

ANNEX A

TRANSPOSITION NOTE

Directive 2012/19/EU of the European Parliament and of the Council of 4th July 2012 on Waste Electrical and Electrical Equipment (“WEEE”) (“the Directive”).

The Directive recasts directive 2002/96/EC of the Parliament and of the Council of 27th January 2003 on waste electrical and electronic equipment, as amended.

The Directive aims to minimise the impact of electrical equipment on the environment by reducing the quantity of waste from such equipment and increasing re-use, recovery and recycling of this equipment instead. The Directive does this by providing that Member States will implement measures that will:

- a. achieve a high level of separate collection of WEEE;
- b. lay down minimum standards for the treatment of WEEE; and,
- c. set minimum targets for the amounts of WEEE to be recovered for recycling or re-use.

The Waste Electrical and Electronic Equipment Regulations 2013 transpose the main provisions of the Directive. Article 9 deals with the provision of permits to treatment facilities that are responsible for the proper in treatment of WEEE. The main provisions of this article have been transposed in separate legislation made:

- a. in England, by the Department of Environment, Food and Rural Affairs;
- b. in Wales, by the National Assembly for Wales;
- c. in Scotland, by the Scottish Executive; and,
- d. in Northern Ireland, by the Northern Ireland Government.

These Regulations do what is necessary to implement the main provisions of the Directive, including making changes to domestic legislation to ensure its coherence in the area to which they apply.

Article number	Obligation	Regulation /Schedule	Responsibility
1	No obligations, states purpose of Directive – reducing overall impacts of resource use and improving the efficiency of such use in accordance with Articles 1 and 4 of the directive on waste		
2	2.1 (a) All EEE falling within annexes 1 and 2 shall be in scope during the transitional period subject to certain exemptions.	Regulations 5 and 7	Department for Business, Innovation and Skills (“BIS”)
	(b) All EEE falling within annexes 3 and 4 shall be in scope after the transitional period	Regulations 6 to 8	BIS
2.2	MS shall transpose the requirement that the recast Directive will apply without prejudice to EU legislation. This expands upon the requirements of the existing regulations as this Article adds to the requirements under the 2002 directive re. ‘health and safety’ and ‘waste’	Regulation 9	BIS
2.3 and 2.4	MS shall transpose the exemptions which will apply both during the transitional period and after we have moved to open scope	Regulations 7 and 8	BIS
2.5	No obligations – Obligation on commission to report on the transposition of the recast		

	Directive.		
3	Copy out, adding new definitions from recast	Regulation 2	BIS
4	<p>4.1 Encourage co-operation between producers and recyclers to promote eco-design and to promote design which facilitates re-use of recycling, generally.</p> <p>take measures to ensure that eco-design requirements are applied to EEE which:</p> <p>facilitates the reuse of the product when they become WEEE, <u>unless</u>-</p> <p>there is an overriding advantage to be had in using non eco-design such as the protection of the environment/health</p>	Regulation 74	BIS
5	<p>5.1</p> <ol style="list-style-type: none"> 1. adopt appropriate measures to minimise the disposal of unsorted WEEE 2. ensure correct treatment of all collected WEEE 3. achieve a high level of separate collection, and; 4. As a priority, ensure a high level of separate collection of temperature exchange equipment. 	Generally by these regulations and in particular by regulations 68 to 72	BIS
	<p>5.2 (a) Set up systems to allow final holders and distributors to return waste free of charge and</p>	Generally by these regulations and in particular by:	BIS

	ensure accessibility of collection facilities	Regulation 42(1) and Regulation 68	
(b)	Free return, free of charge where equipment is replaced with equipment of equivalent type	Regulation 43 and 52	BIS
(c)	Stores with floor space in excess of 400m2 to offer in store take back Distributors can do this individually or a part of a collective scheme Where a distributor is not part of a scheme and does not offer store take back, he shall complete an assessment of the adequacy of alternative collection facilities and discharge the information and record keeping requirements. Distributors who are members of the DTS do not have to comply with information and record keeping requirements	Regulation 42(2) Regulation 68 Regulation 69	BIS
(d)	Producers allowed to set up take back schemes, provided that they are in line with the Directive	Regulation 42	BIS
(e)	No obligation to accept return where there is a risk of contamination	Regulation 49	BIS
5.3	No obligations – MS may designate operators to collect WEEE from private households. A policy decision has been taken not to do this		
5.4	No obligations – MS may require that WEEE is handed over to producers for the purposes of preparing for reuse. A policy decision has been taken		

