

2006 No. 3289

ENVIRONMENTAL PROTECTION

The Waste Electrical and
Electronic Equipment
Regulations 2006

Made - - - - - *11th December 2006*

Laid before Parliament - *12th December 2006*

Coming into force in accordance with regulation 1(2) to (4)



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The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in respect of matters relating to the prevention and recovery of waste electrical and electronic equipment.

The Secretary of State, in exercise of the powers conferred on him by section 2(2) of that Act, makes the following Regulations.

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

(b) 1972 c.68. Under section 57 of the Scotland Act 1998 (c.46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by him as regards Scotland.

PART 1

GENERAL

Citation, commencement and extent

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

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

(3) Regulations 15 to 17 and Schedule 4 shall come into force on 1st April 2007.

(4) Regulations 31 to 36 and 40 shall come into force on 1st July 2007.

(5) Regulations 4, 45 and 51 do not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

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

“AATF” means an approved authorised treatment facility;

“ATF” means an authorised treatment facility;

“approved authorised treatment facility” means an authorised treatment facility which is approved under regulation 47;

“approved exporter” means an exporter who is approved under regulation 47;

“appropriate authority” means—

- (a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in England or Wales, the Environment Agency;
- (b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Scotland, SEPA;
- (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate authority in Northern Ireland, the Department of the Environment;
- (d) for the purposes of Part 3 relating to the obligations of a producer under regulations 8, 10, 12 and 13, the appropriate authority who has registered that producer in respect of the relevant compliance period, or the relevant part of a compliance period, under regulation 20;
- (e) for the purposes of Part 3 relating to the obligations of a producer under regulation 18—
 - (i) where the producer’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the producer’s registered office or principal place of business is in Scotland, SEPA;
 - (iii) where the producer’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;
- (f) for the purposes of Part 4 relating to the obligations of an operator of a scheme, the appropriate authority which granted approval of that operator’s scheme under regulation 41;

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

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

- (g) for the purposes of Part 7 relating to the approval of schemes—
 - (i) where the operator of the scheme’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the operator of the scheme’s registered office or principal place of business is in Scotland, SEPA;
 - (iii) where the operator of the scheme’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;
- (h) for the purposes of Part 8 relating to the approval of authorised treatment facilities and exporters—
 - (i) where the operator of the ATF’s or the exporter’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the operator of the ATF’s or the exporter’s registered office or principal place of business is in Scotland, SEPA; and
 - (iii) where the operator of the ATF’s or the exporter’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;
- (i) for the purposes of Schedule 9 relating to designated collection facilities—
 - (i) where the operator of the collection facility’s registered office or principal place of business is in England or Wales, the Environment Agency;
 - (ii) where the operator of the collection facility’s registered office or principal place of business is in Scotland, SEPA; and
 - (iii) where the operator of the collection facility’s registered office or principal place of business is in Northern Ireland, the Department of the Environment;

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

“code of practice” means the code of practice issued by the Secretary of State under regulation 57;

“compliance period” means—

- (a) the first compliance period; or
- (b) any year following the first compliance period;

“cooling appliances containing refrigerants” means—

- (a) large cooling appliances,
- (b) refrigerators,
- (c) freezers, and
- (d) other large appliances for refrigeration, conservation and storage of food,

that fall within category 1 of Schedule 1;

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

(a) OJ No. L196, 16.8.1967, p.1. Directive 2006/12/EC repealed and replaced Directive 75/442/EEC, which is referred to in Directive 2002/96/EC.
 (b) OJ No. L200, 30.7.1999, p.1.

“declaration of compliance” means the declaration of compliance referred to in regulation 12(1) or 29(1);

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

“designated collection facility” means any establishment or undertaking carrying out collection operations and which is approved by the Secretary of State under regulation 55;

“display equipment” means—

- (a) personal computer screens that fall within category 3 of Schedule 1, and
- (b) television sets that fall within category 4 of Schedule 1;

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

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

“distributor take back scheme” means a distributor take back scheme approved by the Secretary of State under regulation 54;

“EEE” means electrical and electronic equipment;

“EEE producer registration number” means the registration number issued to a producer by the appropriate authority under regulation 20;

“EEA” means the European Economic Area;

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

“enforcement authority” has the meaning given in regulation 70(5);

“enforcement notice” means a notice in writing served in accordance with regulation 71;

“enforcement officer” has the meaning given in regulation 72(13);

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

“evidence note” means any of the following—

- (a) an evidence note issued, in the format approved by the Secretary of State under regulation 58(2), by—
 - (i) an operator of an AATF, as evidence of the receipt of the tonnage of WEEE specified in the note for—
 - (aa) treatment at an ATF, and
 - (bb) recovery and recycling at a reprocessor, or
 - (ii) an approved exporter, as evidence of the export of the tonnage of WEEE specified in the note for treatment, recovery and recycling outside the United Kingdom; and
- (b) an evidence note issued by the Secretary of State under regulation 58;

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

“financial year” in relation to a scheme member—

- (a) where that scheme member is a company is determined as provided in—
 - (i) section 223(1) to (3) of the Companies Act 1985^(c), or

(a) OJ No. L114, 27.04.2006, p. 9.

(b) 1995 c.25.

(c) 1985 c.6 as amended by the Companies Act 1989 (1989 c.40).

- (ii) article 231(1) to (3) of the Companies (Northern Ireland) Order 1986(a); and
- (b) in any other case has the meaning given in—
 - (i) section 223(4) of the Companies Act 1985, or
 - (ii) article 231(4) of the Companies (Northern Ireland) Order 1986,
 but as if the reference there to an undertaking were a reference to that scheme member;
- “first compliance period” means the period commencing on 1st July 2007 and ending with 31st December 2007;
- “first quarter period” means a period commencing on 1st January and ending with 31st March;
- “fourth quarter period” means a period commencing on 1st October and ending with 31st December;
- “gas discharge lamp” means a gas discharge lamp that falls within category 5 of Schedule 1;
- “issue” in relation to an evidence note means to sell or otherwise supply to any person;
- “member State” includes Norway, Iceland and Lichtenstein(b);
- “new scheme” has the meaning given in regulation 10(7);
- “old scheme” has the meaning given in regulation 10(7);
- “operator of a collection facility” means the operator of an establishment or undertaking carrying out collection operations;
- “operator of a scheme” means the operator of a scheme that has been approved under regulation 41;
- “operator of a proposed scheme” means the operator of a proposed scheme that is the subject of an application for approval made under regulation 41;
- “Planning Appeals Commission” means the Planning Appeals Commission constituted under Article 110 of the Planning (Northern Ireland) Order 1991(c);
- “premises” includes any land or means of transport;
- “producer” means any person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC(d) as amended by Directive 2002/65/EC(e) on the protection of consumers in respect of distance contracts—
 - (a) manufactures and sells electrical and electronic equipment under his own brand;
 - (b) resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the “producer” if the brand of the producer appears on the equipment, as provided for in sub-paragraph (a); or
 - (c) imports or exports electrical and electronic equipment on a professional basis into a member State;
- “proposed scheme” means a proposed scheme that is the subject of an application for approval made under regulation 41;
- “quarter period” means—
 - (a) the first quarter period;
 - (b) the second quarter period;
 - (c) the third quarter period;
 - (d) the fourth quarter period;

(a) S.I. 1986/1032 (N.I. 6).

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

(c) S.I. 1991/1220 (N.I. 19) as amended by S.I. 1999/663 and S.I. 2003/430 (N.I. 8).

(d) OJ No. L144, 4.6.1997, p.19.

(e) OJ No. L271, 9.10.2002, p.16.

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

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat, and “recycled” and “recycling operation” shall be construed accordingly;

“register of producers” means the register of producers maintained by the appropriate authority under regulation 60;

“registered in the United Kingdom” means—

- (a) registered under the Companies Act 1985 or under the former Companies Acts (as defined in that Act); or
- (b) registered, or deemed to be registered, under the Companies (Northern Ireland) Order 1986 or under the former Companies Acts (as defined in that Order);

“relevant approval period” has the meaning given in regulation 47(7);

“relevant authorisation” means—

- (a) a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000(a) or regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000(b),
- (b) an authorisation granted under section 6 of the Environmental Protection Act 1990(c) (“the 1990 Act”),
- (c) a waste management licence granted under section 36 of the 1990 Act,
- (d) an exemption registered or otherwise permitted under regulation 18 of the Waste Management Licensing Regulations 1994(d),
- (e) a permit granted under regulation 10 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(e),
- (f) an exemption registered under regulation 18 of the Waste Management Licensing Regulations (Northern Ireland) 2003(f), or
- (g) a waste management licence granted under article 8 of the Waste and Contaminated Land (Northern Ireland) Order 1997(g);

“relevant compliance period” means any compliance period, or any part of a compliance period, in respect of which any person has any obligation under these Regulations;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling and who holds a relevant authorisation;

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

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- (a) S.I. 2000/1973 as amended by the Solvent Emissions (England and Wales) Regulations 2004 (S.I. 2004/107). There are other amendments not relevant to these Regulations.
 - (b) S.S.I. 2000/323 as amended by the Solvent Emissions (Scotland) Regulations 2004 (S.S.I. 2004/26). There are other amendments not relevant to these Regulations.
 - (c) 1990 c.43.
 - (d) S.I. 1994/1056 as amended by the Waste Management Licensing (Amendment) Regulations 1998 (S.I. 1998/606), the Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations 2005 (S.I. 2005/1728) and the Waste Management Licensing Amendment (Scotland) Regulations 2006 (S.S.I. 2006/541). There are other amendments not relevant to these Regulations.
 - (e) S.R. 2003 No. 46.
 - (f) S.R. 2003 No. 493.
 - (g) S.I. 1997/2778 (N.I. 19).

“scheme” means a scheme that has been approved under regulation 41;

“scheme member” means a producer who is a member of a scheme that has been approved by the appropriate authority under regulation 41;

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

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

“SEPA” means the Scottish Environment Protection Agency;

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

“treatment” means any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or disposal or both of the WEEE, and “treat”, “treated” and “treatment operation” shall be construed accordingly;

“turnover” means, in relation to a scheme member, his turnover as defined in—

- (a) section 262(1) of the Companies Act 1985, or
- (b) article 270(1) of the Companies (Northern Ireland) Order 1986,

but as if the references to a company were references to that person;

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

“WEEE” means waste electrical and electronic equipment;

“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;

“writing” includes text that is—

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

“year” means a calendar year commencing on 1st January.

- (2) In these Regulations,
- (a) any document which is to be provided or given to any person may be provided or given to that person by electronic means if the document is capable of being reproduced by that person in legible form;
 - (b) any requirement to make, keep or retain a record or to maintain any register may be satisfied in electronic form if the text is capable of being produced in a legible documentary form by the person who is subject to the requirement;
 - (c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and
 - (d) for the purposes of sub-paragraph (c), “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

Service of documents

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

- (a) by delivering it to him at or by leaving it at—
 - (i) the address provided by that person in accordance with these Regulations; or
 - (ii) his proper address; or

- (b) by sending it by post to him at either of the addresses mentioned in sub-paragraph (a);
- (c) where the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or on a person having control or management of the partnership business;
- (d) where the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary or clerk of that body corporate; or
- (e) where the person is an unincorporated body, by serving it in accordance with sub-paragraph (a) or (b) on a person having control or management of that body.

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

- (a) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal place of business in the United Kingdom of the partnership;
- (b) in the case of service on a body registered in the United Kingdom or its secretary or clerk, it shall be the address of the registered office or principal place of business in the United Kingdom of the body; and
- (c) in the case of service on a body that is not registered in the United Kingdom, it shall be the address of the principal place of business in the United Kingdom of the body.

Amendments to the Environment Act 1995

4.—(1) The following amendments to the Environment Act 1995 shall have effect.

(2) In section 56 (interpretation of Part 1), in subsection (1)—

- (a) in the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Environment Agency, after paragraph (k) insert—
 - “(l) approval of a scheme under regulation 41 of the Waste Electrical and Electronic Equipment Regulations 2006 (“the WEEE Regulations”);
 - (m) compliance with the condition in regulation 43(e)(i) of the WEEE Regulations in relation to a scheme mentioned in paragraph (l);
 - (n) approval of an authorised treatment facility or exporter under regulation 47 of the WEEE Regulations; and
 - (o) extension of approval of an exporter under regulation 48 of the WEEE Regulations.”; and
- (b) in the definition of “environmental licence” in the application of Part 1 of that Act in relation to the Scottish Environment Protection Agency, after paragraph (k) insert—
 - “(l) approval of a scheme under regulation 41 of the Waste Electrical and Electronic Equipment Regulations 2006 (“the WEEE Regulations”);
 - (m) compliance with the condition in regulation 43(e)(i) of the WEEE Regulations in relation to a scheme mentioned in paragraph (l);
 - (n) approval of an authorised treatment facility or exporter under regulation 47 of the WEEE Regulations; and
 - (o) extension of approval of an exporter under regulation 48 of the WEEE Regulations.”.

^(a) 1978 c.30.

PART 2

APPLICATION

Application

5.—(1) These Regulations apply to EEE that is within the numbered categories set out in Schedule 1.

(2) The products listed in Schedule 2 fall within the numbered categories set out in Schedule 1.

(3) These Regulations do not apply to EEE—

- (a) that is part of a type of equipment to which paragraph (1) does not apply; or
- (b) that is—
 - (i) connected with the protection of the essential interests of the security of member States, such as arms, munitions and war material, and
 - (ii) intended for specifically military purposes.

