

**2018 No. 1214**

**ENVIRONMENTAL PROTECTION**

**The Waste Electrical and Electronic Equipment (Amendment)  
(No. 2) Regulations 2018**

<i>Made</i>	- - - -	<i>19th November 2018</i>
<i>Laid before Parliament</i>		<i>22nd November 2018</i>
<i>Coming into force</i>	- -	<i>1st January 2019</i>

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), makes the following Regulations.

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

**Citation and commencement**

1. These Regulations may be cited as the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 and come into force on 1st January 2019.

**Amendments to the Waste Electrical and Electronic Equipment Regulations 2013**

2. The Waste Electrical and Electronic Equipment Regulations 2013(c) are amended as set out in regulations 4 to 32.

**Transitional provision**

3.—(1) During the transitional period, where the appropriate authority is the Scottish Environment Protection Agency, regulation 79 of the Waste Electrical and Electronic Equipment Regulations 2013 (approval of schemes) is to be read as if for paragraph (3) there were substituted—

“(3) Subject to paragraph (3A), the appropriate authority must issue an invoice for payment of the annual producer charge referred to in regulation 59 to each operator of a scheme that it has approved under regulation 55.

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(a) 1972 c. 68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). Under section 57 of the Scotland Act 1998 (c. 46) despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Union law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by him as regards Scotland. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.

(b) S.I. 2004/706.

(c) S.I. 2013/3113, as amended by S.I. 2014/1771, 2015/1968, 2016/738, 2018/102 and 2018/942.

(3A) In relation to the case of a scheme member whose registered office or, where the scheme member does not have a registered office, principal place of business, is in England or outside the United Kingdom—

- (a) the annual producer charge to be included in the invoice issued in accordance with paragraph (3) is the amount that would apply if the scheme member had its registered office or, as the case may be, principal place of business, in Scotland; and
- (b) the Environment Agency must issue an invoice for payment of the annual producer charge referred to in regulation 59, less the amount invoiced under sub-paragraph (a).”.

(2) In this regulation the “transitional period” means the period beginning on the day these Regulations come into force and ending on 31st October 2019.

#### **Amendments to regulation 2 (interpretation)**

**4.** In regulation 2—

- (a) in the definition of “appropriate authority”, for “Department of the Environment”, in each place where it appears, substitute “Department of Agriculture, Environment and Rural Affairs”;
- (b) for the definition of “Department of the Environment” substitute—  
““Department of Agriculture, Environment and Rural Affairs” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;”;
- (c) after the definition of “operator of a proposed scheme”, insert—  
““PBS” means producer compliance scheme balancing system;”;
- (d) in the definition of “scheme”, after “approved” insert “by”.

#### **Substitution of regulation 6 (application from 1st January 2019)**

**5.** For regulation 6, substitute—

“**6.**—(1) From 1st January 2019, subject to regulations 7 and 8, these Regulations apply to all EEE.

(2) Schedule 3 (categories of EEE) has effect.

(3) Schedule 4 is a non-exhaustive list of those types of EEE which fall within each of the numbered categories set out in Schedule 3.”.

#### **Amendment to regulation 11 (Financing: WEEE from private households)**

**6.** In regulation 11(13), for sub-paragraph (b) substitute—

“(b) from 1st January 2019, “categories of EEE” means—

- (i) the categories of EEE listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources; and
- (v) photovoltaic panels.”.

#### **Amendment to regulation 17 (small producers: conditions of registration)**

**7.** In regulation 17(1)(d)(ii), for “categories listed in Schedule 3” substitute—

“following categories—

- (aa) the categories of EEE listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (bb) display equipment,
- (cc) appliances containing refrigerants,
- (dd) gas discharge lamps and LED light sources; and
- (ee) photovoltaic panels;”.

**Amendments to regulation 20 (record keeping)**

**8.**—(1) In regulation 20(2)(a), for “categories listed in Schedule 3” substitute—

“following categories—

- (a) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (b) display equipment,
- (c) appliances containing refrigerants,
- (d) gas discharge lamps and LED light sources; and
- (e) photovoltaic panels.”.

(2) In regulation 20(3), for “schedule 3” substitute “that paragraph”.

**Amendment to regulation 28 (financing: WEEE from private households)**

**9.** For regulation 28(10)(b) substitute—

“(b) from 1st January 2019, “categories of EEE” means—

- (i) the categories of EEE listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources; and
- (v) photovoltaic panels.”.

