

BIS | Department for Business
Innovation & Skills

WEEE REGULATIONS 2006

Government Guidance
Notes

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ABOUT THIS GUIDANCE

This guidance is addressed to all businesses and individuals (including in the public and third sectors) involved in the sale, purchase and disposal of electrical and electronic equipment. It applies to those businesses and individuals conducting such activities from the 1st January 2010.

It clearly explains the requirements of the relevant legislation and includes helpful materials such as a decision tree and FAQs.

This guidance cannot cover every situation and of course it may be necessary to carefully consider the relevant legislation to see how it applies in your circumstances. However, if you do follow the guidance it will help you to comply with the law and reduce the impact that waste electrical and electronic equipment has on the environment.

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The Waste Electrical and Electronic Equipment (WEEE) Regulations

Introduction

The Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 (as amended) (the Regulations), implement the main provisions of the European Parliament and Council Directive on waste electrical and electronic equipment (as amended) (the WEEE Directive). The WEEE Directive is one of a small number of European Directives that implement the principle of “extended producer responsibility”. Under this principle, producers are required to take financial responsibility for the environmental impact of products they place on the market, especially when those products become waste. The WEEE Directive applied this principle in relation to electrical and electronic equipment (EEE).

The broad aim of the Directive is to address the environmental impacts of EEE when it reaches the end of its life and to encourage its separate collection, subsequent treatment, re-use, recovery, recycling and environmentally sound disposal. It also seeks to improve the environmental performance of all operators involved in the lifecycle of EEE. It sets requirements relating to EEE in terms of the marking of equipment and the provision of information for the separate collection of WEEE, re-use of WEEE as whole appliances, standards for its treatment at specific facilities and recycling and recovery to target levels. It makes the producers of EEE responsible for financing most of these activities.

The Regulations have a number of implications for producers and distributors (retailers) of EEE. There are no exemptions for small businesses under the Directive and, as a consequence, the Regulations apply to all businesses regardless of size.

Distributors of EEE are responsible for providing facilities to enable the free take-back of household WEEE by final holders/end users and are required to provide certain information to the consumers of EEE.

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

Enforcement

The Regulations, in relation to producer obligations, are enforced in England and Wales by the Environment Agency (EA), in Scotland by the Scottish Environmental Protection Agency (SEPA) and in Northern Ireland by the Northern Ireland Environment Agency (NIEA).

The Vehicle Certification Agency (VCA), an executive agency of the Department of Transport, is the enforcement body for EEE distributor

obligations and producer obligations relating to the marking of products with a crossed out wheeled bin symbol.

The Regulations - Implementation dates

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

Chapter 1 - Who is affected by the WEEE Regulations?

Producers

1. A producer placing electrical and electronic equipment (EEE) on the UK market will fall within the scope of the Regulations.

2. "Producer" means any person who, irrespective of the selling technique used, including by means of distance communication:

- Manufactures and sells electrical and electronic equipment under their own brand;
- Resells under their own brand equipment produced by other suppliers. A reseller is not regarded as the "producer" if the brand of the producer appears on the equipment; or
- Imports or exports EEE on a professional basis into an EU member state.

3. Producers have a number of obligations under the Regulations:

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

Distributors

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

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

5. All distributors selling new EEE for use in households have obligations under the Regulations.

6. The main obligation on distributors is to provide a take-back service to householders enabling them to return their WEEE free of charge. The WEEE Regulations allow a choice of providing "in-store" take-back, participating in the Distributor Take-back Scheme (DTS), or providing an alternative system for free take-back for householders.

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

Consumers

8. Consumers have no legal obligations under the Regulations.
9. The Regulations encourage private householders to play their part in the separate collection of WEEE when it is discarded as waste.
10. Consumers have the ability to deposit WEEE in specific areas at civic amenity (CA) sites across the UK and in other specific collection facilities. In the UK consumers do not have to purchase EEE to use these facilities.
11. Consumers may also ask for information from a distributor of EEE about the options and collection facilities available in their local area for disposing of EEE.
12. Where a distributor is offering in-store take-back, old equipment must be accepted on a like-for-like (old for new) basis when a replacement purchase of new equivalent equipment is made. If new EEE is not purchased the distributor is not obliged to accept old WEEE.
13. The Regulations do not give an entitlement to the free collection of WEEE from homes. Existing home collection on delivery services, Local Authority (LA) bulky waste collections and collection by the charitable and voluntary sector remain unaffected.

Local Authorities

14. Local Authorities (LAs) have no direct legal obligations under the WEEE Regulations. However there are implications for LAs if they:
 - Receive household WEEE deposited by residents at CA sites or Waste Transfer Stations (WTSs) in their waste disposal authority area; or
 - Make bulky waste collections from residents in their local area.
15. LAs have the opportunity to secure free collection of WEEE separately collected at their CA sites or WTSs if these sites are registered as 'Designated Collection Facilities' (DCFs).

Producers of Non-Household EEE

16. The producers of non-household EEE may have an obligation to finance the costs of collection, treatment, recovery and environmentally sound disposal of EEE. This obligation applies:
 - when discarded EEE was put on the market on or after 13 August 2005
 - when discarded EEE put on the market before 13 August 2005 is replaced with new EEE
17. Nothing above prevents a producer from concluding an agreement whereby the parties make alternative arrangements to finance the costs of

collection, treatment, recovery and environmentally sound disposal of EEE discarded as waste.

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

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

Approved Authorised Treatment Facilities (AATF) or Approved Exporter (AE)

20. AATFs and AEs deal with separately collected non-household WEEE. AATFs and AEs also deal with household WEEE arising at DCFs or via Regulations 32 [and 39?] of the Regulations on behalf of Producer Compliance Schemes (PCSs).

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

22. Authorised Treatment Facilities (ATFs) with the appropriate permits or exemptions should work with AATFs to treat WEEE to the standards of the WEEE Directive and in accordance with the UK's WEEE Treatment Guidance.

Reprocessing (Recycling and/or Recovery) Operation

23. Reprocessers work with AATFs, ATFs and PCSs to ensure that treated WEEE is subsequently recycled and/or recovered to the target levels set out in the Regulations.

Charitable and Voluntary Sector

24. The re-use of whole appliances is encouraged where appropriate and when discarded.

25. It is recognised that re-use and refurbishment organisations from the charitable and voluntary sector are actively involved with WEEE in the UK. It is important that this involvement is maintained and that the Regulations support the social and economic benefits associated with the re-use of whole WEEE appliances.

26. PCSs and the operators of DCFs and AATFs are encouraged to develop formal working relationships to ensure that whole appliances priorities for re-

use are removed from WEEE destined for treatment and reprocessing. Such agreements should be documented appropriately.

Businesses supplying Non-Household EEE and Users of Non-Household EEE

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

Chapter 2: What electrical and electronic equipment (EEE) do the WEEE Regulations apply to?

Scope of the WEEE Regulations

28. The definition of EEE in the Regulations is intended to extend only to those products that are dependent on electric currents or electromagnetic fields to work properly, that is that either of these are the primary power source, and equipment for the generation, transfer and measurement of such currents.

29. The Regulations apply to all EEE put on the UK market, which falls within one of the ten categories listed in Schedule 1. Schedule 2 is an indicative (but not exhaustive) list of products under each of the categories and is taken directly from Annex 1B of the Directive. The Regulations specify a voltage rating range with which products in the ten categories must fall in order to come within scope. This is up to and including 1,000 volts AC or up to and including 1,500 volts DC.

Assessment of Products

30. Many products can be easily identified as being within the scope of the Regulations. However, there are a number of products (particularly in the specialist or industrial sectors), where there could be doubt or uncertainty.

31. The `decision tree` on page 12, may be useful for producers in determining whether their products are within scope of the Regulations.

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

32. This guidance uses some of the criteria for assessing 'grey area' products and equipment, (that is that equipment whose inclusion with the scope of the WEEE Regulations is in doubt).

33. These criteria have been discussed in the Technical Adaptation Committee (TAC) of member states and are reflected in the Commission's Frequently Asked Questions (FAQ) document on the WEEE and RoHS Directives (http://ec.europa.eu/environment/waste/pdf/faq_weee.pdf
http://ec.europa.eu/environment/waste/weee/index_en.htm)

34. The WEEE Directive provided for a number of exemptions from its provision for a broad range of products and equipment. These exemptions are reflected in the Regulations.

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

35. There is an exemption for EEE that is connected with the protection of the UK's essential security interests, such as arms, munitions and war material.

However, it should be noted that this exemption does not apply unless the EEE is designed exclusively for these purposes.

Products where electricity is not the main power source

36. Many products contain electrical and electronic components, either for additional functionality or a peripheral part. If electricity is used only for control of support functions, the product could be considered to be outside the scope of the WEEE Regulations (for example a combustion engine with an electronic ignition would be considered out of scope).

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

37. This is related to, but not always the same, as the issue in paragraph 35 above. Some products, particularly toys and novelty items, contain electrical or electronic components that give added value to the product. Often there are similar products on the market fulfilling the same function, but without these components. Examples may include musical greetings cards or soft toys with electronic components. These items still fulfil their primary function without their electronic components. As a result they could be considered to be outside the scope of the WEEE Regulations.

38. One exception to this general rule is sports equipment with electric or electronic components, which is a specific item listed within Annex 1B of the WEEE Directive. In this case, all sports equipment with electric or electronic components are considered to come within the scope of the WEEE Regulations regardless of whether or not those components are required for the primary function of the equipment.

Electrical and electronic equipment that is part of another type of equipment.

39. The WEEE Directive excludes EEE that is part of another type of equipment that does not fall within its scope. Examples of this would be lighting or entertainment equipment for use specifically in vehicles, trains or aircraft.

Fixed Installations

40. The term `fixed installation` is not found in the text of either the WEEE Directive or the Regulations, but is a general exemption from the scope of WEEE that has been confirmed by the EC during discussions with Member States about the extent of the derogation for equipment that is part of another type of equipment that does not fall within the scope of the Directive.

41. `Fixed installation` is defined as a combination of several pieces of equipment, systems, products and/or components (or parts) assembled and/or erected by a professional assembler or installer at a given place to operate together in an expected environment and to perform a specific task, but not intended to be placed on the market as a single functional or commercial unit.

42. Elements of a system that are not discernible EEE products in their own right or that do not have a direct function away from the installation are considered to be excluded from the scope of the Regulations.

