

D R A F T

STATUTORY INSTRUMENTS

2006 No.

ENVIRONMENTAL PROTECTION

The Waste Electrical and Electronic Equipment Regulations 2006

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CONTENTS

PART 1 GENERAL

1. Citation, commencement and extent
2. Interpretation
3. Service of documents
4. Amendments to the Environment Act 1995

PART 2 APPLICATION

5. Application
6. Existing Community legislation

PART 3 PRODUCER OBLIGATIONS

7. Obligation to join a scheme
8. Information provided to operators of schemes
9. Record keeping
10. Declaration of WEEE producer registration number
11. Marking EEE with the crossed out wheeled bin symbol
12. Marking EEE with a producer identification mark and a date mark
13. Information on new types of EEE
14. Producers supplying EEE by means of distance communication

PART 4 SCHEME OBLIGATIONS

DRAFT

15. Registration of producers
16. Application to register producers
17. Refusal to register a producer
18. Financing: WEEE from private households
19. Financing: WEEE from users other than private households
20. Treatment
21. Recovery
22. Reporting: WEEE from private households
23. Reporting: EEE put onto the market
24. Reporting: financing of WEEE from private households
25. Declaration of compliance
26. Record keeping

PART 5

DISTRIBUTOR OBLIGATIONS: WEEE FROM PRIVATE HOUSEHOLDS

27. Collection and take back
28. Information
29. Exemption for members of a distributor take back scheme
30. Record keeping

PART 6

MISCELLANEOUS

31. Final user financing obligation: WEEE from users other than private households
32. Obligation to optimise reuse and recycling of WEEE
33. WEEE that presents a health and safety risk
34. Take back: WEEE from private households
35. Prohibition on showing the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households

PART 7

SCHEME APPROVAL

36. Application for approval of a scheme
37. Refusal to approve a proposed scheme
38. Conditions of approval
39. Withdrawal of approval of a scheme
40. Charges

PART 8

ACCREDITATION OF REPROCESSORS AND EXPORTERS

41. Requirement for accreditation
42. Application for accreditation
43. Application for extension of accreditation to an additional site
44. Conditions of accreditation
45. Suspension and cancellation of accreditation
46. Accreditation charges
47. Reporting

DRAFT

48. Record keeping

PART 9
POWERS AND DUTIES OF THE SECRETARY OF STATE

49. Distributor take back scheme
50. Approval of designated collection facilities
51. Withdrawal of approval of designated collection facilities
52. Code of practice
53. Evidence notes
54. Product design

PART 10
DUTIES OF THE APPROPRIATE AUTHORITIES

55. Register of producers
56. Monitoring
57. Approval of schemes
58. Information
59. Accreditation

PART 11
DISCLOSURE OF INFORMATION

60. Disclosure of information

PART 12
APPEALS

61. Right of appeal
62. Procedure of appeals
63. Determination of appeals
64. Status of a decision pending appeal

PART 13
ENFORCEMENT

65. Enforcement
66. Enforcement notice
67. Entry and inspection

PART 14
OFFENCES AND PENALTIES

68. Offences
69. Penalties
70. Commencement of proceedings
71. Liability of persons other than the principal offender

DRAFT

- SCHEDULE 1 — Categories of EEE covered by these Regulations
- SCHEDULE 2 — List of products which fall under the categories in Schedule 1
- SCHEDULE 3 — Crossed out wheeled bin symbol
- SCHEDULE 4 — Information to be included in an application for registration of producers
- SCHEDULE 5 — Information to be included in a declaration of compliance
- SCHEDULE 6 — Producer compliance scheme approval
 - PART 1 — Information to be included in an application for approval
 - PART 2 — Information to be included in the constitution
 - PART 3 — Information to be included in the operational plan
 - PART 4 — Requirements for approval of a scheme
- SCHEDULE 7 — Accreditation of reprocessors and exporters
 - PART 1 — Information to be included in an application for accreditation
 - PART 2 — Conditions of accreditation
- SCHEDULE 8 — Criteria for approval as a designated collection facility
- SCHEDULE 9 — Public register
- SCHEDULE 10 — Procedure on appeals

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 on him by section 2(2) of that Act, makes the following Regulations.

PART 1 GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste Electrical and Electronic Equipment Regulations 2006.

(2) Subject to paragraphs (3) and (4), these Regulations shall come into force on 1st January 2007.

(3) Regulations 11 to 13, 21 to 30 and 32 to 35 and Schedules 3 and 4 shall come into force on 1st April 2007.

(4) Regulation 10 shall come into force on 1st July 2007.

(5) Regulations 4, 40 and 46 do not extend to Northern Ireland.

Interpretation

2. In these Regulations—

“accredited exporter” means an exporter who is accredited by an appropriate authority under regulation 42;

(a) S.I. 2003/2901 and S.I. 2004/706.

(b) 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 Community 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.

DRAFT

“accredited reprocessor” means a reprocessor who is accredited by an appropriate authority under regulation 42;

“appropriate authority” means—

- (a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in England or Wales, the Environment Agency;
- (b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Scotland, the Scottish Environment Protection Agency;
- (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Northern Ireland, the Department of the Environment;
- (d) for the purposes of Part 4 relating to the obligations of an operator of a scheme, the appropriate authority which approved that operator’s scheme under regulation 36;
- (e) for the purposes of regulation 31 relating to the record keeping obligation of final users—
 - (i) where the final user’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the final user’s registered office or principal place of business is in Scotland, the Scottish Environment Protection Agency;
 - (iii) where the final user’s registered office or principal place of business is in Northern Ireland, the Department of the Environment; and
 - (iv) at the election of the final user, either the Environment Agency, the Scottish Environment Protection Agency or the Department of the Environment, where the final user does not have a registered office or principal place of business in the United Kingdom;
- (f) for the purposes of Part 7 relating to the approval of schemes—
 - (i) where the operator of the scheme’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the operator of the scheme’s registered office or principal place of business is in Scotland, the Scottish Environment Protection Agency;
 - (iii) where the operator of the scheme’s registered office or principal place of business is in Northern Ireland, the Department of the Environment; and
 - (iv) at the election of the operator of the scheme, either the Environment Agency, the Scottish Environment Protection Agency or the Department of the Environment, where the operator of the scheme does not have a registered office or principal place of business in the United Kingdom;
- (g) for the purposes of Part 8 relating to the accreditation of reprocessors and exporters—
 - (i) where the reprocessor’s or exporter’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the reprocessor’s or exporter’s registered office or principal place of business is in Scotland, the Scottish Environment Protection Agency;
 - (iii) where the reprocessor’s or exporter’s registered office or principal place of business is in Northern Ireland, the Department of the Environment; and
 - (iv) at the election of the reprocessor or exporter, either the Environment Agency, the Scottish Environment Protection Agency or the Department of the Environment, where the reprocessor or exporter does not have a registered office or principal place of business in the United Kingdom;
- (h) for the purposes of Schedule 8 relating to designated collection facilities—
 - (i) where the operator of the facility’s registered office or principal place of business is in England or Wales, the Environment Agency;

DRAFT

- (ii) where the operator of the facility’s registered office or principal place of business is in Scotland, the Scottish Environment Protection Agency; and
- (iii) where the operator of the facility’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;

“authorised treatment facility” means any establishment or undertaking carrying out treatment and which is licensed or otherwise permitted under or by virtue of any legislation made in the United Kingdom, or in any part of the United Kingdom, which implements Article 6 of the Directive;

“code of practice” means the code of practice issued by the Secretary of State under regulation 52;

“compliance period” means—

- (a) the first compliance period; or
- (b) the period commencing on 1st January and ending with 31st December of the same year for any year following the first compliance period;

“dangerous substance or preparation” means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC of 27th June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances^(a) or Directive 1999/45/EC of the European Parliament and of the Council of 31st May 1999 concerning the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations^(b);

“declaration of compliance” means the declaration of compliance referred to in regulation 25(1);

“Department of the Environment” means the Department of the Environment in Northern Ireland;

“designated collection facility” means any establishment or undertaking carrying out collection operations and which is approved by the Secretary of State under regulation 50;

“the Directive” means Directive 2002/96/EC of the European Parliament and of the Council of 27th January 2003 on waste electrical and electronic equipment (WEEE)^(c) as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8th December 2003 on waste electrical and electronic equipment (WEEE)^(d);

“disposal” means any of the applicable operations provided for in Annex IIA to Directive 2006/12/EC of the European Parliament and of the Council on Waste^(e);

“distributor” means any person who provides electrical or electronic equipment on a commercial basis to the party who is going to use it;

“distributor take back scheme” means a distributor take back scheme approved by the Secretary of State under regulation 49;

“EEA” means the European Economic Area;

“electrical and electronic equipment” or “EEE” means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Schedule 1 to these Regulations and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;

“enforcement notice” means a notice in writing served in accordance with regulation 66;

“enforcement officer” has the meaning given in regulation 67(13);

(a) OJ No. L196, 16.8.1967, p.1.
(b) OJ No. L200, 30.7.1999, p.1.
(c) OJ No. L37, 13.2.2003, p.24.
(d) OJ No. L 345, 31.12.2003, p.106.
(e) OJ No. L114, 27.04.06, p. 9.

DRAFT

“Environment Agency” means the body corporate established under section 1(1) of the Environment Act 1995(a);

“evidence note” means any of the following—

- (a) an evidence note issued by—
 - (i) an authorised treatment facility, as evidence of the receipt of the tonnage of WEEE specified in the note for treatment within the United Kingdom;
 - (ii) an accredited reprocessor, as evidence of the receipt of the tonnage of WEEE specified in the note for reprocessing within the United Kingdom; and
 - (iii) an accredited exporter, as evidence of the export of the tonnage of WEEE specified in the note for treatment or reprocessing outside the United Kingdom;
- (b) an evidence note issued or reissued by the Secretary of State under regulation 53;

“exporter” means a person who, in the ordinary course of conduct of a trade, occupation or profession, owns and exports WEEE for treatment or reprocessing outside the United Kingdom;

“first compliance period” means the period commencing on 1st April 2007 and ending with 31st December 2007;

“first quarter period” means a period commencing on 1st January and ending with 31st March;

“fourth quarter period” means a period commencing on 1st October and ending with 31st December;

“issue” in relation to an evidence note means to sell or otherwise supply to any person;

“member” means scheme member;

“member State” includes Norway, Iceland and Lichtenstein(b);

“notification of financial obligation” means a notification issued under regulation 18;

“operator of a scheme” means the operator of a scheme that has been approved under regulation 36;

“operator of a proposed scheme” means the operator of a proposed scheme that is the subject of an application for approval made under regulation 36;

“premises” includes any land or means of transport;

“producer” means any person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC(c) as amended by Directive 2002/65/EC(d) on the protection of consumers in respect of distance contracts—

- (a) manufactures and sells electrical and electronic equipment under his own brand;
- (b) resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the “producer” if the brand of the producer appears on the equipment, as provided for in sub-paragraph (a); or
- (c) imports or exports electrical and electronic equipment on a professional basis into a member State;

“proposed scheme” means a proposed scheme that is the subject of an application for approval made under regulation 36;

“quarter period” means—

- (a) the first quarter period;
- (b) the second quarter period;

(a) 1995 c.25.

(b) The application of the Directive was extended to Norway, Iceland and Lichtenstein by Decision 82/2004 of the European Economic Area Joint Committee of 8th June 2004 (OJ No. L349, 25.11.2004, p. 39).

(c) OJ No. L144, 4.6.97, p.19.

(d) OJ No. L271, 9.10.02, p.16.

