

**WEEE REGULATIONS 2006**

**Government Guidance Notes**

DECEMBER 2007

URN 07/1631

## **Government Guidance Notes**

**SI 2006 No. 3289 and SI 2007 No. 3454**

**These Guidance Notes support The Waste Electrical and Electronic Equipment Regulations 2006, as amended by The Waste Electrical and Electronic Equipment (Amendment) Regulations 2007(Referred to hereafter as “the WEEE Regulations”).**

**The WEEE Regulations implement the majority of the 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 that amended the WEEE Directive.**

**These Guidance Notes cover the obligations which the WEEE Regulations place on producers who put electrical and electronic equipment (EEE) onto the UK market, and obligations on distributors of EEE in the UK. They also cover the roles and implications for others including Local Authorities, the waste management industry, the charitable and voluntary sector, and implications for users and consumers of EEE, and others.**

**These Guidance Notes are not definitive and will be updated as necessary in the light of comments received and as the UK WEEE system develops over time. To aid this process the Department for Business, Enterprise and Regulatory Reform (BERR) has recently established a new independent WEEE Advisory Body (WAB), whose remit will include making recommendations for improvements to these Guidance Notes.**

**These Guidance Notes have no legal authority. You should refer to the Regulations themselves for a full statement of the legal requirements and in the case of any doubt take independent advice, including your own legal advice. The Regulations may be revised as and when necessary so users should take care to keep themselves informed. In this regard, information may be obtained from BERR’s Sustainable Development & Regulation Directorate. Details of contacts for further information are given at the end of this guidance.**

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## The WEEE Regulations – An introduction

The Waste Electrical and Electronic Equipment Regulations 2006<sup>1</sup> as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 (“the WEEE Regulations”) implement the majority of the provisions of the European Parliament and Council Directive on Waste Electrical and Electronic Equipment<sup>2</sup> (“the WEEE Directive”) and the subsequent European Parliament and Council Directive<sup>3</sup> that amended the WEEE Directive.

The WEEE Regulations do not implement the provisions of the WEEE Directive covering the storage and treatment of separately collected WEEE. These provisions have been implemented by separate permitting Regulations made by Defra<sup>4</sup>, the Department of Environment in Northern Ireland<sup>5</sup> and the Scottish Executive<sup>6</sup>. Technical guidance specifically relating to the treatment of WEEE is available from the relevant enforcement authorities.

The WEEE Directive is a wide-ranging piece of European environmental legislation. It is one of a small number of European Directives which implement the principle of "extended producer responsibility". Under this principle, producers are required to take financial responsibility for the environmental impact of products they place on the market, especially when those products become waste. The WEEE Directive applies this principle in relation to electrical and electronic equipment (EEE).

The broad aim of the Directive is to address the environmental impacts of electrical and electronic equipment when it reaches the end of its life and to encourage its separate collection, subsequent treatment, re-use, recovery, recycling and environmentally sound disposal.

It seeks to improve the environmental performance of all operators involved in the lifecycle of EEE. It sets requirements relating to EEE in terms of marking and provision of information relating to the separate collection of WEEE, the re-use of WEEE as whole appliances, standards for its treatment at specific facilities, and recycling and recovering WEEE to target levels. It makes producers of EEE responsible for financing most of these activities.

The Regulations have a number of implications for producers of EEE and distributors of EEE (often seen as retailers). There are no exemptions for SMEs under the Directive, and hence the WEEE Regulations apply to all businesses regardless of size. However, the Government is working to ensure that any costs to SMEs are not disproportionate.

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<sup>1</sup> SI 2006 No. 3289 – The Waste Electrical and Electronic Equipment Regulations 2006

<sup>2</sup> Directive 2002/96/EC of 27 January 2003, (OJ No. L137, 13.2.2003, p. 24)

<sup>3</sup> Directive 2003/108/EC of 8 December 2003, (OJ No. L345, 31.12.2003, p. 106)

<sup>4</sup> SI 2006 No. 3315 – The Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006

<sup>5</sup> SR NI 2006 No. 519 - Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006

<sup>6</sup> SSI 2007 No. 172 – The Waste Management Licensing Amendment (Waste Electrical and Electronic Equipment)(Scotland) Regulations 2007

Distributors of EEE have responsibilities in terms of the provision of facilities to enable the free take-back of household WEEE by final holders/end users and the provision of certain information to consumers of EEE.

The Directive has an environmental legal base that covers some devolved policy matters. The Devolved Administrations; the Scottish Executive, the Welsh Assembly and the Department of the Environment in Northern Ireland have discretion to determine its implementation. They have agreed that the WEEE Regulations provide for a uniform, UK-wide implementation.

The WEEE Regulations, in relation to producer obligations are enforced in England and Wales by the Environment Agency for England and Wales (the EA), in Scotland by the Scottish Environment Protection Agency (SEPA) and in Northern Ireland by the Department of the Environment & Heritage Service (EHS). The VCA, an executive agency of the Department for Transport, is the enforcement body for EEE distributor obligations and producer obligations relating to product marking with a crossed out wheeled bin symbol.

The subsequent chapters of these Guidance Notes set out the obligations that the WEEE Regulations place on producers and distributors of EEE in the UK. They also set out the implications and roles for other parties, including Local Authorities, the waste management sector, the charitable and voluntary sector, users and consumers of EEE, and others.

The WEEE Regulations were laid before Parliament on 12 December 2006. The main requirements and obligations on producers and distributors of EEE came into effect from 1 July 2007. The requirements on producers of EEE to mark products and provide information in relation to the treatment of new EEE products came into effect from 1 April 2007.

### **How to use this Guidance**

If you want an overview of the WEEE Regulations and establish the impact on the key stakeholder groups, you should read Chapter 1.

If you want to assess whether any EEE you produce is within the scope of the WEEE Regulations, you should read Chapter 2.

Subsequent Chapters of these Guidance Notes provide further detail and frequently asked questions for specific issues and specific key stakeholders.

## 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, briefly why. Subsequent chapters provide more detail.

You should read this Guidance if you are:

### **A producer putting electrical and electronic equipment (EEE) on the UK market that will fall within the scope of the WEEE Regulations.**

“Producer” means any person who, irrespective of the selling technique used, including by means of distance communication:

- Manufactures and sells electrical and electronic equipment under his own brand;
- Resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the “producer” if the brand of the producer appears on the equipment; or
- Imports or exports electrical and electronic equipment on a professional basis into a member State.

A producer has a number of obligations under the WEEE Regulations:

- They must join a Producer Compliance Scheme (PCS) to discharge their obligations as a producer of EEE. For example, registering as a producer, reporting data on EEE put on the UK market, and financing any costs of collection, treatment, recovery and disposal of WEEE in line with their notified obligation;
- They must ensure the marking of EEE put onto the UK market to assist with its separate collection at the end of its life;
- They must make information available to treatment facilities in respect of new types of EEE they put on the UK market.

### **A distributor of EEE in the UK.**

A distributor (irrespective of selling technique) for the purposes of the WEEE Regulations is:

- A retailer of new EEE for use in households; or
- a wholesaler of new EEE for use in households;

All distributors selling new EEE to householders have obligations under the WEEE Regulations.

The main obligation on distributors is to provide a take-back service to householders enabling them to return their WEEE free of charge. The WEEE Regulations provide a choice of providing "in-store" take-back or participating

in the Distributor Take-back Scheme, or providing an alternative system for free take-back for householders.

A further obligation placed on distributors is to provide householders with information on the options that are available to them for the free return of their WEEE and on the environmental benefits resulting from its separate collection.

### **A consumer who uses EEE and discards EEE as waste -**

Has no legal obligations under the WEEE Regulations.

The WEEE Regulations encourage private householders to play their part in the separate collection of WEEE, when it is discarded as waste.

In the UK you do not have to purchase EEE to take advantage of this. Consumers will have the ability to deposit WEEE in specific areas at civic amenity (CA) sites across the UK, and, in addition to this, at other specific collection facilities.

Consumers may also ask for information from a retailer of EEE about the options and collection facilities available in their local area for disposing of EEE.

Where a retailer is offering in-store take-back, old equipment must be accepted on a like-for-like (old for new) basis when a replacement purchase of new equivalent equipment is made. If new EEE is not purchased the retailer is not obliged to accept old WEEE.

The WEEE Regulations do not give an entitlement to free collection of WEEE from homes. Existing home collection on delivery services, Local Authority bulky waste collections and collection by the Charitable and Voluntary Sector remain unaffected.

### **A Local Authority.**

Local Authorities have no direct legal obligations under the WEEE Regulations.

However, the WEEE Regulations have implications for Local Authorities if they:

- Receive household WEEE deposited by residents at civic amenity (CA) sites or waste transfer stations (WTSS) in their waste disposal authority area; or
- make bulky waste collections from residents in their local area.

The Government is keen to encourage Local Authorities to play a part in facilitating their residents' participation in the separate collection of WEEE.

Local Authorities have the opportunity to secure free collection of WEEE separately collected at their CA sites or WTSS, if these sites are registered as "Designated Collection Facilities" (DCFs).

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

Users of non-household EEE may, have an obligation to finance the treatment of EEE discarded as waste, and its recycling, recovery and environmentally sound disposal

This obligation applies:

- when discarded EEE purchased before 13 August 2005 is not replaced with new EEE; and
- where new EEE is purchased after 13 August 2005 and where through commercial negotiation with the producer, some or all of the future costs of treating and recovering the EEE when it becomes waste has been agreed.

Users of non-household WEEE should take note of the WEEE Regulations when entering into commercial negotiations and procurement decisions concerning EEE in future.

If users of non-household WEEE choose to take responsibility for the treatment and disposal of WEEE they must ensure that they have appropriate documentation, (e.g. written agreements with the producer or their representative confirming they have taken responsibility for the environmental disposal of equipment when it reaches its end of life) agreed with the producer or their compliance scheme to demonstrate the agreement reached. .

## **An operator of an Approved Authorised Treatment Facility (AATF) or Approved Exporter (AE).**

AATFs and AEs will deal with separately collected non-household WEEE. AATFs and AE's also deal with household WEEE arising at DCFs or via Regulation 32 of the WEEE Regulations on behalf of Producer Compliance Schemes.

AATFs and AEs will be able to issue evidence that WEEE has been treated to the requirements of the WEEE Regulations (and in this context the WEEE Treatment Guidance should be adhered to), and subsequently recycled and/or recovered in line with the recovery targets of the WEEE Regulations, or has been sent for re-use as whole appliances.

ATFs with the appropriate permits or exemptions will work with AATFs to treat WEEE to the standards of the WEEE Directive, and in accordance with the UK's WEEE Treatment Guidance.

## **An operator of a reprocessing (recycling and/or recovery) operation.**

Reprocessors will work with AATFs, ATFs and Producer Compliance Schemes (PCSs) to ensure that treated WEEE is subsequently recycled and/or recovered to the target levels set out in the WEEE Regulations.

## **The Charitable and Voluntary Sector.**

WEEE Regulations seek to encourage re-use of whole appliances when these are discarded and it is appropriate.

Government recognises that re-use and refurbishment organisations from the Charitable and Voluntary sector are already actively involved with WEEE in the UK. The Government is keen to see their involvement maintained in the future. It wishes to ensure that the UK's WEEE Regulations support the social and economic benefits associated with the re-use of whole WEEE appliances.

PCS, operators of DCFs and AATFs are encouraged to develop formal working relationships to ensure whole appliances prioritised for re-use are removed from WEEE destined for treatment and reprocessing. Such agreements should be documented appropriately.

## **Businesses supplying Non-Household EEE and users of Non-Household EEE**

These have specific obligations under the WEEE Regulations which are covered in detail in Chapter 8. The WEEE Regulations like the WEEE Directive seek to incorporate WEEE obligations into normal business practices with as little disruption as possible.

## **2. Timetable for Implementation and Compliance**

WEEE Regulations placed obligations in relation to WEEE on the producers of EEE from the 1 July 2007 and in relation to EEE, such as product marking and provision of treatment information from 1 April 2007.

Distributor obligations commenced from 1 July 2007.

The first WEEE compliance period runs from 1 July 2007 to 31 December 2007. Each subsequent compliance period runs for 12 months from 1 January to 31 December each year.

There are, however, preparatory activities, which must take place before each compliance period and a period of settlement and declaration of compliance following the end of each compliance period.

## **Chapter 2 What electrical and electronic equipment do the WEEE Regulations apply to?**

### **Scope of the WEEE Regulations**

3. The Regulations follow the definition of scope set out in the WEEE Directive. They apply to all EEE put on the UK market, which falls within the scope of the WEEE Directive itself and is in one of the ten categories listed in Annex A of these Guidance Notes. Annex A also includes indicative (not exhaustive) examples of products under each of the categories that are listed in Schedule 2 of the Regulations. The Regulations specify a voltage rating range within which the products in the ten categories must fall in order to come within the scope. This is up to and including 1,000 volts AC or up to and including 1,500 volts DC.

### **Assessing products to see if they are included in the scope**

4. For many products, the decision on whether they are included within the scope of these Regulations should be straightforward. However there are a number of products (particularly in specialised or industrial sectors), where there may be areas of doubt and uncertainty.

5. A 'decision tree' which producers may find useful in determining whether products might come within the scope of the WEEE Regulations can be found at the end of this chapter, but it may be necessary to seek independent advice when coming to a final decision.

6. The following guidance uses some of the criteria for assessing "grey area" products and equipment (those whose inclusion within the scope of the WEEE Directive is in doubt). These have been discussed in the Technical Adaptation Committee (TAC) of Member States and are reflected in the Commission's non-legally binding Frequently Asked Questions (FAQ) document on the WEEE and RoHS Directives<sup>7</sup>.

7. It should be noted that this guidance represents the Government's view and, as with all European Directives, a definitive view may only be obtained through the courts. Producers are strongly advised to obtain independent legal advice supporting their decisions on scope.

### **General guidance on the types of products that may be outside the scope of the Regulations**

8. The WEEE Directive provides for a number of exemptions from its provisions for a broad range of products and equipment. These exemptions are reflected in the UK WEEE Regulations.

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<sup>7</sup> European Commission's *Frequently Asked Questions on the RoHS and WEEE Directives* published May 2005 and mostly recently revised August 2006. This can be downloaded from [http://ec.europa.eu/environment/waste/weee/index\\_en.htm](http://ec.europa.eu/environment/waste/weee/index_en.htm)

### **EEE intended to protect national security and/or for military purposes**

9. There is an exemption for EEE intended specifically to protect national security and/or for military purposes. However, it should be noted this exemption does not apply to any equipment that is used to protect national security and/or has a military purpose, but is not designed exclusively for these purposes.

### **Products where electricity is not the main power source**

10. Many products contain electrical and electronic components, either for additional functionality or as peripheral parts. A simple example could be a combustion engine with an electronic ignition. The definition of EEE in the WEEE Regulations is intended to extend only to those products that are dependent on electric currents or electromagnetic fields to work properly, meaning that it is the primary power source. If electricity is used only for control or support functions, the product could be considered to be outside the scope of the WEEE Regulations. In the above example the combustion engine would be considered to be outside that scope.

### **Products where the electrical or electronic components are not needed to fulfil the primary function**

11. This is related to, but not always the same as the above situation. Some products, particularly toys and novelty items contain an electrical or electronic component that gives added value to the product. Often there are similar products on the market fulfilling the same function, but without these components. Examples might include musical greetings cards or soft toys with electronic components, which still fulfil their primary function without their electronic components and could be considered to be outside the scope of the WEEE Regulations.

### **Electrical and electronic equipment that is part of another type of equipment**

12. The WEEE Directive excludes EEE that is part of another type of equipment that does not fall within the scope of the Directive. Examples are lighting or entertainment equipment for use specifically in vehicles, trains or aircraft. Equipment specifically for use in vehicles may, however, be subject to the End-of Life Vehicles (ELV) Directive.

13. Equipment that is part of another type of equipment or system is considered to be outside the scope of the Directive where it does not have a direct function outside the other item of equipment or system and that other item of equipment or system is itself outside the scope of the Directive.

14. Equipment may also be part of a fixed installation. A “fixed installation” may be a combination of several pieces of equipment, systems, products and/or components (or parts) assembled and/or erected by a professional assembler or installer at a given place to operate together in an expected environment and to perform a specific task, but not intended to be placed on the market as a single functional or commercial unit. Equipment fixed for the

purpose of health and safety eg: vending machines are not classed as “fixed installations” under the WEEE Directive.

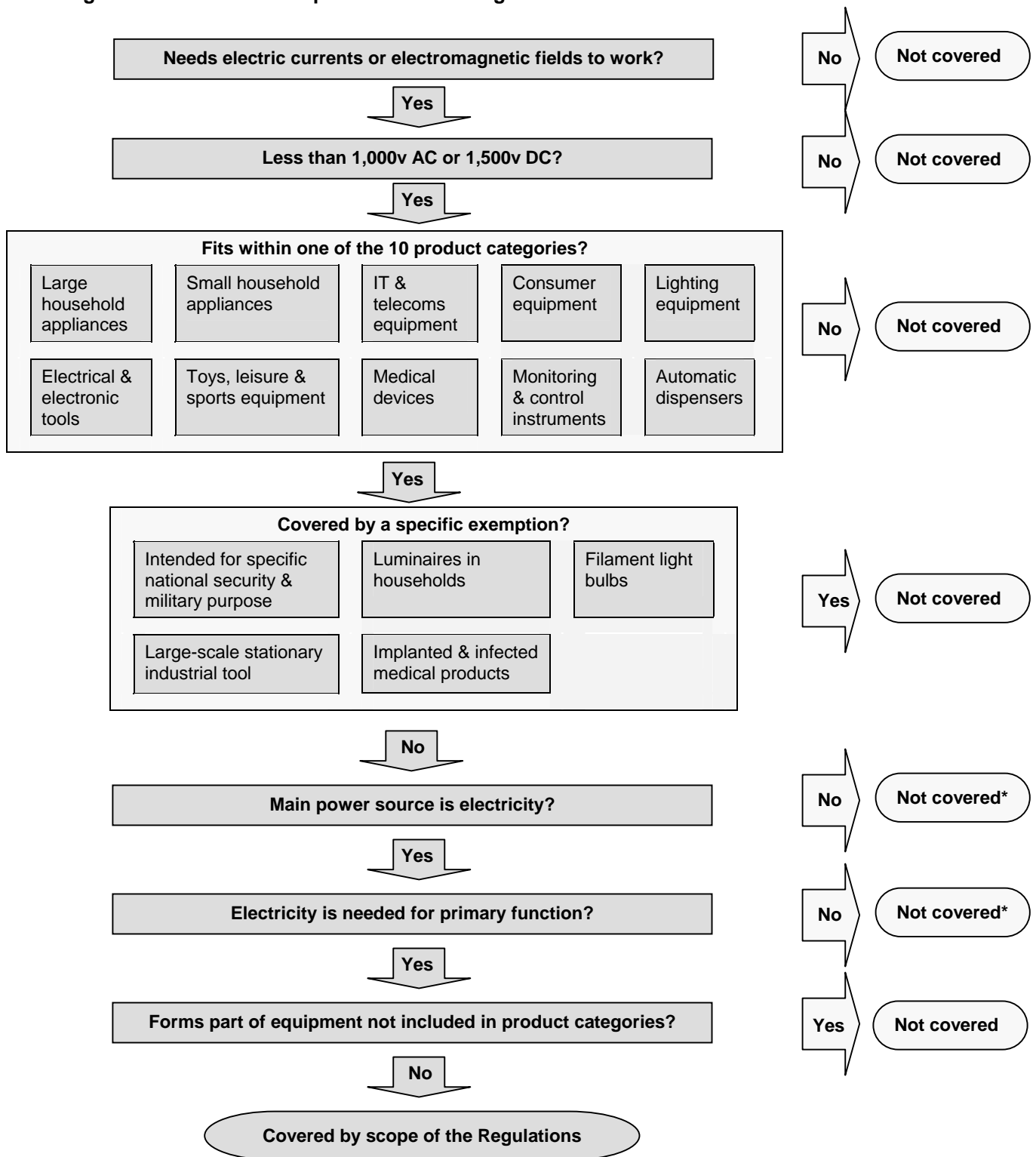
15. In such a case, the elements of a system that are not discernible EEE products in their own right or that do not have a direct function away from the installation are considered to be excluded from the scope of the Regulations.

