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**WEEE CONSULTATION**

Part II: Draft guidance to the Waste  
Electrical and Electronic Equipment  
Regulations

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# Government Guidance Notes

## S.I. No.

This Guidance explains the UK's Waste Electrical and Electronic Equipment Regulations ("the WEEE Regulations").

The WEEE Regulations implement provisions of the European Parliament and Council Directive on Waste Electrical and Electronic Equipment (2002/96/EC) ("the WEEE Directive") and the subsequent European Parliament and Council Directive 2003/108/EC amending the WEEE Directive.

This Guidance covers the obligations that the WEEE Regulations place on producers of electrical and electronic equipment (EEE) on the UK market, and on distributors of EEE in the UK. Here "producer" includes manufacturers and businesses who re-brand products manufactured by others, or import EEE into the UK. "Distributor" equates mainly, in the context of EEE for household use, to retailers selling EEE; and additionally in the context of non-household EEE, to wholesalers.

This Guidance also addresses the implications for others including local authorities, the waste management industry, voluntary and community sector organisations and for consumers and professional users of EEE.

If you want an overview of the WEEE Regulations, you should read Chapter 1, which summarises the position for key stakeholder groups. Subsequent chapters of this Guidance provide more detail. Accordingly, there should be no need for you to read the entire Guidance document, unless you require complete detail.

You should refer to the Regulations themselves for a full statement of the legal requirements and in the case of any doubt seek independent advice, including your own legal advice. This Guidance informs, but has no legal authority. The WEEE Regulations may be revised from time to time. In this regard, information may be obtained from the Department of Trade and Industry's Sustainable Development & Regulation Directorate. Details of this and other contacts for further information are given in Annex I at the end of this Guidance.

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# The WEEE Regulations - an Introduction

The UK's Waste Electrical and Electronic Equipment Regulations ("the WEEE Regulations") implement provisions of the European Parliament and Council Directive on Waste Electrical and Electronic Equipment (2002/96/EC) ("the WEEE Directive") and the subsequent European Parliament and Council Directive 2003/108/EC amending the WEEE Directive.

The WEEE Regulations transpose the bulk of the provisions of the WEEE Directive into law in the UK. These Regulations provide the legal framework for the UK's implementation of the WEEE Directive. These Regulations do not implement those provisions of the WEEE Directive (Article 6 and annexes II and III) that cover the treatment of separately collected WEEE, which are described in the section on the WEEE Permitting Regulations below.

## Overview of the WEEE Directive

The WEEE Directive is European environmental legislation. It is one of a small number of European Directives that implement the principle of "extended producer responsibility". Under this principle, producers are expected to take responsibility for the environmental impact of their products, especially when they become waste. The WEEE Directive applies this in relation to electrical and electronic equipment (EEE).

The broad aims of the WEEE Directive are to address the environmental impacts of WEEE, and to encourage its *separate collection*, and subsequent treatment, reuse, recovery, recycling and environmentally sound disposal.

The WEEE Directive was developed at European level in recognition of the growing quantities of WEEE estimated to be entering the waste stream. Its source was a European initiative in the 1990s, the Priority Waste Stream Groups, which engaged stakeholders, including the business community, in assessment of a number of targeted waste streams.

The WEEE Directive seeks to improve the environmental performance of all operators involved in the lifecycle of EEE, especially those dealing with WEEE. Accordingly it sets certain requirements relating to the separate collection of WEEE, standards for its treatment at permitted facilities, and requires its recycling and recovery to target levels. It makes producers responsible for financing the majority of these activities.

Distributors have responsibilities in terms of the provision of facilities to enable the free take-back of WEEE by consumers and also the provision of certain information to consumers of EEE.

## Government Responsibilities

The WEEE Directive is an environmental Directive that covers some devolved policy matters. Therefore the Devolved Administrations; the Scottish Executive, the Welsh Assembly Government and the Northern Ireland Administration have the discretion to decide implementation arrangements for their own territories. However the WEEE Regulations provide for a uniform, UK-wide implementation.

The WEEE Regulations are primarily enforced by the Secretary of State.

## **Content of this Guidance**

The subsequent chapters of this Guidance set out in detail the legal obligations that the WEEE Regulations place on producers, producer compliance schemes and distributors of EEE in the UK. They also set out the implications, roles and some of the opportunities for other parties, including consumers, local authorities, the waste management sector, re-use and refurbishment organisations and the charitable, voluntary and community sector, and others.

This Guidance outlines the legal obligations that may fall on a business or professional user of EEE when he wishes to discard it as WEEE.

This Guidance also indicates the roles of Government, including those of the Environment Agencies in relation to the administration of producer registration and monitoring and oversight of producers, producer compliance schemes and treatment, recycling and recovery of WEEE. More information on all this is provided in subsequent chapters of this Guidance.

## **How to use this Guidance**

If you wish to see a brief statement of the implications of the WEEE Regulations for you, you should turn to Chapter 1, which summarises the position of key stakeholder groups.

Subsequent Chapters of this Guidance provide more detail on the implications of the WEEE Regulations for a series of key stakeholder groups.

If you want to assess whether EEE you put on the market is within the scope of the WEEE Regulations or not, you should turn to Chapter 2, which provides guidance on how to approach this.

### **Timetable**

- The WEEE Regulations provide for a coming into force of the main requirements and obligations on producers and distributors of EEE from 1 April 2007. Full producer responsibility for the costs of treating household WEEE will start on 1 July 2007.
- The requirements on producers of EEE to ensure marking of their products to assist with separate collection will be introduced from 1 April 2007.
- In addition, some specific actions, e.g. establishment of producer compliance schemes, the national distributor takeback scheme and approval of designated collection facilities will be required shortly after the Regulations enter into force and before their main obligations come into effect.
- The Environment Agencies will accept applications from prospective producer compliance schemes from 4 January 2007. Producers will be required to have joined a producer compliance scheme by 15 March 2007. This Guidance provides more details on the arrangements for this.

## The WEEE Permitting Regulations

The WEEE Directive requires the permitting of WEEE treatment operations and sets standards for the treatment of WEEE. These provisions are being implemented respectively by the separate permitting Regulations produced by Defra, the Scottish Executive, and the Northern Ireland Administration; which will be accompanied by technical guidance in relation to the treatment of WEEE<sup>1</sup>.

The draft WEEE Permitting Regulations which will apply to England and Wales have been out to public consultation. There will be separate Regulations applicable to Scotland and Northern Ireland respectively. The Regulations may be viewed on the websites of:

- the Department for Environment, Food and Rural Affairs (Defra)  
<http://www.defra.gov.uk/corporate/consult/weee-article6/index.htm>
- the Scottish Executive  
<http://www.scotland.gov.uk/Publications/2005/07/1495505>
- in Northern Ireland, the Department of the Environment  
<http://www.doeni.gov.uk/>.

The draft Treatment Guidance may be viewed on the websites of:

- the Environment Agency (England and Wales) (the EA):  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk);
- the Scottish Environment Protection Agency (SEPA):  
[www.sepa.org.uk/guidance/index.htm](http://www.sepa.org.uk/guidance/index.htm);
- in Northern Ireland, the Department of the Environment:  
[www.doeni.gov.uk](http://www.doeni.gov.uk).

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<sup>1</sup> Guidance on the Best Available Treatment, Recovery and Recycling Techniques (BATRR) and Treatment of WEEE provided by Defra, the Welsh Assembly Government and the Scottish Executive, and similar guidance produced by the Northern Ireland Administration.

# Section A - Application

## Chapter 1 Who is affected by the WEEE Regulations?

### Who should read this Guidance?

1. This Chapter sets out who should read this Guidance and, in each case, summarises why. Subsequent chapters set out more detail.
2. You should read this Guidance if you:
  - are a “producer” of electrical and electronic equipment (EEE); that is you put EEE onto the UK market, e.g. as a manufacturer, importer or you re-brand EEE manufactured by others;
  - are a “distributor” of electrical and electronic equipment (EEE); that is you distribute or sell EEE in the UK, e.g. as a retailer;
  - purchase or discard EEE that is used for business or professional purposes;
  - are a local authority or council waste management officer;
  - are an operator of a treatment, reprocessing<sup>2</sup> or recovery facility or exporter who wishes to participate in the treatment and/or recovery or export of WEEE;
  - manage a charitable or social enterprise organisation involved in the re-use of EEE;
  - otherwise wish to become involved in providing services for compliance with the WEEE Regulations;
  - you may also be interested in this guidance if you purchase or discard EEE that is used for domestic purposes.
3. The WEEE Directive, and in consequence the UK WEEE Regulations, are framed around categories of electrical and electronic equipment (EEE), e.g. large household appliances, IT and telecommunications equipment and electrical tools. They also distinguish between EEE for use by private households (i.e. consumer use by members of the public) and by users other than private households (i.e. professional, business, official or charitable use).

### Producers of EEE

4. You are a producer for the purposes of the WEEE Regulations if you:
  - manufacture electrical and electronic equipment (EEE), selling under your own brand in the UK; or

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<sup>2</sup> The Regulations define “recycling” as “the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery...”.

Recovery is any of the applicable operations provided for in Annex IIB to Directive 75/442/EC (the Waste Framework Directive).

Export in this context means the shipment of WEEE in compliance with Council Regulation (EEC) No 259/93 as amended on the supervision and control of shipments of waste within, into and out of the European Community. WEEE may be exported for treatment and/or recovery outside the UK, but, in order for recovery to count towards WEEE Directive targets, it must meet equivalent treatment and recovery standards to those required in the UK.

- sell under your own brand in the UK, EEE manufactured by another person; or
  - import EEE for business or commerce, introducing EEE to the UK market.
5. You may register as a producer under the UK WEEE Regulations if you manufacture or re-brand EEE and are not legally established as a business in the UK. You may do this so that UK distributors who import your EEE do not each need to register as its producer in order to continue selling it in the UK.
6. If you are a producer, you have several legal obligations under the WEEE Regulations, and must either arrange for the collection, treatment, recycling and environmentally sound disposal of WEEE, or pay your producer compliance scheme (PCS) to do this on your behalf. The Regulations differentiate between EEE sold for household (i.e. consumer use by members of the public) or non-household (i.e. professional, business, official or charitable) use.
7. You must:
- ensure that EEE you put onto the UK market is marked with a “crossed out wheeled bin” symbol to assist with its separate collection from other waste streams, with a producer’s mark, and an indication of date;
  - make available certain information about new types of EEE to assist reuse, treatment facilities and recyclers;
  - provide your producer registration number(s) to distributors when you sell EEE, e.g. through incorporation in the invoice;
  - join an approved producer compliance scheme (PCS) that has been approved by an appropriate Environment Agency, which:
    - will register you as a producer;
    - will report information to the appropriate Environment Agency<sup>3</sup> on the amount of EEE you put on the UK market, by category and type of intended user;
    - may arrange for the collection, treatment and recycling of WEEE, and trading of evidence, on your behalf;
  - support your producer compliance scheme’s declarations of compliance with its obligations for WEEE (see Box 1:1 on page 7), according to the contribution which your sales of EEE in the UK make to them. You may do this either financially according to the charge structure of your PCS, or by providing your PCS with evidence that you have undertaken the proportion of their obligations for which your sales make you responsible, or a combination of these.
8. Producers are encouraged to improve the reusability and recyclability of EEE through a voluntary forum, and your product design or manufacturing processes should not hinder reuse of your products, except for overriding safety or environmental reasons.
9. If you sell EEE direct to household users, you have additional obligations as a distributor of household EEE (see paragraphs 17 to 22 below). If you sell EEE direct to users in other Member States, you must retain records of these sales, including how you have complied with obligations in other Member States for these sales.

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<sup>3</sup> This is the Environment Agency (EA) for England and Wales, the Scottish Environment Protection Agency (SEPA) or the Northern Ireland Environment and Heritage Service (EHS). The actual Agency in a particular situation is called the “appropriate Environment Agency”.

10. If you do not comply with each of your legal obligations under the Regulations you will be committing a criminal offence and will be subject to enforcement action.

11. Subsequent chapters of this Guidance provide more detailed information on your obligations as a producer. Chapter 5 covers producers and producer compliance schemes, Chapter 4 covers distributor obligations, and Chapter 6 provides more information for non-household users. If you are interested in setting up a producer compliance scheme, or intend to arrange clearance of WEEE from designated collection facilities, or its treatment, recycling or export, you may also wish to refer to the section on designated collection facilities in Chapter 4, Chapter 7 (treatment), Chapter 8 (reprocessing and export), Chapter 9 (local authorities), Chapter 10 (charitable reuse) and Chapter 11 (evidence, including trading).

### **Producer compliance schemes**

12. Producer compliance schemes (PCS) provide the interface between producers and the Environment Agencies, and offer administrative and practical services to members. Each producer must be a member of a PCS, which can vary in size from those with only a single member to large schemes potentially representing a significant proportion of the UK EEE market. Each PCS:

- must register its members as producers with the appropriate Environment Agency;
- must report to the appropriate Environment Agency the amounts and types of EEE put on the UK market by its members;
- must declare compliance to the appropriate Environment Agency against its obligations for the collection, treatment, recycling and environmentally sound disposal of WEEE (see Box 1:1 on page 7), which arise from its members' sales of EEE;
- must provide evidence to the appropriate Environment Agency in support of these declarations;
- may arrange the collection, treatment, recycling and environmentally sound disposal of WEEE, and, where appropriate, trade evidence with other PCSs to ensure that obligations are discharged.

13. Producer compliance schemes are expected to work with the facilities through which household WEEE is collected (designated collection facilities (DCFs)) to clear this WEEE for treatment at authorised treatment facilities (ATF) and recycling at accredited reprocessors. Producers who operate DCFs may also do this, with the agreement of their PCS, and then provide their PCS with evidence in lieu of payment.

14. The producer compliance scheme must declare its compliance, to the appropriate Environment Agency, against the obligations to collect, treat, recycle and dispose of WEEE in an environmentally sound manner, even when producer members undertake these activities. This is most likely to occur for non-household WEEE, where producers are likely to have closer business relationships with users disposing of WEEE, and for producers who are also distributors and operate their own collection facilities for household WEEE.

15. Subsequent chapters of this Guidance provide more detailed information on the obligations and functions of producer compliance schemes, and their interaction with producers and others. Producer compliance schemes and producers are covered in Chapter 5, Chapter 4 covers distributor obligations, and Chapter 6 provides more information on the obligations of non-household users. You may also wish to refer to

the section on designated collection facilities in Chapter 4, Chapter 7 (treatment), Chapter 8 (reprocessing and export), Chapter 9 (local authorities), Chapter 10 (charitable reuse) and Chapter 11 (evidence, including trading).

16. If the operator of a PCS does not comply with each of his legal obligations, he will be committing a criminal offence.

### **Box 1:1 Collection, treatment, recycling and environmentally sound disposal of WEEE**

The WEEE Regulations place obligations on producer compliance schemes (PCS) for the collection, treatment, recycling and environmentally sound disposal of WEEE. PCS must report to the appropriate Environment Agency against these obligations. Producer members must either fund their PCS's execution of these obligations, or may agree with the PCS to undertake them themselves, and provide evidence of this to their PCS.

Producer compliance schemes are responsible for household WEEE that is separately collected through designated collection facilities, in proportion to their members' collective share of EEE placed on the UK market. Obligations are calculated for compliance periods, which are usually a calendar year. In 2007, obligations apply to all household WEEE from 1 July, and for household WEEE that is hazardous waste (containing ozone-depleting substances (refrigerators), CRTs (TVs and monitors) and gas discharge tubes) from 1 April.

For non-household WEEE, obligations start on 1 April 2007 and are more closely related to members' individual sales, and decisions by non-household users over how and when to dispose of EEE, as follows

- producer compliance schemes must arrange the collection, treatment, recycling and environmentally sound disposal:
  - when the user eventually wishes to dispose of non-household EEE placed on the market by one of its members after 13 August 2005; and in addition,
  - any EEE sold before this date (from any producer) that is being replaced by the new EEE (i.e. has equivalent or similar purpose or functionality);
- where the non-household user wishes to dispose of WEEE originally purchased before 13 August 2005, he is responsible for its treatment and disposal;
- producers may negotiate with non-household purchasers to transfer end-of-life responsibility for non-household WEEE, but the obligations in the previous bullet points are the default obligations.

### **Distributors selling EEE in the UK.**

17. You are a "distributor" for the purposes of the WEEE Regulations if you sell EEE to end-users, irrespective of selling technique. "Distributor" therefore includes wholesalers, retailers, distance sellers (mail order or over the Internet) and producers making direct sales to consumers. You will also have obligations as a producer if you manufacture, re-brand or import EEE (see paragraphs 4 to 16 above).

18. You have an important role to play in facilitating the take-back of household waste EEE (WEEE) from consumers. Consequently if you are a distributor selling new EEE for household use, you have legal obligations under the WEEE Regulations to:

- provide information to customers about the environmental impacts of EEE and WEEE, the reasons for the separate collection of WEEE, and the means you provide for your customers to dispose of WEEE free of charge for environmentally sound treatment and recycling;
- also provide for your customers to dispose of WEEE free of charge for environmentally sound treatment and recycling. You may do this by accepting an item of WEEE from the customer in-store when you sell an equivalent new item (“in-store take-back”), or by joining a distributor takeback scheme, which supports the development of a network of designated collection facilities (DCF) at which consumers may dispose of WEEE free of charge. You must adopt at least one of these approaches. More detail of arrangements for mail order or Internet sales, and collection on delivery, are provided in Chapter 4.

19. If you receive or handle waste EEE under the WEEE Regulations, you must do so in a way that optimises the reuse and recycling of components or whole appliances that are capable of being reused or recycled. If you establish a designated collection facility from which producer compliance schemes will clear WEEE for treatment, you must operate it under an appropriate waste management licence or have registered an exemption with the appropriate Environment Agency.

20. Distributors have no obligations to take back EEE sold for non-household use, but may be asked by producers or purchasers to provide information concerning these sales.

21. Chapter 4 of this Guidance provides more detail on how take-back should work, on the options open to you in this context, and on designated collection facilities and distributor takeback schemes. Chapter 5 covers producers, and Chapter 3 covers consumers.

22. If you are a distributor of EEE, but do not comply with each of your legal obligations under the WEEE Regulations, you will be committing a criminal offence.

### **A private consumer who purchases EEE or discards EEE as waste**

23. You have no legal obligations under the WEEE Regulations.

24. As a private consumer of EEE, the WEEE Regulations encourage you to play your part in the separate collection of WEEE, when you discard EEE as waste. This will provide environmental benefits through reduced landfill, and resource efficiency through high levels of recycling of components and materials.

25. The WEEE Regulations require those from whom you purchase new EEE to provide you with information about the environmental aspects of EEE and WEEE, the environmental benefits of disposing of WEEE separately from other household waste, and the means they provide or support for you to do this in your neighbourhood. These are principally:

- the retailer may accept an item of WEEE from you for environmentally sound treatment and recycling when you purchase an equivalent item of EEE, so-called “in-store take-back”;
- the retailer may direct you to a designated collection facility he supports where you can dispose of your WEEE free of charge for environmentally sound treatment and recycling. You do not have to make any purchase to take advantage of this free service.

26. The retailer must provide at least one of these alternatives for you. Where a retailer is offering in-store take-back and you make a replacement purchase of similar EEE, he must accept your old EEE on a "one-to-one" basis. If you do not purchase equivalent new EEE, the retailer is not obliged to accept your WEEE.

27. Many designated collection facilities for WEEE are expected to be at local authorities' civic amenity sites, i.e. the sites where you would take other waste that is not collected from your home. These sites may be supplemented by additional collection facilities, e.g. at shopping centres.

28. If you buy through mail order or over the Internet, the retailer must still provide you with information about WEEE, and a practical way for you to dispose of WEEE free of charge. Existing home collection arrangements and services are not affected by the Regulations, and you do not have a general entitlement to free collection of your WEEE from your home, either by local authorities or retailers when they deliver a replacement product.

29. Chapter 3 provides more detailed information about how you can play your part in the separate collection of WEEE.

### **A non-household user of EEE**

30. You are a non-household user of EEE if you possess it for business, professional or official purposes.

31. As a non-household user of EEE, you must arrange and finance the consignment of the waste EEE (WEEE) to an authorised treatment facility and its subsequent treatment and environmentally sound disposal. This applies for any WEEE that is not collected from you by a producer compliance scheme, producer (see Box 1:1 on page 7) or their representative, and therefore:

- when you discard EEE originally purchased before 13 August 2005 and do not replace it with new equivalent EEE; or
- where you purchase new EEE and choose, through commercial negotiation with the producer, to accept the future costs of treating and disposing of the EEE in an environmentally sound manner when it becomes waste; or
- where you are unable to trace the producer compliance scheme or producer with responsibility according to the WEEE Regulations for the collection, treatment and recovery of the EEE you no longer require.

32. You should take note of the WEEE Regulations when entering into commercial negotiations and procurement decisions concerning EEE.