(c) the third quarter period;

(d) the fourth quarter period;

“recovery” means any of the applicable operations provided for in Annex IIB to Directive 2006/12/EC, and “recover” and “recovery operation” shall be construed accordingly;

“recycling” 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;

“register of producers” means the register of producers maintained by the appropriate authority under regulation 55;

“relevant authorisation” means—

(a) a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000(a) or regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000(b);

(b) an authorisation under section 6 of the Environmental Protection Act 1990(c) (“the 1990 Act”);

(c) a waste management licence granted under section 36 of the 1990 Act;

(d) an exemption registered under regulation 18 of the Waste Management Licensing Regulations 1994(d);

(e) a permit granted under regulation 10 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(e);

(f) an exemption registered under regulation 18 of the Waste Management Licensing Regulations (Northern Ireland) 2003(f); or

(g) a waste management licence granted under article 8 of the Waste and Contaminated Land (Northern Ireland) Order 1997(g).

“relevant compliance period” means, except where the context otherwise requires, any compliance period in respect of which any person has obligations under these Regulations;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling, and “reprocessing” shall be construed accordingly;

“reuse” 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;

“scheme” means a scheme that has been approved under regulation 38;

“scheme member” means a producer who is a member of a scheme that has been approved by the appropriate authority under regulation 36;

“second quarter period” means a period commencing on 1st April and ending with 30th June;

“Scottish Environment Protection Agency” or “SEPA” means the body established under section 20(1) of the Environment Act 1995;

(a) S.I. 2000/1973 as amended by the Solvent Emissions (England and Wales) Regulations 2004 (S.I. 2004/107). There are other amendments not relevant to these Regulations.

(b) S.S.I. 2000/323 as amended by the Solvent Emissions (Scotland) Regulations 2004 (S.S.I. 2004/26). There are other amendments not relevant to these Regulations.

(c) 1990 c.43.

(d) S.I. 1994/1056 as amended by the Waste Management Licensing (Amendment) Regulations 1998 (S.I. 1998/606) and the Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations 2005 (S.I. 2005/1728). There are other amendments not relevant to these Regulations.

(e) S.R. (N.I.) 2003 No. 46.

(f) S.R. (N.I.) 2003 No. 493.

(g) S.I. 1997/2778 (N.I. 19).

“third quarter period” means a period commencing on 1st July and ending with 30th September;

“treatment” 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 or disposal or both of the WEEE;

“waste electrical and electronic equipment” or “WEEE” means electrical or electronic equipment which is waste within the meaning of Article 1(a) of Directive 2006/12/EC, including all components, subassemblies and consumables which are part of the product at the time of discarding;

“WEEE from private households” means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;

“WEEE materials” includes all substances, components, subassemblies and consumables derived from WEEE that have not been fully recovered;

“WEEE producer registration number” means the registration number issued to a producer by the appropriate authority under regulation 16;

“writing” includes text that is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference;

“year” means a 12 month period beginning on 1st January.

Service of documents

3.—(1) Any document required or authorised by these Regulations to be served on a person may be so served—

- (a) by delivering it to him at or by leaving it at—
 - (i) the address provided by that person in accordance with these Regulations; or
 - (ii) his proper address; or
- (b) by sending it by post to him at either of the addresses mentioned in sub-paragraph (a);
- (c) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary or clerk of that body corporate; or
- (d) if the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978^(a) (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served in accordance with these Regulations shall be his last known address except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate; and
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership,

and for the purposes of this paragraph, the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(a) 1978 c.30.

Amendments to the Environment Act 1995

- 4.**—(1) The following amendments to the Environment Act 1995 shall have effect.
- (2) In section 56 (interpretation of Part 1), in subsection (1)—
- (a) in the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Environment Agency, after paragraph (k) insert—
- “(l) approval of a scheme under regulation 36 of the Waste Electrical and Electronic Equipment Regulations 2006 (“the WEEE Regulations”);
 - (m) registration of a producer as a member of a scheme mentioned in paragraph (l);
 - (n) accreditation of a reprocessor or exporter under regulation 42 of the WEEE Regulations;
 - (o) extension of accreditation of an exporter under regulation 43 of the WEEE Regulations.”; and
- (b) in the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Scottish Environment Protection Agency, after paragraph (k) insert—
- “(l) approval of a scheme under regulation 36 of the Waste Electrical and Electronic Equipment Regulations 2006 (“the WEEE Regulations”);
 - (m) registration of a producer as a member of a scheme mentioned in paragraph (l);
 - (n) accreditation of a reprocessor or exporter under regulation 42 of the WEEE Regulations;
 - (o) extension of accreditation of an exporter under regulation 43 of the WEEE Regulations.”.

PART 2

APPLICATION

Application

- 5.**—(1) These Regulations apply to EEE that is within the numbered categories set out in Schedule 1.
- (2) The products listed in Schedule 2 fall within the numbered categories set out in Schedule 1.
- (3) These Regulations do not apply to EEE—
- (a) that is part of a type of equipment to which paragraph (1) does not apply; or
- (b) that is—
- (i) connected with the protection of the essential interests of the security of member States, such as arms, munitions and war material, and
 - (ii) intended for specifically military purposes.

Existing Community legislation

- 6.** Nothing in these Regulations shall affect the application of existing Community legislation on—
- (a) safety and health requirements; and
- (b) waste management.

PART 3

PRODUCER OBLIGATIONS

Obligation to join a scheme

7.—(1) A producer shall be a member of a scheme in respect of any compliance period, or any part of a compliance period, during which he puts EEE on the market in the United Kingdom.

(2) Subject to paragraph (3), a producer who is required by paragraph (1) to be a member of a scheme shall—

- (a) in respect of the first compliance period, join a scheme on or before 15th March 2007; and
- (b) in respect of any compliance period except for the first compliance period, join a scheme on or before 31st October in the year immediately preceding the commencement of that compliance period.

(3) Where a producer does not put or form the intention of putting EEE on the market in the United Kingdom until after the date by which that producer should have joined a scheme under paragraph (2), that producer shall join a scheme within 28 days of the date that he puts or forms the intention of putting EEE on the market in the United Kingdom in that compliance period.

Information provided to operators of schemes

8.—(1) This regulation applies to information—

- (a) which is provided to the operator of a scheme by a producer who is a member of that scheme at the time the information is provided; and
- (b) which the operator of the scheme will need to rely upon for the purposes of —
 - (i) making an application to register a producer under regulation 16;
 - (ii) complying with a reporting requirement under regulation 23;
 - (iii) complying with a demand to produce records under regulation 26 or 38(f).

(2) A producer who provides to the operator of the scheme information to which this regulation applies shall—

- (a) ensure that the information is in writing and is signed—
 - (i) where the producer is a company, by a director of that company; and
 - (ii) where the producer is a partnership, by a partner; and
- (b) ensure that the information is as accurate as reasonably possible.

Record keeping

9.—(1) A producer to whom the obligation in regulation 7 applies in relation to any compliance period shall keep records in writing of the following information—

- (a) the amount in tonnes and the number of units of all EEE which he has put on the market in the United Kingdom during that compliance period which fall within—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within Schedule 1);
 - (ii) cathode ray tubes that fall within numbered categories 3, 4, 7, 8 and 9 of Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
- (b) for each numbered category referred to in paragraph (a), the amount in tonnes and the number of units of EEE that was or is intended for use by—
 - (i) private households; and
 - (ii) users other than private households.

(2) Subject to paragraph (3), a producer to whom the obligation in regulation 7 applies in relation to the first compliance period shall keep records in writing of the following information—

- (a) the amount in tonnes and the number of units of all EEE which he has put on the market in the United Kingdom during 2006 which fall within—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within Schedule 1);
 - (ii) cathode ray tubes that fall within numbered categories 3, 4, 7, 8 and 9 of Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
- (b) for each numbered category referred to in paragraph (a), the amount in tonnes and the number of EEE that was or is intended for use by—
 - (i) private households; and
 - (ii) users other than private households.

(3) The obligation to keep records in paragraph (2) shall only apply to records that are in existence on 1st January 2007 and to records that are made after that date.

(4) The records referred to in this regulation shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand.

Declaration of WEEE producer registration number

10. A producer to whom the obligation in regulation 7 applies shall declare his WEEE producer registration number to any distributor to whom he intends to sell, sells or otherwise supplies EEE.

Marking EEE with the crossed out wheeled bin symbol

11.—(1) A producer shall mark EEE that he puts on the market with the symbol shown in Schedule 3 (“the crossed out wheeled bin symbol”).

(2) Except where paragraph (3) applies, the crossed out wheeled bin symbol shall be affixed in a visible, legible and indelible form to each item of equipment.

(3) In exceptional cases, where this is necessary because of the size or function of the product, the crossed out wheeled bin symbol shall be printed on—

- (a) the packaging;
- (b) the instructions for use; and
- (c) the accompanying warranty.

Marking EEE with a producer identification mark and a date mark

12.—(1) A producer shall mark EEE that he puts on the market in such a manner that—

- (a) he can be easily identified by that mark as the producer of the equipment (“the producer identification mark”); and
- (b) the equipment can be easily identified as having been put on the market after 13th August 2005 (“the date mark”).

(2) The producer identification mark and the date mark shall be affixed in a visible, legible and indelible form to each item of equipment.

Information on new types of EEE

13.—(1) A producer shall provide information on reuse and environmentally sound treatment for each new type of EEE put on the market by that producer within one year of such equipment being put on the market.

(2) The information mentioned in paragraph (1) shall identify so far as it may be reasonably required by any person carrying out treatment activities—

- (a) the different components and materials of the EEE; and
- (b) the location of any dangerous substances and preparations in the EEE.

(3) A producer shall make the information mentioned in paragraph (1) available to any person carrying out treatment activities in the form of manuals or by means of electronic media.

Producers supplying EEE by means of distance communication

14.—(1) A producer who puts EEE on the market in any member State except for the United Kingdom by means of distance communication shall keep records in writing of the following information—

- (a) the amount in tonnes and the number of units of all EEE which he has put on the market in any member State except for the United Kingdom on or after 1st July 2007;
- (b) the categories of the EEE referred to in sub-paragraph (a) by reference to—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within Schedule 1);
 - (ii) cathode ray tubes that fall within numbered categories 3, 4, 7, 8 and 9 of Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
- (c) for each numbered category referred to in paragraph (b), the amount in tonnes and the number of units of EEE that was or is intended for use by—
 - (i) private households; and
 - (ii) users other than private households; and
- (d) details of compliance with the requirements of Article 8(4) of the Directive.

(2) The records referred to in this regulation shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the Secretary of State on demand.

PART 4

SCHEME OBLIGATIONS

Registration of producers

15. An operator of a scheme shall register each producer who is a member of his scheme with the appropriate authority for each compliance period, or part of a compliance period, during which that producer's membership of the scheme subsists.

Application to register producers

16.—(1) An operator of a scheme who is required by regulation 15 to register its members shall—

- (a) for the purpose of registering scheme members for the first compliance period, make an application to the appropriate authority on or before 31st March 2007; and
- (b) for the purpose of registering scheme members for any compliance period except for the first compliance period, make an application to the appropriate authority on or before 31st October in the year immediately preceding the commencement of that compliance period.

(2) Where a producer becomes a member of a scheme by virtue of regulation 7(3), the operator of the scheme shall make an application to register that producer to the appropriate authority within 28 days after the date when that producer becomes a member of the scheme.

(3) Where the operator of the scheme is a partnership, an application for registration made under paragraphs (1) and (2) shall be made by any partner acting on behalf of the partnership.

(4) An application for registration made under paragraph (1) or (2) shall—

- (a) be made in writing;
- (b) contain the information set out in Schedule 4; and
- (c) be accompanied by evidence that the operator of the scheme has been approved by the appropriate authority under regulation 36.

