

**THE WASTE ELECTRICAL AND
ELECTRONIC EQUIPMENT
REGULATIONS**

Government consultation on
new regulations and further
development of the
supporting infrastructure to
take effect from the fourth
compliance period (1
January – 31 December
2010 onwards) including
Impact Assessment and
Draft Regulations

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The Waste Electrical and Electronic Equipment Regulations

Government consultation on new regulations and further development of the supporting infrastructure to take effect from the fourth compliance period (1 January – 31 December 2010 onwards)

Introduction

This consultation paper invites your views on the Government's proposals to amend the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007.

On 9 July 2008, BERR Minister Malcolm Wicks announced a review of the UK WEEE system to identify steps to improve the system drawing on lessons learnt from the first compliance period. As a result of this review, which involved discussions with a wide range of external parties facilitated through the WEEE Advisory Body (WAB), the enforcement authorities, DEFRA, and the Devolved Administrations, the Government decided to bring forward a number of proposals to build on the existing system. These proposals which are set out in the attached document would come into effect for the 2010 compliance period.

Issued 19 December 2008

Respond by 6 April 2009

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Ministerial Foreword

The Waste Electrical and Electronic Equipment Directive (WEEE) aims to minimise the impact of electrical and electronic equipment by encouraging the reuse, recycling and recovery of WEEE. The WEE Directive was implemented in the UK by the WEEE Regulations which came into force on 2 January 2007.

We are now approaching the end of the second compliance period and I am very pleased to see that some real and impressive achievements have been made during the last two years. I am keen to build upon this success by amending the Regulations to reduce the burdens on business and improve the effectiveness of the UK system.

Malcolm Wicks announced a review of the UK regulations and supporting infrastructure earlier this year. Since then we have been working closely with representatives of producers, distributors, local government, and waste management industry together with the WEEE Advisory Body (WAB) in preparing this consultation document. My priority is to streamline the system, and build on the successful implementation of the existing regulations, whilst reducing administrative burdens placed on business.

I want to ensure that we build on the successful start we have made in the UK WEEE system and deliver improvements based on the lessons learnt from the first compliance period. I would therefore encourage all those involved to engage with my department on this consultation.

A handwritten signature in black ink, appearing to read 'Ian Pearson'. The signature is fluid and cursive, with a large, stylized initial 'I'.

Ian Pearson

Executive Summary

The UK WEEE system and supporting infrastructure has now been operational for almost two compliance periods. As anticipated this has been a time for learning and adjustments for the wide range of stakeholders, both for those with direct obligations under the UK Regulations and for those who share a broader desire to ensure that discarded electrical and electronic equipment is disposed of in a responsible and environmentally friendly manner.

In light of these experiences the Government is considering revising the UK WEEE regulations to build upon the successes of the current infrastructure.

The proposals outlined in this consultation paper are aimed at streamlining the UK WEEE system to:

- Improve the Producer Compliance Scheme (PCS) approval process;
- Develop the Distributor Take-back Scheme (DTS) beyond its current approval period; and
- Reduce the administrative burdens placed on business by simplifying the data reporting requirements and the evidence system.

The consultation paper also seeks the view on:

- The development of the Code of Practice for the Collection of WEEE from Designated Collection Facilities (DCF);
- The extension of Duty of Care;
- The most effective routes to develop industry protocols for WEEE; and
- The further development or revision of The Guidance on Best Available Treatment Recovery and Recycling Techniques (BATRRRT).

The Government remains firmly committed to the principles of extended producer responsibility. At the present time, a collective approach to obligations is considered the most effective way forward. However, we will continue to work with the industry to identify ways of implement Individual Producer Responsibility (IPR) in the UK. Industry is invited as part of this consultation exercise to present views and practical options for the development of IPR within the UK system.

The proposed changes to the regulations will allow stakeholders to benefit from reductions in administrative burdens in the following ways:

- An overall reduction in the amount of data to be submitted to the environment agencies;
- Allowing evidence to be issued on the receipt of separately collected WEEE;
- Removing the need for PCS to apply for approval every three compliance periods, although they will still be required to submit “rolling” operational plans each year.

This consultation addresses the UK Regulations. On 3 December 2008 the European Commission published its proposals to revise the WEEE Directive.

A separate consultation exercise will be undertaken to gain industry views on these proposals and establish the UK negotiating position.

Section One - The Consultation Process

How to respond

A list of stakeholders who have been approached as part of the consultation are at Annex 1. We would welcome suggestions of others who may wish to be involved in this consultation process.

Your views are invited in response to this consultation paper by 6 April 2009. We would prefer to receive responses by email to WEEE.Consultation@berr.gsi.gov.uk, but you may also respond by letter or fax to:

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The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

BERR will copy all responses it receives to the Devolved Administrations and other Whitehall Departments as appropriate.

Help with Queries

Questions about the policy issues raised in the document can be addressed to:

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If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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A copy of the key principals from the code of practice on consultation is in Annex 2.

Proposed Timetable

It is envisaged that the revised Regulations will be laid before Parliament in Spring 2009 and will come into force in time for Producer Compliance Schemes to seek approval to operate under the new regulations from 1 January 2010.

Revised non-statutory Government Guidance Notes will be made available on the BERR website at the time the Regulations are laid before Parliament.

Consultation Questions

1. Will the outlined proposals ease the overall administrative burdens on the UK WEEE system?
2. Are the two options open to distributors in discharging their take-back obligations (ie in store or members of the Distributor Take-back Scheme) still desirable?
3. If the DTS option is to continue on what basis should funding for the scheme be established? Specific views are sought on whether:
 - a. There should be a minimum level of funding raised or should it be an unspecified amount based on membership levels? and
 - b. Should any such scheme be approved on an ongoing basis with annual membership renewal or should the scheme approval be restricted to a defined time period –i.e. three compliance periods?
4. If the DTS remains a desirable option to discharge obligations, what level of funding should be made available to local authorities?
5. If funds from a central scheme were made available how would local authority DCF operators use the money for the benefit of the UK WEEE system and supporting infrastructure?
6. What key elements of the existing Code of Practice need to be addressed?
7. Will the proposed changes in the PCS approval process help improve the effectiveness of the UK WEEE system?
8. Will the two stage PCS approval process, including the ability of the agencies to judge past performance of schemes, result in close co-operation and cross working between PCSs?
9. Will the outlined proposals ease administrative burdens on Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs)? If yes, can you estimate the time and/or saving this will bring?
10. Will the proposed changes to the evidence system described reduce the administrative burdens on AATFs/AEs and PCSs? If yes can you estimate the time and/or cost this will bring?
11. Will the changes to the approval criteria for AATFs and AEs result in higher overall standards of treatment and recovery within the UK WEEE system?

