

2009 No. 2957

ENVIRONMENTAL PROTECTION

**The Waste Electrical and Electronic Equipment (Amendment)
Regulations 2009**

Made - - - - *5th November 2009*

Laid before Parliament *6th November 2009*

Coming into force in accordance with regulation 1(2)

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

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

Citation and commencement

1.—(1) These Regulations may be cited as the Waste Electrical and Electronic Equipment (Amendment) Regulations 2009.

(2) These Regulations shall come into force on 1st January 2010.

Amendments to the Waste Electrical and Electronic Equipment Regulations 2006

2. The amendments to the Waste Electrical and Electronic Equipment Regulations 2006(c) specified in the Schedule shall have effect.

5th November 2009

Ian Lucas
Minister for Business and Regulatory Reform,
Department for Business, Innovation and Skills

(a) S.I. 2004/706.

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

(c) S.I. 2006/3289 as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 (S.I. 2007/3454).

Amendments to the Waste Electrical and Electronic Equipment Regulations 2006

Amendments to Part 1 (general)

- 1.—(1) Regulation 2 (interpretation) is amended as follows.
- (2) In paragraph (1)—
 - (a) in the definition of “evidence note”—
 - (i) for sub-paragraphs (a) and (b) substitute—

“(a) an evidence note issued, in the format approved by the Secretary of State under regulation 58(2), by—

 - (i) an operator of an AATF, as evidence of the receipt of tonnage of WEEE specified in the note for—
 - (aa) reuse as a whole appliance, or
 - (bb) treatment at an ATF, or
 - (ii) an approved exporter, as evidence of the receipt for export of tonnage of WEEE specified in the note for reuse as a whole appliance outside the United Kingdom.”.
- (3) There shall be inserted at the appropriate place in alphabetical order—

““non-obligated WEEE” means WEEE received by an AATF or approved exporter other than from or on behalf of a scheme;”.

Amendments to Part 3 (producer obligations)

- 2.—(1) Regulation 8 (financing: WEEE from private households) is amended as follows.
- (2) In paragraph (4)(b) for the words “1st April” substitute “28th February”.
- (3) In Paragraph (4)(c) for the words “1st May” substitute “31st March”.
- 3.—(1) Regulation 10 (obligation to join a scheme) is amended as follows.
- (2) In paragraph (2) for the words “15th October” substitute “15th November”.

Amendments to Part 4 (scheme obligations)

- 4.—(1) Regulation 20 (application to register producers) is amended as follows.
- (2) In paragraph (1) for the words “31st October” substitute “30th November”.
- 5.—(1) Regulation 22 (financing: WEEE from private households) is amended as follows.
- (2) In paragraph (4)(a) for the words “1st April” substitute “28th February”.
- (3) In Paragraph (4)(b) for the words “1st May” substitute “31st March”.
- 6.—(1) Regulation 26 (recovery) is amended as follows.
- (2) Paragraph (2) shall be omitted.
- (3) In paragraph (3) for the words “Paragraphs 1(b) and (2)” substitute “Paragraph 1(b)”.
- 7.—(1) Regulation 27 (reporting: WEEE) is amended as follows.
- (2) For paragraph (1), substitute—

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

- (a) the total amount in tonnes of WEEE that the operator has been responsible for collecting from a designated collection facility;
- (b) the total amount in tonnes of WEEE that the operator has been responsible for delivering to an AATF for treatment or to an approved exporter for treatment outside the United Kingdom;
- (c) the total amount in tonnes of WEEE that has been returned to the operator under regulation 32; and
- (d) the total amount in tonnes of WEEE that the operator has taken back under regulation 39;

during a relevant compliance period.”.