First compliance period

6. These Regulations shall have effect in relation to the first compliance period subject to the amendments made by Schedule 3.

Existing Community legislation

7. Nothing in these Regulations shall affect the application of existing Community legislation on—

- (a) safety and health requirements; and
- (b) waste management.

PART 3

PRODUCER OBLIGATIONS

Financing: WEEE from private households

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

- (a) is deposited at a designated collection facility; or
- (b) is returned under regulation 32 but is not deposited at a designated collection facility,

during that compliance period (“the relevant WEEE”) shall be the responsibility of all producers who put EEE on the market in the United Kingdom in that compliance period.

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

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

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

where—

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

in the United Kingdom by that producer in a particular compliance period, or part of a particular compliance period, (“the relevant compliance period”);

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

“C” is the total amount in tonnes of WEEE from private households which is waste from electrical or electronic products that fall within the relevant category and is deposited at a designated collection facility and returned under regulation 32 in the same compliance period used in “A”.

(4) Where regulation 10(8)(a) applies to a producer—

- (a) it shall be the duty of the appropriate authority to determine the amount of relevant WEEE for which that producer shall be responsible under paragraph (2) by using the calculation set out in paragraph (3);
- (b) the appropriate authority shall serve a preliminary notification in writing on that producer specifying the amount of the relevant WEEE for which he shall be responsible under this regulation on or before 1st April of the year that immediately follows the relevant compliance period; and
- (c) the appropriate authority shall serve a final notification in writing on that producer specifying the amount of the relevant WEEE for which he shall be responsible under this regulation on or before 1st May of the year that immediately follows the relevant compliance period.

(5) A notification served under paragraph (4)(b) shall include the following information—

- (a) the relevant compliance period;
- (b) the amount in tonnes of the relevant WEEE, by reference to the categories of EEE, for which the appropriate authority has determined under paragraph (4)(a) that that producer shall be responsible under paragraph (2);
- (c) an explanation of how the amount of the relevant WEEE referred to in sub-paragraph (b) has been determined using the calculation set out in paragraph (3); and
- (d) that that producer may make representations in writing to the appropriate authority in relation to the determination referred to in sub-paragraph (b) within 14 days of the date of the notification.

(6) A notification served under paragraph (4)(c) shall include the information referred to in paragraph (5)(a), (b) and (c).

(7) For the purpose of determining the amount of relevant WEEE for which a producer shall be responsible under paragraph (2) using the calculation set out in paragraph (3)—

- (a) the appropriate authority shall take account of the information provided to it—
 - (i) in compliance with regulations 27 and 28 in relation to the relevant compliance period; and
 - (ii) by that producer in compliance with a notification served under regulation 44(3); and
- (b) where any of the information referred to in sub-paragraph (a) has not been provided to it for any reason, the appropriate authority shall make a reasonable estimate of what such information would have been had it been provided as required.

(8) Where paragraph (7)(b) applies, the appropriate authority shall take account of any relevant information that is available to it in making a reasonable estimate.

(9) In this regulation,

- (a) “categories of EEE” means—
 - (i) the categories of EEE listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and

- (iv) gas discharge lamps; and
- (b) “relevant WEEE” has the meaning given in paragraph (1).

Financing: WEEE from users other than private households

9.—(1) Each producer shall finance the costs of the collection, treatment, recovery and environmentally sound disposal of—

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

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

Obligation to join a scheme

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

(2) Subject to paragraph (3), a producer who is required by paragraph (1) to be a member of a scheme shall in respect of any compliance period join a scheme on or before 15th October in the year immediately preceding the commencement of that compliance period.

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

(4) Where paragraph (1) applies—

- (a) a producer who has obligations under both regulations 8 and 9 in respect of any compliance period or any part of a compliance period may join—
 - (i) one scheme that has been approved under regulation 41 for the purposes of regulations 22 and 23; or
 - (ii) one scheme that has been approved under regulation 41 for the purposes of regulation 22 and one scheme that has been approved under regulation 41 for the purposes of regulation 23; and
- (b) a producer who has obligations under regulation 8 or 9 but not both in respect of any compliance period, or any part of a compliance period, may join—
 - (i) in the case of a producer who has obligations under regulation 8, one scheme that has been approved under regulation 41 for the purposes of regulation 22; or
 - (ii) in the case of a producer who has obligations under regulation 9, one scheme that has been approved under regulation 41 for the purposes of regulation 23.

(5) Subject to paragraph (8), where a producer is a member of a scheme that has been approved under regulation 41 for the purposes of regulation 22, he shall be exempt from complying with any obligation that he has under regulation 8(1) in respect of a relevant compliance period during which his membership of that scheme subsists.

(6) Subject to paragraph (8), where a producer is a member of a scheme that has been approved under regulation 41 for the purposes of regulation 23, he shall be exempt from complying with any

obligation that he has under regulation 9(1) in respect of a relevant compliance period during which his membership of that scheme subsists.

(7) Where a producer is a member of a scheme and he has been notified by the appropriate authority under regulation 44(3) that approval of that scheme (“the old scheme”) has been withdrawn under regulation 44(1)—

- (a) that producer shall, within 28 days of the date of the notification served on him by the appropriate authority under regulation 44(3), become a member of a scheme (“the new scheme”); or
- (b) that producer shall—
 - (i) within 28 days of the date of the notification served on him by the appropriate authority under regulation 44(3), notify the appropriate authority of his intention to become a member of a proposed scheme which is the subject of an application for approval made under regulation 41(2); and
 - (ii) in the case where that proposed scheme is—
 - (aa) approved by a decision made under regulation 41, become a member of a scheme within 28 days of the date of a notification given to that producer under regulation 41(8); or
 - (bb) not approved by a decision made under regulation 41, become a member of a scheme within 28 days of the date of a notification given to that producer under regulation 42(3).

(8) Where paragraph (7) applies and a producer has benefited from an exemption under paragraph (5) or (6) by virtue of his membership of the old scheme, the exemption in that paragraph shall cease to apply to the producer and he shall comply with—

- (a) any obligation that he has under regulations 8(1) and 9(1) until the date he joins a new scheme; and
- (b) regulation 12.

Information provided to operators of schemes

11.—(1) Where a producer is a member of a scheme, he shall provide to the operator of that scheme any information which that operator will need to rely on for the purposes of—

- (a) making an application to register a producer under regulation 20;
- (b) making a notification under regulation 21;
- (c) complying with a reporting requirement under regulation 28; and
- (d) complying with a demand to produce records under regulation 30.

(2) A producer who provides to the operator of the scheme information to which paragraph (1) applies shall—

- (a) ensure that the information is in writing and is signed by—
 - (i) where the producer is an individual, that individual,
 - (ii) where the producer is a partnership, a partner,
 - (iii) where the producer is a body registered in the United Kingdom, a director or the company secretary of that body, and
 - (iv) where the producer is a body which is not registered in the United Kingdom, the individual who has control or management of that body; and
- (b) inform the operator of the scheme in writing of any material change in the information provided to that operator in accordance with this regulation within 28 days of the occurrence of any such change.

Declaration of compliance

12.—(1) Where regulation 10(8) applies and a producer has any obligation under regulations 8 and 9 during a relevant compliance period, or any part of a relevant compliance period, he shall provide a declaration of compliance to the appropriate authority on or before 1st June of the year that immediately follows the end of that compliance period.

(2) A declaration of compliance shall—

- (a) be in writing;
- (b) include the information set out in Part 1 of Schedule 5; and
- (c) be accompanied by copies of all evidence notes acquired in respect of the relevant compliance period to which the declaration relates.

(3) Where a producer is under an obligation to provide a declaration of compliance under this regulation, that declaration shall be signed by—

- (a) where the producer is an individual, that individual,
- (b) where the producer is a partnership, a partner,
- (c) where the producer is a body registered in the United Kingdom, a director of that body,
- (d) where the producer is a body that is not registered in the United Kingdom, the individual who has control or management of that body.

Record keeping

13.—(1) A producer to whom the obligation in regulation 10 applies in relation to a compliance period, or any part of a compliance period, shall keep records in writing of the following information—

- (a) the amount in tonnes of all EEE which he has put on the market in the United Kingdom during that compliance period which falls within—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
- (b) for each category referred to in sub-paragraph (a), the amount in tonnes of EEE intended for use by—
 - (i) private households; and
 - (ii) users other than private households.

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

Declaration of EEE producer registration number

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

Marking EEE with the crossed out wheeled bin symbol

15.—(1) A producer shall mark EEE that he puts on the market with the symbol shown in Schedule 4 (“the crossed out wheeled bin symbol”).

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

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

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

Marking EEE with a producer identification mark and a date mark

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

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

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

Information on new types of EEE

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

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

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

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

Producers supplying EEE by means of distance communication

18.—(1) A producer who puts EEE on the market in any member State except for the United Kingdom by means of distance communication shall comply with the requirements set out in Article 8 of the Directive for the EEE that he puts on the market in any member State except for the United Kingdom.

(2) A producer to whom paragraph (1) applies shall provide the appropriate authority with information that demonstrates that he has complied with his obligation under paragraph (1) and shall keep records in writing of the following information—

- (a) the amount in tonnes of all EEE which he has put on the market in any member State except for the United Kingdom on or after 1st July 2007;
- (b) the categories of the EEE referred to in sub-paragraph (a) by reference to—
 - (i) the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
- (c) for each category referred to in sub-paragraph (b), the amount in tonnes of EEE intended for use by—
 - (i) private households; and
 - (ii) users other than private households; and
- (d) details of compliance with the requirements of Article 8(4) of the Directive.

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

PART 4

SCHEME OBLIGATIONS

Registration of producers

19.—(1) Subject to paragraph (2), an operator of a scheme shall register each producer who is a member of that scheme with the appropriate authority for each compliance period, or part of a compliance period, during which that producer's membership of the scheme subsists.

(2) Paragraph (1) shall not apply where regulation 21 applies.

Application to register producers

20.—(1) Subject to paragraph (2), an operator of a scheme who is required by regulation 19 to register the scheme members of that scheme shall for the purpose of registering scheme members for any compliance period, or any part of a compliance period, make an application to the appropriate authority on or before 31st October in the year immediately preceding the commencement of that compliance period.

(2) Where a producer becomes a member of a scheme after 15th October in the year immediately preceding the commencement of the relevant compliance period, the operator of the scheme shall make an application to register that producer to the appropriate authority within 28 days of the date when that producer becomes a member of the scheme.

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

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

- (a) be in writing;
- (b) contain the information set out in Schedule 6, which shall be submitted in the format published by the appropriate authority under regulation 60; and
- (c) be accompanied by evidence that the operator of the scheme has been approved by the appropriate authority under regulation 41.

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

- (a) the operator of the scheme has complied with the requirements of paragraph (4);
- (b) the scheme has been approved by the appropriate authority under regulation 41; and
- (c) the producer who is the subject of the application is not already registered with an appropriate authority under this regulation in relation to the relevant compliance period.

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

- (a) confirm to the operator of the scheme in writing that specified scheme members are registered with it for that compliance period; and
- (b) subject to paragraph (10), issue an EEE producer registration number for each registered scheme member.

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

(8) Where an application for registration made under paragraph (2) is granted, the registration of any scheme member who is the subject of that application shall take effect from the date the

application is granted or the date of the commencement of the relevant compliance period, whichever is the later, until the end of the relevant compliance period.

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

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

Notification of new scheme members

21.—(1) Where a producer becomes a member of a scheme in respect of a particular compliance period and is already registered with an appropriate authority in relation to that compliance period, the operator of the scheme shall notify that appropriate authority within 28 days of the date when that producer becomes a member of the scheme.

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

- (a) be made in writing;
- (b) contain the information set out in Schedule 6, which shall be submitted in the format published by the appropriate authority under regulation 60; and
- (c) be accompanied by evidence that the scheme has been approved by the appropriate authority under regulation 41.

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

Financing: WEEE from private households

22.—(1) Where regulation 10(5) applies in relation to a scheme, the operator of that scheme shall be responsible for financing the costs referred to in regulation 8(1) for which each scheme member is responsible under regulation 8 in any compliance period, or any part of a compliance period, during which his membership of that scheme subsists.

(2) It shall be the duty of the appropriate authority to determine the amount of relevant WEEE for which each operator of a scheme shall be responsible under paragraph (1) by applying the calculation set out in paragraph (3).

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

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

where—

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

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

“C” is the total amount in tonnes of the relevant WEEE which is waste from electrical or electronic products that fall within the relevant category that—

- (a) is deposited at a designated collection facility; or
- (b) is returned under regulation 32 but is not deposited at a designated collection facility,

in the same relevant compliance period used in “A”.

- (4) Where paragraph (1) applies—
- (a) the appropriate authority shall serve a preliminary notification in writing on that operator of a scheme specifying the amount of the relevant WEEE for which he shall be responsible under this regulation on or before 1st April of the year that immediately follows the relevant compliance period; and
 - (b) the appropriate authority shall serve a final notification in writing on that operator of a scheme specifying the amount of the relevant WEEE for which he shall be responsible under this regulation on or before 1st May of the year that immediately follows the relevant compliance period.
- (5) A notification given under paragraph (4)(a) shall include the following information—
- (a) the relevant compliance period;
 - (b) the amount in tonnes of the relevant WEEE, by reference to the categories of EEE, for which the appropriate authority has determined that that operator of a scheme shall be responsible under paragraph (1);
 - (c) an explanation of how the amount of the relevant WEEE referred to in sub-paragraph (b) has been determined using the calculation set out in paragraph (3); and
 - (d) that the operator of the scheme may make representations in writing to the appropriate authority in relation to the determination referred to in sub-paragraph (b) within 14 days of the date of the notification.
- (6) A notification given under paragraph (4)(b) shall include the information referred to in paragraph (5)(a), (b) and (c).
- (7) For the purpose of determining the amount of relevant WEEE for which each operator of a scheme shall be responsible under paragraph (1) using the calculation set out in paragraph (3)—
- (a) the appropriate authority shall take account of any information provided to it in compliance with regulations 27 and 28 in relation to the relevant compliance period; and
 - (b) where any of the information referred to in sub-paragraph (a) has not been provided to it for any reason, the appropriate authority shall make a reasonable estimate of what such information would have been had it been provided as required.
- (8) Where paragraph (7)(b) applies, the appropriate authority shall take account of any relevant information that is available to it in making a reasonable estimate.
- (9) In this regulation,
- (a) “categories of EEE” means—
 - (i) the categories of EEE listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
 - (b) “relevant WEEE” has the meaning given in paragraph (1).