		not to do this.			
6	5.5	MS shall ensure that producers of WEEE or third parties acting on their behalf provide for collection	Regulation 29	BIS	
	6.1	MS shall prohibit the disposal of separately collected untreated WEEE	Generally by these regulations, and in particular by regulations 30,31 and 48 and Part 14	BIS	
	6.2	MS shall ensure the collection and transport of separately collected WEEE is carried out in a way which optimises re-use	Regulations 42,43, 69 and Part 14	BIS	
		MS shall promote re-use of separately collected WEEE	This will be done by administrative means		
7		MS to ensure that the minimum collection rate is achieved annually	Regulation 66 and Schedule 11, part 2	BIS	
8	8.1	MS to ensure that all separately collected WEEE undergoes proper treatment	Regulation 31, and generally by regulations 54 to 64	BIS	
	8.2	Proper treatment to include the removal of hazardous substances	Regulation 31 and by regulations for which DEFRA is responsible in England and Wales: The Environmental Permitting (England and Wales) Regulations (SI 2010/675, as amended). Scotland and NI have implemented these requirements with their own secondary legislation	BIS, DEFRA and the devolved administrations	
	8.3	Set up systems to provide for the recovery of WEEE using the best available techniques	Regulation 31 and by regulations for which DEFRA is responsible in England and Wales. Scotland	BIS, DEFRA and the devolved administrations	

			and NI have implemented these requirements with their own secondary legislation	
8.4	No obligations – this paragraph imposes obligations upon the commission			
8.5	Member states may set up minimum standards for the purposes of environmental protection establishing minimum treatment requirements for WEEE		Regulation 31 and by regulations for which DEFRA is responsible in England and Wales. Scotland and NI have implemented these requirements with their own secondary legislation	BIS, DEFRA and the devolved administrations
8.6	Encourage undertakings to carry out environmental treatment and introduce certified waste management systems		To be implemented by administrative means	BIS and DEFRA
9	Implements requirements that any person carrying out waste management operations must hold a permit		Permitting Requirements are implemented in regulations for which Defra is responsible in England and Wales: The Environmental Permitting (England and Wales) Regulations (SI 2010/675, as amended). Scotland and NI have implemented these requirements with their own secondary legislation	DEFRA and the devolved administrations
10	To ensure that shipments of WEEE from the UK are conducted in compliance with regulation EU 1013/2006 and EU 1418/2007.		Regulations 31, 54 to 61, Schedule 9 and Part 14 of these regulations in addition to legislation implemented by DEFRA: The Transfrontier Shipment of Waste Regulations (SI 2007/1711, as amended)	BIS and DEFRA

11	To establish recovery, reuse and recycling targets for different types of WEEE	Regulation 32	BIS	
12	To ensure that records of the WEEE collected are kept	Regulations 35 and 36	BIS	
	12.1 To establish a system for financing the collection, treatment and recovery of WEEE from private households	Generally by these Regulations and in particular by regulations 11, 13 to 20, 28 and 35-40	BIS	
	12.2 Member States may, where appropriate, encourage producers to finance the cost of collecting WEEE from private households and transferring it to collection facilities.	This will be implemented by administrative means	BIS	
	12.3 To establish systems such that each producer of EEE is responsible for the waste from EEE used by private households that he places on the market after 13 th August 2005 (i.e. individual producer responsibility)	Generally by these Regulations and in particular by regulations 11, 13 to 20, 28 and 35-40 The Regulations impose collective responsibility on all producers of EEE, in the compliance period following that in which the costs of WEEE from private households arise, as the Government takes the view that Individual Producer Responsibility is not technically feasible or economically viable at present.	BIS	
12.4 To establish a system that ensures that current producers are responsible for the financing of the collection, treatment and recovery of WEEE from private households, which has been put onto the market prior to 13 th August 2005	Generally by these Regulations and in particular by regulations 11, 13 to 20, 28 and 33, 35-40	BIS		

