

2022 No. 1383

ENVIRONMENTAL PROTECTION

FEES

**The Restriction of Hazardous Substances in Electrical and
Electronic Equipment (Exemptions) (Fees) Regulations 2022**

Made - - - - *19th December 2022*

Coming into force - - *6th April 2023*

The Secretary of State^(a) makes these Regulations, with the consent of the Treasury^(b), in exercise of the powers conferred by section 14(1) of, and paragraph 1(1)(c) and (3) of Schedule 4 and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018^(d).

In accordance with paragraph 12(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Restriction of Hazardous Substances in Electrical and Electronic Equipment (Exemptions) (Fees) Regulations 2022.

(2) These Regulations come into force on 6th April 2023.

(3) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations—

“application” means an application for the grant, renewal or revocation of an exemption under regulation 6 of the 2020 Regulations;

“charging scheme” means a scheme published under regulation 4;

“the 2020 Regulations” mean the Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020^(e).

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- (a) The Secretary of State is an appropriate authority for the purposes of paragraph 1(1) of Schedule 4 to the European Union (Withdrawal) Act 2018 (“the 2018 Act”); see paragraph 2(1) of Schedule 4 to the 2018 Act for the definition of “appropriate authority”.
- (b) Treasury consent is required pursuant to paragraph 3(1) of Schedule 4 to the 2018 Act.
- (c) The Secretary of State is the public authority on whom the relevant function was conferred by the Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647) under section 8(1) of the 2018 Act; see section 20(1) of the 2018 Act for the definition of “public authority”.
- (d) 2018 c. 16, amended by the European Union (Withdrawal Agreement) Act 2020 (c. 1).
- (e) S.I. 2020/1647.

Fees

3.—(1) Subject to paragraph (6), the Secretary of State may charge a fee in respect of an application.

(2) The fee is payable—

- (a) by any person who makes an application (“applicant”) within a period of 14 days, commencing on the date the acknowledgement of receipt is sent; or
- (b) where the Secretary of State has published a charging scheme, by an applicant in the circumstances and at the time and in the manner provided for in that scheme.

(3) The amount of the fee payable is—

- (a) £39,721; or
- (b) where the Secretary of State has published a charging scheme, the fee set out in, or calculated in accordance with, that scheme.

(4) The Secretary of State is under no obligation to process or to issue a determination in respect of an outstanding application if there is an outstanding fee in relation to it.

(5) Any unpaid fee may be recovered by the Secretary of State as a civil debt.

(6) Where the application is one to which regulation 9 of the 2020 Regulations applies—

- (a) no fee is payable; and
- (b) the Secretary of State must, at the same time as providing an acknowledgement of receipt, inform the applicant that no fee is payable.

(7) In this regulation, “acknowledgement of receipt” means the acknowledgement of receipt of an application the Secretary of State must provide to an applicant in accordance with regulation 6(3) of the 2020 Regulations.

Charging scheme

4.—(1) The Secretary of State may, with the consent of the Treasury, publish a charging scheme setting out the fee payable in respect of an application or how that fee will be calculated.

(2) Before publishing a charging scheme, the Secretary of State must—

- (a) bring the proposals for a charging scheme to the attention of the persons likely to be affected by them;
- (b) specify the period within which representations or objections to the proposals may be made;
- (c) consider any representations or objections made under paragraph (2)(b); and
- (d) make such modifications to the proposals as the Secretary of State considers appropriate.

(3) On publishing a charging scheme, the Secretary of State must lay before each House of Parliament a copy of the scheme.

(4) A charging scheme may—

- (a) make different provision for different persons or circumstances;
- (b) provide for the time and manner in which the fees are to be paid;
- (c) provide for a refund of fees.
- (d) revoke and replace any previous charging scheme;
- (e) contain supplemental, incidental, consequential or transitional provision for the purposes of the scheme.

Refund of fees

5.—(1) This regulation applies where—

- (a) an application for which a fee is payable under regulation 3(2)(a) is withdrawn before being determined; or
- (b) the fee paid under regulation 3(2)(a) for an application has exceeded the reasonable costs incurred by the Secretary of State in connection with that application.

(2) The Secretary of State must refund such proportion of the fee paid in respect of an application as the Secretary of State thinks fit, having regard to any reasonable costs incurred by the Secretary of State in connection with that application.

19th December 2022

Rebecca Pow
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

We consent

19th December 2022

Amanda Holloway
Scott Mann
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make provision for the charging of fees in connection with the exercise of a function conferred on the Secretary of State by the Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647) (“the 2020 Regulations”), which are made under section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16).

In particular, they make provision for the introduction of fees payable to the Secretary of State for determining applications made under regulation 6 of the 2020 Regulations for the grant, renewal or revocation of an exemption from the restriction in regulation 3(1) of the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 (S.I. 2012/3032) (“the 2012 Regulations”).

Applications under regulation 6 of the 2020 Regulations are made by manufacturers, the authorised representative of manufacturers, or any economic operator in the supply chain, within the meaning of regulation 2 of the 2012 Regulations.

A full impact assessment has not been produced for this instrument as it is not required under the regulatory provisions of the Small Business, Enterprise and Employment Act 2015.

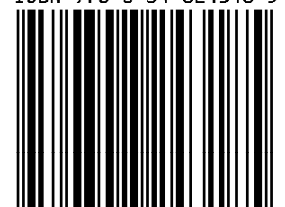
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