### **Other Exemptions**

16. The Regulations do not apply to:

- Large-scale stationary industrial tools. This is a machine or system, consisting of a combination of equipment, systems, products and/or components installed by professionals, each of which is designed, manufactured and intended to be used only in fixed industrial applications.
- Household luminaires (It should be noted that luminaires used in non-household environments, such as commercial premises, are within the scope of the WEEE Regulations.) See Annex C for further information on luminaires.
- Filament light bulbs. (This exemption applies to all light bulbs that emit light through the use of a filament.) Annex C provides further information on luminaires
- All implanted and infected medical devices. The WEEE Directive requires medical devices generally (Category 8 equipment) to be treated at end-of-life, but not recycled or recovered to target levels. This is reflected in the WEEE Regulations.

A 'decision tree' that could be used by producers to decide whether or not a product might come within the scope of the WEEE Regulations.



\*While these exclusions are not expressly provided for in the WEEE Directive, it is BERR's view that they apply. It should be noted, however, that a definitive legal interpretation is only available from the court. Producers should rely on independent legal advice on compliance

## Scope - Frequently Asked Questions

### How do I find out if my products are covered by the Regulations?

The European Commission's Frequently Asked Questions (FAQ) document on the scope of the WEEE Directive can be downloaded from:

[http://ec.europa.eu/environment/waste/pdf/faq\\_weee.pdf](http://ec.europa.eu/environment/waste/pdf/faq_weee.pdf)

[http://ec.europa.eu/environment/waste/weee/index\\_en.htm](http://ec.europa.eu/environment/waste/weee/index_en.htm) . The

Commission's (FAQ) places the onus on producers themselves to determine whether the products and equipment that they produce fall within the scope of the WEEE and the Restriction of the use of certain Hazardous Substances (RoHS) Directives, as they are best placed to assess the characteristics of their products. Any guidance given by BERR, the environment agencies or in the Commission's FAQ document is not legally binding. Ultimately it is for a court to decide.

### My product type isn't listed in the Regulations. Is it exempt?

The list of products in Schedule 2 of the WEEE Regulations is an illustrative list. If your product is not on the list it does not necessarily mean that it is outside the scope of the WEEE Regulations. You should use the decision tree to inform your final decision. You may also wish to consider seeking independent legal advice.

### My product has electrical parts, but they're not essential for it to work. Is it exempt?

Only products that require electricity to fulfil their primary function are within scope. The European Commission refers to the example of a teddy bear with a battery for additional functionality that can still fulfil its main purpose as a comfort toy without the battery and is therefore not considered within scope.

### What is the exemption for "fixed installations"?

Section 1.3 of the Commission's FAQ document states that the Directive is not considered to apply to "fixed installations". The European Commission's Technical Adaptation Committee (TAC) of Member States is currently considering the interpretation of "fixed installation". Until any decision by the Commission on the definition of "fixed installation" is forthcoming, the UK will interpret this term along the lines of the definition outlined in this Chapter.

### Are component parts of electrical equipment considered to be EEE?

Components cover the range of discrete items that form part of a finished product and thus enable it to work properly, for example transistors, capacitors, diodes or internal wiring. Sub-assemblies are packages of components assembled into discrete units, such as display panels or populated circuit boards. Components and sub-assemblies supplied for

further manufacture or assembly are not finished products and are therefore not considered to be EEE in their own right.

**Are accessories which are not themselves a useable product considered to be EEE?**

Yes - Accessories such as audio headphones, computer keyboards, antennas and connecting cables do not by themselves have a function, but they do when associated with another product. All cables inside and/or as extensions or connections are part of the equipment at the time of discarding are WEEE. They are therefore considered to be EEE. It is important therefore, that accessory manufacturers should register as producers of EEE.

**Must I report the sale of spare parts?**

No - Spare parts are not products by themselves but are supplied for the repair of products. Spare parts put on the market for the repair of products are outside the scope of the WEEE Regulations, but they may be subject to the Restriction on certain Hazardous Substances (RoHS) Regulations. You should consult those Regulations<sup>8</sup> and the Government Guidance Notes<sup>9</sup>.

**Do I have to report the sale of consumables I produce, such as printer cartridges?**

No - Consumables only become WEEE if they are part of another product that is WEEE. For example, when a printer is discarded it becomes WEEE. If an ink cartridge is inside the printer at the time, then the ink cartridge also becomes part of that WEEE at the time of discarding. The ink cartridge would not be WEEE if discarded on its own and is, therefore, outside the scope of the WEEE Regulations, though it could be covered by other UK waste legislation.

**Are finished electrical products that can only be used in a vehicle in scope?**

No - Equipment that is part of another type of equipment that does not fall within the scope of the WEEE Regulations is itself excluded from the scope of the WEEE Regulations. Therefore equipment specifically designed to be exclusively installed on airplanes, boats, cars and other forms of transport is considered to be outside scope. For example, a satellite navigation kit designed to be permanently installed in a car would be exempt, but it may be subject to the requirements of the End-of Life Vehicles Directive.

**Are items such as microwaves and ovens, which are designed only for 'business use' exempt since category one refers to "household" appliances?**

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<sup>8</sup> SI 2006 No. 1463 – The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2006

<sup>9</sup> RoHS Regulations – Government Guidance Notes issued July 2007. These can be downloaded from <http://www.berr.gov.uk/innovation/sustainability/rohs/page29048.html>

No - The WEEE Directive covers both household and non-household EEE, so products for business users are covered by the WEEE Regulations. 'Business use' versions of products that fall under Categories 1, 2 and 4 are within the scope of the WEEE Regulations.

**I am still unclear on whether my product is in scope. What should I do?**

Go through the decision tree provided which contains more detailed guidance than this FAQ. You may also wish to check the European Commission FAQ document. Once all available documents and guidance have been checked, any unresolved issues and final decisions are for the courts to decide. In the meantime the environment authorities can give their opinion, advice and guidance, based on the Regulations, the EU Directive, the Commission's guidance document, decisions made in other EU member states and court decisions.

## Chapter 3 – Consumers of Household EEE

17. Consumers of household electrical and electronic equipment (EEE) have no obligations under the WEEE Regulations. The WEEE Directive encourages consumers who use EEE to participate in the separate collection of this equipment at the end of its life (so-called WEEE).
18. The implementation of the WEEE Directive in the UK provides the means to enable you to discard your EEE separately from other streams of household waste.
19. Consumers of EEE can use a UK-wide collection network which enables the return of WEEE free of charge. WEEE can be discarded at specific locations at civic amenity sites (CA sites) around the country; and, at a local level, there may also be further collection facilities available locally.
20. All distributors of EEE for household use in the UK have a take-back obligation under the WEEE Regulations, either by providing adequate and available facilities for you to return your WEEE; or by offering in-store take-back services when they sell you a new product which is of a similar type and fulfils the same functions as the old product that is no longer required.
21. Consumers are not entitled under the regulations to free collection of WEEE from their household. A distributor, local authority or a producer may, however offer free collection as a part of their customer service offer.

### **Information for householders on separate collection of WEEE**

22. All distributors of EEE for household use have an obligation to provide information to householders about the separate collection facilities available for WEEE.
23. Householders are entitled to ask their local retailers of EEE about the separate collection of WEEE including what facilities are available in their area.
24. Householders may ask the retailer whether they are participating in the Distributor Take-back Scheme, which is supporting the national network of Designated Collection Facilities. If they are in the scheme they should signpost the householder to local facilities for separate collection.
25. If the retailer is not a member of the Distributor Take-back Scheme, they should offer in-store take-back services to the householder, free of charge, when supplying new EEE on a like-for-like basis. The Government expects all retailers of EEE to declare, if challenged by householders, whether they are providing take-back via their membership of the DTS or providing an in-store take-back service.

## Crossed out wheeled bin symbol

26. All new EEE (products or packaging) should be marked with the crossed out wheeled bin symbol. This symbol aims to encourage the householder to separate out his/her WEEE and to discard it separately from other household waste.



## In-store take-back

27. Distributors choosing to provide in-store take-back services for householders should do so:

- On a like-for-like basis on the purchase of a new equivalent item or an item which has the same or similar functions; and
- for all types of WEEE from all types of EEE they sell from those premises

28. The householder has the right of return where the waste equipment is of equivalent type or fulfils the same function as the new equipment being supplied. The interpretation of this should take account of technological developments and improvements in functionality. Consumers will often buy new products with more or improved functions to replace old ones. So the product being purchased and the waste product being returned need not be absolutely identical in all respects. The Government expects distributors and householders to adopt a common sense approach to the issue of what is "like-for-like" in respect of take-back.

## Provision of Free take-back by distance sellers

29. A distance seller (e.g. an internet retailer, a mail order retailer or a tele-sales retailer) also needs to fulfil the obligation of providing free take-back facilities for consumers of EEE. This can be done by:

- Joining the Distributor Take-back Scheme which assists in funding a national network of collection facilities; or

- allowing these sales to qualify for in-store take-back through one of their local stores (where these exist); or
- providing the customer with an alternative local route for free take-back.

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/or through leaflets included with purchases.

### **Collection on Delivery**

30. Many distributors offer home-delivery services to the customers purchasing large and bulky items of EEE and as part of the service will collect an equivalent old product at the same time.

31. The UK WEEE Regulations will not affect this service. Distributors may continue to provide Collection on Delivery services to their customers, either free or at a cost, depending on their own commercial practice/policy. The cost of collection should however only cover the transportation and handling costs, it should not include any element of treatment or reprocessing costs as defined by the regulations. If a distributor offers Collection on Delivery this does not release him from his take-back obligations under the WEEE Regulations.

### **Bulky waste collections**

32. The UK WEEE Regulations do not affect the ability of Local Authorities to offer bulky waste collection services to residents for larger items of WEEE from households. It is at the discretion of Local Authorities whether they charge for this service.

### **Data Protection and Security**

33. A number of professional businesses in the UK deal with waste information and communication technology (ICT) equipment, including personal computers. They generally provide a service for waste business equipment, but also provide services for waste household equipment. These services include taking account of data protection and security issues.

34. Consumers should consider data protection issues when disposing of their equipment e.g. personal data which maybe held on personal computers. Consumers are encouraged to clean hard drives etc and where appropriate seek professional advice or assistance. This requirement is however outside of the WEEE Regulations.

## **Household Consumers – Frequently Asked Questions**

### **Do these Regulations oblige consumers to dispose of WEEE separately?**

The WEEE Regulations do not require household users to dispose of electrical and electronic equipment in a certain way. However, they are strongly encouraged to dispose of WEEE separately from household waste and make use of the collection facilities provided under the Regulations. Separate collection of WEEE allows it to be recycled, saving energy and resources and avoiding hazardous materials from going to landfill.

### **Do I have to pay to get rid of WEEE?**

Householders are entitled to take-back WEEE for recycling free of charge. Distributors must offer a free method of getting rid of WEEE being replaced, either by signposting to a collection facility they support through their membership of the Distributor Take-back Scheme, or by offering free in-store take-back, or an alternative free take-back service. A charge can be made for bulky waste collection services from Local Authorities or for “collection on delivery services” from retailers. The Regulations do not entitle householders to a free collection of old electrical items.

### **The distributor I am buying a new product from refuses to take back in store the item I am replacing. What should I do?**

Distributors do not need to offer in store take-back if they can show they are a member of the Distributor Take-back Scheme (DTS). Members of the DTS must be able to direct you to free local collection facilities.

Distributors who are not members of the DTS must offer in store take-back, or an alternative free take-back service. However, they only have to do this for equipment you are replacing with an equivalent item bought from them at the time or within a reasonable period after purchase of the new item.

If a distributor is not a DTS member and is not providing in-store take-back facilities, consumers are encouraged to report this to the VCA. See “Contact points for further information”.

### **Will this affect EEE I give to charity?**

No. You can continue to donate your working electrical items to charity or re-use organisations.

### **Will someone collect my WEEE from me?**

The WEEE Regulations do not entitle you to free collection of WEEE. Retailers, producers and your Local Authority may offer collection services, but they may charge for this service.

You can find your nearest collection facility from the Recycle-More website – [www.recycle-more.co.uk/nav/page1768.aspx](http://www.recycle-more.co.uk/nav/page1768.aspx).

**What happens if I buy EEE abroad?**

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

## Chapter 4 – Distributors of EEE in the UK

### Who is a distributor of EEE?

35. A "distributor" for the purposes of the WEEE Regulations provides EEE to household end-users, irrespective of the method of sale. This includes hire or leased equipment. Distributor includes wholesalers, retailers, and distance sellers (e.g. internet retailers, mail order retailers, and tele-sales businesses), and producers who sell products direct to consumers of EEE.

36. If you are a distributor of EEE, but also put EEE onto the UK market, including by manufacture, re-branding or by importing on a professional basis, you will also be a producer of EEE and will have additional responsibilities under the WEEE Regulations. In such a case you should also read the chapters 5 and 6 on Producers of EEE, and Producer Compliance Schemes.

### Distributor obligations for non-household EEE

37. There are no obligations for distributors in relation to sales of non-household EEE, or for the take-back of non-household WEEE. However as part of the supply chain for non-household EEE, you may be asked to assist producers and non-household end-users in discharging their obligations under the WEEE Regulations.

### Distributor obligations for household EEE

38. A distributor of household EEE, must:

- Provide information to consumers in relation to the environmental impacts of EEE & WEEE and the separate collection of household WEEE;
- facilitate the take-back of household WEEE from UK consumers free of charge either by joining the DTS or collecting WEEE in-store or through local collection points;
- make and retain records of the information they provide, and any household WEEE that they receive These obligations relate to any sales of new EEE, and do not apply to sales of second-hand or reconditioned EEE that has been previously placed on the UK market.

### Enforcement Body

39. The VCA, an executive agency of the Department for Transport, has been appointed as the enforcement body for EEE distributor obligations and product marking of new EEE with a crossed out wheeled bin symbol. ([www.vca.gov.uk/enforcement/weee-enforcement.asp](http://www.vca.gov.uk/enforcement/weee-enforcement.asp))

## **Information provision by distributors of household EEE**

40. Distributors of household EEE must provide their customers with information on:

- the environmental impacts of hazardous substances in 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 with other forms of waste they produce;
- the meaning of the “crossed out wheeled bin” product marking symbol;
- how they can contribute towards re-use, recycling and other forms of recovery of WEEE;
- the arrangements through which customers can dispose of WEEE free of charge – in particular whether they are a member of the Distributor Take-back Scheme (DTS); whether they provide in-store take-back; or whether they provide some alternative free take-back service.

41. The Government expects all distributors selling household EEE in the UK to play an active part in promoting the benefits of free take-back of household WEEE. They must provide this information to customers on their retail premises, if they have one, or by some other means connected to their sales (e.g. on web pages).

- 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 alongside any “collect on delivery” service they may offer.
- Distributors who are members of the Distributor Take-back Scheme must inform their customers of where and how they can discard their WEEE.
- Distributors providing alternative free take-back systems must inform their customers of where and how they can discard their WEEE.
- The Secretary of State will provide a format for distributors to record transactions under Regulation 59A. This format can be accessed from the VCA website [www.vca.gov.uk/enforcement/wee-enforcement.asap](http://www.vca.gov.uk/enforcement/wee-enforcement.asap).
- Distributors must make all records under Regulation 34 accessible at a national and local level to the enforcement body.

## **Record keeping**

42. Distributors must retain records for four years of the information they make available to customers. Distributors are not required to keep records of individual interactions with customers.

43. Distributors who receive WEEE through free take-back must record and retain for four years information about the number of units received, and the number returned to a PCS under Regulation 32 of the WEEE Regulations.

### **Free take-back of household WEEE**

44. Distributors of EEE have an important role to play in facilitating the separate collection of household WEEE. They are the link between householders returning their WEEE and producers who have obligations to treat, recycle, recover and soundly dispose of this WEEE.

45. Take-back systems should be widely available and accessible, and enable users to dispose of their household WEEE free of charge. The WEEE Regulations provide distributors of EEE with a choice of how they discharge their take-back obligations. A distributor must either:

- Join the Distributor Take-back Scheme (DTS) – which will assist in funding a network of collection facilities where consumers can dispose of their household WEEE free of charge for environmentally sound treatment and recycling; or
- offer in-store take-back – the distributor must accept free of charge an equivalent item of household WEEE to the new item of household EEE sold to the customer. Where in-store take-back is offered, it must be for all types of EEE that the distributor sells. The principle of free take-back is extended to distance sales as described below; or
- provide an alternative free take-back service, which is available and accessible to customers.

### **Take-back through the Distributor Take-back Scheme**

46. Members of the Distributor Take-back Scheme must inform their customers of how they can dispose of their WEEE free of charge at a Designated Collection Facility. Membership of the DTS is an alternative to operating in-store take-back. More details on the Distributor Take-back Scheme are provided below.

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

47. 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. In-store take-back applies irrespective of when and where the original item brought for disposal was originally purchased, and without regard to “collect on delivery” services.

48. The WEEE Directive and WEEE Regulations specify in-store take-back operating on a “like-for-like” basis, where a consumer is purchasing a new product to replace a similar product that he/she wishes to discard. Distributors are expected to adopt a reasonable and practical approach where they offer take-back. A distributor insisting on exact equivalence would run counter to the spirit of the WEEE Directive and Regulations. Reasonable examples of equivalence would be an old toaster (wherever purchased) for a

new toaster, or when a MP3 player replaces a cassette player or a DVD player/recorder for an old VCR (this may use different technology but has equivalent functions). A customer should not expect the distributor to accept a television when they buy a kettle, or a washing machine when buying an electric drill.

49. Customers may prefer to return WEEE some time after making a purchase, e.g. if they need to make a changeover between the old and new equipment, or do not wish to carry old items around while shopping. You should therefore accept WEEE within a reasonable period following a sale – e.g. 28 days. You may wish to endorse the sales receipt to show that you have deferred in-store take-back of WEEE.

50. Distributors must record the number of units of WEEE they receive, and retain the records for at least four years.

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

51. Distributors may also offer alternate arrangements for take back of WEEE e.g. individually via in-store take back or collectively establishing facilities close to a group of stores. WEEE deposited at such facilities must be managed in accordance with the WEEE Regulations and other waste management legislation and local planning requirements. Operators should either establish their facilities as private DCFs or make arrangements with PCSs to return the WEEE direct into the system by delivery to an appointed AATF. This requires agreement between a distributor and PCS.

52. Regulation 40a gives final users the right to return WEEE directly into the system for example; professional repairers who have EEE which proves to be uneconomical to repair can return equipment direct to a PCS or a nominated AATF/AE under agreement with the PCS.

### **Provision of free take-back relating to distance sellers**

53. A distance seller (e.g. an internet retailer, a mail order retailer or a tele-sales retailer) also needs to fulfil the obligation of providing free take-back facilities for consumers of EEE. This can be done by:

- Joining the Distributor Take-back Scheme which assists in funding a national network of collection facilities; or
- allowing these sales to qualify for in-store take-back through one of their local stores (where these exist); or
- providing the customer with an alternative local route for free take-back.

54. 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/or through leaflets included with purchases.

## **“Collection on Delivery” services**

55. Distributors often offer a home-delivery service to customers of large and bulky items of EEE, such as cookers and refrigerators; and sometimes an old product is collected and taken away when the new product is delivered.

56. “Collection on Delivery” is a service which many distributors choose to offer as a customer service. The fact that a distributor offers Collection on Delivery does not release him from his take-back obligation under the WEEE Regulations.

57. Distributors may continue to provide Collection on Delivery services to their customers, and may charge for this service according to their own practice and policy.

