
STATUTORY INSTRUMENTS

2004 No.

ENVIRONMENTAL PROTECTION

The Waste Electrical and Electronic Equipment (Producer
Responsibility) Regulations 2004

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The Secretary of State, being a Minister designed **(a)** for the purposes of section 2(2) of the European Communities Act 1972 **(b)** in respect of matters relating to the prevention and recovery of waste electrical and electronic equipment, in exercise of the powers conferred on her by that section hereby make the following Regulations:

PART I
GENERAL

Citation, commencement [and extent]

1.—(1) These Regulations may be cited as the Waste Electrical and Electronic Equipment (Producer Responsibility) Regulations 2004.

(2) These Regulations shall come into force on [].

Interpretation

2. In these Regulations –

“the Directive” means Directive 2002/96/EC of the European Parliament and the Council on waste electrical and electronic equipment **(c)**;

“an appropriate agency” means —

- (a) where the producer’s registered office or principal place of business is in England or Wales, the Environment Agency;
- (b) where the producer’s registered office or principal place of business is in Scotland, the Scottish Environment Protection Agency;

(a) S.I. 2004/706 [1992/2870].

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

(c) OJ No. L37, 13.02.2003, p.24.

(c) where the producer's principal place of business is in Northern Ireland, the Department of the Environment;

“an approved person” means the person who is approved by the appropriate Agency under regulation [] or the purpose of issuing a certificate of compliance under regulation [51];

“business users” means users of electrical and electronic equipment other than private households;

“certificate of compliance” means the certificate referred to in regulations [31];

“compliance notice” means a notice in writing served in accordance with regulation [34];

“dangerous substance or preparation” means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC (2) or Directive 1999/45/EC of the European Parliament and of the Council (3) (a);

“disposal” means any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;

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

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993(b)

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

“member State” means a State which is a contracting party to the EEA Agreement;

“producer” means any person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (c);

- (i) manufacturers and sells electrical and electronic equipment under his own brand,
- (ii) resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the ‘producer’ if the brand of the producer appears on the equipment, as provided for in subparagraph (i), or
- (iii) imports or exports electrical and electronic equipment on a professional basis into a member State

whoever exclusively provides financing under or pursuant to any finance agreements shall not be deemed a ‘producer’ unless he also acts as a producer within the meaning of subparagraph (i) to (iii);

“recovery” means any of the applicable operations provided for in Annex IIB to Directive 75/442/EEC;

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

(a)
(b)
(c)

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

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

“the Waste Directive” means Council Directive 75/442/EC on waste (a);

“waste electrical and electronic equipment” [or “WEEE”] means electrical or electronic equipment which is waste within the meaning of Article 1(a) of Directive 75/442/EEC, including all components, subassemblies and consumables which are part of the product at the time of discarding; and

“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.

PART II

APPLICATION

Electrical and electronic equipment and waste electrical and electronic equipment to which these Regulations apply

3.— These Regulations apply to electrical and electronic equipment that is within the categories set out in Schedule 1.

Existing Community Legislation

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

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

Electrical and electronic equipment to which these Regulations do not apply

5.—(1) — These Regulations do not apply to electrical and electronic equipment that is —

- (a) part of a type of equipment that is not within the categories set out in Schedule 1; or
- (b) connected with the protection of the essential interests of the security of member States, such as arms, munitions and war materials, provided this exception shall not apply to EEE that is not intended specifically for military purposes.

(a)

PART III

[SEPARATE COLLECTION]

Distributor's obligation to provide separate collection

6.—(1) A distributor who supplies new equipment shall ensure that waste electrical and electronic equipment can be returned to him on a one-to-one basis at least free of charge, provided that the WEEE that is returned is —

- (a) of equivalent type to; and
- (b) has fulfilled the same functions as

the supplied equipment.

Participation in a distributor's scheme

7.— A distributor may choose to discharge his obligation in regulation [6] by participation in a distributor's scheme registered under regulation 8 and approved by the Secretary of State under regulation 9.

Application for registration of a distributor's scheme

8.—(1) An application for registration of a distributor's scheme shall be made by the operator of the scheme to the appropriate Agency within 28 days of approval by the Secretary of State being granted under regulation 9.

(2) An application for registration of a scheme shall —

- (a) be made in writing and include the name and address of the person who proposes to operate the scheme;
- (b) be accompanied by a fee of [].

(3) The scheme shall not be registered unless it has been approved by the [Secretary of State] as set out in regulation [9].

(4) An application for registration shall be granted where the operator has complied with paragraph (2) and the [Secretary of State] approves the scheme under regulation 9.

(5) Where an application for registration of a scheme is granted —

- (a) the appropriate Agency shall, within [28 days] of it being granted confirm to the operator of the scheme in writing that the scheme is registered with it; and
- (b) the scheme shall be treated as registered from the beginning of the year of application until any cancellation of the scheme's registration in accordance with regulation [13].

(6) On or before [31 January] each year in respect of a scheme which is registered the operator shall pay a fee of [] to the appropriate Agency for the purpose of continuing the registration of the scheme.