**Amendment to regulation 34 (collection arrangements)**

**10.** In regulation 34(3)(b), after sub-paragraph (b) insert—

“(ba) prevents the fulfilment by an approved PBS (within the meaning of regulation 34B) of a requirement under paragraph (1) to arrange for the collection and treatment of the deposited WEEE;”.

**New regulations 34A (PBS: procedure for approval) and 34B (obligation to join a PBS)**

**11.** After regulation 34, insert—

**“PBS: procedure for approval**

**34A.** Any person or body may, on or before 1st March 2019, propose a PBS for approval by the Secretary of State.

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(a) Regulation 20 was amended by S.I. 2014/1771 and 2015/1968.

(b) Regulation 34 was substituted by S.I. 2018/102.

(2) The Secretary of State must consult such persons or bodies as appear to the Secretary of State representative of the interests concerned on any PBS proposed by—

- (a) any person or body in accordance with paragraph (1); or
- (b) the Secretary of State.

(3) Such consultation must commence on or before 1st May 2019.

(4) Subject to paragraph (12), the Secretary of State, having consulted in accordance with paragraphs (2) and (3), must approve the PBS, or as the case may be one of the PBS, on which the Secretary of State has consulted, with or without amendments.

(5) Within a period of 3 years, beginning with 1st January 2019 and thereafter within each period of 3 years beginning with the day after the end of the previous period of 3 years, the Secretary of State must commence a review of the PBS which is in operation at the time the review commences (“the current PBS”).

(6) A review under paragraph (5) must take into account—

- (a) any amendments to the current PBS proposed by—
  - (i) any person or body; or
  - (ii) the Secretary of State; and
- (b) any new PBS proposed by—
  - (i) any person or body; or
  - (ii) the Secretary of State.

(7) When carrying out a review under paragraph (5), the Secretary of State must consult such persons or bodies as appear to the Secretary of State representative of the interests concerned on—

- (a) the current PBS, with or without proposed amendments; and
- (b) any new proposed PBS.

(8) Subject to paragraph (12), the Secretary of State, having consulted in accordance with paragraph (7), must—

- (a) approve the current PBS, to continue with or without amendments; or
- (b) where one or more new PBS has been proposed in accordance with paragraph (6)(b), approve the new PBS or, as the case may be, one of the new PBS, with or without amendments.

(9) Where the Secretary of State approves a new PBS or the current PBS with amendments under paragraph (8), the Secretary of State must at the same time withdraw approval of the PBS which is in operation at the time of the review.

(10) Any proposal for a PBS under paragraph (1) or (6)(b)(i) must—

- (a) be made in writing;
- (b) include the information set out in Part 1 of Schedule 8A; and
- (c) be submitted to the Secretary of State prior to the commencement of any review under paragraph (5).

(11) Any proposed amendment to a PBS under paragraph (6)(a)(i) must be submitted to the Secretary of State in writing prior to the commencement of any review under paragraph (5).

(12) The Secretary of State may not approve a PBS unless the requirements set out in Part 2 of Schedule 8A are met.

### **Obligation to join a PBS**

**34B.**—(1) During a relevant period every scheme that has been approved under regulation 55 for the purpose of regulation 28 must be a member of a PBS which has been

approved under regulation 34A and in respect of which the approval has not been withdrawn under that regulation (an approved PBS).

(2) In this regulation “relevant period” means the period beginning 30 days after a PBS is approved and ending when such approval is withdrawn.”

**Amendments to regulation 36 (reporting: WEEE from 1st January 2019)**

**12.**—(1) For regulation 36(3)(c) substitute—

“(c) specify the amount in tonnes of WEEE by reference to each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels,
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources; and
- (v) photovoltaic panels; and”.

(2) In regulation 36(3)(d), for “35(3)(a)” substitute “sub-paragraph (c)”.

**Amendment to regulation 38 (reporting: EEE placed on the market from 1st January 2019)**

**13.** For regulation 38(2)(b) substitute—

“(b) specify the amount in tonnes of EEE by reference to each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources; and
- (v) photovoltaic panels;”.

**Amendment to regulation 41 (record keeping: from 1st January 2019)**

**14.** For regulation 41(1)(b) substitute—

“(b) the categories of the WEEE referred to in sub-paragraph (a) by reference to each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and
- (v) photovoltaic panels;”.