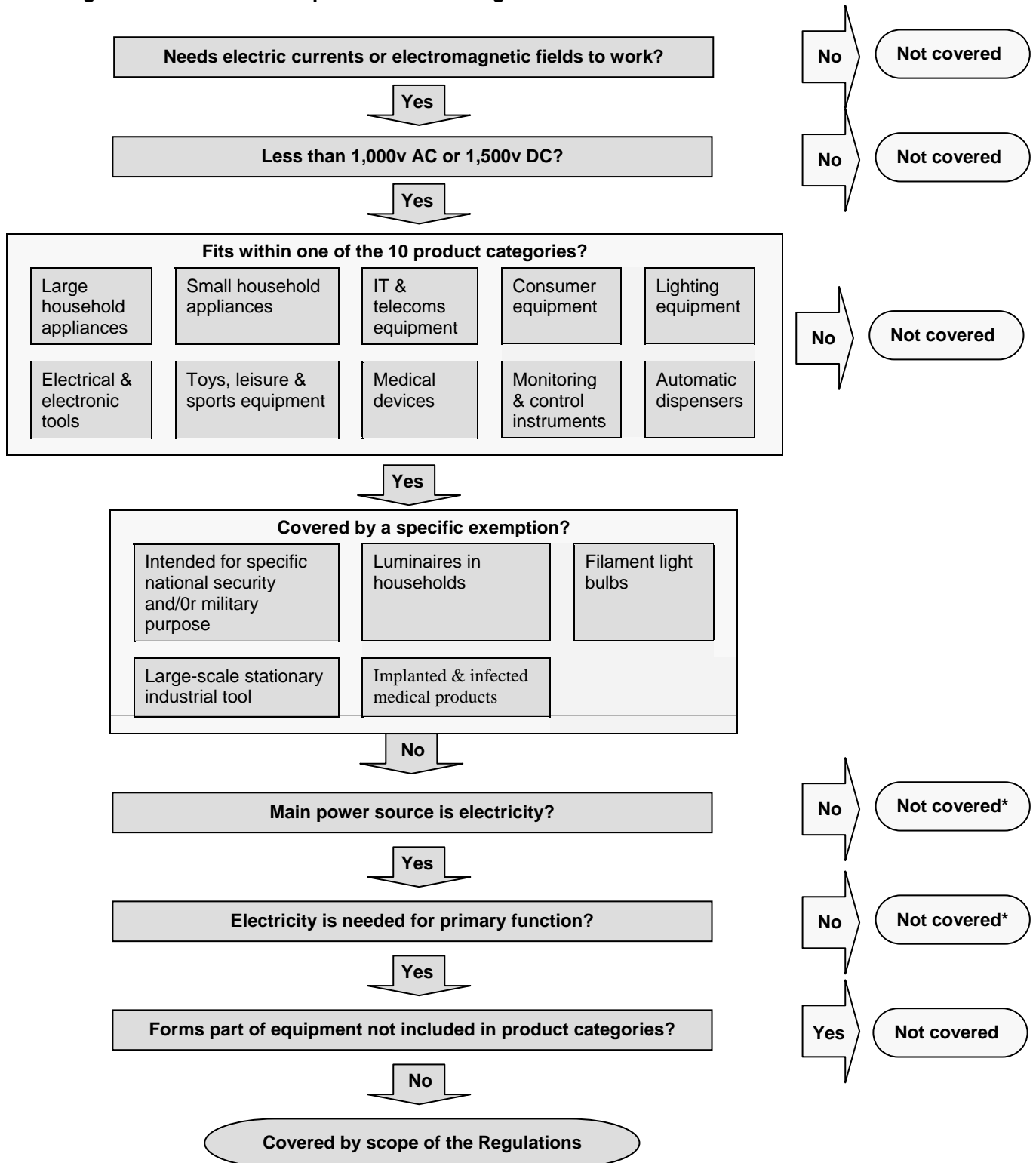
Other Exemptions

43. The Regulations do not apply to:

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

Decision Tree

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



Scope – Frequently Asked Questions (FAQs)

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

In addition to this guidance the European Commission's FAQs document on the scope of the WEEE Directive might be helpful and can be downloaded from: http://ec.europa.eu/environment/waste/pdf/faq_weee.pdf
http://ec.europa.eu/environment/waste/weee/index_en.htm

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

The list of products in Schedule 2 of the Regulations is an illustrative list. If your product is not on the list it does not necessarily mean that it is outside the scope of the Regulations.

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

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

What is the exemption for "fixed installations"?

Section 1.3 of the Commission's FAQ document states that the Directive is not considered to apply to "fixed installations". It should be noted, however, that discussions are still ongoing about the interpretation and validity of the term 'fixed installations' in the context of the reviews of both the WEEE and RoHS Directives. The UK Government will continue to interpret the term along the lines given in Chapter 2 of these guidance notes until those discussions are concluded.

Are component parts of electrical equipment considered to be EEE?

Components cover the range of discrete items that form part of a finished product and thus enable it to work properly eg. Transistor capacitors, diodes or internal wiring. Sub-assemblies are packages of components assembled into discrete units such as display panels or populated circuit boards. Components and sub-assemblies supplied for further manufacture or assembly are not finished products and are therefore not considered to be EEE in their own right.

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

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

important therefore, that accessory manufacturers should register as producers.

Must I report the sale of spare parts?

No – spare parts are not products by themselves but are supplied for the repair of products. Spare parts put on the market for the repair of products are outside the scope of the Regulations, but they may be subject to the Restriction on certain Hazardous Substances (RoHS) Regulations. You should consult those Regulations and the Government Guidance Notes (http://www.opsi.gov.uk/si/si2008/pdf/uksi_20080037_en.pdf <http://www.berr.gov.uk/files/file52010.pdf>)

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

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

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

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

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

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

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

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

FAQ document, decisions made in other EU member states and court decision. See Contacts Points on page 85 for the Environment Agencies contact details.

Chapter 3 – Consumers of Household EEE

44. Consumers of EEE do not have any obligations under the Regulations. The WEEE Directive aims to encourage consumers who use EEE to participate in the separate collection of this equipment at the end of its life.

45. Consumers can use a UK-Wide collection network which enables the return of WEEE free of charge. WEEE can be discarded at specific civic amenity (CA) sites around the country. There may also be further collection facilities available locally.

46. All distributors of EEE for household use in the UK have a take-back obligation under the Regulations when they sell a new product of similar type and functionality to the one being replaced, either by providing or contributing to adequate and available facilities for the return of WEEE; or by offering in-store take-back services,

47. Consumers are not entitled to free collection of WEEE from households. A distributor, local authority or a producer may, however, offer collection as part of their customer service either free of charge or on payment of a reasonable fee to cover transport and handling costs.

Separate Collection of WEEE

48. All distributors of EEE for household use have an obligation to provide information in writing to householders about the separate collection facilities available for WEEE.

49. Householders are entitled to ask their local retailers of EEE about the separate collection of WEEE including what facilities are available in their area.

50. Householders may also ask retailers if they are participating in the Distributor Take-back Scheme (DTS), which is supporting the national network of Designated Collection Facilities (DCF). If they are in the scheme they must signpost the householder to local facilities for separate WEEE collection.

51. If the retailer is not a member of the DTS, they must offer in-store take-back services to the householder, free of charge, when supplying new EEE on a like-for-like basis. The Government expects all retailers of EEE to declare, if challenged by householders, whether they are providing take-back via their membership of the DTS or providing an in-store take-back service.

Crossed out wheeled bin symbol

52. All new EEE products must be marked with the crossed out wheeled bin symbol. In exceptional cases, where this is necessary because of the size or function of the product, the crossed out wheeled bin symbol must be printed on the packaging, the instructions for use and the accompanying warranty.

This symbol aims to encourage the householder to separate out WEEE and to discard it separately from other household waste.



In-Store Take-Back

53. Distributors choosing to provide in-store take-back services for householders must do so on a like-for-like basis on the purchase of a new equivalent item or an item which has the same or similar functions.

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

Free Take-Back by Distance Sellers

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

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

56. Distributors must tell customers how they can dispose of WEEE. This can be done through their mail-order adverts, website content, and/or through leaflets included with purchases. It should be noted that offering "collection on delivery" does not release distance sellers from their take-back obligations under the Regulations in the event of a customer choosing to return WEEE themselves (see paragraph 58 below).

Collection on Delivery

57. Many distributors offer home-delivery services to customers purchasing large and bulky items of EEE. As part of the service they may offer to collect an equivalent old product the same time.

The Regulations do not affect this service. Distributors may continue to provide collection on delivery to their customers, either free or at a cost depending on their own commercial practice/policy. The cost of collection should however only cover the transportation and handling. It should not include any element of treatment or reprocessing costs as defined by the Regulations.

58. If a distributor offers collection on delivery, this does not release them from their take-back obligations under the Regulations.

Bulky Waste Collections

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

Data Protection and Security

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

61. Consumers should consider data protection issues when disposing of their equipment (e.g. personal data which may be held on personal computers). Consumers are encouraged to clear hard drives etc and where appropriate seek professional advice or assistance. This requirement is outside the Regulations.

Household Consumers – Frequently Asked Questions

Do these Regulations oblige consumers to dispose of WEEE separately?

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

Do I have to pay to get rid of WEEE?

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

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

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

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

If a distributor is not a DTS member and is not providing in-store take-back facilities, consumers are encouraged to report this to the VCA. weee@vca.gov.uk or call the WEEE Hotline on 0844 8000 819

Will this affect EEE I give to charity?

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

Will someone collect my WEEE from me?

The Regulations do not entitle you to free collection of WEEE. Retailers, producers and your Local Authority may offer collection services, but they may charge for this service. You can find your collection facility at: http://www.recyclenow.com/why_recycling_matters/electricals/index.html

What happens if I buy EEE abroad?

An individual consumer who purchases an item of EEE abroad and brings it into the UK for personal use is not considered to be a producer. You are entitled to free take-back of this item at the end of its life in just the same way as items purchased in the UK

Chapter 4 - Distributors of EEE in the UK (Part 5, regulation 31-35)

Distributors – A definition

62. A 'distributor' for the purposes of the Regulations means any person who provides EEE on a commercial basis to the party who is going to use it. This includes hire or leased equipment. Distributors include wholesalers, retailers, and distance sellers (e.g. internet retailers, mail order and tele-sale businesses) and producers who sell products direct to consumers of EEE. The Regulations place specific obligations on distributors that provide EEE to household end-users irrespective of the method of sale.

63. Distributors of EEE who also place EEE onto the UK market (including by manufacturing, re-branding or by importing on a professional basis) are also classified as a Producer of EEE and will have additional responsibilities under the Regulations. Businesses that fit this category should also read Chapters 5 and 6 on 'Producers of EEE and Producer Compliance Schemes'.

Distributor Obligations for non-household EEE

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

Distributor Obligations for Household EEE

65. A distributor of household EEE must:

- Provide information in writing to consumers including on the environmental impacts of EEE & WEEE and the separate collection of household WEEE (see paragraph 67 below);
- Facilitate the take-back of household WEEE from UK consumers free of charge, either by joining the Distributor Take-back Scheme (DTS) or collecting WEEE in-store or through local collection points;
- Make and retain records of the information they provide, and any household WEEE that they receive. These obligations relate to any sales of new EEE, and do not apply to sales of second-hand or reconditioned EEE that has been previously placed on the UK market

Distributor's Enforcement Body

66. The VCA, an executive agency of the Department for Transport, is the enforcement body for EEE distributor obligations and the product marking of new EEE with the crossed out wheeled bin symbol.
(www.vca.gov.uk/enforcement/weee-enforcement.asp).

Information provided by distributors of household EEE

67. Distributors of household EEE must provide their customers with information in writing on:

- The environmental impact of hazardous substances in EEE;
- The positive benefits of separate collection and environmentally sound recovery, recycling and diversion from the landfill of WEEE, and the reasons why they should not dispose of WEEE with other forms of waste they produce;
- The meaning of the 'crossed out wheeled bin' product marking symbol;
- How they can contribute towards re-use, recycling and other forms of recovery of WEEE;
- The arrangements through which customers can dispose of WEEE free of charge – in particular if they are a member of the DTS; if they provide in-store take-back; or if they provide some alternative free take-back service.

68. The Government expects all distributors in the UK to play an active part in promoting the ease of recycling household WEEE via free take-back either in-store or for those in the DTS at civic amenity sites. Information must be provided to consumers when they visit their retail premises or by some other means connected to sales (e.g. on the website).

69. This information can be in the form of a poster, leaflet or on demand printed material. It is also expected that customer facing staff will have knowledge of the existence of the Regulations and what the company is doing to comply with them.

- Distributors offering in-store take-back must explain clearly that they offer in-store take-back, and how the customer may use it. They must also explain that this option remains available alongside any 'collect on delivery' service they may offer.
- Distributors who are members of the DTS must inform their customers of where and how they can discard their WEEE.
- Distributors providing alternative free take-back systems must inform their customers of where and how they can discard their WEEE.

Record Keeping

70. Information made available to customers must be retained by distributors for four years. Records of individual transactions with customers are not required.

71. Where WEEE is received through free take-back, records are required about the number of units received and the number returned to a PCS under Regulation 32 of the WEEE Regulations. Any household WEEE obtained via a 'collect on delivery' service that is also returned to a PCS under Regulation 32 must be similarly recorded. These records should be retained for four years. The recommended format for this process can be accessed via the VCA website on: www.vca.gov.uk/enforcement/weee-enforcement.asp

Free take-back of Household WEEE

72. Distributors of EEE have an important role to play in facilitating the separate collection of household WEEE. They are the link between householders returning their WEEE and producers who have obligations to finance the costs of its collection, treatment, recovery and environmentally sound disposal.

73. Take-back systems should be widely available and accessible and enable users to dispose of their household WEEE free of charge. Distributors have a choice of how they discharge their take-back obligations. They must either:

- Join the Distributor Take-back Scheme (DTS). The scheme assists in funding a network of collection facilities where consumers can dispose of their household WEEE free of charge for environmentally sound treatment and recycling; or
- Offer in-store take. Distributors must accept free of charge an item of household WEEE equivalent to the new item of household EEE sold to the consumer. Where in-store take-back is offered it must be for all types of EEE that the distributor sells. The principle of free take-back is extended to distance sales as described below (see paragraph 80); or
- Provide an alternative free take-back service, which is available and accessible to customer.

Take-back through the Distributor Take-back Scheme.