- (3) In paragraph (2)(c)(i), for the words “1st May” substitute “30th April”.
- (4) In paragraph (2)(c)(ii), for the words “1st August” substitute “31st July”.
- (5) In paragraph (2)(c)(iii), for the words “1st November” substitute “31st October”.
- (6) In paragraph (2)(c)(iv), for the words “1st February” substitute “31st January”.
- (7) In paragraph (3), for the words “paragraph (1)(a)” substitute “paragraph (1)”.
- (8) After paragraph (3), the following new paragraph shall be inserted—
 - “(4) The information referred to in paragraph (1)(b) shall specify to which AATF or approved exporter the relevant WEEE was delivered.”.

8.—(1) Regulation 28 (reporting: EEE put on the market) is amended as follows.

(2) For paragraph 2(d) substitute—

“(d) be provided on or before the 31st January of the year immediately following the end of the relevant compliance period; and”.

9.—(1) Regulation 29 (declaration of compliance) is amended as follows.

(2) In paragraph (1), for the words “1st June” substitute “30th April”.

Amendments to Part 5 (distributor obligations and rights: WEEE from private households)

10.—(1) Regulation 33 (information) is amended as follows.

(2) After the words “make information available” add “in writing”.

11.—(1) Regulation 34 (record keeping) is amended as follows.

(2) Paragraph (5) shall be omitted.

Amendments to Part 7 (approval of proposed schemes and withdrawal of approval of schemes)

12.—(1) Regulation 41 (application for approval of a proposed scheme) is amended as follows.

(2) Paragraph (5)(b)(i) shall be omitted.

(3) In paragraph (6)(a) for the words “1st October” substitute “30th September” wherever those words appear.

(4) In paragraph (6)(b) the words “for three compliance periods” shall be omitted.

13.—(1) Regulation 43 (conditions of approval) is amended as follows.

(2) After sub-paragraph (i) insert—

“(j) that the operator of that scheme provides the appropriate authority with an updated operational plan containing the information set out in Part 3 of Schedule 7 in relation to each of the next three compliance periods on or before the 31st July of each year.”.

Amendments to Part 8 (approval of authorised treatment facilities and exporters)

14.—(1) Regulation 46 (requirement for approval) is amended as follows.

(2) In paragraph (1) the words “in relation to the reuse, treatment, recovery or recycling of WEEE” shall be omitted.

(3) For paragraph (2), substitute—

“(2) A person shall not issue an evidence note under regulation 47(2)(b) unless he is at the time of issue an approved exporter and that evidence relates to WEEE received by him in a relevant approval period for export.”.

15.—(1) Regulation 47 (application for approval) is amended as follows.

(2) For paragraph (2), substitute—

“(2) An application for approval made by—

- (a) an operator of an ATF, to issue an evidence note in relation to WEEE received, or
- (b) an exporter, to issue an evidence note in relation to WEEE that is received for export for reuse as a whole appliance, treatment, recovery or recycling in one or more specified reuse, treatment, recovery or recycling operations at a specified site outside the United Kingdom or a combination of such operations,

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

16.—(1) Regulation 52 (reporting) is amended as follows.

(2) In paragraph (1)(a), for the words “1st May” substitute “30th April”.

(3) In paragraph (1)(b), for the words “1st August” substitute “31st July”.

(4) In paragraph (1)(c), for the words “1st November” substitute “31st October”.

(5) In paragraph (1)(d), for the words “1st February” substitute “31st January”.

(6) Paragraph (3)(a)(ii), (v), (vi), (vii) and (viii) shall be omitted.

(7) For paragraph (3)(a)(xi) substitute—

“(xi) where sub-paragraph (a)(i), (iii) or (ix) applies, details of the amounts in tonnes of WEEE shall be provided by reference to the following categories—

- (aa) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
- (bb) display equipment,
- (cc) cooling appliances containing refrigerants, and
- (dd) gas discharge lamps,

and in the case of each category shall specify 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;”.

(8) For paragraph (3)(b) substitute—

“(b) in the case of an approved exporter, the total amount of WEEE in tonnes received and the total amount of WEEE in tonnes exported for reuse as a whole appliance, treatment, recovery or recycling by reference to the following categories—

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

and in the case of each category shall specify 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; and”.