### **Amendment to regulation 55 (application for approval of a proposed scheme)**

15. In regulation 55(4)(c)(ii)(a), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 57 (conditions of approval)**

16. In regulation 57(f)(ii)(b), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

### **Amendments to regulation 59 (charges)**

17. In regulation 59(7)(c), for “(1), (2), (3), (4), (5) and (6)”, substitute “(1) and (6)”.

18. After regulation 59(7) insert—

“(7A) The provisions of paragraphs (2), (3) and (4) will not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995(d)—

- (a) by the Environment Agency in respect of each scheme member whose registered office, or, where the scheme member does not have a registered office, the scheme member’s principal place of business, is in England or outside the United Kingdom;
- (b) by the Natural Resources Body for Wales in respect of each scheme member whose registered office, or, where the scheme member does not have a registered office, the scheme member’s principal place of business, is in Wales, and
- (c) by SEPA in respect of each scheme member whose registered office, or, where the scheme member does not have a registered office, the scheme member’s principal place of business, is in Scotland.”.

19. In regulation 59(9), after “(7)” insert “or, as the case may be, (7A),”.

### **Amendment to regulation 61 (application for approval)**

20. In regulation 61(1)(c)(ii)(e), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

### **Amendment to regulation 62 (application for extension of approval of an exporter to an additional site)**

21. In regulation 62(1)(c)(ii)(f), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

### **Amendments to regulation 66 (reporting)**

22.—(1) In regulation 66(8)—

- (a) in sub-paragraph (a)(iv), at the end insert “and”;
- (b) in sub-paragraph (a)(v), at the end omit “and”;
- (c) omit sub-paragraph (a)(vi);
- (d) in sub-paragraph (b), omit the words from “by reference to” to the end.

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(a) Regulation 55(4)(c)(ii) was amended by S.I. 2014/1771.

(b) Regulation 57(f)(ii) was amended by S.I. 2014/1771.

(c) Regulation 59(7) was amended by S.I. 2015/1968.

(d) 1995 c. 25.

(e) Regulation 61(1)(c)(ii) was amended by S.I. 2014/1771.

(f) Regulation 62(1)(c)(ii) was amended by S.I. 2014/1771.

(2) After regulation 66(8), insert—

“(8A) Where paragraph (8)(a)(i), (ii) or (iv) or (8)(b) applies, details of the amounts in tonnes of WEEE must be provided by reference to each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and
- (v) photovoltaic panels

and in the case of each category must specify the amount in tonnes of WEEE from private households, WEEE from users other than private households and from or on behalf of which scheme it was received.”.

(3) In regulation 66(9), for the words after “AATF” to the end of the paragraph substitute “or approved exporter and must also specify the total amount in tonnes of non-obligated WEEE received by the AATF that was retained by the operator of a designated collection facility under regulation 53, by reference to each of the following categories—

- “(i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps, LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and
- (v) photovoltaic panels”.

(4) After regulation 66(10), insert—

“(11) The reports referred to in paragraph (1) must be either submitted in the format published by the appropriate authority under regulation 81(2) or online.”

#### **Amendment to regulation 81 (approval of authorised treatment facilities and exporters)**

**23.** In regulation 81(2)(a)—

- (a) the words from “the information” to the end of the paragraph are numbered sub-paragraph (a), and
- (b) after sub-paragraph (a), insert—

“; and

- (b) the reports referred to in regulation 66 must be submitted to it in accordance with that regulation.”.

#### **Amendment to regulation 83 (right of appeal)**

**24.** In regulation 83(1)(d) and (3)(d), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

#### **Amendment to regulation 87 (enforcement)**

**25.** In regulation 87(2)(d)(b), for “Department of the Environment” substitute “Department of Agriculture, Environment and Rural Affairs”.

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(a) Regulation 81(2) was amended by S.I. 2014/1771.

(b) Regulation 87(2) was amended by S.I. 2015/1968.

**Substitution of Schedule 3 (categories of EEE covered by these Regulations from 1st January 2019)**

26. For Schedule 3, substitute—

**“SCHEDULE 3**

Regulation 6(2)

**Categories of EEE applying from 1st January 2019**

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment and photovoltaic panels
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 devices that are expected to be infective prior to end of life and active implantable medical devices)
9. Monitoring and control instruments
10. Automatic dispensers.”