74. Members of the DTS must inform their customers of how they can dispose of the WEEE free of charge at a DCF. Membership of the DTS is an alternative to operating in-store take-back.

In-store take-back

75. Distributors choosing to implement in-store take-back of household WEEE must do so free of charge and for all types of EEE they sell. In-store take-back applies irrespective of when and where the original item brought for disposal was originally purchased and without regard to “collect on delivery” services.

76. In-store take-back should be on a “like-for-like” basis in cases where a consumer is purchasing a new product to replace a similar product that they wish to discard. Distributors are expected to adopt a reasonable and practical approach to the equivalence of products. A distributor insisting on exact equivalence would run counter to the spirit of the Regulations. Reasonable examples of equivalence would be an old toaster (wherever purchased) for a new toaster; where a MP3 player replaces a cassette player; a DVD player/recorder replaces an old VCR. A customer should not expect the distributor to accept a television when they buy a kettle, or a washing machine when buying an electric drill.

77. Customers may prefer to return WEEE some time after making a purchase, e.g. If they need to make a changeover between the old and new equipment; or do not wish to carry old items around whilst shopping. WEEE should therefore be accepted within a reasonable period following a sale – e.g. 28 days. It may be appropriate to endorse the sales receipt to show that in-store take-back has been deferred. Distributors must record the number of units of WEEE they receive and retain the records for at least four years.

Alternative free take-back arrangements

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

79. Regulation 40A gives final users the right to return WEEE directly into the system e.g. Professional repairers who have EEE which proves to be uneconomical to repair can return equipment direct to a PCS or a nominated AATF/AE under agreement with the PCS.

Provision of free take-back relating to distance sellers

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

- Joining the DTS which assists in funding a national network of collection facilities; or
- Allowing sales to qualify for in-store take-back through one of their local stores (where these exist); or
- Providing the customer with an alternative route for free take-back (e.g. Inclusion of a pre-addressed envelope for items for return).

81. The distributor must comply with the requirements described in paragraphs 67-69 above on record keeping and provision of information to householders' e.g. through their mail-order adverts, on-screen during on-line sales, and/or through leaflets included with purchases. It should be noted that offering "collection on delivery" does not release distance sellers from their take-back obligations under the Regulations in the event of a customer choosing to return WEEE themselves (see below).

Collection on Delivery Services

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

83. "Collection on Delivery" is a service which many distributors choose to offer their customers. The fact that a distributor offers this service does not release them from their obligation to allow householders to return WEEE free of charge under the Regulations.

84. Distributors may continue to provide collection on delivery services; however any charge should only cover the transportation and handling costs. It should not include any element of treatment or reprocessing costs as defined by the regulations.

85. Records should be maintained, under Regulation 34 (2), of WEEE obtained via collection on delivery and returned under Regulation 32.

Management of WEEE Received by Distributors

86. Receiving or handling WEEE should be done in a way that optimises the re-use and recycling of components or whole appliances. This can be done by ensuring the WEEE is passed through a DCF or by making arrangements with a PCS for the direct return of WEEE under Regulation 32 and 40A to an AATF.

87. Distributors can dispose of WEEE collected through take-back or collection-on-delivery by passing it on to a PCS who cannot charge for accepting it. But Distributors are not entitled to free collection from stores. Arrangements should be made with a PCS either for them to collect it (a possible transport fee may be charged) or for the distributor to consign the WEEE to an AATF. Arrangements to transport WEEE should be made with a registered waste carrier. A distributor may require appropriate waste management licences to transfer WEEE themselves. Records must be kept of all WEEE collected and managed this way.

88. More information for distributors about how to dispose of collected WEEE can be found on the VCA website. www.vca.gov.uk/enforcement/weee-enforcement.asp.

89. A list of PCSs, AATFs and AEs can be found on the Environment Agency website at: www.environment-agency.gov.uk/weee.

Distributors Selling EEE from Registered Producers

90. Producers must provide their producer registration number (PCSs register producers with the UK Authorities – see Chapter 5 for more information) to distributors when they supply EEE. If a distributor is unable to obtain a registration number from the producer it should challenge that producer and inform the relevant environment agency.

Distributors with Both Distributor and Producer Responsibilities

91. Distributors of EEE may meet the definitions of both “distributor” and “producer” for household EEE under the regulations and would have dual responsibilities. The following are examples of where this would arise:

- A distributor “re-brands” EEE manufactured by another (therefore a producer) and makes it available for sale (therefore a distributor);
- A distributor imports EEE for which the original overseas producer has not registered responsibility through membership of a UK PCS (placing EEE on the UK market, therefore a producer) and makes available for sale (therefore a distributor).

92. The Producer chapter (Chapter 5) provides a more detailed definition of a producer and more information on their responsibilities.

Showing the Costs of WEEE to Consumers

Household EEE

93. At the time of sale of new EEE, producers may show the costs of collection, treatment and recovery of WEEE that results from EEE put on the market before 13 August 2005. The cost shown must not exceed the actual costs incurred for collection, treatment, recovery and environmentally sound disposal of this WEEE.

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

- Until **13 February 2011** for all EEE, except that in Category 1, Large Household appliances) or
- Until **13 February 2013** (for Category 1).

95. It is an offence for distributors to obstruct a producer exercising his rights to show this information (see regulation 40(4)).

Distributor Take-back Scheme (DTS)

96. The DTS collects funds from members which are distributed to local authorities to assist in the development of the network of DCFs which provide distributors with an alternative to in-store take-back of WEEE. The DTS operator is responsible for registering DCFs for approval by the Secretary of State.

97. The DTS is operated by Valpak Retail WEEE Services Ltd. Their activities include collection and distribution of member’s funding, compilation and maintenance of the DCF register and the development and provision of consumer information to retail members to ensure that they meet all their obligations under the Regulations. A list of DCFs that will accept WEEE from householders can be accessed from www.Valpak.co.uk/dts

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

99. Further information on the DTS and details of joining fees are available at www.Valpak.co.uk/dts or by contacting Valpak Retail WEEE Services Ltd on 0845 0682572 or info@valpak.co.uk.

Distributors - Frequently Asked Questions

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

Yes.

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

Yes but distributor obligations under the Regulations do not apply in relation to sales of non-household EEE. However, your customers may ask you for information about the registered producer of the EEE, and that particular producer may ask you for information about non-household customers and sales so that they can report their sales correctly.

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

No, distributor obligations only apply in relation to the provision of EEE that has not been previously placed on the UK market. If you have equipment that is no longer working and becomes waste you must ensure that it is being disposed of in accordance with the Regulations and Duty of Care requirements. (Defra Duty of Care Guidance can be found at - <http://www.defra.gov.uk/environment/waste/controls/documents/waste-man-duty-code.pdf>)

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

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

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

Yes. If you provide EEE to household users on a commercial basis even if supplied free of charge, then you are a distributor.

If I provide in-store take-back do I have to allow consumers to bring back any WEEE?

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

If I provide in-store take-back what (if any) waste management legislation do I need to comply with to store items before sending for recycling?

If you take back WEEE from customers you will need to hold the relevant WEEE storage exemption (a paragraph 41 exemption). In addition you may also need to register as a hazardous waste producer. This will be dependent on whether the waste you store is hazardous and also the tonnage of hazardous waste you produce each year. Further information can be found on the Environment Agency website (<http://www.environment-agency.gov.uk/business/topics/permitting/34849.aspx>.)

If I provide in-store take-back do I need a licence to transport WEEE to a recycler?

If you are transporting waste to a recycler that you have produced you do not need to register as a waste carrier. If you are collecting WEEE from customers, for example where a new product is delivered and the old one is removed, you will need to register as a waste carrier. Further information can be found on the Environment Agency website (<http://www.environment-agency.gov.uk/business/sectors/wastecarriers.aspx>).

If I provide in-store take-back can I also promote alternative options for WEEE recycling e.g. my local recycling centre?

The Regulations require you to provide information in writing to customers about your in-store take-back service. However, this does not prevent you from providing information on alternatives such as the local recycling centre. But this must not be done in a manner that directly or indirectly discourages customers from returning items in store.

What is “equivalent” WEEE?

Distributors are expected to adopt a reasonable interpretation of equivalence. For example, a customer should be allowed to bring back an old video cassette recorder when purchasing a new DVD player/recorder. Even though this is not strictly a like-for-like replacement; the new product is intended to fulfil the same function but is simply using the latest technology.

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

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

Are faulty items returned to me classed as WEEE?

No. Items intended for repair and return to use are not regarded as waste. However, once it becomes clear that items are beyond repair and hence are to be discarded they should be regarded as WEEE. From this point they should be dealt with in accordance with the Regulations. You will have the

right to return it directly into the WEEE system, by making arrangements with a producer compliance scheme or nominated AATF/AE.

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

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

Non-DTS members can obtain guidance from the VCA and a standardised format for making this information available to customers can be found at www.vca.gov.uk/enforcement/weee

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

Yes, it remains at the discretion of retailers whether to charge or not for any collection on delivery services that they provide to consumers though this charge should only reflect transport and handling costs; it should not include any element of treatment or reprocessing costs as defined by the Regulations. However, any such services would not fulfil your take-back obligations.

How do I do take-back if I am a mail order or internet distributor?

Distance sellers must either join the DTS, offer take-back through one of their stores or facilities (where these exist) or provide the customer with an alternative route for free take-back. The distributor must tell customers how they fulfil their free take-back obligations e.g. via their catalogue, website, sales receipts, or through a leaflet included with the purchase.

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

The Regulations give producers the right to display any costs associated with recycling WEEE that results from EEE put on the market before 13 August 2005. A distributor of EEE may not obscure or remove a sticker on the product giving this information but would not be obliged to erect an in-store display. Producers and distributors may negotiate between themselves the appropriate means of display.

Chapter 5 – Producers of EEE (Part 3, Regulation 8 – 18)

100. Producers have obligations both in terms of the EEE they place on the market and in terms of financing the collection, treatment, recovery and environmentally sound disposal of the WEEE.

101. In addition, producers who sell EEE direct to householders (e.g. internet sales or factory outlets) in the UK, they have additional obligations as a distributor of household EEE. (See Chapter 4 – Distributors of EEE).

Definition of a Producer

102. “Producer” means anyone who, irrespective of the selling technique used, including by means of distance selling:

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

103. Here “sell” means placing on the UK market for the first time according to the European Commission’s “Guide to the implementation of directives based on the New Approach and the Global Approach” (commonly referred to as the “Blue Book” and can be found here:

http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic_en.pdf). This definition will be used by the agencies to help determine producers within the UK and their market share obligations.

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

EEE covered by the Regulations

105. The Regulations follow the ten basic EEE categories set out in the WEEE Directive and described in Chapter 2. The categories are the ten numbered product categories in Annex 1A to the WEEE Directive.

106. Regulation 27 requires producers to report EEE placed on the market in all the ten basic categories (set out in the Directive) with display equipment, cooling appliances containing refrigerants and gas discharge lamps being reported separately.

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

108. Producers are required to report (via their Producer Compliance Scheme):

- The weight of EEE in tonnes that are placed on the UK market;
- The weight of the whole electrical or electronic product itself and any electrical or electronic accessories supplied with it excluding any batteries, either loose or built-in;
- Any non-electrical accessories that are specific to the product or likely to be regarded by the purchaser as part of the overall product and therefore likely to be discarded with it. Packaging, instructions and other paperwork should not be included.

For example:

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

NB: The weight of batteries built-into or supplied with products must be reported separately, under the Waste Batteries and Accumulators Regulations 2009.

Distinction between household and non-household EEE

109. The Regulations differentiate between EEE intended for household (ie. Consumer use by members of the public) and non-household (eg. Professional, business or official) use. Annex **B** sets out some criteria to help differentiate between EEE from users other than private household and EEE from private households.

Costs Producers are responsible for

110. For WEEE arising at local authority DCFs the costs producers are responsible for are those incurred from the DCF onwards but these should not include on-site or DCF operational costs.

111. The following costs are **excluded**:

- Civic Amenity (CA) site handling costs;
- CA site infrastructure costs;
- Administration costs (where these are local authority or a waste management contractor costs where the latter acts on behalf of the local authority).

112. Also, the costs of bulky pick-ups from households to DCF's or collection on delivery costs are not the responsibility of producers.