33. Defra is planning to consult on amendments to the duty of care regime shortly and the issue of WEEE will be highlighted.

34. Chapter 6 provides more information on the obligations of non-household users. You may wish to refer to Chapter 5 which covers producer responsibilities, and if you need to dispose of WEEE, you may also wish to refer to Chapter 7 on treatment and Chapter 8 on reprocessing and export.

### **A Local Authority**

35. As a local authority (or council) you have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE.

36. However, the WEEE Regulations have implications for you if you either:

- receive household WEEE deposited by residents at your civic amenity (CA) sites or waste transfer stations; or
- make bulky waste collections from residents in your local area.

37. Local authorities currently provide the majority of the infrastructure for the collection of household waste and the Government is keen for them to play a part in facilitating their residents' participation in separate collection of WEEE.

38. The Government encourages local authorities to register their CA sites and/or waste transfer stations as designated collection facilities (DCF) in time for the full WEEE implementation, by making an application to the operator of the distributor takeback scheme before spring 2007.

39. There are several benefits to local authorities of doing so. The distributor takeback scheme will provide some funding for the reconfiguration of CA sites to enable the separate collection of WEEE. Producers will then take on the costs of treatment and recycling of all WEEE separately collected at any of your CA sites or waste transfer stations that are DCFs, thus saving the authority the costs of disposing of WEEE, including fridges containing Ozone Depleting Substances (ODS) and hazardous WEEE such as televisions and monitors containing cathode ray tubes. The WEEE collected through your DCFs and sent for treatment and recycling at producers' cost will count towards your statutory recycling targets.

40. If you have acted reasonably in discussions with producer compliance schemes (PCS) to arrange collection of WEEE from your DCFs, you may, if no agreement has been reached with a PCS, arrange for the treatment and recycling of the WEEE concerned, in accordance with the requirements placed on producers, and then sell the resulting evidence to PCSs who have obtained insufficient evidence to discharge their obligations.

41. Chapter 9 of this Guidance provides more detail for local authorities, and you should also read the distributor takeback scheme and designated collection facility sections of Chapter 4 and Chapter 10 on screening for charitable reuse. If no PCS has arranged to clear separately collected WEEE from your DCFs, you may also need to refer to the guidance on producer compliance scheme in Chapter 5, and to Chapter 7 on treatment, Chapter 8 on reprocessing and export, and Chapter 11 on evidence, including trading.

### **Operator of a treatment facility**

42. You have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE, but you are likely to be centrally involved if you want to offer WEEE compliance services to producer compliance schemes and other obligated parties, specifically to provide treatment of separately collected WEEE and the associated evidence of compliance. If you treat WEEE, you will have obligations under the Permitting Regulations.

43. You must be authorised if you propose to undertake treatment of WEEE. This means you will need a waste management licence (or registered exemption), and you must operate in accordance with the terms of that licence (or exemption) as an authorised treatment facility (ATF) for treating WEEE. You must then treat WEEE to the standards that the WEEE Directive requires, and in this context you should follow the Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRRT) and Treatment of WEEE provided by Defra, the Welsh Assembly Government and the Scottish Executive.

44. The Secretary of State will establish formats for evidence notes that demonstrate the amount and type of WEEE that has reached an authorised treatment facility for treatment. There will also be a second part to an evidence note demonstrating the amount and type of WEEE constituent material that has reached an accredited reprocessor or accredited exporter for recycling or recovery. Only ATFs and accredited exporters may issue evidence of treatment (the first part), and only accredited reproducers and accredited exporters may issue evidence of recycling and recovery (the second part). The Environment Agencies may require you to provide a quarterly or annual summary<sup>4</sup> of the evidence notes you have issued.

45. You should expect to be asked, as part of your contractual arrangements, to complete the first part of WEEE evidence by those who consign WEEE to you for treatment. You may also be asked to obtain evidence of reprocessing or export on behalf of the consignor. If so, you must get this from accredited reproducers or exporters, you must not complete the second section yourself. The consignor of WEEE may alternatively make separate arrangements with an accredited reprocessor or exporter for this.

46. You may, if requested by the consignor, issue an evidence note covering several consignments of WEEE, and/or issue separate evidence notes for each category of WEEE.

47. Defra has a project to establish protocols for WEEE to determine the average composition by category of a load of mixed WEEE arising at a designated collection facility. Authorised treatment facilities may use these protocols instead of separating out loads of WEEE to determine the category break-down for issuing evidence of receipt for treatment. The ATF will not need to use the protocols if it can demonstrate that the WEEE it receives has a significantly different composition.

48. If you breach the terms of your permit, or improperly produce or endorse evidence of treatment, you are committing a criminal offence under either the WEEE Regulations or the WEEE Permitting Regulations.

49. Chapter 7 provides more detail for treatment operators, including about the WEEE Permitting Regulations, and you may wish to refer to Chapter 8 which covers reprocessing and export, and Chapter 11 which describes evidence.

### **Operator of a reprocessing (recovery and/or recycling) facility**

50. You have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE, but you are likely to be centrally involved if you want to offer WEEE compliance services to obligated parties or authorised treatment facilities, specifically to provide recycling or other recovery (e.g. incineration with energy recovery) services.

51. To do this, you must be accredited by the appropriate Environment Agency as a WEEE reprocessor. The Regulations define “recycling” as “the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery...”. Recovery is any of the applicable operations provided for in Annex IIB to Directive 75/442/EC (the Waste Framework Directive). The operations that are “applicable” are recycling and incineration with energy recovery.

52. The Secretary of State will establish formats for evidence notes that demonstrate first the amount and type of WEEE that has reached an authorised

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<sup>4</sup> A list of evidence notes that have been issued, and a break-down of amounts of WEEE by category, differentiating between household and non-household WEEE as reported by the consignor.

treatment facility for treatment, and second the amount and type of WEEE constituent material that has reached an accredited reprocessor or accredited exporter for recycling or recovery. Only ATFs and accredited exporters may issue evidence of treatment (the first part), and only accredited reproducers or accredited exporters may issue evidence of recycling and recovery (the second part). You must provide the appropriate Environment Agency with a quarterly and annual summary<sup>5</sup> of the evidence notes you have issued.

53. You should expect to be asked, as part of your contractual arrangements with either the original consignors of WEEE<sup>6</sup>, or authorised treatment facilities acting on their behalf, to issue evidence of the receipt for recycling or recovery of WEEE constituent materials. This will normally be to match amounts of WEEE recorded on the treatment section of an evidence note, although in some cases the evidence you issue will later be combined with other evidence of recycling - e.g. from a different material reprocessor - to make up the full amount of evidence required. The authorised treatment facility must not issue evidence of recycling or recovery, and you must not issue evidence of receipt of WEEE for treatment. You can only issue WEEE evidence notes up to the total amount of WEEE material you have received for recycling.

54. By the time materials reach a reprocessor, they are usually mixed with material from other waste streams, e.g. a steel mill may receive metal from cars, WEEE and other waste. Defra has a project to establish protocols for WEEE to determine the proportion of material entering accredited reproducers that is deemed to have come from WEEE. An accredited reprocessor will not need to use the protocols if it can demonstrate to the satisfaction of the appropriate Environment Agency that the loads it receives are significantly different in composition to those determined by the protocols.

55. If you breach the terms of your accreditation, or improperly issue evidence of recycling, or recovery you are committing a criminal offence under the WEEE Regulations, and will be subject to enforcement action.

56. Chapter 8 provides more detail on reprocessing and export, and you may wish to refer to Chapter 7 which covers treatment and Chapter 11 which describes evidence.

### **Exporter of WEEE or WEEE material**

57. You have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE, but you are likely to be involved if you want to offer WEEE compliance services to obligated parties or authorised treatment facilities, specifically to export WEEE for treatment overseas, or WEEE material for recycling or recovery overseas. To do this, you must be accredited by the appropriate Environment Agency under the WEEE Regulations.

58. You should read the previous sections for the operators of treatment or reprocessing facilities as much of this information will apply to you.

59. If you export WEEE or WEEE material, you are responsible for ensuring that it will be treated, and/or recycled and recovered to equivalent standards to those applying in the UK if that recycling or recovery is to count towards producer compliance schemes' targets.

60. You may issue evidence of recycling or recovery according to the amount of WEEE material you have received for export, and, if WEEE is exported also for

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<sup>5</sup> A list of evidence notes that have been issued, and the type(s) and quantities of material these have been issued for.

<sup>6</sup> i.e. producer compliance schemes, producers or in certain cases local authorities.

treatment, you may issue evidence of the receipt of WEEE for treatment provided you have adhered to the conditions of accreditation. You must provide the appropriate Environment Agency with a quarterly and annual summary<sup>7</sup> of the evidence notes you have issued.

61. If you breach the terms of your accreditation, or improperly issue evidence, you are committing a criminal offence under the WEEE Regulations.

62. Chapter 8 provides more detail for reprocessing and export, and you may wish to refer to Chapter 7 which covers treatment, and Chapter 11 which describes evidence.

## **The Voluntary and Community Sector**

63. You have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE.

64. The WEEE Regulations do, however, seek to encourage re-use of whole appliances when these are discarded and where this is appropriate. You may wish, therefore, to participate in schemes or systems to encourage and increase the re-use of WEEE.

65. Re-use and refurbishment organisations from the Voluntary and Community sector are already actively involved with WEEE in the UK. The Government is keen to see your involvement maintained in the future, particularly as the review of the WEEE Directive may result in reuse of whole appliances counting towards the recycling/reuse targets. It wishes to ensure that the UK's implementation of the WEEE Directive supports the social and economic benefits associated with the reuse of whole WEEE items operated by the Voluntary and Community Sector.

66. The implementation of the WEEE Directive in the UK provides the opportunity for re-use and refurbishment organisations to make new relationships with retailers and producers to source WEEE for re-use or refurbishment.

67. The Government is giving further encouragement to these developments by requiring producer compliance schemes (PCS), as a condition of their approval, to indicate how they will prioritise reuse of whole appliances in the future, where this is appropriate. The Government expects that PCS and producers who collect household WEEE from DCFs to give priority to the re-use of whole equipment by locally-based, established Voluntary and Community Sector organisations. If you collect or receive WEEE for re-use, you will need to report the amount<sup>8</sup> of each category to the producer compliance scheme or producer which is responsible for clearing WEEE for treatment and recycling.

68. Chapter 10 provides more details of charitable reuse of WEEE. You may also wish to refer to the producer compliance scheme section of Chapter 5, the designated collection facility section of Chapter 4, and Chapter 9 on local authorities to explore how the WEEE Regulations provide opportunities for you to access WEEE.

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<sup>7</sup> A list of evidence notes that have been issued. If you export for treatment, also a break-down of amounts of WEEE by category, differentiating between household and non-household WEEE as reported by the consignor. If you export for recycling, also the type(s) and quantities of material these have been issued for.

<sup>8</sup> Preferably the tonnage, otherwise the number of units.

## **A small or medium sized business**

69. There are no exemptions for small businesses in the WEEE Directive, and therefore none in the UK WEEE Regulations. However the Government has introduced flexible ways to satisfy obligations under the Directive that may assist smaller businesses:

- producers must join a producer compliance scheme (PCS) that will undertake most of the administration on behalf of its members, and is likely to coordinate and manage the collection, treatment and recycling of household WEEE. The PCS should provide greater bargaining power than an individual small business and so membership may be beneficial for small producers. The approval and registration process for PCSs considers the fairness and equitability of the schemes' constitutions, membership rules and fees;
- for most retailers, it should be easier and more cost effective to join a distributor takeback scheme than provide in-store take-back and storage of WEEE. Retailers taking back WEEE in-store will not need to have a waste management license or exemption from licensing. However, the onward transport of WEEE must be carried out by waste carriers registered with the Environment Agencies;
- the WEEE Regulations do not require local authorities to accept commercial and industrial waste at their civic amenity (CA) sites. However, the Government encourages the operators of designated collection facilities that are CA sites to accept small amounts of WEEE that retailers have collected from private households on sale of new equipment either at their CA sites, or, if there is insufficient capacity at those sites, at waste transfer stations. These items are subject to the producer responsibility requirements in the same way as other WEEE from private households;
- take-back obligations do not apply to retailers selling second-hand or reconditioned EEE, e.g. charities or shops selling EEE which has been refurbished with the involvement of the Voluntary and Social Enterprise Sector;
- producers selling EEE for non-household use may seek to transfer obligations for treatment and recycling of WEEE to the purchaser as part of normal contract negotiations. Parties may thereby seek the most mutually cost-effective arrangement.

## **Annual timetable**

70. The WEEE Directive requires Member States to report information on EEE and WEEE to the Commission on a calendar year basis. The WEEE Regulations are therefore based on an annual "Compliance Period" as shown in the timetable in Box 1:2. Activities in relation to a Compliance period begin before it starts, continue throughout, and end in the following May. The timetable also shows the significant events for the initial, shorter Compliance Period in 2007.

### Box 1:2 Compliance Period Timetable

The WEEE Directive requires reporting based on calendar years. Regular UK compliance periods are set accordingly, with the first starting on 1 April 2007 until 31 December 2007. Significant dates within regular and the first compliance periods are:

Event	Regular	First (2007)
Deadline for producer compliance schemes (PCS) to apply to the appropriate Environment Agency (EA)	31 Aug (CP-1)	31 Jan 2007
EA approval of PCS	1 Oct (CP-1)	28 Feb 2007
Producers must apply to join PCS	31 Oct (CP-1)	15 Mar 2007
Deadline for PCS to apply to register producers	31 Oct (CP-1)	31 Mar 2007
Deadline for PCS to provide market estimates to EA	N/A	31 Mar 2007
EA approve producers and issue registrations	1 Dec (CP-1)	1 Jun 2007
EA issue percentage targets for household WEEE	N/A	17 Apr 2007
Compliance Period starts	1 Jan CP	1 Apr 2007
PCS and producers may trade evidence	1 Jan CP	1 Jul 2007
End first quarter for WEEE reporting	31 Mar CP	N/A
Deadline for PCS to report amount of household WEEE to EA for first quarter	30 Apr CP	N/A
EA issue totals for WEEE in first quarter	31 May CP	N/A
End second quarter for WEEE reporting	30 Jun CP	N/A
Deadline for PCS to report amount of household WEEE to EA for second quarter	31 Jul CP	N/A
EA issue totals for WEEE in first two quarters	31 Aug CP	N/A
End third quarter for WEEE reporting	30 Sep CP	30 Sep 2007
Deadline for PCS to report amount of household WEEE to EA for third quarter	30 Oct CP	30 Oct 2007
EA issue totals for WEEE in first three quarters	30 Nov CP	30 Nov 2007
End fourth quarter for WEEE reporting	31 Dec CP	31 Dec 2007
Compliance Period ends	31 Dec CP	31 Dec 2007
Deadline for PCS to report amount of household WEEE to EA for fourth quarter	31 Jan (CP+1)	31 Jan 2008
Deadline for Audit of accredited reproprocessors and exporters	28 Feb (CP+1)	28 Feb 2008
Deadline for PCS to provide EEE market information to EA for the Compliance Period	1 Mar (CP+1)	1 Mar 2008
EA issue totals for WEEE for the whole Compliance Period, and final obligations for household WEEE	1 Apr (CP+1)	1 Apr 2008
PCS and producers continue trading evidence		
Exchange trades, including calculation of values of evidence, and checking evidence received	Mid April (CP+1)	Mid April 2008
Deadline for PCS to declare compliance with household and non-household obligations	1 May (CP+1)	1 May 2008

## Chapter 2 To what electrical and electronic equipment do the WEEE Regulations apply?

71. The WEEE Regulations follow the definition of scope set out in the WEEE Directive. The WEEE Regulations therefore apply to electrical and electronic equipment (EEE) which:

(i) is dependent on electric currents or electromagnetic fields to function, and which operate within a voltage range of up to 1,000 volts AC or up to 1,500 volts DC (including battery-powered); and

(ii) falls into the ten product categories in the WEEE Directive which are reproduced in Box 2:1:

72. The WEEE Directive also provides lists of products falling within these broad categories. These lists are included in Schedule 1 to the Regulations, and are illustrative rather than exhaustive. The scope is set for whole products although components, sub-assemblies and consumables are considered to be part of the EEE if present at the time it is discarded.

73. Each of these categories, except category 8, medical devices, has targets for recovery and recycling by weight (see Regulation 21). For practical reasons, the WEEE

### **Box 2:1 Categories of EEE / WEEE in Annex 1A of the WEEE Directive**

- 1) Large household appliances
- 2) Small household appliances
- 3) IT & telecommunications equipment
- 4) Consumer equipment
- 5) Lighting equipment
- 6) Electrical and electronic tools
- 7) Toys leisure and sports equipment
- 8) Medical devices
- 9) Monitoring and control instruments
- 10) Automatic dispensers

In addition, amounts of category 5 EEE (lighting equipment), should be declared in both total, and specifically for gas discharge lamps, for which the WEEE Directive sets higher recycling targets than other lighting equipment.

WEEE is expected to be collected according to the category groupings shown in Box 2:2.

The WEEE Directive currently does not apply recycling and recovery targets to Category 8, medical devices. Obligations are to ensure treatment and environmentally sound disposal.

### **Box 2:2 Collection Categories**

WEEE is likely to be collected and treated according to the following groups of categories (see Box 2:1), at least in the initial implementation of the WEEE Directive in the UK:

- Large household appliances not containing refrigerants;
- Cooling appliances containing refrigerants (in Categories 1 and 10);
- Equipment containing CRTs;
- Gas discharge lamps (in Category 5);
- All other WEEE.

Regulations and Code of Practice (see Box 4:3 on page 32) expect WEEE to be collected in the groups of categories of EEE shown in Box 2:2. Protocols will be established to define the proportion of individual categories contained in a mixed load of WEEE.

74. The WEEE Directive was adopted under Article 175 of the EC Treaty as an “environmental” Directive rather than a Single Market Article 95 Directive. The national implementation of the WEEE Directive, and its scope, is therefore a matter for each Member State. The DTI provides information on other Member States’ implementations of the WEEE Directive through its web site<sup>9</sup>.

### **Box 2:3 The Restriction of Hazardous Substances (RoHS) Directive**

The Restriction of Hazardous Substances (RoHS) Directive aims to minimise the use of certain hazardous materials in new EEE. The Directive is implemented by the UK RoHS Regulations, SI 2006-1463. The RoHS Directive complements the WEEE Directive and applies to eight of the ten categories shown in Box 2:1, plus electric light bulbs and household luminaries. The two categories currently not included are medical devices and monitoring & control instruments. The RoHS Regulations mainly affect producers, and further information on RoHS can be found at:

<http://www.dti.gov.uk/innovation/sustainability/rohs/page29048.html>

### **Exemptions from scope**

75. Certain EEE is exempted from the scope of the WEEE Regulations, taking account of provisions in the WEEE Directive and decisions of the Commission-chaired Technical Adaptation Committee (TAC) of Member State representatives. The following types of EEE are exempted from the scope:

- Equipment not dependent on electricity to work properly in its basic (primary) function;
- Equipment that is part of another type of equipment which is outside the scope of the WEEE Regulations (e.g. aircraft, vehicle);

<sup>9</sup> <http://www.dti.gov.uk/innovation/sustainability/weee/page30269.html>

- EEE designed specifically to protect the UK national security or for a military purpose;
- Filament light bulbs - all light bulbs which emit light through the use of a filament;
- Household luminaries;
- Large-scale stationary industrial tools - permanently *fixed* at a given place in an industrial machinery or an industrial location;
- Implanted medical equipment and infected medical equipment.

76. Supplementary information will be available from the DTI website<sup>9</sup>.

## Decision Tree

77. The following Decision Tree is intended to help producers and others to determine whether EEE put on the UK market comes within the scope of the WEEE Regulations or not:

78. This Guidance is necessarily generic in view of the extremely broad range of products potentially within the scope of the Directive. It is based around the Decision Tree provided below. It uses some of the criteria for interpreting the scope of the WEEE Directive discussed in the TAC and reflected in the European Commission document "Frequently Asked Questions"<sup>10</sup>.