Financing: WEEE from users other than private households

23.—(1) Where regulation 10(6) applies in relation to a scheme, the operator of that scheme shall be responsible for financing the costs referred to in regulation 9(1) for which each scheme member is responsible under regulation 9 in any compliance period, or any part of a compliance period, during which his membership of that scheme subsists.

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

Prioritise the reuse of whole appliances

24. In respect of any WEEE for which he is responsible under these Regulations, an operator of a scheme shall ensure that systems are set up to prioritise the reuse of whole appliances.

Treatment

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

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

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

Recovery

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

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

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

- (a) for WEEE that falls within categories 1 and 10 of Schedule 1,
 - (i) at least 80% recovery by the average weight in tonnes of the equipment,
 - (ii) at least 75% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (b) for WEEE that falls within categories 3 and 4 of Schedule 1,
 - (i) at least 75% recovery by the average weight in tonnes of the equipment;
 - (ii) at least 65% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (c) for WEEE that falls within categories 2, 5, 6, 7 and 9 of Schedule 1,
 - (i) at least 70% recovery by the average weight in tonnes of the equipment;
 - (ii) excluding gas discharge lamps, at least 50% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (d) for gas discharge lamps, at least 80% reuse and recycling of components, materials and substances by the average weight in tonnes of the lamps.

(3) Paragraphs (1)(b) and (2) shall not apply to WEEE reused as a whole appliance.

Reporting: WEEE

27.—(1) An operator of a scheme shall provide to the appropriate authority information on—

- (a) the total amount in tonnes of WEEE that he has been responsible for—
 - (i) collecting from a designated collection facility; and
 - (ii) delivering to an AATF for treatment or an approved exporter for treatment outside the United Kingdom; and

(b) the total amount in units of WEEE that he has been responsible for making available for reuse as a whole appliance, during a relevant compliance period.

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

- (a) in writing;
- (b) submitted in the format published by the appropriate authority under regulation 60; and
- (c) provided—
 - (i) on or before 1st May in a relevant compliance period in respect of the first quarter period in that compliance period;
 - (ii) on or before 1st August in a relevant compliance period in respect of the second quarter period in that compliance period;
 - (iii) on or before 1st November in a relevant compliance period in respect of the third quarter period in that compliance period; and
 - (iv) on or before 1st February in the year immediately following the end of a relevant compliance period in respect of the fourth quarter period in that compliance period.

(3) The information referred to in paragraph (1)(a) shall—

- (a) specify the amount in tonnes of WEEE by reference to each of the following categories—
 - (i) the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
- (b) for each category referred to in sub-paragraph (a), specify the amount in tonnes of WEEE intended for use—
 - (i) by private households; and
 - (ii) by users other than private households.

Reporting: EEE put on the market

28.—(1) An operator of a scheme shall provide to the appropriate authority information on the total amount in tonnes of EEE that each member of that scheme has put on the market in the United Kingdom in each compliance period, or part of a compliance period, during which his membership of that scheme subsists.

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

- (a) be in writing;
- (b) specify the amount of EEE by reference to each of the following categories—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps;
- (c) for each category referred to in sub-paragraph (b), specify the amount in tonnes of EEE intended for use—
 - (i) by private households; and
 - (ii) by users other than private households;
- (d) be provided for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period; and

- (e) be submitted in the format published by the appropriate authority under regulation 60.

Declaration of compliance

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

- (a) WEEE from private households under regulation 22, 25 or 26; or
- (b) WEEE from users other than private households under regulation 23, 25 or 26,

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

(2) A declaration of compliance shall—

- (a) be in writing;
- (b) include the information set out in Part 2 of Schedule 5; and
- (c) be accompanied by copies of all evidence notes acquired in respect of the relevant compliance period to which the declaration relates.

(3) Where an operator of a scheme is under an obligation to provide a declaration of compliance under this regulation, that declaration shall be signed by—

- (a) where that operator of a scheme is an individual, that individual,
- (b) where that operator of a scheme is a partnership, a partner,
- (c) where that operator of a scheme is a body registered in the United Kingdom, a director of that body, and
- (d) where that operator of a scheme is a body that is not registered in the United Kingdom, the individual who has control or management of that body.

Record keeping

30.—(1) Each operator of a scheme who has obligations under regulation 22, 23, 25 or 26 in relation to any compliance period, or any part of a compliance period, shall keep records of the following information—

- (a) the amount in tonnes of all WEEE which that operator of a scheme has delivered to or collected from or caused to be deposited at or collected from—
 - (i) a designated collection facility,
 - (ii) an AATF, or
 - (iii) an approved exporter,during that compliance period, or that part of a compliance period;
- (b) the categories of the WEEE referred to in sub-paragraph (a) by reference to—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigeration, and
 - (iv) gas discharge lamps,
- (c) for each category referred to in sub-paragraph (b), the amount in tonnes of WEEE intended for use by—
 - (i) private households, and
 - (ii) users other than private households; and
- (d) the amount in units of WEEE reused as a whole appliance.

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

PART 5

DISTRIBUTOR OBLIGATIONS AND RIGHTS: WEEE FROM PRIVATE HOUSEHOLDS

Take back

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

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

the supplied equipment.

Return

32.—(1) A distributor may return WEEE from private households free of charge to the system that has been set up by an operator of a scheme that has been approved under regulation 41 for the purposes of complying with that operator of a scheme's obligations in relation to WEEE from private households under regulation 22.

(2) For the purposes of paragraph (1), "system" means a system that an operator of a scheme has set up—

- (a) in accordance with regulations 24, 25 and 26; and
- (b) under regulation 39.

Information

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

- (a) the requirement on each member State under Article 2 of the Directive to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of collection of WEEE for treatment, recovery and environmentally sound disposal;
- (b) the collection and take back systems available to them;
- (c) their role in contributing to the reuse, recycling and other forms of recovery of WEEE under these Regulations;
- (d) the potential effects on the environment and human health as a result of the presence of hazardous substances in EEE; and
- (e) the meaning of the crossed out wheeled bin symbol shown in Schedule 4.

Record keeping

34.—(1) A distributor to whom the obligation in regulation 31 applies shall maintain records of the number of units of WEEE from private households returned to him under that regulation.

(2) A distributor who returns WEEE from private households under regulation 32 shall maintain records of the number of units of WEEE from private households returned by him under that regulation.

(3) Each distributor to whom the obligation in regulation 33 applies shall maintain records of the information made available under that regulation.

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

Exemption for members of a distributor take back scheme

35. Where a distributor is a member of a distributor take back scheme, he shall be exempt from complying with the requirements of regulation 31 and 34(1) for the period during which his membership of that scheme subsists.

PART 6

MISCELLANEOUS

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

36.—(1) Where WEEE from a user other than a private household arises from EEE put on the market in the United Kingdom before 13th August 2005 and regulation 9(1)(b) does not apply, the final user of that WEEE shall finance the costs of its collection, treatment, recovery and environmentally sound disposal.

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

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

- (a) treated at an ATF; or
- (b) exported by an approved exporter for treatment outside the United Kingdom.

(4) Paragraph (3) does not apply to WEEE reused as a whole appliance.

Obligation to optimise reuse and recycling of WEEE

37. Any person who collects or transports WEEE in connection with the carrying out of any obligation under regulation 22 or 23 shall ensure that all such WEEE is collected and transported in a way that optimises reuse and recycling of that equipment or of components of that equipment.

WEEE from private households that presents a health and safety risk

38. Nothing in these Regulations shall prevent any person from refusing to handle WEEE from private households that presents a health and safety risk to any individual because of contamination.

Take back: WEEE from private households

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

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

40.—(1) Subject to paragraph (2), no person shall show a purchaser at the time of sale of new EEE the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households.

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

- (a) in relation to EEE within category 1 of Schedule 1 until 13th February 2013; and
- (b) in relation to EEE within categories 2 to 10 of Schedule 1 until 13th February 2011.

(3) The costs mentioned in paragraph (2) shall not exceed the actual costs incurred.

(4) A person shall be guilty of an offence if he intentionally obstructs any producer from exercising his right under regulation 40(2).

PART 7

APPROVAL OF PROPOSED SCHEMES AND WITHDRAWAL OF APPROVAL OF SCHEMES

Application for approval of a proposed scheme

41.—(1) Subject to paragraph (2), an application for approval of a proposed scheme shall be made to the appropriate authority by the operator of the proposed scheme in respect of an application for approval for a compliance period (“the relevant compliance period”), during the period commencing on 1st July and ending with 31st August in the year immediately preceding the commencement of that compliance period.

(2) Where a scheme member has been served with a notice under regulation 44(3) in relation to his membership of a particular scheme (“the old scheme”) and that scheme member has notified the appropriate authority under regulation 10(7) that he intends to join a proposed scheme, the operator of that proposed scheme shall make an application under paragraph (1) within 28 days of the date of the notice served on that scheme member under regulation 44(3).

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

(4) An application for approval of a proposed scheme shall—

- (a) be in writing;
- (b) include—
 - (i) the information set out in Part 1 of Schedule 7, which shall be submitted in the format published by the appropriate authority under regulation 62;
 - (ii) a copy of the constitution of the proposed scheme which must contain the information set out in Part 2 of Schedule 7;
 - (iii) a copy of the operational plan which must contain the information set out in Part 3 of Schedule 7; and
- (c) be accompanied by—
 - (i) where the appropriate authority is the Environment Agency or SEPA, the application charge specified in regulation 45(1); and
 - (ii) where the appropriate authority is the Department of the Environment, the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006(a).

(5) An application for approval of a proposed scheme shall be granted where—

- (a) the operator of the proposed scheme has complied with all of the requirements of paragraph (4); and
- (b) the appropriate authority is satisfied that the information provided by the operator of the proposed scheme in accordance with paragraph (4) demonstrates that—

(a) S.R. 2006 No. 509.

- (i) the proposed scheme is likely to subsist for a period of at least three compliance periods;
- (ii) the operator of the proposed scheme will comply with the code of practice; and
- (iii) the criteria for approval of a scheme set out in Part 4 of Schedule 7 are met,

and shall otherwise be refused.

(6) Where an application for approval under this regulation is granted—

- (a) the appropriate authority shall notify the operator of the scheme in writing of that decision—
 - (i) in the case of an application made under paragraph (1), on or before 1st October of the year immediately preceding the relevant compliance period;
 - (ii) in the case of an application made under paragraph (2), on or before 1st October of the year immediately preceding the relevant compliance period or within 28 days of the date of receipt of that application, whichever is the later; and
 - (iii) in the case of an application made under paragraph (1) or (2) that has been the subject of a decision to refuse to grant approval and in respect of which there has been a successful appeal under regulation 68, on or before 1st October of the year immediately preceding the relevant compliance period or within 28 days of the date of the determination of the appeal, whichever is the later;
- (b) the approval shall take effect—
 - (i) in the case of an application made under paragraph (1), from the commencement of the relevant compliance period, and
 - (ii) in the case of an application made under paragraph (2), from the commencement of the relevant compliance period or the date of the decision to grant approval under this regulation, whichever is the later,

and shall remain in force for three compliance periods unless approval is withdrawn for any reason under regulation 44; and
- (c) the appropriate authority shall publish the following details of the scheme—
 - (i) name of the scheme;
 - (ii) name and address of the operator of the scheme; and
 - (iii) whether the scheme is approved for the purposes of complying with an operator of a scheme's obligations in relation to—
 - (aa) WEEE from private households under regulation 22;
 - (bb) WEEE from users other than private households under regulation 23; or
 - (cc) both (aa) and (bb).

(7) A notification served under paragraph (6)(a) shall specify whether the scheme is approved for the purposes of complying with that operator of a scheme's obligations in relation to—

- (a) WEEE from private households under regulation 22;
- (b) WEEE from users other than private households under regulation 23; or
- (c) both (a) and (b).

(8) Where an application for approval made under this regulation by virtue of paragraph (2) is granted, the appropriate authority shall notify each member of the old scheme who has served a notice under regulation 10(7)(b)(i) in writing of that decision within 14 days of the date of the decision.

Notification of a decision to refuse to approve a proposed scheme

42.—(1) Any decision of the appropriate authority under regulation 41 to refuse to approve a proposed scheme shall be notified, within 14 days of the decision, to the applicant.

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

- (a) be in writing;
- (b) give the reasons for the decision; and
- (c) state the right of appeal under Part 12.

(3) Where the appropriate authority has made a decision under regulation 41 to refuse to approve a proposed scheme that is the subject of an application for approval under regulation 41(2), it shall notify each member of the old scheme who has served a notice under regulation 10(7)(b)(i) in writing of that decision within 14 days of the date of the decision.