113. The remaining items **do** fall within the remit of producer responsibility:

- Container costs;
- Collection and transport costs to transfer point/AATF/AE;
- Transfer point costs (provided these are not site handling/site operational costs);
- Haulage costs from transport point to AATF;
- Gate fee charged by the AATF to which the WEEE has been delivered;
- The necessary Duty of Care paperwork; (Defra Guidance can be found at (<http://www.defra.gov.uk/environment/waste/controls/documents/waste-man-duty-code.pdf>))
- A factoring to take account of protocol losses where appropriate.

114. There is nothing to prevent Producer Compliance Schemes from reaching agreement with local authorities on service enhancements to maximise the separate collection of WEEE at DCFs. This is a commercial matter for the PCS and the local authority concerned but any such activity/business model can not be imposed on another PCS (without their prior agreement) by including them in the price of any surplus evidence when balancing obligations. (See para 317 on balancing of evidence)

Summary of Producer obligations

115. Producers must:

- **Join an approved Producer Compliance Scheme (PCS).**
PCSs register their Producer members with UK authorities, report the EEE placed on the UK market, arrange collection, treatment and environmentally sound disposal of an amount of WEEE deposited at DCFs or returned under Regulation 32 and 40A, and declare this, supported by evidence, to the appropriate authorities.

Producers who enter the UK EEE market after the registration deadline for a compliance period must join a PCS within 28 days (see Regulation 10(3)).

- **Pay Producer Compliance Schemes** according to their published fee structure and membership rules. The PCS undertakes producer obligations to finance the collection, treatment, recovery and environmentally sound disposal of:
 - Household WEEE arising in each compliance period, as a proportion of the producers share of the UK market for EEE in each category; and
 - Non-household WEEE arising in each compliance period from;

- EEE a producer placed on the market on or after **13 August 2005**; and in addition;
 - EEE that was placed on the market before **12 August 2005**, regardless of the producer, which the user is replacing with equivalent new EEE.
- **Provide information to their Producer Compliance Scheme** about its business and amounts of EEE placed on the UK market broken down by compliance category and its household or non-household nature. PCSs are required to report this information to the appropriate authorities (Regulation 28 lists the information that must be provided). For household EEE the information must be provided quarterly. For non-household EEE it must be provided annually.
 - **Mark EEE placed on the UK market** with the “crossed-out wheeled bin” symbol and the producer identification mark as reported with the producer registration number (see Regulation 20(6)). Details of the crossed-out wheeled bin and date markings can be found in British Standard BS EN 50419:2006 or later. This is available for purchase from BSI online, and may be available for reference through public libraries.
 - **Provide information** on reuse and environmentally sound treatment for new products. This includes information about the different materials and components of the EEE, and the location of any dangerous substances and preparations in the EEE. A producer must make this information available to any one carrying out treatment activities in the form of manuals or by means of electronic media. This obligation started for products first placed on the market from **1 April 2007**. Information must be provided within one year of EEE being placed on the market.
 - **Provide a producer registration number to distributors.** This confirms that they are purchasing EEE from a registered producer in the UK. The registration number may be incorporated into letterheads, or provided in writing by other means when EEE is transferred. The registration number should remain unchanged between compliance periods, even if a producer changes PCS. It will be the same for household and non-household EEE.
 - **Retain records** for at least four years, including the amounts of EEE placed on the UK market, broken down by compliance category and household/non-household.
 - **Retain records of sales direct, via means of distance communication, to end users in other Member States**, for a period of at least four years, including how they have complied with their obligations in those other Member States (See Regulation 18).

Product Design

116. Designer, manufacturers or commissioners of EEE are encouraged to improve their designs to facilitate dismantling and recovery and in particular the re-use and recycling of WEEE and its components and materials. WEEE should not be prevented from being re-used through design decisions or

manufacturing processes, unless there are overriding advantages with regard to the protection of the environment or safety.

Compliance Periods

117. Compliance periods run from **1 January** to **31 December** each year. PCSs arrange for the collection, treatment, recovery and environmentally sound disposal based on WEEE arising in each compliance period. This must be reported on a quarterly basis to the UK authorities, no later than one month in arrears to allow for data collection and collation.

Evidence of Compliance

118. PCSs must provide the relevant environment agency with `Declarations of Compliance` to show they have discharged their producer member's obligations during that compliance period. The deadline is **30 April** following the end of the compliance period.

119. Information on the working of the evidence and settlement system is in Chapter 11 – Evidence of Compliance.

Producer Compliance Schemes

120. Producers must discharge their obligations under the Regulations through an approved PCS. Producers must join a PCS for a full compliance period. However, producers may join a PCS for household WEEE and another for non-household WEEE. The appropriate authorities maintain and publish lists of approved PCSs which can be accessed via their websites listed on page 85.

121. Producers may join a PCS that has been approved by an appropriate authority other than the authority in its location. A producer located in England may join a PCS which was approved by and reports to SEPA in Scotland.

122. PCS membership is per compliance period. Producers can change membership of PCS, but not during the course of a single compliance period.

123. PCSs may set their own membership conditions, e.g. specialising in household or non-household obligations, smaller producers or a group of trading partners. These will be scrutinised during the approvals process to ensure that they do not hinder the intent of the Regulations.

Choosing a PCS – Fees and Charges

124. PCSs will differ in the services they provide and in their fee structures. Some may specialise in particular categories, non-household or in services for smaller producers. Producers are advised to discuss their requirements with several PCSs for comparison.

125. The producer registration charge is set out in Regulation 45 for England, Wales and Scotland. For Northern Ireland this is set out in “The Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006. Producers are advised to refer to para 111 which set out the annual registration fees.

126. Charges made by PCSs cover the appropriate agency registration fee (as a producer of EEE), a fee for their administrative services and fees for the collection, treatment, recovery and recycling of WEEE in line with producer obligations.

127. Registration charges are tiered in relation to producer turnover. The scheme will ask for evidence to support any claim for one of the lower charges. Without this evidence the scheme (and producer) will be charged the highest fee. Joining separate Schemes for household and non-household WEEE will incur two producer registration charges.

Joining a PCS

128. Producers enter into a contractual agreement with operators of PCSs. The agreement will require producers to abide by the PCSs’ published rules for members and pay the associated fees. It is a producer’s responsibility to join an approved PCS.

Producers becoming PCSs

129. The Regulations set out the process, timescale, conditions and application fee for approval of a PCS. Producers may apply to establish their own PCS of which that producer would be the only member. The requirements for registering a PCS are set out in Regulation 41 and Schedule 7 of the Regulations.

Failure of a PCS

130. Producers will be notified if the UK authorities revoke the approval of their PCS. If this occurs, producers must join another PCS within 28 days of the remainder of the compliance period. In the meantime, the appropriate authority will notify producers of their individual obligations based on sales of household EEE and the overall amounts of EEE placed on the market and WEEE arising by compliance category. Joining another PCS under these circumstances will incur a further registration fee. It is an offence for producers otherwise not to be a member of an approved PCS. Producers are responsible for their own compliance with the Regulations for any period where they are not members of a PCS.

Overview of the system for household WEEE

131. PCSs will receive household WEEE from a DCF or returned under Regulation 32 and/or 40A. This WEEE should be considered for re-use as whole appliance. PCSs may arrange for WEEE to be cleared from DCFs to either Approved Authorised Treatment Facilities (AATF) or Approved

Exporters (AE) for treatment in the UK or abroad. It will also arrange for WEEE to be received for treatment by AATFs or AEs direct from distributors.

Obligations for Household WEEE

132. Producer obligations for household WEEE are calculated separately for each category. Each producer is responsible for a proportion of the WEEE arising in each category in which they place EEE on the UK market calculated by reference to the producer's market share of this EEE. Obligations are calculated and notified to a PCS for its collective membership. The calculations and notification of individual producers will only be made where the appropriate authority has removed PCS approval.

Obligations for non-household WEEE

133. Obligations are directly related to the amount of non-household EEE put on the market by a producer.

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

- arising during a compliance period from EEE placed on the market on or after **13 August 2005**; and in addition;
- arising from EEE that was placed on the market before **13 August 2005** (historic WEEE), regardless of the producer, where the producer is supplying equivalent new EEE which is intended to replace the historic WEEE. Producers are advised to agree with users what if any historic WEEE they wish to be collected under this obligation when negotiating the sales contract. It is acceptable to agree an appropriate period during which the user should make the replaced WEEE available in order for it to be considered to have been `replaced`. Users may legitimately seek a reasonable period in order to configure new equipment ahead of its introduction into service.

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

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

Differences between the household and non-household WEEE system

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

Showing the costs of collection, treatment and environmentally sound disposal of WEEE to consumers of household EEE

138. Producers of EEE can, on a voluntary basis, show purchasers the costs of collection, treatment and environmentally sound disposal of historic WEEE (i.e. resulting from EEE put on the market before **13 August 2005**). The cost shown must not exceed the actual costs incurred for collection, treatment and environmentally sound disposal of historic WEEE.

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

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

140. It is an offence for anyone to intentionally obstruct producers from exercising this right.

Producers – Frequently Asked Questions

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

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

To register your compliance scheme will require information on your business, a copy of the producer mark(s) you place on EEE and your standard Industrial Classification (SIC) code if you have one.

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

The environment agencies have compiled a list of approved UK schemes, which can be found on their respective websites. (See contacts on page 85 for further information).

Can I register with more than one scheme?

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

I have started or am about to start producing EEE but missed this years deadline for joining a Producer Compliance Scheme. What should I do?

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

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

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

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

The VCA is the enforcement agency for the “crossed out wheeled bin” marking of products.

What are the date and producer markings?

Markings on EEE should confirm that the item was put on the market on or after 13 August 2005. This can be achieved through use of a black bar under

the crossed out wheeled bin symbol which is part of the standard described above, or a date code.

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

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

You must place the symbol and date mark in a visible, legible and indelible form on the product itself. In exceptional cases, where this is necessary because of the size or function of the product, the symbol can be printed on the packaging the instructions for use and the accompanying warranty (where applicable) instead. The Standard BS EN50419:2006 explains this further.

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

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

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

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

What information do I need to provide to treatment facilities?

As a minimum, you must include the information required to safely locate and remove the substances and components listed in Annex II to the WEEE Directive. You should also include information about any components or substances allowed under an application- specific exemption under the Restriction of Hazardous Substances (RoHS) Regulations. Producers must also provide information on reuse and environmentally sound treatment for each new type of EEE within one year of it being put onto the market.

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

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

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

You are considered to be the producer if you place EEE on the UK market, which includes importing it from a foreign manufacturer for distribution within the UK. However, the Regulations allow a foreign manufacturer to register as the producer. You should satisfy yourself that any manufacturer that you deal with has done this if you intend to rely on their registration as in the case of a

compliance failure enforcement action would likely be taken first against the UK based importer.

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

Yes, unless either the client or foreign manufacturer choose to become the producer instead by registering as such under the Regulations.

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

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

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

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

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

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

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

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

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

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

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

No - The Commission's guide to Directives based on the "New Approach" states in section 2.3.1 that "placing on the market" involves making available for use within the Community for the first time. Therefore a business would not be considered to be a producer of EEE they refurbish, even if this is re-

badged as part of refurbishment. This EEE remains under a producer's original reports of EEE placed on the UK market.

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

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

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

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

What are the reporting requirements on producers?

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

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

Schedule 2 of the Regulations contains examples of products which fall within the scope of each of the categories. If your product resembles any of these it should be clear which category it falls under. For products which do not resemble any of the examples you should consider the intent of the category description – for example, a remote-control toy car is not listed under category seven but would nevertheless be considered an example of “toys, leisure and sports equipment”.

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

You must report the weight of the whole product unless the EEE is part of a product or type of equipment that does not come within the scope of the Regulations as outlined in Schedules 1 and 2. However, the weight of any batteries included with or built into the product should be excluded as these must be reported separately in line with the requirements of the Waste Batteries and Accumulators Regulations 2009.

Chapter 6 – Producer Compliance Schemes (Part 4, Regulation 19 – 30)

141. All producers putting EEE onto the UK market are required to join a PCS. By offering administrative and practical services to producer members PCSs help them discharge their obligations under the Regulations. Services include registering producers with the appropriate UK authorities, meeting the data reporting requirements and arranging clearance of household WEEE from DCFs and /or non-household WEEE to AATFs or AEs.

Approval of Producer Compliance Schemes

142. From **1 January 2010** any scheme applying for approval will be subject to open ended approval based on a rolling 3 year operational plan which will be subject to an annual review (updated operational plan required on or before 31 July each year) and audit by the Agencies.