Applications for approval of a distributor's scheme

9.—(1) An application for approval by the [Secretary of State] of a distributor's scheme shall be made in writing by the operator of the scheme and shall —

- (a) include the information set out in Part 1 Schedule 2; and
- (b) any other information which demonstrates that the scheme is likely to subsist for a period of at least 3 years;
- (c) be accompanied by the operational plan referred to in Part 2 of Schedule 2.

(2) An application for approval by the [Secretary of State] of the scheme shall be granted where she is satisfied that the scheme is likely to subsist for a period of at least three years.

Withdrawal of approval of a distributor's scheme

10.—(1) The [Secretary of State] may decide to withdraw approval of a scheme which has been granted under regulation 9 where —

- (a) there is a change in the person who is the operator of the scheme and the new operator fails to inform the [SoS] of the change within 28 days of the event; or
- (b) the operator of the scheme is convicted of an offence under these Regulations;
- (c) the scheme fails to discharge its obligations under these Regulations;
- (d) the scheme fails to assist in meeting the United Kingdom's obligations in relation to the reuse, recycling and other forms of collection of waste electrical and electronic equipment.

(2) Where the Secretary of State withdraws approval of a scheme under paragraph (1), she shall serve written notice on the operator of the scheme of—

- (a) her decision to withdraw approval of the scheme;
- (b) the reasons for the decision;
- (c) the date when the withdrawal will take effect, not being earlier than 28 days from the date of the notice.

(3) The Secretary of State shall consider any representations made before the notice takes effect by the operator of the scheme, and may withdraw the notice referred to in paragraph (2), at any time.

Conditions of registration of a distributor's scheme

11.—(1) Registration of a distributor's scheme shall be subject to the following conditions —

- (a) that the operator of the scheme shall notify the [appropriate Agency] in writing at intervals as required by [appropriate Agency] of any change in the membership of the scheme and that any such notification will be accompanied by the additional fee of £ [];
- (b) that the operator of the scheme shall inform the [appropriate Agency] in writing of —
 - (i) any change in the person who is the operator of the scheme;
 - (ii) any material change in the information provided in accordance with regulation [8] within [28] days of the occurrence of any such change;
- (c) that the operator of the scheme will comply with the requirements of regulation [9];
- (d) that the operator of the scheme shall keep records of its members and report this each year to the [appropriate Agency].
- (e) that the operator of the scheme shall make available to users of electrical and electronic equipment in private households information on —
 - (i) measures to take to ensure that WEEE is not disposed of as unsorted municipal waste and to collect such WEEE separately;
 - (ii) the return and collection system available to them;
 - (iii) the role of users in private households in contributing to reuse, recycling and other forms of recovery of WEEE;
 - (iv) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;
 - (v) the meaning of the symbol shown in Schedule 5;
- (f) that the operator shall inform the appropriate Agency in writing if the [Secretary of State] withdraws approval of the scheme.

Refusal to register a scheme

12.—(1) Any decision of the appropriate Agency under regulation [8] to refuse to register a scheme shall be notified within [28] days of the decision to the operator of the scheme in writing together with —

- (a) the reasons for the decision; and
- (b) a statement as to the right of appeal under Part [XI] of these Regulations.

Cancellation of registration of a scheme

13.—(1) Subject to the right of appeal under Part [XI] of these Regulations the [appropriate Agency] may cancel the registration with it of a scheme where —

- (a) the information; and
- (b) the fee required by regulation []

are not provided; or

- (c) it appears to [the appropriate Agency] that—
 - (i) any of the conditions referred to in regulation [11] has been broken;
 - (ii) the operator of the scheme knowingly supplied false information in connection with the application for registration, or with compliance with the conditions referred to in regulation [11].

(2) The [appropriate Agency] shall cancel registration of a scheme if the [Secretary of State] notifies it that she has withdrawn her approval of the scheme — under regulation [11].

(3) Before the cancellation of registration the appropriate Agency shall serve on the operator of the scheme written notice of —

- (a) its decision under paragraph (1) or (2) above to cancel registration;
- (b) the reasons for the decision;
- (c) where the decision is made under paragraph (1), the right of appeal under Part [XI] of these Regulations; and
- (d) the date when cancellation will take effect, not being earlier than [].

Producer's obligation to take-back WEEE

14.—(1) Notwithstanding regulation [6] producers may establish and operate individual and/or collective systems to take-back WEEE from private households provided those systems are consistent with the objectives of the Directive.

WEEE that presents a health and safety risk to personnel

15.—(1) Waste electrical and electronic equipment that presents a health and safety risk to personnel because of contamination may be refused for return.

PART IV

PRODUCER'S OBLIGATIONS

16.—(1) A person who is a producer for the purposes of these Regulations shall have the following producer responsibility obligations, to —

- (a) be registered as provided in Part V of these Regulations;
- (b) provide [by 13 August 2005] at least for the financing of the collection, treatment, recovery and environmentally sound disposal of the proportion of WEEE from private households deposited at collection facilities (as referred to in the operational plan

mentioned in regulation 9(1)(c) and Part 2 of Schedule 2) which the [Secretary of State] allocates to him under regulation [22];

- (c) provide for the treatment of WEEE as referred to in sub-paragraph (b), for which he is responsible, which uses the best available treatment recovery and recycling techniques, and to comply with the [Permitting Regulations in England and Wales, and Scotland and the N.I. Waste Management Regulations];
- (d) provide for the recovery of WEEE that is separately collected and allocated to him in accordance with Part VI of these Regulations;
- (e) furnish a certificate of compliance in respect of his recovery obligations in accordance with regulation [31].