An Impact Assessment is attached at Appendix 1 and the draft regulations are attached at Appendix 2. When responding to issues raised in the consultation document, or making suggestions for reform of the Regulations, stakeholders should explain their comments and include evidence (eg estimated cost to them) of the burden; give an estimate of the level of concern about the issue across the relevant industry/sector; and provide suggestions for the improvements in the regulations and/or the way they are administered to reduce regulatory burdens.

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Other versions of the document in Braille, other languages or audio-cassette are available on request.

Section Two

The Waste Electrical and Electronic Equipment (WEEE) Directive (Directive 2002/96/EC)

1. The WEEE Directive is European environmental legislation originating from the European Commission (EC) and is one of a small number of EC Directives which implement the principle of “extended producer responsibility”. Under this principle producers of electrical and electronic equipment (EEE) are required to take responsibility for the financing of the environmentally sound collection, treatment, recovery and disposal of WEEE.
2. The aim of the WEEE Directive is to minimise the level of electrical and electronic equipment (EEE) when it becomes waste and by doing so to improve the environmental performance of all operators involved in the life system of EEE. The WEEE Directive also requires Member States to encourage the design and production of more sustainable products.

3. Under the Directive:

Distributors have an obligation to give householders the opportunity to return old equipment (WEEE) free of charge when they purchase a replacement or an item of new equipment which serves a similar purpose;

Producers of electrical and electronic equipment have obligations to finance the collection, treatment, recovery and recycling of WEEE separately collected at designated collection facilities (DCFs). The level of producer obligation is determined by their market share and the amount of WEEE arising.

4. On the 3 December 2008 the European Commission published proposals to amend the WEEE Directive following a review of member state activity and implementation across Europe since 2005. A separate exercise will be conducted to seek the industry views on these proposals.

Current UK WEEE System

5. The Waste Electrical and Electronic Equipment (WEEE) Regulations 2006, (and 2007 Amending Regulations) transpose into UK law the requirements of the EC Directive on Waste Electrical and Electronic Equipment. The Regulations establish the foundations of the UK WEEE system for the collection, treatment and reprocessing of WEEE. The current UK WEEE system is based upon the principle of collective producer responsibility.
6. The Regulations are administered and enforced by the Environment Agency (EA) in England and Wales, the Scottish Environmental Protection Agency (SEPA) in Scotland, Northern Ireland Environment Agency in Northern Ireland and the Vehicle Certification Agency (VCA).

7. To support the Regulations, an infrastructure to facilitate the collection, treatment and reprocessing of WEEE has been developed:
- A network of 1609 designated collection facilities (DCFs) for the separate collection of household WEEE. This network includes over 1117 local authority controlled civic amenity sites which allow households to dispose of WEEE themselves. The remaining sites are operated by commercial or third sector organisations or are Waste Transfer Stations;
 - 39 Producer Compliance Schemes (PCS) are currently operating in the 2008 compliance period with over 5000 producers registered across the UK. Further PCS have been approved to operate in the 2009 compliance period;
 - The first compliance period (1 July to 31 December 2007) saw over 184,000 tonnes of household WEEE separately collected, treated and reprocessed. Future compliance periods will run from 1 January – 31 December every year.

Section Three

Returning WEEE into the system

General Principles

8. Under the WEEE Directive and the UK Regulations, consumers have no obligations to dispose of their WEEE via any prescribed route. Article 5 (2) of the WEEE Directive requires Member States to establish a network of facilities where WEEE from private households can be deposited into the system. The Directive also requires all distributors of household WEEE to offer take-back services to final users (on the purchase of a replacement or item of similar use) or to establish an alternative system for householders to dispose of their WEEE, provided it remains free of charge to the householder and the system is not more difficult for the householder to access.
9. The vast majority of UK households tend to dispose of large WEEE via their local authority civic amenity sites or via collection on delivery services. This includes such items as washing machines, fridges, freezers, TVs etc. Many consumers, however still dispose of smaller items such as kitchen gadgets, hairdryers etc via the traditional household waste collection system– ie the wheeled bin or bin bag. And there are new challenges to be faced such as the disposal of energy efficient light bulbs.
10. Producer Compliance Schemes need to do more to ensure the collection of small WEEE. One aspect of this is publicity. Raising consumer awareness of the options available to them for the disposal of WEEE in an environmentally friendly and responsible manner, particularly smaller items, remains a significant challenge for Government and industry and is one which will be addressed on an on going basis as the system matures

and the capacity to deal with increased volumes of different waste streams grows.

Distributor Take-back Scheme

11. A large number of UK distributors via their trade associations, lobbied for a choice between offering take-back to householders and the establishment of a network of designated collection facilities (DCFs) based on existing local authority civic amenity sites. This derogation (derived from Article 5 of the Directive) was accepted by the UK Government and following an open tender exercise Valpak Retailer WEEE Services Ltd was appointed to operate the Distributor Take-back Scheme (DTS) for the first three compliance periods (2007 – 2009).
12. The DTS has three main operational objectives:
 - To recruit members from Distributors within the UK market, including distance sellers and to publish a public register of all members for inspection by consumers and the enforcement authorities;
 - To distribute funding to local authority controlled designed collection facilities (DCFs);
 - To compile and maintain a full list all local authority, commercial or third sector operated DCFs.
13. The DTS established a fixed level of funding, available to local authority controlled DTS operators, for small scale site upgrades, for example additional signage. Other costs in relation to the separate collection of WEEE i.e. provision of containers, are classified as producer responsibility costs and are therefore covered by agreements between Producer Compliance Schemes (PCS) and local authority site operators.

Success of the current approach

14. Local Authorities have played a key role in the success of the DTS and the levels of separately collected WEEE that have already been achieved. All Local Authorities in the UK have signed up civic amenity sites to form a network of designated collection facilities. These sites have been supplemented by a number of commercial and “not for profit” sites together with Waste Transfer Stations where bulking up activities can take place.
15. As operator of the DTS, Valpak undertook a survey of 40 LA controlled DCF sites across 10 local authorities. The survey looked at the challenges faced by site operators and how DTS funding had been used at a local level.