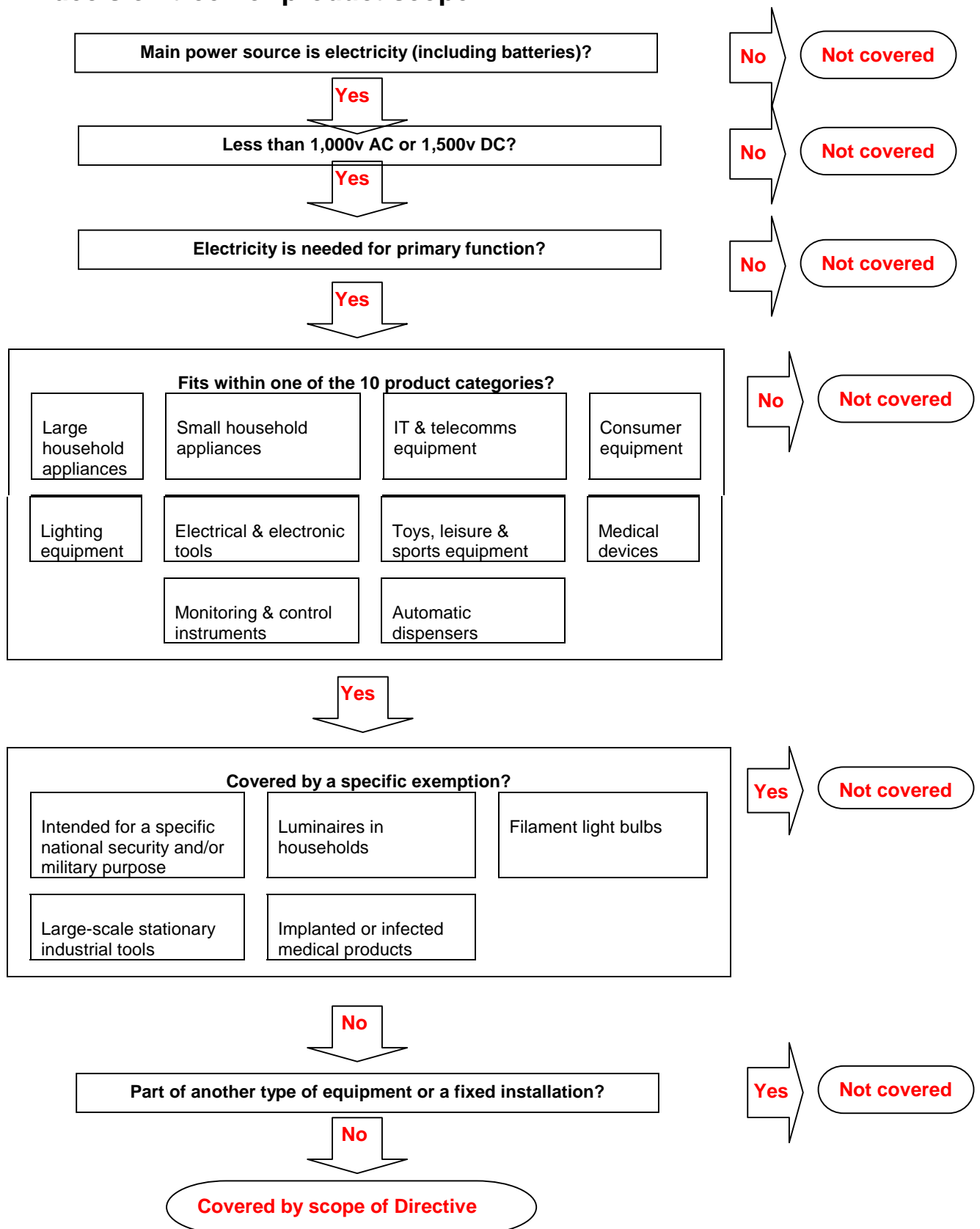
79. For many products, the assessment of whether they are included within the scope of the WEEE Regulations should be reasonably straightforward. However where there is doubt, producers may seek clarification from their trade association or business organisation, or from the DTI Sustainable Development & Regulation Directorate at this address: [weee@dti.gsi.gov.uk](mailto:weee@dti.gsi.gov.uk).

80. The meaning of "fixed installation" is under discussion at the TAC, and information provided here and in the FAQ<sup>10</sup> is subject to change. It is proposed that "fixed installation" should be interpreted to include products that are not considered to be a piece of equipment in their own right and are, therefore, excluded from the scope of the WEEE Directive. A fixed installation would have one or more of the following characteristics: it would typically be left behind if the user were to move premises, it is not readily discernible as being a separate discrete piece of equipment, or it is not "stand-alone". Fixed installations might include lifts, fuse boxes, automatic doors and built-in heating systems. However IT networks or "built-in" kitchen appliances would not be considered to be fixed installations.

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<sup>10</sup> "Frequent Asked Questions on Directive 2002/95/EC on the Restriction of the Use of certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) and Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE): (at [http://europa.eu.int/comm/environment/waste/pdf/faq\\_weee.pdf](http://europa.eu.int/comm/environment/waste/pdf/faq_weee.pdf))

## A 'decision tree' for product scope.



# **Section B – Obligations and roles**

## **Chapter 3 Consumers of EEE in the UK**

### **Terminology**

81. This guidance uses “consumer” specifically to mean a member of the public who possesses or uses electrical and electronic equipment (EEE) for domestic purposes. “Consumer” does not include a “business user” who possesses EEE for business or professional purposes. Arrangements and responsibilities are different for consumer (household) and professional or business (non-household) EEE. Business or professional users should refer to Chapter 6.

82. This guidance uses “distributor” to encompass businesses that sell EEE to end-users, irrespective of selling technique. You can in most cases interpret “distributor” to mean “retailer”, noting that it includes distance sellers (mail order and Internet sales) and producers who sell direct to consumers.

### **Obligations and expectations**

83. As a consumer, you have an important role to play in the recycling of electrical and electronic equipment (EEE), but the WEEE Regulations do not place legal obligations on you.

84. You are encouraged to discard waste EEE (WEEE) separately (“separate collection”) from other waste at the end of its life.

85. The WEEE Regulations establish the infrastructure for you to do this. All distributors of household EEE must help by providing information, and either accepting an item of WEEE when you purchase a replacement item, or supporting a distributor takeback scheme which enables you to dispose of your WEEE through a number of convenient collection points. These will often be your local authority’s civic amenity sites; where you would discard other waste not collected from your home. You will not be charged to dispose of WEEE at retail outlets or at these collection sites.

86. You should dispose of WEEE in a reasonably clean and sanitary condition, for example emptying fridges and freezers of perishable items, and fryers of cooking oil. Separately collected WEEE may be considered for re-use by charitable and social enterprise organisations.

87. You are not in general, however, entitled to free collection of your WEEE from your home, by either distributors or your local authority. You have no right to reclaim items of WEEE once you have discarded them, for example if the item you bought as a replacement is unsatisfactory.

### **Information for consumers about WEEE**

88. Under the WEEE Regulations, all distributors of EEE for consumer use in the UK must provide you with environmental information, and tell how you may dispose of WEEE. This is explained in Box 4:1 on page 25.

### **Crossed out wheeled bin symbol**

89. All EEE sold in the UK should be marked with the “crossed out wheeled bin” symbol shown below, either on the equipment wherever practicable, or on its packaging, manual and guarantee. This symbol reminds you not to dispose of items of

EEE in your bin, but to separate them out for collection and recycling. The symbol may also be shown with a thick bar underneath.



## **How to dispose of unwanted WEEE**

90. The WEEE Regulations require all businesses selling EEE to enable their customers to return items of WEEE free of charge. Distributors may do this in one of two ways:

- by in-store take-back, where they must accept, free of charge, an equivalent item of WEEE to the new item you are purchasing; or
- through a distributor takeback scheme, where they support a national network of sites which will accept WEEE from you, again free of charge, but without requiring the purchase of a replacement product.

91. They must tell you which option they provide, and how you may use it. These options are described in more detail below. The principles are also interpreted for mail order and Internet sales and for 'collect on delivery' services.

### **In-store take-back**

92. With in-store take-back, you may return an item of WEEE free of charge to a retailer on a "one-to-one" basis for any item you buy. The old item need not have been purchased from the same retailer. "One-to-one" take-back is explained more fully in Box 4:2 on page 27, but in general means a similar product or one fulfilling a similar purpose to the one you purchase.

93. Take-back decisions should accommodate technological advances, improvements in functionality, and product and consumer trends, so the old product being disposed of need not be identical to the product being purchased. Distributors are encouraged to accept WEEE within a reasonable time following purchase of an equivalent item of EEE so that you may not need to carry items of WEEE with you while shopping.

94. Practical alternatives to individual in-store take-back may be offered, for example shops may group together to provide a communal take-back facility with vehicle access at a shopping centre in lieu of each shop making individual in-store arrangements. Collection on delivery is covered below.

### **Distributor takeback scheme and out-of-store take-back of WEEE**

95. Distributors may also to fulfil their take-back obligations by joining a distributor takeback scheme that supports a network of sites where you may discard unwanted WEEE. Where they do so, they must display standardised signs produced by the scheme to tell you how you may dispose of your WEEE. The network of sites is expected to be based largely on local authority civic amenity sites, where you can also discard other waste that is not collected from your home. Additional collection sites may be established to provide better access or increased capacity.

96. You may discard any WEEE free of charge at the collection facilities supported by the distributor takeback scheme. You may be asked to segregate your WEEE according to its type, e.g. large household appliances or IT equipment. Access arrangements should be at least as good as those for local authority waste sites. You do not have to purchase EEE to discard WEEE at these sites.

### **Interpretation of take-back for distance sales and collection on delivery services**

97. You are not entitled to the free collection of WEEE from your home by a distributor if he has made reasonable provision for you to return your WEEE locally free of charge.

98. A distance seller (mail order or Internet) may fulfil his take-back obligations either by joining a distributor takeback scheme covering your area, or by providing you with free shipping to a WEEE collection point for items replaced by the EEE you purchase. He must tell you how you can discard WEEE, e.g. through his mail-order adverts, on-screen during on-line sales, and through leaflets included with purchases.

99. Local distributors may offer a home-delivery service for large, fragile or bulky items of EEE, e.g. cookers, refrigerators or large televisions. Sometimes the old product being replaced is collected when the new equipment is delivered, so-called "collection on delivery". They are allowed to continue to charge for this service under the WEEE Regulations provided they also continue to provide you with a local and practical way to discard items of WEEE free of charge. Where the distributor is not a member of a distributor takeback scheme, he must continue to offer you in-store take-back for all types of EEE he sells. As producer compliance schemes are responsible for the treatment of household WEEE, the distributor should at most charge for the 'disconnection' and 'transport' parts of any collection service.

### **Bulky waste collections by Local Authorities**

100. Many local authorities offer bulky waste collection services to residents and, in this context, collect larger items of WEEE. Local authorities may charge a collection fee for this service.

### **Enforcement of take-back and in-store information**

101. If you experience difficulty in obtaining information about EEE and WEEE from a distributor of electrical products, problems disposing of WEEE when following these guidelines and the options provided by the distributor, or buy new EEE that does not have the proper "crossed-out wheeled-bin" marking, you should seek advice from the enforcement body to be appointed by the Secretary of State.

### **Implementation Timetable**

102. The significant points in the timetable for implementation for consumers are:

- Producers must mark products with the crossed-out wheeled bin symbol from 1 April 2007. However distributors may continue to sell stock they already hold.
- You should continue to dispose of WEEE containing ozone depleting substances (fridges and freezers), cathode ray tubes (traditional televisions and computer monitors) and gas discharge tubes (fluorescent lights and energy-efficient light bulbs) at local authority civic amenity sites until 30 June 2007.
- Distributors must provide information about this from 1 April until 30 June 2007.

- From 1 July 2007, you should dispose of all categories of household WEEE separately through in-store take-back or the network of out-of-store collection facilities.
- Distributors must provide information about EEE and WEEE, including separate collection, from 1 July 2007.

# Chapter 4 Distributors of EEE in the UK, and Designated Collection Facilities

## Who is a distributor of EEE?

103. You are a "distributor" for the purposes of the WEEE Regulations if you sell EEE to end-users, irrespective of selling technique. Distributor therefore includes wholesalers, retailers, distance sellers (mail order or over the Internet) and producers making direct sales to consumers.

104. You may remain the distributor in some circumstances where another company acts as intermediary between you and the consumer, e.g. when they rent EEE, install it as part of a service, or purchase from you to provide EEE as part of a like-for-like direct replacement service.

105. You have additional responsibilities as a producer if you put EEE onto the UK market, including by manufacture, re-branding or import. Chapter 5 provides more information for producers of EEE. Producer and distributor responsibilities are largely distinct, but producers who operate a designated collection facility may use the WEEE towards their producer compliance scheme's obligations.

## Distributor obligations

106. As a distributor of household EEE, you must:

- provide information to consumers in relation to the environmental aspects of WEEE and the separate collection of household WEEE;
- facilitate the take-back of household WEEE from UK consumers.

107. These obligations do not apply to shops selling second-hand or reconditioned EEE, i.e. EEE which has been re-used or refurbished with the involvement of the voluntary and community sector.

108. There are no obligations for distributors in relation to sales of EEE to non-household users, or for the take-back of non-household WEEE. However if you sell EEE for non-household use, you may be asked to assist:

- end-users, by providing contact information for the producer whose producer compliance scheme is responsible for end-of-life handling of EEE;
- producers, with their responsibilities to provide their producer compliance scheme with accurate information, by notifying them of sales of EEE to non-household users, especially where purchases are of multiple units.

## Information provision by distributors of WEEE

109. Distributors of household EEE must provide consumers with information about the environmental impact of EEE, the meaning of the WEEE markings, the benefits of separate collection of WEEE, and the opportunities supported by the distributor for customers to dispose of their WEEE for environmentally sound treatment and recycling. This complements the take-back obligation by providing a link between the consumer and the systems under which household WEEE may be collected and recycled. Further details are given in Box 4:1. Distributors must retain records of the information they make available for six years.

#### **Box 4:1 Information for consumers about EEE and WEEE**

Under the WEEE Regulations, all distributors of EEE for household use in the UK must positively offer information to consumers about:

- the environmental aspects of EEE, including the human health and environmental impacts of hazardous substances found in some EEE;
- the positive benefits of separate collection and environmentally sound recovery, recycling and diversion from landfill of WEEE, and the reasons why they should not dispose of WEEE as unsorted municipal waste;
- the meaning of the “crossed out wheeled bin” product marking symbol;
- how they can contribute towards re-use, and recycling and other forms of recovery of WEEE;
- the arrangements through which the distributor enables its customers to dispose of WEEE free of charge – in particular whether he is participating in a distributor takeback scheme, which is providing a national or local network of collection facilities; or if he is providing an in-store take-back service. He must do at least one of these options.

A consumer of EEE may ask for this information, and the distributor must provide it.

The Government expects all distributors selling EEE for household use in the UK to play their part in promoting the benefits of take-back. They must provide this information to customers on their premises, which they may do by offering leaflets or displaying posters in standardised format.

Distributors offering in-store take-back must explain clearly that they offer in-store take-back, and how the customer may use this. They must also explain that this option remains available even where they offer a “collect on delivery” service.

Distributors who are members of a distributor takeback scheme must inform their customers of where and how they can dispose of WEEE. The distributor takeback scheme should provide signs or leaflets for this.

#### **Take-back of household WEEE**

110. Take-back systems should be widely available and accessible, and enable consumers to dispose of their WEEE free of charge. The WEEE Regulations provide you with a choice in how you implement your take-back obligations. You must either:

- join a distributor takeback scheme (DTS) – which provides a network of out-of-store sites where consumers can dispose of their WEEE free of charge for environmentally sound treatment and recycling; or
- offer in-store take-back – you must accept free of charge an equivalent item of WEEE to the new item of EEE you sell to your customer. Where in-store take-back is offered, it must be for all types of EEE that you sell. The principle of free take-back is extended to distance sales.

111. You must fully adopt one of these options, but you may, for example, be a member of a distributor takeback scheme and additionally offer collection-on-delivery.

These options are briefly compared below, and the following paragraphs explain the options in more detail.

### **In-store take-back or distributor takeback scheme?**

112. In-store take-back provides individual distributors with greater involvement in the take-back of WEEE, but may not be the most effective solution because:

- you must provide an in-store take-back service, free of charge, for all types of EEE you sell. This involves accepting WEEE from customers, its proper storage while awaiting clearance, and recording the number of units received;
- you must arrange for, and retain records for six years of, clearance of separately collected WEEE, either by a producer compliance scheme if you have established a designated collection facility, or by a waste carrier licensed by the appropriate Environment Agency;
- you must receive WEEE from customers at times when other customers are likely to be shopping. You should do this for WEEE that is unlikely to be packaged for easy handling, and with regard to the safety of other customers;
- if you apply a strict interpretation of your take-back obligations, customers may be discouraged by the “one-to-one” equivalence test or having to carry WEEE with them while shopping.

113. The distributor takeback scheme distances consumers’ disposal of WEEE from retail premises and enables consumers to dispose of WEEE irrespective of whether or when they purchase a replacement item of EEE. The operator of the scheme The DTS must support an adequate network of collection sites for household WEEE, which provides wide coverage for distance sellers.

### **Take-back through a distributor takeback scheme**

114. Members of a distributor takeback scheme must inform their customers of how they can dispose of their WEEE free of charge at the collection facilities supported by the scheme. This replaces the obligation to operate in-store take-back.

115. A distributor takeback scheme makes out-of-store facilities available for the separate collection of household WEEE brought for disposal by consumers, and provides signs for display by retail members of the scheme to inform customers how they may dispose of their WEEE free of charge in an environmentally sound manner. More details on distributor takeback schemes are provided in paragraph 131 below.

### **Take-back in-store**

116. Distributors choosing to implement in-store take-back of household WEEE must do so free of charge and for all types of EEE they sell, except where there are health and safety risks because of contamination from use. In-store take-back applies irrespective of where the item brought for disposal was originally purchased. You must record the number of units you receive, by category, and retain the records for at least six years.

117. The WEEE Directive and WEEE Regulations phrase in-store take-back in terms of equivalence of type and function and on a “one-to-one” basis. This is explained in Box 4:2.

#### **Box 4:2 “One-to-one” take-back**

The WEEE Regulations use the term “one-to-one” from the WEEE Directive. This is interpreted as “like for like” or “old for new” replacement in this Guidance. For example, a consumer could take back a toaster when purchasing a new one; irrespective of where and when the old toaster was purchased, or its size and features. Another example is that the customer can bring back an old video recorder when purchasing a new DVD recorder. Although this is not strictly a new for old replacement, the new product is intended to fulfil the same function.

Distributors offering “one-to-one” take-back must do so for all types of EEE they sell, and without regard to any charged or free “collect on delivery” service they offer. Offering to collect an old fridge does not exempt the distributor from taking-back an old fridge that a customer brings to his shop when buying a new one.

Distributors are expected to adopt a reasonable and practical approach where they offer take-back, with reasonable interpretation of “equivalence”. For a distributor to insist on exact equivalence would run counter to the principles of the WEEE Directive.

A distributor may relax the conditions on equivalence, the period following purchase during which take-back applies, or even the necessity for purchase of EEE.

118. Relatively few customers may take waste items with them when shopping. You are therefore encouraged to accept WEEE within a reasonable period following a sale, e.g. a fortnight. You may wish to endorse the sales receipt to govern deferred in-store take-back of WEEE.

#### **Alternative take-back arrangements**

119. In-store take-back may also be offered individually or collectively by establishing a collection facility outside a store, provided that WEEE deposited there is managed in accordance with WEEE and waste management Regulations, including record-keeping, the facility obtains appropriate planning permission and prevents the misuse of deposited WEEE. The facility should either be approved as a designated collection facility (DCF, see Page 30), or make arrangements with one to transfer WEEE that has been collected, for clearance by a producer compliance scheme. This approach would avoid customers bringing WEEE into stores, and may be an efficient solution for a shopping centre or a town-centre pedestrian zone.

120. If you wish to establish alternative collection arrangements, including a distributor takeback scheme, you should contact the DTI at [weee@dti.gsi.gov.uk](mailto:weee@dti.gsi.gov.uk).

#### **Distance sales and “collection on delivery” services**

121. A distance seller (mail order or Internet) may fulfil his obligation to provide his customers with an accessible way to dispose of their WEEE free of charge, either by joining a distributor takeback scheme with appropriate geographic coverage, or by providing them with free shipping to a WEEE collection point for items replaced by the EEE he sells. The distributor must tell his customers how they can dispose of WEEE, e.g. through their mail-order adverts, on-screen during on-line sales, and through leaflets included with purchases.

122. Local distributors may offer to collect old EEE as part of a delivery service for large or fragile items, e.g. fridges or large televisions. They must continue to discharge their free of charge take-back obligations, either by offering in-store take-back for all types of EEE they sell, or through membership of a distributor takeback scheme. The local distributor may then charge for the 'disconnection' and 'transport' parts of any collection service he offers, as the WEEE Regulations make producer compliance schemes responsible for clearing the WEEE from him, and its subsequent treatment.

### **Management of WEEE received by distributors**

123. If you receive or handle waste EEE under the WEEE Regulations, you must do so in a way that optimises the reuse and recycling of components or whole appliances that are capable of being reused or recycled.

124. You should ensure that all separately collected WEEE is passed through a designated collection facility (DCF), because producer compliance schemes are obliged to arrange the clearance, treatment and recycling of WEEE that reaches a DCF. Further explanation of designated collection facilities can be found on Page 30. You may establish a DCF yourself, or if selling only a small amount of EEE, you may ask your local authority or the operator of another DCF to accept household WEEE from you. They are not obliged to, but if they do, disposals should be similar to those made by consumers in type and quantity, i.e. household equipment brought in a small van or estate car rather than commercial or industrial equipment, or in quantities requiring a large van or lorry. Where you pass any WEEE through a DCF, you should do so for all separately collected WEEE except where the operator of the DCF has agreed to arrangements for local screening for re-use by charitable or social enterprise organisations. You should not "cherry-pick" the WEEE before it reaches the DCF.