Exceptions

17.—(1) Where a producer is a member of a producer's compliance scheme as set out in Part X of these Regulations —

- (a) he shall be exempt from complying with his obligations in regulation [16] whilst his membership of the scheme subsists;
- (b) the operator of the scheme shall be responsible for meeting the obligations in regulation [16] on behalf of its members; and
- (c) the recovery obligations, as set out in regulation [27], which but for his membership of the scheme he would be obliged to comply with, shall be performed through the scheme.

(2) The provisions of Part VII apply as regards a producer's obligation to provide for the costs of financing the collection, treatment, recovery and environmentally sound disposal of WEEE from business users.

PART V

REGISTRATION

Registration

18.—(1) By [12 August 2005] each producer shall apply to [the Secretary of State] for registration, and from 1 January 2007 each producer shall register with the [Secretary of State] by [31st January], and each producer shall register with the [Secretary of State] by 31 January each year thereafter.

(2) Where a producer ceases to place electrical and electronic equipment on the market he shall inform the [Secretary of State] within [28] days of his ceasing to do so.

(3) An application by a producer to register shall —

- (a) be made in writing;
- (b) contain at least the information in Schedule [3]; and
- (c) be accompanied by a fee []

(4) The details provided by a producer in compliance with the obligations referred to in paragraphs (1), (2) and (3) shall be included in the Register of Producers to be maintained by the [Secretary of State] for the purposes of these Regulations.

(5) The [Secretary of State] shall confirm receipt of a producer's application for registration in writing within 28 days of receipt and approve these applications within 28 days of confirming receipt.

Information to be submitted by a producer

19.—(1) By [12th August 2005] each producer who applies for registration under regulation 18(1), shall provide to the [Secretary of State] the following information for the year 2004 —

- (a) relating to the categories of EEE which he has placed on the market as set out in Schedule 1; and
- (b) the quantities and weight of EEE which he has placed on the market.

(2) By [31st January] 2007 each producer shall provide to the [Secretary of State] the information referred to in paragraph (1), in respect of electrical and electronic equipment placed on the market between 1 January 2006 and 31st December 2006, and thereafter the information shall be provided by [31st January] each year in respect of the electrical and electronic equipment which has been placed on the market during the immediately preceding year.

(3) The information referred to in paragraph (1) shall be provided in writing.

(4) A producer who supplies electrical and electronic equipment by means of distance communication shall provide the information referred to in paragraph (1), relating to the quantities and categories (as set out in Schedule 1) of electronic and electrical equipment placed on the market in the member State where the purchaser or that equipment resides.

Distance Sellers

20. Where a producer supplies electrical or electronic equipment by means of distance communication he shall —

- (a) register in accordance with regulation 18;
- (b) notify the [Secretary of State] at the time of registration that he supplies electrical or electronic equipment by means of distance communication and that this regulation applies;
- (c) upon a request from the [Secretary of State] undertake to provide her with information that demonstrates he has complied with his obligation to provide financing for the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities in the member State where the purchaser of the equipment resides.

Transfer of a producer's business to another

21.—(1) Where the business of a producer is transferred in whole or in part to another person the producer shall be treated as remaining responsible for electrical and electronic equipment in respect of which he has made an application to register under regulation [18], unless he is able to demonstrate to the [Secretary of State] that the person to whom the transfer has been made has agreed to meet the producer's obligations in respect of any such electrical and electronic equipment under these Regulations.

(2) Where paragraph (1) applies the person to whom the whole or part of a business is transferred is a producer for the purposes of these [Regulations], and that person shall —

- (a) apply to the [Secretary of State] for registration under regulation [18]; and
- (b) [undertake to meet the recovery targets in Part [VIII] of these Regulations].

PART VI

FINANCING IN RESPECT OF WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT FROM PRIVATE HOUSEHOLDS

Allocation of responsibility to producers for financing collection etc of waste electrical and electronic equipment

22.—(1) From 13th August 2005 the [Secretary of State] shall notify each producer who has registered under regulation [18], of the proportion of waste electrical and electronic equipment from private households for which he is responsible for providing the financing of collection,

treatment, recovery and environmentally sound disposal, in order to meet his obligation in regulation [16(a)].

(2) A notification made by the [SoS] as referred to in paragraph 1, shall be made in respect of WEEE arising during the period—

- (a) 13th August 2005 to 31st December 2006 by 31st January 2007;
- (b) 1st January 2007 to 31st December 2007, by 31st January 2008;

and in respect of WEEE arising during the course of each year thereafter, by 31st January of the following year.

(3) The notice referred to in paragraph (1) shall include the following —

- (a) [details] of the waste electrical and electronic equipment to which it relates;
- (b) the reasons for the [Secretary of State's] decision to allocate responsibility;
- (c) a statement notifying the producer of his obligations under regulation [16()].