143. Application forms (WMP4) are provided by the appropriate authorities. Regulation 41 describes the process and Schedule 7 details the information that must accompany an application for approval. The form includes guidance on completion. Subject to all the information being submitted and in order approval will be confirmed by the Agencies on or before **31 July**.

144. The approval process will examine the operational plans and membership levels. Collection plans will be scrutinised and viewed against the collective obligations of scheme members. Factors that will be considered are: number of members, the overall indicative collection obligation (based on historical data and justified assumptions on new producers entering the market) compared to the number of DCFs where agreement had been reached and the estimated tonnage of WEEE arising. This scrutiny will be on-going.

145. Approval will be granted if schemes, via their operational plan, can demonstrate that they can discharge the obligation of their members through the collection and treatment of household WEEE arising at DCF sites or under systems established under regulation 39 without under or over collecting.

146. If plans show a probable significant over or under collection approval will not be granted. No revision of plans will be allowed but the proposed scheme can apply for approval for the next compliance period. There is no set ceiling on over or under collection rates.

147. All PCSs that are approved before 1 January 2010 and wish to continue as a scheme when their approval expires will be required to submit a new application for approval.

148. Agencies will scrutinise plans against performance within as well as at the end of compliance periods. Withdrawal of approval will be considered by the agencies where the conditions of approval are not being complied with.

PCS Responsibilities

149. A PCS must:

- Register each producer member for each compliance period, paying the appropriate annual registration charges for each member to the appropriate authority when invoiced. The registration charges for England, Wales and Scotland are set out in Regulation 45. For Northern Ireland charges are set out in “WEEE (Charges) Regulations (NI) 2006”.
- Report the information required by the appropriate authority, including:
 - Registration information about members (Schedule 6 lists the information required).
 - Household EEE put on the market by members, broken down into each compliance category and household and non-household use, on a quarterly basis;
 - Non-household EEE put on the market by members, broken down into each compliance category and household and non-household use, on an annual basis
 - Amounts of WEEE collected at DCF, received directly from distributors or taken back under regulation 39 on a quarterly basis. This must be broken down by categories and distinguish between household and non-household;
 - Amounts of WEEE delivered to AATF’s or AEs for treatment, again on a quarterly basis. This must be broken down by categories and distinguish between household and non-household.
- Arrange for WEEE to be cleared to, or received for treatment at an AATF or AE and ensure that they are treating the WEEE to the required standards and sufficient material or components are delivered for recycling or recovery to meet the specified recovery targets.
- Obtain sufficient evidence notes to demonstrate they have discharged the collective obligations of their members as notified by the appropriate agency.
- Submit a `Declaration of Compliance` to the appropriate authority confirming whether or not their financing obligations have been met and supported by evidence notes;
- Retain appropriate records to support the required activities;
- Co-operate with other PCSs to achieve the aims of the Regulations.

WEEE PCS Obligations

150. Obligations are calculated for each compliance period (i.e calendar year).

151. PCSs representing producers of household EEE will be given collective obligations based on the market share of their members and the levels of WEEE arising e.g. if the membership of a PCS places 10% of all products in

category 3 on the market, the PCS will have a 10% obligation of the category 3 WEEE arising.

152. Where members sell non-household EEE the PCS will be responsible for WEEE that arises during each compliance period in relation to their sales.

153. The WEEE Directive requires the prioritisation of re-use of WEEE as whole appliances. The Regulations require PCSs to establish systems to identify products for re-use. The approval process for PCSs will consider these arrangements.

154. It is a requirement that PCSs must arrange for the WEEE to be treated to the required standards by a treatment facility that has been approved to issue evidence. This applies for all WEEE received or cleared, regardless of the actual size and nature of the obligations.

155. Only AATFs may issue evidence of treatment of WEEE in the UK and only AEs may issue evidence that whole WEEE has been exported for re-use. AEs can export WEEE materials i.e. materials coming out of a treatment process. In such cases the AATF that undertook the initial treatment activity has the responsibility of issuing the evidence and not the AE exporting the WEEE materials.

Evidence

156. Evidence can only be generated by AATFs or AEs and confirms the amount, nature and category breakdown of the WEEE that has reached either an AATF or AE for treatment;

157. PCSs obtain evidence from AATFs and AEs for the amount and type of WEEE delivered. PCSs can use this evidence in support of its own declarations of compliance for household WEEE. PCS operation plans should set out actions of how any excesses or shortfalls of household evidence will be dealt with. Balancing of evidence can only be facilitated via the Settlement Centre (see Chapter 12).

Reporting data to the Agencies under Regulation 27

158. Where a scheme is collecting on behalf of another scheme the collecting scheme reports to the Agencies details of the WEEE collected from DCFs and delivered to AATFs or AEs. The scheme having WEEE collected on its behalf should not include such data as part of its report to the relevant Agency.

159. Please see the table below for examples of potential collection arrangements and the reporting arrangements that would flow from them. If your arrangements do not fall into any of these examples contact your agency account manager to discuss how the WEEE collections should be reported. Where a scheme is reporting WEEE collected in its quarterly return on behalf of another scheme, or a scheme is relying on WEEE collected for it by another scheme, the Agencies will require a quarterly breakdown of the WEEE collected for other schemes/collected by other schemes.

Example Quarterly reporting of WEEE	
1. Scheme A collects WEEE to meet its own obligation and has evidence issued to itself on the Settlement Centre.	Scheme A reports to the Agencies any WEEE collected from a DCF and WEEE delivered to an AATF.
2. Scheme A has an agreement to collect WEEE on behalf of Scheme B. Scheme A arranges for the treatment of the WEEE and has the evidence issued to itself on the Settlement Centre. Scheme A then transfers the evidence to Scheme B on the Settlement Centre in accordance with their agreement	Scheme A reports to the Agencies any WEEE collected from a DCF and delivered to an AATF.
3. The arrangement is as for 2 above but Scheme A arranges for the AATF to issue the evidence direct to Scheme B.	Scheme A reports to the Agencies any of this WEEE collected from a DCF and delivered to an AATF.
4. Scheme A has an arrangement to collect WEEE and deliver it to an AATF nominated by Scheme B. Scheme B arranges for the WEEE to be treated etc. and has the evidence issued to itself.	Scheme A reports to the Agencies any of this WEEE collected from a DCF and delivered to an AATF.
5. Scheme A has aligned DCFs but has an arrangement so that Scheme B clears WEEE from some of these aligned DCFs. Scheme B has the WEEE treated etc and has the evidence issued to itself.	Scheme B reports to the Agencies the WEEE it has collected from DCFs that are aligned with Scheme A and delivered to AATFs.

Reporting data back to Local Authorities

160. The Code of Practice for collection of WEEE from DCFs states that schemes should report to the Local Authorities details of the WEEE collected from DCFs and how it has been treated. Compliance with the Code of Practice is a condition of approval and continued approval for schemes under the Regulations.

161. The Agencies suggest that a scheme that clears the DCF (even if acting on behalf of another scheme) should report data back to the Local Authority in respect of the WEEE cleared. However, schemes that wish to enter into arrangements to collect WEEE for another scheme or to have WEEE collected on their behalf should note that it is the view of the agencies that the arrangements for reporting to Local Authorities is a matter to be agreed between the schemes as part of negotiating these third party collection arrangements. If schemes need to share data to facilitate such reporting they should make sure this is taken into account when they are making these third party collection arrangements.

Withdrawal of approval for Producer Compliance Schemes

162. Approval may be withdrawn if the appropriate authority is satisfied that the operator of the PCS has not met their obligations under the Regulations or is in breach of the conditions of approval, knowingly or recklessly supplied false information or the operator of the scheme has been convicted of an offence under these Regulations.

PCS Producer Members

163. PCSs take on the obligations for the financing of the treatment, recovery and environmentally sound disposal of WEEE on behalf of their members. PCSs cannot remove a producer member during the course of a compliance period.

Household WEEE

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

- Via local authority DCF;
- Through in-store take-back or collection on delivery by distributors from where it might;
 - be made available for clearance from a DCF operated by the distributor or distributor/producer;
 - be returned to the PCS (or more likely to an AATF nominated by the PCS) directly by the distributor;
 - via other private DCFs that a PCS has contracted to clear; or
 - via Regulation 39 that allows a PCS from establishing and operating a system to take back WEEE from private households provided that the system is consistent with the Directive.

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

166. Distributors have responsibility for making contact with PCSs with household WEEE obligations operating in their area.

167. PCSs will arrange for WEEE to be cleared from DCFs to either an AATF or an AE for treatment in the UK or abroad. They will also arrange for WEEE to be received for treatment by AATFs or AEs direct from distributors.

168. PCSs cannot leave WEEE un-cleared at a DCF they have agreed to clear and nor can they stop receiving WEEE directly from distributors. PCSs must ensure that all household WEEE they receive is re-used as whole appliances or treated and recovered in accordance with the Regulations.

169. As final obligations are not notified to PCSs until after the end of a compliance period it is possible that they will either have an excess or deficit of household WEEE. The Settlement Centre provides a mechanism to balance household WEEE to meet obligations.

Household WEEE Obligations

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

171. PCSs are responsible for a proportion of the WEEE arising across each WEEE category in each compliance period. This is calculated on their members' market share of household EEE placed on the market in each category.

172. The appropriate authorities will calculate and notify PCSs preliminary obligations by **28 February**. Final obligations will be notified by **31 March**. Each PCS must submit a final declaration of compliance demonstrating whether or not they have met their obligations by **30 April**.

173. The appropriate authorities will publish the total amounts of household WEEE that has arisen by compliance category and the amounts of EEE reported by PCSs as having been placed on the market after each quarter period. PCSs can use these totals to assess their progress towards meeting their likely final obligations for the compliance period and to decide whether any adjustments to their operational plans are necessary.

Clearance of household WEEE from Designated Collection Facilities (DCFs) and the Code of Practice

174. DCF operators are expected to reach agreement with PCSs for clearance of household WEEE arising at their sites.

175. The Code of Practice (<http://www.berr.gov.uk/files/file37922.pdf>) sets out the practical arrangements that should form the basis for agreements and operation. Agreements are expected to last for at least one compliance period and ideally for several, according to the amounts of WEEE received and the scheme's requirements. It also sets out the segregation of WEEE categories in which PCSs can expect WEEE to be collected.

176. If an operator of a Local Authority controlled DCF is unable to secure the agreement of a PCS operator to clear WEEE he may arrange clearance treatment and recovery himself to the required standards and recover from an AATF or AE. This does not apply to non-Local Authority DCFs who must have a contract with a PCS for WEEE clearance.

177. In cases where a DCF fails to reach agreement with a PCS BIS should be notified immediately.

Receiving household WEEE from distributors or final end users

178. (Regulation 32 and 40A)

Distributors or final end users who have taken household WEEE back in-store may return this WEEE directly to a PCS or an AATF or AE working on their behalf. The distributor or final end user has responsibility for making contact with a PCS with householder WEEE obligations and who is operating in their area. It is likely that this will occur in areas where PCSs already clear DCFs and where they are likely to have arrangements with local AATFs or AEs. PCSs are responsible for financing the treatment, recycling and environmentally sound disposal of this WEEE and obtaining the relevant evidence notes. PCSs may also collect WEEE from distributor, for which they can make an appropriate charge.

Non-Household WEEE

179. A PCS is responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of non-household WEEE for members in the following circumstances:

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

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

Take-back of non-household WEEE

181. Producers have obligations to establish a system for returning non-household WEEE and financing the costs of its collection, treatment, recovery and environmentally sound disposal as part of their responsibilities when WEEE arises. Where a producer member's sale of EEE leads to an obligation to finance the collection and treatment of equivalent historic WEEE a PCS should respect the producer's decision on the `equivalence` of the replacement and their policy on the period during which the user should make the replacement WEEE available.

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

Compliance dates to note for PCSs.

183. Compliance dates are listed below:

- All evidence must be submitted into the Settlement Centre by **1 February**.
- Agencies to notify preliminary obligations by **28 February**.
- Final obligations notified by **31 March**.
- Declaration of Compliance to be submitted by **30 April**.

Producer Compliance Schemes - Frequently Asked Questions

How do I apply to operate a Producer Compliance Scheme?

You can download an application form from the Environment Agency website <http://www.environment-agency.gov.uk/weee> by following the link "What producers and compliance schemes need to know". This form is also available from the Scottish Environment Protection Agency and the Environment and Heritage Service of Northern Ireland. The link also provides terms and conditions for approval and information about required fees.