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

58. If you receive or handle waste EEE under the WEEE Regulations, you should do so in a way that optimises the re-use and recycling of components or whole appliances that are capable of being re-used or recycled. You can do this either by ensuring the WEEE is passed through a Designated Collection Facility (DCF), or by making arrangements with a Producer Compliance Scheme for the direct return of WEEE under Regulation 32 and 40a to an Approved Authorised Treatment Facility (AATF).

59. Distributors can dispose of WEEE collected through take-back by passing it on to a PCS, who cannot charge for accepting it. You are not entitled to free collection of the WEEE from your stores. In practice, you should contact PCSs and arrange either for one of them to collect it (possibly charging a transport fee) or for you to consign it to an AATF on their behalf. If you use another firm to transport the WEEE, you should make sure they are a registered waste carrier. You must keep records of any WEEE you collect and pass on in this way. (See chapter 4).

60. The easiest way of identifying which PCS has obligations for household WEEE and is operating in your area, is to find out which scheme is clearing your local authority DCFs or has arrangements with a local AATF or AE. A list of local authorities and their PCS will be available shortly on the BERR website at [www.berr.gov.uk/innovation/sustainability/weee/page30269.html](http://www.berr.gov.uk/innovation/sustainability/weee/page30269.html)

61. A list of AATFs and AEs can be found on the Environment Agency website at: [www.environment-agency.gov.uk/weee](http://www.environment-agency.gov.uk/weee)

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

62. A registered producer must provide its producer registration number to distributors when they supply EEE. The Government expects distributors of EEE to only sell EEE in the UK from a registered producer under the WEEE Regulations. If a distributor is unable to obtain a registration number from the producer it should challenge that producer and inform the relevant environment agency.

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

63. Distributors of EEE 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 distributor “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 overseas producer has not registered responsibility through membership of a UK PCS (placing EEE on the UK market, therefore a producer), and makes it available for sale (therefore a distributor);

64. The Producer Chapter (chapter 5) provides a more detailed definition of producer and more information on the responsibilities of producers of EEE.

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

### **Household EEE**

65. Producers can, on a voluntary basis show purchasers at the time 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. The cost shown must not exceed the actual costs incurred for collection, treatment, recovery and disposal of historic WEEE.

66. The showing of such costs is only allowed for a transitional period:

- until 13 February 2011 (for all EEE, except that in Category 1, Large Household Appliances); or
- until 13 February 2013 (for Category 1).

67. The Regulations make it an offence for distributors to obstruct a producer exercising his rights under Regulation 40(2) of the WEEE Regulations.

## **Distributor Take-back Scheme (DTS)**

68. The Distributor Take-back Scheme will collect a £10m fund from the retail community, the majority of which will be distributed to local authorities to assist in the development of a network of Designated Collection Facilities (DCFs) which will provide distributors with an alternative to in-store take-back of WEEE. The Distributor Take-back Scheme is responsible for registering DCFs for approval by the Secretary of State, who will ensure the availability of an adequate and accessible nationwide WEEE collection system.

69. Valpak Retail WEEE Services Ltd has been appointed to operate the Distributor Take-back Scheme for the first three compliance periods. The scheme’s performance will be kept under review, and delivery judged against an agreed operational plan, covering a range of activities including collection and distribution of retailer funding, compilation and maintenance of the DCF register, and the development and provision of consumer information to retail

members to ensure that they meet all their obligations under the WEEE Regulations. A list of DCFs that will accept WEEE from householders can be accessed from [www.recycle-more.co.uk/nav/page1768.aspx](http://www.recycle-more.co.uk/nav/page1768.aspx).

70. Membership of the DTS is entirely separate from membership of a PCS. The schemes have different roles and obligations. In particular it is not necessary for a producer to be a member of a particular PCS in order to join the DTS as a distributor, nor should it be necessary to discharge any distributor obligations through the DTS in order to join a particular PCS.

### **Joining the Distributor Take-back Scheme**

71. Membership of the Distributor Take-back Scheme will initially last for the first three compliance periods (2007, 2008 & 2009), and is open to anyone with distributor obligations in the UK.

72. The DTS has a three-tier membership structure (one-off payment for membership until December 2009) according to sales of EEE as follows:

- Large distributors with sales of EEE in the preceding calendar year greater than £1.5m will pay a fee proportional to the number of units of WEEE sold in each WEEE category;
- smaller distributors with sales of EEE in the preceding calendar year between £100,000 and £1.5m (likely to be electrical specialists) with a flat fee of £1,500;
- small distributors with sales of EEE in the preceding calendar year below £100,000 with a flat fee of £400;
- distributors who are new to the market (after 1 July 2007) should contact 08450 682572 or [info@valpak.co.uk](mailto:info@valpak.co.uk).

73. All fees are subject to VAT. Further details are available by contacting Valpak Retail WEEE Services - [www.Valpak.co.uk/dts](http://www.Valpak.co.uk/dts)

### **DTS members providing in store take back**

74. If DTS members choose to offer in store take back facilities for certain items of WEEE, they are required to record the number of units they collect and return to a PCS under regulation 32 and to keep those records for four years.

## **Distributors - Frequently Asked Questions**

### **I sell EEE directly to household users. Am I a distributor?**

Yes.

### **I sell EEE only to non-household users for their own use. Am I a distributor?**

No, not for the purposes of the WEEE Regulations. Distributor obligations do not apply in relation to sales of non-household EEE. However, your customers may ask you for information about the registered producer of the EEE, and that particular producer may ask you for information about non-household customers and sales so that they can report their sales correctly.

### **I only sell second-hand equipment. Am I a distributor?**

No, distributor obligations only apply in relation to the provision of EEE that has not been previously placed on the UK market. If you have equipment that is no longer working and becomes waste you must ensure that it is being disposed of in accordance with the WEEE legislations and Duty of Care requirements.

### **I sell only ex-demonstration, mail-order returns, open-box or surplus EEE. Am I distributor?**

Yes, ex-demonstration, “open box” EEE and mail-order returns are regarded as new EEE and therefore normal distributor obligations apply.

### **I provide EEE incidentally to my main business (credit card rewards, loyalty bonus, and advertising). Am I a distributor?**

Yes. If you provide EEE to household users on a commercial basis, then you are a distributor.

### **If I allow take-back, do I have to allow consumers to bring back any WEEE?**

Consumers may bring back items of equipment which they are replacing with an equivalent new product on a like-for-like basis. If you offer take-back you must do this for all types of EEE you sell. For example, a consumer buying a new microwave oven would be entitled to take-back of one old microwave oven as WEEE. You would not be expected to take back a completely different type of equipment, for example a washing machine for a DVD player.

### **What is “equivalent” WEEE?**

Distributors are expected to adopt a reasonable interpretation of equivalence. For example, a customer should be allowed to bring back an old video cassette recorder when purchasing a new DVD player/recorder. Even though

this is not strictly a like-for-like replacement, the new product is intended to fulfil the same function.

### **How long after a purchase should I give consumers to bring back their WEEE?**

The WEEE Regulations do not lay down a minimum period for which take-back should be offered. However, given that it is unlikely that customers will carry old items with them while shopping, distributors should accept WEEE within a reasonable period following a sale (e.g. 28 days). You may wish to endorse the sales receipt to show that an item can be returned in-store at a later date.

### **Are faulty items returned to me classed as WEEE?**

No. Items intended for repair and return to use are not regarded as waste. However, once it becomes clear that items are beyond repair and hence are to be discarded they should be regarded as WEEE. From this point they should be dealt with in accordance with the WEEE Regulations. You will have the right to return it directly into the WEEE system, by making arrangements with a producer compliance scheme or nominated AATF/AE.

### **Where do I find the information that I need to display to customers?**

The DTS provides its members with some information in a standardised format and makes various suggestions that may be applicable to your business. Non-members must ensure they clearly show the customer that they offer in store take-back. Guidance is also available to non-DTS members from the VCA on request.

### **Can I charge customers if I offer collection-on-delivery services?**

Yes, it remains at the discretion of retailers whether to charge or not for any collection on delivery services that they provide to consumers. However, any such services would not fulfil your take-back obligations Household WEEE can be returned into the WEEE system.

### **How do I do take-back if I am a mail order distributor?**

Distance sellers must either join the DTS, offer in-store take-back through one of their local stores (where these exist) or provide the customer with an alternative local route for free take-back. The distributor must tell customers how they can dispose of WEEE, for example via their catalogue, website, sales receipts, or through a leaflet included with the purchase.

### **The producer demands a large product display to show his recycling costs. What should I do?**

The WEEE Regulations give producers the right to display any costs associated with recycling historical WEEE. A distributor of EEE may not

obscure or remove a sticker on the product, but would not be obliged to erect an in-store display with the costs. Producers and distributors may negotiate between themselves the appropriate means of display.

## Chapter 5 – Producers of EEE

### Introduction

75. As a producer you have obligations both in terms of the EEE you place on the market and in terms of financing the collection, treatment, reprocessing and environmentally sound disposal of the WEEE.

76. In addition, if you sell EEE direct to household users (e.g. internet sales or a factory outlet) in the UK, you have additional obligations as a distributor of household EEE. You should therefore also read “Distributors of EEE” chapter 4.

### Definition of a Producer

77. “Producer” means any person who, irrespective of the selling technique used, including by means of distance selling:-

- Manufactures and sells electrical and electronic equipment under his own brand;
- Resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the “producer” if the brand of the producer appears on the equipment; or
- Imports or exports EEE on a commercial basis into a Member State.

78. Here, “sell” means placing on the UK market for the first according to the European Commission’s “Guide to the implementation of directives based on the New Approach and the Global Approach”<sup>10</sup> (commonly referred to as the “Blue Book”). This definition will be used by the agencies to help determine producers within the UK and their market share obligations.

79. An individual consumer or business that purchases an item of EEE abroad, and brings it into the UK for personal use, is not considered to be a producer.

### EEE covered by the WEEE Regulations

80. The WEEE Regulations follow the ten basic EEE categories set out in the WEEE Directive and described in Chapter 2. The Regulations separate out types of product that can fall under hazardous waste legislation. The compliance categories in the WEEE Regulations are therefore all of the following:

- The ten numbered product categories in Annex 1A to the WEEE Directive, excluding equipment falling in the three additional categories below;
- cooling appliances containing refrigerants otherwise in numbered category 1, including fridges and freezers;

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<sup>10</sup> Can be downloaded from <http://ec.europa.eu/enterprise/newapproach/legislation/guide/index.htm>

- display equipment – e.g. computer monitors otherwise in numbered category 3, and televisions otherwise in numbered category 4; and
- gas discharge lamps otherwise in numbered category 5.

81. A producer placing washing machines and fridges on the market in category 1 would therefore report these sales separately, and have separate obligations for ‘large household appliances’ and ‘cooling appliances containing refrigerants’. A producer of televisions is responsible for both older equipment based on cathode ray tubes (CRT), and more modern sets using LCD or plasma displays.

82. The Regulations require producers to report (via their producer compliance scheme) the weight of EEE in tonnes that are placed on the UK market. The weight of the whole electrical or electronic product itself, any electrical or electronic accessories supplied with it, and any non-electrical accessories that are specific to the product or likely to be regarded by the purchaser as part of the overall product and therefore likely to be discarded with it. You should not include packaging, instructions and other paperwork.

For example:

- The weight of a power drill should include the power lead and or/battery pack and any fitted storage or carry case, chuck key, accessory handles or battery chargers. It should not include the cardboard box or sleeve, protective padding, manual or drill bits.
- The weight of a food mixer/processor will include the power lead, mixing bowls, cutters, beaters, pushers, lids or stands but not the packaging or protective padding, or manual.
- The weight of an electric kettle should include the kettle itself, the mains lead and any separate stand but not packaging and protective padding or manuals.

### **Distinction between household and non-household EEE**

83. The WEEE Regulations differentiate between EEE intended for household (i.e. consumer use by members of the public) and non-household (e.g. professional, business or official) use. Annex C presents the suggested criteria for EEE to be considered to be non-household.

### **Summary of Producer obligations under the WEEE Regulations**

84. A Producer must:

- **Join an approved Producer Compliance Scheme (PCS)** that will undertake several actions on your behalf during your membership. It will register you as a producer with UK authorities, report the EEE you place on the UK market, arrange the collection, treatment and environmentally sound disposal of an amount of WEEE deposited at DCFs or returned under Regulation 32 and 40a, and declare this, supported by evidence, to the appropriate authorities. If you enter the UK EEE market after the registration deadline for a compliance period, you must join a PCS within 28 days.

- **Pay its Producer Compliance Scheme** according to its published fee structure and membership rules. The PCS undertakes producer obligations to finance the collection, treatment, recycling and environmentally sound disposal for:
  - Household WEEE arising in each compliance period, as the proportion given by the producers share of the UK market for EEE in each category; and
  - non-household WEEE arising in each compliance period, from:
    - EEE a producer placed on the market on or after 13 August 2005; and in addition.
    - EEE that was placed on the market before 13 August 2005, regardless of the producer, which the user is replacing with the equivalent new EEE.
- **Provide information to its Producer Compliance Scheme** about its business and on the amounts of EEE placed on the UK market on a quarterly basis, broken down by compliance category and its household or non-household nature. The PCS is required to report this information to the appropriate authorities (Schedule 6 to the Regulations lists the information that must be provided).
- **Mark the EEE placed on the UK market** with the “crossed-out wheeled bin” symbol and the producer identification mark as reported with the producer registration. Details of the crossed-out wheeled bin and date markings can be found in British Standard BS EN 50419:2006 or later. This is available for purchase from BSI online, and may be available for reference through public libraries.
- **Make information available to operators of treatment and reprocessing facilities** about your new products, to help with effective treatment, recycling and re-use. This includes information about the different materials and components of the EEE, and the location of any hazardous substances. This obligation starts for products first placed on the market from 1 April 2007, and information must be available within one year of the EEE being placed on the market.
- **Provide a producer registration number to distributors.** This confirms to them that they are purchasing EEE from a registered producer in the UK. The registration number may be incorporated into your letterheads, or provided in writing by other means when EEE is transferred. Your registration number should remain unchanged between compliance periods, even if a producer changes the PCS. It will be the same for household and non-household EEE.
- **Retain records** for a period of four years, including of the amounts of EEE placed on the UK market, broken down by compliance category and household / non-household nature.
- **Retain records of sales direct to end users in other Member States,** for a period of four years, including how they have complied with their obligations in those other Member States.

## **Product design**

85. Anyone who designs, manufactures or commissions EEE, are encouraged to improve their designs to facilitate dismantling and recovery, and in particular the re-use and recycling of WEEE and its components and materials. WEEE should not be prevented from being re-used through design decisions or manufacturing processes, unless there are overriding advantages in so doing with regard to the protection of the environment or safety.

## **Compliance periods**

86. The UK WEEE Regulations introduce annual compliance periods that run from 1 January to 31 December each year, except for the first compliance period that is shorter and ran from 1 July 2007 to 31 December 2007. PCSs will arrange for the collection, treatment and environmentally sound disposal based on WEEE arising in each compliance period. This must be reported on a quarterly basis to UK authorities, no more than one month in arrears to allow for data collection and collation.

87. The Regulations provide for pre-compliance period activities such as the approval of PCSs and producers joining PCSs, and post compliance period activities such as finalisation of reports, notification of final obligations, financial settlements, exchange of evidence and declaration of compliance. A timetable for both the first and typical compliance periods is set out at the end of this Chapter.

## **Evidence of compliance**

88. At the end of the compliance period PCS must provide the relevant environment agency with a Declaration of Compliance to show they have discharged their producer members' obligations during that compliance period. This must be provided by 1 June following the end of the compliance period.

89. Further information on the working of the evidence and settlement system is given in Chapter 11 – Evidence of Compliance.

## **Producer Compliance Schemes**

90. Producers must discharge their obligations under the WEEE Regulations through an approved PCS. Each producer must be a member of a PCS for a full compliance period. Producers may however, join a PCS for household WEEE and another for non-household WEEE. The appropriate authorities will maintain and publish lists of approved PCSs which can be accessed via their websites listed in "Contact Points for Further Information".

91. You may join a PCS that has been approved by an appropriate authority other than the authority for your location. For example a producer located in England may join a PCS which was approved by and reports to SEPA in Scotland.

92. You may be a member of a different PCS for different compliance periods – but you cannot change from one scheme to another during the course of a single compliance period.

93. PCS may set their membership conditions. For example, specialising in household or non-household obligations, smaller producers or a group of trading partners. These will be scrutinised during the approvals process to ensure that they do not hinder the intent of the WEEE Regulations.

### **Choosing a Producer Compliance Scheme - fees and charges**

94. PCS will differ in the services they provide, and in their fee structures. For example, some may specialise in particular categories, non-household WEEE or in services for smaller producers. You are advised to discuss your requirements with several PCSs for comparison.

95. Whichever PCS you join, they are likely to charge you the appropriate agency registration fee (as a producer of EEE), a fee for their administrative services, and fees for the collection, treatment, recovery and recycling of WEEE in line with your obligations. The producer registration charge is set out in Regulation 45 for England, Wales and Scotland, and for Northern Ireland the charges are set out in “The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006”<sup>11</sup>. Producers are advised to refer to para 111 which set out the annual registration fees.

96. Registration charges are tiered in relation to producer turnover. The scheme will ask you for evidence to support any claim for one of the lower charges. Without this evidence, the scheme (and you) will be charged the highest fee. If you join one scheme for household WEEE and another for non-household WEEE you will have to pay two producer registration charges.

### **How do I join a Producer Compliance Scheme?**

97. By entering a contractual agreement with the operator of the scheme. The agreement will require you to abide by the PCS’s published rules for members, and you will be required to pay the resulting charges to the PCS. It is your responsibility to join an approved PCS. UK authorities cannot advise you which PCS to join.

### **Can I set up my own Producer Compliance Scheme?**

98. The WEEE Regulations set out the process, timescale, conditions and application fee for approval of a PCS. You can as an alternative apply to establish your own PCS of which your organisation would be the only member. The requirements for registering a PCS are given in Regulation 41 and Schedule 7 of the WEEE Regulations.

### **Failure of a Producer Compliance Scheme**

99. You will be notified if the UK authorities revoke the approval of your PCS. If this occurs, you must join another PCS within 28 days for the remainder of

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<sup>11</sup> SRNI 2006 No 509

the compliance period. In the meantime, the appropriate authority will notify you of your individual obligations based on your sales of household EEE and the overall amounts of EEE you placed on the market and WEEE arising, by compliance category. If you join another PCS under these circumstances a further registration fee will be payable. It is an offence for a producer to otherwise not be a member of an approved PCS. You are responsible for your own compliance with the WEEE Regulations for any period during which you are not a member of an approved PCS.

### **Overview of the system for household WEEE**

100. PCS will receive Household WEEE from Designated Collection Facilities, or returned under Regulation 32 and 40a. This WEEE should be considered for re-use as whole appliances. PCSs may arrange for WEEE to be cleared from DCFs to either Approved Authorised Treatment Facilities (AATF) or Approved Exporters (AE) for treatment in the UK or abroad. It will also arrange for WEEE to be received for treatment by AATFs or AEs direct from distributors.

### **Obligations for household WEEE**

101. Producer obligations for household WEEE are calculated separately for each category. Each producer will be responsible for a proportion of the WEEE arising in each category in which they place EEE on the UK market, given by the producer's market share of this EEE.

102. Obligations are calculated and notified to a PCS for its collective membership. The calculation and notification of individual producers will only be made where the appropriate authority has removed PCS approval.

### **Overview of the system for non-household WEEE**

103. For non-household WEEE it is assumed that there is a closer and more contractual interaction between producers and users. Non-household WEEE is collected directly from users or through dedicated collection systems established by the obligated producer or their PCS, rather than discarded through a collection facility or distributor. The WEEE should be considered for re-use as whole appliances and the treatment of the remaining WEEE then follows the arrangements described earlier.