(5) An application for registration shall be granted where—

- (a) the operator of the scheme has complied with the requirements of paragraph (4); and
- (b) the operator of the scheme has been approved by the appropriate authority under regulation 36,

and shall otherwise be refused.

(6) Where an application for registration is granted in respect of the first compliance period the appropriate authority shall, on or before 1st June 2007—

- (a) confirm to the operator of the scheme in writing that specified scheme members are registered with it for the first compliance period; and
- (b) issue a WEEE producer registration number for each registered scheme member.

(7) Where an application for registration is granted in respect of any compliance period except for the first compliance period, the appropriate authority shall, on or before 1st December of the year immediately preceding the commencement of that compliance period —

- (a) confirm to the operator of the scheme in writing that specified scheme members are registered with it for that compliance period; and
- (b) subject to paragraph (11), issue a WEEE producer registration number for each registered scheme member.

(8) Where an application for registration made under paragraph (1) is granted, the registration of any scheme member who is the subject of that application shall take effect for the whole of the compliance period in respect of which the application was made.

(9) Where an application for registration made under paragraph (2) is granted, the registration of any scheme member who is the subject of that application shall take effect from the date the application is granted until the end of the compliance period in respect of which the application was made.

(10) Any information provided to the appropriate authority under this regulation shall be as accurate as reasonably possible.

(11) Where a scheme member has been issued with a WEEE producer registration number by any appropriate authority in respect of a previous application made under this regulation within the last five years, the appropriate authority shall not issue a new WEEE producer registration number but shall confirm to the operator of the scheme that that scheme member will retain his previous WEEE producer registration number.

Refusal to register a producer

17.—(1) Any decision of the appropriate authority under regulation 16 to refuse to register a producer shall be notified, within 14 days of the decision, to the operator of the scheme who has made the application to register that producer.

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

- (a) be in writing;
- (b) give the reasons for the decision;
- (c) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12;

(d) in the case of a decision made by the Department of the Environment, state the time period during which representations in writing may be made to that appropriate authority; and

(e) state the obligation to join a scheme under regulation 7.

(3) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (2).

Financing: WEEE from private households

18.—(1) In the first compliance period, the financing of the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households—

(a) in respect of which the Secretary of State has issued one or more evidence notes under regulation 53(2); or

(b) that is deposited at designated collection facilities during the period commencing on 1st July 2007 and ending with 31st December 2007,

(“the relevant WEEE”) shall be the responsibility of all operators of schemes in that compliance period.

(2) In each compliance period except for the first compliance period, the financing of the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households that is deposited at designated collection facilities during that compliance period (“the relevant WEEE”) shall be the responsibility of all operators of schemes in that compliance period.

(3) Each operator of a scheme to whom paragraph (1) or (2) applies shall be responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of an amount of the relevant WEEE.

(4) The amount of the relevant WEEE as defined in paragraph (1) for which each operator of a scheme shall be responsible under paragraph (3) shall be calculated in relation to each of the categories of EEE as follows—

$$(A \div B) \times C$$

where—

“A” is the total amount (in tonnes) of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been put on the market in the United Kingdom in the first compliance period by all of the members of a particular scheme;

“B” is the total amount (in tonnes) of EEE intended for use by private households and falling within the relevant category that has been put on the market in the United Kingdom in the first compliance period; and

“C” is the total amount (in tonnes) of the relevant WEEE as defined in paragraph (1) which is waste from electrical or electronic products that fall within the relevant category.

(5) The amount of the relevant WEEE as defined in paragraph (2) for which each operator of a scheme shall be responsible under paragraph (3) shall be calculated in relation to each of the categories of EEE as follows—

$$(A \div B) \times C$$

where—

“A” is the total amount (in tonnes) of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been put on the market

in the United Kingdom in a particular compliance period by all of the members of a particular scheme;

“B” is the total amount (in tonnes) of EEE intended for use by private households and falling within the relevant category that has been put on the market in the United Kingdom in the same compliance period used in “A”; and

“C” is the total amount (in tonnes) of the relevant WEEE as defined in paragraph (2) which is waste from electrical or electronic products that fall within the relevant category that is deposited in the same compliance period used in “A”.

(6) It shall be the duty of the appropriate authority to determine the amount of relevant WEEE for which each operator of a scheme shall be responsible under paragraph (3) by applying the calculations mentioned in paragraphs (4) and (5).

(7) The appropriate authority shall notify in writing each operator of a scheme of the amount of relevant WEEE for which he shall be responsible under this regulation on or before 1st April of each year that immediately follows a relevant compliance period.

(8) A notification given under paragraph (7) shall include the following information—

- (a) the relevant compliance period;
- (b) the amount in tonnes of the relevant WEEE by reference to the categories of EEE, for which the appropriate authority has determined that the operator of a scheme shall be responsible under paragraph (3);
- (c) an explanation of how the amount of WEEE referred to in sub-paragraph (b) has been determined using the calculation set out in paragraph (4) or (5);
- (d) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12; and
- (e) in the case of a decision made by the Department of the Environment, state the time period during which representations in writing may be made to that appropriate authority.

(9) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification given under paragraph (7).

(10) The appropriate authority shall notify in writing each operator of a scheme of a preliminary assessment of the market share of his scheme members in 2006 on or before 17th April 2007.

(11) The market share referred to in paragraph (10) shall be calculated as follows in relation to each of the categories of EEE using the information provided to the appropriate authority in compliance with paragraph 11 of Schedule 4—

$$A \div B$$

where—

“A” is the total amount (in tonnes) of EEE intended for use by private households and falling within one of the categories of EEE (“the relevant category”) that has been put on the market in the United Kingdom in 2006 by all of the members of a particular scheme; and

“B” is the total amount (in tonnes) of EEE intended for use by private households and falling within the relevant category that has been put on the market in the United Kingdom in 2006.

(12) A notification given under paragraph (10) shall include the following information—

- (a) the preliminary assessment of the market share of scheme members in 2006 by reference to the numbered categories;
- (b) an explanation of how the market share referred to in sub-paragraph (a) has been determined using the calculation set out in paragraph (11).

(13) In this regulation, “categories of EEE” means—

- (a) the numbered categories of EEE listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within numbered category 5 of Schedule 1);
- (b) cathode ray tubes that fall within Schedule 1; and
- (c) gas discharge lamps that fall within numbered category 5 of Schedule 1.

Financing: WEEE from users other than private households

19.—(1) Each operator of a scheme shall finance the costs of the collection, treatment, recovery and environmentally sound disposal of—

- (a) WEEE from users other than private households arising during a compliance period from EEE put on the market in the United Kingdom on or after 13th August 2005 by each member of that operator’s scheme; and
- (b) WEEE from users other than private households arising during a compliance period from EEE put on the market in the United Kingdom before 13th August 2005 (“the relevant WEEE”) where a member of that operator’s scheme is supplying new EEE that—
 - (i) is intended to replace the relevant WEEE, and
 - (ii) is of an equivalent type or is fulfilling the same function as that of the relevant WEEE.

(2) Nothing in paragraph (1) shall prevent an operator of a scheme from concluding an agreement whereby the parties to the agreement make alternative arrangements between themselves to finance the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE.

Treatment

20.—(1) In respect of any WEEE for which he is responsible under these Regulations, an operator of a scheme shall ensure—

- (a) that systems are set up to provide for the treatment of such WEEE using the best available treatment, recovery and recycling techniques; and
- (b) that such WEEE is—
 - (i) treated within the United Kingdom at an authorised treatment facility; or
 - (ii) exported by an accredited exporter for treatment outside the united Kingdom.

(2) Paragraph (1)(b) does not apply to WEEE that is reused as a whole.

Recovery

21.—(1) In respect of any WEEE for which he is responsible under these Regulations, an operator of a scheme shall ensure—

- (a) that systems are set up to provide for the recovery of such WEEE;
- (b) that such WEEE is—
 - (i) recovered or recycled by an accredited reprocessor within the United Kingdom; or
 - (ii) exported by an accredited exporter for recovery or recycling outside the United Kingdom; and
- (c) that systems are set up to prioritise the reuse of whole appliances.

(2) By the end of every relevant compliance period, each operator of a scheme shall meet the following recovery targets for WEEE sent for treatment or recovery in accordance with these Regulations—

- (a) for WEEE that falls within numbered categories 1 and 10 of Schedule 1,
 - (i) at least 80% recovery by the average weight in tonnes of the equipment,

- (ii) at least 75% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
 - (b) for WEEE that falls within numbered categories 3 and 4 of Schedule 1,
 - (i) at least 75% recovery by the average weight in tonnes of the equipment;
 - (ii) at least 65% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
 - (c) for WEEE that falls within numbered categories 2, 5, 6, 7 and 9 of Schedule 1,
 - (i) at least 70% recovery by the average weight in tonnes of the equipment;
 - (ii) excluding gas discharge lamps that fall within numbered category 5 of Schedule 1, at least 50% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
 - (d) for gas discharge lamps that fall within numbered category 5 of Schedule 1, at least 80% reuse and recycling of components, materials and substances by the average weight in tonnes of the lamps.
- (3) Paragraph (2) shall not apply to WEEE that is reused as a whole.

Reporting: WEEE from private households

22.—(1) An operator of a scheme shall provide to the appropriate authority information on the total amount of WEEE from private households that he has been responsible for—

- (a) collecting from a designated collection facility; and
- (b) delivering to an authorised treatment facility for treatment within the United Kingdom or an accredited exporter for treatment outside the United Kingdom,

during a relevant compliance period.

(2) The information referred to in paragraph (1) shall—

- (a) be in writing;
- (b) specify the amount of WEEE from private households in tonnes by reference to each of the following categories—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within numbered category 5 of Schedule 1);
 - (ii) cathode ray tubes that fall within Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
- (c) be provided for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period.

Reporting: EEE put onto the market

23.—(1) An operator of a scheme shall provide to the appropriate authority information on the total amount of EEE in tonnes that each scheme member has put on the market in the United Kingdom in each compliance period during which that scheme member is registered with the appropriate authority under regulation 16.

(2) The information referred to in paragraph (1) shall—

- (a) be in writing;
- (b) specify the amount of EEE by reference to each of the following categories—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within category 5 of Schedule 1);
 - (ii) cathode ray tubes that fall within Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1;

- (c) for each numbered category referred to in paragraph (b), specify the amount in tonnes and the number of EEE that was or is intended for use—
 - (i) by private households; and
 - (ii) by users other than private households; and
- (d) be provided on or before 1st March in the year immediately following the end of any relevant compliance period.

Reporting: financing of WEEE from private households

24.—(1) Each operator of a scheme that is approved under regulation 36 for the first compliance period shall provide a report to the appropriate authority on or before 31st December 2007.

- (2) The report referred to in paragraph (1) shall—
 - (a) be in writing; and
 - (b) explain how his scheme members could most effectively—
 - (i) assume responsibility for financing the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at designated collection facilities relating to the waste from any product that they have put on the market in the United Kingdom after 13th August 2005; and
 - (ii) provide a guarantee when placing a product on the market in the United Kingdom that ensures that the operations mentioned in sub-paragraph (b)(i) in relation to the waste from that product will be financed.

Declaration of compliance

25.—(1) Where an operator of a scheme has any obligation in relation to—

- (a) WEEE from private households under regulation 18, 20 or 21;
- (b) WEEE from users other than private households under regulation 19, 20 or 21,

during a relevant compliance period he shall provide a declaration of compliance to the appropriate authority on or before 1st May of the year that immediately follows the end of that compliance period.