Conditions of approval

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

- (a) that the operator of that scheme shall comply with his obligations under Part 4;
- (b) that where the operator of that scheme collects WEEE from a designated collection facility he shall comply with the code of practice;
- (c) that the operator of that scheme shall provide any information reasonably requested by the appropriate authority with regard to the obligations referred to in paragraph (a);
- (d) that the operator of that scheme shall inform the appropriate authority in writing of—
 - (i) any change in the person who is the operator of the scheme and, in the case where the operator of the scheme is a partnership, any change of partners;
 - (ii) any material change in—
 - (aa) the information provided in accordance with regulation 20;
 - (bb) the information provided in accordance with regulation 41(4)(b)(i),
 - (cc) the constitution submitted in accordance with regulation 41(4)(b)(ii), or
 - (dd) the operational plan submitted in accordance with regulation 41(4)(b)(iii);
 - (iii) a conviction of the operator of that scheme for an offence under these Regulations, within 28 days of the occurrence of any such change;
- (e) that—
 - (i) where the appropriate authority is the Environment Agency or SEPA, the operator of that scheme pays the annual producer charge specified in regulation 45(2) to the appropriate authority on receipt of an invoice for such a charge issued by that appropriate authority under regulation 62(3); and
 - (ii) where the appropriate authority is the Department of the Environment, the operator of that scheme pays the annual producer charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006 on receipt of an invoice for such a charge issued by that appropriate authority under regulation 62(3);
- (f) that the operator of that scheme shall provide records and reports to the appropriate authority in compliance with regulations 27 and 28;
- (g) that the operator of that scheme shall accept WEEE from private households from a distributor free of charge in accordance with regulation 32;
- (h) that, where any of the information specified in Part 3 of Schedule 7 has not been submitted in accordance with regulation 41(4)(b)(iii), it shall be submitted to the appropriate authority within 28 days of the date of a notification of approval served on the operator of that scheme under regulation 41(6)(a); and
- (i) that the operator of that scheme continues to meet the requirements for approval of a scheme set out in Part 4 of Schedule 7.

Withdrawal of approval of a scheme

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

- (a) the appropriate authority is satisfied that the operator of that scheme—
 - (i) is in breach of any condition in regulation 43;
 - (ii) knowingly or recklessly supplied false information in connection with—
 - (aa) the application for approval made under regulation 41;
 - (bb) an application for registration made under regulation 20;
 - (cc) a notification made under regulation 21; or
 - (dd) compliance with any condition in regulation 43;
- (b) the operator of that scheme has been convicted of an offence under these Regulations.

(2) Before the withdrawal of approval of a scheme under paragraph (1) the appropriate authority shall serve a notification in writing on the operator of that scheme which shall state—

- (a) that approval of the scheme is to be withdrawn;
- (b) the reasons for the decision;
- (c) the right of appeal under Part 12; and
- (d) the date when the withdrawal of approval will take effect, not being earlier than the expiration of the time limit for an appeal against the notification as provided for in Schedule 11.

(3) Where a notification has been served in accordance with paragraph (2) and any appeal against that notification has been determined, the appropriate authority shall serve a notification in writing on each member of that scheme which shall contain—

- (a) a statement that approval of that scheme has been withdrawn and the effective date when the withdrawal of approval;
- (b) the reasons for the decision to withdraw approval;
- (c) a request for details of the amount in tonnes of EEE that that member has put on the market in the United Kingdom during any compliance period, or any part of a compliance period, where any such information has not been provided to the appropriate authority by the operator of that scheme in compliance with regulation 28; and
- (d) the obligation of a producer to join a new scheme under regulation 10(7).

Charges

45.—(1) The application charge referred to in regulation 41(4)(c)(i) shall be £12,174 for each scheme.

(2) Subject to paragraph (3), the annual producer charge referred to in regulation 43(e)(i) shall be—

- (a) £30 for each scheme member who is not, and is not required to be, registered under the Value Added Tax Act 1994^(a);
- (b) £220 for each scheme member who is, or is required to be, registered under the Value Added Tax Act 1994 and who had a total turnover of £1 million or less in the last financial year; and
- (c) £445 for each scheme member who had a total turnover of more than £1 million in the last financial year.

(3) Where an operator of a scheme does not provide the appropriate authority with evidence to support a claim that a scheme member is eligible for the charge specified in paragraph (2)(a) or (b), that scheme member shall be deemed to be eligible for the charge specified in paragraph (2)(c).

(a) 1994 c.23.

(4) Where for any reason approval is refused under regulation 41 or is withdrawn under regulation 44 the appropriate authority shall not be under any obligation to refund the whole or any part of the application charge that has been paid in accordance with regulation 41(4)(c)(i).

(5) The provisions of paragraphs (1), (2), (3) and (4) shall not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995(a)—

- (a) by the Environment Agency in respect of applications for approval made under regulation 41 to that appropriate authority; or
- (b) by SEPA in respect of applications for approval made under regulation 41 to that appropriate authority.

(6) A charging scheme made under section 41 of the Environment Act 1995 shall specify the extent to which it supersedes any of the provisions in paragraphs (1), (2), (3) and (4).

(7) To the extent that any of the provisions of paragraphs (1), (2), (3) and (4) are superseded in accordance with paragraph (5), any reference in these Regulations to a charge specified in paragraph (1) or (2) shall be read as a reference to the charge which supersedes that charge and which is prescribed by a charging scheme.

PART 8

APPROVAL OF AUTHORISED TREATMENT FACILITIES AND EXPORTERS

Requirement for approval

46.—(1) A person shall not issue an evidence note under regulation 47(2) in relation to the treatment, recovery or recycling of WEEE unless he is at the time of issue an operator of an AATF and that evidence relates to WEEE received at that AATF in a relevant approval period.

(2) A person shall not issue an evidence note in relation to WEEE exported for treatment, recovery or recycling unless he is at the time of issue an approved exporter and that evidence relates to WEEE exported by him in a relevant approval period for treatment, recovery or recycling at a specified site for which he is approved under regulation 47.

Application for approval

47.—(1) An application for approval of an ATF or an exporter under this Part shall be made to the appropriate authority and shall—

- (a) be in writing;
- (b) contain the information set out in Part 1 of Schedule 8, which shall be submitted in the format published by the appropriate authority under regulation 64; and
- (c) be accompanied by—
 - (i) where the appropriate authority is the Environment Agency or SEPA,
 - (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates, the application charge specified in regulation 51(1)(a); and
 - (bb) in any other case, the application charge specified in regulation 51(1)(b); or
 - (ii) where the appropriate authority is the Department of the Environment,
 - (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates; and
 - (bb) in any other case,

(a) 1995 c.25.

the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006.

(2) An application for approval made by—

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

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

(3) The matters referred to—

- (a) in paragraph (2)(a) are—
 - (i) that the applicant is an operator of an ATF;
 - (ii) that the applicant will comply with the conditions referred to in regulation 49(1); and
 - (iii) that the application has been made in accordance with paragraph (1); and
- (b) in paragraph (2)(b) are—
 - (i) that the applicant is an exporter;
 - (ii) where the application for approval relates to one or more treatment, recovery or recycling sites outside the EEA, that the requirements of Article 6(4) of the Directive shall be met in respect of each such site;
 - (iii) that the applicant will comply with the conditions referred to in regulation 49(2); and
 - (iv) that the application has been made in accordance with paragraph (1).

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

- (a) the reasons for the decision; and
- (b) the right of appeal under Part 12.

(5) Subject to regulation 50, where approval is granted under paragraph (2), it shall take effect—

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

(6) Where an operator of an ATF or an exporter who has—

- (a) given the undertaking referred to in paragraph (1)(c)(i)(aa); and
- (b) paid the application charge specified in regulation 51(1)(a),

subsequently breaches that undertaking, he shall from the date of that breach be liable to pay the appropriate authority the balance of the charge which would have been payable under paragraph (1)(c)(i)(bb) had the undertaking not been given.

(7) In this Part, “relevant approval period” means the period in respect of which a grant of approval that has been made under this regulation remains in force.

Application for extension of approval of an exporter to an additional site

48.—(1) An application to extend a grant of approval of an exporter made by an appropriate authority under regulation 47 during a relevant approval period to include an additional site to which he wants to export WEEE for treatment, recovery or recycling shall be made to that appropriate authority and shall—

- (a) be in writing;
- (b) contain the information referred to in Part 1 of Schedule 8, which shall be submitted in the format published by the appropriate authority under regulation 64; and
- (c) be accompanied by—
 - (i) where the appropriate authority is the Environment Agency or SEPA, the extension of approval charge specified in regulation 51(2); and
 - (ii) where the appropriate authority is the Department of the Environment, the extension of approval charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006.

(2) An application to extend an exporter’s approval to include an additional site located within the EEA shall be granted by the appropriate authority where it is satisfied that the application has been made in accordance with regulation 47, and shall otherwise be refused.

(3) An application to extend an exporter’s approval to include an additional site located outside the EEA shall be granted by the appropriate authority where it is satisfied that that site meets the requirements of Article 6(4) of the Directive and is satisfied that the application was made in accordance with regulation 47, and shall otherwise be refused.

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

- (a) the reasons for the decision; and
- (b) the right of appeal under Part 12.

(5) Subject to regulation 50, where an application is granted under paragraph (3), it shall take effect from the date of the decision under paragraph (3) or the date that the applicant’s grant of approval under regulation 47 took effect, whichever is the later date, and shall remain in force until the date that the applicant’s approval granted under regulation 47 expires.

Conditions of approval

49.—(1) An operator of an AATF shall comply with the conditions specified in Part 2 of Schedule 8.

(2) An approved exporter shall comply with the conditions specified in Part 3 of Schedule 8.

Suspension and cancellation of approval

50.—(1) The appropriate authority may suspend or cancel the approval of an ATF or exporter where it appears to it that—

- (a) in the case of an AATF, the operator of that AATF has failed, or is likely to fail, to comply with any of the conditions specified in Part 2 of Schedule 8;
- (b) in the case of an exporter, the person who is approved has failed, or is likely to fail, to comply with any of the conditions specified in Part 3 of Schedule 8; or
- (c) the operator of an AATF or the approved exporter has knowingly or recklessly supplied false information—
 - (i) in his application for approval made under regulation 47 or 48,

- (ii) in the case of an AATF, in connection with compliance with any of the conditions specified in Part 2 of Schedule 8, or
- (iii) in the case of an approved exporter, in connection with compliance with any of the conditions specified in Part 3 of Schedule 8.

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

(3) Where the appropriate authority suspends or cancels a grant of approval under paragraph (1) or cancels the approval of an exporter to the extent that it relates to a site under paragraph (2), it shall serve on the operator of the ATF or the exporter concerned a notification in writing stating—

- (a) its decision to cancel or suspend (as the case may be) the grant of approval;
- (b) its reasons for the decision;
- (c) the right of appeal under Part 12;
- (d) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice as provided for in Schedule 11; and
- (e) in the case of a suspension,
 - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notification; and
 - (ii) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.

(4) The approval of an ATF or an exporter shall be deemed to be cancelled—

- (a) on the date on which the approved facility ceases to be an ATF;
- (b) on the date on which the person who is approved ceases to be an exporter;
- (c) in the case where operator of an AATF requests that a grant of approval that relates to that AATF should be cancelled, with effect from the date of cancellation specified by that operator; or
- (d) in the case where an approved exporter requests that a grant of approval that relates to him should be cancelled, with effect from the date of cancellation specified by that exporter.

Charges

51.—(1) The application charge referred to in—

- (a) regulation 47(1)(c)(i)(aa) shall be £500; and
- (b) regulation 47(1)(c)(i)(bb) shall be £2,590.

(2) The extension of approval charge referred to in regulation 48(1)(c)(i) shall be £110.

(3) Where for any reason approval is refused under regulation 47 or 48 or is suspended or cancelled under regulation 50 the appropriate authority shall not be under any obligation to refund the whole or any part of the application fee that has been paid in accordance with regulation 47(1)(c)(i)(aa), 47(1)(c)(i)(bb) or 48(1)(c)(i).

(4) The provisions of paragraphs (1), (2) and (3) shall not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995—

- (a) by the Environment Agency in respect of applications for approval made under regulation 47 or 48 to that appropriate authority; or
- (b) by SEPA in respect of applications for approval made under regulation 47 or 48 to that appropriate authority.

(5) A charging scheme made under section 41 of the Environment Act 1995 shall specify the extent to which it supersedes any of the provisions in paragraphs (1), (2) and (3).

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

Reporting

52.—(1) Subject to paragraph (2), an operator of an AATF or an approved exporter shall provide reports to the appropriate authority —

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

(2) An operator of an AATF or an approved exporter shall provide reports to the appropriate authority —

- (a) on or before 1st November 2007 in respect of the period commencing on 1st July 2007 and ending with 30th September 2007; and
- (b) on or before 1st February 2008 in respect of the period commencing on 1st October 2007 and ending with 31st December 2007.