(4) Where the [Secretary of State] makes a decision under paragraph (1) she shall provide the producer with an opportunity to make representations to her if he objects to the decision.

(5) If the [Secretary of State] considers it appropriate to do so, whether in consequence of any representations or proposals made to her, under paragraph (3) or otherwise, she may —

- (a) revoke the decision which she has made under paragraph (1);
- (b) without revoking her decision, at any time modify the terms of the notice referred to in paragraph (2), in such manner as she considers appropriate.

Producer's notification he intends to meet his obligation in regulation 16 in respect of products he has placed on the market

23.—(1) For products placed on the market on or after 13 August 2005 a producer may notify the [Secretary of State] that he wishes to meet the obligations in regulation [16()] in respect of those products which he has placed on the market.

(2) Where paragraph (1) applies a producer shall notify the [Secretary of State] in writing by [?] each year, and the notification shall contain details of —

- (a) the relevant products as set out in Schedule [?];
- (b) the measures the producer intends to take to meet his obligations under regulation [16 ()] in respect of the products referred to in paragraph (1); and
- (c) the measures the producer has in place to meet his obligations under regulation [16 ()] in respect of the products referred to in paragraph (1) in the event of the producer ceasing to trade, or becoming insolvent.

(3) Where a producer notifies the [Secretary of State] that he intends to meet his obligation set out in regulation [16()] in respect of products he has placed on the market, she shall inform the appropriate Agency accordingly.

Power to notify the Secretary of State that measures under regulation 23 are insufficient

24.—(1) Where a producer makes a notification to the [Secretary of State] under regulation [27], she shall inform him whether the measures he intends to take to meet his obligation under regulation [16] are sufficient.

(2) Where the [Secretary of State] is not satisfied that a producer who has made a notification under regulation [23] is able to meet his obligations under regulation 16 she shall —

- (a) notify him accordingly; and
- (b) notify him of the proportion of waste electrical and electronic equipment for which he is responsible in accordance with regulation [22]

(3) Where the [Secretary of State] makes a notification under paragraph (2) she shall provide the producer with an opportunity to make representations to her if he objects to any provision of the notification.

(4) If the [Secretary of State] considers it appropriate to do so, whether in consequence of any representations or proposals made to her, under paragraph (3) or otherwise, she may —

- (a) revoke the notification which she has made under paragraph (1);
- (b) without revoking the notification, at any time modify the terms of the notification referred to in paragraph (2) (b) , in such manner as she considers appropriate.

Showing the costs of meeting the obligation in regulation [16] at the time of sale of new products

25.—(1) Subject to paragraphs (2) and (3), a producer is prohibited from showing separately to purchasers at the time of sale of new electrical and electronic equipment which is sold after 13 August 2005, the costs of collection, treatment, and disposal in an environmentally sound way of WEEE from electrical and electronic equipment.

(2) Notwithstanding paragraph (1), up to and including 13th February 2011

- (a) a producer may show at the time of sale of new electrical and electronic equipment the costs of collection, treatment and environmentally sound disposal of WEEE from electrical and electronic equipment which was placed on the market before 13th August 2005; and
- (b) the costs referred to in sub-paragraph (a) shall not exceed the actual costs incurred.

(3) [The date referred to in paragraph (2) shall be 13th February 2013 in respect of electrical and electronic equipment within category 1 of Schedule [1] to these Regulations.]

PART VII

FINANCING IN RESPECT OF WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT FROM BUSINESS USERS

Financing in respect of waste electrical and electronic equipment from business users

26.—(1) Subject to paragraph (2) and regulation 30, each producer shall be responsible for providing for the costs of financing the collection, treatment, recovery and environmentally sound disposal of waste electrical and electronic equipment from business users in respect of products placed on the market after 13 August 2005.

(2) Nothing in paragraph (1) shall prevent a producer from concluding an agreement with a business user whereby the parties to the agreement make alternative arrangements between themselves to provide for the costs of financing the collection, treatment, recovery and environmentally sound disposal of waste electrical and electronic equipment from that business user.

(3) For waste electrical and electronic equipment from products placed on the market before 13th August 2005

- (a) which is being replaced by new equivalent products or by new products fulfilling the same function, the financing costs referred to in paragraph (1), shall be provided by the producers of those products when supplying them;
- (b) which does not fall within sub-paragraph (a) the financing of the costs referred to in paragraph (1), shall be provided by the user of the electrical and electronic equipment.

(4) Where paragraphs (1) applies a producer shall provide to the appropriate Agency information to demonstrate that he has met his obligations under this Part of the Regulations.

(5) Where paragraph 3(b) applies the user of the electrical and electronic equipment shall be responsible for providing the information in paragraph 4 to the appropriate Agency.