### **Obligations for non-household WEEE**

104. Obligations are directly related to individual sales of non-household EEE.

105. Producers are obliged to finance the collection, treatment, recovery and environmentally sound disposal of WEEE;

- which arises during a compliance period from EEE placed on the market on or after 13 August 2005; and in addition;
- from EEE that was placed on the market before 13 August 2005, regardless of the producer, which the user is replacing with the equivalent new EEE provided. You are advised to agree with the user

what if any 'historic' WEEE he wishes you to collect from him under this obligation when negotiating your sales contract. You may agree an appropriate period during which the user should make the replaced WEEE available in order for it to be considered to have been 'replaced'. Users may legitimately seek a reasonable period in order to configure new equipment ahead of its introduction into service.

106. These obligations will be discharged through a PCS. The sales of non-household EEE reported to the environment agencies via a PCS will not contribute to the calculations of obligations for household WEEE.

107. Alternative arrangements may be agreed with the end user provided they are in accordance with the WEEE Regulations.

### **Differences between the household and non-household WEEE systems**

108. Obligations for non-household WEEE are directly linked to individual discards and purchases by users. Environment Agencies do not calculate and notify obligations based on market share of non-household EEE, or total levels of non-household WEEE. Although evidence is required to support declarations of compliance in both cases, the evidence for non-household WEEE is different and cannot be traded or used to support obligations for household WEEE.

### **Showing the costs of WEEE to consumers for household EEE**

109. At the time of sale of new EEE producers can, on a voluntary basis, show purchasers the costs of collection, treatment and recovery of "historic" WEEE that results from EEE put on the market before 13 August 2005. The cost shown must not exceed the actual costs incurred for collection, treatment, recovery and disposal of historic WEEE.

110. Any showing of such costs is only allowed for a transitional period:

- until 13 February 2011 (for all EEE, except that in Category 1, Large Household Appliances); or
- until 13 February 2013 (for Category 1).

111. The Regulations make it an offence for distributors to obstruct a producer exercising his rights under Regulation 40(2) of the WEEE Regulations.

## **Producers - Frequently Asked Questions**

### **How do I register as a producer? Where are the forms?**

The UK Regulations require you to join an approved PCS, which will register you with the appropriate environment agency. You should not contact BERR or any of the environment agencies directly to arrange registration.

To register you, your compliance scheme will require information on your business, a copy of the producer mark(s) you place on EEE, and your Standard Industrial Classification code, if you have one. For the 2007 compliance period you will also need to provide EEE sales data for 2006, broken down into the 13 compliance categories and household and non-household (see Annex A).

### **Where can I find a list of approved Producer Compliance Schemes?**

The environment agencies have compiled a list of approved UK schemes, which can be found on their respective websites – see Contact Points for Further Information at the end of this Guidance Document

### **Can I register with more than one scheme?**

Yes, a producer can register with one scheme for obligations arising from sales of household EEE, and another scheme in relation to non-household EEE. Alternatively the same scheme can be used for both.

### **I have started or am about to start producing EEE, but missed this year's deadline for joining a Producer Compliance Scheme. What should I do?**

If you start placing EEE on the UK market, you have 28 days within which to join a PCS before you are committing an offence. PCSs can continue to register producers throughout the year.

Your obligations are calculated on the basis of the quantity of EEE you have placed on the market during the whole compliance period, not from the point at which you join a PCS. Therefore, when you join, you will be required to report your sales for the year to date.

### **Where do I get the “crossed out wheeled bin” symbol from?**

British Standard BS EN50419 (2006 or later) defines the marking requirement. This is available for purchase from British Standards Institute (BSI) either by phone on 020 8996 9000 or from [www.bsi.org.uk](http://www.bsi.org.uk). Your public library may be able to provide access to a reference copy.

Freely available information and artwork on the Internet tends not to be at the level of detail contained in the Standard, may be from a superseded version of the Standard, and is often presented with a disclaimer. We therefore recommend reference to a copy of the British Standard.

### **What are the date and producer markings?**

Markings on EEE should confirm that the item was put on the market on or after 13 August 2005. This can be achieved through use of a black bar under the crossed out wheeled bin symbol, which is part of the standard described above, or a date code. The VCA is the enforcement agency for product marking.

The identity of the producer of the EEE must also be clearly marked using the producer identification marks notified to the environment agencies at the time of registration.

### **Do I have to put the crossed-out wheeled bin symbol and date mark on the product or can I include them with documentation?**

You must place the symbol and date mark in a visible, legible and indelible form on the product itself, except for in exceptional cases where this is not possible because of the size or function of the product. In such cases, the symbol must be printed on the packaging, the instructions for use and the accompanying warranty (where applicable). The Standard BS EN50419:2006 explains further.

### **Should I include information with products to tell users how to dispose of WEEE?**

Yes. You are encouraged to provide such information to consumers to remind them not to dispose of WEEE with other forms of household waste.

### **How do I provide the information I am required to give to help recycling and re-use of new EEE?**

You can provide the information in a range of means e.g. physically via leaflets or brochures or via electronic media – websites etc.

### **What information do I need to provide to treatment facilities?**

As a minimum, you must include the information required to safely locate and remove the substances and components listed in Annex II to the WEEE Directive. You should also include information about any components or substances allowed under an application-specific exemption under RoHS Regulations. You might additionally include dismantling procedures, or identify components or sub-assemblies that you would find attractive for re-use.

### **How long do I need to keep providing this information for, once I stop producing the new product?**

You will need to ensure the information is available beyond the life span of the product and while those products are in the waste stream.

### **I import EEE from abroad and sell it on. Do I have any obligations?**

You are considered to be the producer if you place EEE on the UK market, which includes importing it from a foreign manufacturer for distribution within the UK. However, the WEEE Regulations allow a foreign manufacturer to register as the producer. You should satisfy yourself that any manufacturer

that you deal with has done this if you intend to rely on their registration, as in the case of a compliance failure, enforcement action would likely be taken first against the UK-based importer.

### **I am a foreign manufacturer of EEE. Do I have any obligations?**

If you are a foreign manufacturer and you sell EEE directly to end-users based in the UK, either households or businesses, you are regarded as a producer and must comply with your obligations in the UK. Non UK companies may register as producers and do not need to be a registered UK company or supply a UK address to their compliance scheme.

### **One of my clients has EEE imported directly to them, but I invoice them on behalf of the foreign manufacturer. Am I the producer?**

Yes, unless either the client or foreign manufacturer choose to become the producer instead.

### **What do I have to do if I export EEE to other European countries?**

If you sell directly to end-users in other EU member states, you are required to keep records of how you have complied with your obligations there.

The WEEE Directive has been transposed in different ways by EU member states, and you should check what your obligations are in the countries you export EEE to.

BERR commissioned a report on implementation in other member states in 2005 which can be found here: [www.BERR.gov.uk/files/file29925.pdf](http://www.BERR.gov.uk/files/file29925.pdf). The local enforcement authority or PCS may be able to provide more information on how the WEEE Directive works in their country.

### **I re-brand equipment with my own brand. Does this make me a producer?**

Yes. If you place your own brand of new EEE on the UK market you are considered a producer under the WEEE Regulations.

### **I manufacture or import EEE which is specifically intended to be re-branded by my customer. Does this make me a producer?**

You do not have producer responsibilities for any EEE that is rebranded by someone else and your brand is no longer shown, since they would be regarded as the producer in this case. However, for your own protection you should make sure that they are correctly replacing your brand and complying with their producer obligations, since if they did not then you would still be liable as the producer.

If the customer simply adds their brand to the product in addition to yours, then you remain the producer (e.g. a mobile phone company would not be considered to be the producer of a handset because they add their logo to the case which continues to show the manufacturer's brand, although they could be the producer if the handset is imported).

**If I lease rather than sell the EEE I produce, am I still a producer?**

Yes, since you would still be regarded as putting EEE on the market.

**If I only provide the finance arrangements for the leasing of EEE am I a producer?**

No - Those organisations that exclusively provide financing arrangements for EEE are not producers under the WEEE Regulations.

**If I re-badge equipment during refurbishment, does this make me a producer?**

No - The Commission's guide to Directives based on the "New Approach" states in section 2.3.1 that "placing on the market" involves making available for use within the Community for the first time. The WEEE Directive inherits this definition. Therefore a business would not be considered to be a producer of EEE they refurbish, even if this is re-badged as part of refurbishment, for EEE that remains under a producer's original reports of EEE placed on the UK market.

**I import EEE directly from abroad. Must I open each item to add my producer mark to the brand of the manufacturer?**

You must ensure that the EEE carries one of the marks that you register through your PCS. It is likely to be most efficient to arrange for the original manufacturer to place your marking on the product.

**I would like to return our products that we collect as WEEE to our main European recycling centre for assessment for re-use or treatment. Do I need to be an approved exporter?**

If evidence of treatment, reprocessing and re-use is required the WEEE exported can only be dealt with via an approved exporter as defined under the WEEE Regulations. If you wish to undertake this activity yourself you would need such approval. Because WEEE is waste, any movement of WEEE for recovery overseas must be in accordance with the rules on international movements of waste. WEEE cannot be exported from the UK for disposal.

**What are the reporting requirements on producers?**

EEE producers will have to submit data to their PCS each quarter on the type and weight of EEE they place on the market. The scheme will pass this information onto the relevant environment agency. This data will be used to work out obligations for the collection, treatment, recycling and recovery of household WEEE arising in the UK.

**How do I decide which of the categories I should report sales of products as?**

Schedule 2 of the Regulations contains examples of products which fall within the scope of each of the categories. If your product resembles any of these, it should be clear which category it falls under. For products which do not resemble any of the examples, you should consider the intent of the category description – for example, a remote-control toy car is not listed under category

seven but would nevertheless be considered an example of “toys, leisure and sports equipment”.

**My products contain a minimal fraction of EEE, but this is necessary for the primary function. Must I report the weight of the whole product or only the EEE part?**

You must report the weight of the whole product, unless the EEE is part of a product or type of equipment that does not come within the scope of the Regulations as outlined in Schedules 1 and 2.

## Chapter 6 - Producer Compliance Schemes

### Introduction

112. All producers putting EEE onto the UK market are required to join a PCS. PCS's offer administrative and practical services to producer members. They help producers discharge their obligations under the WEEE Regulations including registering producers with UK authorities, meeting the data reporting requirements and arranging clearance of household WEEE from Designated Collection Facilities (DCFs) and/or non-household WEEE to AATFs or AEs.

### Producer Compliance Scheme approval

113. To be approved as a compliance scheme you must demonstrate a capability to collect and arrange treatment and reprocessing of WEEE arising in line with your membership's collective obligations. Full requirements for PCS approval are given in Schedule 7.

114. The appropriate authorities provide the application form (WMP4) and manage the approvals process for PCS. The application fee of £12,174 must accompany each application for approval, and is not refundable. Approval lasts for up to three compliance periods. Regulation 41 describes the process, and Schedule 7 of the regulations gives the requirements for the information that must accompany an application for approval. The form includes guidance on completion and on the information which must accompany the form:

- the scheme's constitution, which sets out the PCSs legal status, the rules or Regulations that govern its relationship with its members, its fee structure; and whether it specialises in particular categories of WEEE or household or non-household. It will also outline any specific membership requirements for example if the scheme is designed for a single producer
- the scheme's operational plan, which shows how the PCS will operate to meet the obligations of its members, including details of:
  - the financial resources available to meet members' obligations, e.g. details of the assets of the scheme, financial liabilities etc.
  - the technical expertise – qualifications and relevant experience of persons employed by or otherwise working with or for the PCS. This experience, for example, would be that obtained within the waste industry or in connection with producer responsibility legislation in the UK or elsewhere;
  - the proposed arrangements to discharge the membership's obligations;
  - the ways in which the PCS will prioritise the re-use of WEEE as whole appliances on behalf of your members and how you will ensure any such WEEE is handled by genuine re-use organisations;
  - how the Code of Practice will be adopted and observed for household WEEE.

## Producer Compliance Scheme responsibilities

115. A PCS must:

- Register each producer members for each compliance period, paying the appropriate annual registration charges for each member to the appropriate authority when invoiced;
- The registration charges for England, Wales and Scotland are set out in Regulation 45 as £30 for producers who are not, and are not required to be registered for VAT, £220 for producers with a turnover below £1m in the previous financial year, or £445 otherwise. For Northern Ireland, charges are set out in “WEEE (Charges) Regulations (NI) 2006”. It is the responsibility of schemes to ensure that they have evidence to support claims that the lower charges should be applied to any of their members.
- Report the information required by the appropriate authority (and in the format specified by the authority), including:
  - Registration information about members (Schedule 6 to the Regulations lists the information that must be provided). Note for the first compliance period (1 July - 31 December 2007) the registration information must include details of sales of EEE during 2006 broken down into each compliance category and household and non-household use;
  - EEE put on the market by members, broken down into each compliance category and household and non-household use, on a quarterly basis;
  - Amounts of household WEEE collected at Designated Collection Facilities or received directly from distributors for treatment on a quarterly basis;
  - Amounts of household and non-household WEEE passed to Approved Authorised Treatment Facilities (AATF) or Approved Exporters (AE) for treatment, and WEEE re-used or refurbished as whole appliances, again on a quarterly basis;
- Arrange for WEEE to be cleared to, or received for treatment at an approved authorised treatment facility (AATF) or approved exporter (AE), and arrange for the AATF or AE to ensure the WEEE is treated to the requirements of the WEEE Regulations, and sufficient material or components are delivered for recycling or recovery to meet the recovery targets in the WEEE Regulations;
- Obtain sufficient evidence of the treatment and recovery of WEEE to demonstrate they have discharged the collective obligations of their members as notified by the appropriate agency
- Submit a Declaration of Compliance to the appropriate authority against your obligations for the treatment and recycling of WEEE, supported by evidence;

- Retain appropriate records of your activities, and to support the above requirements;
- Co-operate with other PCSs to achieve the aims of the WEEE Regulations.

### **What WEEE am I responsible for?**

116. PCS representing producers of household EEE will be given collective obligations based on their market share of their members and levels of WEEE arising e.g. if the membership of a PCS places 10% of all products in category 3 that schemes will have a 10% obligation of WEEE arising in category 3.

117. If your members sell non-household EEE, you will be responsible for WEEE that arises during each compliance period in relation to their sales.

118. Obligations for WEEE are calculated for compliance periods, which are usually a calendar year.

119. The WEEE Directive requires the prioritisation of re-use of WEEE as whole appliances. The WEEE Regulations require you to establish systems to identify products for re-use. The approval process for your scheme will consider the arrangements you make for re-use.

120. You must arrange for the treatment of WEEE that is not re-used as a whole appliance, to the required standard through an approved authorised treatment facility. You should obtain evidence that you have done this as it will be needed to support declarations of compliance made to the appropriate authorities. This applies for all the WEEE you receive or clear, regardless of the actual size and nature of your obligations. Where you have treated more household WEEE than required to satisfy your obligations, you may trade the evidence with another PCS who has a shortfall. Such trades can only be facilitated via the Settlement Centre.

121. Only Approved Authorised Treatment Facilities (AATF) may issue evidence of treatment of WEEE in the UK, and only Approved Exporters (AE) may issue evidence that WEEE has been exported for treatment to equivalent standards. You should therefore ensure that you arrange for WEEE to be delivered to, and accepted for treatment by either AATFs or AEs.

### **Recovery**

122. The WEEE Regulations allow four routes to be taken to achieve the targets specified in the WEEE Directive. These are the re-use of whole appliances, the re-use of components of WEEE, the recycling of WEEE material and the incineration of WEEE material with energy recovery.

### **Evidence**

123. Further details are available in the Chapter 11 on Evidence. In summary, evidence can only be generated by AATF or AE and contains two parts, as follows:

- The first part confirms the amount, nature and category breakdown of the WEEE that has reached either an AATF or AE for treatment.
- The second part confirms what has happened to the treated WEEE including the materials passed on to reprocessors for recycling or recovery, materials passed through customs for export and other environmentally sound disposal..

124. PCSs will obtain evidence from AATFs and AEs for the amount and type of WEEE delivered and then subsequently dealt with as described above. This evidence should also confirm that the target levels of recovery have been achieved. The PCS can then use this evidence either in support of its own declarations of compliance against its obligations for household WEEE, by compliance category, or if it holds surplus evidence relating to household WEEE can trade with another PCS with a shortfall against its obligations. Such trades can only be facilitated via the Settlement Centre.

### **Withdrawal of approval for a Producer Compliance Scheme**

125. Approval of a PCS may be withdrawn if the appropriate authority is satisfied that the operator of the scheme is not meeting his obligations under the Regulations or is in breach of the conditions of approval.

### **Producer Compliance Schemes and their members**

126. Under the WEEE Regulations PCS take on the obligations for the financing of the treatment, recovery and environmentally sound disposal of their members. A PCS cannot remove a producer once signed up, during the course of a compliance period.

### **Producer Compliance Scheme – specifics for household WEEE**

#### **Overview of the household WEEE system**

127. Household WEEE is returned from users to PCSs through several routes, including:

- Via local authority Designated Collection Facilities (DCFs) from which PCS are required to clear the WEEE;
- Through in-store take-back or collection on delivery by distributors, from where it might:
  - be made available for clearance from a DCF operated by the distributor or distributor/producer;
  - be returned to the PCS (or more likely to an AATF nominated by the PCS) directly by the distributor;
- Via other private DCFs that a PCS has contracted to clear.

128. PCSs with obligations for household WEEE are required to clear WEEE from DCF sites and accept household WEEE direct from distributors free of charge under Regulation 32. PCSs may charge distributors for the transportation of WEEE from their premises where they are not an approved DCF, but cannot make charges in relation to the treatment or reprocessing.

129. The distributor has responsibility for making contact with a PCS with household WEEE obligations and who is operating in their area.

130. PCSs are obliged to clear household WEEE from DCFs and accept household WEEE direct from distributors free of charge, but may charge distributors for the collection of WEEE from them where they have not established a DCF.

131. PCSs with household EEE obligations will arrange for WEEE to be cleared from DCFs to either an AATF or an AE for treatment in the UK or abroad. It will also arrange for WEEE to be received for treatment by AATFs or AEs direct from distributors.

132. PCSs are likely to receive household WEEE either in excess or below their requirements as final obligations will not be known until after the compliance period has ended. They cannot leave WEEE uncleared at a DCF they have agreed to clear, and nor can they stop receiving WEEE directly from distributors. PCSs must ensure that all household WEEE they receive is re-used as whole appliances or treated and recovered in accordance with the WEEE Regulations. Evidence of activity in excess of requirements can be traded via the Settlement Centre at any point during the compliance period to assist in cash flow issues

### **Obligations in relation to household WEEE**

133. Obligations for household WEEE are calculated separately for each compliance period and within EEE categories set out in the WEEE Regulations.

134. PCSs are responsible for a proportion of the WEEE arising in each compliance period within the compliance categories, for which their members have EEE sales, given by their members' market share of household EEE in each compliance category.

135. The appropriate authorities will calculate and notify PCSs' preliminary obligations by 1 April following the end of each compliance period. This will be based on PCSs' reports of household EEE placed on the market and household WEEE for which they have arranged treatment. PCSs then have a period of 14 days in which to raise concerns if the notification appears to be incorrect.

136. The appropriate authorities will notify PCSs of their final obligations by 1 May. Each PCS must make final declarations of compliance against WEEE obligations by 1 June.

137. The appropriate authorities will publish the total amounts of household WEEE that has arisen by compliance category, and the amounts of EEE reported by PCSs as having been placed on the market for each quarter period. PCSs can use these totals to assess their progress towards meeting their likely final obligations for the compliance period.

138. The agencies will also notify schemes of indicative market shares for each category for the first compliance period in 2007, based on reports of

EEE put on the market during 2006 by scheme members. PCSs may use these figures in planning their requirements for WEEE, but final obligations will not be notified until after the end of the compliance period.

### **Clearance of household WEEE from Designated Collection Facilities (DCFs)**

139. DCF operators are expected to reach agreement with PCS for clearance of household WEEE arising at their sites. A Code of Practice has been developed to govern such relationships and contains provisions for arbitration.