125. If you establish a designated collection facility, you must hold an appropriate waste management licence<sup>11</sup>, or have registered an exemption.

126. Where you do not pass WEEE through a designated collection facility, you become responsible for its treatment, reprocessing and recovery in an environmentally sound manner.

### **Businesses with both distributor and producer responsibilities**

127. Businesses may meet the definitions of both "distributor" and "producer" for household EEE under the WEEE Regulations, in which case they will have both distributor and producer responsibilities. The following are examples of where this would arise:

- a business "re-brands" EEE manufactured by another (therefore a producer) and makes it available for sale (therefore a distributor);
- a distributor imports EEE for which the original producer has not registered responsibility through membership of a UK producer compliance scheme (placing EEE on the UK market, therefore a producer);
- a producer (manufacturer, re-brander or importer) sells direct to consumers (therefore a distributor), e.g. over the Internet or through a factory shop.

128. Chapter 5 provides more information on the responsibilities of producers of EEE. Producer and distributor responsibilities are largely distinct, however producers who operate a designated collection facility have first call on using the WEEE towards

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<sup>11</sup> Netregs provides free environmental guidance for small and medium-sized businesses throughout the UK. It may be accessed at: <http://www.netregs.gov.uk/>

their producer compliance scheme's obligations. This is explained further in Box 4:4 on page 34.

### **Distributors selling EEE from registered producers**

129. Producer compliance schemes are responsible for the clearance, treatment and recycling in an environmentally sound manner of separately collected household WEEE in relation to the EEE put on the UK market by their registered producer members. Registered producers must provide their producer registration number(s) to you when they supply EEE, possibly as part of their letterhead. The Government therefore encourages you to only sell EEE in the UK for which a producer has declared responsibility through registration under the WEEE Regulations. You must register as a producer if you re-brand EEE, or wish to import EEE for sale for which no one has registered as the producer.

### **Timetable for implementation**

130. The significant points in the timetable for implementation for distributors are:

- Designated collection facilities and in-store take-back must operate from 1 July 2007 for all WEEE, at which point the DTS must operate a viable network of out-of-store DCFs, and distributors who have not joined the DTS must offer in-store take-back.
- Distributors must provide information about EEE and WEEE from 1 July 2007.
- Under partial producer responsibility (Box 5:3 on page 42), household WEEE containing ozone depleting substances (refrigerants), cathode ray tubes and gas discharge tubes will continue to be collected through local authority civic amenity sites until 30 June 2007. Other household WEEE need not be collected.
- Distributors must provide information about these partial collection arrangements from 1 April until 30 June 2007.
- The operator of the distributor takeback scheme should be appointed in January 2007, and will recruit members thereafter. If you intend to join the DTS, you should sign-up before 31 March 2007.
- Producer compliance schemes are responsible for clearing separately collected WEEE from DCFs from 1 July 2007.
- Producers must mark products with the crossed-out wheeled bin symbol, date code and producer's mark from 1 April 2007. However distributors may continue to sell stock they already hold.

### **Distributor takeback scheme (DTS)**

131. A distributor takeback scheme supports a network of designated collection facilities (DCF) to provide consumers and distributors with an alternative to in-store take-back of WEEE. DCFs are covered in more detail from paragraph 136 below. Distributor takeback schemes require support from the distributor community, and are responsible for approving DCFs and ensuring a satisfactory nationwide accessible system. Consumers cannot be charged to hand over WEEE to a DCF, and producer compliance schemes must seek agreement with operators of DCFs to clear separately collected WEEE for treatment and recycling.

## **Distributor takeback scheme operation**

132. The network of designated collection facilities must provide at least a similar distribution to the local authority Civic Amenity (CA) site infrastructure, and is expected to be based primarily on it. This will give adequate public access for those wishing to discard their household WEEE for recycling, but additional collection sites or facilities may be provided by third parties to improve collection. The collection network must be readily accessible to consumers in all parts of the UK, including remote or sparsely-populated areas. Where a CA site is not a DCF, distributors must provide alternative collection facilities.

133. Distributor takeback schemes must provide their members with signs in a standardised format for display to provide information to their customers. The standard format will ensure that required information is provided clearly, and facilitate the enforcement of signs and the distributor's choice in how they comply with their take-back obligations.

134. Distributor takeback schemes will undertake the approval of designated collection facilities on behalf of the DTI. They are also expected to approve DCFs that are not part of the scheme's network because these will contribute to the overall collection of household WEEE, and may reduce the need for the scheme to extend or establish new collection facilities in some areas.

## **Appointment of the operator of distributor takeback schemes**

135. The operator of a distributor takeback scheme is appointed by the Secretary of State, in consultation with Ministers in Devolved Administrations, for three compliance periods. The schemes' performance will be kept under review, including delivery of operational plans, its network of designated collection facilities, members' provision of information to consumers on the separate collection of WEEE, maintenance of membership records and approval of DCFs.

## **Designated Collection Facility (DCF)**

136. A designated collection facility is a site through which household WEEE is collected for onward clearance by, or on behalf of, a registered producer or approved producer compliance scheme. Evidence of treatment or recycling of household WEEE may only be produced for household WEEE that has been collected through a DCF<sup>12</sup> and consigned from there to an authorised treatment facility and thence to an accredited reprocessor (or accredited exporter). Household WEEE that is not collected through a DCF does not count towards producer compliance scheme (PCS, see page 43) obligations or producer responsibilities, nor does it qualify for evidence of WEEE. Non-household WEEE need not pass through a DCF.

137. Designated collection facilities may be established at local authority Civic Amenity (CA) sites or waste transfer stations, or by distributors, producers, third parties and charitable or social enterprise organisations engaged in the re-use of EEE. Consumers cannot be charged when they discard household WEEE at DCFs.

138. Approved producer compliance schemes must seek agreements to clear the WEEE that has been separately collected at designated collection facilities. DCFs must make separately collected WEEE available for clearance by their partner PCS free of charge, but registered producers who establish DCFs may use the WEEE towards meeting their PCS's obligations.

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<sup>12</sup> Except for hazardous WEEE that will continue to be collected through local authority CA sites during the period of partial producer responsibility from 1 April to 30 June 2007.

139. WEEE may be received initially from consumers at sites that are not designated collection facilities and then passed through a DCF for producer compliance schemes to arrange treatment and recycling. This arrangement may be appropriate for larger distributors who may establish a single DCF at their distribution centre rather than at each store, or for smaller retailers who reach agreement to pass WEEE they have taken-back in-store through a local DCF, as described in Box 4:5 on page 35. Where this is done, all separately collected WEEE should be passed through the DCF, with the exception of screening for re-use by charitable and social enterprise organisations agreed with the operator of the DCF and the producer compliance scheme or producer who has responsibility for clearing the separately collected WEEE. The collector should not “cherry-pick” the separately collected WEEE.

### **Designated Collection Facility – approval criteria and operational requirements**

140. If you receive or handle waste EEE under the WEEE Regulations, you must do so in a way that optimises the reuse and recycling of components or whole appliances that are capable of being reused or recycled. A designated collection facility must operate under an appropriate waste management licence<sup>11</sup>, or have registered an exemption. No other requirements will be placed on DCFs by the Environment Agencies. DCFs remain subject to local planning approvals.

141. A Code of Practice for designated collection facilities has been developed by stakeholders under the auspices of the DTI. Further details are available in Box 4:3 on page 32. It ensures that designated collection facilities provide an effective collection service for producer compliance schemes, and that PCSs will ensure that WEEE is cleared in an effective and timely manner.

142. The producer compliance scheme that has agreed to clear the separately collected WEEE will normally arrange for the consignment of WEEE to an authorised treatment facility (ATF), but if not, the operator of the DCF must make arrangements for this with a waste carrier licensed by the Environment Agencies.

143. Designated collection facilities operated by producers (often producer-distributors) do not have to make WEEE available for collection if the producer wishes to use the WEEE towards his producer compliance scheme’s WEEE obligations. In this case, he must report the amount of WEEE collected at his DCF to the appropriate Environment Agency on a quarterly basis if the WEEE is not cleared by a PCS that makes these reports. The producer must make arrangements for the treatment of all WEEE collected through his DCF even if this is in excess of his requirements<sup>13</sup>. He can do this, for example, by allowing another producer compliance scheme to collect from him, or transferring the excess WEEE in agreement with another PCS.

144. Designated collection facilities must be approved by the distributor takeback scheme for inclusion on DTI’s list of DCFs. The WEEE Regulations do not exempt operators of DCFs from the requirements of other waste legislation<sup>11</sup> or from obtaining planning approvals.

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<sup>13</sup> It is proposed to limit the amount of evidence that the Exchange will recompense to control over-collection, see paragraph 326 below.

#### **Box 4:3 Code of practice for DCFs**

The DTI has facilitated the development of a Code of Practice for the operation of designated collection facilities (DCF). The Code deals with the relations between local authorities or other operators of designated collection facilities (DCF) for household WEEE under the Regulations, and producer compliance schemes or producers arranging clearance of those DCFs.

The Code sets out guidance and principles that must form a basis and starting point for local contracts or service agreements between producer compliance schemes and operators of DCFs. It may be used to aid interpretation of such contracts or service agreements. Such local contracts or service agreements may supplement the provisions of the Code as required.

The Code sets out the facilities that DCFs should provide, where practical, for the separate collection of WEEE, including that separately collected WEEE is made available in the desired category groupings shown in Box 2:2 on page 17, and the need to grant access to the site for clearance of WEEE.

The Code also establishes requirement for timely clearance of WEEE to avoid overflow, and the opportunity for charitable and social enterprise organisations to screen separately collected WEEE for re-use.

The final Code of Practice will be posted on the DTI's website at:

<http://www.dti.gov.uk/innovation/sustainability/weee/page30269.html>.

The Code of Practice does not apply to DCFs operated by producers who wish to use WEEE they collect towards their producer compliance scheme's obligations.

145. The producer compliance scheme that has agreed to clear household WEEE from a designated collection facility must ensure that the amount and composition of separately collected WEEE arising at each facility is reported to the appropriate Environment Agency on a quarterly basis. Where a DCF operator has been unable to secure clearance of WEEE by a PCS, and arranges for clearance and treatment himself, he must make these reports to the appropriate Environment Agency.

146. The operator of a DCF may make arrangements with several producer compliance schemes to clear different categories of WEEE if these are separately collected. However the PCSs collecting from a DCF cannot between them selectively clear some types of WEEE, and leave others un-cleared. This arrangement would for example facilitate separate clearance of lighting products or CRTs by specialist schemes.

#### **Fall-back arrangements for clearance from a DCF**

147. Producer compliance schemes are expected between them to make effective arrangements to clear WEEE collected at all DCFs. However situations may arise where a DCF operator needs to clear separately collected WEEE from its own DCF. In this case, the separately collected WEEE must be transported, treated, recycled and recovered in accordance with the requirements of the WEEE Regulations in order for the DCF operator to be able to recover his costs by selling the evidence he obtains to PCSs.

148. Sale through the Exchange will be on the basis of each vendor's average costs incurred by category during the compliance period. Costs may include transport to the authorised treatment facility and subsequent treatment, recycling, reprocessing and recovery as stated on the evidence note. Parties involved in a private sale may negotiate the price freely. Further details on evidence, trading and the Exchange are available in Chapter 11.

### **Designated Collection Facility – approval process**

149. A distributor takeback scheme (see paragraph 131 above) is expected to approve designated collection facilities that meet the DCF criteria and will operate according to the Code of Practice. The DTI will hold and publish a register of approved DCFs, including their location, categories of WEEE accepted and whether consumers may return their household WEEE or whether the facility only handles WEEE collected by a distributor. The Secretary of State, in consultation with Ministers in Devolved Administrations, may require remedial action or withdraw DCF status where a DCF is not performing adequately.

150. Distributor takeback schemes will also carry out the approval process for designated collection facilities that do not intend to participate in the scheme's network. These could be producer/retailer platforms, producer sites, sites operated by the refurbishment or reuse sector or additional sites established by groups of distributors, e.g. covering a shopping centre. These DCFs may reduce the need for the scheme to extend, or establish additional DCFs.

### **Types of designated collection facility**

151. Some designated collection facilities will accept WEEE directly from members of the public, e.g. DCFs at local authority Civic Amenity sites, while others will collect only indirectly from consumers, e.g. those operated by a distributor taking-back WEEE in-store or by collect-on-delivery. Producers (often producer-distributors) may reasonably expect to use WEEE they have collected towards their producer compliance scheme's obligations, and do not need to make WEEE available to other producers or compliance schemes. Details of the types of DCF are provided in Box 4:4.

#### **Box 4:4 Types of Designated Collection Facilities (DCF)**

The Government envisages two main features that differentiate how DCFs operate: whether members of the public have direct access to discard items of WEEE, and whether the DCF is operated by a producer who has first call on the WEEE, after screening for re-use, to satisfy his producer compliance scheme's obligations. This in practice gives three types of DCF:

- Public access DCF with open clearance;
- Controlled access DCF with open clearance;
- DCF with private producer clearance, normally with controlled access.

Anyone can seek approval for a DCF with open clearance, including:

- Local authorities, (public access to sites may be controlled, typically for Waste Transfer Stations, provided that at least one of their sites accepts WEEE from residents);
- the refurbishment industry;
- distributors offering "collection on delivery" services;
- distributors offering in-store take-back;
- shopping centres.

The operator of a DCF with open clearance should:

- operate according to the Code of Practice, including:
  - willingness to reach agreement with a producer compliance scheme to clear WEEE;
  - making deposited WEEE available for clearance by a producer compliance scheme;
- arrange treatment and obtain evidence for WEEE they have been unable, despite acting reasonably, to have cleared by a producer compliance scheme.

Only producers or producer compliance schemes may establish private-clearance DCFs.

WEEE collected at other sites may be pooled for clearance through an approved DCF, if all WEEE collected through these other sites is passed to the DCF. A retail network may therefore establish one DCF, through which they channel all WEEE taken back through their stores or through collect-on delivery-services, or smaller stores may reach agreement with a DCF operator to accept WEEE that they have collected through in-store take-back. Charitable or social enterprise organisations may reach agreement with the operators of the collection site, the DCF and the producer compliance scheme to screen WEEE for re-use at local sites in addition to at the DCF.

## Household WEEE taken for disposal by small distributors

152. WEEE Directive Article 3(k), reproduced in Box 4:5, defines WEEE from private households to include other WEEE that is similar in character and quantity. Operators of designated collection facilities may wish to take account of this definition and accept small quantities of WEEE from private households brought for disposal by small businesses, such as independent retailers, but they are under no obligation to do so. Where DCFs accept WEEE from private households brought to the site by small businesses, producer compliance schemes are responsible for its clearance, treatment and recycling. Further explanation is provided in Box 4:5.

### Box 4:5 Disposal of household WEEE at DCFs by businesses

Operators of DCFs (including local authorities) may take account of the definition in Article 3(k) of the WEEE Directive in accepting small quantities of household WEEE deposited by businesses, including independent (i.e. non-multiple) retailers at no charge.

The WEEE Directive's Article 3(k) says

*"WEEE from private households" means WEEE which comes from private households and from commercial, industrial and institutional and other sources which, because of its nature and quantity, is similar to that from private households."*

The WEEE Regulations include this definition.

The Government generally interprets this definition from the WEEE Directive *in this specific context* as providing a pragmatic basis for small quantities of WEEE from businesses to be deposited at DCFs in the same way as WEEE from private households. Such deposits should therefore be of the *nature* of WEEE from private households, e.g. a domestic refrigerator but not a large commercial/shop cool cabinet; and only in the quantities associated with WEEE from private households, e.g. one refrigerator or an amount of EEE that could reasonably be carried in an estate car; not an amount of WEEE that requires a van or truck.

Acceptance of household WEEE delivered by small businesses is not a prerequisite for obtaining DCF status, because under waste legislation, this is still commercial and industrial waste, regardless of it being "WEEE from private households" in the Directive. It is for the operator of each DCF (e.g. a local authority) to decide whether and under what conditions to accept this WEEE. They are under no obligation to do so, free of charge or otherwise, but if they do, producer compliance schemes would be responsible for its clearance, treatment, recycling, recovery and environmentally sound disposal.

## Timetable for implementation

153. The significant points in the timetable for implementation for distributors and the operators of the distributor takeback scheme and designated collection facilities are:

- DTI tender for the operator of the national distributor takeback scheme in parallel with the Consultation on the WEEE Regulations.
- Provisional appointment of the operator of the distributor takeback scheme in Autumn 2006.
- WEEE Regulations enter force in January 2007.
- Formal appointment of the operator of the distributor takeback scheme shortly thereafter in January 2007.
- The operator of the distributor takeback scheme will then recruit members. If you intend to join the DTS, you should sign-up before 31 March 2007.
- Designated collection facility upgrade and approval from January until June 2007.
- Under partial producer responsibility (Box 5:3 on page 42), household WEEE containing Ozone Depleting Substances (refrigerants), Cathode Ray Tubes and Gas Discharge Tubes will continue to be collected through local authority civic amenity sites until 30 June 2007. Other household WEEE need not be collected.
- Distributors must provide information about these partial collection arrangements from 1 April until 30 June 2007.
- Designated collection facilities and in-store take-back must operate from 1 July 2007 for all WEEE, at which point the DTS must operate a viable network of out-of-store DCFs, and distributors who have not joined the DTS must offer in-store take-back.
- Distributors must provide information about EEE and WEEE from 1 July 2007.
- Producer compliance schemes are responsible for clearing separately collected household WEEE from DCFs from 1 July 2007.

# Chapter 5 Producers of EEE in the UK, and Producer Compliance Schemes

## Who is a "producer?"

154. You are a producer for the purposes of the WEEE Regulations if you:

- manufacture EEE, selling under your own brand<sup>14</sup> in the UK; or
- sell under your own brand in the UK EEE manufactured by another person; or
- import EEE for business or commerce, introducing EEE to the UK market.

155. Businesses importing EEE into the UK must comply with the WEEE Regulations. They may seek advice from the Environment Agencies or the DTI on issues surrounding the definition of 'producer'. You may register as a producer under the UK WEEE Regulations if you manufacture or re-brand EEE but are not legally established as a business in the UK. You may do this so that UK distributors who import your EEE do not each need to register as its producer in order to continue selling it in the UK.

156. A key consideration for establishing whether a business is a producer is the act of putting EEE within the scope of the Regulations onto the UK market. The definition of putting on the market is taken from the European Commission's document "Guide to the implementation of directives based on the New Approach and the Global Approach"<sup>15</sup>. The UK implementation of the WEEE Directive adapts this definition to apply to the UK market, and, while using the definition to determine who are producers, bases obligations on sales of EEE.

157. An individual consumer who purchases an item of EEE abroad, and brings it into the UK for their own use, is not considered to be a producer.

158. If you are a producer, it will be an offence not to be a member of a producer compliance scheme (PCS, see page 43)

159. If you sell direct to consumers, you have additional obligations as a distributor of EEE. Chapter 4 explains how the WEEE Regulations affect distributors.

## Household and non-household EEE

160. The WEEE Directive (as amended by Directive 2003/108/EC) and WEEE Regulations differentiate between EEE sold for household (i.e. consumer use by members of the public) use, so called 'WEEE from private households', and non-household (i.e. professional, business, official or charitable) use.

161. 'WEEE from private households' is defined in the Directive as "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." The WEEE Directive does not define a non-household user. For the purposes of the WEEE Regulations, the non-household user is recognised as the person in possession of EEE that is used for commercial, industrial, official or professional purposes, and who discards EEE at the end of its life.

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<sup>14</sup> The product is marked with your product marking.

<sup>15</sup> The Guide to the implementation of directives based on the New Approach and the Global Approach can be downloaded from: <http://europa.eu.int/comm/enterprise/newapproach/legislation/guide/legislation.htm>

### **Box 5:1 Non-household WEEE – the obligations on producer compliance schemes**

A producer selling EEE for non-household use requires his producer compliance scheme to ensure the collection, treatment and recycling in an environmentally sound manner of:

- 1) any WEEE replaced (with equivalent or similar functionality) by the EEE he sells (during the compliance period), if it was originally purchased before 13 August 2005, whether supplied by him or another producer; and
- 2) the EEE he sold after 13 August 2005 when it is eventually discarded as WEEE during the compliance period.

In these circumstances, the producer compliance schemes' obligations are to:

- ensure the collection, treatment, recovery and environmentally sound disposal of the WEEE;
- declare compliance with their obligations to the appropriate Environment Agency, and provide supporting evidence of treatment and recycling.

Obligations for non-household WEEE arise when last users dispose of WEEE, and are not based on the producers' share of the market.

