

EXPLANATORY MEMORANDUM TO
THE WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (AMENDMENT)
REGULATIONS 2018

2018 No. 102

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Waste Electrical and Electronic Equipment Regulations 2013(S.I.2013/3113) (the “2013 Regulations”). The 2013 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) (“the WEEE Directive”).

2.2 The main purpose of the WEEE Directive is the protection of the environment and human health. It provides that producers of electrical and electronic equipment will be financially responsible for managing the waste that arises from products they place on the Union market. This policy is intended to promote greater efficiencies in the management of waste from this type of equipment. The Directive provides that member States must establish systems for the collection, treatment, recovery and environmentally sound disposal of most types of waste electrical and electronic equipment and that the costs of these systems must be largely borne by the producers of such equipment.

2.3 These Regulations amend the 2013 Regulations in order to:

- (a) clarify the rights of local authorities under regulation 34
- (b) re-insert regulation 35(1)(b), which was omitted in error by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2015 (S.I.2105/1968) and consequently puts the UK in breach of a requirement in the WEEE Directive in relation to data collection and reporting.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument substitutes regulation 34 of the 2013 Regulations to clarify collection and treatment arrangements for surplus WEEE at local authority designated collection

facilities (DCF), places where some household waste electrical and electronic equipment (WEEE) is collected before being sent for treatment (reuse, recycling or disposal) It also re-inserts a reporting requirement into regulation 35 of the 2013 Regulations that was inadvertently dropped in the 2015 amending regulations.

- 4.2 Regulation 34 sets out the circumstance in which the operator of a Producer Compliance Scheme can be required to arrange the collection and treatment of WEEE from a DCF. This is where the DCF is operated by a local authority or a person on behalf of the local authority and there is no contract relating to the collection and treatment of WEEE in the same collection stream.

5. Extent and Territorial Application

- 5.1 This instrument extends to all of the United Kingdom.
5.2 This instrument applies throughout the United Kingdom

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The purpose of the WEEE Directive is to address the environmental impacts of WEEE, and to encourage its separate collection (i.e. *separate* from the municipal waste stream), and its subsequent treatment, reuse, recovery, recycling and environmentally sound disposal. The WEEE Directive seeks to improve the environmental performance of all operators involved in the life cycle of EEE, especially those dealing with WEEE. Accordingly, it sets certain requirements relating to the separate collection of WEEE, standards for its treatment at permitted facilities and, requires collection and recovery targets to be met by Member States. It makes producers responsible for financing most of these activities. Distributors, who are mainly retailers of EEE, must provide facilities for the free take back of WEEE by their customers. Member States were required to bring appropriate domestic laws into force by 14 February 2014. The 2013 WEEE Regulations entered force on 1 January 2014. Introduction at the start of the year minimised disruption to stakeholders.
- 7.2 The 2013 WEEE Regulations obligate producers to join a compliance scheme to discharge their financial responsibilities in respect of the treatment, reuse, recovery, recycling and environmentally sound disposal of EEE that they have placed on the market and which has become WEEE. A network of AATFs and approved exporters process WEEE and provide evidence notes to producer compliance schemes detailing the amount in tonnes of WEEE that have been received for treatment from that scheme. They also obtain evidence of recovery and recycling of WEEE materials from re-processors in order to be able to provide compliance schemes with evidence of both treatment and recovery of WEEE. The WEEE Directive requires Member States to bring appropriate domestic laws into force to implement the Directive by 14th February 2014.
- 7.3 The Department has no plans to consolidate this amending legislation.

8. Consultation outcome

- 8.1 No formal consultation has not been undertaken in relation to this instrument as the amendments made are either administrative in nature or, seek to correct defective drafting in the 2013 Regulations. There will be no new burdens on stakeholders as a result of these amendments.

9. Guidance

- 9.1 No changes to existing guidance on the 2013 Regulations are required as a consequence of the amendments introduced by this instrument. The existing guidance can be found at <https://www.gov.uk/government/collections/producer-responsibility-regulations#waste-electrical-and-electronic-equipment-weee>

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies beyond those set down in the Impact Assessments which accompanied the 2013 Regulations.
- 10.2 There is no impact on the public sector beyond those set down in the Impact Assessments which accompanied the 2013 Regulations.
- 10.3 An impact assessment has not been prepared for this instrument because no additional impacts (to those considered in the Impact Assessments which accompanied the 2013 Regulations) are envisaged as a result of these amendments.
- 10.4 Two impact assessments were prepared in relation to the 2013 Regulations. One assessment looked at the impacts of the different options for reform of the UK WEEE system and the second assessment, prepared after consultation, looked at the impact of the preferred option. Two impact assessments were prepared in relation to the 2013 Regulations. These assessments can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186971/bis-13-763-impact-assessment-of-recast-directive-2012-19-eu-on-waste-electrical-and-electronic-equipment-weee.pdf

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses. but does not introduce any obligations beyond those in the 2013 Regulations
- 11.2 These Regulations do not impose additional obligations on small businesses.

12. Monitoring & review

- 12.1 The 2013 Regulations will be reviewed by 1st January 2019, five years after they come into force on 1st January 2014. Should it be decided that the legislation is no longer fit for purpose following this review, the legislation will be amended accordingly.

13. Contact

- 13.1 Graeme Vickery at the Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, Horseferry Road, London SW1P 2AL, telephone: 020 8225 7406 and e-mail graeme.vickery@defra.gsi.gov.uk. can answer any queries regarding the instrument.