140. The Code of Practice sets out the practical arrangements that should form the basis for agreements and operation. Agreements are expected to last for at least one compliance period, and ideally for several, according to the amounts of WEEE received and the scheme's requirements. The Code of Practice also sets out the segregation of WEEE categories in which PCSs can expect WEEE to be collected as cooling appliances, other large white goods, display equipment containing cathode ray tubes, gas discharge lamps and 'mixed WEEE' containing the remaining categories.

141. If an operator of a Local Authority controlled DCF is unable to secure the agreement of a PCS operator to clear WEEE, he may arrange clearance, treatment and recovery himself to the required standards, and recover his costs via the Settlement Centre. In order to do this he will need to obtain evidence of treatment and recovery from an AATF or AE. This does not apply to non-Local Authority DCFs who must have a contract with a PCS for WEEE clearance.

142. In cases where a DCF fails to reach agreement with a PCS, BERR should be notified immediately.

### **Receiving household WEEE from distributors or final end users**

#### **(Regulation 32 & 40a)**

143. Under the WEEE Regulations, distributors or final end users who have taken household WEEE back in-store may return this WEEE directly to you, or an AATF or AE working on your behalf. The distributor or final end user has responsibility for making contact with a PCS with householder WEEE obligations and who is operating in their area<sup>139</sup>. It is likely that this will occur in areas where you already clear DCFs, and where you are likely to have arrangements with a local AATF or AE. You will be responsible for financing the treatment, recycling and environmentally sound disposal of this WEEE, and obtain evidence in the normal manner. You may also choose to collect the WEEE from distributors if you prefer, for which you can make an appropriate charge.

### **Individual producer responsibility for household WEEE**

144. The WEEE Directive envisages that producers should have individual producer responsibility (IPR) for "new" EEE i.e. EEE placed on the UK market after the 13 August 2005.

145. The introduction of IPR will require producers taking responsibility for collecting, treating and recycling and recovering waste from their own products. Collective arrangements would continue for historic EEE/WEEE.

146. UK Regulations require PCSs to submit a report by 31 December 2007 suggesting 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.

### **Producer Compliance Scheme – specifics for non-household WEEE**

#### **Obligations for non-household WEEE**

147. A PCS is responsible for financing the collective, treatment and reprocessing of non-household WEEE for members in the following circumstances:

- any WEEE replaced (with equivalent or similar functionality) by the EEE a member sells (during the compliance period), if it was originally purchased before 13 August 2005, whether supplied by that member or any another producer; and
- the EEE sold by a current member at any time on or after 13 August 2005 when it is eventually discarded as WEEE during the compliance period.

148. A PCS must declare compliance with these obligations to the appropriate authority, and provide supporting evidence. This evidence is not interchangeable with evidence for household WEEE and cannot be traded.

149. Where PCS obligations do not apply in relation to non-household WEEE, end users are responsible for discarding non-household WEEE.

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

150. The WEEE Regulations place obligations on producers to establish system for returning non-household WEEE and financing the treatment and reprocessing as part of their responsibilities when WEEE arises. Where a producer member's sale of EEE leads to an obligation to finance the collection and treatment of equivalent historic WEEE, you should respect the producer's decision on the 'equivalence' of the replacement, and their policy on the period during which the user should make the replaced WEEE available.

151. A producer may wish to collect non-household WEEE from the business end-users premises or can establish systems where the WEEE can be returned to collection points.

Regular UK compliance periods are set to cover full calendar years starting on 1 January – however the first compliance period covers 1 July 2007 until 31 December 2007. Significant dates within regular and the first compliance periods are:

<b>Event</b>	<b>Regular</b>	<b>First (2007)</b>
Deadline for Producer Compliance Schemes (PCS) to apply to the appropriate environment agencies (EA)	31 Aug (CP-1)	31 Jan 2007
Deadline for approval of PCSs	1 Oct (CP-1)	28 Feb 2007
Producers must join a PCS	15 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 sales data for 2006 to EA	N/A	31 Mar 2007
EA approve producers and issue or confirm registration numbers	1 Dec (CP-1)	1 Jun 2007
EA issue indicative percentage targets for household WEEE	N/A	17 Apr 2007
Compliance Period starts	1 Jan CP	1 Jul 2007
PCS may start to trade evidence	1 Jan CP	1 Jul 2007
End first quarter for WEEE reporting	31 Mar CP	N/A
Deadline for PCS to report to EA the amount of sales of EEE for the first quarter	30 Apr CP	N/A
Deadline for PCS to report to EA the amount of WEEE arising for the first quarter	1 May CP	N/A
EA issue totals for EEE and WEEE in the first quarter	31 May CP	N/A
End second quarter for WEEE reporting	30 Jun CP	N/A
Deadline for PCS to report to EA the amount of sales of EEE for the second quarter	31 Jul CP	N/A
Deadline for PCS to report to EA the amount of WEEE arising for the second quarter	1 Aug CP	N/A
EA issue totals for WEEE in the 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 to EA the amount of sales of EEE for the third quarter	30 Oct CP	30 Oct 2007
Deadline for PCS to report to EA the amount of WEEE arising for the third quarter	1 Nov CP	1 Nov 2007
EA issue totals for WEEE in the 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 to EA the amount of sales of EEE for the fourth quarter	31 Jan (CP+1)	31 Jan 2008
Deadline for PCS to report to EA the amount of WEEE arising for the fourth quarter	1 Feb (CP+1)	1 Feb 2008
EA issue totals for WEEE for the whole Compliance Period, and preliminary obligations for household WEEE	1 Apr (CP+1)	1 Apr 2008
EA issue final obligations for household WEEE	1 May (CP+1)	1 May 2008
Deadline for PCS to declare compliance with household and non-household obligations	1 June (CP+1)	1 June 2008

*CP-1 = year prior to start of compliance period.*

*CP+1 = year following end of compliance period.*

## **Producer Compliance Schemes - Frequently Asked Questions**

### **How do I apply to operate a Producer Compliance Scheme?**

You can download an application form from the Environment Agency website <http://www.environment-agency.gov.uk/weee> by following the link “What producers and compliance schemes need to know”. This form is also available from the Scottish Environment Protection Agency and the Environment and Heritage Service of Northern Ireland. These forms should be returned with supporting documentation and a non-refundable fee of £12,174 to cover up to three compliance periods. The application window is from 1 July to 31 August each year, with approval starting at the beginning of the next compliance period.

### **Where can I find more information on the requirements for running a Producer Compliance Scheme?**

Regulation 43 and Schedule 7 of the WEEE Regulations detail the conditions for scheme approval and the information to be included in an application. Applications will be assessed by the appropriate environment agency against these requirements, and you should contact them via the details on the application form if you wish to discuss the interpretation of the requirements.

### **I’m an approved PCS and I understand that some DCFs are mixing Cat A – LDA with scrap metal. Is this acceptable?**

The default position is that all 5 WEEE streams should be separately collected, where there is space on the site to do so, and that these 5 streams should be kept separate from and unmixed with other waste, including scrap metal. Where space is limited at the site, the 5 streams can be mixed, in line with the provisions of paragraph 2 of Annex 1 of the WEEE Code of practice. Here again the WEEE should be kept separate from other waste, including scrap metal. Having mixed the WEEE streams, if space still remains a problem, it is only then that consideration should be given to mixing category A with scrap metal. This arrangement will be conditional on the AATF having in place and applying a protocol to ensure that scrap metal is not used to distort the level of WEEE being handled. An AATF can submit a locally developed protocol for approval by the appropriate agency. However, the protocol’s methodology and application would be scrutinised by the agency. No protocol will be approved for adoption mid-way through a compliance period.

## Chapter 7 – Local Authorities and WEEE

152. Local Authorities have no obligations under the WEEE Regulations other than as end-users of non-household EEE (see Chapter 8).

153. However, WEEE Regulations have implications for Local Authorities who:

- receive household WEEE deposited by local residents at their civic amenity sites (CA sites) or via waste transfer stations; and/or
- make bulky waste collections from local residents.

154. As set out in Chapter 4, the regulations place obligations on distributors to facilitate householders' take-back of their waste electrical and electronic equipment (WEEE). The WEEE Regulations give distributors a choice in complying, either by providing in-store take-back services or via the Distributor Take-back Scheme, which will assist in funding the establishment of the UK Designated Collection Facility Network.

155. The Government has been keen to make use of existing waste collection infrastructure wherever possible. For that reason it has encouraged Local Authorities to register their civic amenity and bulky waste sites as DCF. Once registered the costs of collecting, treating and recycling any household WEEE that passes through DCFs is the responsibility of PCS.

### Potential benefits of registering as DCFs

156. Local Authorities registering their sites as DCFs:

- receive funding from the DTS;
- are provided with containers and get free collection by PCS of all the separately collected household WEEE arising at DCFs;
- Do not have to pay the onward costs of transport, treatment, recovery, recycling and disposal of household WEEE. Producers are responsible for these costs;
- are able to count the recycling of WEEE deposited at DCFs and collected by PCS towards their recycling targets;
- reduce the amount of waste sent for disposal and therefore reduce their disposal costs.

### Registration and Approval of DCFs

157. Valpak Retail WEEE Services has been appointed operator of the Distributor Take-back Scheme to manage the registration of DCF (either local authority controlled or privately operated) and submit sites for approval by BERR. Registration can be carried out online on the Valpak website – [www.valpak.co.uk/dts](http://www.valpak.co.uk/dts)

158. DCF site operators should ensure that their registration is accurate and kept up-to-date as PCSs make collection arrangements based on the information provided. The register is used to direct consumers to the nearest DCF where they can dispose of their WEEE. Details are available from the Recycle-More website - [www.recycle-more.co.uk/nav/page1768.aspx](http://www.recycle-more.co.uk/nav/page1768.aspx).

159. The full conditions for approval of DCFs are set out in Schedule 9 of the WEEE Regulations. DCF status can also be withdrawn if the DCF no longer meets the Schedule 9 criteria.

160. DCF operators must agree to comply with the Code of Practice for the collection of WEEE from DCF. The Code is intended to govern relations between DCF operators and PCSs and covers such things as how WEEE is collected and stored, and arrangements for access and site clearance. The Code sets out guidance and principles that form the basis and starting point for local contracts or service agreements between DCF operators and PCSs. It may also be used to aid interpretation of such contracts or service agreements. Such local contracts or service agreements may supplement the Code. A copy of the Code of Practice can be found on the BERR website.

161. Each DCF is expected to play an active role in maximising the separate collection of WEEE. The Code of Practice provides for segregation of WEEE in the following 5 categories:

- A Large household appliances other than cooling appliances,
- B Cooling appliances containing refrigerants (fridges & freezers)
- C Display Equipment
- D Gas discharge lamps (fluorescent tubes)
- E All other WEEE

162. In order to benefit from free collection, all household WEEE which is separately collected at a DCF must be made available to a PCS for collection, treatment and recovery. Where arrangements are in place with an AATF and a re-use organisation, identified WEEE removed from the DCF must be reported to the PCS/AATF for reporting and evidence purposes.

163. Public DCFs are expected to separately collect all five categories of WEEE except where capacity constraints make this impossible. Where sufficient space is available on site but fewer than five categories are collected, site operators are asked to explain the reasons when applying for DCF status. This is to ensure that collection categories are only excluded for the reasons provided for in the Code of Practice.

164. Large Household appliances are already collected at Local Authority sites because they are disposed of by residents at locations separate from other forms of household waste. Under the WEEE Regulations such goods must be treated in accordance with the WEEE Regulations and must not be simply mixed with other scrap metal products.

165. Site operators are not expected to examine household waste returned in black bags to assess if it contains small items of WEEE.

## **Bulky waste collections**

166. Many Local Authorities offer bulky waste collection services to residents, either by collecting 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. This arrangement will not be affected by the WEEE Regulations, which do not cover the collection of WEEE from households but the collection of WEEE, which has been deposited at DCFs.

167. 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 be borne by the Local Authority.

## **Non-household waste**

168. Some CA sites and waste transfer stations currently accept WEEE from small businesses, but there is no common practice and this is entirely at the discretion of the Local Authority. If there is local policy to accept "trade waste" from small distributors, LAs retain the right to make a charge for the service.

169. A pragmatic approach should be taken here given the definition of household WEEE in the WEEE Directive and, the service that the local authorities may wish to offer local small businesses. However, any WEEE that businesses take to DCFs must fall within the definition of household WEEE in the WEEE Directive and Regulations:-

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

## **Operation of DCFs**

171. DCF operators should abide by the Code of Practice and work with approved PCSs to clear WEEE arising at their sites.

172. Collection arrangements will vary according to the size of the site. Arrangements may be made with one PCS to clear the entire site or several PCSs to clear different categories of WEEE. No separately collected WEEE should be left un-cleared.

173. DCFs should handle and store WEEE in a way that optimises the re-use and recycling of components or whole appliances that are capable of being re-used or recycled.

174. DCFs may, with the agreement of the PCS with responsibility for clearing their site, make arrangements for charitable and voluntary organisations that have either been approved as AATFs, or have a formal agreement with a PCS and AATF, to screen WEEE for re-use as whole appliances at the DCF. WEEE removed from a DCF in these circumstances

will be regarded as waste until it has been tested and returned to use for its original intended purpose.

175. If such agreements are made between PCS, re-use organisations and AATFs the identified WEEE does not have to physically enter into an AATF to generate evidence. The AATF is responsible for the accuracy of all evidence issued under such arrangements and it risks its approval status in the event of anomalies being identified.

176. If a DCF operator fails to secure a PCS to clear any of its separately collected WEEE, or once a contract with a PCS is in place, the PCS then fails to clear sites, BERR should be notified as soon as possible.

177. In such cases a Local Authority may arrange treatment and recovery and use the evidence generated by this activity to recover costs – through the Settlement Centre (see Chapter 12 for information relating to the Settlement Centre) In order to do this the WEEE must be transported, treated, recycled and recovered in accordance with the requirements of the WEEE Regulations.

178. Agreement to use the Settlement Centre will be granted by BERR on an individual basis, will be time limited and based on the following criteria:

- Date at which the DCF was approved – i.e. the earlier the DCF was approved the earlier BERR expects arrangements to be in place with a PCS.
- Demonstration to BERR that a procurement process and/or negotiations are taking place to identify a PCS to clear sites. The local authority or the site operator will be required to inform BERR of the timetable and will be notified of the cut off date for depositing evidence into the Settlement Centre by BERR;
- Local authorities or the site operators must be able to demonstrate that they have not been able to reach agreement with a PCS for clearance of their sites. Any disagreements between LAs/site operators and PCS will be referred to arbitration in line with the Code of Practice

179. Local Authorities are expected to continue to observe the principles of value for money in arranging the transportation, treatment and reprocessing of WEEE arising at their sites when using the Settlement Centre.

In order to obtain approval for access to the Settlement Centre, local authorities should contact BERR at [www.weee@berr.gsi.gov.uk](mailto:www.weee@berr.gsi.gov.uk)

## **Local Authorities - Frequently Asked Questions**

### **What are the benefits of being a Designated Collection Facility?**

A DCF is entitled to free clearance of WEEE by PCSs. The DCF operator is therefore not responsible for any of the costs of treating and recycling WEEE that passes through it. Configuring a site to become a DCF and accepting separately collected WEEE will positively encourage householders to dispose of electrical waste in a more environmentally sound manner.

### **What conditions do I have to meet to become a DCF?**

To become a DCF and get the right to free clearance by a PCS, you must abide by the DCF Code of Practice, which governs aspects of operation such as how WEEE is collected and stored, and arrangements for access and clearance. A copy of which can be found on BERR website. You should also have the appropriate licences or exemptions for waste storage and or treatment, as well as planning consent. The full conditions for approval as a DCF are set out in Schedule 9 of the WEEE Regulations.

### **Do I have to collect all thirteen of the categories of WEEE separately to become a DCF?**

No. It has been agreed that the majority of DCFs will collect at most five streams of WEEE. These are the three hazardous categories (cooling appliances, TVs and monitors, and gas discharge lamps), large household appliances excluding cooling appliances, and “mixed WEEE” (which covers all the remaining categories). A protocol-based approach will be used to estimate the breakdown by category of “mixed WEEE”. A DCF may register to collect one, several or all of these five streams. Any categories collected not included in the DCF registration must be disposed of in line with other waste regulations.

### **What kind of containers do I have to provide to collect WEEE?**

WEEE containers for DCFs will be provided by PCSs, therefore the DCF is not responsible for this cost.

### **Can anyone set up a DCF, or just Local Authorities?**

Anyone may seek approval for a DCF that meets the criteria in Schedule 9 of the WEEE Regulations. In addition to Local Authorities, distributors, producers, producer compliance schemes and re-use organisations may be interested. Operators of non-Local Authority DCFs must ensure they have relevant agreements in place with a PCS before accepting WEEE.

## **How do I register my site(s) as a Designated Collection Facility?**

To register as a DCF, you should contact the Distributor Take-back Scheme operator, Valpak Retail WEEE Services – [www.vaplak.co.uk/dts](http://www.vaplak.co.uk/dts). The DTS operator will carry out the registration of DCFs, and will submit any site that meets the criteria set out in Schedule 9 of the WEEE Regulations to BERR for approval. The Secretary of State may withdraw DCF status from sites which are found not to meet these criteria.

## **Can I choose what types of EEE I want to allow the compliance scheme to clear?**

In line with the Code of Practice, DCFs are expected to collect all five categories of WEEE unless site capacity does not allow this. You may make arrangements with different PCSs to clear different categories or one PCS to clear all five categories.

## **Can I sell some of the WEEE I can make a profit on, and have the PCS clear the remainder?**

No - If you register as a DCF you should not “cherry pick” items of WEEE for profit.

## **I have existing contracts in place for the operation of my sites, or for the clearance of waste from them. Can I still register as a DCF?**

Yes, but continuation of existing arrangements will be subject to PCS agreement.

## **What do I do if I have a problem with the performance of the Producer Compliance Scheme who is supposed to clear my site?**

If a PCS fails to clear WEEE as scheduled, DCF site staff should contact the designated senior representative of the PCS, which then has 24 hours or 12 site opening hours to clear the WEEE. If this does not occur, the DCF operator may finance the treatment and recycling of WEEE himself and seek compensation.

The Code of Practice sets out the procedures for dealing with disputes between DCF operators and PCSs, including a model arbitration procedure for disputes that cannot be resolved within five days.

## **Can I charge people for depositing WEEE at the DCF?**

No. A DCF may not charge members of the public for accepting household WEEE.

**Can I charge a Producer Compliance Schemes for the right to come in and clear my DCF?**

No. A DCF operator cannot charge PCSs to access the site for the purposes of clearing WEEE.

**I am a DCF and have space problems so can I mix my LDA with scrap metal to ease this problem?**

The default position is that all 5 WEEE streams should be separately collected, where there is space on the site to do so, and that these 5 streams should be kept separate from and unmixed with other waste, including scrap metal. Where space is limited at the site, the 5 streams can be mixed, in line with the provisions of paragraph 2 of Annex 1 of the WEEE Code of practice. Here again the WEEE should be kept separate from other waste, including scrap metal. Having mixed the WEEE streams, if space still remains a problem, it is only then that consideration should be given to mixing category A with scrap metal. This arrangement will be conditional on the AATF having in place and applying a protocol to ensure that scrap metal is not used to distort the level of WEEE being handled. The AATF will need to ensure that the environment agencies are happy with the methodology and application of the protocol prior to its application.

## Chapter 8 – Non-household EEE & WEEE

180. The WEEE Directive also covers EEE sold to non-household users and EEE discarded as waste by non-household or business end-users in the UK.

181. The WEEE Regulations reflect the WEEE Directive in implementing obligations on producers of EEE sold to non-household users in respect of EEE and WEEE; and in some circumstances, on non-household users who discard WEEE in the UK.

182. The obligations in the WEEE Regulations with respect to non-household EEE and WEEE reflect (i) the provisions of Article 9 of the WEEE Directive (as amended by a follow up EU Directive, 2003/108/EC); and (ii) other provisions of the WEEE Directive related to general obligations on producers of EEE.

