

2006 No. 3315

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006

<i>Made</i> - - - -	<i>12th December 2006</i>
<i>Laid before Parliament</i>	<i>15th December 2006</i>
<i>Coming into force</i> - -	<i>5th January 2007</i>

The Secretary of State as respects England and the National Assembly for Wales as respects Wales are designated(a) for the purpose of section 2(2) of the European Communities Act 1972(b) in respect of measures relating to the prevention, reduction and elimination of pollution caused by waste.

They make the following Regulations in exercise of the powers conferred on them by that section, and sections 33(3), 34(5), and 35(6) of the Environmental Protection Act 1990(c), having had regard in particular in exercising their powers under section 33(3) of that Act to the matters specified in section 33(4) of that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006 and come into force on 5th January 2007.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

- (a) “the WEEE Directive” means Council Directive 2002/96/EC(d) on waste electrical and electronic equipment as amended by Council Directive 2003/108/EC(e);
- (b) “the 1994 Regulations” means the Waste Management Licensing Regulations 1994(f);

(a) S.I.s 1992/2870 and 2005/850.

(b) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) 1990 c.43. The functions of the Secretary of State under sections 33(3), 34(5) and 35(6), insofar as exercisable in relation to Wales, were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.

(d) OJ No. L37, 13.2.2003, p. 24.

(e) OJ No. L345, 31.12.2003, p. 106.

(f) S.I. 1994/1056. Relevant amending instruments are S.I.s 1995/288, 1996/593, 1996/972, 2000/1973, 2003/595, 2003/780 (W. 91), 2003/2635 and 2005/1728.

(c) “site licence” has the same meaning as in the Environmental Protection Act 1990.

Amendment of the 1994 Regulations

3. The 1994 Regulations have effect subject to the amendments in Schedule 1.

Transitional arrangements: site licences and registrations

4. Schedule 2 (transitional arrangements) has effect.

12th December 2006

Ben Bradshaw
Minister of State
Department for Environment, Food and Rural Affairs

12th December 2006

D. Elis-Thomas
Presiding Officer
National Assembly for Wales

SCHEDULE 1

Regulation 3

Amendment of the 1994 Regulations

1. In regulation 1(3) (citation, commencement, interpretation and extent)—

(a) insert at the appropriate place—

““best available treatment, recovery and recycling techniques” has the meaning given in the document published jointly by the Department for Environment, Food and Rural Affairs, the Welsh Assembly Government and the Scottish Executive, on 27th November 2006, entitled “Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE)”(a);

“recycling”, in relation to WEEE, means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat;

“reuse”, in relation to WEEE, means any operation by which WEEE or components thereof are used for the same purpose for which they were conceived, including the continued use of the equipment or components thereof which are returned to collection points, distributors, recyclers or manufacturers;

“treatment”, in relation to WEEE, means any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery and/or the disposal of the WEEE;

“WEEE” has the meaning given by Article 3(b) of the WEEE Directive;

(a) Department for Environment, Food and Rural Affairs, Welsh Assembly Government and Scottish Executive: Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE), First Edition, (27th November 2006), Defra, London.

“the WEEE Directive” means Council Directive 2002/96/EC on waste electrical and electronic equipment as amended by Council Directive 2003/108/EC and expressions used in these Regulations which are also used in the WEEE Directive have the same meaning as in that Directive;”.

(b) for the definition of “notifiable exempt activity” substitute—

““notifiable exempt activity” means an exempt activity falling within paragraph 7A, 8A, 9A, 10A, 19A, 46A or 49 of Schedule 3 to these Regulations;”

2. After regulation 1(4) insert—

“(4A) Any six-digit code used to refer to a waste in these Regulations is a reference to that waste as specified by the six-digit code—

(a) in England, in the List of Wastes (England) Regulations 2005(a);

(b) in Wales, in the List of Wastes (Wales) Regulations 2005(b).”.