(3) The reports referred to in paragraphs (1) and (2) shall include details of—

- (a) in the case of an AATF—
 - (i) the total amount in tonnes of WEEE received for treatment under these Regulations; and
 - (ii) the total amount in tonnes of WEEE treated under these Regulations at that AATF;
 - (iii) the total amount in tonnes of WEEE delivered to another ATF for treatment under these Regulations;
 - (iv) where sub-paragraph (a)(iii) applies,
 - (aa) the name and address of the operator of the ATF referred to in that sub-paragraph; and
 - (bb) the address of the ATF where the treatment referred to in that sub-paragraph was carried out;
 - (v) the amount in tonnes of WEEE delivered to a reprocessor for recovery or recycling under these Regulations;
 - (vi) where sub-paragraph (a)(v) applies,
 - (aa) the name and address of the reprocessor referred to in that sub-paragraph; and
 - (bb) the address of the site where the recovery or recycling referred to in that sub-paragraph was carried out;
 - (vii) the amount in tonnes of WEEE delivered to an approved exporter for treatment, recovery or recycling outside the United Kingdom under these Regulations;
 - (viii) where sub-paragraph (a)(vii) applies, the name and address of the exporter referred to in that sub-paragraph; and
 - (ix) where sub-paragraph (a)(i), (ii), (iii), (v) or (vii) applies, details of the amount in tonnes of WEEE shall be provided by reference to the following categories—
 - (aa) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),

- (bb) display equipment,
 - (cc) cooling appliances containing refrigerants, and
 - (dd) gas discharge lamps,
- and in the case of each category shall specify whether WEEE was intended for use by private households or by users other than private households;
- (b) in the case of an approved exporter, the total amount of WEEE in tonnes exported for treatment, recovery and recycling by reference to the following categories—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps,
 and in the case of each category shall specify whether WEEE was intended for use by private households or by users other than private households; and
 - (c) the total number of evidence notes issued.
- (4) In addition to the requirements in paragraph (3), the report referred to in—
- (a) paragraph (1)(d) shall include all of the information provided in the quarterly reports that relate to the relevant approval period; and
 - (b) paragraph (2)(b) shall include all of the information provided in the report referred to in paragraph (2)(a).
- (5) An operator of an AATF or an approved exporter shall also provide a report to the appropriate authority on or before 28th February in the year immediately following the end of the relevant approval period which shall—
- (a) be from an independent auditor; and
 - (b) demonstrate to the satisfaction of the appropriate authority that the evidence notes issued by the operator of the AATF or the approved exporter during the relevant approval period are consistent with the amount of WEEE in tonnes received or exported for treatment, recovery or recycling in that relevant approval period.
- (6) For the purposes of paragraph (5), an “independent auditor” means—
- (a) an auditor who would be eligible for appointment as the company auditor of the operator of the AATF or the approved exporter under Part II of the Companies Act 1989(a); or
 - (b) an auditor who is—
 - (i) independent of the operator of the AATF;
 - (ii) independent of any operator of a scheme; and
 - (iii) a member of a professional body for auditors that is recognised as such by an appropriate authority.

Record keeping

53.—(1) An AATF or an approved exporter shall maintain records that enable completion of the reports referred to in regulation 52(1), 52(2) and 52(5) for each quarter period in a relevant approval period.

(2) The records referred to in paragraph (1) shall be kept for a period of at least four years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand.

(a) 1989 c. 40.

PART 9

POWERS AND DUTIES OF THE SECRETARY OF STATE

Distributor take back scheme

54. The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve a distributor take back scheme to carry out the functions of—

- (a) providing a system that shall ensure the availability and accessibility free of charge of designated collection facilities in the United Kingdom for the purpose of achieving a high level of collection of WEEE from private households at such facilities; and
- (b) providing distributors with an alternative means of discharging the obligation under regulation 31.

Approval of designated collection facilities

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

(2) The Secretary of State shall not approve any establishment or undertaking under paragraph (1) unless he is satisfied that the criteria set out in Schedule 9 are met.

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

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

Withdrawal of approval of designated collection facilities

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

- (a) no longer meets the criteria set out in Schedule 9; or
- (b) is jeopardising or is likely to jeopardise the achievement of the United Kingdom's obligations under the Directive.

(2) Where the Secretary of State decides to withdraw approval of a designated collection facility under paragraph (1), within 14 days of that decision being made, he shall notify the operator of the collection facility in writing—

- (a) of his decision to withdraw approval of the designated collection facility;
- (b) of the reasons for that decision;
- (c) of the date when the decision will take effect, not being sooner than 28 days from the date of the notification; and
- (d) that the operator of the collection facility may make representations in writing to the Secretary of State in relation to the decision within 14 days of the date of the notification.

(3) The Secretary of State shall consider any representations made to him in writing by the operator of the collection facility under paragraph (2)(d) at any time before the decision mentioned in paragraph (1) takes effect.

(4) The Secretary of State may decide against withdrawing his approval of the designated collection facility at any time before the decision mentioned in paragraph (1) takes effect.

Code of practice

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

- (a) the operator of a designated collection facility; and
- (b) by the operator of a scheme that collects WEEE from private households from a designated collection facility.

(2) The Secretary of State may from time to time revise the code of practice issued under paragraph (1) by revoking, amending or adding to the provisions of the code.

Evidence notes

58.—(1) The Secretary of State may—

- (a) buy an evidence note from any person who has obtained that evidence note as a result of having financed the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households that—
 - (i) is deposited at a designated collection facility; or
 - (ii) is returned under regulation 32 but is not deposited at a designated collection facility, during a compliance period;
- (b) sell or otherwise supply an evidence note referred to in paragraph (a) to an operator of a scheme for the purpose of enabling that operator to comply with the requirements of regulation 22 in relation to submitting a declaration of compliance with supporting evidence notes; and
- (c) issue an evidence note in relation to the treatment, recovery and recycling of WEEE in exchange for the receipt of any evidence note issued by—
 - (i) an operator of an AATF; or
 - (ii) an approved exporter.

(2) It shall be the duty of the Secretary of State to approve the format of evidence notes issued by an operator of an AATF or an approved exporter.

Product design

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

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

PART 10

DUTIES OF THE APPROPRIATE AUTHORITIES

Registration of producers

60.—(1) The appropriate authority shall maintain and make available in accordance with this regulation a register relating to those producers who are registered with it in accordance with regulation 19 and containing the information specified in Schedule 10.

(2) The appropriate authority shall—

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

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

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

(5) Nothing in this regulation shall require a register maintained by the appropriate authority to contain any information which has been superseded by later information after four years have elapsed from that later information being entered in the register.

(6) The appropriate authority shall publish the format in which the information referred to in Schedule 6 shall be submitted to it in an application for registration made under regulation 20 or in a notification made under regulation 21.

Monitoring

61. The appropriate authority shall monitor—

- (a) compliance with their obligations under regulations 8 to 13 and 18 of these Regulations by persons who are or may be producers;
- (b) the accuracy of the information provided in, or in connection with, a declaration of compliance submitted under regulation 12 or 29;
- (c) operators of schemes that have been approved under Part 7;
- (d) the accuracy of the information provided by operators of schemes in support of or in connection with an application for registration made under regulation 20;
- (e) the accuracy of the information provided by operators of schemes in support of or in connection with an application for registration made under regulation 21;
- (f) the accuracy of the information provided by any person in or in connection with the reporting requirements in regulations 27, 28 and 52;
- (g) the accuracy of the information provided by operators of schemes in support of or in connection with an application for approval under regulation 41, together with any changes notified in accordance with regulation 43;
- (h) the accuracy of the information provided by an operator of an AATF or an approved exporter in support of or in connection with an application for approval made under regulation 47;
- (i) the accuracy of the information provided by an approved exporter in support of or in connection with an application for an extension of a grant of approval made under regulation 48; and
- (j) the register of producers maintained under regulation 60.

Approval of schemes

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

- (a) all schemes that it has approved under regulation 41; and
- (b) the operators of the schemes referred to in sub-paragraph (a).

(2) A list maintained by the appropriate authority in accordance with paragraph (1) shall not be required to contain any information that has been superseded by later information after four years have elapsed from that later information being entered in the list.

(3) The appropriate authority shall issue an invoice for payment of the annual producer charge referred to in regulation 45 to each operator of a scheme that it has approved under regulation 41.

(4) The appropriate authority shall publish the format in which—

- (a) the information referred to in Part 1 of Schedule 7 shall be submitted to it in an application for approval made under regulation 41;
- (b) the information referred to in regulation 27 shall be submitted to it in accordance with that regulation; and

- (c) the information referred to in regulation 28 shall be submitted to it in accordance with that regulation.

Information

63.—(1) The appropriate authority shall publish information—

- (a) on the total amount of EEE put on the market in the United Kingdom by producers in a compliance period, or any part of a compliance period; and
- (b) on the total amount of WEEE that—
 - (i) is deposited at a designated collection facility; or
 - (ii) is returned under regulation 32 but is not deposited at a designated collection facility, in a compliance period, or any part of a compliance period.

(2) The information referred to in paragraph (1) shall be based on the information provided to the appropriate authority—

- (a) by the operator of a scheme under regulations 27 and 28; or
- (b) by a producer in relation to a request made in a notification served under regulation 44(3).

Approval of authorised treatment facilities and exporters

64.—(1) The appropriate authority shall be under a duty to maintain and publish a list of all AATFs, operators of AATFs and approved exporters.

(2) The appropriate authority shall publish the format in which the information referred to in Part 1 of Schedule 8 shall be submitted to it in an application for approval made under regulation 47 or in an application for an extension of a grant of approval made under regulation 48.

PART 11

DISCLOSURE OF INFORMATION

Disclosure of information

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

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

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

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

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

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

- (a) which relates to a trade secret of any person or which otherwise is or might be commercially confidential in relation to any person; or
 - (b) whose disclosure otherwise than under or by virtue of paragraph (1) would, in the opinion of the Secretary of State, be contrary to the interests of national security.
- (4) Any authorisation under or by virtue of paragraph (1) of the disclosure of information by or to any person shall also be taken to authorise the disclosure of that information by or to any officer of his who is authorised by him to make the disclosure or to receive the information.
- (5) No person shall be subject to any civil or criminal liability in consequence of any disclosure made under or by virtue of paragraph (1).

PART 12

APPEALS

Right of appeal

- 66.**—(1) An operator of a scheme or an operator of a proposed scheme may appeal—
- (a) to the Secretary of State against a decision of the Environment Agency;
 - (b) to the Scottish Ministers against a decision of SEPA; and
 - (c) to the Planning Appeals Commission against a decision of the Department of the Environment.
- (2) For the purposes of paragraph (1), a decision means a decision—
- (a) to refuse to grant approval of that operator’s proposed scheme under regulation 41; or
 - (b) to withdraw approval of that operator’s scheme under regulation 44.
- (3) An operator of an ATF or an exporter may appeal—
- (a) to the Secretary of State against a decision of the Environment Agency;
 - (b) to the Scottish Ministers against a decision of SEPA; and
 - (c) to the Planning Appeals Commission against a decision of the Department of the Environment.
- (4) For the purposes of paragraph (3), a decision means a decision—
- (a) to refuse to grant an application for approval made by that operator of an ATF or that exporter under regulation 47;
 - (b) to refuse to grant an extension of a grant of approval made to that exporter under regulation 48; or
 - (c) to suspend or cancel a grant of approval made in relation to that ATF or that exporter under regulation 50.
- (5) For the purposes of this Part and Schedule 11, “appeal body” means one of the following—
- (a) the Secretary of State,
 - (b) the Scottish Ministers, or
 - (c) the Planning Appeals Commission.

Procedure of appeals

- 67.**—(1) Where an appeal is made to an appeal body under regulation 66, that body may—
- (a) appoint any person to exercise on its behalf, with or without payment, the function of determination of the appeal; or
 - (b) refer any matter involved in the appeal to such person as that body may appoint for the purpose, with or without payment.

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

(3) Schedule 11 shall have effect with respect to the procedure of any such appeal.

Determination of appeals

68. Where, on an appeal made under regulation 66, the appeal body determines that the decision of the appropriate authority shall be altered it shall be the duty of that appropriate authority to give effect to the determination.

Status of a decision pending appeal

69. Where an appeal made under regulation 66 above is pending in a case falling within regulation 44 or 50—

(a) a decision—

(i) to withdraw approval of a scheme, or

(ii) to cancel approval of an ATF or an exporter,

shall be ineffective until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn; and

(b) a decision to suspend cancellation shall remain in force.

PART 13

ENFORCEMENT

Enforcement

70.—(1) Subject to paragraph (2), it shall be the duty of the Secretary of State to enforce these Regulations and in carrying out his duties he may appoint any person to act on his behalf.

(2) It shall be the duty of the following authorities to enforce regulations 8 to 13, 18, 37, 49, 52 and 53 and Part 4—

(a) in England and Wales, the Environment Agency;

(b) in Scotland, SEPA; and

(c) in Northern Ireland, the Department of the Environment.

(3) No proceedings for an offence under these Regulations may be instituted in the United Kingdom, or in any part of the United Kingdom, except by or on behalf of an enforcement authority.

(4) Nothing in these Regulations shall authorise an enforcement authority to bring proceedings in Scotland for an offence.

(5) In this Part, “enforcement authority” means any person mentioned in this regulation.

Enforcement notice

71.—(1) Where an enforcement authority has reasonable grounds for suspecting that any of the requirements of the following regulations have not been complied with—

(a) regulations 8 to 18,

(b) regulations 19 to 30,

(c) regulations 31, 33 and 34, and

(d) regulations 49, 52 and 53,

it may serve an enforcement notice on—

- (i) in a case under sub-paragraph (a), the producer,
- (ii) in a case under sub-paragraph (b), the operator of the scheme,
- (iii) in a case under sub-paragraph (c), the distributor, and
- (iv) in a case under sub-paragraph (d), the operator of the AATF or the approved exporter (as the case may be).