### Non-household EEE obligations

183. The WEEE Regulations apply the same approach to the definition of producers of EEE for non-household use as for household use. So you are a producer for the purposes of the WEEE Regulations if you are:

- A manufacturer of EEE, selling under your own brand in the UK; or
- a business based in the UK selling under your own brand EEE manufactured by another person; or
- a professional importer introducing EEE to the UK market; or
- a business based in the UK that places EEE in other European Members States by means of distance selling.

184. Producers who place non-household EEE onto the UK market have obligations in respect of this non-household EEE; and also in relation to non-household WEEE.

185. The obligations of producers in relation to EEE they put on the market for non-household use are in line with those which apply in respect of EEE sold to household users. These are to:

- Join an approved Producer Compliance Scheme (PCS) in a similar manner as for household EEE and WEEE, and via a PCS report the amounts of non-household EEE they put on the UK market, and discharge their obligations with respect to non-household WEEE via a PCS;
- mark EEE to encourage separate collection, according to the requirements of the WEEE Regulations, including application of the crossed-out wheeled bin symbol and ensuring producer identification marking; and
- provide information on each type of new EEE put on the market to assist those engaged in treatment, recovery and recycling activities. This obligation starts for products first placed on the market from 1 April 2007, and information must be available within one year of the EEE being placed on the market.

## Non-household WEEE obligations

186. Producers have obligations in respect of non-household WEEE in the following circumstances:

- Where the producer puts EEE put onto the UK market for non-household use after 13 August 2005, and when this EEE is subsequently discarded as waste by a non-household user in the UK the producer must finance collection, treatment, recycling and recovery and environmentally sound disposal of this EEE when it is discarded as WEEE in the UK.
- Where the producer sells EEE during a compliance period to replace EEE for non-household use put on the UK market prior to 13th August 2005 (by him or another producer) the producer must finance collection, treatment, recycling and recovery and environmentally sound disposal of the EEE being discarded as WEEE at that point by the non-household user.

187. In these circumstances, the producers' obligations are to:

- Finance the costs of collection, treatment, recovery and environmentally sound disposal of the WEEE for which they have responsibility, according to the requirements of the WEEE Regulations; and
- report evidence (via its PCS) to the appropriate environment agency (the one with which they are registered) to show that they have complied with the WEEE Regulations.
- Although producers, under the circumstances set out above, have a legal obligation to finance the costs of the collections and treatment of WEEE from non-household users, it is left for producers to put in place systems to provide for this to happen, It should be noted that business users (ie. Users of WEEE from non-private households) do not have (a) a legal right to collection from their own premises, or (b) a legal right of free access to the DCF network.

188. The WEEE Regulations do not prevent any producer, or business end user making their own contractual arrangements which while not following the default arrangements will ensure the WEEE is correctly treated and reprocessed and commercial relationships maintained.

For example:

- Producer A is a member of a collective PCS but wishes to continue his relationship with a long-standing business customer. Producer A provides new equipment to its customer and arranges the treatment and reprocessing of historic replaced WEEE directly with an AATF.
- The Producer must still supply their PCS with all relevant sales data on a quarterly basis and ensure all evidence of treatment and reprocessing is passed to the PCS to enable it to submit a Declaration of Compliance at the end of each compliance period.

- Alternatively, Producer A may have an agreement with his customer that the business end-user will take responsibility for the equipment when it reaches its end of life. The Regulations do not place obligations or requirements on what form any commercial arrangement may be in this regard. The business end-user is obliged to deal with the WEEE in accordance with the WEEE Regulations in relation to the treatment recycling & recovery and environmentally sound disposal of the WEEE. If adopting such an agreement both parties should ensure they have documented and auditable proof that such an agreement has been reached.

189. Where a producer of non-household WEEE has an established system of collection or take-back from business end-user customers this can continue to be used for the purpose of WEEE

### **End-user responsibilities**

190. If historic WEEE (WEEE from products placed on the market before 13 August 2005) is not being replaced by new EEE serving an equivalent function, the end-user is responsible for arranging and financing its collection and treatment themselves in accordance with the WEEE Regulations.

191. For all other non-household WEEE, there should be a responsible Producer Compliance Scheme that can be called on to collect and treat the WEEE unless the producer has made alternative arrangements with the end-user. The register of producers on the Environment Agency website gives details of which PCS producers are member's of. Producers or PCSs who make alternative agreements with end-users for dealing with WEEE under the WEEE Regulations should keep records of this in order to demonstrate how they are complying with the Regulations.

### **Producer Compliance Schemes**

192. A PCS may offer services in relation to household WEEE, non-household WEEE or both. The conditions for and method of approval would be similar in each of these cases, and are explained in Producer Compliance Scheme Chapter 6. A scheme that intends to deal solely with non-household WEEE would not need to make arrangements to clear WEEE from Designated Collection Facilities, and would not therefore need to include these details in its operational plan.

193. Although obligations for non-household WEEE are not related to market share, producers must report via their PCS the quantity of non-household EEE they put on the UK market each quarter. This will be broken down by each of the categories in the WEEE Regulations and make reports to the environment agencies following the timetable outlined in the PCS Chapter.

194. PCSs must also make quarterly reports to the appropriate authority on the quantity of non-household WEEE in each category which they or their members have sent to AATFs and Approved Exporters.

195. Schemes must make a Declaration of Compliance by 1 June of the year following a compliance period. In relation to non-household WEEE, this

should include the total quantity sent for treatment by the scheme and its members, supported by copies of all the related evidence notes.

### **Re-use**

196. As with household WEEE – the re-use of whole appliances should be prioritised for non-household WEEE where this is appropriate.

### **Distributors and intermediaries**

197. There are no obligations relating specifically to the distribution of EEE to non-household users. However:

- As a distributor of EEE, you should make sure that your supplier gives you their producer registration number to show that they are registered and complying with their obligations;
- if you are importing EEE from overseas and a producer has not registered for this EEE, you will be regarded as the producer having put that EEE on the UK market and be required to join a PCS;
- as an end-user buying EEE from an intermediary, you should ensure that they pass on information about which producer is responsible for it, so that you can trace who to contact to arrange disposal at the end of its life, or in relation to historic WEEE that you are replacing with the new EEE.

### **Users of non-household EEE**

198. The WEEE Regulations place financial obligations on producers in terms of the collection, treatment, recovery and the environmentally sound disposal of WEEE. This includes EEE that is used for official, professional, commercial or business purposes. EEE sold for non-household use must also be treated and recycled in an environmentally sound manner when discarded as WEEE.

199. The WEEE Directive and WEEE Regulations acknowledge that the supply chains for such EEE differ from those for consumer EEE, and while placing obligations by default on the producers of such EEE (and their PCS, provide for alternative supply-chain contractual agreements. The business user may therefore accept responsibility for the end-of-life treatment of the EEE he buys.

200. The WEEE Regulations implement the WEEE Directive by making non-household users responsible for the end of life treatment of WEEE which was originally placed on the market before 13 August 2005, and which is not being replaced with new EEE.

### **Obligations for non-household WEEE**

201. Wherever the producer is not responsible for financing the collection and treatment of non-household WEEE, the end user of the EEE is responsible.

202. A producer selling EEE for non-household use is by default obliged to finance the collection, treatment and recycling in an environmentally sound manner of:

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

203. The collection, treatment and recovery may be undertaken either by the producer himself, or his PCS.

204. It is difficult to set rules to precisely define “equivalence” or “same function”. Producers and users of non-household EEE are expected to adopt a reasonable and practical approach when they undertake like-for-like transactions. Reasonable examples of equivalence would be an old CRT computer monitor for a flat screen monitor.

205. The producer selling non-household EEE may come to an alternative contractual arrangement with regards to WEEE with the purchaser of EEE. 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.

206. If there is no such negotiation and agreement, the responsibilities remain as set out above. Where the end user is not responsible, the producer must arrange for the collection, treatment, recovery and disposal himself, or pay his PCS to do it on his behalf. In the future you should therefore consider carefully how you wish to discard EEE that you no longer need when you are purchasing new EEE.

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

207. The Regulations do not restrict or prevent you from selling or donating EEE for re-use. Where this involves export from the UK, you should consult the relevant environment agency to establish whether the equipment would be considered to be waste at this time and therefore subject to controls. Where you are discarding WEEE in other circumstances, you must ensure that it either passed back to a producer or their PCS, or consigned to an authorised treatment facility (ATF) for treatment, recycling or environmentally sound disposal.

207. Where producers remain responsible for the end-of-life treatment of WEEE, you should identify which producer is responsible, and in the first instance unless the producer has indicated otherwise, approach their PCS with details of the WEEE, when it will be available, and where it is located.

209. Producers or PSCs may also suggest that you contact a local charity or other re-use organisation that they may nominate for them to either collect or screen the WEEE for re-use or refurbishment. The Regulations encourage re-use of whole appliances, and any such collection from you will be free of charge.

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

210. Users of non-household EEE are not required to declare compliance or provide WEEE evidence to the appropriate authority where they arrange and finance the disposal of WEEE. The WEEE Regulations do not exempt such users from the requirements of other waste legislation for the transfer of waste and retention of records.

## **Non-Household EEE and WEEE – Frequently Asked Questions**

### **As a non-household user I wish to dispose of non-household electrical equipment after 1 July 2007. What should I do?**

If you are purchasing new EEE to replace like-for-like EEE then you should arrange with the producer of the new product for them or their compliance scheme to collect and dispose of the old EEE. If you are discarding old EEE without making a like-for-like purchase of new EEE you will need to finance the costs of treatment, recovery and environmentally sound disposal of this WEEE.

For all EEE purchased on or after 13 August 2005 the producers of that equipment are responsible for the financing of its collection, treatment, recovery and environmentally sound disposal at the end of its life. You should contact the producer you purchased the equipment from or its PCS to arrange for this.

### **My supplier wants me to take responsibility for the costs of dealing with WEEE. What should I do?**

When you buy EEE, you may agree with your supplier to take responsibility for dealing with the equipment at the end of its life. This means that you would not have the right to call on the producer to collect and dispose of the product for free, and would have to make arrangements for and fund the treatment and recycling yourself. This is clearly a commercial decision for you to make.

### **The producer of my product refuses to deal with the WEEE even though he is responsible. What should I do?**

You should contact the appropriate enforcement authority: The Environment Agency in England and Wales, the Scottish Environment Protection Agency, or the Department of the Environment in Northern Ireland.

### **I purchase EEE from a wholesaler who doesn't pass on the Producer's EEE registration number. What should I do?**

You should be aware that without the producer registration number you will not be able to ensure that the appropriate producer or its producer compliance scheme deals with the WEEE. Suppliers of EEE including wholesalers should always be in a position to supply a producer's EEE registration number, as it is a legal obligation on producers under the WEEE Regulations to supply this when selling EEE to a distributor. If they refuse to do so you can report them to the enforcement authorities. A list of registered producers is available on the Environment Agency website at [www.environment-agency.gov.uk/business/1745440/444663/1106248](http://www.environment-agency.gov.uk/business/1745440/444663/1106248).

### **Why am I being asked by one of my business customers to take back WEEE that I didn't produce in the first place?**

Under the WEEE Regulations, when you sell new equipment to replace old equipment on a like-for-like basis, you as the producer are responsible for the WEEE.

**Must I collect WEEE from business end users?**

You are obliged to finance the collection of WEEE but the Regulations do not stipulate that you must arrange for this at a business premise. You can provide for this by putting in place an appropriate system e.g. collection points.

**Am I responsible for EEE I import for professional use?**

Yes, if you are using EEE for your own business use then you will be responsible for its treatment and recycling. You would not have obligations as an importer of EEE or need to register as a producer.

## **Chapter 9 - Treatment Facilities and Exporters of WEEE**

### **Authorised Treatment Facilities (ATFs)**

211. If you intend to treat WEEE you must be an ATF, have an appropriate waste management licence, PPC authorisation, or an appropriate exemption in accordance with Part II of the Environmental Protection Act 1990 and the Waste Management Licensing Regulations 1994 (as amended by the WEEE Management Licensing Regulations) (separate Regulations cover England and Wales, Scotland, and Northern Ireland). ATFs will then need to operate in accordance with the terms of the licence; authorisation or exemption and treat WEEE according to the Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRRT) and Treatment of Waste Electrical and Electronic Equipment published by Defra and Devolved Administrations (see further reading).

212. To issue evidence of treatment and recovery of WEEE and evidence of re-use of whole appliances, the ATF must seek and be granted approval by the environment agencies to become an AATF.

### **Approval of Authorised Treatment Facilities (AATFs)**

213. PCS can only obtain evidence of treatment, recycling and re-use of whole appliance of WEEE in the UK from an ATF that has been 'approved' by the relevant environmental agency. The first ATF receiving WEEE from a DCF will be required to issue the evidence. The approval procedure for AATFs is set down in Part 8 and Schedule 8 to the Regulations.

214. In order to be approved, an ATF should make an application to the appropriate authority and that application must include the information listed in Part 1 of Schedule 8 to the Regulations. The application must be accompanied by an approval fee, currently set at £500 for operators that will be issuing evidence for 400 tonnes or less of WEEE during the approval period (1 January (or from date approved) to 31 December in a given year) and £2,590 for operators that expect to provide evidence for more than 400 tonnes during the approval period.

215. AATFs are required to provide quarterly reports to the relevant environment agency showing:

- The amount of WEEE (in tonnes) received for treatment,
- The amount of WEEE (in tonnes) treated at an AATF site,
- Amount of WEEE (in tonnes) sent to a different ATF for treatment (including the name and address of the operator of that ATF and of the treatment site if different),
- The amount of WEEE (in tonnes) delivered to a reprocessor for recovery or recycling (including the name and address of the reprocessor and the address of the site where the recovery or recycling was carried out)
- The amount of WEEE sent for re-use of whole appliances (in tonnes),

- The amount of WEEE (in tonnes) delivered to an approved exporter for treatment and recovery or recycling outside the UK (including the name and address of the exporter)

216. Reports must be provided by the 1 May, 1 August, 1 November in a given approval period. A report is also required by 1 February in the year following the end of the approval period in question. This is in relation to the 4<sup>th</sup> quarter of the approval period in question. The reports must cover each category of WEEE, and report on household and non-household WEEE separately.

217. The operator of an AATF (or the approved exporter) is also required to provide the relevant environment agency with a report from an independent auditor confirming that the evidence notes issued by the AATF or approved exporter are consistent with the amount of WEEE received or exported for treatment, recovery or recycling or re-used as a whole appliance in the relevant approval period.

218. If an AATF fails or is likely to fail to comply with the conditions of approval, or knowingly or recklessly provides false information, the environment agencies may cancel or suspend the approval of the AATF. Therefore, the AATF will not be able to issue producers with evidence of compliance.

### **Approved Exporters**

219. Exporters must go through a similar approval procedure to AATFs, if they wish to provide evidence of compliance to producers. However, WEEE can be exported for both treatment and recovery or just for recovery. AE can only issue evidence where they have exported whole WEEE for re-use overseas or for treatment, recovery and recycling. Where WEEE has been treated at an AATF prior to export, the AATF will issue the evidence. The AATF will need to ensure that WEEE is exported by an approved exporter and that they can get access to the documentation to support their evidence note.

220. Evidence notes can only be issued by exporters in respect of WEEE that has been exported in accordance with legislation on the Transfrontier Shipments of Waste (Council Regulation (EEC) No. 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community, as amended by Commission Regulation (EC) No. 2557/2001) for treatment, recovery or reprocessing at facilities that operate to standards equivalent to domestic ATFs.

221. This means that the components listed in Annex II of the Directive are removed, the technical requirements in Annex III of the WEEE Directive are satisfied and that the operator of the overseas facility operates under any necessary permit or authorisation to operate, issued by the competent authority of that country.

222. In the case of WEEE exported for recovery, the overseas reprocessors need to operate under the necessary permit or authorisation to operate issued by the competent authority of that country.

223. AEs will need to provide auditable evidence to the satisfaction of the relevant environment agency that the WEEE was treated and/or recycled in accordance with the conditions mentioned above.

### **Reprocessors**

224. A reprocessor is a facility that carries out recovery or recycling and holds a PPC authorisation, a waste management licence or registered exemption. “Recovery” and “recycling” are defined in the Regulations. For the purposes of meeting the WEEE Directive targets, “recovery” includes incineration with energy recovery and recycling. Recycling is ‘the reprocessing in a production process of the waste materials for the original purpose or for other purposes’.

225. In addition to evidence notes in relation to the re-use of whole appliances, an AATF can only issue evidence for the treatment of WEEE at an ATF and the recovery and recycling of WEEE at a reprocessor. Collecting, sorting, treating and processing WEEE is not recycling and evidence from AATFs covering these types of activities will not demonstrate compliance with the recovery and recycling requirements.

226. For the purposes of achieving the recovery targets of the WEEE Regulations, an AATF can only obtain and provide evidence notes to producers and schemes if it has obtained evidence that WEEE materials have crossed the gate of a reprocessor, or once the WEEE has been cleared by customs for shipment overseas by an Approved Exporter. It is not enough to show that materials have left the AATF.

### **Evidence**

227. The evidence process is described in more detail in Chapter 11.

228. AATFs and AEs have a responsibility to ensure that evidence notes are issued on behalf of PCS who they have contracted with for the purpose of WEEE, or to a local authority DCF operator 226. Evidence notes can only be issued by an AATF when treated materials derived from WEEE have passed into a reprocessing facility or by an AE when either untreated WEEE or materials derived from treated WEEE have passed through customs ready for export. Note that if materials derived from treated WEEE have passed via an AATF, then it is the AATF, not the AE that should issue the evidence.

### **Regulation 32 – Regulation 40a**

229. Under Regulation 32 distributors who are discharging their obligations through in store take-back have the right to return WEEE directly into the system. In practice this will work by the distributor contacting a PCS and arranging to return WEEE direct to an AATF of the PCS's choosing. In such cases the WEEE deposited at your facility should be added to the account of the relevant PCS and evidence issued accordingly. Regulation 40a gives final users the right to return WEEE directly into the system e.g. professional repairers who have EEE which proves to be uneconomical to repair can return

the equipment direct to a PCS or a nominated AATF/AE under agreement with the PCS.

### **Audit Requirements**

230. The Regulations require AATF/AE to be audited by an independent third party. It is the responsibility of the AATF/AE. Guidance on the audit requirements can be accessed from [www.environment-agency.gov.uk/weee](http://www.environment-agency.gov.uk/weee).

### **Protocols**

231. Defra has developed Protocols to assess the categories of WEEE likely to be within loads of separately collected mixed WEEE from DCF sites.

232. These Protocols are a guide to help with reporting of WEEE arising. You have the flexibility to develop, in partnership with the PCS, alternative protocols. If choosing this option you must ensure the environment agencies are happy with your methodology. The agencies will publish guidance on how and when to submit proposals for new protocols in due course.

233. In taking delivery of separately collected WEEE you should apply the appropriate protocol to assess the level of contamination. For example, the Defra Protocol currently estimates 14% contamination in a load of mixed WEEE. You should therefore report achievement of the targets based on 86% by weight of the mixed load.

234. Defra have developed a web based protocol calculator which allows you to obtain the protocol values by simply entering the amount of WEEE you have received on an electronic form. The tool is available at: [www.weeeprotocol.org.uk](http://www.weeeprotocol.org.uk)

### **Re-use of whole appliances**

235. The evidence note template requires AATFs/AEs to give details of whole appliances that have been made available for re-use. Under the regulations only an AATF/AE can issue evidence notes including evidence of re-use. To satisfy this requirement if you are not a refurbisher you are encouraged, in partnership with your PCS customers, to develop working relationships with genuine re-use organisations (regardless of whether they are charitable or commercial). The arrangements you make are a matter between yourselves, the PCS and the re-use body.

236. It is vital however that all agreements are appropriately documented and that all records are available for audit purposes. It is also important to remember the AATF/AE is ultimately responsible for the validity of evidence issued.

237. If such arrangements are in place it is not necessary for the identified appliances to be physically handled by an AATF. Provided that appropriate records are maintained, they can be handled directly by the reuse organisation on the PCS and AATFs behalf and then transported directly to the reuse facilities.