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

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

I'm an approved PCS and I understand that some DCFs are mixing Cat A – Large Domestic Appliances (LDA) with scrap metal. Is this acceptable?

The default position is that all WEEE streams should be separately collected, where there is space on the site to do so, and that these streams should be kept separate from and unmixed with other waste, including scrap metal. Where space is limited at the site the streams can be mixed in line with the provisions of the WEEE Code of practice (<http://www.berr.gov.uk/files/file37922.pdf>). Here again the WEEE should be kept separate from other waste, including scrap metal. Having mixed the WEEE streams, if space still remains a problem, it is only then that consideration should be given to mixing category A with scrap metal. This arrangement will be conditional on the AATF having in place and applying a protocol to ensure that scrap metal is not used to distort the level of WEEE being handled. The AATF will need to ensure that the environment agencies are happy with the methodology and application of the protocol prior to its application.

Where a scheme has agreed to collect WEEE on behalf of another scheme/have WEEE collected on their behalf by another scheme what information should be contained in the operational plan?

A scheme can arrange to collect WEEE on behalf of another scheme or to have it collected on their behalf by another scheme. Details of such third party collection arrangements, including the amounts of WEEE per category and names of the relevant third party schemes involve, must be provided in schemes' operational plans. Schemes must also provide the relevant Agency with written confirmation of those details from the third party schemes they are collecting on behalf of or who are collecting on their behalf. These details and confirmation must be contained in schemes' application for approval under the Regulations and any subsequent material changes to the details must be notified to the Agencies.

Collection arrangements must be finalised before WEEE is collected by a scheme on behalf of another scheme.

The terms of the contractual or other arrangements between schemes is a commercial matter to be agreed between them. The Agencies will not influence or comment on such commercial issues between schemes but will need to have confirmation that all parties are signed up to the proposed arrangements.

What is acceptable marginal trading?

Some trading of evidence is permissible to correct unforeseen minor shortfalls or excesses. Schemes must assess with the greatest degree of accuracy possible the amount of WEEE they will need to meet their financing obligation when applying for approval. For continuing approval schemes must make arrangements to collect or to have collected for them that amount of WEEE and detail those arrangements in their operational plans. Trading of evidence should only be carried out at the margins, to correct minor unforeseen shortfalls or excess that arise due to the difficulty of schemes' predicting their obligations precisely.

Significant deliberately planned shortfalls or excesses of WEEE with no collection arrangements in place as outlined above will indicate that a scheme's plans are not viable. The extent to which schemes' trading activity is acceptable in practice will be assessed by the Agencies on a case by case basis. Any trading that indicates a scheme's collection plan may no longer be viable will be investigated in detail by the Agencies.

In what circumstances can trading of evidence on the Settlement Centre take place?

Some trading of evidence on the Settlement Centre has always been permitted. However, to clarify, such trading of evidence is subject to the following rules:

- Trading is permitted only to correct minor mismatches between schemes' financing obligations and their actual collections that result from the inability to be absolutely precise in predicting collection and financing obligations.
- Arrangements that solely rely on trading of evidence (whether that is planned trading or spot trading) – as opposed to arrangements for third party collection of WEEE – necessarily involve deliberate over or under collection of WEEE on a scheme's own behalf, which means the schemes' plans would not be viable.
- The Settlement Centre can be used to reflect the transfer of evidence that occur as part of an arrangement to collect WEEE on behalf of another scheme as part of their viable plans. Therefore the scheme doing the collecting can have the evidence issued to themselves and then use a trade note on the Settlement Centre to transfer the evidence for that collection to the scheme the WEEE was collected for in accordance with that collection arrangement.

Do projected collections in the viable plan tables have to mirror the projected obligations?

Not always. If a scheme has arrangements with other schemes to have WEEE collected for it or if a scheme has arrangements to collect WEEE for other schemes then these two columns on the viable plan table will not match. In those circumstances schemes will need to complete the other columns in the tables to provide details of their agreed collection arrangements.

How can a scheme avoid prejudicing their relationships with DCFs and AATFS/AEs by allowing another scheme to fulfil their collection arrangements?

The degree to which a scheme that arranges for another scheme to collect WEEE on its behalf will have control over the treatment route of the collected WEEE, or be able to instruct the collection scheme on what it must do with the WEEE, is a matter for negotiation between the two schemes involved. The Agencies will not influence or comment on such commercial issues between schemes.

How can a scheme ensure that documentation that includes details of costs and commercial terms, provided to support a viable plan, will not be released?

As BIS and the Agencies are public bodies and subject to the requirements of the freedom of information legislation they cannot guarantee that information provided to them would never be released to third parties. Any requests for information held by BIS and the Agencies will have to be dealt with in accordance to the terms of that legislation. Within the constraints of that legislation however, BIS and the Agencies will endeavour to treat information provided as confidential, where appropriate. If any information in particular is considered confidential or commercially sensitive then operators should indicate that to the respective body when the information is provided to them.

I am a Producer Compliance Scheme, how will suspension of an AATF/AE affect me?

You must have arrangements in place for WEEE to be cleared to or received for treatment at an approved ATF or approved exporter. Where an AATF or AE is suspended they are no longer approved. You will be notified when the approval of an AATF or AE has been suspended.

You should ensure that you have contingency arrangements in place to divert your WEEE from a suspended AATF or AE to one able to treat it and provide you with evidence.

A suspended AATF or AE must not issue you with evidence for any WEEE you send to it while the AATF or AE is suspended.

Chapter 7 – Local Authorities (LAs) and WEEE

184. LAs do not have any obligations under the Regulations other than as end-users of non-household EEE (see Chapter 8).

185. However, there are implications for LAs who:

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

186. Distributors have obligations to facilitate householders' take back` of their WEEE (Chapter 4). The Regulations give distributors a choice in complying, either by providing in-store take-back services or via the Distributor Take-back Scheme (DTS). The DTS will assist in funding the establishment of the UK Designated Collection Facility (DCF) Network.

187. LAs are encouraged to register their CA and bulky waste sites as DCFs. Once registered the costs of collection, treatment, recovery and environmentally sound disposal of any household WEEE that passes through DCFs is the responsibility of a PCS.

Benefits of registering as a DCF

188. LAs registering their sites as DCFs:

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

Registration and Approval of DCFs

189. Valpak Ltd is the appointed operator of the DTS and manages the registration of DCFs (either local authority controlled or privately operated) and submits sites for approval by BIS. Registration can be carried out online on the Valpak website – www.valpak.co.uk/dts

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

191. Full conditions of approval of DCFs are set out in Schedule 9 of the Regulations. DCF status can also be withdrawn if the DCF no longer meets the Schedule 9 criteria.

192. DCF operators must agree to comply with the Code of Practice for the collection of WEEE from DCFs. The code is intended to govern relations between DCF operators and PCSs and covers such things as how WEEE is collected and stored, arrangements for access and site clearance. The code sets out guidance and principles that form the basis and starting point for local contracts or service agreements between DCF operators and PCSs. It may also be used to aid interpretation of such contracts or service agreements. Such local contracts or service agreements may supplement the code. A copy of the code can be found on the BIS website (<http://www.berr.gov.uk/files/file37922.pdf>).

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

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

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

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

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

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

Bulky Waste Collections

198. Many LAs offer bulky waste collection services to residents, either by collecting larger items of WEEE from residents' properties or on a periodic basis from designated local points. It is at the discretion of LAs whether they

charge for these services. This arrangement will not be affected by the Regulations, which do not cover the collection of WEEE from households but rather the collection of WEEE which has been deposited at DCFs.

199. Government encourages the routing of household WEEE collected via LA bulky waste collection services to DCFs (which may be waste transfer stations as well as CA sites). If this WEEE does not go to a DCF the cost of its disposal will be borne by the LA.

Non-household Waste

200. Some CA sites and waste transfer stations currently accept WEEE from small businesses. However there is no common practice and this is entirely at the discretion of the LA. If there is a local policy to accept “trade waste” from small distributors LAs retain the right to make a charge for the service.

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

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

WEEE and the Controlled Waste Regulations

202. The Controlled Waste Regulations 1992 set out a number of sources of waste considered to be household waste, including waste from educational establishments, hospitals, prisons and penal institutions. The definition of WEEE from private households (see para 198) is, however, much narrower than that of household waste under the Controlled Waste Regulations. Given the narrowness of this definition it seems likely that most waste from educational establishments, hospitals, prisons and penal institutions will not qualify as WEEE from private households and should be treated as non-household WEEE.

Operation of DCFs

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

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

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

206. DCFs may, with the agreement of the PCS responsible for clearing their site, make arrangements for charitable and voluntary organisations to screen WEEE for re-use as whole appliances at DCFs. Any such organisations should either have been approved as AATFs or have a formal agreement with a PCS and DCF. WEEE removed from a DCF in these circumstances will be regarded as waste until it has been tested and returned to use for its original intended purpose.

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

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

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

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

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

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

212. In order to obtain approval for access to the Settlement Centre LAs should contact BIS at weee@bis.gsi.gov.uk

Local Authorities - Frequently Asked Questions

What are the benefits of being a Designated Collection Facility (DCF)?

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

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

To become a DCF and get the right to free clearance by a PCS you must abide by the DCF Code of Practice, which governs aspects of operation such as how WEEE is collected and stored and arrangements for access and clearance. A copy of the Code can be found on BIS website (<http://www.berr.gov.uk/files/file37922.pdf>). You should also have the appropriate licences or exemptions for waste storage and/or treatment, as well as planning consent. The full conditions for approval as a DCF are set out in Schedule 9 of the Regulations.

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

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

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

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

Can anyone set up a DCF, or just Local Authorities (LAs)?

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

How do I register my site(s) as a DCF?

To register as a DCF, you should contact the DTS operator, Valpak Ltd – www.vaplak.co.uk/dts. Valpak will carry out the registration of DCFs, and will submit any site that meets the criteria set out in Schedule 9 of the WEEE Regulations to BIS for approval. The Secretary of State may withdraw DCF status from sites which are found not to meet these criteria.

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

No. In line with the Code of Practice DCFs are expected to collect all five categories of WEEE unless site capacity does not allow this. You may make arrangements with different PCSs to clear different categories or one PCS to clear all five categories.

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

No. If you register as a DCF you cannot “cherry pick” items of WEEE for profit. As a DCF you are required to follow the Code of Practice and this does not allow for WEEE to be segregated at the DCF into that which can be sold and that which you expect the PCS to take responsibility for.

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

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

What do I do if I have a problem with the performance of the PCS who is supposed to clear my site?

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

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

Can I charge people for depositing WEEE at the DCF?

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

Can I charge a PCS for the right to come in and clear my DCF?

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

I am a DCF and have space problems so can I mix my Large Domestic Appliances (LDA) with scrap metal to ease this problem?

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

Chapter 8 – Non-Household EEE and WEEE

213. The WEEE Directive covers EEE put on the market and intended for use other than private households and EEE discarded as waste by non-household or business end-users in the UK.

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

Non-household EEE Obligations

Producers

215. The Regulations apply the same approach to the definition of producers of EEE for non-household as for household use. Therefore producers are defined as:

- Manufacturers of EEE selling under their own brand in the UK; or
- A business based in the UK selling under their own brand EEE manufactured by someone else; or
- A professional importer introducing EEE to the UK market; or
- A business based in the UK that places EEE in other European Member States by means of distance selling.

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

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

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

Non-Household WEEE obligations

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

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

219. In these circumstances the producers' obligations are to:

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

220. The Regulations do not prevent producers or business end user making their own contractual arrangements which, while not following the default arrangements, will ensure the WEEE is correctly collected, treated, recovered and environmentally soundly disposed of whilst commercial relationships maintained.

For example:

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

reprocessing is passed to the PCS to enable it to submit a Declaration of Compliance at the end of each compliance period.

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

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

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

223. For all other non-household WEEE there should be a responsible PCS that can be called on to collect and treat the WEEE unless the producer has made alternative arrangements with the end user. The `register of producers`, on the Environment Agency website, gives details of producer members of each PCS (<http://www.environmentagency.gov.uk/business/topics/waste/32086.aspx>) . Producers or PCSs who make alternative agreements with end-users for dealing with WEEE under the Regulations should keep records of this in order to demonstrate how they are complying with the Regulations.