(9) For paragraph (3)(c) substitute—

“(c) in relation to each scheme to whom an evidence note has been issued—

- (i) the name of the scheme; and
- (ii) the total tonnage of WEEE stated in all evidence notes issued to that scheme.”.

(10) After paragraph (3) insert—

“(3A) In addition to the requirements in paragraph (3) the reports referred to in paragraph (1) shall include details of the total amount in tonnes of non-obligated WEEE received by the AATF and the approved exporter by reference to the following categories—

- (a) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
- (b) display equipment,
- (c) cooling appliances containing refrigerants, and
- (d) gas discharge lamps.”.

(11) In paragraph (5) for the words “31st May” substitute “31st March”.

(12) In paragraph (5)(b), after the words “in that relevant approval period” add “and that the conditions in Schedule 8, Part 2, paragraph 12 have been met”.

17.—(1) Regulation 58 (evidence notes) is amended as follows.

(2) Regulation 58(1) shall be omitted.

18. Regulation 59A (record keeping) shall be omitted.

Schedule 6 (information to be included in an application for registration of producers and notification of new scheme members)

19.—(1) Schedule 6 is amended as follows.

(2) In paragraph 14 for “2003” substitute “2007”.

Schedule 7 (approval of proposed schemes)

20.—(1) Schedule 7 is amended as follows.

(2) In Part 3, the words in the first line “in relation to each of the three compliance periods in respect of which the application for approval has been made” shall be omitted.

(3) In Part 3, the words in paragraph (d) “, in the three compliance periods in respect of which an application for approval is made” shall be omitted.

(4) In Part 4, paragraph 5, the words “for the three compliance periods in respect of which an application for approval is being made or has been granted under regulation 41” shall be omitted.

Schedule 8 (approval of authorised treatment facilities and exporters)

21.—(1) Schedule 8 is amended as follows.

(2) In Part 1, paragraph 6 for the word “each” substitute “the”.

(3) In Part 2, paragraphs 2 and 3 shall be omitted.

(4) In Part 2, for paragraph 7 substitute—

“7. An evidence note shall not be issued by an operator of an AATF for more than the total amount of WEEE received in the relevant approval period.”

- (5) In Part 2, paragraph 8 the words “for treatment, recovery or recycling” shall be omitted.
- (6) In Part 2, paragraph 8B the words “for reuse as a whole appliance, treatment, recovery or recycling” shall be omitted.
- (7) In Part 2, paragraph 9(c) shall be omitted.
- (8) In Part 2, paragraph 10 for the words “30th April” substitute “31st January”.
- (9) In Part 2, after paragraph 11 insert the following new paragraphs 12, 13 and 14—

“12. WEEE treated at the relevant AATF shall meet the following targets—

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

13. The operator of the AATF will comply with the requirements of regulation 52.

14. The operator of the AATF has systems and procedures in place to ensure that data included in reports produced under regulation 52 are accurate.”.

- (10) In Part 3, for paragraph 1 substitute—

“1. An evidence note shall only be issued in respect of WEEE that will be exported in accordance with Regulation (EC) 1013/2006 of the European Parliament and of the Council of the 14th June 2006 on shipments of waste(a) with respect to WEEE that has arisen as waste in the United Kingdom and that—

- (a) will be exported for treatment at any establishment or undertaking located outside the United Kingdom which carries out treatment operations and which is of an equivalent standard to an ATF;
- (b) will be exported for recovery or recycling at any establishment or undertaking located outside the United Kingdom which carries out recovery or recycling operations and which is of an equivalent standard to a reprocessor; or
- (c) will be exported for reuse as a whole appliance to any establishment or undertaking located outside the United Kingdom.”.

- (11) In Part 3, for paragraph 5 substitute—

“5. An evidence note shall not be issued by an approved exporter—

- (a) for more than the total amount of WEEE received for export by that exporter in the relevant approval period; and
- (b) for WEEE that is or will be partially treated in the United Kingdom before being exported by that exporter.”.

(a) OJ L 190, 12.7.2006, p.1.