Where producer compliance scheme obligations do not apply in relation to non-household WEEE, last users who discard non-household WEEE are responsible.

162. Given the definition of WEEE from private households, if the WEEE being disposed of is similar to that which may arise at private households, and it is being disposed of in the types of quantities that might arise from private households, this would fall under the definition of WEEE from private households and the obligations and responsibilities described in this chapter apply. Further explanation is provided in Box 4:5 on page 35.

163. Producer and producer compliance scheme (PCS, see section starting on page 43) responsibilities are explained in detail later in this chapter, but the distinction made on type of EEE is:

- producer compliance schemes with producer members who place household EEE on the UK market are responsible for WEEE from private households that is collected through designated collection facilities, proportionally in relation to their members' share of the market for EEE;
- producer compliance schemes with producer members who place non-household EEE on the market are responsible in certain situations for non-household WEEE when it is discarded as waste by the last user. This is explained in Box 5:1. Where this does not apply, last users are responsible

### **Producer obligations**

164. Producers have the following obligations under the WEEE Regulations in relation to EEE and WEEE:

## **i) Marking of EEE**

165. Producers must mark all EEE placed on the UK market after 1 April 2007 with specific information to assist with separate collection when it is discarded as waste. This includes the “crossed-out wheeled bin” symbol (see paragraph 89 above), a producer identification mark and indication that the product was placed on the market after 13 August 2005. BS EN50419:2006 defines markings that will satisfy the requirement in the UK, including that a thick bar can be shown beneath the crossed-out wheeled bin to show that the product was placed on the market after 13 August 2005. Producers have already been marking EEE for sale in other Member States, and the WEEE Regulations confirm the introduction of the marking requirements for the UK.

## **ii) Information to assist treatment and recycling**

166. Producers must make information available to treatment facilities and reprocessors on each new type of EEE they put onto the UK market within one year. The information is to assist treatment facilities and reprocessors handling the WEEE, and protect the health and safety of staff working in waste management and reprocessing facilities. Box 7:2 on page 59 provides details.

## **iii) Provision of producer registration details**

167. Producers must provide their producer registration number(s) to distributors when they sell EEE. Inclusion of registration number(s) on invoices would satisfy this obligation, which is intended to assist distributors to only sell EEE for which a producer has registered to meet his producer responsibilities.

## **iv) Records of direct selling abroad**

168. As a producer based in the UK and selling direct to end users in other Member States, you must retain records of these sales, including how you have complied with your obligations in other Member States, for a period of six years.

## **v) Join a producer compliance scheme**

169. Each producer must join a producer compliance scheme (PCS, see page 43). The scheme must register each of its members, and will report information and declare compliance with obligations on their behalf. It may assist with clearance, treatment and reprocessing of WEEE, and trading of evidence on their behalf. Through membership of the PCS, producers will finance the collection, treatment, recycling and environmentally sound disposal of separately collected WEEE. Producers must provide their PCS with information in support of registration, in particular that required under paragraph 190.

170. Failure of a business to be a member of a producer compliance scheme when putting EEE onto the UK market will be a criminal offence. Producers must provide accurate information to their PCS. It will be an offence for a producer to knowingly supply false or misleading information to their PCS or to the Environment Agencies.

## **Business practices, and negotiation over obligations for non-household WEEE**

171. Producers and non-household users may negotiate over the practical arrangements for the hand-over of WEEE, and the transfer of obligations, in relation to collection, treatment recycling and recovery and environmentally sound disposal of WEEE from non-household users from EEE. Parties may agree to transfer obligations for either any WEEE that is being replaced, or the new EEE when eventually discarded

as WEEE. If there is no such negotiation and agreement, the default position is set out in Box 5:1 above.

### **Eco-design of electrical and electronic equipment (EEE)**

172. The WEEE Directive Article 4 on product design requires the Government to encourage the eco-design of all EEE in order to make it easier to reuse, recycle and recover WEEE, its components and materials. The Government will convene an industry group to consider voluntary approaches for eco-design of EEE to implement Article 4. The Secretary of State will 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 and/or safety requirements.

### **Individual Producer Responsibility**

173. The WEEE Directive envisages that producers may implement individual producer responsibility (IPR) for "new" EEE, that is producers taking responsibility for collecting, treating and recycling and recovering waste from their own products put on the market after 13 August 2005. The Government supports the incentive effect that IPR is intended to exert for more sustainable product design, and it intends to work towards IPR. However there are formidable practical constraints to this happening in the immediate future.

174. The UK Regulations require producer compliance schemes to report how their members could implement individual producer responsibility, including financial guarantees and the development of appropriate systems to track, record and if necessary re-direct individual items of WEEE. The WEEE Directive sets 2013 as the end of historical WEEE transition period and therefore the end of collective producer responsibility. The timescale for the development of appropriate systems should accommodate this.

### **Showing the costs of historic household WEEE to consumers**

175. The WEEE Directive says that producers are allowed to show to purchasers at the point of sale of new EEE the costs of collection, treatment and recovery of "historic" WEEE that results from EEE put on the market before 13 August 2005. Any costs must be applicable only to household WEEE, apply only for a transitional period until 2011 (for all EEE, except that in Category 1, Large Household Appliances) or 2013 (for Category 1) and should not exceed the actual costs of collection, treatment and recovery of "historic" WEEE.

176. The Recitals of the WEEE Directive<sup>16</sup> refer to producers showing costs on a voluntary basis, the idea being that where producers want to show costs of historic household WEEE to purchasers, they can do so; where they choose not to do this, they do not have to. The UK's WEEE Regulations follow this interpretation.

177. WEEE Regulation 35 transposes these provisions into law in the UK. Where producers choose to show costs, this must be in accordance with Box 5:2.

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<sup>16</sup> Recitals preface EU Directives. They do not carry legal force, but assist with the interpretation of its Articles.

### **Box 5:2 Showing the costs of historic household WEEE to consumers**

Where the producer wishes to display their costs of treating historic WEEE:

- the cost shown must not exceed the actual cost of collection, treatment, recovery and reprocessing of an equivalent item of historic WEEE;
- the display should provide details of how the costs have been derived, including the method of calculation and data used. This may be provided though the producer's Internet site if the URL is given;
- the cost should be presented so that it cannot be confused with the purchase price of a new product;
- the purchaser should not be charged the displayed cost in addition to the displayed ticket price of the item. The displayed cost should not be added to the bill because there is not necessarily a one-to-one correspondence between sale of new EEE and disposal of WEEE, and the WEEE Directive and WEEE Regulations require that customers must be able to return household WEEE to producers free of charge.

### **Timetable for implementation**

178. The significant points in the timetable for implementation for producers are:

- WEEE Regulations enter force on 1 January 2007.
- Producers must mark EEE placed on the market and make information available to treatment facilities about new EEE from 1 April 2007.
- Producer compliance schemes operating in the first compliance period should be approved by 28 February 2007.
- Producer compliance schemes will be open to sign up members from their approval until the deadline of 15 March 2007.
- The Environment Agencies will issue producer registration numbers by 1 June 2007.
- Producers must provide WEEE registration numbers to distributors on sale of EEE from 1 July 2007.
- Producer compliance scheme obligations for household WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes start on 1 April 2007, with collection through existing arrangements at CA sites. Transitional arrangements apply.
- Full producer and producer compliance scheme obligations for all (household and non-household) WEEE start on 1 July 2007.
- Take-back systems for household WEEE must be operational from 1 July 2007, including DCFs operated by distributors, and a viable network of DCFs supported by the DTS.

## **Period of partial producer responsibility**

179. To allow time to establish the systems and processes for household WEEE, there will be a period of partial producer responsibility for household WEEE from 1 April to 30 June 2007. Box 5:3 provides details.

### **Box 5:3 Period of partial producer responsibility**

To allow time to establish the systems and processes for household WEEE, there will be a period of partial producer responsibility for household WEEE from 1 April to 30 June 2007. During this period:

- current collection arrangements for household WEEE containing hazardous substances (ozone depleting substances (ODS, e.g. refrigerators), cathode ray tubes (CRTs, e.g. televisions and monitors) and gas discharge tubes) will continue at local authority civic amenity (CA) sites;
  - local authorities will arrange treatment and disposal of this WEEE;
  - local authorities will receive funding from the DTI;
  - the Secretary of State will provide evidence to the WEEE Exchange to the value of this funding, and the tonnage this evidence represents will be added to the category totals of WEEE collected through designated collection facilities during the remainder of the first compliance period;
- producers must provide information on the amounts of household EEE they place on the market, broken down by category (defined in Box 2:1 on page 16), separately:
  - for the period 1 April to 30 June 2007, information should preferably relate to only EEE containing hazardous materials (explained above), otherwise all EEE must be reported;
  - for the period 1 July to 31 December 2007, information must be reported for all household EEE placed on the UK market.
- producer compliance scheme obligations for the first compliance period will be calculated based on these amounts;
- producer compliance schemes must declare compliance against the full totals for their members for the period 1 April-31 December 2007;
- other household WEEE need not be separately collected in the period 1 April to 30 June.

Obligations for all non-household WEEE start in full on 1 April 2007.

Obligations for all household WEEE start in full on 1 July 2007.

## **Producer compliance schemes (PCS)**

180. Producers must join a producer compliance scheme (PCS). PCS take on some of their members' producer responsibilities in relation to household or non-household WEEE for the duration of their membership.

181. Producers must:

- mark EEE;
- make available information for treatment and reprocessing facilities; providing registration number(s) to distributors;
- provide their producer registration numbers to distributors;
- retain records of any direct sales abroad;
- join and participate in a producer compliance scheme
  - provide information required by the PCS or Environment Agencies;
  - pay their PCS according its fee structure notified in its constitution.

182. The producer compliance scheme will, as a minimum on behalf of its members and with their assistance:

- Register its members with the appropriate Environment Agency;
  - ensure that the information required by the Environment Agencies is up to date;
  - keep its members up to date with information provided by the Environment Agencies;
- be responsible for separately collected WEEE;
- report their compliance with their obligations to the appropriate Environment Agency.

183. Producer compliance schemes will often in addition:

- undertake the handling of WEEE, arranging its collection, treatment, recovery, reprocessing and environmentally sound disposal and obtaining evidence (see paragraph 205);
- where a PCS does this for household WEEE, it is also likely to trade evidence on behalf of its members (see Chapter 11);
- for non-household WEEE, it may provide a call-off WEEE service for members.

184. Producer compliance schemes are likely to allow producer members to arrange the collection, treatment, recycling, recovery and environmentally sound disposal of separately collected WEEE, and to provide evidence of this for use in their declaration of compliance against their obligations.

## **Benefits of Producer Compliance Schemes**

185. Producer compliance schemes are expected to offer producers the following benefits:

- handle administration on behalf of members – individual producers provide the required information to their scheme rather than each having to learn and use EA systems;

- most of the administrative activity lies with the compliance scheme, where industry is in the best position to increase efficiency and minimise costs;
- reduce the volume of evidence that needs to be traded, balancing between both members and categories;
- handle the administration involved in trading with other PCS or the Exchange;
- greater size, hence market presence in negotiations for access to DCFs, transport, treatment, and recycling;
- increased choice for producers in the alliances they use to fulfil their obligations.

186. Producer compliance schemes should be sufficiently flexible to accommodate evidence from members operating their own WEEE collection and handling systems. Although many producers may undertake their own collection and treatment of non-household WEEE, and evidence is not traded, PCSs still offer benefits in reporting, and members may benefit from pooled or call-off collection and handling operations.

### **Producer compliance scheme obligations**

187. Producer compliance schemes have the following obligations under the WEEE Regulations in relation to EEE and WEEE:

#### **i) Register producers**

188. The WEEE Directive explicitly requires the registration of producers. Registration supports the UK's reports to the Commission, the apportioning and monitoring of financial obligations, and enables distributors to only buy from producers who are funding their obligations for WEEE. The register of producers will be open to inspection, and for each producer, shows their contact information, the name of the producer compliance scheme and the producer identification marks used on their products and on which they report market data. Market information will not be made available.

189. The producer compliance scheme must register each of its members with an Environment Agency<sup>3</sup>, normally the one covering the location of the producer compliance scheme's (PCS's) registered office. The Environment Agencies will work together and producers will retain the same producer registration references if they change PCS. Any UK producer may in principle join any UK producer scheme regardless of the place of registration of the scheme. However the scheme's constitution may preclude membership for producers without significant local presence if it was established to serve a particular region.

190. The producer compliance scheme will require information from the producer on the amounts of EEE they put on the UK market, for each of household and non-household use, broken down by the categories shown in Box 2:1 on page 16. The producer must supply information about the actual amounts he put on the market during the compliance period by 1 March following the end of each compliance period. The Environment Agencies will also require producer compliance schemes to provide information about the amounts of WEEE their producers put on the UK market before the first compliance period in order to calculate estimates of each PCS's market shares. Under partial producer responsibility for household WEEE in the period 1 April to 30 June 2007, producer compliance schemes and producers should report separately for hazardous EEE within this period, and all household EEE for the remainder of the compliance period.

191. Each registered producer may join only one producer compliance scheme for household EEE, and another for non-household EEE. In order to allow businesses to join producer compliance schemes offering specialist services to particular market sectors, businesses with identifiable sub-divisions may choose to register them as separate producers. Businesses may do this only where there is a clear distinction between the EEE placed on the market under each producer registration, i.e. if the sub-divisions operate in distinct market sectors aligned with the categories likely to be used for collection of WEEE (shown in Box 2:2 on page 17). Businesses registering as more than one producer must ensure that all their EEE is covered by their registrations, and pay the annual subsistence charge for each producer registration.

192. Producer compliance schemes must pay an annual subsistence charge of £707 to the appropriate Environment Agency for each registered producer. The charges are uniform across the three Environment Agencies. The subsistence charge is a cost recovery charge and resources the Environment Agencies' provision of a registration service and their monitoring of WEEE obligations and data provision, and may include an element for countering free-riders. The Environment Agencies will set charges in following years through their established charge revision procedures.

193. The information required from producers by the appropriate Environment Agency is contained in Schedule 4 of the WEEE Regulations.

194. Registration will take place shortly before each compliance period according to the timetable (see Box 1:2 on page 15). Producers must join a producer compliance scheme in time for it to register them as a producer with the appropriate Environment Agency. The Environment Agencies will be open to register producers after the registration deadline on an ongoing basis. However, producers who have not joined a producer compliance scheme by the deadline would be committing an offence if they already place EEE on the UK market.

195. The producer compliance scheme would be in breach of its obligations if it does not apply to register all its members.

## **ii) Compliance reporting against obligations**

196. Producer compliance schemes with obligations to finance the collection, treatment and recycling of WEEE must show that the tonnages for which they are responsible in relation to each compliance period have been treated according to the requirements of the WEEE Regulations, recycled according to the targets<sup>17</sup>; and disposed of in an environmentally sound manner.

197. Producer compliance schemes must declare their compliance with their WEEE obligations using the format for Declarations of Compliance, which the Secretary of State will define and the Environment Agencies make available from their websites. The Declaration of Compliance must be accompanied by supporting evidence of compliance, for which the Secretary of State will also define the format. Evidence is described in more detail in Chapter 11, and the information for the Declaration of Compliance is explained in Box 5:4.

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<sup>17</sup> See Regulation 21.

#### **Box 5:4 Declaration of Compliance**

The declaration of compliance will include the following information:

- 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.
- 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 Environment Agency's notification under Regulation 18; and
  - b) a declaration that the obligations under regulation 18 that have been notified to the relevant operator of the scheme by the appropriate Environment Agency under Regulation 18:
    - i) have been met; or
    - ii) have not been met.
- 6) In relation to the WEEE from other than private households in respect of which the declaration is being issued:
  - a) a declaration of the amount of WEEE, in tonnes for each category, covered by the declaration;
  - b) a declaration that the obligations under Regulation 19:
    - i) have been met; or
    - ii) have not been met.
- 7) For points 5) and 6)
  - a) a declaration that the WEEE has been treated in accordance with Regulation 20(1)(b);
  - b) a declaration that the WEEE has been recovered in accordance with Regulation 21(1)(b); and
  - c) a declaration that the recovery targets set out in Regulation 21(2) have been met.

The Declaration must be supported by one or more evidence notes to confirm the declaration(s) made.

198. The appropriate Environment Agency will notify each producer compliance scheme of their final obligations, for each category of household WEEE, for each compliance period by 1 April after the compliance period ends. PCS must declare compliance to the appropriate Environment Agency with their obligations for both household and non-household WEEE following the compliance period where these have arisen. PCS must submit a separate Declaration of Compliance for household and non-household WEEE by 1 May following each Compliance Period. Producers must provide their schemes with any documentation they hold which is required to support

the scheme's declarations, for example if they operate their own DCF or arrange and finance the treatment of non-household WEEE themselves.

199. There is no need for producer compliance schemes to report on behalf of a producer of non-household EEE unless an obligation to treat WEEE has arisen during the compliance period. "Nil returns" are not required.

200. Producer compliance schemes must ensure that they have evidence to support their Declaration of Compliance. They must maintain relevant records for six years to verify treatment of the amount of WEEE for which they are responsible at authorised treatment facilities and its subsequent recycling, recovery and environmentally sound disposal. The Environment Agencies may request supporting documentary evidence of deliveries of WEEE for recycling or recovery, and of contractual relationships with operators of recycling and recovery facilities. Other waste legislation remains applicable, e.g. the duty of care<sup>18</sup> under the Environmental Protection Act 1990. The Environment Agencies may also investigate persistent disparities between declarations of non-household EEE put on the market and amounts of non-household WEEE treated.

### **iii) Financing collection, treatment, recovery, recycling and environmentally sound disposal of WEEE arising in the UK**

201. The system for producer compliance schemes' fulfilment of their obligations for WEEE arising in the UK may be summarised as follows:

- All businesses putting EEE onto the UK market must be members of a producer compliance scheme, and thereby registered as producers of EEE with the appropriate Environment Agency.
- All producer compliance schemes must meet their obligations for the collection, treatment, recycling and environmentally sound disposal of the WEEE for which they are responsible. They must do so according to the requirements of the WEEE Regulations, the WEEE Permitting Regulations and BATRRRT. Producers must either fund these obligations or undertake them for their PCS.
  - Tonnage obligations for household WEEE are calculated according to the producer compliance scheme's share of the market, by category of EEE, and scaled according to the amount of household WEEE, by category, cleared from designated collection facilities (see paragraph 205 below) during the compliance period. Calculations are outlined in Box 5:5.
  - Obligations for non-household WEEE are determined in relation to individual sales of EEE, the decisions of non-household users about disposal and replacement of WEEE, and contractual arrangements. This is explained in Box 5:1 on page 38.
- The Environment Agencies will notify all producer compliance schemes of their estimated market shares of household EEE for the first compliance period based on the market information provided during registration of producers. Producers must therefore supply information to their PCS on the amount of EEE they placed on the market during 2006<sup>19</sup>. The estimates are calculated by category for each PCS by dividing the amount of EEE that each PCS's members place on

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<sup>18</sup> For Northern Ireland, under the Waste and Contaminated Land (Northern Ireland) Order 1997 and The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002.

<sup>19</sup> Or the most recent full twelve-month period for which they have this information. It is in producers' interest that the predicted market share for their PCS is as accurate as possible to reduce the need for trading of evidence.

### Box 5:5 Calculation of obligations for household WEEE

The responsibility for financing the costs of treatment, recycling and recovery of household WEEE are calculated using the following formula:

$$\text{Final tonnage obligation for category 'Y'} = (A_Y \div B_Y) \times C_Y$$

Where:

A <sub>Y</sub>	is the amount (in tonnes) of household EEE put on the market in category 'Y' in the UK in the compliance period by members of the producer compliance scheme;
B <sub>Y</sub>	is the total amount (in tonnes) of household EEE put on the market in category 'Y' in the UK in the compliance period by all producers;
C <sub>Y</sub>	is the total amount (in tonnes) of household WEEE in category 'Y' collected through all designated collection facilities in the compliance period;
Y	is each category in Box 2:1 on page 16.

the market by the total for all PCSs. PCS should be able to make their own estimates in later compliance periods based on their current obligations and any changes in membership.

- All producer compliance schemes must report to the appropriate Environment Agency the mass of household WEEE collected from DCFs (by them and their members), by category, on a quarterly basis, within one month in arrears (see the compliance period timetable in Box 1:2 on page 15).
- The Environment Agency will post quarterly the total amounts of WEEE collected at DCFs, by category, following the reports by producer compliance schemes. The updates will be posted within one month of receipt of information. This will enable PCSs to update their collection, treatment and recycling tonnage targets for household WEEE during the compliance period.
- All producer compliance schemes must report to the appropriate Environment Agency the amount of household WEEE placed on the market in the UK by each of their members during the compliance period. The reports must be made by 28 February following the compliance period, and provide the amounts, by category, for household and non-household EEE. For the first compliance period in 2007, separate totals will be required for 1 April to 30 June (hazardous household EEE), 1 July to 31 December (all household EEE) and 1 April to 31 December (all non-household EEE) as described in Box 5:3 on page 42.
- The Environment Agencies will notify all producer compliance schemes of their *final tonnage obligations* for each category of household WEEE by 1 April following each compliance period (ending on 31 December). Notifications will be based on the amount of household WEEE collected through DCFs during the compliance period, and the actual amount of household EEE placed on the market by their members. These are calculated as shown in Box 5:5. PCS will

seek evidence and/or financial settlement from producers according to these notifications.