	12.5	To establish appropriate mechanisms to refund contributions made by producers which are deemed to be in excess of the WEEE management costs associated with the EEE that they have placed onto the market during a particular compliance period	Implemented by administrative means	BIS
13	12.6	No obligation – this paragraph imposes obligations upon the commission		
	13.1	To require producers to collect and arrange treatment of WEEE from users other than private households.	Implemented by regulations 12 to 20,29,33, 35-40	BIS
	13.2	To ensure that the end user is responsible for certain WEEE from users other than private households that have been on the market prior to 13 th August 2005	Regulation 47	BIS
14	14.1	Optional provision that MS may allow producers to display the waste management costs	The Government takes the view that it is not desirable to allow producers to display waste management costs. This could have implications for competition within the waste management industry and there is also a concern that a waste management cost could be seen as a tax.	
	14.2	To ensure that producers encourage consumers to dispose of WEEE separately rather than through unsorted municipal waste, and to ensure that they are given the necessary information to allow them to do so	Regulations 44 and 45	BIS
	14.3	To encourage consumers to dispose of WEEE separately from their normal household waste.	Regulations 22,42,46,and 68 to 72	BIS
	14.4	To ensure that producers mark equipment placed onto the market after 13 th August 2005 with the crossed-out wheeled bin symbol	Regulation 22	BIS

	14.5	Optional provision to enable making information for users available in equipment instructions or at point of sale	Regulations 22 and 44	BIS
15	15.1	To require the provision of information by producers about new types of EEE to treatment sites to facilitate reuse and products	Regulation 24	BIS
	15.2	To ensure that products placed onto the market after 13 th August 2005 are date marked to reflect this.	Regulation 23	BIS
16	16.1	To draw up a national register of producers and authorised representatives, including producers who sell EEE by means of distance communication	Generally by these regulations and in particular by regulations 13 to 16, 78, 79 and Schedules 10 and 13	BIS
	16.2	To ensure that the national register contains the information specified in this provision	Generally by these regulations and in particular by regulations 13 to 16, 80 and Schedules 10 and 13	BIS
15	16.3	No obligation – this paragraph imposes obligations upon the commission		
17	16.4	To ensure that MS collect information including substantiated estimates, of the quantities of EEE collected on an annual basis.	Generally by these regulations and in particular by regulations 13 to 17, 35-38,39.,40,45,66,67 and 80	BIS
	16.5	To report to the Commission on a every three years on the implementation of the Directive	Implemented by administrative means	BIS
	17.1	To ensure that producers who are distance sellers who place EEE onto the market in the UK fulfil their obligations under the directive either by registering with UK authorities directly or by appointing an authorised representative	Generally by these regulations and in particular by regulations 14 to 17.	BIS
	17.2	To ensure that producers who are distance sellers established in the UK, who place EEE onto the market in any other MS fulfil their obligations under	Generally by these regulations and in particular by regulations 13 to 16.	BIS

		the directive either by registering with the relevant national authorities directly or by appointing an authorised representative			
18	17.3	An authorised representative must be appointed by written mandate	To ensure that national authorities that are responsible for implementing the Directive co-operate with each other	Regulation 14(3)	BIS
19		No obligation – this paragraph imposes obligations upon the commission			BIS, DEFRA and the devolved administrations
20		No obligation – this paragraph imposes obligations upon the commission			
21		No obligation – this paragraph imposes obligations upon the commission			
22		To oblige Member States to determine appropriate penalties applicable breaches of the national legislation which implements the Directive		See Regulations 90 and 91 and Part 14 of these Regulations	BIS
23		To provide for adequate inspection and monitoring to verify the proper implementation of this Directive		Regulation 78 and Part 13 of these Regulations	BIS
24	1.	To transpose the recast WEEE Directive by 14 th February 2014		These regulations transpose the Directive. We anticipate that the regulations will come into force on 1 st January 2014	BIS
	2.	To notify the Commission of the national measures adopted		This will be done by administrative means	BIS

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Dated