) and (d);”.
- (b) in paragraph 2—
 - (i) in the definition of “B”, after “producers”, insert “and authorised representatives”;
 - (ii) in the definition of “C”, after “producers”, insert “and authorised representatives”.

(17) In regulation 34—

- (a) for paragraph (1), substitute—

“**34.**—(1) If conditions A to C are met, the operator of a designated collection facility (“the specified facility”) may contact the operator of any scheme that has been approved under regulation 55 for the purposes of complying with the obligations imposed on that scheme under regulation 28 and request that that operator of a scheme arranges for the collection, treatment, recovery and environmentally sound disposal of the WEEE (“relevant WEEE”) that has been deposited at the specified facility.

(1A) Condition A is that the operator of the specified facility is a local authority or is operating the specified facility on behalf of a local authority.

(1B) Condition B is that the operator of the specified facility has, during the compliance period in which the request is made or in the previous compliance period, been a party to a contract with a scheme for the collection, treatment, recovery and environmentally sound disposal of WEEE, in the same category as the relevant WEEE, deposited at the specified facility.

(1C) Condition C is that the contract has expired or terminated and has not been renewed or replaced.”;

- (b) in paragraphs (3) and (4), for “WEEE”, in both places that it occurs, substitute “relevant WEEE”.

(18) In regulation 35(1)—

- (a) omit paragraph (b);
- (b) in paragraph (d), for “regulation 50”, substitute “regulation 52”.

(19) In regulation 36(1)—

- (a) omit paragraph (b);
- (b) in paragraph (d), for “regulation 50”, substitute “regulation 52”.

(20) After regulation 37(1), insert—

“(1A) For the purposes of calculating the information referred to in paragraph (1), the operator of a scheme may deduct from the total amount of EEE that each member of that scheme has placed on the market in the United Kingdom, EEE which that member has placed on the market in the United Kingdom and which was exported in the same compliance period.”.

(21) After regulation 38(1), insert—

“(1A) For the purposes of calculating the information referred to in paragraph (1), the operator of a scheme may deduct from the total amount of EEE that each member of that scheme has placed on the market in the United Kingdom, EEE which that member has placed on the market in the United Kingdom and which was exported in the same compliance period.”.

(22) In regulation 51, for “person must not show a purchaser”, substitute “producer or distributor must not show a person, who purchases EEE otherwise than in the course of a business,”.

(23) For regulation 52(3), substitute—

“(3) For the purposes of this regulation, “final holder” means a person who decides to discard EEE that becomes WEEE from private households and who is not able for any reason to return that WEEE free of charge to a designated collection facility.”.

(24) For regulation 53—

(a) for paragraph (2)(e), substitute—

“(e) confirm that any WEEE retained by the operator of a designated collection facility in accordance with paragraph (1) must be—

- (i) prepared for re-use; or
- (ii) treated at an AATF.”;

(b) in paragraph (5), for “appropriate authority”, substitute “Secretary of State”.

(25) In regulation 55(6)(a)(iii), for “84”, substitute “83”.

(26) In regulation 57, omit paragraph (d).

(27) In regulation 58(3)(c)—

- (i) for “35”, substitute “37”;
- (ii) for “36”, substitute “38”.

(28) After regulation 58, insert—

“Voluntary withdrawal of the approval of a scheme

58A—(1) The operator of a scheme may request that the appropriate authority withdraw the approval of that scheme.

(2) A request must be—

- (a) made in writing to the appropriate authority;
- (b) accompanied by evidence that the operator of the scheme has ceased operating the scheme or will cease operating the scheme before or at the end of the compliance period in which the request is made.

(3) On receipt of the request, if satisfied by the evidence provided pursuant to paragraph (2)(b), the appropriate authority must withdraw the scheme’s approval with effect from 1st April in the year following the year in which the request is received.”.

(29) In regulation 59—

- (a) for paragraph (2)(b), substitute “£30 for each scheme member who is a small producer;”;
- (b) in paragraph (4), for “17”, substitute “16”;
- (c) omit paragraph (5);
- (d) in paragraph (7)(c), for “56”, substitute “55”;

- (e) in paragraph (9), in the second place that it occurs, omit “(3)” .
- (30) In regulation 60(1), for “61(2)”, substitute “61(2)(a)”.
- (31) For regulation 61(2), substitute—
- “(2) An application for approval made by—
- (a) an operator of an ATF, to issue an evidence note in relation to WEEE received; or
- (b) an exporter, to issue an evidence note in relation to WEEE that is received for export for reuse as a whole appliance,
- must be granted where the appropriate authority is satisfied as to the matters set out in paragraph (3) and must otherwise be refused.”.
- (32) In regulation 62(1), omit “treatment, recovery or recycling”.
- (33) In regulation 66—
- (a) in paragraph (5), for “14”, substitute “22”;
- (b) in paragraph (6), for “15”, substitute “23”;
- (c) in paragraph (7), for “16”, substitute “24”.
- (34) In regulation 67(1), for “66(1), 66(2), 66(5), 66(6) and 66(7)”, substitute “66(1) and 66(2)”.
- (35) In regulation 68(b), for “obligation under regulation 42(1)”, substitute “obligations under regulation 42(1) and 45(1)”.
- (36) In regulation 75(2), for “Secretary of State”, substitute “appropriate authority”.
- (37) For regulation 77(4), substitute—
- “(4) The appropriate authority must amend the relevant entry in the register to record any change to the information entered and must note the date on which the amendment is made.”.
- (38) In regulation 78(a), for “11 to 14 and 18 to 20”, substitute “11 to 20”.
- (39) In regulation 87(2), for “33, 3448”, substitute “48”.
- (40) In Schedule 5—
- (a) for paragraph 2, substitute—
- “2. For regulation 11(11)(a)(i), substitute—
- “(i) during the first compliance period, in compliance with the provisions that applied to the 2013 compliance period on 31 December 2013;”;
- (b) in paragraph 3, for “68(2)(b)”, substitute “69(2)(b)”.
- (41) In Part 1 of Schedule 8, after paragraph 19, insert—
- “**19A.** Where a producer is joining a scheme for the first time, within 28 days of the information becoming available, the total amount of tonnes of EEE that the producer has placed on the market in the United Kingdom in the previous compliance period.”.
- (42) In Part 2 of Schedule 8—
- (a) for “paragraph 3”, in each place that it occurs, substitute “paragraph 22”;
- (b) in paragraph 25, for “5”, substitute “22”;
- (c) in paragraph 26—
- (i) for “EEE”, substitute “WEEE”;
- (ii) for “2”, substitute “21”.
- (43) In Part 3 of Schedule 8—
- (a) for “paragraph 3”, in both places that it occurs, substitute “paragraph 29”;
- (b) in paragraph 31—
- (i) for “EEE”, substitute “WEEE”;
- (ii) for “2”, substitute “28”.