238. Evidence is required to demonstrate not only the amounts of WEEE arising but also the level of recovery in line with the targets specified in the regulations. Reuse of whole appliances will generally equal 100% recovery. The reuse of whole appliances cannot however be off set against recovery targets for appliances sent for treatment.

## **Approved Authorised Treatment Facilities (AATFs), Reprocessors and Exporters – Frequently Asked Questions**

### **Do I need waste licences to handle and treat WEEE? Do I need “approval”?**

You need either appropriate waste management licences or exemptions in relation to any waste that you want to handle or treat, including WEEE. If you have such licences or exemptions and intend to treat WEEE, you would be regarded as an ATF.

ATFs will have to meet the new treatment requirements for separately collected WEEE. These are laid out in the Waste Management Licensing Regulations 1994 (as amended by the WEEE Management Licensing Regulations).

Guidance on the new treatment requirements is available on the Defra website and will take effect when the Regulations come into force.  
<http://www.defra.gov.uk/environment/waste/topics/electrical/index.htm>.

Any WEEE can be treated by any ATF, but separately collected WEEE must first pass through an “approved” ATF (AATF). Only AATFs or AEs can issue the evidence that compliance schemes need that WEEE has been treated to the required standard.

### **What about if I want to export WEEE?**

If you export WEEE for treatment and/or reprocessing overseas you will need to be approved if you wish to issue WEEE evidence notes. If you seek approval, you must also register the sites to which you wish to export. As an exporter of WEEE there is no obligation on you to become approved, this will be a commercial decision for you, but again, PCSs may be reluctant to send treated or untreated WEEE to exporters that cannot provide them with evidence. Even if you choose not to be approved as an exporter you will still need to comply with Waste Shipment Regulations, which apply to the export of waste from the UK.

### **Are there any restrictions on where I can export WEEE to be treated?**

You must seek approval from the appropriate environment agency for any site that you want to export WEEE to. For sites within the European Economic Area (EEA)<sup>12</sup>, approval will be granted provided the agency is satisfied that the site will act in accordance with the WEEE Directive. For sites outside the EEA, the agency will also have to be satisfied that treatment standards there are equivalent before granting approval. When you export WEEE, you will also need to make sure you comply with the Waste Shipment Regulations.

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<sup>12</sup> EU Member States plus Norway, Iceland and Liechtenstein

### **How do I apply to become an approved exporter or approved authorised treatment facility?**

You should apply to the appropriate environment agency. Approval is conditional on satisfying the requirement set out in Schedule 8 of the WEEE Regulations.

Applications for such approval require an application fee of £2,590 or, where the quantity of WEEE to be treated is less than 400 tonnes during the compliance period, £500. The cost for an exporter to extend approval to additional overseas sites is £110 per site.

### **Do I need approval to reprocess materials arising from WEEE?**

There is no specific approval necessary for reprocessors or recyclers of WEEE under the Regulations. You will have to make sure that your PPC authorisation, waste management licence or exemption covers the activities you do in relation to WEEE. You may be asked to give information to AATFs, compliance schemes and/or producers on the types and quantities of WEEE that you reprocess or recycle.

### **Can I issue evidence for WEEE materials which I have sent to a reprocessor but might not have yet been dealt with?**

You may only issue evidence notes for recycling and recovery of WEEE materials where you have proof that they have been received by a suitable reprocessor. Proof of having sent them from an ATF is not itself enough. It is also necessary that materials are capable of being recovered or recycled within a year of the end of the compliance period in which the evidence note is issued.

## Chapter 10 – Reuse of WEEE as Whole Appliances

239. The WEEE Regulations place obligations on producers and their PCS to prioritise, where appropriate, the reuse of whole appliances. Their actions in this area have to be reported to the relevant environment agencies as part of their compliance.

240. The reuse sector (both charitable and commercial) already plays a valuable role in promoting reuse of WEEE as whole appliances. The WEEE Regulations should act as a further catalyst to support such activity. The work of these groups has both environmental and socio-economic benefits. They can contribute to the delivery of both producer and Local Authority objectives. In this respect compliance schemes may also find it advantageous for public relations purposes to name the reuse organisations in each community with whom they are in partnership and so encourage the uplift of serviceable, but unwanted, appliances out with their take back obligation.

241. To encourage such activity evidence notes (only if generated by either an AATF – or an AE) can include details of whole appliances identified for reuse be included and off set against a WEEE obligations.

242. The evidence note template requires AATFs/AEs to give details of whole appliances made available for reuse. If whole appliances for reuse are to be off-set against producer obligations affective working relationships/partnerships must be in place between PCS/AATF/DCF operators and the reuse sector.

243. It is vital however, that all agreements are appropriately documented and that all records are available for audit purposes. It is also important to remember that the AATF/AE is ultimately responsible for the validity of evidence issued.

244. If such arrangements are in place it is not necessary for the identified appliances to be physically handled by an AATF. Provided that appropriate records are maintained, they can be handled directly by the reuse organisation on the PCS and AATFs behalf and then transported directly to the reuse facilities.

245. Evidence is required to demonstrate not only the amounts of WEEE arising but also the level of recovery in line with the targets specified in the regulations. Reuse of whole appliances will generally equal 100% recovery. Reuse of whole appliances cannot however be off set against recovery targets for appliances sent for treatment

246. This inclusion of reuse activity does not distort the market share calculations in any way – all WEEE that is separately collected at DCFs and via Regulation 32 will be used in the calculation of PCS obligations against their market share of EEE placed on the market during the compliance period.

247. The inclusion of reuse of whole appliances in evidence returns will provide the strongest incentive for PCSs to work with genuine reuse organisations in prioritising reuse of whole appliances where appropriate. The level of recovery for whole appliances cannot however be used to off-set against recovery targets e.g. A PCS has an obligation of 100 tonnes. This is satisfied by the PCS collecting 100 tonnes from DCF sites or via Regulation 32. Of the 100 tonnes – 20 tonnes of whole appliances are identified for reuse with 80 tonnes being sent for treatment and reprocessing. The PCS must achieve an overall recovery target for the 80 tonnes passed for treatment. Recovery targets by category are stated in Regulation 26.

## **Reuse of WEEE as whole appliances– Frequently Asked Questions**

### **Are there any restrictions on which reuse organisations a Producer Compliance Scheme can send WEEE to?**

PCSs handling WEEE should ensure that WEEE sent for reuse as whole appliances via an AATF or AE is to genuine reuse organisations which have the appropriate waste management licences or registered exemptions. They must intend to refurbish the equipment and make it available for reuse, having tested it to the appropriate safety standards. A reuse organisation may be a social or charitable enterprise, or a commercial business.

### **Does an organisation which refurbishes WEEE need to register as the producer or distributor for the second-hand EEE they sell?**

Producer and distributor obligations apply in relation to EEE that has not previously been placed on the UK market.

### **If WEEE is refurbished and re-branded with the reuse organisation's brand, does it become the producer?**

No. This is still regarded as second-hand EEE and does not create new producer obligations.

### **What happens when business WEEE is refurbished and sold to households?**

When equipment that was sold as non-household EEE is refurbished and sold to households, the refurbisher is not required to register as the producer and take on the obligations associated with selling household EEE.

### **Can WEEE be sent for refurbishment as whole appliances overseas?**

Yes you can export WEEE for refurbishment overseas, providing you comply with The Waste Shipments Regulations 1994. WEEE should only be shipped overseas if refurbishment can be assured, and the quality of equipment exported should be such that it will have a reasonable life-expectancy for the new users. WEEE must not be exported where it is likely that it will be found unsuitable for refurbishment on arrival, and risk being disposed of.

### **What should reuse organisations do with WEEE from private households that they discover is not suitable for re-use?**

Whole items of WEEE from private households that have been diverted to a re-use organisation but which are subsequently found to be unsuitable for re-use should be returned to the system established by a PCS for the treatment and recycling of WEEE. It should not be regarded as non-household WEEE waste and must be treated to the standards laid down in the WEEE Regulations.

**If I run a re-use operation, can I still collect WEEE for re-use myself?  
Can I charge for it?**

You may still collect WEEE directly from both household and non-household users with the intention of reusing it, and you may charge for this. However, if you are collecting from households, you may want to consider establishing your site as a designated collection facility (DCF NB non-Local Authority DCFs must ensure they have relevant agreements in place with a PCS before accepting WEEE from householders.

You should also note that if you collect WEEE from a business, unless you do so on behalf of the responsible PCS, you would not be able to pass on any terms which were not suitable for re-use and would therefore need to arrange and fund the treatment, recovery and disposal in accordance with the WEEE Regulations yourself.

**If I run a re-use operation, how do I continue to get WEEE? Who should I approach?**

PCSs are required to prioritise re-use of WEEE as whole appliances where appropriate, and will need to establish relationships with re-use organisations. You should contact PCSs to discuss whether they would be interested in working with you, and how and where you could get access to their WEEE to screen it for re-use.

**Do whole appliances identified for re-use need to physically enter an AATF to be evidenced under the WEEE Regulations?**

No – identified whole appliances can be sent straight to the re-use organisation provided there is a documented agreement between the PCS, AATF and where appropriate a DCF. Evidence can only be issued by an AATF when the appliance is ready for resale.

## Chapter 11 – Evidence of Compliance

248. On or before the first of June following the end of a compliance period PCSs must submit to the appropriate environment authority a “Declaration of Compliance” supported by appropriate evidence.

249. The PCS must ensure that separately collected household WEEE is taken from DCFs, or directly received from distributors, received by an AATF and received by a reprocessing facility or passed through Customs for export via an AE.

250. PCSs whose membership has obligations for non-household WEEE must also submit a Declaration of Compliance supported by appropriate evidence notes. Evidence for household WEEE is not interchangeable or tradable with evidence for non-household WEEE.

251. The AATF or AE is responsible for providing the PCS with evidence that a specific amount of WEEE was:

- Received for treatment; and
- that materials and substances from that WEEE were delivered to a reprocessor for recovery or recycling or have passed through Customs for export.

252. Evidence can only be issued in relation to separately collected WEEE received by the AATF/AE on behalf of a PCS.

253. For WEEE which is re-used as a whole appliance the AATF will need to provide evidence that the WEEE was re-used as a whole appliance.

### Roles and responsibilities

254. A PCS will need to obtain evidence to show it has financed the collection, treatment and reprocessing of WEEE arising. This can be achieved by physically collection or via the purchase of evidence through the Settlement Centre;

255. An ATF wishing to provide evidence of compliance to a PCS will need to:

- Become an AATF; and
- ensure it has developed contractual relationships with reproducers to provide documentary proof of the amount (in tonnes) of materials derived from WEEE received at their facilities.
- Ensure its processes are capable of independent verification as it is a requirement that all the information, submitted to the environment agencies, must be audited by an third party.

256. If you are a Reprocessor you will be asked by AATFs to provide confirmation of the amounts of WEEE accepted for recycling or recovery. This should be part of your contractual relationship with the AATF.

257. If you export WEEE for treatment and or recovery, you will have to be approved by the appropriate environment agency in order to issue evidence of treatment and recovery outside the UK.

### **Action needed by PCS**

258. The PCS will act on behalf of producers to physically collect and arrange the treatment and recovery of separately collected WEEE, obtain the necessary evidence of compliance from the AATF, or purchase evidence via the Settlement Centre where physical collection of the appropriate tonnage has not been possible and supply the appropriate agency with a Declaration of Compliance and supporting evidence.

259. The PCS must ensure:

- Separately collected WEEE arising at DCFs is taken to an AATF or AE, where it will be weighed on arrival;
- The WEEE is treated according to the requirements of the Waste Management Licensing Regulations 1994 (as amended by the WEEE Management Licensing Regulations ) - (The Waste Electrical and Electronic Equipment (Waste Management Licensing) (England and Wales) Regulations 2006) in England and Wales, The Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 in Northern Ireland and relevant legislation in Scotland). More information is available at:  
<http://www.defra.gov.uk/environment/waste/topics/electrical>
- Sufficient material and substances derived from the treated WEEE is received by a reprocessor for recycling or recovery to ensure that relevant targets are met.

260. It is possible that the WEEE will go through a number of treatment stages before materials are ready for reprocessing. It is likely this will involve moving the WEEE from one treatment facility to another. It is equally likely to involve more than one reprocessor as WEEE will contain a range of materials.

261. Evidence can only be issued to the PCS by the AATF or AE who has responsibility for the WEEE. In cases of evidence for re-use of whole appliances there must be evidence of formal agreements with a legitimate re-use organisation. Ultimately the approval status of the AATF is at risk if it is subsequently found items have not been passed to the re-use market.

262. It is important to note that there is no requirement to track specific materials from the very same equipment that is delivered to an AATF through the system to the reprocessor. Instead, the evidence of recovery relates to material entering reproducers that is deemed (through the protocols work being undertaken Defra) to be from WEEE received by the AATF.

## Evidence notes

263. The use of evidence notes will provide a standard format of evidence to ensure that the PCS is able to submit Declarations of Compliance on behalf of its members, which matches their member's obligations under the WEEE Regulations.

264. Evidence notes are defined in the WEEE Regulations and will show:

- Evidence of the receipt of the tonnage/kilograms of WEEE for treatment at an AATF and then for recovery or recycling at a reprocessor;
- evidence of receipt by an approved exporter of the tonnage/kilograms of WEEE for treatment and/or the recovery or recycling outside the UK.
- Tonnage/kilograms of whole appliances sent for re-use.

265. Each evidence note will verify the amount and nature of separately collected WEEE received by an AATF and the amount of materials derived from treated WEEE received by a reprocessor.

266. Copies of all evidence notes must be input, by the AATF on behalf of a PCS, to the Settlement Centre. Evidence which has already been sent to [WEEE.Evidence@berr.gsi.gov.uk](mailto:WEEE.Evidence@berr.gsi.gov.uk) will automatically be entered into the Settlement Centre.

267. Terms of Conditions on the use of the Settlement Centre is at Annex D.

268. Records kept by the AATF or AE must support the information provided in any evidence. These records must be audited by an independent auditor, and need to be kept for a period of at least four years, during which time they must be made available for inspection by the appropriate environment agency on demand.

269. Because of the differential recovery targets in the Regulations (see below), evidence notes need to relate to the groups of categories set out below. PCSs will only be able to use evidence notes corresponding to the category or groups of categories of WEEE for which they have an obligation in order to demonstrate achievement of those obligations.

## Recovery targets

270. The recovery targets for each category are set in Regulation 26, which implements the targets set out in the WEEE Directive. These targets are set as follows:

- For WEEE in product categories 1 and 10 (large household appliances and automatic dispensers):
  - At least 80% recovery by average weight per appliance; and component, material and substance re-use and recycling of at least 75% by average weight per appliance;

- For WEEE in product categories 3 and 4 (IT/telecoms equipment and consumer equipment):
  - At least 75% recovery by average weight per appliance; and component, material and substance re-use and recycling of at least 65% by average weight per appliance;
- For WEEE in product categories 2, 5, 6, 7 and 9 (small household appliances, lighting equipment, electrical and electronic tools, toys leisure and sports equipment and monitoring and control equipment):
  - At least 70% recovery by average weight per appliance; and component, material and substance re-use and recycling of at least 50% by average weight per appliance; and
  - For gas discharge lamps, component, material and substance re-use and recycling of at least 80% by weight of the lamps.
- There is currently no recovery or recycling targets for Category 8 (medical devices). However category 8 WEEE must still be passed to either an AATF or AE for treatment.

271. With the exception of the target for gas discharge lamps, the recovery targets are generally higher than the targets for recycling. As an example, the recovery target for large household appliances is at least 80% and the re-use and recycling target is at least 75%. This means that PCSs will have to obtain evidence of recovery of at least 80% by weight of category 1 equipment entering an AATF, 75% of which must be achieved through re-use and recycling. The remaining 5% can be achieved through energy recovery, recycling or re-use.

### **Evidence of recovery**

272. It is relatively straightforward for an AATF to supply PCSs with evidence that WEEE has been received for treatment (the WEEE is whole and therefore easy to identify and weigh), it is more difficult however to obtain evidence that “WEEE” has entered a reprocessor.

273. By the time WEEE reaches a reprocessor it is not recognisable as WEEE but has been reduced in size, treated, washed etc. and probably mixed with materials from other products (e.g. vehicles). The protocols developed by Defra simplify the collection of data from reprocessors.

274. The AATF can only obtain evidence of reprocessing up to the total amount of WEEE materials that it has sent to reprocessors. The AATF operator cannot obtain evidence of the recovery or recycling of materials that have not left the AATF or which have been sent for disposal.

## **Protocols**

275. Defra has developed Protocols to assess the categories of WEEE likely to be within loads of separately collected mixed WEEE from DCF sites.

276. These Protocols are a guide to help with reporting of WEEE arising. AATFs/EAs have the flexibility to develop, in partnership with the PCS, alternative protocols. When choosing this option environmental authorities must bear happy with your methodology.

277. In taking delivery of separately collected WEEE the appropriate protocol should be applied to assess the level of contamination. For example, the Defra Protocol currently estimates 14% contamination in a load of mixed WEEE. Achievements of the targets should be reported based on 86% by weight of the mixed load.

278. Defra has developed a web based protocol calculator which allows the protocol values to be obtained by simply entering the amount of WEEE received. The tool is available at: [www.weeeprotocol.org.uk](http://www.weeeprotocol.org.uk)

## **Business to Business**

279. The PCS must ensure that non-household WEEE is taken to an AATF or AE in a similar way to household WEEE. The AATF will then arrange for the appropriate treatment and recycling and provide evidence of this following the same system and standards as household WEEE.

280. Evidence of both household and non-household WEEE can be recorded on the Settlement Centre (see chapter 12). Producers cannot use evidence of non-household WEEE to offset their obligation for households WEEE

## **Cancellation of Evidence**

280. There is no provision in the UK WEEE Regulations to cancel evidence notes. If, following audit and inspection, it is found evidence notes cannot be supported, the evidence note will not be cancelled but action may be taken against the issuing AATF/AE with the ultimate result of “approved” status being withdrawn and the possibility of criminal prosecution.

## Chapter 12 – The Settlement Centre

### Introduction

281. The WEEE Regulations place financial obligations on producers of electrical and electronic equipment with regard to WEEE arising in the UK. The obligations for household WEEE are calculated according to market shares of total EEE put on the UK market and levels of WEEE arising at DCFs in the UK or returned under Regulation 32 of the WEEE Regulations during a compliance period.

282. Producers of household WEEE will be notified, via their PCSs of their financial obligations at the end of each compliance period. The financial obligations will be calculated according to the level of sales each producer makes during a compliance period (i.e. how much product is placed on the market) and the levels of household WEEE arising at DCFs or returned to producers via in-store take-back facilities offered by distributors.

283. As it is very difficult to predict both the level and type of WEEE that will be separately collected in the UK each year, it is highly unlikely that any PCS will physically handle the exact amount of WEEE to discharge their member's financial obligations.

284. A settlement process is therefore necessary to ensure that PCSs who either under or over finance levels of WEEE compared to their member's obligations are able to purchase additional evidence required or sell any excess evidence obtained.

285. There may also be situations where Local Authorities operating DCF sites are unable to secure agreement with a PCS to collect household WEEE deposited at the sites, or the PCS fails to collect. In this situation, Local Authorities will be required to arrange the transportation, treatment and reprocessing of the WEEE themselves and will therefore need access to a settlement process to recoup these costs.

286. The Government has established a settlement process the "Settlement Centre" to fulfil two key functions:

- Allow PCSs to sell or buy the evidence generated by AATFs or AEs to enable their members to discharge their financial obligations under the WEEE Regulations;
- to provide Local Authorities with an interim mechanism for recouping any costs they incur in transporting, treating and reprocessing WEEE.

### How the Settlement Centre operates

287. The Settlement Centre acts as a brokerage house between PCS and where necessary Local Authorities.

288. All evidence relating to household WEEE is input into the Settlement Centre, therefore providing an up to date picture of the amounts of WEEE that have been dealt with. The Settlement Centre is accessible to PCSs via a web based facility. This information will not only assist the Settlement Centre in

getting a full picture of activity – but will also help PCSs to get a clear picture of the amount of WEEE arising across the UK and the amount they have dealt with – thus giving them a clearer understanding of how they are progressing towards meeting their obligations.