Producer Compliance Schemes

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

225. Although obligations for non-household WEEE are not related to market share producers must report via their PCS the quantity of non-household EEE they put on the UK market each year. This will be broken down by each of the categories in the Regulations and made in reports to the environment agencies.

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

227. Schemes must make a Declaration of Compliance by **30 April** of the year following a compliance period. For non-household WEEE this should include the total quantity sent for treatment by the scheme and its members supported by copies of all the related evidence notes.

Re-use

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

Distributors and intermediaries

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

- Distributors of EEE should make sure that their suppliers give them their producer registration number to show that they are registered and complying with their obligations;
- Importers of EEE will be regarded as the producer where the producer has not registered for the EEE. Under these circumstances importers will be required to register with a PCS.
- End-users buying EEE from an intermediary should ensure that they are given information about the producer responsible so that at the end of the products life they can trace who to contact to arrange disposal.

Users of non-household EEE

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

231. It is acknowledged that supply chains for such EEE differ from those for consumer EEE, and while placing obligations by default on the producers of such EEE (and their PCS), provide for alternative supply-chain contractual agreements). Therefore, the business user may accept responsibility for the end-of-life treatment of the EEE bought.

Obligations for non-household WEEE

232. Whenever the producer is not responsible for financing the collection and treatment of non-household WEEE the end user of the EEE is responsible.

233. A producer selling EEE for non-household use is by default obliged to finance the collection, treatment and recovery and environmentally sound disposal of:

- Any WEEE replaced (of equivalent type or similar functionality) by the EEE put on the market if it was originally purchased before **13 August 2005**, whether supplied by him or another producer; and
- The EEE put on the market on or after **13 August 2005** when it is eventually discarded as WEEE during a compliance period.

234. The collection, treatment, recovery and environmentally sound disposal may be undertaken either by the producer himself or his PCS.

235. Producers and users of non-household EEE are expected to adopt a reasonable and practical approach when they undertake like-for-like transactions. Reasonable examples of equivalence would be an old CRT computer monitor for a flat screen monitor.

236. Producers putting non-household EEE on the market may have alternative contractual arrangements with regards to WEEE with the purchaser of EEE. This may be for the treatment of the new EEE when it is eventually discarded and/or for the treatment of any EEE put on the market before **13 August 2005** that is being replaced.

237. If there is no such agreement, the responsibilities remain as set out above. Where the end user is not responsible the producer must arrange for the collection, treatment, recovery and environmentally sound disposal or pay their PCS to do it on their behalf.

Take-back of WEEE

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

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

240. Producers or PCSs may also suggest contacting a local charity or other re-use organisation that they nominate for collection or screening of the WEEE for re-use or refurbishment. The Regulations encourage re-use of whole appliances and any such collection will be free of charge.

Retention of records and compliance reports

241. Users of non-household EEE are not required to declare compliance or provide WEEE evidence to the appropriate authority where they arrange and finance the disposal of WEEE. The Regulations do not exempt such users

from the requirements of other waste legislation for the transfer of waste and retention of records.

Non-Household EEE and WEEE – Frequently Asked Questions

As a non-household user I wish to dispose of non-household electrical equipment. What should I do?

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

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

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

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

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

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

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

You should be aware that without the producer registration number you will not be able to ensure that the appropriate producer or its PCS deals with the WEEE.

Suppliers of EEE including wholesalers should always be in a position to supply a producer's EEE registration number as it is a legal obligation under the WEEE Regulations for this to be supplied when selling EEE to a distributor. If they refuse to do so you can report them to the enforcement authorities. A list of registered producers is available on the Environment Agency website at:

<http://www.environment-agency.gov.uk/business/1745440/444663/1106248/>

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

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

Must I collect WEEE from business end users?

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

Am I responsible for EEE I import for professional use?

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

Chapter 9 – Treatment Facilities and Exporters of WEEE (Part 8 – Regulation 46 – 53)

Authorised Treatment Facilities (ATFs)

242. WEEE can only be treated by an ATF who has an appropriate waste management licence, PPC authorisation, or an appropriate exemption in accordance with Part II of the Environmental Protection Act 1990 and the Waste Management Licensing Regulations 1994 (as amended by the WEEE Management Licensing Regulations). Separate Regulations cover England and Wales, Scotland and Northern Ireland. ATFs will then need to operate in accordance with the terms of the licence, authorisation or exemption and treat WEEE according to the Guidance on Best Available Treatment, Recovery and Recycling Techniques (BATRRT) and Treatment of Waste Electrical and Electronic Equipment published by Defra and Devolved Administration.

Approval of Authorised Treatment Facilities (AATFs)

243. To issue evidence of receipt of WEEE for reuse as a whole appliance or treatment an ATF must seek and be granted approval by the environment agencies to become an AATF.

244. Each ATF site that wishes to be approved must make a separate application for approval. Thus for example an operator with 5 treatment sites who requires all 5 to be approved will have to make an application in respect of each site and pay the appropriate fee for each application.

245. PCSs can only obtain evidence from an ATF which has been 'approved' by the relevant environment agency. The first AATF receiving WEEE on behalf of a PCS will be required to issue the evidence. Where the first AATF receiving the WEEE passes this on for treatment at another AATF, that second AATF is not eligible to issue evidence on the WEEE. The approval procedure for AATFs is set out in Part 8 of the Regulations.

246. To gain approval an ATF should make an application to the appropriate authority and that application must include the information listed in Part 1 of Schedule 8 to the Regulations. To gain approval ATFs must also demonstrate that the WEEE it treats or has treated on its behalf will meet the recovery targets set out in the Regulations.

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

- The amount of WEEE (in tonnes) received for treatment.
- Amount of WEEE (in tonnes) sent to another ATF for treatment (including the name and address of the operator of that ATF and of the treatment site if different).
- The amount of WEEE received for re-use as whole appliances (in tonnes).
- The amount of non-obligated WEEE received on the site.

- In relation to each scheme to whom an evidence note has been issued the name of that scheme and the total tonnage of WEEE stated in all evidence notes issued to that scheme.

248. Reports must be for each quarter of a compliance period and provided by the **30 April, 31 July, 31 October** and **31 January** depending on the relevant quarter of the compliance period which the report covers. The reports must cover each category of WEEE and report on household and non-household WEEE separately.

249. The operator of an AATF (or the approved exporter) is also required to provide the relevant environment agency with a report from an independent auditor confirming that the evidence notes issued by the AATF or approved exporter are consistent with the amount of WEEE received or exported for treatment or re-use as a whole appliance in the relevant approval period. This report must also demonstrate to the satisfaction of the appropriate authority that the conditions in Schedule 8, Part 2, paragraph 12 have been met i.e. the applicable targets.

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

Approved Exporters

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

252. Evidence notes can only be issued by exporters in respect of WEEE that will be exported in accordance with Regulations (EC) 1013/2006 of the European Parliament and of the Council of 14th June on shipments of waste.

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

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

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

Suspension and Cancellation of AATF and AE approvals

256. When approval is suspended the following will happen:

- The relevant agency will send a notice of suspension. This will set out the reasons for the suspension and the rights of appeal.
- Approval can only be suspended under the circumstances set out in Regulation 50.
- The notice should be read carefully to understand the exact nature and extent of the suspension and what actions are required to comply with the notice i.e. have the suspension removed.
- The suspension only applies to the 'approval status'. It does not affect status under other regulatory regimes, e.g. operation under an exemption or environmental permit. These are not affected by the suspension notice.
- BIS will be notified that approval has been suspended. The Settlement Centre account will be closed and access will be blocked for the period of the suspension.
- WEEE PCSs will be notified that approval has been suspended.
- The public register will be updated to indicate a change in status from approved to suspended.
- Evidence cannot be issued during the period of suspension.
- Evidence cannot be issued on any WEEE received during the suspension even when/if the suspension is removed. This is because evidence can only be issued on WEEE received by Approved AATFs/AE's.

257. When suspension of approval is removed the following happens:

- The Agencies notify BIS who will reinstate access to the Settlement Centre.
- WEEE PCSs will be notified that approval has been re-instated for the relevant approval period.
- The public register will be up-date the status to approved.

258. Cancellation of approval following suspension:

- Approval may be cancelled if the conditions set out in the suspension notice are not complied with in the agreed timescales.
- Any evidence issued prior to the suspension notice taking effect will remain valid.
- Once approval is cancelled no evidence can be issued from the date of the suspension notice.
- Depending on the reason for the initial suspension and the subsequent cancellation the agencies may investigate the matter further and

consider enforcement action in line with their published Enforcement and Prosecution Policy.

- If an AATF/AE reapplies for approval for the next approval period and are approved they must not issue evidence on WEEE received in the previous approval period.

Re-processors

259. A re-processor is a facility that carries out recovery or recycling and holds a Pollution Prevention and Control (PPC) authorisation, a waste management licence or registered exemption. “Recovery” and “Recycling” are defined in the Regulations. For the purposes of meeting the WEEE Directive targets “recovery” includes incineration with energy recovery and recycling. Recycling is the re-processing in a production process of the waste materials for the original purpose or for other purposes.

Evidence

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

261. AATFs and AEs have a responsibility to ensure that the evidence notes are issued only in respect of WEEE delivered to them by or on behalf of a compliance scheme. Evidence cannot be issued in respect of non-obligated WEEE i.e. WEEE that is received by an AATF or AE other than from or on behalf of a PCS. The only exception to this is where a DCF does not have a contract in place with a PCS to clear the WEEE from the DCF. In such cases the AATF or AE can pass the evidence back to the DCF in respect of the WEEE arising at that DCF.

262. The evidence note can be issued by an AATF or AE as soon as the WEEE has been received by them. The AATF or AE must ensure that where evidence has been issued that the WEEE does go on for treatment and that the resulting WEEE materials are recovered to the necessary extent so that the recovery targets in the Regulations are met.

Regulation 32 – Regulation 40A

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

Audit Requirements

264. The Regulations require AATF/AEs to be audited by an independent third party. It is the responsibility of the AATF/AE to arrange for the audit to be completed and for the audit report to be submitted to the relevant agency by the deadline date **31 March**. The agencies have produced a guidance document on the audit requirements. This can be downloaded at: www.environment-agency.gov.uk/weee.

Protocols

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

266. These protocols are a guide to help with reporting of WEEE arising. There is flexibility to develop, in partnership with the PCS, alternative protocols. If choosing this option the environment agencies must be happy with the methodology.

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

268. Defra has developed a web-based protocol calculator that provides the protocol values by simply entering the amount of WEEE received on an electronic form. The tool is available at: www.weeprotocol.org.uk

Re-use of whole appliances

269. When issuing evidence AATFs/AEs are required to give details of whole appliances that have been made available for re-use. Under the Regulations only an AATF/AE can issue evidence, including evidence of re-use. If AATFs/AEs are not refurbishers, they are encouraged, in partnership with their PCS, to develop working relationships with genuine re-use organisations (regardless of whether they are charitable or commercial). The arrangements made are a matter between the AATF/AE, the PCS and the re-use body.

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

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

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

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

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

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

Guidance on the new treatment requirements is available on the Defra website.

<http://www.defra.gov.uk/environment/waste/topics/electrical/index.htm>.

Any WEEE can be treated by any ATF but separately collected WEEE must first pass through an “approved” ATF (AATF). Only AATFs or Approved Exporters can issue the evidence that compliance schemes require.

What about if I want to export WEEE?

If you export whole WEEE for treatment and/or reprocessing overseas you will need to be approved if you wish to issue WEEE evidence notes. If you seek approval you will need to identify the overseas site you intend to export to in your application. You can add additional overseas sites during the period you are approved. As an exporter of WEEE there is no obligation on you to become approved. This will be a commercial decision for you, but again, PCSs may be reluctant to send treated or untreated WEEE to exporters that cannot provide them with evidence. Even if you choose not to be approved as an exporter you will still need to comply with Waste Shipment Regulations, which apply to the export of all waste from the UK.

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

Where the WEEE is being exported you must ensure that you are compliant with the requirements of the Waste Shipment Regulations. Where the WEEE is hazardous WEEE and it is being exported outside the European Economic Area (EEA)¹, you will likely need to have confirmation from the receiving country that they agree to the import of the waste.

Assuming you can demonstrate compliance with the Waste Shipment Regulations you will need to ensure that overseas receiving sites are included in the information the agencies hold in respect of the approval. One of the key criteria for including overseas treatment sites which are outside the EEA in an approval is the demonstration that the overseas site is operating to

¹ EU Member States plus Norway, Iceland and Liechtenstein

treatment standards which are equivalent to those we would expect of an EU treatment operator.