- (2) A declaration of compliance shall—
 - (a) be in writing;
 - (b) include the information set out in Schedule 5; and
 - (c) be accompanied by copies of all evidence notes acquired in respect of the relevant compliance period to which the declaration relates.
- (3) Where an operator of a scheme is under an obligation to provide a declaration of compliance under this regulation, that declaration shall be provided by—
 - (a) where the operator is an individual, that individual,
 - (b) where the operator is a partnership, a partner,
 - (c) where the operator is a company, a director of that company, and
 - (d) where the operator is an unincorporated body, the individual who has control or management of that body.

Record keeping

26.—(1) Each operator of a scheme who has obligations under regulation 18, 19, 20 or 21 in relation to any compliance period shall keep records of the following information—

- (a) the amount in tonnes and the number of units of all WEEE which the operator of the scheme has delivered to or collected from or caused to be deposited at or collected from—

- (i) a designated collection facility,
 - (ii) an authorised treatment facility,
 - (iii) an accredited reprocessor, or
 - (iv) an accredited exporter,
- during that compliance period;
- (b) the categories of the WEEE referred to in sub-paragraph (a) by reference to—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within numbered category 5 of Schedule 1);
 - (ii) cathode ray tubes that fall within Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1;
 - (c) for each numbered category referred to in paragraph (b), the amount in tonnes and the number of units of WEEE that was intended for use by—
 - (i) private households; and
 - (ii) users other than private households; and
 - (d) in relation to the details provided in accordance with the requirements of sub-paragraphs (b) and (c), the amount in tonnes and number of units of WEEE that is reused.
- (2) The records referred to in this regulation shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand.

PART 5

DISTRIBUTOR OBLIGATIONS: WEEE FROM PRIVATE HOUSEHOLDS

Collection and take back

27. A distributor who supplies new EEE to a person shall ensure that WEEE from private households can be returned to him free of charge and on a one-to-one basis by that person, provided that any such WEEE—

- (a) is of equivalent type to, and
- (b) has fulfilled the same function as,

the supplied new EEE.

Information

28. A distributor who supplies new EEE shall make information available to users of EEE in private households on—

- (a) the collection and take back system available to them;
- (b) the role of users of EEE in private households under these Regulations in contributing to the recovery of WEEE;
- (c) the potential effects on human health and on the environment caused by the presence of hazardous substances in EEE; and
- (d) the meaning of the crossed out wheeled bin symbol shown in Schedule 3.

Exemption for members of a distributor take back scheme

29. Where a distributor is a member of a distributor take back scheme, he shall be exempt from complying with the requirements of regulation 27 and 30(1) for the period during which his membership of that scheme subsists.

Record keeping

30.—(1) A distributor to whom the obligation in regulation 27 applies shall maintain records of the number of units of WEEE from private households returned to him under that regulation.

(2) Each distributor to whom the obligation in regulation 28 applies shall maintain records of the information made available under that paragraph.

(3) The records referred to in paragraphs (1) and (2) shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the Secretary of State on demand.

PART 6

MISCELLANEOUS

Final user financing obligation: WEEE from users other than private households

31.—(1) Where WEEE from a user other than a private household arises from EEE that was put on the market in the United Kingdom before 13th August 2005 and regulation 19(1)(b) does not apply, the final user of that WEEE shall finance the costs of its collection, treatment, recovery and environmentally sound disposal.

(2) Nothing in paragraph (1) shall prevent a user other than a private household from concluding an agreement whereby the parties to the agreement make alternative arrangements between themselves to finance the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE.

(3) In respect of any WEEE which he is responsible for financing the costs of under paragraph (1), a user other than a private household shall ensure that such WEEE is—

- (a) treated within the United Kingdom at an authorised treatment facility; or
- (b) exported by an accredited exporter for treatment outside the United Kingdom.

(4) Paragraph (3)(b) does not apply to WEEE that is reused as a whole.

Obligation to optimise reuse and recycling of WEEE

32. Any person who is responsible for the collection or transport of WEEE in connection with the carrying out of any obligation under regulation 18 or 19 shall ensure that all such WEEE is collected and transported in a way that optimises reuse and recycling of that equipment or of components of that equipment.

WEEE that presents a health and safety risk

33. Nothing in these Regulations shall prevent any person from refusing to deal with WEEE that presents a health and safety risk to any natural person because of contamination.

Take back: WEEE from private households

34. Nothing in these Regulations shall prevent an operator of a scheme from establishing and operating a system to take back WEEE from private households provided that system is consistent with the Directive.

Prohibition on showing the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households

35.—(1) Subject to paragraph (2), no person shall 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.

(2) A producer may show a purchaser at the time of sale of new EEE the costs of collection, treatment and environmentally sound disposal of WEEE from private households that arises from EEE put on the market before 13th August 2005—

- (a) in relation to EEE within numbered category 1 of Schedule 1 until 13th February 2013; and
 - (b) in relation to EEE within numbered categories 2 to 10 of Schedule 1 until 13th February 2011.
- (3) The costs mentioned in paragraph (2) shall not exceed the actual costs incurred.

PART 7

SCHEME APPROVAL

Application for approval of a scheme

36.—(1) An application for approval of a proposed scheme shall be made to the appropriate authority by the operator of the proposed scheme—

- (a) in respect of an application for approval commencing at the start of the first compliance period, on or before 31st January 2007; and
- (b) in respect of an application for approval commencing at the start of any compliance period except for the first compliance period, on or before 31st August in the year immediately preceding the commencement of that compliance period.

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

(3) An application for approval of a scheme shall—

- (a) be in writing;
- (b) contain the information set out in Part 1 of Schedule 6; and
- (c) be accompanied by—
 - (i) a copy of the constitution of the proposed scheme which must contain the information set out in Part 2 of Schedule 6;
 - (ii) a copy of the operational plan which must contain the information set out in Part 3 of Schedule 6; and
 - (iii) the application charge specified in regulation 40(1).

(4) An application for approval of a proposed scheme shall within 28 days of receipt of the application be granted where—

- (a) the operator of the scheme has complied with all of the requirements of paragraph (3); and
- (b) the appropriate authority is satisfied that the information provided by the operator of the proposed scheme in accordance with paragraph (3) 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 is willing and able to comply with the code of practice; and
 - (iii) the criteria for approval of a scheme set out in Part 4 of Schedule 6 are met,

and shall otherwise be refused.

(5) Where an application for approval is granted—

- (a) the appropriate authority shall notify the operator of the scheme in writing of that decision—
 - (i) in respect of an application for approval commencing at the start of the first compliance period, on or before 28th February 2007; and
 - (ii) in respect of an application for approval commencing at the start of any compliance period except for the first compliance period, on or before 1st October of the year immediately preceding that compliance period;
- (b) the approval shall take effect from the commencement of the start of the relevant compliance period and shall remain in force for three years unless approval is withdrawn for any reason under regulation 39; and
- (c) the appropriate authority shall publish the following details of the scheme—
 - (i) name of the scheme; and
 - (ii) name and address of the operator of the scheme.

(6) A notification made under paragraph (5) shall include details of any requirement to keep records that the appropriate authority considers necessary for the purpose of discharging any function it has under or by virtue of these Regulations and that is additional to the record keeping obligations under regulation 26.

Refusal to approve a proposed scheme

37.—(1) Any decision of the appropriate authority under regulation 36 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;
- (c) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12; and
- (d) in the case of a decision made by the Department of the Environment, state the time period during which representations in writing may be made to that appropriate authority.

(3) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (2).

Conditions of approval

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

- (a) that the operator of the scheme shall comply with his obligations under Part 4;
- (b) that where the operator of a scheme collects WEEE from a designated collection facility which is open to the public he shall comply with the code of practice;
- (c) that the operator of the 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 the 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 36(3)(b),
 - (bb) the constitution submitted in accordance with regulation 36(3)(c)(i), or

- (cc) the operational plan submitted in accordance with regulation 36(3)(c)(ii);
- (iii) a conviction of the operator of the scheme for an offence under these Regulations, within 28 days of the occurrence of any such change;
- (e) that the operator of the scheme pays the charge calculated in accordance with regulation 40(2) within 14 days of receiving the invoice for such a charge from the appropriate authority under regulation 57(2);
- (f) that any records required to be kept by reason of a requirement notified under regulation 36(6) shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand;
- (g) that the operator of the scheme shall provide records and reports to the appropriate authority as required by regulations 22, 23 and 25; and
- (h) that the operator of the scheme continues to meet the requirements for approval of a scheme set out in Part 4 of Schedule 6.

Withdrawal of approval of a scheme

39.—(1) The appropriate authority may withdraw approval of a scheme where—

- (a) the appropriate authority is satisfied that the operator of the scheme—
 - (i) is in breach of any condition in regulation 38;
 - (ii) knowingly or recklessly supplied false information in connection with—
 - (aa) the application for approval made under regulation 36;
 - (bb) an application for producer registration made under regulation 16; or
 - (cc) compliance with any condition in regulation 38;
- (b) the operator of the 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 the scheme which shall contain—

- (a) a statement that approval of the scheme is to be withdrawn;
- (b) the reasons for the decision;
- (c) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12;
- (d) in the case of a decision made by the Department of the Environment, state the time period during which representations in writing may be made to that appropriate authority; and
- (e) the date when the withdrawal will take effect, not being earlier than the expiration of the time limit for—
 - (i) an appeal against the notification as provided for in Schedule 10; or
 - (ii) making a representation as provided for in sub-paragraph (d).

(3) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (2).

Charges

40.—(1) The application charge referred to in regulation 36(3)(c)(iii) shall be £12,174 for each scheme.

(2) The charge referred to in regulation 38(e) shall be £707 for each scheme member that is the subject of an application for registration made by the operator of the scheme under regulation 16 for each compliance period during which approval of the scheme remains in force.

(3) Where for any reason approval is refused under regulation 36 or is withdrawn under regulation 39 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 36(3)(c)(iii).

(4) Where for any reason registration is refused under regulation 17 the appropriate authority shall not be under any obligation to refund the whole or any part of the charge that has been paid in accordance with regulation 38(e).

(5) The provisions of paragraphs (1), (2) and (3) shall apply until such time as they are superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995—

- (a) by the Environment Agency in respect of applications for approval made under regulation 36 to that appropriate authority; or
- (b) by the Scottish Environment Protection Agency in respect of applications for approval made under regulation 36 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) and (3).

(7) Where any of the provisions of paragraphs (1), (2) and (3) are superseded in accordance with paragraph (4), a reference to the charge prescribed in paragraphs (1) and (2) shall be read as a reference to the fee or charge prescribed in a charging scheme which supersedes that charge.

PART 8

ACCREDITATION OF REPROCESSORS AND EXPORTERS

Requirement for accreditation

41.—(1) A person shall not issue an evidence note under regulation 42(2) in relation to the recovery or recycling of WEEE unless he is at the time of issue an accredited reprocessor and that evidence relates to WEEE materials received by him for reprocessing on a site for which he is accredited.

(2) A person shall not issue an evidence note in relation to the WEEE exported for treatment, recovery or recycling unless he is at the time of issue an accredited exporter and that evidence relates to WEEE materials exported by him for reprocessing at a specified site for which he is accredited under regulation 42.

Application for accreditation

42.—(1) An application for accreditation shall be made to the appropriate authority and shall—

- (a) be in writing;
- (b) contain the information set out in Part 1 of Schedule 7; and
- (c) be accompanied by the accreditation charge.