PART VIII RECOVERY

Recovery targets

27. For the period beginning 13 August 2005 to 31st December 2006 and by 31st December each year thereafter each producer shall meet the following targets for waste electrical and electronic equipment sent for treatment [in accordance with Article 6 of the Directive – relevant provisions of UK legislation which transposes Article 6]—

- (a) for waste electrical and electronic equipment that falls within categories 1 to 10 of Schedule [1];
 - (i) at least 80% recovery by an average weight per appliance; and
 - (ii) at least 75% reuse and recycling of components, materials and substances by an average weight per appliance ;
- (b) for waste electrical and electronic equipment that falls within categories 3 and 4 of Schedule [1];
 - (i) at least 75% recovery by an average weight per appliance; and
 - (ii) at least 65% reuse and recycling of components, materials and substances by an average weight per appliance;
- (c) for waste electrical and electronic equipment that falls within categories 2, 5, 6, 7 and 9 of Schedule [1];
 - (i) at least 70% by an average weight per appliance; and
 - (ii) at least 50% of components, materials and substances by an average weight per appliance; and
- (d) for gas discharge lamps, at least 80% of components, materials and substances by an average weight of the lamps.

Producer's obligation to keep records for the purpose of calculating the recovery targets

28.—(1) Each producer shall keep records of the information for the purpose of calculating the targets referred to in regulation 27.

- (2) The records referred to in paragraph (1) shall include information on the mass of—
- (a) waste electrical and electronic equipment; and
 - (b) their components, materials or substances, that enter (input) and leave (output) the treatment facility and/or when entering (input) the recovery or recycling facility.

Obligation to report information on compliance with the recovery targets

29. Each producer shall provide to the appropriate agency the information referred to in regulation 28 by—

- (a) 31st January 2006 in respect of the period beginning 13th August 2005 to 31st December 2005;
- (b) 30th April 2006 in respect of the period beginning 1st January 2006 to 31st March 2006;
- (c) 31st July 2006 in respect of the period beginning 1st April 2006 to 30th June 2006;
- (d) 31st October 2006 in respect of the period 1st July 2006 to 30th September 2006;
- (e) 31st January 2007 in respect of the period 1st October 2006 to 31st December 2006.

and for each quarter of every year thereafter by the end of the month following the relevant quarter.

Business Users

30.—(1) Where regulation 26(1) applies the obligations in regulations [27], [28], and [29] shall be met by the producer.

(2) Where regulation 26(2) applies the obligations in regulations [27], [28], and [29], shall be met by the party to the agreement (referred to in that paragraph) who agrees to provide for the costs of financing collection, treatment, recovery and environmentally sound disposal of the waste electrical and electronic equipment.

Certificate of compliance

31.—(1) By [date] each year a producer shall furnish a certificate of compliance to the appropriate Agency as evidence of whether he has met his obligation to meet the targets referred to in regulation [27].

(2) The provisions of Schedule [4] shall apply as regards the information to be contained in a certificate.

(3) The certificate referred to in paragraph (1) shall be issued by the person who is approved to do so by the appropriate Agency under regulation [].

PART IX INFORMATION

Information for users

32.—(1) Each producer shall mark electrical and electronic equipment which he places on the market on or after 13th August 2005 with the symbol in Schedule 5.

(2) Where it is not practicable for a producer to mark a product as set out in paragraph (1), the symbol shall be printed on —

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

(3) From 13 August 2005, where a producer places electrical and electronic equipment on the market he shall ensure that his identity is clear by means of a mark on the appliance, this may be achieved by use of his trade mark, brand name, company registration number or other unique reference.

Information for treatment facilities

33.—(1) From 13 August 2005 each producer shall provide information on reuse and treatment for each new type of electrical and electronic equipment within one year of it being placed on the market.

(2) The information referred to in paragraph (1) shall identify as far as it is needed by reuse centres, treatment and recycling facilities—

- (a) the different electronic and electrical equipment components; and
- (b) the location of dangerous substances and preparations in electronic and electrical equipment.

(3) A producer may choose to make the information referred to in paragraph (1), available to reuse centres, treatment and recycling centres in the form of manuals or by means of electronic media.

Compliance Notice

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

- (a) [regulation 16(b)];
- (b) regulation 38; and
- (c) regulation 39

it may serve a compliance notice on the producer.

(2) A notice which is served under this regulation shall —

- (a) state that the enforcement authority suspects that a requirement of this Part of the Regulations has been contravened;
- (b) specify the reason it is suspected that a requirement of this Part of the Regulations has been contravened and give particulars thereof;
- (c) require the producer to comply with the requirement;
- (d) specify the period of time within which the producer must comply with the requirements; and
- (e) warn the producer that unless the requirement is complied with or satisfactory evidence has been provided within the period specified in the notice he may be prosecuted under regulation [53].

PART X

PRODUCER'S COMPLIANCE SCHEMES

Registration of producer's schemes

35.—(1) An application for registration of a scheme shall be made to [the appropriate Agency] by the operator of the scheme.

(2) An application for registration of a scheme shall —

- (a) be made in writing;
- (b) contain the information set out in Schedule [6]
- (c) be accompanied by a statement that the operator of the scheme shall meet the obligation of its members referred to in regulation [16];
- (d) be accompanied by an undertaking by the operator of the scheme that conditions referred to in regulation [39] will be complied with;
- (e) be accompanied by a fee of [] .

(3) A scheme shall not be registered unless it has been approved by the [Secretary of State].

(4) An application for registration of the scheme shall be granted where —

- (a) the operator has complied with paragraphs (1) and (2); and
- (b) the operator of the scheme has been approved by the [Secretary of State], in accordance with regulation [37] .