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

You should apply to the appropriate environment agency. Approval is conditional on satisfying the requirement set out in Schedule 8 of the Regulations. ATFs/AEs will need to demonstrate that the facility is able to meet the recovery targets contained in the Regulations and Directive.

Do I need approval to reprocess materials arising from WEEE?

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

What should I do with any batteries contained in the WEEE?

Batteries should, where practicable, be excluded from the weight of WEEE reported. This will need to be done in addition to the use of the protocols as these were developed prior to the introduction of the Waste Batteries and Accumulators Regulations 2009. Batteries collected should be recycled by an approved Approved Batteries Treatment Facility (ABTF) or Approved Batteries Exporter (ABE).

Chapter 10 Re-use of WEEE as Whole Appliances

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

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

274. To encourage such activity evidence can be generated against any WEEE which is sent for re-use. The evidence can only be generated by an AATF or AE. This evidence can be used by the PCS to meet its WEEE obligations.

275. When submitting evidence AATFs/AEs are required to provide details of whole appliances made available for re-use. If whole appliances for re-use are to be off-set against producer obligations effective working relationships/partnerships must be in place between PCS/AATF/DCF operators and the re-use sector.

276. All such agreements must be appropriately documented and all records should be available for audit purposes. It is important to note that the AATF/AE is ultimately responsible for the validity of evidence issued.

277. It is not necessary for the identified appliances to be physically handled by an AATF. Provided that appropriate records are maintained they can be handled directly by the re-use organisation on the PCS and AATFs behalf and then transported directly to the re-use facility.

278. This inclusion of re-use activity does not distort the market share calculations in any way – all WEEE that is separately collected at DCFs and via Regulation 32 and Regulation 39 will be used in the calculation of PCS member obligations against their market share of EEE placed on the market during the compliance period.

279. The inclusion of re-use of whole appliances in evidence returns will provide the strongest incentive for PCSs to work with genuine re-use organisations in prioritising re-use of whole appliances where appropriate.

Re-use of WEEE as whole appliances– Frequently Asked Questions

Are there any restrictions on which re-use organisations a PCS can send WEEE to?

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

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

No. The producer and distributor obligations apply to EEE that is placed on the UK market for the first time. EEE which has been sent for re-use and is subsequently placed on the market again is deemed to be being placed on the market for the second (or third, fourth time etc).

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

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

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

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

Can WEEE be sent for refurbishment as whole appliances overseas?

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

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

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

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

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

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

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

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

Do whole appliances identified for reuse need to physically enter an AATF to be evidenced under the Regulations?

No – identified whole appliances can be sent straight to the reuse organisation provided there is a documented agreement between the PCS, AATF and where appropriate a DCF.

Chapter 11 – Evidence of Compliance

280. PCSs must submit a “Declaration of Compliance” (DoC) to the appropriate agency supported by appropriate evidence on or before **30 April** following the end of a compliance period (**31 December**).

281. The DoC must address any obligations the PCS has in respect of household and non-household WEEE.

282. The PCS must ensure that separately collected household WEEE which it takes responsibility for is passed to an AATF or an AE.

283. Evidence for household WEEE is not interchangeable or tradable with evidence for non-household WEEE.

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

285. The AATF or AE is responsible for ensuring that the WEEE received for treatment is treated and goes on to be recovered and that levels of recovery meet the targets set out in the regulations for each WEEE category.

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

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

Roles and responsibilities

288. A PCS will need to obtain evidence to show it has financed the collection, treatment, recovery and environmentally sound disposal of WEEE arising to the extent that this meets its obligations.

289. This can be achieved by taking on the responsibility to clear DCFs of WEEE, to receive WEEE under regulation 32, 39 or 40A arrangements or through the trading of evidence via the Settlement Centre (NB any unplanned trading i.e. outside of arrangements set out in the PCS operational plan should be marginal and should only be undertaken to address marginal shortfalls or excesses of evidence).

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

- Be granted approval to issue evidence; and
- Ensure it has developed contractual relationships with reproprocessors to provide documentary proof of the amount (in tonnes) of WEEE materials that have been received for recovery/recycling at their facilities.
- Ensure its processes are capable of independent verification as it is a requirement that all the information submitted to the environment agencies must be audited by an independent auditor.

291. Reprocessors will be asked by AATFs to provide confirmation of the amounts of WEEE accepted for recycling or recovery. This should be part of the contractual relationship with the AATF.

292. When exporting WEEE for treatment and/or recovery, approval will be required by the appropriate environment agency in order to issue evidence of treatment and recovery outside the UK.

Action needed by PCS

293. The PCS will act on behalf of producers to physically collect and arrange the treatment, recovery and recycling of separately collected WEEE, obtain the necessary evidence of compliance from the AATF and supply the appropriate agency with a Declaration of Compliance.

294. The PCS must ensure:

- Separately collected WEEE arising at DCFs, or received via regulation 32, 39 or 40A arrangements is taken to an AATF or AE, where it will be weighed on arrival.
- The WEEE is treated according to the requirements of the Waste Management Licensing Regulations 1994 (as amended by the WEEE Management Licensing Regulations) – (The Waste Electrical and Electronic Equipment ((Waste Management Licensing) (England and Wales) Regulations 2006) in England and Wales; The Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 in Northern Ireland and relevant legislation in Scotland). More information is available at:
<http://www.defra.gov.uk/environment/waste/topics/electrical>

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

Evidence

296. Evidence is recorded in a standard format on the Settlement Centre. (See Chapter 12 for more information).

297. Evidence notes are defined in the Regulations and show:

- Evidence of WEEE received by an AATF for reuse as a whole appliance or treatment;
- Evidence of the receipt by an AE of the tonnage/kilograms of WEEE for export for reuse as a whole appliance outside the UK;

298. Evidence notes on the Settlement Centre will verify the amount and nature of separately collected WEEE received by an AATF.

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

Recovery Targets

300. The recovery targets for each category are set in Schedule 8, Part 2, paragraph 12 which implements the targets set out in the WEEE Directive. AATF's and AE's will need to demonstrate that these targets can be met when dealing with WEEE evidence. This is a condition of their approval.

Protocols

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

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

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

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

Business to Business

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

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

Cancellation of Evidence

307. There is no provision in the Regulations to cancel evidence once entered and accepted in the Settlement Centre.

308. Where an AATF or AE cannot provide documentation to support the evidence it has issued action may be taken against the issuing AATF/AE. The initial action is likely to be the suspension of the AATF/AE approval. In some cases enforcement action may be pursued which could lead to a criminal prosecution.

Chapter 12 – The Settlement Centre

Introduction

309. The Regulations place financial obligations on producers of EEE with regard to WEEE arising in the UK. Producers financial obligations are determined as a proportion of their market share of EEE placed on the UK market in the compliance period. As market share and WEEE arising data are based on the current compliance period it is not until the end of that compliance period that the final obligations can be determined.

310. The Settlement Centre has been established to allow PCSs to balance evidence generated by ATFs or AEs to enable their members to discharge their obligations and provide a mechanism for the authorities to monitor the levels of separately collected WEEE.

311. The consequence of this is that PCSs are unlikely to have collected the exact amount of WEEE at the end of the compliance period to discharge their obligations.

312. To assist PCSs with meeting their obligations, the Settlement Centre provides the functionality to enable PCSs with excess evidence to trade with those PCSs that have a shortfall in evidence.

Local Authorities/ DCFs

313. If a LA operating a DCF is unable to secure an agreement with a PCS to collect household WEEE deposited at its DCFs, or the PCS fails to collect the WEEE, they will need to arrange transportation, treatment, recovery and recycling of the WEEE. (The LA will have to finance this activity. The LA can request access to the Settlement Centre, by contacting BIS, to trade its evidence and recover the financing costs from the producers).

Operation of the Settlement Centre

314. All evidence relating to household WEEE is input into the Settlement Centre by the AATF/AEs. This provides an up-to-date picture of the amounts of WEEE that have been dealt with.

315. The Settlement Centre is web based and can be accessed by AATFs, AEs and PCSs. Each operator will have their own unique login details and their access to the system is restricted. Only the agencies and BIS have full access to the information contained on the system.

316. PCSs can use the system to monitor the evidence they have acquired during the compliance period via their own summary page (dashboard).

Balancing Evidence

317. Where evidence has been under or over collected, PCSs can sell or purchase evidence via the Settlement Centre. Where a trade is required

between two PCSs they must negotiate the financial settlement between themselves first. Once agreed the Settlement Centre must be notified by both parties and a trade note generated. The transaction will be reflected in each PCS totals shown on their Dashboards.

Declaration of Compliance

318. The Settlement Centre will issue confirmation of the final totals to the PCSs at the end of each compliance period. This will assist them with submitting their Declaration of Compliance to the agencies.

Cancellation of Evidence

319. There are no provisions in the Regulations to cancel evidence. If following audit and inspection it is found that evidence cannot be supported it will not be cancelled but action may be taken against the issuing AATF or AE.

Guidance on the Settlement Centre

320. Full operational guidance and terms and conditions of use can be found and downloaded from www.bis.gov.uk

Contact Points for Further Information

1. Environment Agency for England and Wales
Rio House
Waterside Drive
Aztec West
Almondsbury
Bristol
BS2 4UD
Tel: (UK) 08708 506 506
(Non UK) +44 1709 389 201
Email: WEEE@environment-agency.gov.uk
Free-rider hotline: 0800 0232090
Website: www.environment-agency.gov.uk
2. The Scottish Environment Protection Agency (SEPA)
Erskine Court
Castle Business Park
Stirling
FK9 4TR
Tel: +44 (0) 1786 457 700
Email: info@sepa.org.uk
Website: www.sepa.org.uk
3. The Environment & Heritage Service, Northern Ireland
Producer Responsibility Unit
Klondyke Building
Cromac Avenue
Gasworks Business Park
Lower Ormeau Road
Belfast
BT7 2JA
Tel: +44 (0) 28 9056 9387
Email: weee@doeni.gov.uk
Website: weee.ehsni.gov.uk
4. Department for Business, Innovation and Skills (BIS)
1 Victoria Street
London
SW1H 0ET
Tel: +44 (0) 20 7215 5822
Enquiries: weee@bis.gsi.gov.uk
Website: www.bis.gov.uk

5. Valpak Retail WEEE Services
Tel: 08450 682572
Email: info@valpak.co.uk/dts

6. VCA
Tel: 0844 8000819
Email: weee@vca.gov.uk
Website: www.vca.gov.uk/enforcement/weee-enforcement.asp

7. Envirowise Helpline
Tel: 0800 585 794 (UK calls only)
E-mail: envirowise@ecgroup.uk.com
Website: www.envirowise.gov.uk

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

Categories of electrical and electronic equipment covered by the WEEE Regulations

1. Large household appliances

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

2. Small household appliances

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

3. IT and telecommunications equipment

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

4. Consumer equipment

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

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

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

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

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

7. Toys, leisure and sports equipment

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

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

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

9. Monitoring and control instruments

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

10. Automatic dispensers

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

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

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

Two main criteria should be applied wherever possible:

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

or

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

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

WEEE Regulations scope: Luminaires

The following guidelines may be helpful:

a). Non-domestic fluorescent luminaires: fall within the scope of the UK WEEE Regulations by virtue of the first indent of category 5 of Annex 1B of the WEEE Directive.

b). Domestic fluorescent luminaires: fall outside the scope of the WEEE Directive by virtue of the first indent of category 5 of Annex 1B as “luminaires in households”.

c). Non-domestic non-fluorescent luminaires: these are included within the last indent of category 5 of Annex 1B as part of “other lighting or equipment...” (but with any filament bulbs specifically excluded) so they are within the scope of the WEEE Regulations.

d). Domestic non-fluorescent luminaires: Scope is arguably less clear under the WEEE Regulations. We have considered whether the exclusion in the first indent of category 5 of Annex 1B of the WEEE Directive is intended to apply to all domestic luminaires or only to domestic fluorescent luminaires (see (b) above). We take the view that the former interpretation is better. This is supported by the EC’s Frequently Asked Questions document, (originally published May 2005 and most recently revised August 2006), makes it clear – in entry 4 of the table in section 1.3 on page 7 – that the intention of the Commission was to exclude “all types of luminaires in households” from the scope of the WEEE Directive through the first indent of category 5 of Annex 1B.

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

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

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