(2) A notice which is served under paragraph (1) shall—

- (a) state that the enforcement authority suspects that a specified requirement of these Regulations has been contravened;
- (b) specify the reason it is suspected that a requirement of these Regulations has been contravened;
- (c) require the person to whom the enforcement notice is given (“the relevant person”)—
 - (i) to comply with the requirements of these Regulations; or
 - (ii) to provide evidence to the enforcement authority demonstrating that the requirements of these Regulations have been met;
- (d) specify the period of time within which the relevant person must comply with the enforcement notice issued by the enforcement authority; and
- (e) warn the relevant person that unless the requirement is complied with, or evidence has been provided within the period specified in the notice, he may be prosecuted.

(3) Where an enforcement authority serves an enforcement notice on a person under this regulation, proceedings for an offence under regulation 73 shall not commence unless the time limit specified for compliance in the enforcement notice has expired.

Entry and inspection

72.—(1) For the purposes of carrying out his functions under these Regulations, an enforcement officer may exercise the powers of entry and inspection referred to in paragraphs (2) and (3).

(2) Subject to the production if so requested of his credentials, an enforcement officer may—

- (a) enter at any reasonable time any premises which he considers necessary for him to enter;
- (b) on entering any premises by virtue of sub-paragraph (a), take with him—
 - (i) such other persons as may appear to him necessary and, where there is reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) make such examination and investigation as may in any circumstances be necessary;
- (d) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (e) take samples, or cause samples to be taken, of any records, parts of any records, copies of any records, copies of parts of any records, products and parts of products found in or on any premises which the enforcement officer has power to enter;
- (f) in the case of any such sample of a record or product as is mentioned in sub-paragraph (e), to take possession of it and detain it for so long as is necessary for any of the following purposes—
 - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has the power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before examination of it is completed; and

- (iii) to ensure that it is available for use in evidence in any proceedings for an offence under these Regulations or in any other proceedings relating to an enforcement notice under regulation 71;
 - (g) require any person who is considered to be able to give information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of any person other than a person nominated by that person to be present and any person whom the enforcement officer may allow to be present) such questions as the enforcement officer or the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
 - (h) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records—
 - (i) which are required to be kept under these Regulations, or
 - (ii) which it is necessary to see for the purposes of an examination or investigation under sub-paragraph (c),
 and inspect and take copies of, or of any entry in, the records; and
 - (i) require any person to afford such facilities and assistance with respect to any matters or things within that person’s control or in relation to which that person has responsibilities as are necessary to enable the enforcement officer to exercise any of the powers conferred on them by regulation 72.
- (3) In the application of paragraph (2)(b)(i) to Northern Ireland, “constable” has the meaning given in the Interpretation Act (Northern Ireland) 1954(a).
- (4) If a justice of the peace, on written information on oath—
- (a) is satisfied that there are reasonable grounds to believe that any information or material relevant to any examination or investigation under paragraph (2)(c) is on any premises, and
 - (b) is also satisfied either that—
 - (i) admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied and the occupier is temporarily absent,
 the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise the enforcement officer to enter the premises, if need be by force.

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

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

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

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

(8) If an enforcement officer or other person who enters any premises by virtue of this regulation discloses to any person any information obtained by him in the premises with regard to

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

any secret manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

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

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

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

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

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

(13) In this regulation—

“enforcement officer” means—

- (a) an officer of an enforcement authority who is authorised in writing by that authority to act as an enforcement officer for the purposes of this Part, and
- (b) a person appointed by the Secretary of State who is authorised in writing by the Secretary of State to act as an enforcement officer for the purposes of this Part; and

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

PART 14

OFFENCES AND PENALTIES

Offences

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

- (a) contravenes or fails to comply with any requirements of regulation 8, 9, 10, 11, 12 or 13;
- (b) furnishes information under regulation 11 and either—
 - (i) knows the information provided to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular; or
- (c) furnishes a declaration of compliance under regulation 12 and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular.

(2) A producer shall be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 14, 15, 16, 17, 18 or 40(3).

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

- (a) contravenes or fails to comply with any requirements of regulation 20, 21, 22, 23, 25, 26, 27, 28, 29 or 30;
- (b) furnishes a report under regulation 27 or 28 and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular, or

- (ii) furnishes such information recklessly and it is false and misleading in a material particular; or
 - (c) furnishes a declaration of compliance under regulation 29 and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular.
- (4) An operator of a scheme shall be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 24.
- (5) A distributor shall be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 31.
- (6) A distributor shall be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 33 or 34.
- (7) An operator of an AATF or an approved exporter is guilty of an offence if he—
- (a) contravenes or fails to comply with any requirements of regulation 49, 52 or 53; or
 - (b) furnishes a report under regulation 52 and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular, or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular.
- (8) A person shall be guilty of an offence if he—
- (a) contravenes or fails to comply with any requirements of regulation 36, 40(1) or 46;
 - (b) without reasonable cause, fails to comply with an enforcement notice served under regulation 71;
 - (c) without reasonable cause, fails to comply with a requirement imposed under regulation 72;
 - (d) intentionally obstructs any person acting in the execution of these Regulations;
 - (e) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;
 - (f) without reasonable cause, fails to produce information when required to do so to any person acting in the execution of these Regulations;
 - (g) furnishes to any person acting in the execution of these Regulations any information which he—
 - (i) knows the information to be false or misleading in a material particular, or
 - (ii) furnishes such information recklessly and it is false or misleading in a material particular.
- (9) A person shall be guilty of an offence if he contravenes or fails to comply with any requirements of regulation 37.
- (10) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Penalties

74.—(1) A person who is guilty of an offence under regulation 73(1), (3), (5), (7) or (8) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(2) A person who is guilty of an offence under regulation 40(4), 72(8) or 73(2), (4), (6) or (9) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement of proceedings

75.—(1) In England and Wales a magistrates' court may try an information, and in Northern Ireland a magistrates' court may try a complaint, in relation to an offence under these Regulations if the information is laid or if the complaint is made within twelve months from the time when the offence is committed.

(2) In Scotland summary proceedings in relation to an offence under these Regulations may be begun at any time within twelve months from the time when the offence is committed.

11th December 2006

Malcolm Wicks
Minister of State for Science and Innovation
Department of Trade and Industry

SCHEDULE 1

Regulation 5(1)

Categories of EEE covered by these Regulations

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

SCHEDULE 2

Regulation 5(2)

List of products which fall under the categories in Schedule 1

1. Large household appliances
 - 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
 - Vacuum cleaners

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

3. IT and telecommunications equipment

Centralised data processing:
Mainframes
Minicomputers
Printer units
Personal computing:
Personal computers (CPU, mouse, screen and keyboard included)
Laptop computers (CPU, mouse, screen and keyboard included)
Notebook computers
Notepad computers
Printers
Copying equipment
Electrical and electronic typewriters
Pocket and desk calculators
Other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means
User terminals and systems
Facsimile
Telex
Telephones
Pay telephones
Cordless telephones
Cellular telephones
Answering systems
Other products or equipment of transmitting sound, images or other information by telecommunications

4. Consumer equipment

Radio sets
Television sets
Videocameras
Video recorders

Hi-fi recorders

Audio amplifiers

Musical instruments

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

5. Lighting equipment

Luminaires for fluorescent lamps with the exception of luminaires in households

Straight fluorescent lamps

Compact fluorescent lamps

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

Low pressure sodium lamps

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

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

Drills

Saws

Sewing machines

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

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

Tools for welding, soldering or similar use

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

Tools for mowing or other gardening activities

7. Toys, leisure and sports equipment

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running and rowing

Sports equipment with electric or electronic components

Coin slot machines

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

Radiotherapy equipment

Cardiology

Dialysis

Pulmonary ventilators

Nuclear medicine

Laboratory equipment for *in-vitro* diagnosis

Analysers

Freezers

Fertilization tests

Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

9. Monitoring and control instruments

Smoke detector

Heating regulators

Thermostats

Measuring, weighing or adjusting appliances for household or laboratory equipment

Other monitoring and control instruments used in industrial installations (for example, in control panels)

10. Automatic dispensers

Automatic dispensers for hot drinks

Automatic dispensers for hot or cold bottles or cans

Automatic dispensers for solid products

Automatic dispensers for money

All appliances which deliver automatically all kind of products

SCHEDULE 3

Regulation 6

First compliance period

1. The following amendments apply in relation to the first compliance period.

Producer obligations

2. In regulation 10(2), for the words “any compliance period join a scheme on or before 15th October in the year immediately preceding the commencement of that compliance period” substitute “the first compliance period, join a scheme on or before 15th March 2007”.

3. For regulation 13, substitute the following regulation—

“13.—(1) A producer to whom the obligation in regulation 10 applies in relation to the first compliance period shall keep records in writing of the following information—

- (a) the amount in tonnes of all EEE which he has put on the market in the United Kingdom in 2006 and during the first compliance period which falls within—
 - (i) the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
- (b) for each category referred to in sub-paragraph (a), the amount in tonnes of EEE that was or is intended for use by—
 - (i) private households; and
 - (ii) users other than private households.

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

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

Scheme obligations

4. In regulation 20—

- (a) in paragraph (1), for the words “any compliance period, or any part of a compliance period, make an application to the appropriate authority on or before 31st October in the year immediately preceding the commencement of that compliance period” substitute “the first compliance period, or any part of the first compliance period, make an application to the appropriate authority on or before 31st March 2007”;
- (b) in paragraph (2), for the words “15th October in the year immediately preceding the commencement of the relevant compliance period” substitute “15th March 2007”;
- (c) in paragraph (6), for the words commencing with “1st December of the year immediately preceding the commencement of that compliance period” substitute the following “1st June 2007”; and
- (d) after paragraph (8) insert the following new paragraphs (8A), (8B) and (8C)—

“(8A) The appropriate authority shall notify in writing each operator of a scheme of a preliminary assessment of the market share of his scheme members in 2006 on or before 17th April 2007.

(8B) The market share referred to in paragraph (8A) shall be calculated as follows in relation to each of the categories of EEE using the information provided to the appropriate authority in compliance with paragraph 13A of Schedule 4—

$$A \div B$$

where—

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

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

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

- (a) the preliminary assessment of the market share in 2006 of the scheme members referred to in that paragraph by reference to the categories of EEE;
- (b) an explanation of how the market share referred to in sub-paragraph (a) has been determined using the calculation set out in paragraph (8B).”.

5. In paragraph (1) of regulation 28, for the words “each compliance period, or part of a compliance period” substitute “2006 and in the first compliance period, or in any part of that compliance period”.

6. After regulation 28, insert the following new regulation 28A—

“Reporting: financing of WEEE from private households

28A.—(1) Each operator of a scheme that is approved under regulation 41 for the first compliance period shall provide a report to the appropriate authority on or before 31st December 2007.

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

- (a) be in writing; and
- (b) explain how his scheme members could most effectively—
 - (i) assume responsibility for financing the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at designated collection facilities relating to the waste

from any product that they have put on the market in the United Kingdom after 13th August 2005; and

- (ii) provide a guarantee when placing a product on the market in the United Kingdom that ensures that the operations mentioned in sub-paragraph (b)(i) in relation to the waste from that product will be financed.”.

7. In Schedule 6, after paragraph 14 insert the following new paragraph 14A—

“**14A.** In the case of an application made under regulation 20(1), the following information in respect of each scheme member—

- (a) the amount in tonnes of all EEE which each scheme member has placed on the market in the United Kingdom during 2006 which falls within—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
- (b) for each category referred to in sub-paragraph (a), the amount in tonnes of WEEE intended for use by—
 - (i) private households; and
 - (ii) users other than private households.”.

Scheme approval

8. In regulation 41—

- (a) in paragraph (1), for the words commencing “any compliance period” and ending with “in the year immediately preceding the commencement of that compliance period” substitute “the first compliance period, on or before 31st January 2007”; and
- (b) in paragraph (6)(a), for every reference to “1st October of the year immediately preceding the relevant compliance period” substitute “on or before 28th February 2007”.

9. In Schedule 7—

- (a) in paragraph (f) of Part 3; and
- (b) in paragraph 2(f) of Part 4,

for the words “regulations 27 and 28” substitute “regulations 27, 28 and 28A”.

Duties of the appropriate authorities

10. In paragraph (f) of regulation 61, for the words “regulations 27, 28” substitute “regulations 27, 28, 28A”.

Offences and penalties

11. In regulation 73—

- (a) in paragraph (3)(a), after the word “28,” insert “28A,”; and
- (b) in paragraph (3)(b), for the words “27 or 28” substitute “27, 28 or 28A”.

SCHEDULE 4

Regulation 15

Crossed out wheeled bin symbol



SCHEDULE 5

Regulations 12 and 29

Declaration of compliance

PART 1

Information to be included in a declaration of compliance by a producer

1. The name and address of the producer in respect of whom the declaration is issued.
2. The name and title of the person who issues the declaration.
3. The date of the declaration.
4. The relevant compliance period to which the declaration relates.
5. In relation to the WEEE from private households in respect of which the declaration is being issued—
 - (a) the reference number of the appropriate authority's notification under regulation 8(4)(c); and
 - (b) a declaration that the obligations under regulation 8(1) that have been notified to the relevant producer by the appropriate authority under that regulation—
 - (i) have been met; or
 - (ii) have not been met.
6. In relation to the WEEE from users other than private households in respect of which the declaration is being issued, a declaration that—
 - (a) the obligations under regulation 9(1)—
 - (i) have been met; or
 - (ii) have not been met;
 - (b) the amount in tonnes of WEEE for which the producer has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal during the relevant compliance period which fall within—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps.