16. The survey found:

- The LAs visited believed the DTS system was working well and should continue in some form;
- LAs are keen to maximise the separate collection of WEEE although in some cases further segregation was difficult because of space restrictions on individual sites;
- DTS funding has been instrumental in successfully funding a wide range of bespoke projects designed to provide dedicated facilities for the separate collection of WEEE, signage and information provisions;
- Site staff play an important pro-active role in advising consumers about the separation of WEEE on site;
- Relationships with PCSs are generally good although the nature of the relationships varied widely.

17. As mentioned earlier, many households continue to dispose of their small WEEE in their residential waste rather than returning it for recycling at a DCF. This may be because people do not have the means of reaching DCFs easily or because they think a trip to the site for a small item is not justified. Consumers might be more willing to return such items to shops. The primary role in increasing collections should rest with the producer. However, distributors also have an obligation to provide information on the WEEE system to the public and more flexibility in the use of DTS funds could help local authorities promote WEEE returns in their area.

Options for moving forward

18. Formal approval for the DTS under the 2007 Regulations will come to an end on the 31 December 2009. Consideration should now be given to:

- The continuing need for a DTS;
- The scope of approval – i.e. should approval be time bound or open ended? and
- If it is felt there is a continuing need for a DTS, what level of funding would local authorities expect and how should the funding be used?

19. Discussions with current DTS members have confirmed that the UK should continue to enable Distributors to take advantage of the derogation allowed by the Directive. Discussions with local authority representatives have generally supported this view.

20. The main areas for discussion and on which views are sought are the format of the DTS, the desirable funding levels and what needs would the available funding satisfy.

21. The options available for the structure and approval of the DTS are:

- A time bound approval process based on three compliance periods;
- Membership fee levels to be based on an agreed level of funding needed by local authorities;

- Open ended approval process with a requirement for the submission of an annual report on activities, funding levels and relationships with DCF operators;
- Membership fees to be based on the size of the Distributor with no set minimum or maximum amount of funding required for the scheme to be viable;
- Funding to be focused towards specific needs– i.e. replacement of signage and special projects to encourage separate collection such as local awareness campaigns. Requests for funding under this model would be made by local authorities and assessed by a panel comprising DTS members, representatives from local authority organisations and BERR.

Section Four

Relationships between Operators of Designated Collection Facilities (DCFs) and Producer Compliance Schemes (PCS): The Code of Practice for the collection of WEEE from Designated Collection Facilities

General Principles

22. The Code of Practice sets out the desired relationship between operators of designated collection facilities (local authority or independent organisations) for the separate collection of household WEEE under the regulations and Producer Compliance Schemes who have agreed to clear such sites.
23. The code sets out the general principles which should form the basis and starting point for local contracts between PCS and DCF operators.

Revisions to the Code

24. The current Code of Practice was developed by a wide group of stakeholders, including local authorities, producers, and potential PCS operators before final regulations were laid. It is now felt enough experience has been gained to consider revisiting the content of the code to ensure clear and practical application at a local level.

Summary of Proposals

25. A small group of stakeholders will be invited to consider the current code of practice and proposed areas of clarification. This Group will be chaired by a senior BERR official and will be comprised of representatives from local authorities, waste management companies and PCSs.
26. It is envisaged the Group will meet to consider the format and content of the Code of Practice during the consultation period with the final document published along side the Regulations and revised Guidance. Stakeholders

are however invited to express their views on the effectiveness of the code and areas which need to be addressed, as part of this consultation.

Section Five

Financing the collection treatment and reprocessing of WEEE:

Producers and Producer Compliance Schemes (PCS)

The Current Position

27. The current UK WEEE system is based on the principle of collective responsibility and requires all producers placing EEE onto the UK market to finance a proportion of the cost associated with dealing with the WEEE arising. All producers are required under the current regulations to join an approved PCS as a means to discharge their obligations.
28. PCSs, with obligations for household WEEE are required under the regulations to put in place arrangements to collect WEEE arising from designated collection facilities (DCFs). Inevitably the levels of WEEE arising and PCS obligations will not match exactly, with some PCSs having access to more WEEE than they require and others having less.
29. The Government has no desire to set a fixed limit on the number of PCSs or specify the business or operational model of any scheme. Neither will the Government intervene in decisions taken by local authorities on which PCS they appoint to clear their DCFs.
30. For the UK WEEE system to work effectively, PCSs must work together to develop on-going relationships to either physically share WEEE arising at DCFs or exchange evidence resulting from collection, treatment and reprocessing.
31. During the first two compliance periods, agreements have been developed between schemes for the exchange of surplus evidence. However, some schemes are still reliant on “spot” trading of large amounts of evidence during the compliance or settlement period. Such activity has caused uncertainty in the system and the Government is keen to see such uncertainty removed from the UK WEEE system.
32. The settlement period has been built into the UK WEEE Regulations to allow schemes to make adjustments to the level of evidence they hold to ensure they fully discharge their obligations. The settlement period was **not** designed to encourage PCSs to take a dormant role throughout the compliance period and then simply purchase large amounts of evidence in order to comply.

General Principles

33. Producer Compliance Schemes' (PCS) are currently approved for three compliance periods. Schemes approved to operate from the first

compliance period (2007) and who wish to operate from 1 January 2010 will be required to seek re-approval under the proposed New Regulations.

34. The Government is proposing to change the system of approval for those schemes wishing to operate from 2010 onwards. Approval of these schemes will not be time-bound but will be reviewed by the environment agencies on an annual basis following submission of an updated operational plan covering the subsequent three compliance periods.
35. The Government is also proposing the introduction of a two-stage application and approval process from 2010 onwards. Those schemes whose approval runs out after compliance period 3 (2009) and who wish to operate from 2010 onwards will have to seek re-approval under the existing one-stage process.