(2) An application for accreditation as—

- (a) a reprocessor, to issue an evidence note in relation to the recovery or recycling of WEEE for the receipt of one or more specified WEEE materials at a specified site and for reprocessing in one or more specified recovery operations or a combination of such operations;
- (b) an exporter, to issue an evidence note in relation to the treatment, recovery or recycling of WEEE for the export of one or more or specified WEEE materials for treatment or reprocessing in one or more specified treatment operations at a specified site outside the United Kingdom, or a combination of such operations,

shall be granted where the appropriate authority is satisfied as to the matters set out in paragraph (3) and shall otherwise be refused.

(3) The matters referred to in paragraph (2) are—

- (a) where the application is made for accreditation as an exporter and relates to one or more treatment or reprocessing sites outside the EEA, that the requirements of Article 6(4) of the Directive have been met in respect of each such site; and
- (b) that the application has been duly made in accordance with paragraph (1).

(4) The appropriate authority shall notify the applicant in writing of its decision under paragraph (2) no later than 12 weeks after the application was made and, if the decision is a decision to refuse accreditation, such notification shall include—

- (a) the reasons for the decision;
- (b) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12;
- (c) in the case of a decision made by the Department of the Environment, a statement of the time period during which representations in writing may be made to that appropriate authority.

(5) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (4).

(6) Subject to regulation 45, where accreditation is granted under paragraph (2), it shall take effect—

- (a) where the application is made in the preceding year to that in which the person has applied to be accredited—
 - (i) from 1st January where the decision to accredit was made before that date; and
 - (ii) in all other cases, from the date of the decision,and shall remain in force until 31st December in the year for which the person has applied to be accredited;
- (b) where the application is made during the year in which the person has applied to be accredited, from the date of the decision, and shall remain in force until 31st December in that year.

(7) Where a reprocessor or exporter who has given the undertaking and paid the accreditation charge specified in regulation 46(1)(a) subsequently breaches that undertaking, he shall from the date of that breach be liable to pay the appropriate authority the balance of the charge which would have been payable under paragraph (1)(c) had the undertaking not been given.

(8) In this Part, the “relevant accreditation period” means the period during which a grant of accreditation made under this regulation remains in force.

Application for extension of accreditation to an additional site

43.—(1) An application to extend a grant of accreditation of an exporter made by an appropriate authority under regulation 42 during a relevant accreditation period to include an additional site to which he wants to export WEEE materials for treatment or reprocessing shall be made to that appropriate authority by that exporter in the format determined by the appropriate authority for that purpose and shall be accompanied by the extension of accreditation charge as set out in regulation 46(2).

(2) An application to extend an exporter’s accreditation to include an additional site located within the European Community shall be granted by the appropriate authority where it is satisfied that the application has been made in accordance with regulation 42, and shall otherwise be refused.

(3) An application to extend an exporter’s accreditation to include an additional site located outside the European Community shall be granted by the appropriate authority where it is satisfied that each of those sites meets the requirements of Article 6(4) of the Directive and is satisfied that the application was made in accordance with regulation 42, and shall otherwise be refused.

(4) The appropriate authority shall notify the applicant in writing of a decision made under paragraph (2) or (3) no later than 12 weeks after the application was made and, if the decision is a decision to refuse accreditation, such notification shall include—

- (a) the reasons for the decision;
- (b) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, state the right of appeal under Part 12; and
- (c) in the case of a decision made by the Department of the Environment, state the time period during which representations in writing may be made to that appropriate authority.

(5) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (4).

(6) Subject to regulation 45, where an application is granted under paragraph (3), it shall take effect from the date of the decision under paragraph (3) or the date that the applicant's grant of accreditation under regulation 42 took effect, whichever is the later date, and shall remain in force until the date that the applicant's accreditation granted under regulation 43 expires.

Conditions of accreditation

44. An accredited reprocessor or accredited exporter shall comply with the conditions specified in Part 2 of Schedule 7.

Suspension and cancellation of accreditation

45.—(1) The appropriate authority may suspend or cancel the accreditation of a reprocessor or exporter where it appears to it that—

- (a) the person who is accredited has failed to comply with any of the conditions specified in Part 2 of Schedule 7; or
- (b) the person who is accredited has knowingly or recklessly supplied false information in his application for accreditation made under regulation 42 or 43 or in connection with compliance with any of the conditions specified in Part 2 of Schedule 7.

(2) Where the appropriate authority is no longer satisfied that the requirements of Article 6(4) of the Directive are met in relation to WEEE exported outside the EEA, the appropriate authority shall cancel the accreditation of an exporter to the extent that it relates to that site or those sites.

(3) Where the appropriate authority suspends or cancels an accreditation under paragraph (1) or cancels the accreditation of an exporter to the extent that it relates to a site or sites under paragraph (2), it shall serve on the reprocessor or exporter concerned a notice in writing of—

- (a) its decision to cancel or suspend (as the case may be) the accreditation;
- (b) its reasons for the decision;
- (c) in the case of a decision made by the Environment Agency or the Scottish Environment Protection Agency, the right of appeal under Part 12;
- (d) in the case of a decision made by the Department of the Environment, the time period during which representations in writing may be made to that appropriate authority;
- (e) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice as provided for in Schedule 10; and
- (f) in the case of a suspension,
 - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notice; and
 - (ii) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.

(4) Where a decision has been made by the Department of the Environment, it shall consider any representations made to it in writing by the operator of the scheme within the time period specified in the notification issued under paragraph (3).

(5) The accreditation of a reprocessor or exporter shall be deemed to be cancelled—

- (a) on the date on which either of the following occurs—
 - (i) the person who is accredited ceases to be the holder of a relevant authorisation; or
 - (ii) the person who is accredited ceases to be a reprocessor or exporter; or
- (b) in the case where the person who is accredited requests that his accreditation should be cancelled, with effect from the date of cancellation specified by that person.

Accreditation charges

46.—(1) The accreditation charge referred to in regulation 42(1)(c) shall be—

- (a) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE materials in the year to which the application relates, £500; and
- (b) in any other case, £2,590.

(2) The extension of accreditation charge referred to in regulation 43 shall be £110.

(3) Where for any reason accreditation is refused under regulation 42 or 43 or is suspended or cancelled under regulation 45 the appropriate authority shall not be under any obligation to refund the whole or any part of the application fee that has been paid in accordance with regulation 42 or 43.

(4) The provisions of paragraphs (1), (2) and (3) shall apply until such time as they are superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995—

- (a) by the Environment Agency in respect of applications for accreditation made under regulation 43 or 44 to that appropriate authority; or
- (b) by the Scottish Environment Protection Agency in respect of applications for registration made under regulation 43 or 44 to that appropriate authority.

(5) 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) and (3).

(6) Where any of the provisions of paragraphs (1), (2) and (3) are superseded in accordance with paragraph (4), a reference to the charge prescribed in paragraph (1) or (2) shall be read as a reference to the fee or charge prescribed in a charging scheme which supersedes that charge.

Reporting

47.—(1) Subject to paragraph (2), an accredited reprocessor or exporter shall provide reports to the appropriate authority —

- (a) on or before 1st May in a relevant accreditation period in respect of the first quarter period in that accreditation period;
- (b) on or before 1st August in a relevant accreditation period in respect of the second quarter period in that accreditation period;
- (c) on or before 1st November in a relevant accreditation period in respect of the third quarter period in that accreditation period; and
- (d) on or before 1st February in the year immediately following the end of a relevant accreditation period in respect of the fourth quarter period in that accreditation period.

(2) An accredited reprocessor or exporter shall provide reports to the appropriate authority —

- (a) on or before 1st November 2007 in respect of the period commencing on 1st July 2007 and ending with 30th September 2007; and

- (b) on or before 1st February 2008 in respect of the period commencing on 1st October 2007 and ending with 31st December 2007.
- (3) The reports referred to in paragraphs (1) and (2) shall include details of—
 - (a) in the case of a reprocessor,
 - (i) the total amount of WEEE in tonnes received for reprocessing; and
 - (ii) the total amount of WEEE in tonnes reprocessed;
 - (b) in the case of an exporter,
 - (i) the total amount of WEEE in tonnes received for exporting; and
 - (ii) the total amount of WEEE in tonnes exported for treatment or reprocessing;
 - (c) the total number of evidence notes issued; and
 - (d) a list of the unique serial numbers of all evidence notes issued.
- (4) In addition to the requirements in paragraph (3), the report referred to in—
 - (a) paragraph (1)(d) shall include all of the information provided in the quarterly reports that relate to the whole of the previous year; and
 - (b) paragraph (2)(b) shall include all of the information provided in the report referred to in paragraph (2)(a).
- (5) An accredited reprocessor or exporter shall also provide a report to the appropriate authority on or before 28th February in the year immediately following the end of the relevant accreditation period which shall—
 - (a) be from an independent auditor; and
 - (b) demonstrate to the satisfaction of the appropriate authority that the evidence notes issued by the reprocessor or exporter during the relevant accreditation period are consistent with the amount of WEEE in tonnes received or exported for treatment or reprocessing in that year.
- (6) For the purposes of paragraph (5), an “independent auditor” means an auditor who would be eligible for appointment as the company auditor of the reprocessor or exporter under Part II of the Companies Act 1989(a).

Record keeping

- 48.**—(1) An accredited reprocessor or exporter shall maintain records for each quarter period in a relevant accreditation period.
- (2) The records referred to in paragraph (1) shall be kept for a period of at least six years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand.

PART 9

POWERS AND DUTIES OF THE SECRETARY OF STATE

Distributor take back scheme

- 49.** The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve a distributor take back scheme to carry out the functions of—
- (a) providing a system that shall ensure the availability and accessibility at least free of charge of designated collection facilities in the United Kingdom for the purpose of

(a) 1989 c. 40.

achieving a high level of collection of WEEE from private households at such facilities;
and

- (b) providing distributors with an alternative means of discharging their obligation under regulation 27.

Approval of designated collection facilities

50.—(1) The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve any establishment or undertaking carrying out collection operations as a designated collection facility.

(2) The Secretary of State shall not approve any establishment or undertaking under paragraph (1) unless he is satisfied that the criteria set out in Schedule 8 are met.

(3) The Secretary of State may review any decision made under paragraph (1) at any time.

(4) It shall be the duty of the Secretary of State to publish details of all designated collection facilities.

Withdrawal of approval of designated collection facilities

51.—(1) The Secretary of State may decide to withdraw his approval of a designated collection facility where he is satisfied that it—

- (a) no longer meets the criteria set out in Schedule 8; or
- (b) is jeopardising or is likely to jeopardise the achievement of the United Kingdom's obligations under the WEEE Directive.

(2) Where the Secretary of State decides to withdraw approval of a designated collection facility under paragraph (2), within 14 days of that decision being made, he shall notify the operator of the facility in writing of—

- (a) his decision to withdraw approval of the designated collection facility;
- (b) the reasons for that decision; and
- (c) the date when the decision will take effect, not being sooner than 28 days from the date of the notification.

(3) The Secretary of State shall consider any representations made to him in writing by the applicant at any time before the decision mentioned in paragraph (2) takes effect.

(4) The Secretary of State may decide against withdrawing approval of the designated collection facility at any time before the decision mentioned in paragraph (2) takes effect.

Code of practice

52.—(1) The Secretary of State shall, after consultation with such persons or bodies as appear to him representative of the interests concerned, prepare and issue a code of practice for the purpose of providing practical guidance on the standards that must be met by the operator of a designated collection facility.

(2) The Secretary of State may from time to time revise the code of practice issued under paragraph (2) by revoking, amending or adding to the provisions of the code.