PART 2

Information to be included in a declaration of compliance by an operator of a scheme

1. The name and address of the operator of the scheme in respect of which the declaration is issued.
2. The name and title of the person who issues the declaration.
3. The date of the declaration.
4. The relevant compliance period to which the declaration relates.
5. In relation to the WEEE from private households in respect of which the declaration is being issued—
 - (a) the reference number of the appropriate authority's notification under regulation 22(4)(b); and
 - (b) a declaration that the obligations under regulation 22 that have been notified to the relevant operator of the scheme by the appropriate authority under that regulation—
 - (i) have been met; or
 - (ii) have not been met.
6. In relation to the WEEE from users other than private households in respect of which the declaration is being issued, a declaration that—
 - (a) the obligations under regulation 23—
 - (i) have been met; or
 - (ii) have not been met;
 - (b) the amount in tonnes of WEEE for which the operator of the scheme has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal during the relevant compliance period which fall within—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps.

SCHEDULE 6

Regulations 20 and 21

Information to be included in an application for registration of producers and notification of new scheme members

1. The compliance period in respect of which the application for registration is being made.
2. The name of the scheme.
3. The name of the operator of that scheme and, where the operator of that scheme is a partnership, the names of all the partners.
4. The address and telephone number of the registered office of the operator of the scheme or, if not a body registered in the United Kingdom, the principal place of business and telephone number in the United Kingdom of the operator of the scheme.
5. The name and address of the registered office of each scheme member or, where a scheme member is not a body registered in the United Kingdom, the principal place of business in the United Kingdom of that scheme member.

6. The address for service of notices if different from the addresses mentioned in paragraphs 4 and 5.

7. The business name of a scheme member if different from any name given in compliance with paragraph 5.

8. Where a scheme member is a partnership, the names of all the partners.

9. In the case of a claim that a scheme member is eligible for the annual producer charge specified in regulation 45(2)(a), evidence that that scheme member is not, and is not required to be, registered under the Value Added Tax Act 1994(a).

10. In the case of a claim that a scheme member is eligible for the annual producer charge specified in regulation 45(2)(b)—

- (a) evidence that that scheme member is, or is required to be, registered under the Value Added Tax Act 1994; and
- (b) evidence that the total turnover in pounds sterling of that scheme member in the last financial year was £1 million or less.

11. Details of the producer identification mark that each member of the scheme is placing or intends to place on his products in compliance with regulation 16.

12. Where any scheme member has previously been registered under Part 4, his EEE producer registration number.

13. In relation to each scheme member, confirmation of whether the operator of the scheme will be discharging that scheme member's obligations under—

- (a) regulation 22(1);
- (b) regulation 23(1); or
- (c) both (a) and (b).

14. The Standard Industrial Classification ("SIC") code for any scheme member that has one. For the purposes of this paragraph, an SIC code is a code that is included in the "Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 2003" published by the Office for National Statistics.

SCHEDULE 7

Regulation 41

Approval of proposed schemes and schemes

PART 1

Information to be included in an application for approval

1. The name of the proposed scheme.
2. The name of the operator of the proposed scheme.
3. The address and telephone number of the registered office of the operator of the proposed scheme or, if the operator is not registered in the United Kingdom, the principal place of business and telephone number in the United Kingdom of that operator.
4. Where the operator of the proposed scheme is a partnership, the names of all the partners.

(a) 1994 c. 23.

5. The address for service of notices if different from that referred to in paragraph 3.

6. Confirmation of whether or not the operator of the proposed scheme has been convicted of an offence under these Regulations; and where a positive confirmation is given an explanation of how the contravention of these Regulations which resulted in the conviction occurred and what steps have been taken to ensure that such a contravention will not occur in the future.

PART 2

Information to be included in the constitution

1. The nature of the operator of the scheme's legal personality.
2. The type of relationship between the operator of the proposed scheme and the scheme members (for example, contractual or partnership).
3. Details of how membership fees and any other sums payable to the operator of the proposed scheme by the scheme members are to be determined.
4. Details of any rules or regulations to be observed by the scheme members.
5. Details of the procedures under which the operator of the proposed scheme would enforce the rules or regulations against a scheme member.
6. Whether there is a minimum or maximum number of scheme members permitted.
7. Details of the eligibility criteria for membership of the proposed scheme.
8. Details of how evidence notes acquired by the operator of the proposed scheme in complying with his obligations under these Regulations will be allocated between scheme members in the event that approval of the proposed scheme is withdrawn under regulation 44.
9. Details of any arbitration procedure that will apply for the purpose of determining any dispute between scheme members and between scheme members and the operator of the proposed scheme.
10. Details of the arrangements in place for disseminating important information to scheme members in an accurate and timely manner.

PART 3

Information to be included in the operational plan

The operational plan referred to in regulation 41(4)(b)(iii) must include the following information in relation to each of the three compliance periods in respect of which the application for approval has been made—

- (a) details of the financial resources and technical expertise that will be available to enable the performance of the obligations of the operator of the proposed scheme under regulations 22 and 23;
- (b) details of the proposed arrangements for collection, treatment, recovery and recycling that will be or are in place to ensure that the operator of the proposed scheme will be able to comply with his obligations under Part 4 in relation to—
 - (i) WEEE from private households in accordance with regulation 22;
 - (ii) WEEE from users other than private households in accordance with regulation 23; or
 - (iii) both (i) and (ii);
- (c) where it is available to the operator of the proposed scheme, the information referred to in paragraph (b) must include—

- (i) the names and addresses of the designated collection facilities from whom the proposed scheme intends to obtain WEEE from private households and the estimated amounts in tonnes of WEEE to be collected from each;
 - (ii) the names and addresses of the AATFs that the operator of the proposed scheme intends to use to treat WEEE and the estimated amounts in tonnes of WEEE to be treated by each such AATF;
 - (iii) the names and addresses of the approved exporters that the operator of the proposed scheme intends to use to treat, recover and recycle WEEE and the estimated amounts in tonnes of WEEE to be treated, recovered and recycled by each such approved exporter; and
 - (iv) in the case of the collection of WEEE from designated collection facilities, details of any contingency plans;
- (d) a statement indicating the nature of the anticipated relationship of the operator of the proposed scheme with—
- (i) designated collection facilities;
 - (ii) AATFs; and
 - (iii) approved exporters,
- in the three compliance periods in respect of which an application for approval is made;
- (e) how the operator of the proposed scheme will meet the conditions of approval set out in regulation 43;
- (f) how the operator of the proposed scheme will comply with the reporting requirements under regulations 27 and 28;
- (g) how the operator of the proposed scheme will comply with the obligation to submit a declaration of compliance under regulation 29;
- (h) where an operator of a proposed scheme is intending to collect WEEE from private households in accordance with regulation 22, details of the proposed arrangements to accept return of WEEE from private households from distributors free of charge in accordance with regulation 32;
- (i) how the operator of the proposed scheme will prioritise, where appropriate, the reuse of whole appliances in a manner consistent with the objectives of the Directive and in accordance with regulation 24; and the relationships it intends to develop with those persons carrying out reuse activities, including making use of the existing voluntary and community sector infrastructure; and
- (j) how the operator of the proposed scheme will adopt and comply with the code of practice issued by the Secretary of State under regulation 57.

PART 4

Requirements for approval of a proposed scheme and for continued approval of a scheme

1. That the rules or regulations of the proposed scheme or scheme provide—
 - (a) that a scheme member must apply to join the scheme for a minimum period of one relevant compliance period; except in the case of a producer who does not become a producer until after the start of a relevant compliance period and who will be expected to join that scheme for the remainder of the relevant compliance period during which he has commenced putting EEE on the market in the United Kingdom; and
 - (b) that where a scheme member's membership of the scheme is cancelled, any such cancellation cannot take effect until the end of the current compliance period.
2. That the proposed scheme or scheme has the necessary resources and systems in place to—

- (a) maintain up to date records of its scheme members, including—
 - (i) their names and addresses;
 - (ii) their EEE producer registration numbers; and
 - (iii) the producer identification marks used by each member in compliance with regulation 16;
- (b) handle WEEE from private households, if it proposes to do so, (including collection and transportation to ATFs and funding of treatment, recovery and recycling) in order to discharge the operator of the scheme's notified obligation under regulation 22 in an appropriate and timely manner;
- (c) handle WEEE from users other than private households, if it proposes to do so, (including collection and transportation to ATFs and funding of treatment, recovery and recycling) in order to discharge the operator of the scheme's obligations under regulation 23 in an appropriate and timely manner;
- (d) where a proposed scheme is the subject of an application for approval made under regulation 41, or where a scheme is approved under that regulation for the purposes of regulation 22, accept return of WEEE from private households from distributors free of charge in accordance with regulation 32;
- (e) keep, update and supply records to the appropriate authority as required under regulation 30;
- (f) supply information to the appropriate authority as required under regulations 27 and 28;
- (g) submit declarations of compliance and supporting evidence notes as required under regulation 29;
- (h) check that the information supplied to it by its scheme members under regulation 11 is as accurate as reasonably possible and that the operator of the scheme's submission of that information to the appropriate authority will meet a similar standard of accuracy; and
- (i) maintain good environmental practices.

3. That the operator of the proposed scheme or scheme will co-operate with other operators of schemes in relation to developing working relationships with operators of designated collection facilities.

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

5. That the operator of the proposed scheme or scheme is likely to be able to meet his expected treatment, recovery and recycling obligations for the three compliance periods in respect of which an application for approval is being made or has been granted under regulation 41.

6. That the proposed scheme or scheme is likely to assist in meeting the United Kingdom's obligations in relation to the recovery of WEEE in respect of which an application for approval is being made or has been granted under regulation 41.

7. In the event that the operator of the proposed scheme or scheme contravenes any of the obligations placed on him under these Regulations, that it is likely that enforcement proceedings could be taken against the operator of the proposed scheme under these Regulations without a disproportionate cost to the enforcement authority.

Approval of authorised treatment facilities and exporters

PART 1

Information to be included in an application for approval

1. The name of the operator of the ATF or the exporter.
2. The registered office address and telephone number of the operator of the ATF or the exporter where he is a body registered in the United Kingdom or, if the operator of the ATF or the exporter is not a body registered in the United Kingdom, his principal place of business and telephone number in the United Kingdom.
3. Where the operator of the ATF or exporter is a partnership, the names of all the partners.
4. Where the operator of the ATF or exporter is not a body registered in the United Kingdom or a partnership, the name of the person having control or management of that body.
5. The address for service of notices if different from that referred to in paragraph 2.
6. In the case of an application made by an operator of an ATF, the name and address of each ATF in respect of which he is applying for approval.
7. In the case of an application made by an exporter—
 - (a) the name and address of each site to which he proposes to export WEEE for treatment, recovery or recycling;
 - (b) in respect of each site specified in accordance with sub-paragraph (a)—
 - (i) specify the amount in tonnes of WEEE that he proposes to export to that site for treatment, recovery or recycling by reference to each of the following categories—
 - (aa) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (bb) display equipment,
 - (cc) cooling appliances containing refrigerants, and
 - (dd) gas discharge lamps; and
 - (ii) the applicable treatment, recovery and recycling operations carried out by that site.
8. Confirmation of whether or not the operator of the ATF or the exporter has been convicted of an offence under these Regulations; and where a positive confirmation is given an explanation of how the contravention of these Regulations which resulted in the conviction occurred and what steps have been taken to ensure such a contravention will not occur in the future.

PART 2

Conditions of approval of authorised treatment facilities

1. An evidence note for treatment shall only be issued with respect to WEEE that has arisen as waste in the United Kingdom and that has been received for treatment at an ATF.
2. An evidence note for recovery or recycling shall only be issued with respect to WEEE that has arisen as waste in the United Kingdom and that has been received for recovery and recycling by a reprocessor.

3. An evidence note for treatment, recovery and recycling shall specify the amount in tonnes of WEEE that has been treated, recovered or recycled by reference to each of the following categories—

- (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
- (ii) display equipment,
- (iii) cooling appliances containing refrigerants,
- (iv) gas discharge lamps; and

in the case of each category shall specify the amount in tonnes of WEEE from private households and of WEEE from users other than private households.

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

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

5. Duplicate copies of any evidence note issued by the operator of the AATF shall be retained by that operator of the AATF and made available for inspection by the appropriate authority at all reasonable times.

6. One or more substitute evidence note shall be issued by an operator of an AATF, on request, to the holder of the original evidence note in exchange for the original, provided that—

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

7. An evidence note for treatment, recovery or recycling shall not be issued by an operator of an AATF for more than the total amount of WEEE—

- (a) received for treatment, recovery or recycling at the AATF in the relevant approval period; and
- (b) which is capable of being recovered or recycled no later than the end of the year immediately following the end of the relevant approval period.

8. An evidence note for treatment, recovery or recycling shall not be issued by an operator of an AATF in respect of any WEEE that has previously been treated by another AATF.

9. An evidence note shall only be issued by an operator of an AATF to—

- (a) an operator of a scheme;
- (b) a producer to whom regulation 10(8) applies;
- (c) the Secretary of State;
- (d) the operator of a designated collection facility; or
- (e) an appropriate authority where paragraph 10 applies.

10. Where an evidence note has not been issued by an operator of an AATF on or before 31st January in any relevant approval period in respect of an amount of WEEE received for treatment, recovery or recycling in the relevant approval period that ended on 31st December in the previous year, an evidence note for that amount shall not be issued by an operator of an AATF to any other person than to the appropriate authority on or before 15th February in that year.