The Proposed New Approval Process

36. The approval process will begin on 1 July 2009 and end 31 August 2009 for the compliance period beginning the 1 January 2010. In subsequent years it is proposed the “window” when the agencies will accept applications for approval from potential new schemes will be the 15 April – 15 May.
37. As now all applications for approval must be accompanied by a constitution and operational plan. If these documents are in order provisional approval will be granted subject to the second stage being satisfied.
38. Second stage approval will involve a full re-examination of the scheme operational plan. It is at this point the agencies will fully scrutinise the collection plans and end of life management plans (i.e the treatment, recovery and recycling infrastructure the PCS has in place) and how these match against the collective obligations of the schemes members.
39. The environment agencies will judge the applications, and the annual submission of operational plans, collectively to ensure consistency in approach. The factors that the agencies will consider in assessing the applications will include the number of producer members, their market share and the overall indicative collection obligations (based on historical data and justified assumptions on new producers entering the market) compared to the number of DCFs where agreement had been reached and the estimated tonnage of WEEE arising. The agency will also be able to consider previous operational plans and the scheme’s performance against them.
40. If on examination the agencies reach the view that the proposed operational plan will result in significant over or under-collection the approval will not be granted unless planned and agreed trading agreements are demonstrated to be in place between schemes. No revisions to the plans will be allowed at this stage, but the proposed

scheme would be eligible to apply for approval for future compliance periods should they chose to do so.

41. In the absence of established inter-scheme agreements, Schemes will only receive final approval if the agencies conclude the operational plan clearly demonstrates the ability of the scheme to discharge its obligations through the collection and treatment of household WEEE arising at DCF sites, with little or no danger of significant over or under collection.

Trading of Evidence

42. The Revised Regulations will not specify any limits on the level of trading which can take place. Schemes should be clear that the ability to trade evidence is a settlement mechanism not a means of achieving compliance (this applies equally to over and under collection).
43. Operational plans which do not set out a clear strategy for discharging obligations throughout the compliance period will not be accepted. Schemes are able to develop agreements with other schemes to exchange either physical WEEE or the resulting evidence throughout a compliance period – i.e. **planned and agreed trading**. Plans for large scale “spot” trading will result in operational plans being rejected and scheme approval not being granted or renewed.
44. A condition of continuing approval will be compliance with the operational plan. If an operational plan is accepted by the agencies but the scheme activity through the compliance and settlement period results in large scale “spot” trading, the agencies will consider this as a factor when reviewing the schemes approval.

Benefits of this approach

45. The proposed approach will present the following benefits:
- The two stage approval process will allow the PCS time to ensure their operational plans are realistic and give time for arrangements to be put in place which match the aspiration of the plan;
 - On-going approval will be reliant on actual activity and agreements and so will give the agencies more power to reject scheme applications, as approval will be based on the agreements reached rather than what is anticipated;
 - Schemes basing their operational plans solely on either the size of their membership or the number of DCFs they have agreements to clear will not be approved. The current business models of some schemes have resulted in cases of significant over or under collection. The two stage approval process with annual examination will provide the agencies with a clearly defined monitoring roll. It will provide a more stable distribution of collection agreements (against obligations) and will

reduce the amount of evidence needing to be traded during the settlement period.

- The Government hopes that such an approach will significantly reduce the uncertainty for all WEEE system participants as a result of under and over collection activities that are reliant on significant spot trading and hence focus all players on ensuring the delivery of an effective UK WEEE system.

Section Six

Data Reporting

General Principles

46. Data is currently supplied to the environment agencies by Producer Compliance Schemes (PCS), Approved Authorised Treatment Facilities (AATFs), Approved Exporters (AEs) and any unaligned local authority designated collection facilities (DCFs).

47. Discussions with a number of organisations, both directly and via the WEEE Advisory Body have highlighted a number of issues around:

- The need and usefulness of the requested data;
- The high probability of inconsistencies and unintentional inaccuracies in the data that is provided;
- The administrative burdens attached to the collection, submission and analysis of the data compared to its usefulness in monitoring and enforcement activities.

48. With this in mind, the Government has reviewed what data the environment agencies actually need to monitor the levels of WEEE arising and its treatment.

Summary of suggested approach

49. The following proposals have been developed as the basic framework for data collection and reporting requirements under the revised regulations:

- PCSs should report on a quarterly basis, data on the level of sales of their members by category for household EEE;
- PCS should report on an annual basis data on the levels of sales for their members by category for non-household EEE. The timing of this requirement will coincide with non-household reporting for Q4;
- PCSs should report on a quarterly basis the levels of WEEE collected from either a DCF or under regulations 9, 32 or 39 of the WEEE Regulations 2006. This data will be required by category and split between household and non-household WEEE. This data is

required by tonnage in each category and should indicate the tonnage delivered to individual treatment facilities;

- Unaligned DCFs will be required to submit data on a quarterly basis specifying the levels of WEEE arising by category and the details of AATFs that have taken possession of it. The requirement to submit this data will be part of DCF approval. Failure to provide it could result in the removal of approval;
- AATFs will be required to submit data on obligated WEEE on a quarterly basis on:
 - The tonnage of WEEE received, by category;
 - The PCS or unaligned DCF who has arranged the delivery of the WEEE (i.e. who is the AATF/AE working for)
 - What untreated WEEE leaves the site for treatment in another facility.
- AATFs will be required to submit data on no-obligated WEEE on a quarterly basis on:
 - The tonnage of WEEE received by category
 - What leaves the site – ie treated WEEE, untreated WEEE, materials directly for reprocessing.
- Audit requirements for AATFs will be strengthened to allow the agencies to do a check on mass balances and ensure that facilities are able, as a minimum, to achieve the required standards of reprocessing and recycling targets specified in Article 7 (2) of the WEEE Directive and Regulation 26 of the UK WEEE Regulations 2006. (This will fit with the proposed changes to the evidence system, see Section Seven)
- AATFs/AEs will be required to report to the agencies the level of reprocessing and recycling achieved under the regulations by the 1 June after each compliance period.
- AATFs and PCS will continue to maintain records for inspection for a period of four years.

Benefits from the proposal

50. The proposed approach will present the following benefits:

- The streamlining of the requirements will improve clarity on the data requirements from AATFs;
- The agencies should be able to match the PCS data against the AATF/AE data. Where there are discrepancies, the agencies will be able to identify the source and investigate the underlying reasons in a much shorter time frame;

- The early identification and investigation into discrepancies will aid the agencies in publishing collection data and the calculation of indicative and final obligations;
- The reduction in the amount of data required and the anticipated ease in which AATFs/AE can record and submit it (in comparison to the existing system) will help the proposed revisions to meet the Government's 25% administrative burdens reduction commitment.