Evidence notes

53.—(1) The Secretary of State may—

- (a) buy evidence notes from any person who has obtained any such evidence note as a result of having been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households during a compliance period;

- (b) sell or otherwise supply the evidence notes referred to in paragraph (a) to an operator of a scheme for the purpose of enabling that operator to comply with the requirements of regulation 18 in relation to submitting a declaration of compliance with supporting evidence notes; and
- (c) reissue evidence notes in relation to the treatment, recovery and recycling of WEEE in exchange for the receipt of any evidence note issued by—
 - (i) the Secretary of State under paragraph (2);
 - (ii) an authorised treatment facility;
 - (iii) an accredited reprocessor; or
 - (iv) an accredited exporter.

(2) Where the Secretary of State has paid monies to waste disposal authorities for the purpose of reimbursing those authorities who have financed the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households during the period commencing on 1st April 2007 and ending with 30th June 2007 he may issue evidence notes for the amount he has paid to such authorities.

(3) In paragraph (2), “waste disposal authorities” means—

- (a) in England, Wales and Scotland, the authorities mentioned in section 30(2) of the Environmental Protection Act 1990; and
- (b) in Northern Ireland, district councils within the meaning of section 1 of the Local Government Act (Northern Ireland) 1972^(a).

Product design

54.—(1) It shall be the duty of the Secretary of State to encourage the design and production of EEE which take into account and facilitate dismantling and recovery, in particular the reuse and recycling of WEEE, their components and materials.

(2) In carrying out the duty mentioned in paragraph (1), the Secretary of State shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being reused, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment or safety requirements.

PART 10

DUTIES OF THE APPROPRIATE AUTHORITIES

Register of producers

55.—(1) The appropriate authority shall maintain and make available in accordance with this regulation a register relating to those producers who are registered with it in accordance with regulation 15 and containing the information prescribed in Schedule 9.

(2) The appropriate authority shall—

- (a) ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours; and
- (b) permit members of the public to obtain copies of entries in the register on payment of a reasonable charge.

(3) The register may be kept in any form but shall be indexed and arranged so that members of the public can readily trace information contained in it.

^(a) 1972 c.9 (N.I.).

(4) The appropriate authority shall amend the relevant entry in the register to record any change to the information entered and shall note the date on which the amendment is made.

Monitoring

56. The appropriate authority shall monitor—

- (a) operators of schemes that have been approved under Part 7;
- (b) the accuracy of the information provided by operators of schemes in support of or in connection with an application for registration made under regulation 16;
- (c) the accuracy of the information provided in or in connection with the reporting requirements in regulations 22, 23 and 47.
- (d) the accuracy of the information provided in or in connection with declaration of compliance submitted under regulation 25(2);
- (e) the accuracy of the information provided by operators of schemes in support of or in connection with an application for registration under regulation 36, together with any changes notified in accordance with regulation 38;
- (f) the accuracy of the information provided by an accredited reprocessor or an accredited exporter in support of or in connection with an application for accreditation made under regulation 42 or 43, together with any changes notified in accordance with regulation 44; and
- (g) the register of producers maintained under regulation 55.

Approval of schemes

57.—(1) The appropriate authority shall maintain and publish a list of—

- (a) all schemes that it has approved under regulation 36; and
- (b) the operators of the schemes referred to in sub-paragraph (a).

(2) The appropriate authority shall issue an invoice for payment of the annual registration charge referred to in regulation 40 to each operator of a scheme that it has approved under regulation 36.

Information

58. The appropriate authority shall publish the information provided to it by the operator of a scheme under regulation 22.

Accreditation

59. The appropriate authority shall be under a duty to maintain and publish a list of all reproducers and exporters in respect of which it has made a grant of accreditation under regulation 42.

PART 11

DISCLOSURE OF INFORMATION

Disclosure of information

60.—(1) Subject to paragraph (2), information of any description may be disclosed by—

- (a) the Secretary of State; or
- (b) an appropriate authority,

to any person for the purpose of facilitating the carrying out by the Secretary of State or the appropriate authority of any of his or its functions under these Regulations.

(2) Nothing in paragraph (1) authorises a disclosure of information—

- (a) to a person other than the Secretary of State or an appropriate authority where disclosure of that information would, in the opinion of the Secretary of State, be contrary to the interests of national security; or
- (b) which contravenes any other enactment.

(3) No information disclosed to any person under or by virtue of paragraph (1) shall be disclosed by that person to any other person otherwise than in accordance with the provisions of this paragraph, or any provision of any other enactment which authorises or requires disclosure, where that information is information—

- (a) which relates to a trade secret of any person or which otherwise is or might be commercially confidential in relation to any person; or
- (b) whose disclosure otherwise than under or by virtue of paragraph (1) would, in the opinion of the Secretary of State, be contrary to the interests of national security.

(4) Any authorisation under or by virtue of paragraph (1) of the disclosure of information by or to any person shall also be taken to authorise the disclosure of that information by or to any officer of his who is authorised by him to make the disclosure or to receive the information.

(5) No person shall be subject to any civil or criminal liability in consequence of any disclosure made under or by virtue of paragraph (1).

PART 12

APPEALS

Right of appeal

61.—(1) An operator of a scheme or an operator of a proposed scheme may appeal—

- (a) to the Secretary of State against a decision of the Environment Agency; and
- (b) to the Scottish Ministers against a decision of the Scottish Environment Protection Agency.

(2) For the purposes of paragraph (1), a decision means a decision—

- (a) to refuse to grant an application for registration made by that operator under regulation 16;
- (b) made under regulation 18 to determine the proportion of relevant WEEE for which that operator shall be responsible for financing the costs of under that regulation;
- (c) to refuse to grant approval of that operator's proposed scheme under regulation 36; or
- (d) to withdraw approval of that operator's scheme under regulation 39.

(3) A reprocessor or an exporter may appeal—

- (a) to the Secretary of State against a decision of the Environment Agency; and
- (b) to the Scottish Ministers against a decision of the Scottish Environment Protection Agency.

(4) For the purposes of paragraph (3), a decision means a decision—

- (a) to refuse to grant an application for accreditation made by that reprocessor or that exporter under regulation 42;
- (b) to refuse to grant an extension of a grant of accreditation made to that exporter under regulation 43; or
- (c) to suspend or cancel a grant of accreditation made to that reprocessor or that exporter under regulation 45.

Procedure of appeals

62.—(1) Where an appeal is made to the Secretary of State or the Scottish Ministers under regulation 61, he or they may—

- (a) appoint any person to exercise on his or their behalf, with or without payment, the function of determination of the appeal; or
- (b) refer any matter involved in the appeal to such person as the Secretary of State or the Scottish Ministers may appoint for the purpose, with or without payment.

(2) If the appellant so requests, or the Secretary of State so decides or the Scottish Ministers so decide, the appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held or held to any extent in private).

(3) Schedule 10 shall have effect with respect to the procedure on any such appeal.

Determination of appeals

63. Where, on an appeal made under regulation 61, the Secretary of State determines or the Scottish Ministers determine that the decision of the appropriate authority shall be altered it shall be the duty of that appropriate authority to give effect to the determination.

Status of a decision pending appeal

64. Where an appeal made under regulation 61 above is pending in a case falling within regulation 39 or 45—

- (a) a decision to withdraw approval of a scheme or to cancel accreditation (as the case may be) shall be ineffective until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn;
- (b) a decision to suspend cancellation shall remain in force.

PART 13

ENFORCEMENT

Enforcement

65.—(1) It shall be the duty of the Secretary of State to enforce these Regulations and in carrying out his duties he may appoint any person to act on his behalf.

(2) The Secretary of State shall not commence proceedings for an offence in Scotland.

Enforcement notice

66.—(1) Where the Secretary of State has reasonable grounds for suspecting that any of the requirements of the following regulations have not been complied with—

- (a) regulations 7, 8, 9, 10, 11, 12, 13 and 14,
- (b) regulations 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26,
- (c) regulation 27, 28 and 30, and
- (d) regulations 44, 47 and 48,

he may serve an enforcement notice on—

- (i) in a case under sub-paragraph (a), the producer,
- (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 accredited reprocessor or the accredited exporter (as the case may be).
- (2) A notice which is served under paragraph (1) shall—
- (a) state that the Secretary of State suspects that a specified requirement of these Regulations has been contravened;
 - (b) specify the reason it is suspected that a requirement of these Regulations has been contravened;
 - (c) require the person to whom the enforcement notice is given (“the relevant person”)—
 - (i) to comply with the requirements of these Regulations; or
 - (ii) to provide evidence to the Secretary of State demonstrating that the requirements of these Regulations have been met;
 - (d) specify the period of time within which the relevant person must comply with the enforcement notice issued by the Secretary of State; and
 - (e) warn the relevant person that unless the requirement is complied with, or evidence has been provided within the period specified in the notice, he may be prosecuted.
- (3) Where the Secretary of State serves an enforcement notice on a person under this regulation, proceedings for an offence under regulation 68 shall not commence unless the time limit specified for compliance in the enforcement notice has expired.

Entry and inspection

67.—(1) For the purposes of carrying out his functions under these Regulations, the Secretary of State and any other person whom he considers suitable and whom he has authorised in writing to act on his behalf, may exercise the powers of entry and inspection referred to in paragraphs (2) and (3).

- (2) Subject to the production if so requested of his credentials, an enforcement officer may—
- (a) enter at any reasonable time any premises which he considers necessary for him to enter;
 - (b) on entering any premises by virtue of sub-paragraph (a), take with him—
 - (i) such other persons as may appear to him necessary and, where there is reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (c) make such examination and investigation as may in any circumstances be necessary;
 - (d) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (e) take samples, or cause samples to be taken, of any records, parts of any records, copies of any records, copies of parts of any records, products and parts of products found in or on any premises which the enforcement officer has power to enter;
 - (f) in the case of any such sample of a record or product as is mentioned in sub-paragraph (e), to take possession of it and detain it for so long as is necessary for any of the following purposes—
 - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has the power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before examination of it is completed; and
 - (iii) to ensure that it is available for use in evidence in any proceedings for an offence under these Regulations or in any other proceedings relating to an enforcement notice under regulation 66;
 - (g) require any person who is considered to be able to give information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of any

person other than a person nominated by that person to be present and any person whom the enforcement officer may allow to be present) such questions as the enforcement officer or the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;

- (h) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records—
 - (i) which are required to be kept under these Regulations, or
 - (ii) which it is necessary to see for the purposes of an examination or investigation under sub-paragraph (c),and inspect and take copies of, or of any entry in, the records; and
- (i) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the enforcement officer to exercise any of the powers conferred on them by regulation 67.

(3) In the application of paragraph (2)(b)(i) to Northern Ireland, “constable” has the meaning given in the Interpretation Act (Northern Ireland) 1954(a).

(4) If a justice of the peace, on written information on oath—

- (a) is satisfied that there are reasonable grounds to believe that any information or material relevant to any examination or investigation under paragraph (2)(c) is on any premises, and
- (b) is also satisfied either that—
 - (i) admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied and the occupier is temporarily absent,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise the enforcement officer to enter the premises, if need be by force.

(5) In the application of paragraph (4)—

- (a) to Scotland, “justice of the peace” includes a sheriff and references to written information on oath shall be construed as references to evidence on oath; and
- (b) to Northern Ireland, the references to a “justice of the peace” shall be construed as being references to a “lay magistrate” as defined in section 9 of the Justice (Northern Ireland) Act 2002(b).

(6) An enforcement officer on entering any premises by virtue of this regulation shall direct that those premises, or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c).

(7) Where an enforcement officer leaves any premises that he has entered by virtue of this regulation and such premises are unoccupied or the occupier of which is temporarily absent, he shall leave them as effectively secured against a trespasser as he found them.

(8) If an enforcement officer or other person who enters any premises by virtue of this regulation discloses to any person any information obtained by him in the premises with regard to any secret manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(9) It shall not be an offence under paragraph (8) for a person to disclose information in circumstances where—

(a) 1954 c.33 (N.I.).
(b) 2002 c.26.