3. At the end of paragraph (1) of regulation 12 (mobile plant) add—

“;

(i) plant for the crushing of gas discharge lamps”.

4. After regulation 12 insert—

“Conditions of site licences: WEEE

12A.—The Environment Agency shall ensure that any site licence granted or varied on or after 5th January 2007 authorising an establishment or undertaking carrying out treatment operations to store or treat WEEE contains such conditions as it considers necessary to give effect to the provisions of Article 6(1), (3) and (4) and Annexes II and III of the WEEE Directive.”.

5.—(1) Regulation 17 (exemptions from waste management licensing) is amended as follows.

(2) In paragraph (2) for “or 46A” substitute “,46A, 49, 50 or 51”.

(3) After paragraph (3A) insert—

“(3B) Unless otherwise indicated in Schedule 3, paragraph (1) does not apply to the carrying out of an exempt activity in so far as it involves the storage or treatment of WEEE.”.

6.—(1) Paragraph 5A of regulation 18 (registration in connection with exempt activities) is amended as follows.

(2) Immediately preceding sub-paragraph (c) omit “or”.

(3) At the end add—

“; or

(d) in the case of an exempt activity falling within paragraph 49 of Schedule 3, the appropriate registration authority has carried out an inspection in accordance with sub-paragraph (4B) of paragraph 13 of Schedule 4 and is not satisfied as to the particulars required to be verified under that sub-paragraph”.

7.—(1) Regulation 18AA (supervision of exempt activities) is amended as follows.

(2) In paragraph (4), for “Where it receives notification”, substitute “Subject to paragraph (4A), where it receives notification”.

(3) After paragraph (4) insert—

(a) S.I. 2005/895.

(b) S.I. 2005/1820 (W.148).

“(4A) In the case of an exempt activity falling within paragraph 49 of Schedule 3, the appropriate registration authority shall enter the relevant particulars in relation to an establishment or undertaking only if—

- (a) it has carried out an inspection of the place at which the exempt activity is to be carried on in accordance with sub-paragraph (4B) of paragraph 13 of Schedule 4 and is satisfied as to the particulars to be verified under that sub-paragraph; and
- (b) it is satisfied that best available treatment, recovery and recycling techniques will be used.”.

(4) For paragraph (12) substitute—

“(12) In this regulation—

- (a) “appropriate registration authority” has the same meaning as in regulation 18(10); and
- (b) “relevant period” means—
 - (i) in the case of notification pursuant to paragraph (1) of an exempt activity falling within paragraph 49 of Schedule 3, the period of two months beginning with the date of receipt of the notice by the authority (or such longer period as the authority and establishment or undertaking may agree in writing); and
 - (ii) in all other cases, the period of 35 days beginning with the date of receipt of the notice by the authority (or such longer period as the appropriate registration authority and establishment or undertaking may agree in writing).

”.

8.—(1) Schedule 3 (activities exempt from waste management licensing) is amended as follows.

(2) In paragraph 40(1) after “where it is produced” insert “, including the temporary storage of WEEE pending its recovery,”.

(3) In paragraph 41(1) after “waste” insert “(including WEEE)”.

(4) After paragraph 48 insert—

“49.—(1) The carrying on, at any secure place in respect of WEEE of a kind described in Table 5A, of the treatment activities of repair or refurbishment or both if—

- (a) the activity is carried on with a view to the reuse of the WEEE for its original purpose;
- (b) best available treatment, recovery and recycling techniques are used when carrying out the activity;
- (c) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the treatment limit specified in relation to that kind of WEEE in Table 5A;
- (d) the technical requirements specified in Annex III of the WEEE Directive are met.