- Registered producers or producer compliance schemes who have not obtained sufficient evidence of their treatment and recycling of household WEEE to meet their obligations during the compliance period must purchase this evidence from PCS or producers with a surplus, operators of designated collection facilities (according to paragraph 208 below), or from the Exchange, where excess evidence will also be available.
- Producer compliance schemes should ensure that they have received evidence from their members in time to make their declarations of compliance, where producers have arranged the collection, treatment and recycling of WEEE themselves. This may occur for non-household WEEE or where the producer operates his own designated collection facility.
- All producer compliance schemes must declare their compliance with their obligations for the collection, treatment and recycling of WEEE to the appropriate Environment Agency by 1 May following the end of each compliance period. Declarations of compliance use a standard format, must be made by an appropriate person as defined in Regulation 25(3), and supported by evidence of treatment and recycling.

202. The Environment Agencies will monitor and enforce these activities and obligations.

203. Producer compliance schemes are expected to establish an information exchange or bulletin board to facilitate information exchange with other PCS, producers and designated collection facility operators who may wish to trade evidence or change clearance agreements to correct imbalances between obligations and amounts of collected WEEE.

### **Treatment, recycling, evidence notes, trading and the Exchange**

204. Evidence of treatment of WEEE may only be issued by operators of authorised treatment facilities (ATFs) and evidence of recycling can only be issued by accredited reprocessors, and by accredited exporters as appropriate. Treatment, recycling and export of WEEE are covered in Chapter 7 and Chapter 8. Evidence is required to support declarations of compliance, to the appropriate Environment Agency, against WEEE treatment and recycling obligations. Producer compliance schemes, producers and operators of designated collection facilities may sell evidence, privately or through the Exchange, and PCSs and producers may buy evidence, privately or through the Exchange. Chapter 11 provides more information on evidence notes, trading and the operation of the Exchange.

### **Clearance of separately collected household WEEE from DCFs**

205. Producer compliance schemes are responsible for clearing separately collected household WEEE from designated collection facilities for treatment and recycling. Producers may operate designated collection facilities and use the evidence from the collected WEEE towards their PCS's obligations. PCSs should take this into account. PCS must seek to agree clearance arrangements with the operators of DCFs in line with their collection requirements. More information on the types of DCF is available in Box 4:4 on page 34.

206. The DTI has facilitated the development of a Code of Practice to govern the relationships between operators of designated collection facilities and producer

compliance schemes. Further information is presented in Box 4:3 on page 32. Producer compliance schemes' operational plans are required to state how the scheme will adopt and put into practice the Code of Practice (Regulation Schedule 6 part 3). The Code of Practice will be posted on the DTI's website at:

<http://www.dti.gov.uk/innovation/sustainability/weee/page30269.html>.

207. Each producer compliance scheme is expected to reach agreements with the operators of DCFs to clear all separately collected WEEE that is not taken for re-use by a charitable or social enterprise organisation. The PCS may not leave categories of WEEE uncleared. However a specialist PCS may negotiate with the operator of the DCF and the PCS with overall responsibility for clearing the DCF to clear one or more categories of WEEE where these are collected and stored separately at the DCF. A DCF that is operated by a producer (often a producer-distributor) does not need to make WEEE available for collection by a PCS.

208. If no PCS has made arrangements to clear a designated collection facility according to the Code of Practice, the DCF operator may arrange for the WEEE to be cleared and treated in accordance with the WEEE requirements. He may make the resulting evidence of treatment and recycling available for purchase by a registered producer or PCS with a shortfall in evidence, either through a private sale or through the Exchange, which is described in Chapter 11. In either case, the cost of clearance, treatment and recycling will be covered by producers through producer compliance schemes needing to purchase evidence.

209. Producer compliance schemes will negotiate practical clearance arrangements with the operators of DCFs, e.g. scheduling of pick ups, contact arrangements in the event of difficulties; and the degree of segregation of the separately collected WEEE on site for collection. The PCS should confirm the amounts of cleared WEEE because local authorities may count this recycling towards their recycling targets.

210. DCF operators and producer compliance schemes may agree arrangements for the pre-sorting of WEEE for re-use, and for the consolidation of WEEE on a smaller number of sites which would be cleared by the PCS. Such arrangements are a matter for negotiation at a local level.

211. Producer compliance schemes responsible for clearing separately collected household WEEE from DCFs must report information quarterly in arrears (as shown in Box 1:2 on page 15 which presents the compliance period timetable) to the appropriate Environment Agency on:

- the re-use of whole appliances (indicating the weights and/or number of whole appliances, by these categories). If PCSs deliver items for re-use, they should determine the amounts or quantities. If WEEE is screened prior to clearance by a PCS, the PCS should ensure that it receives this information from either the operator of the collection facility or the organisation screening the WEEE;
- the amount and estimated composition, according to WEEE categories of all other WEEE separately collected at the DCF, and which must be consigned for treatment.

## **Types of Producer Compliance Schemes**

212. The WEEE Regulations define a common framework for producer compliance schemes. Schemes must demonstrate that they will be able to meet their obligations. The core requirements for each compliance scheme will be similar, but there is flexibility to allow schemes to reflect the ways in which producers may reasonably work together on WEEE and that are likely to contribute positively to meeting the Directive's aims. For

example, a scheme's constitution and operational plan may be tailored for the scheme to have a single producer or restrict membership to a small group of closely-related producers, or to address a specific type of WEEE such as gas discharge tubes.

213. Producer compliance schemes may also concentrate on reporting aspects of the obligations where they demonstrate that individual producer members will themselves arrange the collection, treatment and recycling of WEEE. This model may be most appropriate in relation to non-household WEEE where producers are likely to have closer business relationships with their individual customers.

214. Producer compliance schemes operating under the WEEE Regulations are established by industry, not Government. So a scheme's operator, not the Government, establishes its terms and arrangements for producers to join it.

### **Approval of producer compliance schemes**

215. Producer compliance schemes are subject to approval by the appropriate Environment Agency. The Environment Agencies will consider applications for scheme approval with regard to how the scheme will contribute towards the objectives of the WEEE Directive and its implementation in the UK. WEEE Regulation 36 and the accompanying Schedule 6 set out the requirements for applications for approval.

216. The Environment Agencies make a charge of £12,174 per application. The charge covers the appropriate Environment Agency's work to assess the PCS's operational plan, constitution and membership rules and monitor the PCS's delivery of its members' obligations during each compliance period; plus liaison with the scheme on changes to membership, which must be notified to the appropriate Environment Agency within one month. The work required to assess the application is the same regardless of whether the scheme is ultimately approved, and therefore, the application fee is non refundable. The Consultation Document asks for comment about the approval criteria for PCSs. The requirements for the PCS's approval, operational plan and constitution are set out in Schedule 6 of the WEEE Regulations.

217. The appropriate Environment Agency will consider whether the costs and obligations of members within the scheme are clearly set down in its rules and whether it has adequate rules to deal with non-compliant members. The Government does not want a scheme's ability to deliver its members' obligations jeopardised by the conduct of individual members. The scheme should determine how financial guarantees should operate.

218. Once this approval is obtained, the scheme must register its members for each compliance period with the appropriate Environment Agency in line with Regulations 38 and 40. The annual registration and subsistence charge for each producer is £707. The Consultation Document asks for views on the extent to which this charge should include the cost of monitoring activities against free-riders.

219. Producer Compliance Schemes, once approved, remain approved for the duration of three compliance periods, unless the appropriate Environment Agency withdraws approval. This might occur if the PCS does not perform in line with its operational plan, constitution or obligations, if requested by the Secretary of State because of significant developments in relation to WEEE in the UK, or change in or conviction of the operator of an offence under these Regulations.

220. Producer compliance schemes should follow good corporate and social responsibility practices in their operations and consider the impact of their operations on the environment, e.g. using existing and local treatment and reprocessing infrastructure, where available, and avoiding unnecessarily long transport of WEEE.

## **Failure of a producer compliance scheme**

221. Any compliance scheme failing to meet its obligations will be guilty of an offence. The withdrawal of scheme approval will have implications for the members of the scheme. The members (collectively) will be given the opportunity to appoint another operator. If no agreement on an alternative can be made, the Secretary of State may appoint another operator to manage the scheme until the end of the compliance period.

## **Leaving schemes**

222. Producers are expected to remain members of producer compliance schemes for whole compliance periods, though not necessarily for the full three-period approval of the PCS.

## **Late registrants**

223. New producers entering the market during a compliance period must join a producer compliance scheme, with financial responsibilities applying from their date of entry to the market. Schemes may register new members throughout compliance periods for the subsistence charge of £707 per member. Failure of an established business to be a member of a producer compliance scheme when putting EEE onto the UK market will be a criminal offence.

## **Provision of information to treatment facilities**

224. Producer compliance schemes may also adopt a useful role in making available and archiving the information to be provided by producers to treatment facilities on EEE placed on the market. This information is to assist with re-use, treatment, recycling and recovery according to the objectives and standards of the WEEE Directive; as well as for the health and safety of staff working in waste management and reprocessing facilities. Box 7:2 on page 59 provides further details.

225. Where the information is disseminated electronically by websites or CD-ROMs, producer compliance schemes could usefully collate this information on behalf of members, and additionally provide the Environment Agencies with a database on an annual basis to cover for a producer leaving the market.

## **Availability of schemes**

226. The Government expects to see a number of producer compliance schemes active in the market offering compliance services to producers under the WEEE Regulations. PCS are expected to advertise for members, or producers may approach their sector or trade associations who should have information on PCS.

## **Record Keeping**

227. The WEEE Regulations require that producer compliance schemes and producers retain records for a minimum of six years.

## **Timetable for implementation**

228. The significant points in the timetable for implementation for producer compliance schemes are:

- WEEE Regulations enter force on 1 January 2007.
- The Environment Agencies will be able to accept applications for approval of producer compliance schemes from 4 January 2007.

- Applications for approval of producer compliance schemes must be made by 31 January 2007.
- The Environment Agencies will notify grant of approval of producer compliance schemes by 28 February 2007.
- Producer compliance schemes will be open to sign up members from their approval until the deadline of 15 March 2007.
- Producer compliance schemes must apply to register members by 1 April 2007.
- The Environment Agencies will issue producer registration numbers by 1 June 2007.
- Producers must provide WEEE registration numbers to distributors on sale of EEE from 1 July 2007.
- Producer compliance scheme obligations for household WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes start on 1 April 2007, with collection through existing arrangements at CA sites as described in Box 5:3 on page 42.
- Full producer compliance scheme obligations and producer responsibilities for all household WEEE start on 1 July 2007.
- Full producer compliance scheme obligations and producer responsibilities for all non-household WEEE start on 1 April 2007.
- The operator of the distributor takeback system should be formally appointed early in January 2007 and should establish the network of collection facilities by 1 April 2007.
- Take-back systems for household WEEE must be operational from 1 July 2007, including DCFs operated by distributors, and a viable network of DCFs supported by the DTS.

# Chapter 6 Users of EEE for professional, institutional or business purposes

## Introduction

229. EEE sold for non-household use must also be treated and recycled in an environmentally sound manner when discarded as WEEE. Where producer compliance scheme obligations do not apply in relation to non-household WEEE, last users who discard non-household WEEE must arrange for this. The WEEE Directive does not define a non-household user. However, for the purposes of the WEEE Regulations, the non-household user is recognised as the person in possession of EEE that is used for commercial, industrial, official or professional purposes, and who discards it at the end of its life.

## Non-household WEEE - the obligations of non-household users

230. Non-household end-users of WEEE must, in the circumstances outlined below, arrange and finance the treatment and environmentally sound disposal of EEE they discard as waste.

231. As set out in Box 5:1 on page 38, producer compliance schemes are responsible where EEE is sold after 13 August 2005, in relation to that EEE when it is discarded as WEEE, and for any EEE first purchased prior to that date that the purchaser is replacing with the new EEE that is equivalent or fulfils the same function, regardless of the original producer. It is difficult to set rules to precisely define “equivalence” or “same function”. Producers and purchasers are expected to use a commonsense approach when they discuss the replacement of older EEE.

232. The responsibility for dealing with EEE purchased before 13 August 2005 when discarded without being replaced by new EEE rests with the user discarding the WEEE.

233. The user shall assume responsibility for dealing with the WEEE if they are unable to trace the producer compliance scheme that carries this obligation<sup>20</sup>. This can only occur when the user is disposing of EEE purchased after 13 August 2005, because for older EEE, the user is responsible if disposing of the WEEE without replacement, or will be buying from the producer whose PCS has the responsibility.

234. The obligations of the user in these circumstances are to ensure that the WEEE is separately collected, and obtain and retain proof that it was handed to a waste management company that ensured it was treated and disposed of in an environmentally sound manner. These responsibilities are different from the arrangements for household WEEE where consumers are entitled to free take-back of their WEEE in accordance with the WEEE Directive.

235. Organisations ‘producing’<sup>21</sup> hazardous waste are required to register with the Environment Agencies. Government does not expect organisations to register if they only discard WEEE, but they must ensure its collection, treatment, and environmentally sound disposal.

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<sup>20</sup> This would be the producer compliance scheme that currently has the producer (or the business which has taken over their obligations through sale, takeover, merger etc) who put the EEE on the market after 13 August 2005 as one of its members.

<sup>21</sup> Here ‘producing’ is used in the sense of originating, not as a producer under the WEEE Regulations.

## **Negotiation over obligations**

236. Producers and non-household users may negotiate over the allocation of responsibility for non-household WEEE. This may be for the treatment of the new EEE when it is eventually discarded, and/or for the treatment of any EEE put on the market before 13 August 2005 that is being replaced. If there is no such negotiation and agreement, the responsibilities remain as set out in the paragraphs above. Where the end user is not responsible, the producer must arrange for the collection, treatment, recycling and disposal himself, or pay his producer compliance scheme to do it on his behalf.

## **Retention of records and compliance reports**

237. Users of non-household EEE are not required to declare compliance or provide WEEE evidence to the appropriate Environment Agency where they arrange and finance the disposal of EEE. The WEEE Regulations do not exempt such users from the requirements of other waste legislation for the transfer of waste and retention of records. Defra is planning to consult on amendments to the Duty of Care<sup>22</sup> regime (as set out in section 34 of the Environmental Protection Act 1990). The consultation is likely to include a section on WEEE that would require non-household end users to ensure that separately collected WEEE is sent only to authorised treatment facilities. This makes best use of an existing system and could mean overall reductions in the administrative burden on businesses.

## **Timetable for implementation**

238. The significant points in the timetable for implementation for business and professional users of EEE are:

- Producer compliance scheme and non-household user obligations for all non-household WEEE start on 1 April 2007.
- Producers should mark EEE with the “crossed-out wheeled bin” symbol, date code and producer mark from 1 April 2007, but may continue to sell stock they hold.

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<sup>22</sup> Section 34 of the Environmental Protection Act 1990 places the Duty of Care in England, Wales and Scotland. For Northern Ireland, this is Section 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997. Further information on duty of care in England, Wales and Scotland can be accessed via: <http://www.defra.gov.uk/environment/waste/legislation/duty.htm> and [http://www.defra.gov.uk/environment/waste/management/doc/pdf/waste\\_man\\_duty\\_code.pdf](http://www.defra.gov.uk/environment/waste/management/doc/pdf/waste_man_duty_code.pdf)

# Chapter 7 Operators of treatment facilities for WEEE in the UK

239. Implementation of producer responsibility for waste electrical and electronic equipment (WEEE) in the UK opens new business opportunities for the operators of waste treatment facilities.

240. Operators of treatment facilities have no obligations under the WEEE Regulations, other than as a user of non-household EEE. However, in order to treat WEEE they must be authorised under a waste management licence, or have registered an exemption, in accordance with the WEEE Permitting Regulations, and then operate in accordance with the terms of their licences (or exemption) and treat WEEE according to the Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE) produced by Defra, and the equivalent guidance produced by the Northern Ireland Administration, the Welsh Assembly Government and the Scottish Executive. Licensed facilities are termed “Authorised Treatment Facilities” or ATFs.

## Permitting and Treatment

241. The WEEE Regulations require the treatment of all separately collected WEEE; that its treatment must be at authorised treatment facilities, i.e. ATFs, or those operating under a registered exemption; and that this must be done using BATRRT and, at a minimum, include the removal of all fluids and a selective treatment in accordance with Annex II of the WEEE Directive and in compliance with the technical requirements of Annex III of the Directive. See Box 7:1.

242. The WEEE Regulations do not cover operators of Authorised Treatment Facilities for WEEE directly, but they do provide that only ATFs (and accredited exporters where WEEE is exported for treatment) may provide evidence that WEEE

### **Box 7:1 The WEEE Permitting Regulations and Treatment Guidance**

Regulations will amend the Waste Management Licensing Regulations 1994 to ensure the specific conditions for WEEE are met and to provide for exemptions.

These have been the subject of public consultation. The consultation draft may be viewed on the website of the Department for Environment, Food and Rural Affairs at: <http://www.defra.gov.uk/corporate/consult/weee-article6/index.htm>. This consultation included Draft Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT). A response to the consultation is expected to be published shortly.

The Northern Ireland consultation may be viewed at: <http://www.doeni.gov.uk/epd/search/details.asp?docid=2142>

Guidance on the Treatment of Waste Electrical and Electronic Equipment (WEEE) has also been consulted on and the consultation draft may be viewed on the websites of the Environment Agency (England and Wales) (the EA): [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk); the Scottish Environment Protection Agency (SEPA): <http://www.sepa.org.uk/guidance/index.htm>; and for Northern Ireland at: [www.doeni.gov.uk](http://www.doeni.gov.uk).

has been received for treatment.

### **Compliance reporting by obligated parties - the role of ATF operators**

243. The Environment Agencies need to know the amount, type and category (see Box 2:1 on page 16) of WEEE that has arisen in the UK for two reasons: first to make the UK reports required by the Commission, and second, to determine the producer compliance schemes' obligations for the treatment of WEEE. It is appropriate to measure the amount of WEEE on its first entry to an authorised treatment facility (or accredited exporter if WEEE is exported for treatment) as whole appliances may be screened-out for re-use by charitable or social enterprise organisations before this, and as a practical matter, ATFs have weighing equipment whereas designated collection facilities may not. In addition, the measurement of recycling will be based on WEEE delivered to ATFs.

244. The organisation consigning WEEE for treatment must make these reports to the Environment Agency. This will normally be a producer compliance scheme, but might be an individual producer or operator of a designated collection facility. You should expect them to make contractual arrangements with you to provide them with this information through the Environment Agencies' evidence note system.

245. The Environment Agencies also need to know the amount of material derived from WEEE that has reached accredited reprocessors for recycling or recovery. Authorised treatment facilities cannot provide this information, but may arrange for it to be provided to the original consignor of WEEE by accredited reprocessors.

### **Evidence of treatment and reprocessing**

246. The Secretary of State will establish the format for standardised evidence notes for the treatment, recycling and recovery of WEEE. It is likely that these will initially be paper based, but the Government is keen to move towards an electronic format for evidence of compliance as soon as possible. All evidence notes will contain consignor details, and a section to record transfers or trades.

247. Evidence notes will have separate sections for treatment and for recycling of the WEEE. The first confirms the amount and type of WEEE that has reached an authorised treatment facility (or exporter) for treatment, the second the amount of WEEE constituent material that has reached an accredited reprocessor (or exporter) for recycling. The authorised treatment facility to whom the WEEE is first consigned will be responsible for completing the treatment section of the evidence note, confirming that WEEE has been delivered to an ATF. This information will include the tonnage of WEEE, its breakdown by category and the amount that is household or non-household WEEE as declared by the consignor.

248. The evidence will not be complete until the section on treatment is supported by evidence of recycling of the required amounts of WEEE constituent material. This can be achieved in two ways:

- 1) the authorised treatment facility may be asked by the consignor of WEEE to arrange completion of recycling evidence by an accredited reprocessor or exporter as part of their WEEE service; or
- 2) the consignor may make separate arrangements with accredited reprocessors or exporters for this.

249. Either way, it is not permissible for ATFs to complete the section on recovery and recycling.

250. Evidence notes can be presented at unit level, from a single tonne through to collective evidence for all the WEEE processed by the authorised treatment facility or accredited reprocessor or exporter (depending on the materials concerned) for the consignor for the entire compliance period (usually a calendar year). The consignor's preference will depend on his anticipated level of trading. Evidence notes may be issued for several categories of WEEE, but consignors may prefer separate notes for each category, again for easier trading. The Environment Agencies may require you to provide a quarterly or annual summary<sup>4</sup> of the evidence notes you have issued.