- (a) the person from whom the information was received has consented to the disclosure; or
- (b) the information is disclosed more than 50 years after it was received.

(10) Nothing in this regulation shall authorise any person to stop any vehicle on a highway.

(11) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(g) shall be admissible in evidence in England, Wales and Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.

(12) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

(13) In this regulation—

“enforcement officer” means any person who is authorised to exercise the powers in paragraphs (2) and (4) by virtue of paragraph (1); and

“credentials” means evidence of appointment as an enforcement officer.

PART 14

OFFENCES AND PENALTIES

Offences

68.—(1) A producer shall be guilty of an offence if he—

- (a) contravenes or fails to comply with any requirements of regulation 7, 8, 9, 10, 11, 12, 13 or 14; or
- (b) without reasonable cause, fails to furnish any information required by an enforcement officer under regulation 67.

(2) An operator of a scheme shall be guilty of an offence if he—

- (a) contravenes or fails to comply with any requirements of regulation 15, 18, 19, 20, 21, 22, 23, 24, 25 and 26;
- (b) furnishes a report under regulation 22 or 23 and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular;
- (c) furnishes a statement under regulation 24 and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular;
- (d) furnishes a declaration of compliance under regulation 25 and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular; or
- (e) without reasonable cause, fails to furnish any information required by an enforcement officer under regulation 67.

(3) A distributor shall be guilty of an offence if he—

- (a) contravenes or fails to comply with any requirements of regulation 27, 28 or 30; or

- (b) without reasonable cause, fails to furnish any information required by an enforcement officer under regulation 67.
- (4) An accredited reprocessor or an accredited exporter is guilty of an offence if he—
 - (a) contravenes or fails to comply with any requirements of regulation 44, 47 or 48;
 - (b) furnishes a report under regulation 47 and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular; or
 - (c) without reasonable cause, fails to furnish any information required by enforcement officer under regulation 67.
- (5) A person shall be guilty of an offence if he—
 - (a) contravenes or fails to comply with any requirements of regulation 32 or 35;
 - (b) without reasonable cause, fails to comply with a requirement imposed under regulation 67;
 - (c) intentionally obstructs any person acting in the execution of these Regulations;
 - (d) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
 - (e) without reasonable cause, fails to comply with an enforcement notice served under regulation 66;
 - (f) furnishes to any person acting in the execution of these Regulations any information which he—
 - (i) knows the information to be false or misleading in a material particular, or
 - (ii) furnishes such information recklessly and it is false or misleading in a material particular; or
 - (g) fails to produce information when required to do so to any person acting in the execution of these Regulations.

Penalties

- 69.**—(1) A person who is guilty of an offence under regulation [68] shall 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 67(8) [and 68] shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement of proceedings

70. In England and Wales a magistrates' court may try an information, and in Northern Ireland a magistrates' court may try a complaint, in relation to an offence under these Regulations if the information is laid or if the complaint is made within twelve months from the time when the offence is committed. In Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

Liability of persons other than the principal offender

71.—(1) Where the commission by a person of an offence under these Regulations is due to the act or default of another person in the course of any business of his, that other person shall be guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against the first person.

(2) Where a body corporate commits an offence under these Regulations and it is proved that the offence was committed—

- (a) with the consent or connivance of an officer of the body corporate; or
- (b) as a result of the negligence of an officer of the body corporate,

the officer, as well as the body corporate, shall be guilty of the offence.

(3) In paragraph (2) a reference to an officer of a body corporate includes a reference to—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) a person purporting to act as a director, manager, secretary or other similar officer; and
- (c) if the affairs of the body corporate are managed by its members, a member.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland, and in relation to such partnership, any reference to a director, manager, secretary or other similar officer of the body corporate is a reference to a partner.

Name
Parliamentary Under Secretary of State
Department of Trade and Industry

SCHEDULE 1

Regulation 5(1)

Categories of EEE covered by these Regulations

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Medical devices (with the exception of all implanted and infected products)
9. Monitoring and control instruments
10. Automatic dispensers

SCHEDULE 2

Regulation 5(2)

List of products which fall under the categories in Schedule 1

1. Large household appliances
 - Refrigerators
 - Freezers
 - Other large appliances used for refrigeration, conservation and storage of food
 - Washing machines

Clothes dryers
Dish washing machines
Cooking
Electric stoves
Electric hot plates
Microwaves
Other large appliances used for cooking and other processing of food
Electric heating appliances
Electric radiators
Other large appliances for heating rooms, beds, seating furniture
Electric fans
Air conditioner appliances
Other fanning, exhaust ventilation and conditioning equipment

2. Small household appliances

Vacuum cleaners
Carpet sweepers
Other appliances for cleaning
Appliances used for sewing, knitting, weaving and other processing for textiles
Irons and other appliances for ironing, mangling and other care of clothing
Toasters
Fryers
Grinders, coffee machines and equipment for opening or sealing containers or packages
Electric knives
Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances
Clocks, watches and equipment for the purpose of measuring, indicating or registering time
Scales

3. IT and telecommunications equipment

Centralised data processing:
Mainframes
Minicomputers
Printer units
Personal computing:
Personal computers (CPU, mouse, screen and keyboard included)
Laptop computers (CPU, mouse, screen and keyboard included)
Notebook computers
Notepad computers
Printers
Copying equipment
Electrical and electronic typewriters
Pocket and desk calculators

Other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means

User terminals and systems

Facsimile

Telex

Telephones

Pay telephones

Cordless telephones

Cellular telephones

Answering systems

Other products or equipment of transmitting sound, images or other information by telecommunications

4. Consumer equipment

Radio sets

Television sets

Videocameras

Video recorders

Hi-fi recorders

Audio amplifiers

Musical instruments

Other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications

5. Lighting equipment

Luminaires for fluorescent lamps with the exception of luminaires in households

Straight fluorescent lamps

Compact fluorescent lamps

High intensity discharge lamps, including pressure sodium lamps and metal halide lamps

Low pressure sodium lamps

Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)

Drills

Saws

Sewing machines

Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials

Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses

Tools for welding, soldering or similar use

Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

7. Toys, leisure and sports equipment

Electric trains or car racing sets
Hand-held video game consoles
Video games
Computers for biking, diving, running and rowing
Sports equipment with electric or electronic components
Coin slot machines

8. Medical devices (with the exception of all implanted and infected products)

Radiotherapy equipment
Cardiology
Dialysis
Pulmonary ventilators
Nuclear medicine
Laboratory equipment for *in-vitro* diagnosis
Analysers
Freezers
Fertilization tests
Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

9. Monitoring and control instruments

Smoke detector
Heating regulators
Thermostats
Measuring, weighing or adjusting appliances for household or laboratory equipment
Other monitoring and control instruments used in industrial installations (for example, in control panels)

10. Automatic dispensers

Automatic dispensers for hot drinks
Automatic dispensers for hot or cold bottles or cans
Automatic dispensers for solid products
Automatic dispensers for money
All appliances which deliver automatically all kind of products

SCHEDULE 3

Regulation 11

Crossed out wheeled bin symbol



SCHEDULE 4

Regulation 16

Information to be included in an application for registration of producers

1. The compliance period in respect of which the application for registration is being made.
2. The name of the scheme.
3. The name of the operator of the scheme and, where the operator of the scheme is a partnership, the names of all the partners.
4. The address and telephone number of the registered office of the operator of the scheme or, if not a company, the principal place of business of the operator of the scheme.
5. The address for service of notices if different from either of the addresses mentioned in paragraph 3.
6. The names and addresses of the registered offices or, where the scheme members are not companies, the principal places of business, of the scheme members.
7. The business name of a scheme member if different from any name given in compliance with paragraph 6.
8. Where a scheme member is a partnership, the names of all the partners.
9. Details of the producer identification mark that each member of the scheme is placing or intends to place on his products in compliance with regulation 12.
10. Where any scheme member has previously been registered, his WEEE producer registration number.
11. In the case of an application made under regulation 16(1)(a), the following information in respect of each scheme member—
 - (a) the amount in tonnes and the number of units of all EEE which each scheme member has put on the market in the United Kingdom during 2006 which fall within—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within Schedule 1);
 - (ii) cathode ray tubes that fall within numbered categories 3, 4, 7, 8 and 9 of Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
 - (b) for each numbered category referred to in paragraph (a), the amount in tonnes and the number of EEE that was or is intended for use by—
 - (i) private households; and
 - (ii) users other than private households.

SCHEDULE 5

Regulation 25

Information to be included in a declaration of compliance

1. The name and address of the person who issues the declaration.
2. The name and address of the operator of the scheme in respect of which the declaration is issued.
3. The date of the declaration.
4. The compliance period to which the declaration relates (“the relevant compliance period”).

5. In relation to the WEEE from private households in respect of which the declaration is being issued—

- (a) the reference number of the appropriate authority's notification under regulation 18; and
- (b) a declaration that—
 - (i) the obligations under regulation 18 that have been notified to the relevant operator of the scheme by the appropriate authority under that regulation—
 - (aa) have been met; or
 - (bb) have not been met;
 - (ii) the WEEE has been treated in accordance with regulation 20(1)(b);
 - (iii) the WEEE has been recovered in accordance with regulation 21(1)(a); and
 - (iv) the recovery targets set out in regulation 21(2) have been met.

6. In relation to the WEEE from users other than private households in respect of which the declaration is being issued, a declaration that—

- (a) the obligations under regulation 19—
 - (i) have been met; or
 - (ii) have not been met;
- (b) the amount of WEEE (in tonnes) for which the operator of the scheme has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal during the relevant compliance period which fall within—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within Schedule 1);
 - (ii) cathode ray tubes that fall within numbered categories 3, 4, 7, 8 and 9 of Schedule 1; and
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1;
- (c) the WEEE has been treated in accordance with regulation 20(1)(b);
- (d) the WEEE has been recovered in accordance with regulation 21(1)(a);
- (e) the recovery targets set out in regulation 21(2) have been met.

SCHEDULE 6

Regulation 36

Producer compliance scheme approval

PART 1

Information to be included in an application for approval

1. The name of the scheme.
2. The name of the operator of the scheme.
3. The address and telephone number of the registered operator of the scheme or, if the operator is not a company, the principal place of business of the operator.
4. Where the operator of the scheme is a partnership, the names of all the partners.
5. The address for service of notices if different from that referred to in paragraph 3.

PART 2

Information to be included in the constitution

1. The nature of the operator of the scheme's legal personality.
2. The type of relationship between the operator of the scheme and the scheme members (for example, contractual or partnership).
3. Details of how membership fees and any other sums payable to the scheme by its members are to be determined.
4. Details of any rules or regulations to be observed by the scheme members.
5. Details of the procedures under which the operator of the scheme would enforce the rules or regulations against a member of the scheme.
6. Whether there is a minimum or maximum number of scheme members permitted.
7. Details of the eligibility criteria for membership of the scheme.
8. Details of the arrangements in place for disseminating important information to members in an accurate and timely manner.

