

STATUTORY INSTRUMENTS

2013 No. 3113

The Waste Electrical and Electronic Equipment Regulations 2013

PART 13

ENFORCEMENT

Enforcement

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

(2) It will be the duty of the following authorities to enforce regulations 11 to 20, ^[F148], 54, 57, 60, 61 63, 66 and 67 and Part 4 —

- (a) in England, the Environment Agency;
- (b) in Wales, the Natural Resources Body for Wales;
- (c) in Scotland, SEPA; and
- (d) in Northern Ireland, the ^[F2]Department of Agriculture, Environment and Rural Affairs].

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

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

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

Textual Amendments

- F1** Words in [reg. 87\(2\)](#) substituted (25.12.2015) by [The Waste Electrical and Electronic Equipment \(Amendment\) Regulations 2015 \(S.I. 2015/1968\)](#), [regs. 1, 2\(39\)](#)
- F2** Words in [reg. 87\(2\)\(d\)](#) substituted (1.1.2019) by [The Waste Electrical and Electronic Equipment \(Amendment\) \(No. 2\) Regulations 2018 \(S.I. 2018/1214\)](#), [regs. 1, 25](#)

Commencement Information

- I1** Reg. 87 in force at 1.1.2014, see [reg. 1\(2\)](#)

Enforcement notice

88.—^[F3](1) Where an enforcement authority has reasonable grounds for suspecting that any of the requirements of the following regulations have not been complied with—

- (a) regulations 11 to 24;
- (b) regulations 25 to 41 and 57;

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- (c) regulations 42, 44 and 45, and;
- (d) regulations 54, 61, 63, 66 and 67;

it may serve an enforcement notice on—

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

(2) A notice which is served under paragraph (1) [^{F4}must]—

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

(3) Where an enforcement authority serves an enforcement notice on a person under this regulation, proceedings for an offence under regulation 90 will not commence unless the time limit specified for compliance in the enforcement notice has expired.

Textual Amendments

F3 Reg. 88(1) substituted (25.7.2014) by [The Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment \(Amendment\) Regulations 2014 \(S.I. 2014/1771\)](#), regs. 1(b), **2(14)**

F4 Word in reg. 88(2) substituted (25.7.2014) by [The Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment \(Amendment\) Regulations 2014 \(S.I. 2014/1771\)](#), regs. 1(b), 3(3), **Sch. 2 Pt. 1**

Commencement Information

I2 Reg. 88 in force at 1.1.2014, see [reg. 1\(2\)](#)

Entry and inspection

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

- (2) Subject to the production if so requested of his credentials, an enforcement officer may—
 - (a) enter at any reasonable time any business premises which he considers necessary for him to enter;
 - (b) on entering any business premises by virtue of sub-paragraph (a), take with him—

- (i) such other persons as may appear to him necessary and, where there is reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable, and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (c) make such examination and investigation as may in any circumstances be necessary;
 - (d) take such measurements and photographs and make such recordings as are considered necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (e) take samples, or cause samples to be taken, of any records, parts of any records, copies of any records, copies of parts of any records, products and parts of products found in or on any premises which the enforcement officer has power to enter;
 - (f) in the case of any such sample of a record or product as is mentioned in sub-paragraph (e), to take possession of it and detain it for 90 days from the date of seizure for any of the following purposes—
 - (i) to examine it, or cause it to be examined, and to do, or cause to be done, to it anything which he has the power to do under that paragraph,
 - (ii) to ensure that it is not tampered with before examination of it is completed; and
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under these Regulations or in any other proceedings relating to an enforcement notice under regulation 88,any record, products or parts of products seized in accordance with this paragraph may be detained for longer than 90 days if it is to be used as evidence;
 - (g) require any person who is considered to be able to give information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of any person other than a person nominated by that person to be present and any person whom the enforcement officer may allow to be present) such questions as the enforcement officer thinks fit to ask and to sign a declaration of the truth of his answers;
 - (h) require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records—
 - (i) which are required to be kept under these Regulations, or
 - (ii) which it is necessary to see for the purposes of an examination or investigation under sub-paragraph (c), and inspect and take copies of, or of any entry in, the records; and
 - (i) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the enforcement officer to exercise any of the powers conferred on them by this regulation.
- (3) Where records, products, or parts of products are seized in accordance with paragraph (2) the enforcement officer [^{F5}must]—
- (a) allow the trader to make copies of any records seized, if requested to do so;
 - (b) provide the trader with a receipt for the records, products or parts of products seized.
- (4) Any receipt issued in accordance with paragraph (3)(b) [^{F6}must] state the date on which the records, products or parts of products were seized.
- (5) In the application of paragraph (2)(b)(i) to Northern Ireland, “constable” has the meaning given in the Interpretation Act (Northern Ireland) 1954(1).