251. WEEE will often be consigned to authorised treatment facilities as a mixed load of categories (see Box 2:2 on page 17) as this is how household WEEE is expected to be collected and stored at many designated collection facilities. Some WEEE will be consigned by individual category, typically non-household WEEE, or household WEEE collected by producers or specialist retailers. Producer compliance scheme obligations and evidence are based on the category (and whether household or non-household) of the WEEE. Evidence notes for household and non-household WEEE will be similar, but not interchangeable as they relate to different obligations. The consignor should agree with the ATF operator the type (household or non-household) and origin (e.g. list of DCFs) of the WEEE, and its breakdown by category, using agreed protocols if appropriate.

252. Defra has recently begun a two part project to establish protocols for WEEE. The first protocol will be used by authorised treatment facilities to determine the composition, by category, of a container of mixed WEEE arising at a designated collection facility. ATFs may use this protocol for the purposes of issuing evidence notes for the receipt of WEEE for treatment, instead of having to sort the mixed WEEE into separate categories prior to weighing and treatment. An ATF will not need to use the protocols if it can demonstrate that the loads of mixed WEEE it receives are significantly different in composition to those determined by the protocols. The second protocol will determine the proportion of material reaching reproducers or exporters that is deemed to have come from WEEE.

### **Information made available by producers of EEE to help you**

253. Producers must make available, within one year, information which will assist in the treatment and recycling of each new type of EEE they put onto the UK market. The information is to assist treatment facilities and reproducers handling the WEEE, and protect the health and safety of staff working in waste management and reprocessing facilities. Box 7:2 on page 59 provides details.

### **Evidence of re-use of components**

254. Evidence of reuse of components (e.g. a complete circuit board, a microprocessor or refurbished motor) can also be recorded as part of the treatment evidence note. This is where the mass of components will be separated from the material that will thereafter go on for recycling, and it is here that the sale of components for reuse is likely to be carried out. Reuse of components should be counted when the component is actually sold for reuse, and not when it is stored for potential reuse.

### **Box 7:2 Information on new EEE to be made available by producers to waste management and reprocessing facilities.**

Producers must make certain information available on each new type of EEE, within one year of the EEE being put onto the UK market. The requirement applies to both household and non-household EEE.

This information is to assist towards and optimise re-use, treatment, recycling and recovery according to the objectives and standards of the WEEE Directive; as well as to help towards protecting the health and safety of staff working in treatment and reprocessing facilities. Specifically, this information is to cover:

- the different components and materials in the EEE; and
- the location of any hazardous substances in the EEE.

The WEEE Directive suggests that producers could make available such information in the form of manuals or through electronic means. The WEEE Regulations provide flexibility to producers as to the means by which they make this information available, with the most cost-effective likely to be electronically through web-sites or on CD-ROMs. Producers may also use direct markings on the EEE if they wish.

This obligation does not transfer from individual producers to producer compliance schemes. However where the information is disseminated electronically, producer compliance schemes could usefully collate this information on behalf of members, and maintain a database to preserve information from a producer who then leaves the market.

### **Treatment and/or recovery overseas**

255. The WEEE Directive allows WEEE to be treated or recycled outside the Member State or European Community, provided certain conditions are met. The UK implementation allows for this. The evidence of treatment and recycling abroad must be robust, i.e. that the WEEE will be treated, recycled or recovered and not sent for landfill. The “equivalent” requirement is that the plants overseas operate under equivalent conditions to those required by the Directive. Similar measures have been applied for other waste legislation, for example packaging. Box 7:3 on page 60 provides further details, including what those exporting the WEEE must do to satisfy this Directive requirement.

256. In addition to authorised treatment facilities, only exporters who have been accredited by the appropriate Environment Agency for WEEE treatment may provide the evidence of treatment required to support declarations of compliance. These are called “accredited exporters” in the guidance document and regulations. The conditions of accreditation are set down in Schedule 7 of the WEEE Regulations. The Environment Agencies will charge annual accreditation fees of £2,590 for exporters above the *de minimis* level of 400 T per annum, and £500 for those at or below this tonnage.

257. Paragraphs 243 to 252 above explain how you may provide evidence of receipt of WEEE for treatment.

### **Box 7:3 Treatment and/or recovery overseas**

The WEEE Directive provides that treatment of WEEE may be carried out outside the UK or the European Community provided that the shipment of WEEE complies with Council Regulation (EEC) No 259/93 as amended on the supervision and control of shipments of waste within, into and out of the European Community. Compliance with waste shipment Regulation is a matter of enforcement outside the ambit of these Regulations.

WEEE may be exported for treatment and/or recovery outside the UK, but, in order for recovery to count towards WEEE Directive targets, the overseas reuse, recovery and recycling must be carried out under conditions which are equivalent to those required under EU legislation.

The WEEE Regulations require that exporters of WEEE must be accredited by an appropriate Environment Agencies in order to produce evidence that can be used towards producer compliance scheme obligations for WEEE. An accredited exporter may issue evidence confirming that an amount of WEEE constituent material has been exported for recycling or recovery to the equivalent standards required for a UK facility. He may in addition issue evidence of treatment if he receives WEEE consigned for export directly from a designated collection facility, and the WEEE will be treated to equivalent standards to an authorised treatment facility in the UK.

Producers or producer compliance schemes who wish to arrange treatment and/or recovery of WEEE outside the UK are advised to consult the appropriate Environment Agency with which they are registered beforehand on the evidence required.

Where WEEE is treated outside the UK, the Environment Agencies will expect to see evidence from accredited exporters that it has been treated to an equivalent level to the requirements in the UK (BATRRRT). They will monitor on the basis of seeing documentary, e.g. contractual evidence, to confirm this.

Where WEEE is exported for recycling and recovery outside the UK, the Environment Agencies will expect to see evidence from accredited exporters that it has been exported for recycling and/or recovery (i.e. not stored or loaded for exported, but actually left UK shores) and under conditions that are equivalent to those required under EU law. It may be that they will be asked to show that the overseas recycler has got the necessary licence or permit from the competent body in the country concerned before 1 April 2008 if it is to be used on an evidence note submitted in discharge of obligations related to the discharge of obligations for the first compliance period.

The Environment Agencies will expect to see subsequent documentary evidence within six months (by 30 September following a compliance period) to show subsequent recycling and recovery outside the UK from those producers or compliance schemes which use evidence of this to discharge their obligations associated with the first compliance period.

## **Timetable for implementation**

258. The significant points in the timetable for implementation for authorised treatment facilities are:

- WEEE Regulations enter force on 1 January 2007.
- Producer compliance scheme obligations for household WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes start on 1 April 2007. This will largely continue the current treatment requirements.
- Treatment obligations for all household WEEE from 1 July 2007. Consignors will normally require evidence from this date.
- Treatment obligations for non-household WEEE start on 1 April 2007. Consignors will normally require evidence from this date.

## Chapter 8 Businesses that recover and recycle WEEE in the UK

259. Implementation of producer responsibility for waste electrical and electronic equipment (WEEE) provides business opportunities to recyclers and operators of other recovery processes to offer compliance services.

260. Recycling and recovery plants in the UK have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE, unless they choose to reprocess material derived from WEEE.

261. Only reprocessors or exporters who have been accredited by the appropriate Environment Agency for WEEE recovery or recycling will be entitled to provide the evidence of recycling or recovery required to support declarations of compliance. These are called “accredited reprocessors” or “accredited exporters” in the guidance document and regulations. The conditions of accreditation are set down in Schedule 7 of the WEEE Regulations. The Environment Agencies will charge annual accreditation fees of £2,590 for reprocessors and exporters above the *de minimis* level of 400 T per annum, and £500 for those at or below this tonnage.

262. The UK must report on the achievement of recovery and recycling of WEEE against targets set in the WEEE Directive and therefore also in the Regulations. As part of the compliance regime, producer compliance schemes which are responsible for the recovery, recycling and environmentally sound disposal of WEEE must provide evidence to the appropriate Environment Agency that they have met their obligations. This must include evidence from accredited reprocessors that the necessary amount of material has reached them for reprocessing (either recycling or recovery where appropriate).

263. The onus is on producer compliance schemes to demonstrate their compliance with obligations. You should expect them, or authorised treatment facilities on their behalf, to make contractual arrangements with you to provide them with this information through the Environment Agencies’ evidence note system which is described in the next section.

264. The Environment Agencies are responsible for monitoring producers’ compliance, and will also be responsible for monitoring accredited reprocessors and exporters, e.g. by site inspection visits.

### **Evidence of treatment and reprocessing**

265. The Secretary of State will establish the format for standardised evidence notes for the treatment, recycling and recovery of WEEE. It is likely that these will initially be paper based, but the Government is keen to move towards an electronic format for evidence of compliance as soon as possible. All evidence notes will contain consignor details, and a section to record transfers or trades.

266. Evidence notes will have separate sections for treatment and for recycling of the WEEE. The first confirms the amount of WEEE that has reached an authorised treatment facility, the second the amount of WEEE constituent material that has reached an accredited reprocessor or exporter for recycling. The authorised treatment facility to whom the WEEE is first consigned will be responsible for completing the treatment section of the evidence note, confirming that WEEE has been delivered to an ATF. This information will include the tonnage of WEEE, its breakdown by category and the amount that is household or non-household WEEE as declared by the consignor.

267. The evidence will not be complete until the section on treatment is supported by evidence of recycling of the required amounts of WEEE constituent material. This can be achieved in two ways: either by the accredited reprocessor issuing separate evidence notes confirming receipt of amounts of material or alternatively for the accredited reprocessor to confirm on the main evidence note produced by the authorised treatment facility the amounts of WEEE constituent material that have reached them for recycling.

268. The authorised treatment facility may be asked by the consignor of WEEE to arrange completion of recycling evidence by an accredited reprocessor as part of their WEEE service, or the consignor may make separate arrangements with accredited reproducers for this. Either way, it is not permissible for ATFs to complete the section on recovery and recycling. The accredited reprocessor may provide this evidence as part of his contractual arrangements with an authorised treatment facility, or directly to a consignor of WEEE. In either case, only the accredited reprocessor can provide evidence that material has been received for recycling or recovery.

269. Evidence can be presented at unit level, from a single tonne through to collective evidence for all the WEEE processed by the authorised treatment facility or accredited reprocessor for the consignor for the entire compliance period (usually a calendar year). The consignor's preference will depend on his anticipated level of trading. Evidence notes may be issued for several categories of WEEE, however consignors may prefer separate notes for each category, again for easier trading. You must provide the appropriate Environment Agency with a quarterly and annual summary<sup>5</sup> of the evidence notes you have issued.

270. Defra has recently begun a two part project to establish protocols for WEEE. The first protocol will be used by authorised treatment facilities to determine the composition, by category, of a container of mixed WEEE arising at a designated collection facility. The second protocol will be used by accredited reproducers and accredited exporters to determine the proportion of material they receive that is deemed to have come from WEEE, and which may be used for the purposes of issuing of evidence notes. By the time materials reach a reprocessor, they are usually mixed with material from other waste streams, e.g. a steel mill may receive metal from cars, WEEE and other waste. An accredited reprocessor will not need to use the protocols if it can demonstrate to the satisfaction of the appropriate Environment Agency that the loads it receives are significantly different in composition to those determined by the protocols.

### **Information made available by producers of EEE to help you**

271. Producers must make available, within one year, information which will assist in the treatment and recycling of each new type of EEE they put onto the UK market. The information is to assist treatment facilities and reproducers handling the WEEE, and protect the health and safety of staff working in waste management and reprocessing facilities. Box 7:2 on page 59 provides details.

### **Treatment and/or recovery overseas**

272. The WEEE Directive allows WEEE to be treated or recycled outside the Member State or European Community, provided certain conditions are met. The UK implementation allows for this. The evidence of treatment and recycling abroad must be robust, i.e. that the WEEE will be treated, recycled or recovered and not sent for landfill. The "equivalent" requirement is that the plants overseas operate under equivalent conditions to those required by the Directive. Similar measures have been applied for other waste legislation, for example packaging. Box 7:3 on page 60 provides further details, including what those exporting the WEEE must do to satisfy this Directive

requirement. Paragraphs 265 to 270 above explain how you may provide evidence of receipt of WEEE for recycling. You must provide the appropriate Environment Agency with a quarterly and annual summary<sup>7</sup> of the evidence notes you have issued.

### **Timetable for implementation**

273. The significant points in the timetable for implementation for accredited reprocessors and accredited exporters are:

- WEEE Regulations enter force on 1 January 2007.
- Producer compliance scheme obligations for household WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes start on 1 April 2007. This will largely continue the current treatment requirements.
- Recycling obligations for all household WEEE from 1 July 2007. Consignors will normally require evidence from this date.
- Recycling obligations for non-household WEEE start on 1 April 2007. Consignors will normally require evidence from this date.

# Chapter 9 Local Authorities and WEEE

274. Local government bodies have no legal obligations under the WEEE Regulations, other than as a user of non-household EEE.

275. This Guidance uses “local authorities” to include all local government bodies with responsibility for waste collection and management. This includes local authorities themselves in England, Wales and Scotland, Waste Disposal Authorities, and district councils in Northern Ireland.

276. The WEEE Regulations have implications for those local authorities which:

- receive WEEE from private households at their civic amenity sites (CA sites) or waste transfer stations;
- make bulky waste collections from local residents;
- choose to accept household WEEE from businesses, including smaller independent retailers.

## The collection network for household WEEE

277. The distributor takeback scheme (DTS, see page 29) is expected to make available a UK-wide network of designated collection facilities (DCFs, see page 30), which collect household WEEE for clearance by producer compliance schemes (PCS, see page 43). The DTS will provide funding to local authorities to encourage them to register their civic amenity (CA) sites as DCFs. This funding is intended to cover the reconfiguration of existing space at CA sites to enable WEEE to be separately collected. Such reconfiguration should not be at the expense of other recyclable materials that are already collected at the sites.

278. Producer compliance schemes will be responsible for arranging the clearance of all WEEE separately collected at designated collection facilities, including hazardous WEEE, and will finance its treatment and recycling. By obtaining DCF status, the operators of CA sites and waste transfer stations avoid WEEE treatment costs; including the costs of WEEE products whose disposal is regulated under the Ozone-Depleting Substances Regulations (ODS); and avoid any costs in relation to treatment and disposal of hazardous WEEE for which they are currently receiving new burdens funding from the DTI. New burdens funding will cease from 1 April 2007. Under partial producer responsibility (Box 5:3 on page 42), funding for the treatment and disposal of hazardous household WEEE for the period 1 April to 30 June 2007 will be paid by Government, and then recovered from producers, through producer compliance schemes and the Exchange.

279. The distributor takeback scheme should provide a network of designated collection facilities that as a minimum covers a similar geographical pattern to the existing CA site infrastructure. In areas where local authorities cannot or choose not to designate their CA sites as DCFs, the operator of the distributor takeback scheme must ensure that sufficient alternative DCFs are available for consumers to dispose of WEEE. Local authorities will not be required to establish WEEE collection sites to augment the network.

280. The Government encourages local authorities to seek designated collection facility status for their CA sites and/or their waste transfer stations for the start of full WEEE implementation (1 July 2007), by applying to the appointed distributor takeback scheme. For more details of this, you should contact the DTI at this address: [weee@dti.gsi.gov.uk](mailto:weee@dti.gsi.gov.uk).

## **Information to consumers about household WEEE**

281. There is no requirement for local authorities to provide information to consumers about the environmental impact of EEE and WEEE. This obligation falls on distributors in the UK. However, local authorities may liaise with local retailers or the operator of the distributor takeback scheme on raising awareness of WEEE. Local authorities may also wish to update the information they provide to residents about which of their waste services are suitable for the disposal of WEEE, and if they provide a collection service for bulky household waste. Box 4:1 on page 25 describes the information that distributors must provide to consumers.

## **CA sites which are designated collection facilities**

282. Designated collection facilities are described on page 30. In summary, producer compliance schemes are responsible for clearing all separately collected household WEEE from DCFs, and its subsequent treatment, recycling and environmentally sound disposal.

283. There are two aspects which are specific to DCFs operated by local authorities:

- the distributor takeback scheme provides some financial support to upgrade the site to operate as a DCF;
- local authorities may count the recycling of WEEE collected at their DCFs towards their own recycling targets.

284. Producer compliance schemes are only responsible for the collection, treatment and recycling of household WEEE that has been collected at a DCF. Local authorities may collect WEEE at sites that are not DCFs and transfer or consolidate it through their DCF sites for PCSs to clear, provided that all WEEE so collected is passed to the DCF, and residents can dispose of WEEE through at least one of their sites. Local authorities may use this arrangement for WEEE collected by their bulky waste collection services, for which they may continue to charge.

285. All WEEE which is separately collected (and not selected for reuse e.g. by a charitable organisation) must be sent for treatment at facilities authorised under the WEEE Permitting Regulations and treated in accordance with the guidance on BATRRT<sup>23</sup>; and it must be recycled at accredited reproprocessors (or exporters) to count for tradable evidence. If the household WEEE is collected through a DCF, the producer compliance schemes are responsible for this. The costs of disposal of WEEE which is separately collected but not passed through a DCF would be borne by the local authority or their contractor, depending on their contractual arrangements.

## **Clearance arrangements**

286. The WEEE Regulations place a general responsibility on producer compliance schemes to clear separately collected household WEEE from DCFs, including those that are CA sites. PCS must indicate how they intend to work with DCFs as part of their approval process, following the Code of Practice described in Box 4:3 on page 32. Producer compliance schemes are responsible for initiating discussions with the operators of DCFs to agree collection arrangements with one or more DCFs, and then for clearing separately collected WEEE. They are expected to negotiate to clear DCFs with groupings of councils or local authorities, or others who have established DCFs.

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<sup>23</sup> Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment (WEEE) produced by Defra, the Welsh Assembly Government and the Scottish Executive

287. Local authorities can agree with the producer compliance schemes that clear from their sites the extent to which separately collected WEEE is segregated into different categories on-site. The Government encourages the segregation of WEEE at each CA site to at least the groups described in Box 2:2 on page 17.

### **Fall-back arrangements for clearance from a local authority DCF**

288. Producer compliance schemes are expected between them to make effective arrangements to clear WEEE collected at all DCFs. However situations may arise where a local authority needs to clear separately collected WEEE from its own DCF. In this case, the separately collected WEEE must be transported, treated, recycled and recovered in accordance with the requirements of the WEEE Regulations in order for the local authority to be able to sell the evidence he obtains to producer compliance schemes to recover costs.

289. Sale through the Exchange will be on the basis of each vendor's average costs incurred by category during the compliance period. Costs may include transport to the ATF and subsequent treatment, recycling, reprocessing and recovery as stated on the evidence note(s). Parties involved in a private trade may negotiate the price freely. Further details on evidence, trading and the Exchange are available in Chapter 11.

### **Household WEEE deposited by small distributors at CA sites and waste transfer stations**

290. The Government understands that some CA sites and waste transfer stations currently accept WEEE from small distributors, but there is no common practice. Local authorities do not have to take this material, but if they decide to, they can charge if they wish to.

291. The WEEE Directive Article 3(k) defines WEEE from private households to include other WEEE that is similar in character and quantity. Box 4:5 on page 35 provides details. Operators of CA sites and waste transfer stations which are DCFs may wish to take account of this definition and accept small quantities of WEEE from private households brought to the site by small businesses, such as independent retailers, but they are under no obligation to do so because, despite the definition of household WEEE in the WEEE Directive, this waste collected by retailers is defined as commercial and industrial waste. Where CA sites accept WEEE from private households brought to the site by small businesses, producers must fund its clearance, treatment and recycling.

292. The Government believes that a pragmatic approach should be taken here given on the one hand the definition in the WEEE Directive and, on the other, the service that the CA site could provide to local small businesses. Any WEEE that businesses, such as independent (i.e. non-multiple) retailers, take to DCFs must, therefore, be of the same type or nature of WEEE as WEEE direct from private households. This might be, for example, a domestic refrigerator but not a large commercial/shop cool cabinet; and only in the *quantities* associated with WEEE from private households, e.g. one refrigerator or an amount of EEE that could reasonably be carried in an estate car; not an amount of WEEE that fills a truck or van.

### **Bulky waste collections**

293. Many local authorities offer bulky waste collection services to residents and, in this context, either collect larger items of WEEE from residents' properties or on a periodic basis from designated local points. It is at the discretion of local authorities

whether they charge for these services. The discretion to offer these services, or to charge for them, remains under the WEEE Regulations.

294. The Government encourages the routing of household WEEE collected via local authority bulky waste collection services to DCFs (which may be waste transfer stations as well as CA sites). If this WEEE does not go to a DCF, the costs of its disposal will have to be borne by the local authority.