- (44) In paragraph 3 of Schedule 10—
- (a) before “the principal place of business”, insert “the address of”;
 - (b) in each place that it occurs, after “telephone number”, insert “and, where available, email address”.
- (45) In Schedule 11—
- (a) in paragraph 2, in each place that it occurs, after “telephone number”, insert “and, where available email address”.
 - (b) for paragraph 9, substitute—
 - “9. An evidence note for treatment must only be issued with respect to WEEE that—
 - (a) has been collected by a scheme or on behalf of a scheme;
 - (b) has arisen as waste in the United Kingdom; and
 - (c) has been received for treatment at an AATF.”;
- (c) for paragraph 28, substitute—
 - “28. An evidence note may be issued only in relation to WEEE that —
 - (a) has arisen as waste in the United Kingdom;
 - (b) is to be exported for reuse as a whole appliance;
 - (c) is to be export to an establishment or undertaking located outside the United Kingdom that has been notified to the appropriate authority in accordance with regulation 61 and paragraph 7(a) or regulation 62;
 - (d) is to be exported in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste(a).”;
- (d) in paragraph 29, for the opening words, substitute “The amount of WEEE recorded on an evidence note must be recorded in tonnes but any fraction of a whole tonne must be recorded in kilograms and such a fraction must be—”.
- (46) In Schedule 12, in paragraph 5, for “appropriate authority”, substitute “Secretary of State”.
- (47) In Schedule 13, in paragraph 4, omit “producer’s”.

1st December 2015

Anna Soubry
Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste Electrical and Electronic Equipment Regulations 2013 (S.I. 2013/3113) (the “WEEE Regulations”). The WEEE 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 amends the definitions of “appropriate authority”, “evidence note” and “very small EEE” in the WEEE Regulations to clarify the meaning of these terms. Regulation 4 of the WEEE Regulations is amended to allow service of documents by electronic means. Minor drafting amendments and further clarification is made to the following regulations of the WEEE Regulations: regulation 11 (Financing: WEEE from private households); regulation 14 (Obligation to join a scheme); regulation 16 (Application to register as a small producer); regulation 17 (Small producers: Conditions of registration); regulation 18 (Information provided to operators of schemes); regulation 20(Record keeping); regulation 21 (Declaration of EEE producer registration

(a) OJ L 190, 12.7.2006, p.1.

number); regulation 26 (Application to register producers and authorised representatives); regulation 27 (Notification of a new scheme member); regulation 28 (Financing: WEEE from private households); regulation 33 (Payment of a compliance fee); regulation 34 (Collection arrangements); regulation 35 (Reporting: WEEE during the transitional period); regulation 36 (Reporting: WEEE from 1st January 2019); regulation 37 (Reporting: EEE placed on the market during the transitional period); regulation 38 (Reporting: EEE placed on the market from 1st January 2019); regulation 51 (Prohibition on showing the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households); regulation 52 (Final holder right of return: WEEE from private households); regulation 53 (Notification of an intention to retain WEEE falling within certain WEEE streams); regulation 55 (Application for approval of a proposed scheme); regulation 57 (Conditions of approval); regulation 58 (Withdrawal of approval of a scheme); regulation 59 (charges); regulation 60 (Requirement for approval); regulation 61 (Application for approval); regulation 62 (Application for extension of approval of an exporter to an additional site); regulation 66 (Reporting); regulation 67 (Record keeping); regulation 68 (Distributor take back scheme); regulation 75 (Duties of the appropriate authority in relation to registration of small producers); regulation 77 (Registration of producers and authorised representatives); regulation 78 (Monitoring); regulation 87 (enforcement); Schedule 5 (First compliance period); Schedule 8; Schedule 11 (Approval of authorised treatment facilities and exporters); Schedule 12 (Criteria for approval as a designated collection facility); Schedule 13 (Public register).

Regulation 2 also inserts a new regulation 27A into the WEEE Regulations. This regulation provides that where a member of a scheme goes into liquidation or receivership or enters administration, the scheme ceases to have obligations under regulation 28(1) or 29(1) in relation to that scheme member. A new regulation 58A is also inserted allowing the operator of a scheme to request the appropriate authority to withdraw their approval as an operator of a scheme.

An impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk. Further information is available from the Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET and on the [gov.uk](http://www.gov.uk) website (www.gov.uk).

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