(5) Where an application for registration of a scheme is granted —

- (a) the [appropriate Agency] shall, within 28 days of it being granted confirm to the operator of the scheme in writing that the scheme is registered with it; and

- (b) the scheme shall be treated as registered from the beginning of the year of application until any cancellation of the scheme's registration in accordance with regulation [43].

Information provided to scheme operators

- 36.**—(1) This regulation applies to information which —
- (a) is provided to the operator of the scheme by a producer who is a member of that scheme at the time the information is provided; and
 - (b) is information which the operator of the scheme will need to rely upon for the purposes of the application for registration of a scheme made under regulation [35].
- (2) A producer who provides to the operator of the scheme information to which this regulation applies shall —
- (a) provide that information on a form supplied for the purpose by the appropriate Agency;
 - (b) ensure that the form is signed by the approved person; and
 - (c) ensure that the information is as accurate as reasonably possible.

Approval of a producer's scheme

- 37.**—(1) An application for approval of a scheme by the [Secretary of State] shall be made in writing and shall—
- (a) include the information set out in Part 1 of Schedule 6;
 - (b) any other information which demonstrates that the scheme is likely to subsist for a period of at least 3 years and will assist the obligations of the United Kingdom in relation to the reuse, recycling and other forms of recovery of waste electrical and electronic equipment; and
 - (c) be accompanied by the operational plan referred to in Part 2 of Schedule 6
- (2) an application for approval of a scheme [by the Secretary of State] shall be granted where the [Secretary of State] is satisfied that the scheme is likely to subsist for a period of at least 3 years and will assist the objectives of the United Kingdom in relation to the reuse, recycling and other forms of recovery of waste electrical and electronic equipment.

Withdrawal of approval of a producer's compliance

- 38.**—(1) The [Secretary of State] may decide to withdraw approval of a scheme which has been granted under regulation 37 where—
- (a) there is a change in the person who is the operator of the scheme and the new operator fails to inform the [SoS] of the change within 28 days of the event; or
 - (b) the operator of the scheme is convicted of an offence under these Regulations;
 - (c) the scheme fails to discharge its obligations under these Regulations;
 - (d) the scheme fails to assist in meeting the United Kingdom's obligations in relation to the reuse, recycling and other forms of recovery of waste electrical and electronic equipment.
- (2) Where the Secretary of State withdraws approval of a scheme under paragraph (1), she shall serve written notice on the operator of the scheme of—
- (a) her decision to withdraw approval of the scheme;
 - (b) the reasons for the decision;
 - (c) the date when the withdrawal will take effect, not being earlier than 28 days from the date of the notice.
- (3) The Secretary of State shall consider any representations made before the notice takes effect by the operator of the scheme, and may withdraw the notice referred to in paragraph (2), at any time.

Conditions of registration of a producer's compliance scheme

39.—(1) Registration of a scheme shall be subject to the following conditions —

- (a) that the obligation in regulation [16] is complied with;
- (b) that the operator of the scheme will provide information following a request from the [appropriate Agency] with regard to the obligations in (a);
- (c) that the operator of the scheme will notify the [appropriate Agency] in writing at intervals as required by the [appropriate Agency] of any change in the membership of the scheme and that any such notification will be accompanied by the additional fee of £ [];
- (d) that the operator of the scheme will inform the [appropriate Agency] in writing of —
 - (i) any change in the person who is the operator of the scheme, [partnerships?]
 - (ii) any material in the information provided in accordance with regulation []within 28 days of the occurrence of any such change;
- (e) that the operator of the scheme will comply with the requirements of regulation;
- (f) that the operator of the scheme will provide records and returns to the [appropriate Agency] as required by Part []; and
- (g) that the operator of the scheme will inform the [Agencies] in writing if the Secretary of State withdraws approval of the scheme. Continuation of registration of a scheme

40. On or before [31st January] each year in respect of a scheme which is registered, the operator shall provide the [appropriate Agency] —

- (a) the information referred to in regulation [].
- (b) Payment of a fee of £ [].

Refusal to register a producer's compliance scheme

41. Any decision of the appropriate Agency under regulation [] to refuse to register a scheme shall be notified within 28 days of the decision to the operator of the scheme in writing together with —

- (a) the reasons for the decision;
- (b) a statement as to the right of appeal under Part [XI] of these Regulations; and
- (c) a statement of the offence specified in regulation [].

Cancellation of registration of a producer's compliance scheme

42.—(1) Subject to the right of appeal under Part [XI] of these Regulations the appropriate Agency may cancel the registration with it of a scheme where —

- (a) the information or the fee required by regulation [] is not provided; or
- (b) it appears to the Agencies —
 - (i) any of the conditions referred to in regulation [39] has been broken;
 - (ii) the operator knowingly supplied false information in connection with the application for registration, or with compliance with the conditions referred to in regulation [16].

PART XI

APPEALS

Right of appeal

43. The operator of a scheme may appeal to the Secretary of State against a decision of the appropriate Agency.

Procedure of appeals

44.—(1) Where an appeal is made to the Secretary of State, she may —

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

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

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

Determination of appeals

45. Where, on such an appeal, the Secretary of State determines that the decision of the appropriate Agency shall be altered it shall be the duty of the appropriate Agency to give effect to the determination.