Table 5A

<i>Kind of Waste</i>	<i>Storage Limits</i>	<i>Treatment Limits</i>
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 13)	80 cubic metres	5 tonnes per day
20 01 36 (WEEE other than those mentioned in 20 01 21, 20 01 23 and 20 01 35)	80 cubic metres	5 tonnes per day

(2) The carrying on, at any secure place in respect of WEEE that is hazardous waste of a kind described in Table 5B, of the treatment activities of repair or refurbishment or both, but not including the degassing and capture of ozone depleting substances, if—

- (a) the activity is carried on with a view to the reuse of the WEEE for its original purpose;

- (b) best available treatment, recovery and recycling techniques are used when carrying out the activity;
- (c) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the treatment limit specified in relation to that kind of WEEE in Table 5B;
- (d) the technical requirements specified in Annex III of the WEEE Directive are met;
- (e) the other requirements specified in relation to that kind of WEEE in Table 5B are met.

Table 5B

<i>Column header</i>	<i>Storage Limits</i>	<i>Treatment Limits</i>	<i>Other Requirements</i>
16 02 11* (WEEE containing chlorofluorocarbons, HCFC, HFC) and 20 01 23* (WEEE containing chlorofluorocarbons)	80 cubic metres	5 tonnes per day	stored and treated in a manner that will prevent the release of the CFCs, HCFCs or HFCs
Televisions and computer monitors containing cathode ray tubes falling within 16 02 13* (WEEE containing hazardous components other than those mentioned in 16 02 09 to 16 02 12) and 20 01 35* (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)	80 cubic metres	5 tonnes per day	

(3) The secure storage at the place where the activity is carried on of any WEEE of a kind described in Table 5A or 5B intended to be submitted to repair or refurbishment or both if—

- (a) the total quantity of any particular kind of WEEE so dealt with at that place does not exceed the storage limit specified in relation to that kind of WEEE in Table 5A or 5B;
- (b) the technical requirements specified in Annex III of the WEEE Directive are met;
- (c) the other requirements specified in relation to that kind of WEEE in Table 5B are met;
- (d) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered;
- (e) no WEEE is stored at that place for more than 12 months.

(4) Paragraphs (1), (2) and (3) only apply to the carrying on of an activity at a place if the person responsible for the management of that place has established administrative arrangements to ensure that—

- (a) WEEE accepted at that place is of a kind described in Table 5A or 5B, as the case may be; and
- (b) no waste is accepted at that place in such a quantity as would cause there to be breach of any of the conditions of the exemption.

(5) For the purposes of this paragraph, the storage and treatment limits specified in Tables 5A and 5B are overall limits that apply to all waste falling within the 6-digit code or codes specified in those Tables.

- 50.**—(1) The secure storage at any place of WEEE of a kind described in Table 6A if—
- (a) the WEEE is stored for the purpose of its recovery elsewhere;
 - (b) the total quantity of any particular kind of WEEE stored at the site at any time does not exceed the storage limit specified in relation to that kind of WEEE in Table 6A;
 - (c) the total duration that any particular kind of WEEE is stored for does not exceed the duration limits specified in relation to that kind of WEEE in Table 6A;
 - (d) the type of containment specified in relation to that kind of WEEE in Table 6A are met; and
 - (e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.

Table 6A

<i>Kind of Waste</i>	<i>Maximum quantity</i>	<i>Maximum duration</i>	<i>Type of containment</i>
16 02 14 (WEEE other than those mentioned in 16 02 09 to 16 02 12)	80 cubic metres	3 months	impermeable surface; weatherproof covering of stored WEEE
20 01 36 (WEEE other than those mentioned in 20 01 21, 20 01 23 and 20 01 35)	80 cubic metres	3 months	impermeable surface; weatherproof covering of stored WEEE

- (2) The secure storage at any place of WEEE of a kind described in Table 6B if—
- (a) the WEEE is stored for the purpose of its recovery elsewhere;
 - (b) the total quantity of any particular kind of WEEE stored at the site at any time does not exceed the storage limit specified in relation to kind of WEEE in Table 6B;
 - (c) the total duration that any particular kind of WEEE is stored for does not exceed the duration limits specified in relation to that kind of WEEE in Table 6B;
 - (d) the type of containment and other requirements specified in relation to that kind of WEEE in Table 6B are met; and
 - (e) the WEEE is stored in such a manner that its environmentally sound reuse or recycling is not hindered.