Section Seven

Evidence and AATF/AE Approval Criteria

General Principles

51. AATFs and AEs are currently required to seek approval on an annual basis. Many AATFs/AEs submit single applications for approval which cover a number of sites and facilities. A number of applications received have been for multiple sites and cross the jurisdictional boundaries of the enforcement authorities (ie some sites in England, some in Scotland). This multi-site approval does cause some difficulties in terms of inspection and enforcement by the agencies.
52. Currently AATFs/AEs are required to issue evidence of the tonnages of WEEE received (by category) and the level of recovery, recycling or reuse achieved when all treatment processes have been completed and derived materials enter a reprocessing facility or cross customs ready for export.
53. As a Member State, the UK is required to confirm to the European Commission that the levels of recovery and recycling required by Article 7 (2) of the WEEE Directive have been met within each compliance period. This information is currently collated from evidence deposited in the Settlement Centre.

Concerns with the current requirements

54. PCSs and AATFs/AEs have raised concerns over the current system in relation to the issuing and verification of evidence:
- Stakeholders dealing with derived metals for export have raised concerns that the requirement for treated metal to have physically passed through customs was causing unacceptable delays in the process. As a result this requirement was temporarily relaxed to allow AATFs to issue evidence on metal derived from WEEE when all treatment processes had been completed and the metal was ready for reprocessing;
 - PCSs raised concerns that under the current regulations they can secure sufficient evidence to demonstrate they have discharged their members obligation to finance the collection and treatment of WEEE,

but may still be open to action for non-compliance if the evidence they hold does not meet the required reprocessing or recovery targets. This is of particular importance when schemes are required (regardless of the quantities involved) to purchase evidence from another PCS;

- AATFs/AEs have raised concerns that under the current system they are unable to issue evidence until treated materials have been received by a reprocessor or have passed for export for reprocessing overseas. This process can result in lengthy time lags between an AATF/AE receiving a consignment of WEEE and being able to issue evidence of treatment and reprocessing. In many cases this can cause AATFs/AEs cash flow problems as a PCS will invariably not be willing to pay for work undertaken until they have the evidence to support their declarations of compliance.

Summary of proposed new approach

55. In view of the concerns raised the Government is proposing to bring forward a number of changes to improve the system, ensure the necessary data is collected and therefore reduce the burdens on business. It is proposed:

- Each site will now be required to seek separate approval from the appropriate environment agency determined by their locations – ie England or Wales to EA, Scotland to SEPA and NI to DoENI;
- Individual AATFs/AE sites to be approved by the appropriate environment agencies. The criteria for approval will be expanded to include a requirement that all WEEE received must be treated or sent for reuse, to (as a minimum) the recovery and recycling targets specified in Article 7(2) of the WEEE Directive and Regulation 26 of the UK WEEE Regulations 2006;
- AATFs/AEs will still be required to submit evidence electronically to the WEEE Settlement Centre (see Section Ten).
- AATFs/AEs will still required to issue evidence of the receipt of separately collected WEEE under the regulations by tonnage and category;
- AATFs/AEs will still required to issue evidence to show products identified as suitable for reuse have been passed to a legitimate reuse body for refurbishment;
- AATF/AEs will not be required to show, as part of the evidence issued, the level of recycling or recovery achieved as this will be a condition of the environment agencies approval process;
- AATFs/AEs will need to show as part of their independent audit reports that they have achieved, as a minimum, the necessary standards required by the Regulations;

- PCSs will still be required to ensure they send WEEE for treatment only to AATFs/AEs who are able to meet the standards required under the Regulations. A failure by the PCSs to exercise due diligence in contracting with AATFs/AEs could risk the scheme approval status;
- The treatment facility first taking possession of the WEEE will remain responsible for issuing evidence and will be required to seek approval as an AATF/AEs;
- The AATFs/AEs will remain responsible for setting in place mechanisms and checks to ensure WEEE passing through the supply/treatment chain (i.e. as WEEE or derived material pass through a number of different processes and facilities) via appropriately licensed or permitted organisations;
- The AATFs/AEs will remain responsible, via independent audit and environment agencies compliance checks, for the quality and accuracy of evidence issued to a PCS (in addition to other approval criteria checks). The approval status of the AATF/AE will be placed in jeopardy should the environment agencies compliance checks highlight persistent or deliberate mis-reporting.

Benefits from the proposal

56. The proposed approach will present the following benefits:

- Removing the second stage of the current process will enable evidence to flow through the system at a much quicker rate than at present and will not be subject to changing market conditions in relation to commodity pricing;
- The ability to issue evidence based on the tonnage of WEEE received should assist AATFs/AEs cash flow.
- Including the requirement for AAT/AEs to show they are able to meet the necessary recovery and recycling targets specified in Article 7(2) of the WEEE Directive and Regulation 26 of the UK WEEE Regulations 2006 will have a knock on effect of raising the reprocessing and recovery rates across the system.

Section Eight

Best Available Treatment, Recovery and Recycling Techniques

57. The WEEE Directive requires treatment in accordance with best available treatment, recycling and recovery techniques (BATRRRT). Minimum treatment requirements are set out in Annex II of the Directive.

58. In 2006, DEFRA issued guidance on BATRRT for WEEE¹. This guidance covers how the standards for treatment, recycling and recovery set out in the Directive are interpreted in order to comply with the objectives of the Directive. It does not cover activities such as collection or any further treatment requirements for removed items or fractions, nor the disposal of waste.

59. Since the guidance was published, two specific issues have been raised with the Department.

Refrigeration equipment

60. Annex II of the Directive requires all CFCs, HCFCs, HFCs and hydrocarbons to be removed from WEEE. Annex II also specifies that gases that are ozone depleting or have a global warming potential (GWP) above 15 must be properly extracted and properly treated.

61. Whilst there is consensus on the need to remove and recover hydrocarbons and other fluids from the coolant circuits of fridges, there are mixed views on whether there is a need to recover hydrocarbons from the insulation foam. A case has been made for requiring all fridges to be treated by specialist plants designed to deal with CFC fridges as treatment facilities can wrongly assess fridges as CFC-free.

62. However, others argue that putting pentane fridges through specialist plants is unnecessary. This can lead to additional costs to those incurred in putting such fridges through a shredder. Some also argue that putting a high volume of pentane fridges through specialist plants can cause safety risks in terms of fire and explosion.