**Substitution of Schedule 4 (non-exhaustive list of types of EEE which fall within the categories set out in Schedule 3)**

27. For Schedule 4, substitute—

**“SCHEDULE 4**

Regulation 6(3)

**Non-exhaustive list of types of EEE which fall within the categories set out in Schedule 3**

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**1. LARGE HOUSEHOLD APPLIANCES**

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Large cooling appliances  
Refrigerators  
Freezers  
Other large appliances used for refrigeration, conservation and storage of food  
Washing machines  
Clothes dryers  
Dish washing machines  
Cookers  
Electric stoves  
Electric hot plates  
Microwaves  
Other large appliances used for cooking and other processing of food  
Electric heating appliances  
Electric radiators  
Other large appliances for heating rooms, beds, seating furniture



Electric fans  
Air conditioner appliances  
Other fanning, exhaust ventilation and conditioning equipment

## **2. SMALL HOUSEHOLD APPLIANCES**

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

## **3. IT AND TELECOMMUNICATIONS EQUIPMENT**

Centralised data processing:  
Mainframes  
Minicomputers  
Printer units  
Personal computing:  
Personal computers (CPU, mouse, screen and keyboard included)  
Laptop computers (CPU, mouse, screen and keyboard included)  
Notebook computers  
Notepad computers  
Printers  
Copying equipment  
Electrical and electronic typewriters  
Pocket and desk calculators  
Other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means  
User terminals and systems  
Facsimile machine (fax)  
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 AND PHOTOVOLTAIC PANELS**

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 other than by

telecommunications

Photovoltaic panels

#### **5. LIGHTING EQUIPMENT**

Luminaires for fluorescent lamps

Straight fluorescent lamps

Compact fluorescent lamps

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

Low pressure sodium lamps

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

#### **6. ELECTRICAL AND ELECTRONIC TOOLS (WITH THE EXCEPTION OF LARGE-SCALE STATIONARY INDUSTRIAL TOOLS)**

Drills

Saws

Sewing machines

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

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

Tools for welding, soldering or similar use

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

Tools for mowing or other gardening activities

#### **7. TOYS, LEISURE AND SPORTS EQUIPMENT**

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running, rowing, etc

Sports equipment with electric or electronic components

Coin slot machines

#### **8. MEDICAL DEVICES (WITH THE EXCEPTION OF ALL IMPLANTED AND INFECTED PRODUCTS)**

Radiotherapy equipment

Cardiology equipment

Dialysis equipment

Pulmonary ventilators

Nuclear medicine equipment

Laboratory equipment for in-vitro diagnosis

Analysers

Freezers

Fertilization tests

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

#### **9. MONITORING AND CONTROL INSTRUMENTS**

Smoke detector

Heating regulators

Thermostats

Measuring, weighing or adjusting appliances for household or laboratory equipment

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

#### **10. AUTOMATIC DISPENSERS**

Automatic dispensers for hot drinks

Automatic dispensers for hot or cold bottles or cans

Automatic dispensers for solid products  
Automatic dispensers for money  
All appliances which deliver automatically all kind of products.”

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#### **Amendments to Schedule 7 (declaration of compliance)**

**28.**—(1) In paragraph 6 of Schedule 7—

- (a) omit “a declaration that”;
- (b) in paragraph 6(a), at the beginning insert “a declaration that”;
- (c) in paragraph 6(b), at the beginning insert “a declaration of”;
- (d) for paragraph 6(c) substitute—

“(c) from 1st January 2019, a declaration of the amount in tonnes of WEEE, for which the producer has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal during the relevant compliance period, which fall within each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps and LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and
- (v) photovoltaic panels.”.

(2) In paragraph 12 of Schedule 7—

- (a) omit “a declaration that”;
- (b) in paragraph 12(a), at the beginning insert “a declaration that”;
- (c) in paragraph 12(b), at the beginning insert “a declaration of”;
- (d) for paragraph 12(c) substitute—

“(c) from 1st January 2019, a declaration of the amount of tonnes in WEEE, for which the operator of the scheme has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal during the relevant compliance period, which fall within each of the following categories—

- (i) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps and LED light sources and photovoltaic panels),
- (ii) display equipment,
- (iii) appliances containing refrigerants,
- (iv) gas discharge lamps and LED light sources, and
- (v) photovoltaic panels.”.

#### **Amendment to Schedule 8 (reporting information)**

**29.** For paragraph 29 of Schedule 8 substitute—

“**29.** The amount of EEE by reference to each of the following categories—

- (a) the categories listed in Schedule 3 (excluding display equipment, appliances containing refrigerants, gas discharge lamps and LED light sources and photovoltaic panels),
- (b) display equipment,
- (c) appliances containing refrigerants,

- (d) gas discharge lamps and LED light sources, and
- (e) photovoltaic panels.”.