Table 6B

<i>Kind of Waste</i>	<i>Maximum quantity</i>	<i>Maximum duration</i>	<i>Type of containment</i>	<i>Other Requirements</i>
16 02 11* (WEEE containing chlorofluorocarbons, HCFC, HFC) and 20 01 23* (WEEE containing chlorofluorocarbons)	80 cubic metres	3 months	impermeable surface; weatherproof covering of stored WEEE	stored in a manner that will prevent the release of the CFC, HCFC and HFC; the number of units in any stack shall not exceed 2; the overall height of any stack shall not exceed 3.5m
16 02 13* (WEEE containing hazardous components other than	80 cubic metres	3 months	impermeable surface; weatherproof	

those mentioned in 16 02 09 to 16 02 12) and 20 01 35* (WEEE other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components)				covering of stored WEEE	
20 01 21* (fluorescent tubes and other mercury-containing waste)	50 cubic metres	3 months	appropriate secure containers; weatherproof covering	stored in such a way that the glass is not broken	

(3) For the purposes of sub-paragraphs (1) and (2), the activity of storage shall be taken to include the incidental sorting of waste of that kind.

(4) For the purposes of this paragraph, the storage and treatment limits specified in Tables 6A and 6B are overall limits that apply to all waste falling within the 6-digit code or codes specified in those Tables.

51.—(1) The crushing of waste gas discharge lamps (including fluorescent tubes which are hazardous waste within category 20 01 21*) for the purposes of volume reduction prior to collection, where the material is intended for recovery or reuse if—

- (a) the activity is carried on in equipment designed for the purpose of volume reduction prior to collection;
- (b) the activity is carried on solely for that purpose;
- (c) the mercury concentration in emissions does not exceed 50 micrograms/cubic metre;
- (d) the total quantity of lamps processed in any period of 24 hours does not exceed 3 tonnes.

(2) The secure storage of such lamps prior to crushing, or after crushing but prior to collection if—

- (a) the lamps are stored under weatherproof covering; and
- (b) after crushing, the lamps are stored in a secure container.”.

9.—(1) Paragraph 13 of Schedule 4 (Waste Framework Directive etc) is amended as follows.

(2) After Table 6 insert—

“(4B) In a case where an establishment or undertaking carries on or intends to carry on an exempt treatment activity in respect of WEEE, the Environment Agency shall discharge its duty under sub-paragraph (1) in respect of any place where such an activity is carried on by—

- (a) carrying out a prior inspection of that place within two months of having received in respect of that place the notice, plans and fee referred to in regulation 18AA(1); and
- (b) thereafter carrying out periodic inspections of that place at intervals not exceeding 12 months,

and such inspection shall verify the type and quantities of waste to be treated, the general technical requirements to be complied with and the safety precautions to be taken.”.

Transitional Arrangements

Existing site licences

1.—(1) Any site licence authorising an establishment or undertaking carrying out treatment operations to store or treat WEEE on 5th January 2007 (“an existing site licence”) shall be read as containing the following condition—

“The operator shall carry out the storage prior to treatment and treatment of any WEEE in accordance with such requirements of Article 6(1), (3) and (4) and Annexes II and III of the WEEE Directive as are applicable to the activity in question.”.

(2) In any case where before the coming into force of these Regulations an existing site licence authorises an activity falling within paragraph 49, 50 or 51 of Schedule 3 to the 1994 Regulations, the licence shall be treated as revoked (so far as it relates to that activity) from the determination date.

(3) In any other case, an existing site licence shall cease to authorise an establishment or undertaking carrying out treatment operations to store or treat WEEE from the determination date unless the licence is modified to authorise storage or treatment in accordance with the WEEE Directive.