(1) 1954 c. 33 (N.I.).

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- (6) If a justice of the peace, on written information on oath—
- (a) is satisfied that there are reasonable grounds to believe that any information or material relevant to any examination or investigation under paragraph (2)(c) is on any premises, and;
 - (b) is also satisfied either that—
 - (i) admission to the premises has been, or is likely to be, refused, and that notice of intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied and the occupier is temporarily absent,
 the justice may by warrant under his hand, which will continue in force for a period of one month, authorise the enforcement officer to enter the premises, if need be by force.
- (7) In the application of paragraph (6)—
- (a) to Scotland, “justice of the peace” includes a sheriff and references to written information on oath will be construed as references to evidence on oath; and
 - (b) to Northern Ireland, the references to a “justice of the peace” will be construed as being references to a “lay magistrate” as defined in section 9 of the Justice (Northern Ireland) Act 2002(2).
- (8) An enforcement officer on entering any premises by virtue of this regulation may direct that those premises, or any part of them, or anything in them, will 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 (2)(c).
- (9) Where an enforcement officer leaves any premises that he has entered by virtue of this regulation and such premises are unoccupied or the occupier of which is temporarily absent, he [F7 must] leave them as effectively secured against a trespasser as he found them.
- (10) If an enforcement officer or other person who enters any premises by virtue of this regulation discloses to any person any information obtained by him in the premises with regard to any secret manufacturing process or trade secret, he will, unless the disclosure was made in the performance of his duty, be guilty of an offence.
- (11) It will not be an offence under paragraph (10) for a person to disclose information in circumstances where—
- (a) the person from whom the information was received has consented to the disclosure; or
 - (b) the information is disclosed more than 49 years after it was received.
- (12) Nothing in this regulation will authorise any person to stop any vehicle on a highway.
- (13) No answer given by a person in pursuance of a requirement imposed under paragraph (2) (g) will be admissible in evidence in England, Wales and Northern Ireland against that person in any proceedings, or in Scotland against that person in any criminal proceedings.
- (14) Nothing in this regulation will be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.
- (15) In this regulation—
- (a) “business premises” means any premises which are not wholly or mainly used as a private dwelling;

- (b) “enforcement officer” means—
- (i) an officer of an enforcement authority who is authorised in writing by that authority to act as an enforcement officer for the purposes of this Part, and
 - (ii) a person appointed by the Secretary of State who is authorised in writing by the Secretary of State to act as an enforcement officer for the purposes of this Part; and “credentials” means evidence of authorisation as an enforcement officer.

Textual Amendments

- F5** Word in [reg. 89\(3\)](#) substituted (25.7.2014) by virtue of [The Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment \(Amendment\) Regulations 2014 \(S.I. 2014/1771\)](#), [regs. 1\(b\), 3\(3\)](#), [Sch. 2 Pt. 1](#)
- F6** Word in [reg. 89\(4\)](#) substituted (25.7.2014) by virtue of [The Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment \(Amendment\) Regulations 2014 \(S.I. 2014/1771\)](#), [regs. 1\(b\), 3\(3\)](#), [Sch. 2 Pt. 1](#)
- F7** Word in [reg. 89\(9\)](#) substituted (25.7.2014) by virtue of [The Waste Electrical and Electronic Equipment and Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment \(Amendment\) Regulations 2014 \(S.I. 2014/1771\)](#), [regs. 1\(b\), 3\(3\)](#), [Sch. 2 Pt. 1](#)

Commencement Information

- I3** [Reg. 89](#) in force at 1.1.2014, see [reg. 1\(2\)](#)

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