11. Where WEEE is treated at an AATF and is subsequently exported, it must be exported by an approved exporter.

PART 3

Conditions of approval of exporters

1. An evidence note for treatment, recovery or recycling shall only be issued in respect of WEEE that is exported in accordance with Council Regulation (EEC) No. 259/93 of 1st February 1993 on the supervision and control of shipments of waste within, into and out of the European Community(a), as amended by Commission Regulation (EC) No. 2557/2001(b), with respect to WEEE that has arisen as waste in the United Kingdom and that—

- (a) has been exported for treatment at any establishment or undertaking located outside the United Kingdom which carries out treatment operations and which is of an equivalent standard to an ATF; or
- (b) has been exported for recovery or recycling at any establishment or undertaking located outside the United Kingdom which carries out recovery or recycling operations and which is of an equivalent standard to a reprocessor.

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

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

3. Duplicate copies of an evidence note issued under these Regulations shall be retained by an approved exporter and made available for inspection by the appropriate authority at all reasonable times.

4. One or more substitute evidence note shall be issued by an approved exporter, on request, to the holder of the original evidence note in exchange for the original, provided that—

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

5. An evidence note for treatment, recovery or recycling outside the United Kingdom shall not be issued by an approved exporter—

- (a) for more than the total amount of WEEE exported by that exporter; and
- (b) for WEEE that is partially treated, recovered or recycled in the United Kingdom before being exported by that exporter.
- (c) An evidence note for treatment, recovery or recycling shall only be issued by an approved exporter in a format approved by the Secretary of State.

6. An evidence note shall only be issued by an approved exporter to—

- (a) an operator of a scheme;
- (b) a producer to whom regulation 10(8) applies;
- (c) the Secretary of State;
- (d) the operator of a designated collection facility; or
- (e) an appropriate authority where paragraph 7 applies.

7. Where an evidence note has not been issued by an approved exporter on or before 31st January in any relevant approval period in respect of an amount of WEEE exported for treatment, recovery or recycling in the relevant approval period that ended on 31st December in the previous

(a) OJ No. L30, 6.2.1993, p.1.

(b) OJ No. L349, 31.12.2001, p.1.

year, an evidence note for that amount shall not be issued by an approved exporter to any other person than to the appropriate authority on or before 15th February in that year.

SCHEDULE 9

Regulation 55

Criteria for approval as a designated collection facility

1. The facility is likely to subsist for at least one compliance period.
2. That—
 - (a) the operator of the collection facility agrees to comply with the code of practice; and
 - (b) the collection facility has the capacity and arrangements in place to collect WEEE in compliance with the code of practice.
3. The operator of the collection facility is willing to work with one or more operator of a scheme to secure the collection and removal of WEEE from a private household that is deposited at the facility during each compliance period.
4. The operator of the collection facility holds a relevant authorisation.
- 5.—(1) Where an operator of a collection facility—
 - (a) finances the costs of collecting and delivering WEEE from private households to—
 - (i) an AATF for treatment; or
 - (ii) an approved exporter for treatment outside the United Kingdom, during a compliance period; and
 - (b) possesses an evidence note issued in relation to the activities mentioned in sub-paragraph (a),he agrees to provide to the appropriate authority information on the total amount of WEEE from private households that he has been responsible for collecting from a designated collection facility and delivering to an AATF for treatment or an approved exporter for treatment outside the United Kingdom during a compliance period.
6. The information referred to in paragraph 5 shall—
 - (a) be in writing;
 - (b) specify the amount in tonnes of WEEE from private households by reference to each of the following categories—
 - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
 - (ii) display equipment,
 - (iii) cooling appliances containing refrigerants, and
 - (iv) gas discharge lamps; and
 - (c) be provided for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period.

SCHEDULE 10

Regulation 60

Public register

1. The producer's name.

2. The address of the registered office or, where the producer is not a body corporate registered in the United Kingdom, the address of the principal place of business in the United Kingdom of that producer.

3. The producer's EEE producer registration number.

4. The name of the scheme that the producer has joined indicating whether that producer has joined the scheme for the purposes of discharging his obligations under regulation 8(1) or 9(1) or both.

5. The name of the operator of that scheme and the address of his registered office if he is a body corporate registered in the United Kingdom or, where he is not a body corporate registered in the United Kingdom, the address of his principal place of business in the United Kingdom.

6. A description of the producer identification mark used on that producer's products in compliance with regulation 16.

SCHEDULE 11

Regulation 67

Procedure of appeals

1.—(1) Where a person wishes to appeal to an appeal body under regulation 66, he shall do so by notice in writing served on that appeal body.

(2) The notice mentioned in paragraph (1) shall be accompanied by—

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to refusal to grant approval under regulation 41 or 47, a copy of the appellant's application and any supporting documents;
- (c) where the appeal relates to refusal to grant an extension of approval under regulation 48, a copy of the appellant's application and any supporting documents;
- (d) where the appeal relates to withdrawal of approval under regulation 44, a copy of the notification of the decision and any supporting documents;
- (e) where the appeal relates to suspension or cancellation of approval under regulation 50, a copy of the notification of the decision and any supporting documents;
- (f) a copy of any correspondence relevant to the appeal;
- (g) a copy of any other document relevant to the appeal; and
- (h) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

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

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

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

3. Where under regulation 67(2) the appeal is by way of a hearing, the person hearing the appeal shall, unless he has been appointed to determine an appeal under regulation 67(1)(a), make a written report to the appeal body that appointed him under regulation 67(1)(b) which shall include his conclusions and recommendations or his reasons for not making any recommendations.

4.—(1) The appeal body or other person determining an appeal shall notify the appellant in writing of its or his decision and of the reasons for that decision.

(2) If the appeal body determines an appeal after a hearing under regulation 67(2), he or they shall provide the appellant with a copy of any report made to it under paragraph 3.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose the main provisions of Council Directive 2002/96/EC of 27th January 2003 on waste electrical and electronic equipment (OJ No. L37, 13.2.2003, p.24) as amended by Council Directive 2003/108/EC (OJ No. L345, 31.12.2003, p.106) (as amended “the Directive”).

Part 1 (General) deals with extent (regulation 1), interpretation (regulation 2) and service of documents (regulation 3). Regulations 4, 45 and 51, which deal with charges, do not extend to Northern Ireland. In particular, the following terms used in these regulations have the same meaning as in the Directive: “dangerous substance or preparation”, “disposal”, “distributor”, “electrical and electronic equipment” (“EEE”), “producer”, “recovery”, “recycling”, “reuse”, “treatment”, “waste electrical and electronic equipment” (“WEEE”) and “WEEE from private households”. Regulation 4 amends the Environment Act 1995^(a) for the purpose of extending the definition of “environmental licence” in that Act to cover specified functions of the Environment Agency (“EA”) and the Scottish Environment Protection Agency (“SEPA”) under these Regulations.

Part 2 (Application) provides that these Regulations will apply, with certain exceptions, to the categories of EEE specified in Schedule 1. The products listed in Schedule 2 fall within the categories set out in Schedule 1. Regulation 6 provides that these Regulations shall have effect in relation to the first compliance period (i.e. the period from 1st July 2007 to 31st December 2007) subject to the amendments made by Schedule 3.

Part 3 (Producer obligations) provides that all producers who put EEE on the market in the United Kingdom in a compliance period will be responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of (a) WEEE from private households that is deposited at designated collection facilities, or returned under regulation 32 in that compliance period (regulation 8); and WEEE from users other than private households that arises during that compliance period (regulation 9). Regulation 10 provides that any producer who has any obligation under regulations 8 and 9 must join an approved compliance scheme; and that he shall be exempt from complying with any such obligation for the period that his membership of that scheme subsists.

Where a scheme’s approval is withdrawn, the obligations under regulations 8 and 9 will fall back on members of that scheme (i.e. producers) who will be notified of any such obligation in relation to WEEE from private households by the appropriate authority. Regulation 8 sets out the rules for working out the level of a producer’s financing obligation under that regulation. A producer must provide a declaration of compliance, together with supporting evidence, to the appropriate authority (regulation 12). Schedule 5 specifies the information that must be included in a declaration of compliance. For the purposes of these Regulations, the appropriate authority will be the EA, the SEPA or the Department of the Environment in Northern Ireland (regulation 2).

A producer must mark EEE that he puts on the market with the crossed out wheeled bin symbol shown in Schedule 4 (regulation 15), a producer identification mark and a date mark (regulation 16). A producer must also provide information on reuse and environmentally sound treatment for each new type of EEE put on the market by that producer (regulation 17). Regulation 18 places certain obligations on producers supplying EEE to a member State other than the United Kingdom by means of distance communication.

Part 4 (Scheme obligations) requires an operator of an approved compliance scheme to register or notify each producer who is a member of that scheme with the appropriate authority (regulations 19 and 21). Regulation 20 and Schedule 6 set out the procedure for registering producers. An operator of an approved scheme must meet the financing obligations that its

(a) 1995 c.25.

members would have had, but for their membership of the scheme. An operator of a scheme has certain obligations in relation to the reuse of whole appliances (regulation 24), treatment (regulation 25) and recovery (regulation 26) for any WEEE that he is responsible for under these Regulations. An operator of a scheme has reporting (regulations 27 and 28), compliance (regulation 29) and record keeping (regulation 30) obligations.

Part 5 (Distributor obligations and rights) provides that a distributor shall be responsible for providing an in-store take back service for customers in relation to specified WEEE unless he is a member of a distributor take back scheme (regulations 31 and 35). A distributor who supplies new EEE must make specified information available to users of EEE in private households (regulation 33). A distributor has a right to return WEEE from private households free of charge to a system set up by a compliance scheme (regulation 32). Regulation 34 imposes a record-keeping obligation on distributors.

Part 6 (Miscellaneous) places a financing obligation on users other than private households in relation to WEEE that arises from EEE that was put on the market in the United Kingdom before 13th August 2005 (regulation 36). A person who collects or transports WEEE must ensure that reuse and recycling of that equipment, or its components, is optimised (regulation 37). A person has a right to refuse to handle contaminated WEEE (regulation 38). An operator of a scheme may establish and operate a system to take back WEEE from private households (regulation 39). No person may show a purchaser at the time of sale of new EEE the costs of financing the collection, treatment and environmentally sound disposal of WEEE from private households unless specified conditions apply (regulation 40).

Part 7 (Approval of proposed schemes and withdrawal of approval of schemes) sets out the procedure for applying for approval as a scheme (regulation 41 and Schedule 7). Provision is made for refusal of approval (regulation 42), conditions of approval (regulation 43) and withdrawal of approval (regulation 44). The charges that must be paid to the EA or SEPA under this Part are specified (regulation 45).

Part 8 (Approval of authorised treatment facilities and exporters) sets out the procedure for applying for approval as an authorised treatment facility (“ATF”) or an exporter for the purpose of issuing evidence of producer or scheme compliance under these Regulations (regulations 46 to 48 and Schedule 8). Provision is made for conditions of approval (regulation 49) and suspension or cancellation of approval (regulation 50). The charges that must be paid to the EA or SEPA under this Part are specified (regulation 51).

Part 9 (Powers and duties of the Secretary of State) provides the Secretary of State with a power to approve a distributor take back scheme (regulation 54) and designated collection facilities (“DCFs”) (regulations 55 and 56 and Schedule 9). The Secretary of State has a power to approve a code of practice for the purpose of providing practical guidance to DCFs and operators of schemes (regulation 57). He also has a power to buy, sell or otherwise supply evidence notes issued by an approved ATF (“AATF”) or an approved exporter; to issue evidence notes; and to approve the format of evidence notes issued by AATFs and approved exporters (regulation 58). The Secretary of State must promote the design and production of EEE that takes into account and facilitates dismantling and recovery (regulation 59).

Part 10 (Duties of the appropriate authorities) provides that an appropriate authority is under a duty to maintain and make available a register of producers (regulation 60 and schedule 10); and to monitor the performance of specified obligations of producers, operators of schemes, AATFs and approved exporters (regulation 61). This Part also imposes duties on an appropriate authority in relation to the approval of compliance schemes (regulation 62) and AATFs and approved exporters (regulation 64). An appropriate authority must publish information about EEE put on the market in the United Kingdom and WEEE deposited at DCFs (regulation 63).

Part 11 (Disclosure of information) makes provision for the disclosure of information by the Secretary of State, an appropriate authority and an enforcement authority to any person for the purpose of facilitating the carrying out of any function under these Regulations.

Part 12 and Schedule 11 (Appeals) sets out the right and procedure of an appeal against certain decisions of an appropriate authority.

Part 13 (Enforcement) provides that regulations 8 to 13, 18, 37, 49, 52 and 53 and Part 4 shall be enforced in England and Wales, by the EA, in Scotland, by the SEPA, and in Northern Ireland, by the Department of the Environment in Northern Ireland; and that the remainder of these Regulations shall be enforced by the Secretary of State (regulation 70) (together “the enforcement authorities”). The enforcement authorities are provided with powers to serve enforcement notices (regulation 71) and to enter and inspect premises (regulation 72).

Part 14 (Offences and penalties) details the offences (regulation 73) and penalties (regulation 74) relating to any contravention of these Regulations.

A Regulatory Impact Assessment (RIA) in respect of these Regulations is available and a copy can be obtained from the Sustainable Development and Regulation Directorate, Department of Trade and Industry (DTI), 151 Buckingham Palace Road, London SW1W 9SS and at <http://www.dti.gov.uk/innovation/sustainability>. As these Regulations transpose the Directive, a transposition note (TN) setting out how the Government has transposed the Directive in the United Kingdom has been prepared. A copy of the TN is available from the DTI as above. Copies of the RIA and TN have been placed in the libraries of both Houses of Parliament.

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