Status pending appeal

46. Where an appeal is pending in a case falling within regulations [] or [], the decision to cancel registration shall be ineffective until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn.

PART XII

ENFORCEMENT

Enforcement

47. It shall be the duty of the following authorities to enforce these Regulations —

- (a) in England, and Wales, the Environment Agency;
- (b) in Northern Ireland, the Department of the Environment; and
- (c) in Scotland the Scottish Environment Protection Agency.

Monitoring

48.—(1) The [appropriate Agency?] shall monitor in accordance with this regulation

- (a) a distributor's compliance with his obligations under Part III of these Regulations; and
- (b) a producer's compliance with his obligations under these Regulations.

(2) The duty referred to in paragraph (1) includes a duty to monitor —

- (a) the registration of producers under regulation [];

- (b) the accuracy of the information provided by each producer in compliance with his obligations under regulation [];
- (c) the systems each producer has established to provide for the treatment of waste electrical and electronic equipment under regulation [];
- (d) the accuracy of the information provided under Part [] of the Regulations [recovery targets].

Public Register

49.—(1) The [Secretary of State] shall maintain and make available in accordance with this regulation a register relating to the producers who register in accordance with regulation [18] and containing information relating to producer registration as prescribed in Schedule [7].

(2) The [Secretary of State] shall —

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

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

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

(5) For the avoidance of doubt, nothing in this regulation shall require a register maintained by the [Secretary of State] to contain information relating to any criminal proceedings (including prospective proceedings) or to anything which is the subject matter of such proceedings, at any time before those proceedings are finally disposed of.

(6) Nothing in this regulation shall require a register maintained by the [Secretary of State] to contain any information which has been superseded by later information after four years have elapsed from that later information being entered in the register.

Secretary of State’s powers to appoint a person to carry out her functions

50. The [Secretary of State] may appoint a person to carry out her functions under regulations 18, 22 and 49.

Approval of persons to issue of a certificate of compliance

51. For the purposes of issuing certificate of compliance under regulation [31] an appropriate Agency may approve —

- (a) where the producer is an individual, that individual;
- (b) where the producer is a partnership, a partner; or
- (c) where the producer is a company, a director of that company.

Entry and Inspection

52. The [Secretary of State/Appropriate Agency], for the purposes of carrying out [its] functions under these Regulations, may authorise in writing any person whom the appropriate Agency, as the case may be, considers suitable for the purposes of these Regulations, to exercise the powers of entry and inspection referred to in Schedule [8].

PART XIII

OFFENCES

Offences

53.—(1) A distributor who fails to comply with -

- (a) regulation 6; or
- (b) regulation 8

shall be guilty of an offence..

(2) A producer who —

- (a) contravenes a requirement of regulation 16;
- (b) fails to comply with regulation 25 (1);

shall be guilty of an offence .

(3) An operator of a scheme who fails to comply with regulation [17] sub-paragraphs (1) (b) and (c) shall be guilty of an offence.

(4) A person who contravenes the requirements of Part VIII of these Regulations shall be guilty of an offence.

(5) A producer who —

- (a) fails to submit a certificate of compliance in accordance with regulation [31];
- (b) furnishes a certificate of compliance under regulation [31] and either —
 - (i) knows the information provided in or in connection with the certificate to be false or misleading in a material particular; or
 - (ii) furnishes such information recklessly and it is false or misleading in a material particular;
- (c) fails without reasonable excuse to furnish any information required by the appropriate Agency or by the Secretary of State in accordance with regulation []; or
- (d) furnishes any information required by the appropriate Agency or by the Secretary of State in connection with their functions, powers and duties under these Regulations and either—
 - (i) knows the information to be false or misleading in a material particular; or
 - (ii) furnishes such information recklessly and it is false or misleading in a material particular;

shall be guilty of an offence.

(6) A producer who fails to comply with regulations —

- (a) [32]; or
- (b) [33];

shall be guilty of an offence.

(7) Any person who intentionally delays or obstructs a person authorised by [] in the exercise of the powers referred to in Part [XII] of these Regulations shall be guilty of an offence.

Penalties

54. A person guilty of an offence under regulation [53] shall be liable —

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

SCHEDULE 1

Regulation []

Categories of electrical and electronic equipment covered by these Regulations

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

SCHEDULE 2

Regulation []

PART I

Information to be contained in an application for approval of a distributor's compliance scheme

1. The name of the scheme.
2. The name of the person who proposes to operate the scheme.
3. The address and telephone number of the registered office of the operator or, if the operator is not a company, the principal place of business of the operator, and if more than one all of the partners.
4. The address for service of notices if different from that referred to in paragraph 3 above.
5. [The names and addresses of the registered offices, or if not companies, the principal places of business, of the scheme's members].
6. Details of how the operator of the scheme will inform members of private households of the scheme's membership.
7. A copy of the constitution of the scheme.
8. A copy of the rules with which a member of the scheme is obliged to comply.
9. A copy of the procedures under which the operator of the scheme would enforce the rules against a member of the scheme.
10. Details of the membership fee structure

PART II

Details of the scheme's operational plan

11. The matters to be contained in the scheme's operational plan referred to in regulation [] are matters which demonstrate —