Registered exemptions

2.—(1) An establishment or undertaking which—

- (a) was carrying on an exempt activity involving the storage or treatment of WEEE at any place immediately before 5th January 2007; and
- (b) by virtue of amendments made by these Regulations—
 - (i) would be carrying on a notifiable exempt activity; or
 - (ii) would no longer be carrying on an exempt activity,

will be treated as if the amendments made by these Regulations do not apply in relation to the carrying on of that activity at that place until the determination date.

(2) An establishment or undertaking falling within paragraph (1) which is carrying out treatment operations shall be subject to the condition that the storage prior to treatment and treatment shall be carried out in accordance with such requirements of Article 6(1), (3) and (4) and Annexes II and III of the WEEE Directive as are applicable to the activity in question.

(3) The requirement described in sub-paragraph (2) shall have effect as if it were a condition of the relevant paragraph of Schedule 3 to the 1994 Regulations.

(4) In this paragraph, “notifiable exempt activity” and “exempt activity” have the meaning given by the 1994 Regulations.

Meaning of determination date

3. In this Schedule, the “determination date” is—

- (a) where an application for a modification to a waste management licence is made in relation to the storage or treatment of WEEE before 1st July 2007, the date on which the application is granted or, if the application is (or is deemed to be) rejected, the date on which the period for appealing against that rejection expires without an appeal being made or on which any appeal is withdrawn or finally determined;
- (b) where an application for a waste management licence is made in relation to the storage or treatment of WEEE before 1st July 2007, the date on which the application is granted or, if the application is (or is deemed to be) rejected, the date on which the period for

appealing against that rejection expires without an appeal being made or on which any appeal is withdrawn or finally determined;

- (c) where a notification is provided in relation to an exempt activity involving the storage or treatment of WEEE before 1st July 2007, the date on which the appropriate registration authority enters the relevant particulars in the register or, if it refuses to do so, the date on which it notifies the establishment or undertaking of its decision; or
- (d) in any other case, 1st July 2007.

Transitional charges

4.—(1) The charge to be paid on notification pursuant to regulation 18AA of the 1994 Regulations of an exempt activity falling within paragraph 49 of Schedule 3 of the 1994 Regulations is £265.

(2) Sub-paragraph (1) shall cease to apply in relation to an activity falling within paragraph 49 of Schedule 3 of the 1994 Regulations once a charge is prescribed in relation to that activity by a charging scheme made under section 41 of the Environment Act 1995^(a).

^(a) 1995 c.25.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose the permit requirements of Article 6 and Annexes II and III of Council Directive 2002/96/EC on waste electrical and electronic equipment (OJ No. L37, 13.2.2003, p.24) as amended by Council Directive 2003/108/EC (OJ No. L345, 31.12.2003, p.106).

These Regulations amend the Waste Management Licensing Regulations 1994. They provide for exemptions from permit requirements for treatment of waste electrical and electronic equipment (“WEEE”), together with exemptions from the permit requirements of Council Directive 2006/12/EC on waste (OJ No. L114, 27.4.2006, p.9) for the purposes of storing WEEE.

Regulation 3 and Schedule 1 amend the Waste Management Licensing Regulations 1994 for the purposes of providing new exemptions for the treatment and for the storage of WEEE, amending existing exemptions and making other amendments to the Regulations.

Regulation 4 and Schedule 2 set out the transitional arrangements for existing licence holders and establishments and undertakings that have extant registrations.

A transposition note setting out how the Government will transpose the permitting requirements of Article 6 and Annexes II and III of the WEEE Directive into law has been placed in the library of each House of Parliament. It is available at <http://defraweb/environment/waste/topics/electrical/index.htm>.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business has been placed in the library of each House of Parliament. It is available at <http://defraweb/environment/waste/topics/electrical/index.htm>. Copies can also be obtained from the Environment – Protection and Quality Division, National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ.

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