(12) In Part 3, paragraph 5A the words “for treatment, recovery or recycling” shall be omitted.

(13) In Part 3, paragraph 6(c) shall be omitted.

(14) In Part 3, for paragraph 7 substitute—

“An evidence note shall not be issued by an approved exporter after the 31st January in the year immediately following the end of the relevant approval period.”.

(15) In Part 3, after paragraph 7 insert the following new paragraphs 8 and 9—

8. The approved exporter will comply with the requirements of regulation 52.

9. The approved exporter has systems and procedures in place to ensure that data included in reports produced under regulation 52 are accurate.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste Electrical and Electronic Equipment Regulations 2006 (SI 2006/3289) as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 (SI 2007/3454) (“the 2006 Regulations”), which transpose the main provisions of Council Directive 2002/96/EC of 27th January 2003 on waste electrical and electronic equipment (OJ No L37, 13.2.2002, p 24) as amended by Council Directive 2003/108/EC (OJ No L345, 31.12.2003, p 106), Council Directive 2008/34/EC (OJ No L81, 20.3.2008, p 65) and Council Directive 2008/112/EC (OJ No L 345, 23.12.2008, p 68).

Paragraph 1(2) of the Schedule amends the definition of “evidence note”. Together with amendments made to regulation 46 (requirement for approval), regulation 47 (application for approval), and Schedule 8 Part 2 (conditions of approval of authorised treatment facilities) and Part 3 (conditions of approval of exporters) by paragraphs 14, 15, 21(3), (10) and (11) of the Schedule respectively these amendments permit approved authorised treatment facilities and approved exporters to issue evidence notes on receipt of WEEE instead of once it has been treated or exported.

Paragraph 1(3) of the Schedule includes a new definition of “non-obligated WEEE” and paragraph 16(10) of the Schedule inserts a new obligation in regulation 52 for approved authorised treatment facilities and approved exporters to report details of non-obligated WEEE received by them.

Paragraphs 2, 3, 4, 5, 8, 9, 12(3), 16(2)-(5) and (11) and 21(8) and (14) of the Schedule make various changes to the dates by which specific obligations under the 2006 Regulations must be performed.

Paragraph 6 of the Schedule amends regulation 26 (recovery) by removing the targets that must be met by operators of schemes for WEEE sent for treatment. Paragraph 21(9) of the Schedule amends Part 2 of Schedule 8 by imposing these targets on operators of approved authorised treatment facilities.

Paragraphs 7 and 11 of the Schedule amend regulation 27 (reporting: WEEE) and regulation 34 (record keeping) respectively by changing the reporting and record keeping obligations on operators of schemes. A consequential amendment is made to regulation 59A (record keeping).

Paragraph 10 of the Schedule amends regulation 33 (information) by providing that the information that a distributor who supplies new EEE must make available to users shall be in writing.

Paragraph 12 of the Schedule amends regulation 41 (application for approval of a proposed scheme) by removing the three year period for which schemes will be approved. Approval will now continue in force unless it is withdrawn under regulation 44. Paragraph 13 of the Schedule amends regulation 43 (conditions of approval) by providing that operators of schemes must provide the appropriate authority with an updated operational plan each year. Consequential amendments are made to Schedule 7 (approval of proposed schemes) by paragraph 20 of the Schedule.

Paragraph 16 of the Schedule amends regulation 52 (reporting) by making changes to the reporting obligations on operators of approved authorised treatment facilities or approved exporters.

Paragraph 17 of the Schedule amends regulation 58 (evidence notes) by removing the power of the Secretary of State to buy, sell or issue evidence notes.

Paragraph 21 of the Schedule amends Schedule 8 (approval of authorised treatment facilities and exporters) by providing that an application for approval must be made for each separate facility and obliging operators and approved exporters to comply with regulation 52 and to have systems and procedures in place to ensure accurate data is reported.

An impact assessment (“IA”) is available and a copy can be obtained from the Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET. A copy has been placed in the libraries of both Houses of Parliament and is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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