- (a) that the scheme will establish systems that enable final holders of WEEE to return such waste at least free of charge provided it is no more difficult for them to do so than returning the waste to a distributor as set in regulation 6(1);
- (b) that collection facilities are available and accessible taking into account, for example, population density;
- (c) demonstrate that the sites for storage (including temporary storage) of WEEE prior to treatment (without prejudice to the requirements of Council Directive 1999/31/EC) have the following facilities:—
 - (i) impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, de cants and cleaners, degreasers; and
 - (ii) weather proof covering for appropriate areas;
 - (iii) containers or areas for the storage of separately collected WEEE with appropriate signs to guide users;
- (d) how information on WEEE collection facilities will be made available to members of private households;
- (e) that operator's of collection facilities have procedures in place to inform the [Secretary of State] of WEEE that remains uncollected for a period of [14] days or more.

SCHEDULE 3

Regulation []

Information to be contained in an application for producer registration

1. The address and telephone number of the producer and where —
 - (a) the producer is a company, the registered office;
 - (b) the producer is not a company, the principal place of business.
2. The business name of the producer if different from that referred to in paragraph 1.
3. The address for service of notices on the producer if different from that referred to in paragraph 1.
4. The details of the person to whom the Secretary of State may address communications.

SCHEDULE 4

Regulation []

Information to be contained in a certificate of compliance

The information to be contained in a certificate of compliance is as follows –

- (a) the name and address of the person who issues the certificate;
- (b) the name and address of the person in respect of whom the certificate is issued;
- (c) the date of the certificate;
- (d) certification by the person who is approved under Regulation [51] to submit the certificate of compliance that the reuse recovery and recycling obligations have been met.

SCHEDULE 5

Regulation []

Symbol for the marking of electrical and electronic equipment

Symbol for the marking of electrical and electronic equipment

[reproduce the symbol at Annex IV of the Directive].

SCHEDULE 6

Regulation []

Part 1

Information to be contained in an application for approval of a producer's compliance scheme

1. The name of the scheme.
2. The name of the person who proposes to operate the scheme.
3. The address and telephone number of the registered office of the operator or, if the operator is not a company, the principal place of business of the operator, and if more than one all of the partners.
4. The address for service of notices if different from that referred to in paragraph 3 above.
5. [The names and addresses of the registered offices, or if not companies, the principal places of business, of the scheme's members.
6. A copy of the constitution of the scheme.
7. A copy of the rules with which a member of the scheme is obliged to comply.
8. A copy of the procedures under which the operator of the scheme would enforce the rules against a member of the scheme.

Part 2

9. The matters to be contained in the scheme's operational plan referred to in regulation [] are matters which demonstrate—
 - (a) how the scheme will meet its' members objectives; and
 - (b) how the scheme would prioritise where appropriate the reuse of whole appliances in a manner which is consistent with the objectives of the Directive.

SCHEDULE 7

Regulation []

Procedure on Appeals

1.—(1) An operator of a scheme who wishes to appeal to the Secretary of State under regulations [] - [] shall do so by notice in writing given or sent to the Secretary of State.

(2) The notice shall be accompanied by —

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to refusal of registration under regulation [], a copy of the appellant's application and any supporting documents;
- (c) where the appeal relates to cancellation of registration under regulation [], a copy of the notification of the decision and any supporting documents;
- (d) a copy of any correspondence relevant to the appeal;
- (e) a copy if any other document relevant to the appeal; and
- (f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

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

2.—(1) Subject to sub-paragraph (2) below, notice of appeal shall be given before the expiry of the period of 6 months beginning with the date of the decision which is the subject of the appeal.

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

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

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

(2) If the Secretary of State determines an appeal after a hearing under regulation [], she shall provide the appellant with a copy of any report made to him under paragraph 3 above.

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

SCHEDULE 8

Regulation []

Public Register

The following information shall be contained in the register in relation to a producer whose application for registration has been approved by the Secretary of State under regulation [].

1. the producer's name;
2. the UK address of the registered office or principal place of business of the producer; and
3. a statement each year as to whether the producer has met his obligation under regulation [] to furnish a certificate of compliance.

Powers and duties of the Enforcement Authorities under these Regulations to enter and inspect premises

An enforcement authority or a person authorised by an enforcement authority may-

- (a) enter at any reasonable time any premises any premises which are considered to be necessary for him to enter;
- (b) make such examination and investigation as may in any circumstances be necessary;
- (c) as regards any premises which there is a power to enter , direct that those premises or any part of them or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (b);
- (d) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under paragraph (b);
- (e) take samples, or cause samples to be taken, of articles or substances found in or on any premises which he has power to enter, and of the air, water or land in on, or in the vicinity of the premises;
- (f) require any person who is considered to be able to give information relevant to any examination or investigation under paragraph (b) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the enforcement authority or the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
- (g) require the production of , where the information is recorded in computerised form, the furnishing of extracts from , any records-
 - (i) which are required to be kept under these Regulations, or
 - (ii) which it is necessary to see for the purposes of an examination or investigation under paragraph (b);
- (h) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the enforcement authority or the authorised person to exercise any of the powers conferred on him by these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)