### **Timetable for implementation**

295. The significant points in the timetable for implementation for local authorities are:

- Provisional appointment of the operator of the distributor takeback scheme in Autumn 2006.
- Formal appointment of the operator of the distributor takeback scheme in January 2007.
- Designated collection facility upgrade and approval from January until June 2007.
- Take-back for household WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes continues through CA sites until 30 June 2007 (see Box 5:3 on page 42).
- Full household WEEE obligations commence on 1 July 2007, with in-store take-back and other DCFs operational, and producer compliance schemes responsible for clearing separately collected WEEE.

# Chapter 10 The Voluntary and Community Sector and WEEE

296. Re-use and refurbishment organisations are already involved with waste electrical and electronic equipment (WEEE). They work with operators of civic amenity sites, retailers, the waste management sector and others in business in this context; providing wider socio-economic benefits, e.g. providing jobs and skills and training for the long-term unemployed.

297. The Government is keen to see the involvement of the Voluntary and Social Enterprise Sector in WEEE maintained in the future. It wishes to ensure that the UK's implementation of the WEEE Directive supports the social, environmental and economic benefits associated with the reuse of whole WEEE items operated by the Voluntary and Community Sector.

298. The Government is encouraging producer compliance schemes (PCS), producers and retailers of EEE, who bear the main responsibilities under the WEEE Regulations; to develop and build their relationships with re-use and refurbishment organisations in the Voluntary and Social Enterprise Sector.

## **WEEE which is re-used (whole appliances)**

299. Under the WEEE Regulations, WEEE that is separately collected in the UK must be sent for treatment. However this does not apply to whole appliances that are diverted for re-use. Appliances sent for re-use from a designated collection facility or by a producer compliance scheme or producer will, however, count towards the UK's collection target under the Directive.

300. Re-use of whole appliances reduces the quantity of separately collected WEEE that needs to be treated, and to which the WEEE Directive's percentage targets for recovery and recycling apply. It is therefore in the interests of producers, and distributors with producer responsibilities, to build relationships with re-use and refurbishment organisations in the Voluntary and Social Enterprise Sector.

301. The Government is giving further encouragement to these relationships by means of the requirements on producer compliance schemes, as a condition of their approval, to indicate how they intend to prioritise reuse of whole appliances. The Government expects that those producer compliance schemes and producers with responsibilities to clear household WEEE from DCFs should give priority to the re-use of whole equipment by working with locally-based, established Voluntary and Social Enterprise Sector organisations. It expects that there should be access at each DCF for a Voluntary and Social Enterprise Sector re-use organisation "authorised" by the collecting producer compliance scheme, in agreement with the DCF operator. WEEE ought to be collected at DCFs in a manner so as not to hinder the re-use of whole WEEE. The Government intends to establish a reuse task force of the WEEE Advisory Group.

302. Designated collection facility operators may recommend their preferred Voluntary and Social Enterprise Sector re-use organisation(s) to the producer or producer compliance scheme(s) or producer who clear separately collected WEEE.

## **Reporting of data on re-use of whole appliances**

303. It is important that the re-use of whole appliances are counted towards the UK's collection target for household WEEE. Organisations collecting or receiving whole

appliances for re-use must report the amounts to the producer compliance scheme or producer who would otherwise be responsible for clearing the WEEE for treatment and recycling. The reports must be made by 1 March in the year following each compliance period, and include all EEE selected for re-use, broken down by category (see Box 2:1 on page 16). Where possible, amounts should be given in tonnes, however reports may also state the number of units where weighing facilities are unavailable.

### **Timetable for implementation**

304. The significant points in the timetable for implementation for charitable and social enterprise organisations are:

- Negotiations between operators of designated collection facilities (many expected to be local authorities), producer compliance schemes and producers for clearance of separately collected household WEEE from January until June 2007.
- Take-back for WEEE containing Ozone Depleting Substances, Cathode Ray Tubes and gas discharge tubes continues at CA sites until 30 June 2007.
- New take-back arrangements start in-store, at producer-distributor DCFs or at DCFs supported by the DTS start on 1 July 2007.

# Chapter 11 Evidence of Compliance and the Exchange

305. Evidence of compliance and the Exchange are closely linked, and are covered together in this chapter. The Consultation Document raises questions on Evidence notes and the operation of the Exchange, and information presented in this chapter is subject to change. Evidence is produced to support reporting of WEEE recycling targets to the Commission, declarations of compliance with WEEE treatment and recycling obligations, and where it relates to household WEEE, may be traded to enable producer compliance schemes and producers to match their obligations. The Exchange provides a managed means of trading evidence, based on justified costs, between those with a surplus, and those with a deficit before the deadline for declaring compliance.

## Evidence of treatment and recycling of WEEE

### The purpose of evidence

306. The evidence notes being introduced under the WEEE Regulations are first and foremost an indication that statutory obligations have been complied with. They are used to support the Declarations of Compliance made by producer compliance schemes to the appropriate Environment Agency. Producer compliance schemes must demonstrate that they have organised the collection, treatment, reuse and reprocessing, in an environmentally sound manner, of the WEEE for which they are responsible. In addition:

- for household WEEE, evidence supports trading between producer compliance schemes and/or producers, and end of compliance-period trading through the Exchange;
- for household WEEE, evidence will be needed if the operator of a designated collection facility wishes to recover their costs, through the Exchange, where producer compliance schemes have failed to clear WEEE that has arisen at DCFs;
- for non-household WEEE, it confirms proper end of life handling by producer compliance schemes.

307. Evidence notes cover specific tonnages of WEEE, according to the category groupings presented in Box 2:1 on page 16. This provides flexibility to producers and producer compliance schemes in contracting for treatment and reprocessing services; and allows for the use of agreed protocols to attest recycling and recovery, if they so wish.

308. Any WEEE traded or passed between producer compliance schemes before reaching an ATF would not be considered to be, or recorded as, a trade of evidence.

### What is evidence?

309. The Secretary of State will establish the format for standardised evidence notes for the treatment, recycling and recovery of WEEE. It is likely that these will initially be paper based, but the Government is keen to move towards an electronic format for evidence of compliance as soon as possible. All evidence notes will contain consignor details, and a section to record transfers or trades. Evidence notes for household and non-household WEEE will be similar, but not interchangeable as they relate to different

obligations. The consignor should inform the operator of the authorised treatment facility of the proportions of the WEEE to be recorded as household and non-household.

310. Evidence notes will have separate sections for treatment and for recycling of the WEEE. The first confirms the amount of WEEE that has reached an authorised treatment facility, the second the amount of WEEE constituent material that has reached an accredited reprocessor. The authorised treatment facility to whom the WEEE is first consigned will be responsible for completing the treatment section of the evidence note, confirming that WEEE has been delivered to an ATF. This information will include the tonnage of WEEE, its breakdown by category and the amount that is household or non-household WEEE as declared by the consignor. The originator of the evidence note must provide a summary of the evidence notes he has issued to the appropriate Environment Agency on a quarterly basis, one month in arrears.

311. The evidence will not be complete until the section on treatment is supported by evidence of recycling of the required amounts of WEEE constituent material. This can be achieved in two ways: either by obtaining separate evidence notes from accredited reproducers confirming the amounts of material that have reached them, or alternatively for the accredited reprocessor to confirm on the first evidence note the amounts of WEEE constituent material that have reached them for recycling.

312. The authorised treatment facility may be asked by the consignor of WEEE to arrange completion of recycling evidence by an accredited reprocessor as part of their WEEE service, or the consignor may make separate arrangements with accredited reproducers for this. Either way, it is not permissible for ATFs to complete the section on recovery and recycling.

313. Evidence can be presented at unit level, from a single tonne through to collective evidence for all the WEEE processed by the authorised treatment facility or accredited reprocessor for the consignor for the entire compliance period (usually a calendar year). The consignor's preference will depend on his anticipated level of trading. Evidence notes may be issued for several categories of WEEE, however consignors may prefer separate notes for each category, again for easier trading. The Environment Agencies require businesses that have issued evidence notes for recycling or export of WEEE to provide a quarterly or annual summary<sup>5,7</sup> of the evidence notes they have issued, and may require authorised treatment facilities to provide similar reports<sup>4</sup>.

314. The evidence note relating to the treatment and the recycling of household and non-household WEEE is in principle identical. Both types confirm that the WEEE has been accepted for treatment at an authorised treatment facility and for recycling or recovery by an accredited reprocessor. However the two types of evidence must be distinct as they arise from different obligations. Evidence related to non-household WEEE cannot be traded, nor used against obligations for household WEEE.

315. WEEE will often be consigned to authorised treatment facilities as a mixed load of categories as this is how household WEEE is expected to be collected and stored at many designated collection facilities. Some WEEE will be consigned by individual category (Box 2:1 on page 16), typically non-household WEEE or household WEEE collected by producers or specialist retailers. Producer responsibilities and evidence are based on the category (and whether household or non-household) of the WEEE. The consignor should agree with the ATF operator the type (household or non-household) and origin (e.g. list of DCFs) of the WEEE, and its breakdown by category, using agreed protocols if appropriate.

316. Defra has recently begun a two part project to establish protocols for WEEE. The first protocol will be used by authorised treatment facilities to determine the composition, by category, of a container of mixed WEEE arising at a designated collection facility. ATFs may use this protocol for the purposes of issuing evidence notes for the receipt of WEEE for treatment, instead of having to sort the mixed WEEE into separate categories prior to weighing and treatment. An ATF will not need to use the protocols if it can demonstrate that the loads of mixed WEEE it receives are significantly different in composition to those determined by the protocols. The second protocol will determine the proportion of material reaching reprocessors or exporters that is deemed to have come from WEEE, and which may be used for the purposes of issuing of evidence notes. By the time materials reach a reprocessor, they are usually mixed with material from other waste streams, e.g. a steel mill may receive metal from cars, WEEE and other waste. An accredited reprocessor will not need to use the protocols if it can demonstrate to the satisfaction of the appropriate Environment Agency that the loads it receives are significantly different in composition to those determined by the protocols.

317. The Exchange may issue replacement evidence notes against those it has received, either for trading on the Exchange, or for sub-division. The holder of an evidence note may wish to trade, say, 100 T of a 600 T note, or one category while retaining evidence for another.

## Record Keeping

318. The WEEE Directive requires that records be kept.

### Box 11:1 Box 11.1. Record keeping requirement

Article 7, paragraph 3 of the WEEE Directive states:

*“Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility and/or when entering (input) the recovery or recycling facility.”*

319. The WEEE Regulations require that producer compliance schemes, producers, authorised treatment and accredited reprocessing facilities retain records for a minimum of six years. Operators of designated collection facilities must also retain records for a minimum of six years supporting the evidence that they have sold.

## The Exchange

320. The Secretary of State will appoint the operator of the Exchange, and set its rules, charges and operating policies. The Consultation Document raises a question on the operation of the Exchange, and information presented in this section is subject to change.

321. The main role for the Exchange is to facilitate the trading of evidence to allow obligated parties who have not met their obligations for treatment of household WEEE to purchase the evidence from those who have arranged the treatment of WEEE in excess of their obligations, or from operators of designated collection facilities who have

been unable to secure clearance by producer compliance schemes (PCS, see paragraph 211 above). PCSs and producers may both buy and sell, and local authorities may sell where they have been unable to arrange for a PCS to undertake clearance and treatment of WEEE collected at a DCF.

322. Producer compliance schemes are expected to set up an informal information exchange in addition to facilitate private trading of evidence. Registered producers and operators of designated collection facilities may participate.

323. The Exchange will also be able to reissue evidence notes against evidence notes it receives in order to split them to facilitate trading – for example by separating categories and/or subdividing overall tonnage. The subdivision of evidence notes is separate from the trading function of the Exchange. The Exchange may make a charge for this service to recover costs in checking the evidence received, and its administrative effort in completing the replacement evidence notes.

### **Annual timetable for the Exchange**

324. The requirement that final trading is through the Exchange, with its price controls, protects producer compliance schemes needing to purchase evidence to meet their obligations, and brings prospective traders together. It also enables operators of designated collection facilities to secure reimbursement where producer compliance schemes have not taken on responsibilities to clear and treat WEEE collected at their DCF. The pricing formula for the exchange ensures that vendors recover their costs for the WEEE evidence they sell, and that those needing to purchase evidence to meet their obligations are able to purchase at a cost-based price. PCSs are in a position to control the amount of evidence they need to trade through the Exchange, and the amount of evidence that DCF operators may need to furnish.

325. It is proposed that the Exchange will operate as follows:

- The Exchange will trade once for each compliance period, between the final notification by the appropriate Environment Agency of producer compliance scheme obligations, and the date by which PCSs must declare compliance to the appropriate Environment Agency.
- The Exchange can receive evidence from producer compliance schemes, producers and operators of designated collection facilities throughout the compliance period, and thereafter for that compliance period until the day on which the Exchange trades.
- Evidence will be traded by categories defined in the WEEE Regulations (Box 2:1 on page 16).
- Evidence must be supported by the average cost of transport, treatment and recycling incurred by the vendor for the category of WEEE over the whole compliance period. The Exchange will value the evidence from each vendor at their individual average costs, by category grouping, incurred during the compliance period.
- The Exchange will combine the evidence it has available for sale on the trading day, and develop an average cost for each category from the valuations made for each vendor. It will add to this a charge to cover the administration costs of the Exchange. This will be the price at which evidence in each category may be bought from the Exchange.
- The Exchange will cancel the evidence notes that have been traded, and pass them to the appropriate Environment Agency. It will issue replacement evidence

notes to the purchasers, and provide a summary to the appropriate Environment Agency.

- Once the Exchange has been paid for evidence it has sold, it will pay those providing evidence at the agreed valuations.
- Trades on the Exchange are gross, rather than net. Each trade is individual, and purchases may not be offset against sales.
- The Exchange will not operate for profit. Any surplus remaining in the Exchange after costs have been met will be used towards meeting its costs for the following compliance period.

326. The consultation proposes that the amount of evidence that the Exchange will recompense an individual producer or producer compliance scheme for should be capped, and asks for proposals for the appropriate limit. This measure is intended to prevent anti-competitive over-collection of WEEE. PCS or producers may agree between themselves to trade evidence beyond this level until the day on which the Exchange trades.

# Annex I - Contact points for further information

## Department of Trade and Industry

Comments on this Guidance should be addressed to DTI's Sustainable Development & Regulation Directorate.

WEEE Implementation Team  
Sustainable Development & Regulation Directorate  
Department of Trade and Industry  
Bay 399  
151 Buckingham Palace Road  
London  
SW1W 9SS  
Email: [weee@dti.gsi.gov.uk](mailto:weee@dti.gsi.gov.uk)  
Tel: 0207 215 1475  
<http://www.dti.gov.uk/innovation/sustainability/weee/page30269.html>

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## Department for Environment, Food and Rural Affairs

Enquiries regarding the WEEE Permitting Regulations should be addressed to Defra.

Stewart Marshall  
DEFRA WM Permitting Development Unit  
Zone 6/E7 Ashdown House  
123, Victoria Street  
London SW1E 6DE  
Email: [Stewart.B.Marshall@defra.gsi.gov.uk](mailto:Stewart.B.Marshall@defra.gsi.gov.uk)  
<http://www.defra.gov.uk/environment/waste/topics/electrical/index.htm>

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## Environment Agencies

Enquiries regarding the WEEE Regulations may be referred to the Environment Agency in England and Wales, the Scottish Environment Protection Agency in Scotland and the Northern Ireland Environment and Heritage Service in Northern Ireland. Contact details are as follows:

Environment Agency  
Rio House, Waterside Drive  
Aztec West, Almondsbury  
Bristol  
BS32 4UD

Tel: 08459 333111

Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)  
<http://www.environment-agency.gov.uk/>

and

<http://www.environment-agency.gov.uk/subjects/waste/>

Scottish Environment Protection Agency  
Erskine Court  
The Castle Business Park  
Stirling  
FK9 4TR

Tel: 01786 457700

Fax: 01786 446885

Email: [producer.responsibility@sepa.org.uk](mailto:producer.responsibility@sepa.org.uk)  
<http://www.sepa.org.uk/guidance/index.htm>

Producer Responsibility Unit  
Environment and Heritage Service  
Commonwealth House  
35 Castle Street  
Belfast  
BT1 1GU

Tel: 028 9054 6484

Fax: 028 9054 6480

Email: [weee@doeni.gov.uk](mailto:weee@doeni.gov.uk)  
<http://www.ehsni.gov.uk/>

Guidance documents are available from these addresses or your regional Environment Agency Office.

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### **The Environmental Helpline**

The Environmental Helpline is a Government telephone enquiry service providing a comprehensive information and signposting service for firms seeking advice on a wide range of environmental issues that may affect their business. Case studies and guides to help with various issues are available.

Environmental Helpline  
0800 585 794  
Email: [helpline@envirowise.co.uk](mailto:helpline@envirowise.co.uk)

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## NetRegs

NetRegs is a joint initiative of the Environment Agency (EA, for England and Wales), the Scottish Environment Protection Agency (SEPA), the Environment and Heritage Service Northern Ireland (EHS NI) and DTI's Small Business Service (SBS). Netregs provides free environmental guidance for small and medium-sized businesses throughout the UK. It can help you to understand what you need to do to comply with environmental legislation and protect the environment. It provides information for England, Wales, Scotland and Northern Ireland. It may be accessed at:

<http://www.netregs.gov.uk/>

In England and Wales, e-mail: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)  
In Northern Ireland, e-mail: [netregs@doeni.gov.uk](mailto:netregs@doeni.gov.uk)  
In Scotland, e-mail: [foi@sepa.org.uk](mailto:foi@sepa.org.uk)

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## Office of Public Sector Information (OPSI) (formerly HMSO)

The WEEE Regulations 2005 Statutory Instrument and other UK legislation are available from the OPSI online at:

<http://www.hmso.gov.uk/legislation/uk.htm>

<http://www.opsi.gov.uk/legislation/index.htm>

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Further copies of the Guidance are available from:

DTI Publications Orderline  
Admail 528  
London  
SW1W 8YT  
Tel: 0870 1502 500  
Fax: 0870 1502 333

## Annex II - Glossary

Accredited exporter	an exporter who is accredited by an appropriate authority under regulation 41;
Accredited reprocessor	a reprocessor who is accredited by an appropriate authority under regulation 41;
Appropriate Environment Agency	For England or Wales, the Environment Agency. For Scotland, the Scottish Environment Protection Agency. For Northern Ireland, Department of the Environment
Authorised treatment facility (ATF)	Any establishment or undertaking carrying out treatment of WEEE, which is licensed or otherwise permitted under UK legislation.
Code of Practice	The code of practice issued by the Secretary of State covering the interaction between designated collection facilities, producer compliance schemes, local authorities and charities.
Compliance period	The period of time used for setting and reporting WEEE obligations. Normally a calendar year, but for 2007 the period 1 April until 31 December.
Consumer	A member of the public who purchases, uses or discards WEEE for domestic purposes. Not for business or professional purposes.
Declaration of compliance	The declaration made by producer compliance schemes to the appropriate Environment Agency to confirm whether they have satisfied their obligations for the treatment of WEEE.
Designated collection facility	Any establishment or undertaking carrying out WEEE collection operations that has been approved under the WEEE Regulations.
Distributor	Any person who provides electrical or electronic equipment on a commercial basis to the party who is going to use it.
Distributor takeback scheme	A scheme which supports a network of designated collection facilities which provide distributors and consumers with an alternative to in-store takeback of WEEE.
Electrical and electronic equipment or EEE	Equipment which is dependent on electric currents or electromagnetic fields in order to work properly in its primary function, and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Schedule 1 to the Regulations and designed for use with a voltage rating not exceeding 1,000 V(AC) and 1,500 V(DC).
Evidence note	A statement in the format specified by the Secretary of State confirming the amount and type of:  WEEE received for treatment, if issued by an authorised treatment facility, or accredited exporter if exporting WEEE for treatment;  WEEE material received for recycling or recovery, if issued by an accredited reprocessor, or accredited exporter if exporting WEEE material for reprocessing.  The Exchange may issue replacement evidence notes to the amount and type it receives.

Quarters	<p>First – 1 January – 31 March</p> <p>Second – 1 April – 30 June</p> <p>Third – 1 July – 30 September</p> <p>Fourth – 1 October – 31 December</p>
Producer	Anyone who places EEE on the UK market, including by manufacture, re-branding or import. Producers must comply with the WEEE Regulations. Businesses based outside the UK may register as a producer.
Producer compliance scheme	A scheme that will undertake some of the producers' obligations on their behalf, including reporting to the appropriate Environment Agency, and will normally arrange the treatment of WEEE.
Recovery	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	<p>The reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which is 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.</p> <p>"Recyclable" should be construed accordingly.</p>
Reprocessor	A person who, in the course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling. "Reprocessing" should be construed accordingly.
Reuse	Any operation by which WEEE or its components are used for the same purpose for which they were conceived, including the continued use of the equipment or its components, which are returned to collection points, distributors, recyclers or manufacturers.
Treatment	Any activity after the WEEE has been handed over to a facility for de-pollution, 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	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	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.
Producer registration number	The registration number issued to a producer by the appropriate Environment Agency.