Cathode Ray Tubes (CRTs)

63. DEFRA BATRRT guidance explains that the WEEE Directive requires that the fluorescent coating in CRTs has to be removed. The objective of such removal is to ensure that the coating does not cause pollution or harm. Two main types of approach could be used to separate the fluorescent coating:

- (i) Separate the lead-containing cone glass from the front glass using a hot wire, laser or cutting disc, followed by the removal of the fluorescent coatings.
- (ii) Shred either the CRT or TV/monitor whole and then mechanically recover the various fractions.

64. The guidance explains that the second option will only meet the requirements of Annex II to the WEEE Directive if evidence is provided that demonstrates that the fluorescent coatings are removed as a separately identifiable fraction. Furthermore, it is unlikely to be regarded as BATRRT if the mixing and contamination of the various fractions preclude recycling of the glass. The issue to consider here is whether only the first option should be considered BATRRT.

¹ <http://www.defra.gov.uk/environment/waste/topics/electrical/pdf/weee-batrtrt-guidance.pdf>

Moving forward

65. Although the UK is committed to ensuring the highest and most environmentally sound treatment standards are achieved, we believe that changes to Annex II of the WEEE Directive should be addressed as part of the European Commission Review into the requirements of the Directive. To consider changes in isolation to other Member States could result in treatment being diverted from the UK to other Member States.
66. We would welcome views from stakeholders on BATTRT on fridges and on CRTs as part of this consultation exercise.

Section Nine

WEEE Protocols

67. The WEEE Directive sets out recycling targets on the various categories of WEEE. As a Member State the UK is required to confirm to the Commission that those targets have been met. Measuring the collection of WEEE by category and recycling by material type against different targets represents a challenge for treatment facilities.
68. One way to measure the achievement of targets would be to measure and track every load of WEEE as it is collected and subsequently treated and recycled. However, keeping track of every individual load of WEEE could be extremely onerous, not least because WEEE and WEEE-derived materials can be treated in several facilities.
69. Since the protocols have been introduced, some concerns have been raised about their accuracy. Stakeholders have pointed out the protocols were developed before the WEEE system was in place. Some have argued that the sampling used was relatively limited. Some specific criticisms have been made; for example, some stakeholders believe the 14% figure for non-WEEE in the small mixed WEEE protocol is too high.
70. It is recognised that the WEEE protocols will not be appropriate in all circumstances. The guidance which the environment agencies produced on WEEE evidence also sets out what stakeholders need to do should they wish to use a different protocol. To date no further protocols have been put forward by industry for approval. We recognise, however, that some stakeholders may wish to work with the Environment Agency, DEFRA and BERR to refine or review the protocols. The Government will consider carefully any proposals from industry for such work.

Section Ten

Settlement Period/Settlement Centre

General Principles

71. It is accepted that the nature of the WEEE system makes it difficult for PCSs to predict the levels of WEEE arising within a particular compliance period. Although PCS are required by their operational plans to match their membership levels to collection activity it is accepted that it will not always be possible for the matching to be 100% accurate.
72. The environment agencies under the revised scheme approval process will be examining operational plans closely to ensure that schemes do not deliberately over collect excessive amounts of WEEE but at the same time take an active role in the UK WEEE system by not under-collecting excessive amounts. Without mitigating cross-scheme agreements both significant over and under collection of WEEE is considered to be equally damaging to the proper functioning of UK WEEE system.
73. The development of the UK WEEE system has called for the development of a process to aid PCS to either sell excess evidence or purchase additional evidence to discharge their members obligations. The settlement period described in the current Regulations 12 and 29 allows PCSs until the 1 June following the end of the compliance period to submit a declaration of compliance showing they have discharged the obligations of their members. The time period between the end of the compliance period – ie 31 December and 1 June - allows quarter four sales and collection data to be analysed by the environment agencies and final obligations notified to PCSs. The current Regulations do not require that all financing of obligations should be met before the 31 December.

What is the Settlement Centre?

74. The Settlement Centre is an online portal designed to fulfil two key functions:
- To allow AATFs and AEs to record the tonnage of WEEE, by category (both B2C and B2B) received, the evidence of recycling, recovery or reuse and to assign this to the appropriate PCS;
 - To allow a PCS account to be adjusted to reflect the sale or exchange of evidence.
75. Where local authorities controlled DCFs have not reached agreement with a PCS the Settlement Centre provides a means for them to collect evidence generated for WEEE disposed of on their sites and make the evidence available for sale to any PCS and so recoup associated costs.
76. The Settlement Centre is also used by the environment agencies to monitor the levels of the evidence generated and to check the validity of Declarations of Compliance submitted at the end of each compliance

period. Data held within the Settlement Centre is also used by Government to make reports to the European Commission as required under the WEEE Directive.

Current Position

77. All AATFs, AEs and PCSs are required to use the Settlement Centre as the prescribed format for evidence under Regulation 58(2) of the 2006 Regulations.

78. In the 2007 compliance period, the Settlement Centre recorded over 184,000 tonnes of household WEEE which had been collected and treated by or on behalf of PCSs with an additional 9,000 tonnes of non-household WEEE recorded.

Current Developments

79. As a result of an internal review and ongoing user feedback, a number of enhancements have been identified and developed to improve the functionality of the Settlement Centre. These enhancements are aimed at aiding all users.

80. Enhancements to date include:

- Introduction of Evidence Note Workflow which allows PCS's to approve evidence submitted into their accounts by AATFs/AEs;
- Update of PCS dashboards to display the breakdown of evidence and obligation reports of reuse, recovery and recycled levels achieved;
- Recording of evidence from individual AATFs sites (where the AATF operates a number of facilities);
- Facility to allow Trade Notes to be amended prior to approval;
- Modifications to allow greater flexibility in management information running reports. This includes the ability to export evidence information and underlying totals shown in report viewer to an excel format;
- Ability to interrogate the system for information relating to individual compliance periods as opposed to the current compliance period;
- Work is in progress to develop an XML interface to allow the Environment Agencies to directly input obligation data into the Settlement Centre thereby reducing time-lags and room for error.

Looking Forward – 2010 and beyond

81. Currently the agencies WEEE IT systems and the Settlement Centre exist in isolation. The environment agencies are currently reviewing their IT systems with consideration being given to a replacement. It is hoped that any replacement system will provide a single IT solution to all reporting and evidence requirements of the Regulations.

82. The timetable for this work is not yet defined but it is hoped that development work will begin in 2009/10 and that the new system will be fully operational sometime in 2010. Stakeholders will be involved in the detail of the development.