### **Settlement Centre totals and transfer of evidence**

289. In a situation of under or over collection, PCSs will be able to sell or purchase evidence via the Settlement Centre. In such cases the appropriate evidence for sale will be identified via the Settlement Centre. The two PCSs involved in any trade, will be required to make the necessary arrangements between themselves. Once a deal has been reached the Settlement Centre must be notified by both parties so that the necessary adjustments can be made to the relevant PCS totals.

290. At the end of the compliance period the Settlement Centre will issue confirmation of the final totals to the PCSs to assist them with the demonstration of compliance to the relevant environment agency.

291. Evidence can only be traded via the Settlement Centre. The environment agencies will only accept Declarations of Compliance with evidence notes either issued to the PCS concerned or re-issued following a trading exercise by the Settlement Centre.

### **Local Authorities and the Settlement Centre**

292. The Settlement Centre will enable Local Authorities who have been unable to secure agreement with a PCS to collect WEEE deposited at their DCF under the WEEE Regulations, or whose PCS fails to clear their sites to recoup any costs they incur in transporting, treating and reprocessing WEEE. This option will only be open if they have taken all necessary steps under the code of practice.

293. PCS looking to purchase more evidence will be directed towards the local authority to complete the payment transaction and once both parties confirm that this has taken place the Settlement Centre will adjust the totals accordingly and issue revised evidence totals.

294. Terms and Conditions for use the Settlement Centre can be found at Annex D.

### **Cancellation of Evidence**

295. There are no provisions in the UK WEEE Regulations to cancel evidence notes. If following audit and inspection it is found that evidence notes cannot be supported the evidence note will not be cancelled but action may be taken against the issuing AATF with the ultimate result of “approved” status being withdrawn.

## Contact points for further information

### Department for Business Enterprise and Regulatory Reform (BERR)

Business Relations Directorate 1

1 Victoria Street

London SW1H 0ET

**Tel:** +44 (0) 20 7215 5822

**Enquiries:** [weee@berr.gsi.gov.uk](mailto:weee@berr.gsi.gov.uk)

**Website:** [www.berr.gov.uk/innovation/sustainability](http://www.berr.gov.uk/innovation/sustainability)

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### The Environment Agency for England and Wales

Rio House

Waterside Drive

Aztec West

Almondsbury

Bristol

BS32 4UD

**Tel:** (UK) 08708 506 506; (Non-UK) +44 1709 389 201

**Email:** [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

Please put WEEE in the subject heading

**Website:** [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

The approved format for evidence notes can be downloaded from this site

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### The Scottish Environment Protection Agency

Erskine Court

Castle Business Park

Stirling

FK9 4TR

**Tel:** +44 (0) 1786 457 700

**Email:** [info@sepa.org.uk](mailto:info@sepa.org.uk)

**Website:** [www.sepa.org.uk](http://www.sepa.org.uk)

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## **The Environment & Heritage Service, Northern Ireland**

Producer Responsibility Unit  
Klondyke Building  
Cromac Avenue  
Gasworks Business Park  
Lower Ormeau Road  
Belfast  
BT7 2JA

**Tel:** +44 (0) 28 9056 9387

**Email:** [weee@doeni.gov.uk](mailto:weee@doeni.gov.uk)

**Website:** [www.ehsni.gov.uk](http://www.ehsni.gov.uk)

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## **Envirowise Telephone Helpline**

**Tel :** 0800 585 794 (UK calls only)

**Email:** [envirowise@ecgroup.uk.com](mailto:envirowise@ecgroup.uk.com)

**Website:** [www.envirowise.gov.uk](http://www.envirowise.gov.uk)

This Helpline is a telephone enquiry service, funded by the Government, providing a comprehensive information and signposting service for firms seeking advice on a wide range of environmental issues that may affect their business.

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## **Valpak Retail WEEE Services**

**Tel:** 08450 682572

**Email:** [info@valpak.co.uk](mailto:info@valpak.co.uk)

**Website :** [www.valpak.co.uk/dts](http://www.valpak.co.uk/dts)

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## **VCA**

**Tel :** 0844 8000819

**Email:** [weee@vca.gov.uk](mailto:weee@vca.gov.uk)

**Website:** [www.vca.gov.uk/enforcement/weee-enforcement.asp](http://www.vca.gov.uk/enforcement/weee-enforcement.asp)

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## Annex A

### Categories of electrical and electronic equipment covered by the WEEE Regulations

#### 1. Large household appliances

(Such as large cooling appliances; refrigerators; freezers; other large appliances used for refrigeration, conservation and storage of food; washing machines; clothes dryers; dish washing machines; cooking; electric stoves; electric hot plates; microwaves; other large appliances used for cooking and other processing of food; electric heating appliances; electric radiators; other large appliances for heating rooms, beds, seating furniture; electric fans; air conditioner appliances; other fanning, exhaust ventilation and conditioning equipment)

#### 2. Small household appliances

(Such as Vacuum cleaners; carpet sweepers; other appliances for cleaning; appliances used for sewing, knitting, weaving and other processing for textiles; irons and other appliances for ironing, mangling and other care of clothing; toasters; fryers; grinders, coffee machines and equipment for opening or sealing of containers or packages; electric knives; appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances; clocks, watches and equipment for the purpose of measuring, indicating or registering time; scales)

#### 3. IT and telecommunications equipment

(Such as centralised data processing; mainframes; minicomputers; printer units; personal computing; personal computers, including the CPU, mouse and keyboard; laptop computers, including the CPU, mouse and keyboard; notebook computers; notepad computers; printers; copying equipment; electrical and electronic typewriters; pocket and desk calculators; other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means; user terminals and systems; facsimile; telex; telephones; pay telephones; cordless telephones; cellular telephones; answering systems; other products or equipment of transmitting sound, images or other information by telecommunications)

#### 4. Consumer equipment

(Such as radio sets; television sets; video cameras; video recorders; hi-fi recorders; audio amplifiers; musical instruments; other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications)

**5. Lighting equipment, (including electric light bulbs and household luminaires)**

(Such as Luminaires for fluorescent lamps with the exception of luminaires in households; straight fluorescent lamps; compact fluorescent lamps; high intensity discharge lamps, including pressure sodium lamps and metal halide lamps; low pressure sodium lamps; other lighting equipment for the purpose of spreading or controlling light with the exception of filament bulbs)

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

(Such as drills; saws; sewing machines; equipment for turning, milling, sanding, grinding, sawing; cutting; shearing; drilling; making holes; punching; folding; bending or similar processing of wood, metal and other materials; tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses; tools for welding, soldering or similar use; equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means; tools for mowing or other gardening activities)

**7. Toys, leisure and sports equipment**

(Such as electric trains or car racing sets; hand-held video game consoles; video games; computers for biking, diving, running, rowing, etc.; sports equipment with electric or electronic components; coin slot machines)

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

(Such as radiotherapy equipment; cardiology; dialysis; pulmonary ventilators; nuclear medicine; laboratory equipment for *in-vitro* diagnosis; analysers; freezers; fertilization tests; other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability)

**9. Monitoring and control instruments**

(Such as smoke detector; heating regulators; thermostats; measuring, weighing or adjusting appliances for household or as laboratory equipment; other monitoring and control instruments used in industrial installations (e.g. In control panels))

**10. Automatic dispensers**

(Such as automatic dispensers for hot drinks; automatic dispensers for hot or cold bottles or cans; automatic dispensers for solid products; automatic dispensers for money; all appliances which deliver automatically all kind of products)

### Criteria to help differentiate EEE from users other than private households from EEE from private households

The following criteria should be used as a guide only. Not all circumstances will fit neatly into the suggested criteria and common sense should be used.

Two main criteria should be applied wherever possible:

1. Evidence in the form of signed contract between the business user and the Producer (or party representing the Producer e.g. reseller under contract), that clearly assigns responsibilities for the end of life collection and treatment costs, ensuring that the EEE will not be disposed of through municipal waste streams,

or

2. EEE that due to its features is not used in private households and that will therefore not be disposed of through municipal waste streams. This criterion should be supported by either one or a combination of the following criteria:

- EEE that is operated by specialised software as for example an operating system or system environment requiring a special configuration for professional use.
- EEE operating at a voltage or having a power consumption outside of the normal range available in private households
- EEE requiring professional licenses to operate, e.g. Base Stations requiring the license of the telecommunication regulator
- EEE of large size or weight or requiring to be installed and de-installed or transported by specialists
- EEE which requires a professional environment and / or professional education (e.g. medical X-ray equipment)
- EEE in category 10 of Annex 1A
- EEE outside of the scope of the General Product Safety Directive for Consumer products.
- Statistics showing evidence that a particular type of EEE is not disposed through municipal waste streams (producer to provide argumentation / documentation).

### WEEE Regulations scope: Luminaires

The Department for Business, Enterprise and Regulatory Reform (BERR) is not in a position to provide legally binding advice on the scope or any other issue connected with the WEEE Directive and the UK WEEE Regulations. The Regulations themselves constitute the law and, in the absence of any definitive ruling by the courts on the interpretation of specific provisions, any views we offer are simply guidance based on the policy behind the legislation.

The following may be helpful:

- a). Non-domestic fluorescent luminaires:** fall within the scope of the UK WEEE Regulations by virtue of the first indent of category 5 of Annex 1B of the WEEE Directive.
- b). Domestic fluorescent luminaires:** fall outside the scope of the WEEE Directive by virtue of the first indent of category 5 of Annex 1B as “luminaires in households”.
- c). Non-domestic non-fluorescent luminaires:** these are included within the last indent of category 5 of Annex 1B as part of “other lighting or equipment...” (but with any filament bulbs specifically excluded) so they are within the scope of the WEEE Regulations.
- d). Domestic non-fluorescent luminaires:** Scope is arguably less clear under the WEEE Regulations. We have considered whether the exclusion in the first indent of category 5 of Annex 1B of the WEEE Directive is intended to apply to all domestic luminaires or only to domestic fluorescent luminaires (see (b) above). We take the view that the former interpretation is better. This is supported by the EC’s Frequently Asked Questions document, (originally published May 2005 and most recently revised August 2006), makes it clear – in entry 4 of the table in section 1.3 on page 7 – that the intention of the Commission was to exclude “all types of luminaires in households” from the scope of the WEEE Directive through the first indent of category 5 of Annex 1B.

In conclusion, we take the view that only non-household luminaires are within the scope of the WEEE Directive.

Filament lamps as a product in their own right are outside the scope of the WEEE Directive (by virtue of the exemption for filament bulbs (sic) in the last indent of category 5 of Annex 1B), but non-household luminaires are within the scope of the WEEE Directive regardless of whether or not they embody filament or fluorescent lamps.

The principle of dual purpose helps underline this conclusion. A luminaire that is designed for household or non-household use could be said to have a dual purpose. We take the view that where a luminaire is designed for such a dual purpose, the fact that one of those purposes is non-household will place it within scope of the WEEE Directive.

### WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE) REGULATIONS SETTLEMENT CENTRE (SC) TERMS AND CONDITIONS OF USE

#### Part One – Introduction

##### **Purpose of the Settlement Centre**

The SC had been developed and funded by the Department for Business Enterprise and Regulatory Reform (BERR) to:

- Monitor the levels of WEEE arising (both B2C and B2B) across the UK;
- Monitor the levels of all (B2C & B2B) WEEE collected, treated and recycled by individual PCS against their indicative obligations;
- Provide a longer term facility for PCS's to trade evidence to ensure they meet their members obligations and play an effective role in the WEEE system by working effectively with other PCS's
- Give Local Authorities an interim mechanism to recover expenses incurred as a result of transporting, treating and recycling WEEE deposited at their Designated Collection Facilities (DCF) sites whilst negotiations with the PCS to clear the sites are being finalised.
- Provide Local Authorities with a mechanism to clear their sites and recoup costs in the event of a dispute with a PCS, for example failure to clear the site.

All WEEE either B2C or B2B that has been separately collected and dealt on behalf of a PCS must be reported into the SC. This should be done via either the AATF or AE issuing the evidence notes – which must be entered on the SC system. Ideally this should be done on the date of issue but no later than 28 days after. It is the responsibility of PCS's to ensure that this occurs.

##### **Who can use the Settlement Centre?**

The following organisations will have free access to the SC to satisfy specified functions:

##### Approved Authorised Treatment Facilities & Approved Exporters

All AATFs & AEs will be given access to the SC to enable them to register the evidence of receipt, treatment, recovery, re-use of whole appliances and recycling on behalf of PCS's. Such evidence will automatically update PCS data and records on the system. Each AATF & AE account will show all the WEEE evidence they have entered onto the system.

Such evidence should be electronically logged with the SC on the date of issue and no later than 28 days after. The obligation to ensure that this has happened rests with the PCS. AATFs and AEs can not trade evidence.

### Producer Compliance Schemes

Approved PCS's will use the SC as a means to:

- Access information on the total amount of WEEE being processed through the system throughout the UK;
- Trade evidence either by category or tonnage depending on their notified obligations, and;
- Ensure that the AATFs and AEs have deposited evidence notes into the SC to ensure a clear, up to date and comprehensive position of the UK WEEE system.

### Local Authorities Owned/Controlled Designated Collection Facilities

Where agreement with a PCS, to clear a DCF site, has not been secured, local authorities will be allowed to treat WEEE arising at such sites and deposit the resulting evidence in the SC to recover the costs incurred.

In the event of a dispute between a PCS and a Local Authority which result in sites not being cleared under the original agreement, Local Authorities will be able to treat WEEE arising at a DCF site and deposit the resulting evidence in the Settlement Centre. The Local Authority must inform BERR immediately of any dispute in order access the Settlement Centre.

Agreement to use the SC will be granted by BERR on an individual basis, will be time limited and based on the following criteria:

#### For the First Compliance Period

- Date at which the DCF was approved – i.e. the earlier the DCF was approved the earlier BERR expects arrangements to be in place with a PCS;
- Demonstration to BERR that a procurement process and/or negotiations are taking place to identify a PCS to clear sites. The local authority or the site operator will be required to inform BERR of the timetable and will be notified of the cut off date for depositing evidence into the SC by BERR.<sup>13</sup>

#### For the First and Subsequent Periods

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<sup>13</sup> The cut off date will relate to the final date AATF can take possession of WEEE arising from a local authority DCF i.e. the evidence note must clearly show the date it is received by the AATF. The full evidence process will need to be completed which will result in a time lag and will be taken account of – i.e. the evidence note must clearly show the date it is received by the AATF.

- Local authorities or the site operators must be able to demonstrate that they have not been able to reach agreement with a PCS for clearance of their sites. Any disagreements between LAs/site operators and PCS will be referred to arbitration in line with the Code of Practice.

Local Authorities are expected to continue to observe the principles of value for money in arranging the transportation, treatment and reprocessing of WEEE arising at their sites when using the SC.

#### Department for Business Enterprise and Regulatory Reform (BERR)

BERR will have access to the system and individual accounts for each of the SC users. This access will include active and historical accounts.

BERR will use its access to:

- Monitor the levels of WEEE being treated and reprocessed throughout a compliance period;
- Monitor the levels of WEEE being treated and reprocessed on behalf of individual PCS's;
- Monitor PCS activity in relation to WEEE Regulations 2006 – Schedule 7 Part 4 Para 4.

Monitoring activities will be against the total level of WEEE in the system and by individual category.

#### Environment Authorities

The Environment Authorities – Environment Agency (EA), Scottish Environmental Protection Agency (SEPA) and the Department of Environment Northern Ireland (DoENI) will have access to the SC for purposes of monitoring levels of WEEE being treated and reprocessed on behalf of producer compliance schemes and checking reported data against Declarations of Compliance.

#### Non Local Authority owned/Controlled Designated Collection Facility

Operators of private DCF sites i.e. Not run by or on behalf of local authorities are not permitted to clear the sites themselves and deposit evidence into the SC to re-cover their costs. Operators of non-LA DCFs must ensure they have relevant agreements in place with a PCS before accepting WEEE from householders.

Private DCFs who have not secured agreement with a PCS are placing their approval status in jeopardy under Schedule 9 (3) of the WEEE Regulations.

## **Part Two - Activities**

### **Data Reporting**

A key function of the SC will be to monitor the levels of WEEE being collected, treated and recycled in total and by individual PCS. This data will be broken down by categories and recorded over the full compliance period.

AATFs or AE's working on behalf of PCS/Local Authorities are required to copy evidence notes to the SC within 28 days of issue. It is the responsibility of the PCS to ensure this action takes place.

### **Retrieval/Access of Data**

All PCS's, AATF's & AE's will be able to access information relating to their own operation and additionally for PCS's the overall levels of WEEE being processed within the system.

### **PCS Accounts**

Each PCS will have an account established within the SC. The account can be viewed by the PCS, the Agencies and BERR via protected passwords.

For PCS's unique passwords will be supplied by the SC operator giving access to:

- Data relating to the level of WEEE in the system which has been treated and recycled or recovered by PCS – by category;
- Data relating to the categories and tonnage of WEEE which is surplus to the requirement of a PCS,
- Data relating to the levels and categories of WEEE arising at DCF sites which are being processed by the local authority;

The account will contain information on all evidence notes obtained either directly or via trading through the SC by a particular PCS. They can be identified by the unique reference number allocated either directly by the AATF or by the SC at the time of re-issue.

At the end of the settlement period for each compliance period, each PCS is required to submit to the appropriate Agency a Declaration of Compliance. The Agencies will check this declaration against the individual PCS account to ensure the appropriate amount of WEEE has been financed (either through the physical collection, treatment and reprocessing or through the purchase of evidence via the SC).

Individual PCS can access their own account but not the individual account of any other scheme. The SC will however be in a position to show the total level of activity across the whole system.

## **AATF & AE Accounts**

Each AATF & AE will have an account within the SC. The account can be viewed by the AATF or AE, the agencies and BERR via protected passwords. This password will provide the AATF or AE with:

- The facility to deposit evidence into the SC on behalf of PCS or Local Authorities;
- Data relating to the level of WEEE in the system which has been treated and recycled or recovered by the AATF or AE during the compliance period.

## **Local Authority Accounts**

BERR will grant access to local authority DCFs based on the requirements outlined in Part One. A local authority will have an account which will operate in the same way as a PCS account.

## **Trading of Evidence**

A Declaration of Compliance can only be accompanied by evidence which has been issued directly or reissued via the SC. The trading and splitting of evidence can only be facilitated via the SC.

The SC will not facilitate a trading floor or bidding process for evidence made available for sale, nor will it facilitate the speculative purchase of evidence. Evidence cannot be traded through the SC until it has been deposited into a PCS account.

BERR will not intervene in individual negotiations or commercial agreements.

The SC will act as a notice board for evidence that needs to be traded giving PCS the availability of surplus evidence to the wider PCS community. It is the responsibility of PCS to make contact with a seller of evidence and complete the necessary financial transaction.

On confirmation that the transaction between the seller and buyer has been completed, (both parties are required to make the confirmation to the SC) the SC will make the necessary adjustments to the PCS accounts and reissue evidence notes.

## **Evidence for Non-Household WEEE**

Evidence for non-household WEEE (B2B) **cannot** be traded between schemes but data should still be reported to the SC by AATFs and AEs on behalf of the PCS. Once again the obligation to ensure this happens rests with the PCS.

## **Evidence Trade notes**

Evidence Trade Notes are created by PCS/DCF's when they have agreed a trade with a PCS. The trade note allows them to trade surplus evidence they have acquired in the process of meeting their obligations. The trade takes account of the whole quantity of evidence per category, not an individual evidence note.

All PCS/DCF users can see the total quantities of traded evidence. Enhancements to the system in the New Year will allow users to view the trade note making up that total.

A PCS or DCF user will be able to view the total quantities of associated evidence and traded evidence on their dashboard for each of the thirteen categories. They can therefore see their overall position in meeting obligations, or, in the case of a DCF, selling off their evidence.