PART 3

Information to be included in the operational plan

The operational plan referred to in regulation 36(3)(c)(ii) must include the following information in relation to each of the three compliance periods in respect of which the application for approval has been made—

- (a) details of the financial resources and technical expertise that will be available to enable the performance of the obligations of the operator of the scheme under regulations 18 and 19;
- (b) details of the arrangements for collection, treatment, recovery and recycling that will be or are in place to ensure that the scheme will be able to comply with its obligations under Part 4 in relation to—
 - (i) WEEE from private households in accordance with regulation 18; and
 - (ii) WEEE from users other than private households in accordance with regulation 19;
- (c) the information referred to in paragraph (b) must include—
 - (i) the names and addresses of the designated collection facilities from whom the scheme intends to obtain WEEE from private households and the estimated amounts of WEEE (in tonnes) to be collected from each;
 - (ii) the names and addresses of the authorised treatment facilities or overseas treatment facilities that the scheme intends to use to treat WEEE and the estimated amounts of WEEE (in tonnes) to be treated by each;
 - (iii) the names and addresses of the accredited reprocessors or exporters or both that the scheme intends to use to recover and recycle WEEE; and
 - (iv) in the case of the collection of WEEE from designated collection facilities, details of any contingency plans;
- (d) a statement indicating the nature of the anticipated relationship of the operator of the scheme with—
 - (i) designated collection facilities;
 - (ii) authorised treatment facilities or overseas treatment facilities; and
 - (iii) accredited reprocessors or exporters or both,

in the three compliance periods immediately following approval;

- (e) how the operator of the scheme will meet the conditions of approval set out in regulation 38;
- (f) how the operator of the scheme will comply with the reporting requirements under regulations 22 and 23;
- (g) how the operator of the scheme will comply with the obligation to submit a declaration of compliance under regulation 25;
- (h) how the scheme will prioritise, where appropriate, the reuse of whole appliances in a manner consistent with the objectives of the Directive and the relationships it intends to develop with those persons carrying out reuse activities, including making use of the existing voluntary and community sector infrastructure; and
- (i) how the scheme will adopt and put into practice the code of practice issued by the Secretary of State under regulation 52.

PART 4

Requirements for approval of a scheme

1. That the rules or regulations of the scheme provide that a member of the scheme must apply to join the scheme for a minimum period of one compliance period; except in the case of a new producer who will be expected to join the scheme for the remainder of the compliance period during which he has commenced putting EEE onto the market in the United Kingdom.

2. That the scheme has the necessary resources and systems in place to—

- (a) maintain up to date records of its members, including—
 - (i) names and addresses;
 - (ii) WEEE producer registration numbers; and
 - (iii) producer identification marks used by each member in compliance with regulation 12;
- (b) handle WEEE from private households, if it proposes to do so, (including collection and transportation to authorised treatment facilities and funding of treatment and reprocessing) in order to discharge the operator of the scheme's notified obligation under regulation 18 in appropriate and timely manner;
- (c) handle WEEE from users other than private households, if it proposes to do so, (including collection and transportation to authorised treatment facilities and funding of treatment and reprocessing) in order to discharge the operator of the scheme's obligation under regulation 19 in an appropriate and timely manner;
- (d) keep, update and supply records to the appropriate authority as required under regulation 26;
submit declarations of compliance and supporting evidence notes as required under regulation 25;
- (e) check that the information supplied to it by its members under regulation 8 is as accurate as reasonably possible and that operator of the scheme's submission of that information to the appropriate authority will meet a similar standard of accuracy; and
- (f) maintain good environmental practices.

3. That the scheme is willing and able to work with or co-operate with other schemes in relation to developing workable relationships with operators of designated collection facilities.

4. That the operator of the scheme has viable plans to be able to collect an amount of WEEE that is equivalent to the amount of WEEE for which it will be responsible for financing under these Regulations.

5. That the operator of the scheme is likely to be able to meet its expected treatment, recovery and recycling obligations for that period.

6. That the scheme is likely to assist in meeting the United Kingdom's obligations in relation to the recovery of WEEE for that period.

SCHEDULE 7

Regulations 42 and 44

Accreditation of reprocessors and exporters

PART 1

Information to be included in an application for accreditation

1. The name of the reprocessor or exporter.
2. The address and telephone number of the reprocessor or exporter or, if the reprocessor or exporter is not a company, the principal place of the reprocessor or exporter.
3. Where the reprocessor or exporter is a partnership, the names of all the partners.
4. The address for service of notices if different from that referred to in paragraph 2.
5. In the case of an application made by a reprocessor—
 - (a) the name and address of each site for which he is applying to be accredited;
 - (b) in respect of each site for which he is applying to be accredited, the applicable recovery operations and type of WEEE materials he is applying for that accreditation to cover.
6. In the case of an application made by an exporter—
 - (a) the name and address of each site to which he proposes to export WEEE materials for treatment or reprocessing;
 - (b) in respect of each site specified in accordance with sub-paragraph (a)—
 - (i) the numbered category of WEEE by reference to the numbered categories listed in Schedule 1 or the type of WEEE materials he proposes to export to that site for treatment or reprocessing; and
 - (ii) the applicable treatment or recovery operations carried out by that site.

PART 2

Conditions of accreditation

1. Evidence of treatment shall only be issued with respect to WEEE that has arisen as waste in the United Kingdom and that has been treated at an authorised treatment facility or at any establishment or undertaking located outside the United Kingdom which carries out treatment operations and which is of an equivalent standard to an authorised treatment facility.

2.—(1) Evidence of recovery or recycling shall not be issued for more than the total amount of WEEE—

- (a) received for reprocessing on the site of the reprocessor in the relevant accreditation period; and
- (b) which is capable of being reprocessed on the site for which he is accredited no later than the end of the year following the end of the relevant accreditation period.

(2) Evidence of recovery or recycling shall only be issued with respect to WEEE that has arisen as waste in the United Kingdom and that has been recovered or recycled by an accredited reprocessor or at any establishment or undertaking located outside the United Kingdom which carries out recovery or recycling operations in accordance with the requirements of Article 6(4) of the Directive.

3. Evidence of treatment shall not be issued by an exporter for more than the total amount of WEEE exported by that exporter.

4. A reprocessor or an exporter may only issue evidence of recovery or recycling in respect of WEEE once that WEEE has been received for reprocessing by the reprocessor.

5. Evidence of treatment, recovery or recycling shall only be issued in a format approved by the Secretary of State and which shall include a traceable and unique identification number.

6. The amount of WEEE in tonnes recorded on an evidence note shall be—

- (a) rounded up to the nearest whole tonne where the part tonne is 0.5 or more; and
- (b) rounded down to the nearest whole tonne where the part tonne is less than 0.5.

7. Duplicate copies of evidence notes issued shall be retained by the reprocessor or exporter and made available for inspection by the appropriate authority at all reasonable times.

8. One or more substitute evidence notes shall be issued, on request, to the holder of the original evidence note in exchange for the original, provided that—

- (a) the aggregate tonnage of any substitute evidence note so issued remains equal to that exchanged;
- (b) the substitute evidence note relates to the same year as the original; and
- (c) no substitute evidence note which relates to WEEE received for reprocessing in any given year may be issued after 31st January in the following year.

9. A reprocessor shall undertake sampling and inspection of WEEE received for reprocessing.

10. An exporter shall undertake sampling and inspection of WEEE received for exporting or exported for treatment or reprocessing.

11. Where an evidence note has not been issued on or before 31st January in any year in respect of an amount of WEEE received for reprocessing in the previous year, an evidence note for that amount shall not be issued to any other person than to the appropriate authority on or before 15th February in that year.

SCHEDULE 8

Regulation 50

Criteria for approval as a designated collection facility

1. An operator of a facility that will be open to the public agrees to comply with the code of practice.

2. The facility is likely to subsist for at least one compliance period.

3. The facility has the capacity and arrangements in place to separately collect WEEE in compliance with the code of practice referred to in paragraph 1.

4. The operator of the facility is willing to work with producer compliance schemes to secure the collection and removal of WEEE from a private household that is deposited at the facility during each compliance period.

5. The operator of the facility holds a relevant authorisation.

6.—(1) Where an operator of a facility—

- (a) finances the costs of collecting and delivering WEEE from private households to—
 - (i) an authorised treatment facility for treatment within the United Kingdom; or
 - (ii) an accredited exporter for treatment outside the United Kingdom during a compliance period; and
- (b) possesses an evidence note issued under these Regulations in relation to the activities mentioned in paragraph (a),

he agrees to provide to the appropriate authority information on the total amount of WEEE from private households that he has been responsible for collecting from a designated collection facility and delivering to an authorised treatment facility for treatment within the United Kingdom or an accredited exporter for treatment outside the United Kingdom during a compliance period.

7. The information referred to in paragraph 6 shall—

- (a) be in writing;
- (b) specify the amount of WEEE from private households in tonnes by reference to each of the following categories—
 - (i) the numbered categories listed in Schedule 1 (excluding cathode ray tubes that fall within Schedule 1 and gas discharge lamps that fall within numbered category 5 of Schedule 1);
 - (ii) cathode ray tubes that fall within Schedule 1;
 - (iii) gas discharge lamps that fall within numbered category 5 of Schedule 1; and
- (c) be provided for each quarter period of a compliance period on or before the last day of the month that immediately follows the end of that quarter period.

SCHEDULE 9

Regulation 55

Public register

1. The producer's name.
2. The UK address of the registered office or principal place of business of the producer.
3. The name of the producer compliance scheme that the producer has joined.
4. The UK address of the registered office or principal place of business of that producer compliance scheme.
5. A description of the producer identification mark or marks used on that producer's products in compliance with regulation 12.

SCHEDULE 10

Regulation 62

Procedure on appeals

- 1.—(1) Where a person wishes to appeal to the Secretary of State or the Scottish Ministers under regulation 61, he shall do so by notice in writing served on the Secretary of State or the Scottish Ministers.
 - (2) The notice mentioned in paragraph (1) shall be accompanied by—
 - (a) a statement of the grounds of appeal;
 - (b) where the appeal relates to refusal to register under regulation 17, a copy of the appellant's application and any supporting documents;

- (c) where the appeal relates to refusal to grant approval under regulation 36, a copy of the appellant's application and any supporting documents;
- (d) where the appeal relates to refusal to grant accreditation under regulation 42, a copy of the appellant's application and any supporting documents;
- (e) where the appeal relates to refusal to grant an extension of accreditation under regulation 43, a copy of the appellant's application and any supporting documents;
- (f) where the appeal relates to withdrawal of approval under regulation 39, a copy of the notification of the decision and any supporting documents;
- (g) where the appeal relates to suspension or cancellation of accreditation under regulation 45, a copy of the notification of the decision and any supporting documents;
- (h) a copy of any correspondence relevant to the appeal;
- (i) a copy of any other document relevant to the appeal; and
- (j) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

(3) The appellant shall serve a copy of his notice of appeal on the appropriate authority together with copies of the documents mentioned in sub-paragraph (2).

2.—(1) Subject to sub-paragraph (2), notice of appeal shall be given before the expiry of the period of two months beginning with the date of the decision that is the subject of the appeal.

(2) The Secretary of State or the Scottish Ministers may for good reason at any time allow notice of an appeal to be given after the expiry of the period mentioned in sub-paragraph (1).

3. Where under regulation 62(2) the appeal is by way of a hearing, the person hearing the appeal shall, unless he has been appointed to determine an appeal under regulation 62(1)(a), make a written report to the Secretary of State or the Scottish Ministers which shall include his conclusions and recommendations or his reasons for not making any recommendations.

4.—(1) The Secretary of State, the Scottish Ministers or other person determining an appeal shall notify the appellant in writing of his or their decision and of his or their reasons.

(2) If the Secretary of State determines, or the Scottish Ministers determine, an appeal after a hearing under regulation 62(2), he or they shall provide the appellant with a copy of any report made to him or them under paragraph 3.

(3) The Secretary of State, the Scottish Ministers or other person determining an appeal shall, at the same time as notifying the appellant of his decision, send the appropriate authority a copy of any document sent to the appellant under this paragraph.

DRAFT

EXPLANATORY NOTE

(This note is not part of the Regulations)