Section Eleven

CHARGES

AATF/AE Approval

83. As set out in Section 7, it is proposed that a separate application will have to be made for each AATF site that an operator wishes to operate. In due course the environment agencies will be developing charging schemes for this and other activities that they have to undertake (separate arrangements apply in Northern Ireland - see below). These charging schemes will be subject to consultation. In the meantime it is proposed the existing charge of £500 be applied for each application for a site that will issue evidence for no more than 400 tonnes of WEEE each year and £2,590 for each application for a site that will issue evidence for more than 400 tonnes of WEEE each year.

Producer Registration Charge

84. The existing regulations provide for an annual registration charge of £30 for producers who are not, and who are not required to be, registered under the VAT Act 1974. This provision was intended to reflect the limited work involved in regulating businesses so small that they do not need to register for VAT. However, producers based overseas do not need to register for VAT and are subject to this reduced charge, regardless of their size. It is therefore proposed to correct this anomaly by introducing provisions to base the producer registration charge for overseas producers on their turnover in the UK. Those with a UK turnover of more than £1m will incur a producer registration charge of £445 a year, while those with a UK turnover of £1m or less will incur a charge of £220 a year. This will bring them into line with UK based producers.

Future charging structure

85. Experience in operating this regime since July 2007 has shown that most of the costs of regulating compliance schemes are independent of the number of members in each scheme. We therefore believe that there would be benefit in moving to a system where costs are recovered through an annual standing charge for each scheme rather than through a registration charge for each member. As well as ensuring that all schemes pay their fair share of the costs of Regulation, this would simplify the system and reduce administrative burdens on business.

86. The costs covered by a standing charge would include:

- Registration of members;
- Scrutiny of the operational plan and monitoring of performance against it;
- Receipt and processing of data;
- Publication of reports; and
- Assessment of compliance

87. While the costs of scheme compliance monitoring are independent of the number of producer members each scheme has, there is some work associated in monitoring producers and it would be inappropriate to recover the cost of this work through the standing charge. It is felt it is more appropriate for this work to be funded through an additional annual charge on schemes for each large producer member.

88. It is not proposed to introduce a revised charging structure in the amended regulations but to make provision for the environment agencies to adopt such a structure when developing their charging schemes in the future. Any such charging scheme will be subject to separate public consultation before it is implemented.

Revision of charges

89. With the exception of those set out above, other changes to the interim charges set out in the current regulations are proposed. The environment agencies already have the power to develop their own charging schemes and any necessary changes (for example, to reflect the additional work involved in the two-part application process for schemes) will be dealt with through that process, this will include public consultation. The environment agencies have no plans to introduce such a charging scheme before April 2010.

Northern Ireland

90. The charges proposed above will be introduced in Northern Ireland via specific Regulations. These Regulations will be made at the same time as the proposed UK Regulations. Northern Ireland charges will be the same as those in the rest of the United Kingdom

Section Twelve

Non-Household WEEE

91. In the 2007 compliance period disappointing levels of non-household WEEE were separately collected treated and reprocessed under the Regulations. Whilst accepting that the routes for the disposal and reuse of non-household WEEE differs greatly from household routes, further measures are needed to ensure that the levels rise year on year.

92. In response to requests from the industry, the Government is proposing to ease administrative burdens on producers of non-household EEE and their compliance schemes by requiring sales data to be reported to the agencies on an annual rather than quarterly basis. The timing of the report will be in line with the Q4 deadlines for household EEE.
93. In response to calls from the industry and agencies, it is proposed to require AATFs/AEs to report the levels (by category) of non-obligated WEEE they receive, ie WEEE which is not attributed to a producer compliance scheme.
94. This proposal will help to build up a fuller picture of the levels of non-household WEEE which is being discarded in the UK and will help inform further decisions on the need for and focus of future awareness raising amongst the wider business community.
95. The requirement for AATFs/AEs to provide data on the amount of non-obligated WEEE being received will also help to give assurance that treatment facilities are not using non-obligated WEEE to strengthen the recycling targets required under the Regulations.

Non-Household WEEE and Duty of Care

96. Under regulations 9, 23 and 36 of the WEEE Regulations, a final user of WEEE (other than from a private household) can make arrangements with the producer to take responsibility to finance the collection, treatment, recovery and environmental sound disposal of such WEEE.
97. To ensure that such agreements are in line with wider environmental objectives, it is proposed that the Duty of Care Regulations are extended ensure that all WEEE is treated, recycled and recovered to the appropriate standards.
98. This requirement will not be included in the WEEE Regulations but will be an additional provision in the DEFRA Regulations

Section Thirteen

Reuse

99. The WEEE Directive requires the prioritisation of discarded items for possible reuse. The UK is currently the only Member State which allows items which have been sent for reuse to be included against notified collection obligations. However, the UK Government is disappointed that a relatively small number of PCSs have chosen to develop relationships at a local level with reuse organisations as it believes that such relationships would result in higher levels of genuine reuse.

100. The Government has asked the WEEE Advisory Body to look at what further practical measures can be introduced to encourage reuse in the UK and to eradicate the level of export for reuse which is subsequently discovered to be waste.
101. The WAB have already established a sub-group with the specific task of looking at reuse of EEE and how the levels of high quality reuse can be increased as a viable and socially acceptable option against reprocessing.
102. The work currently being undertaken will not be reflected on the face of the Regulations but will potentially be incorporated into the developing infrastructure and dissemination of good practice.

Annex 1 – Organisations approached as part of the Consultation

All currently approved Producer Compliance Schemes
All Approved Authorised Treatment Facilities
Members of the WEEE Advisory Body and sub-groups

Arc 21

AMDEA - Association of Manufactures of Domestic Appliance

BMRA - British Metals Recycling Association

BRC - British Retail Consortium

CBI - Confederation of Business Industry

COSLA

DTS -Distributor Take-back Scheme

EEF

Environmental Services Association

FRN - Furniture Reuse Network

FSB - Federation of Small Businesses

ICER - Industry Council for Electronic Equipment Recycling

INTELLECT

LARAC

LGA

NAWDO

RETRA - Radio, Electrical and Television Retailers Association

SEAMA

WLGA

Together with a number of individual Producers and other organisations who have previously expressed an interest in the UK WEEE system.