### **Insertion of new Schedule 8A (approval of a PBS)**

**30.** After Schedule 8, insert—

**“SCHEDULE 8A** Regulation 34A(10)  
**Approval of a PBS**

**PART 1**

**Information to be included in a proposal for a PBS**

- 1.** The name of the PBS.
- 2.** The name of the operator or proposed operator of the PBS.
- 3.** The address, telephone number and email address of the operator or proposed operator of the PBS.
- 4.** Where the operator or proposed operator of the PBS is a registered company, the address of the registered office of the company.
- 5.** Where the operator or proposed operator of the PBS is a partnership, the names and addresses of all the partners.
- 6.** Confirmation of whether or not any person who is the operator or a director of or, as the case may be, a partner in the operator or proposed operator of the PBS has been convicted of an offence under these Regulations and where a positive confirmation is given an explanation of how the contravention of these Regulations which resulted in the conviction occurred and what steps have been taken to ensure that such a contravention will not occur in the future.
- 7.** The estimated cost of setting up (in the case of a proposed PBS) and administering the PBS.
- 8.** Qualifications and relevant experience of the operator or proposed operator of the PBS, any person who is a director of or a partner in the operator or proposed operator and any staff.
- 9.** In the case of a proposal under regulation 34A(6)(b)(i), details of the proposed transitional arrangements for transferring functions in relation to requirements to take action under regulation 34 from the previously approved PBS to the newly approved PBS.

**PART 2**

**PBS Requirements**

- 10.** That the rules of the PBS provide for the operator to arrange for the fulfilment by one or more of its participating schemes, in accordance with the requirements of regulation 34 and on the basis either of a one-off collection or of an ongoing service for a minimum of 6 months, of any requirement to take action under regulation 34(1) referred to it by a scheme operator.

**11.** That the rules of the PBS provide that the costs of fulfilling, in accordance with paragraph 10, any requirement under regulation 34(1) referred to it by a scheme operator, will be shared between all the participating schemes on a market share basis.

**12.** That the rules of the PBS provide for termination in the event that the approval of the PBS is withdrawn under regulation 34A(9) and make appropriate provision for completion of pending obligations and for payment of sums arising under the PBS in the event of such termination.

**13.** In the case of a PBS approved under regulation 34A(6)(b)(i), that the Secretary of State is satisfied that the proposed transitional arrangements, details of which have been given in accordance with paragraph 9, are adequate to ensure that requirements to take action under regulation 34 are dealt with satisfactorily during the period covered by such arrangements.

**14.** That the Secretary of State is satisfied that the PBS will be compliant with the code of practice in so far as it relates to regulation 34 requirements.

**15.** That the Secretary of State is satisfied that the operator or proposed operator of the PBS will have the necessary experience and resources and systems in place to—

- (a) arrange for the fulfilment of any requirement to take action under regulation 34(1) referred to the PBS as mentioned in paragraph 10;
- (b) share information in such a way as to maintain commercial confidentiality;
- (c) enforce obligations of the participating schemes under the PBS.

**16.** That the Secretary of State is satisfied that the PBS will comply with all relevant legislation, including competition law.

**17.** In this Schedule—

- (a) “scheme operator” has the same meaning as in regulation 34;
- (b) “market share” means  $A/B$ , where “A” and “B” have the same meanings as in regulation 28”.

#### **Amendment to Schedule 10 (approval of proposed schemes and schemes)**

**31.** After paragraph 19 of Schedule 10 insert—

“**19A.** That the proposed scheme or scheme, if it has been approved under regulation 55 for the purposes of regulation 28, complies with the requirement under regulation 34B to join a PBS.”.

#### **Amendments to Schedule 11 (approval of authorised treatment facilities and exporters)**

**32.—**(1) In paragraph 7(b)(i)(aa) of Schedule 11, after “Schedule 1” insert “or, as the case may be, Schedule 3”.

(2) For paragraph 24 of Schedule 11 substitute—

“**24.** From 1st January 2019 WEEE treated at the relevant ATTF must meet the following targets—

- (a) for WEEE that falls within categories 1 and 10 of Schedule 3—
  - (i) at least 85% recovery by the average weight in tonnes of the equipment,
  - (ii) at least 80% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (b) for WEEE that falls within categories 3 and 4 of Schedule 3—
  - (i) at least 80% recovery by the average weight in tonnes of the equipment,

- (ii) at least 70% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (c) for WEEE that falls within categories 2, 5, 6, 7, 8 and 9 of Schedule 3—
  - (i) at least 75% recovery by the average weight in tonnes of the equipment,
  - (ii) excluding gas discharge lamps and LED light sources, at least 55% reuse and recycling of components, materials and substances by the average weight in tonnes of the equipment;
- (d) for gas discharge lamps and LED light sources, at least 80% reuse and recycling of components, materials and substances by the average weight in tonnes of the lamps.”.

19th November 2018

*Thérèse Coffey*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Waste Electrical and Electronic Equipment Regulations 2013 (S.I. 2013/3113) (the “WEEE Regulations”). The WEEE Regulations implement Directive 2012/19/EU of the European Parliament and of the Council on waste electrical and electronic equipment (OJ No L 197, 24.07.2012, p.38).

Regulation 3 contains a transitional provision in relation to regulation 79(3) of the WEEE Regulations as it applies, in the case of a scheme that has been approved by SEPA, where a scheme member has its registered office or, where it does not have a registered office, its principal place of business, in England or outside the United Kingdom.

Regulations 4(a) and (b), 15, 16, 20, 21, 24 and 25 amend the WEEE Regulations in order to substitute for references to the Northern Ireland Department of the Environment a reference to the Northern Ireland Department of Agriculture, Environment and Rural Affairs.

Regulation 11 inserts into the WEEE Regulations new regulations 34A and 34B.

Regulation 34A makes provision for approval by the Secretary of State of a producer compliance scheme balancing system (“PBS”). Paragraph (1) provides for any person or body to propose a PBS for approval by the Secretary of State by 1st March 2019. Paragraphs (2) and (3) require the Secretary of State on or before 1st May 2019 to consult on any PBS proposed under paragraph (1) or by the Secretary of State. Paragraph (4) provides for the Secretary of State to approve a PBS on which the Secretary of State has consulted, with or without amendments. Paragraph (5) requires the Secretary of State, within a period of 3 years from 1st January 2019 and within each 3 year period thereafter, to commence a review of the PBS which is in operation at the time the review commences (“the current PBS”). Paragraph (8) provides for the Secretary of State, having consulted in accordance with paragraph (7), to approve either the current PBS, with or without amendments, or a new proposed PBS. Paragraph (9) requires the Secretary of State, if the Secretary of State approves a new or amended PBS, to withdraw approval of the PBS then in operation. Paragraphs (10) and (12) and new Schedule 8A (inserted by regulation 30) set out the requirements for proposals for a PBS. Paragraph (11) sets out the requirements for proposals for amendments to a PBS.

Regulation 34B provides that during a relevant period every scheme approved under regulation 55 for the purposes of regulation 28 must be a member of a PBS approved under regulation 34A. A “relevant period” is defined as the period beginning 30 days after a PBS is approved and ending when the approval is withdrawn.

Regulation 4(c) inserts into regulation 2 of the WEEE Regulations a definition of “PBS”. Regulation 31 inserts into Schedule 10 a requirement that a regulation 55 scheme or proposed scheme complies with the regulation 34B requirement to join a PBS.

Regulation 5 substitutes a new regulation 6 of the WEEE Regulations. This implements the open scope principle, which brings all electrical and electronic equipment (“EEE”) into the scope of the Directive unless explicitly exempt. This regulation introduces Schedule 3, which sets out the categories of EEE that apply for the purpose of the WEEE Regulations and Schedule 4, which contains a non-exhaustive list of types of EEE which fall within each of the categories. Regulations 6, 7, 8, 9, 12, 13, 14, 22(1) to (3), 28, 29 and 32 make consequential amendments.

Regulations 17, 18 and 19 amend regulation 59 of the WEEE Regulations. New paragraph (7A), inserted into regulation 59, makes provision in relation to the annual producer charge, where the provisions of paragraphs (2), (3) and (4) have been superseded by a charging scheme.

Regulations 22(4) and 23 provide that reports submitted under regulation 66 of the WEEE Regulations must either be submitted in the format published by the appropriate authority or online.

An impact assessment has not been produced for these Regulations as no impact on the private, voluntary or public sectors is foreseen.

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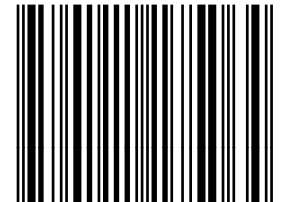
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