Annex 2 - Consultation Code of Practice

The Consultation Code of Practice Criteria

1. Formal consultation should take place at a stage when there is scope to influence policy outcome.
2. Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercise should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The complete code is available on the BERR web site, address <http://www.berr.gov.uk/files/file47158.pdf>

Appendix1 – Impact Assessment of Proposed Changes to UK Waste Electrical and Electronic Equipment (WEEE) Regulations

The summary Impact Assessment can be found on the following page (37).

Summary: Intervention & Options

Department /Agency: BERR	Title: Impact Assessment of Proposed Changes to UK Waste Electrical and Electronic Equipment (WEEE) Regulations	
Stage: Summary	Version: 1	Date: 15 January 2009
Related Publications: BERR Consultation Paper on WEEE Regulations (December 2008, URN 08/1516)		

Available to view or download at:

<http://www.berr.gov.uk/consultations>

Contact for enquiries: Trevor Reid

Telephone: 0207 215 5843

What is the problem under consideration? Why is government intervention necessary?

The proposals outlined in the Consultation Document to which this summary IA applies have the aim of improving the existing UK WEEE System and of reducing the burdens to business within this System. The proposals relate to existing UK Regulations which transpose the European WEEE Directive which aims to reduce the environmental impact of WEEE and to contribute to sustainable development within Europe and the UK.

What are the policy objectives and the intended effects?

The policy objectives are to streamline the existing UK WEEE System where possible to make this System operate more effectively and to reduce the administrative burdens on businesses operating within the System.

What policy options have been considered? Please justify any preferred option.

A number of policy options are presented in the Consultation Document relating to various aspects of the UK's WEEE System. The Consultation Document asks consultees a number of questions in respect of the options it presents.

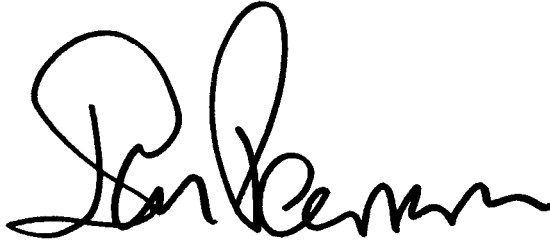
When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed on an ongoing basis by BERR, the environment agencies and the WEEE Advisory Board (WAB).

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Ian Kerr', is written over a large, faint watermark of the same signature.

Date: 02/02/2009

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' It is not possible to quantify the costs of the proposals at this stage, but costs are expected to be reduced from current levels because of the intended streamlining of the UK's WEEE System
	One-off Yr	
	£	
	Average Annual Cost (excluding one-off)	
£	Total Cost (PV)	£ Not valued
Other key non-monetised costs by 'main affected groups'		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' It is not possible to quantify the benefits of the proposals at this stage, but a more effective WEEE System in the UK should lead to increased levels of WEEE being separately collected and recycled to the benefit of the environment.
	One-off Yr	
	£	
	Average Annual Benefit	
£	Total Benefit (PV)	£ Not valued
Other key non-monetised benefits by 'main affected groups'		

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ Not valued
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What is the geographic coverage of the policy/option?	UK				
On what date will the policy be implemented?	2009				
Which organisation(s) will enforce the policy?	environment				
What is the total annual cost of enforcement for these	£ zero				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per	£				
What is the value of changes in greenhouse gas emissions?	£				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		

Are any of these organisations exempt?	No	No	N/A	N/A
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Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£	Decrease of	£	Net Impact £

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

Purpose and intended effect

Objective

1. BERR issued a consultation paper on 19 December 2008 with proposals to amend the existing UK Waste Electrical and Electronic (WEEE) Regulations. The aim of these proposals is “..to reduce the burdens on business and improve the effectiveness of the UK system.” (Page 5 of Consultation Document)
2. In particular, the proposals are aimed at streamlining the UK’s Producer Compliance Scheme (PCS) approval process, developing further the UK’s Distributor Take-back Scheme (DTS), and reducing the administrative burdens on businesses involved in the WEEE Regulations by simplifying evidence and reporting requirements.

Background

3. The UK’s WEEE Regulations of 2006, and the Amended Regulations of 2007, implement in the UK, the European Parliament and Council’s WEEE Directive of 2002. The WEEE Directive is an ‘Environmental Directive’, being based on Article 175 of the Treaty establishing the Community, with the aim of “..the prevention of waste electrical and electronic equipment (WEEE), and in addition, the reuse, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste.” (Article 1 of the WEEE Directive)

4. The WEEE Directive is one of a small number of Directives which deal with waste by employing the concept of Extended Producer Responsibility (EPR). This policy is defined by the OECD as “..an environmental policy approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product’s life cycle.” (See *Extended Producer Responsibility: A Guidance Manual for Governments*, OECD (2001)).

5. The WEEE Directive distinguishes between household WEEE and non-household WEEE (often termed ‘Business-to-Business (B2B) WEEE’ – though it covers WEEE arising outside of businesses and households), and establishes different regimes for the collection and financing of these two types of WEEE. The Directive also makes a distinction between ‘historic’ and ‘new’ WEEE and establishes different regimes for the collection and financing of these two types of WEEE.

6. The UK’s WEEE Regulations establish, what can be termed, ‘the UK’s WEEE System’ to achieve the aims and objectives of the WEEE Directive in the UK. In summary, the current Regulations introduce a number of requirements, the main ones of which are:

That producers of EEE join a producer compliance scheme (PCS);

That producers of EEE finance a proportion of the costs of collecting, treating and recovering separately collected WEEE in relation to their market share based on the weight of EEE sales;

That distributors of EEE finance an 'adequate network' for the free takeback of household WEEE by households or provide in-store takeback for their consumers of EEE;

That separately collected WEEE is sent for treatment at Approved Authorised Treatment Facilities (AATFs), Authorised Treatment Facilities (ATFs), or by Approved Exporters (AEs) to the standards required by the WEEE Directive itself;

That evidence that WEEE has been treated and recovered to the requirements of the WEEE Directive is issued only by AATFs or AEs;

That producers discharge their obligations by furnishing the environment agencies with evidence obtained from an AATF or AE, whether by producing their own evidence or by purchasing 'equivalent' evidence.

7. The UK's WEEE Regulations establish 'compliance periods' for which relevant and obligated parties need to demonstrate their compliance with the Regulations and so enable the UK to discharge its obligations under the WEEE Directive. The first UK compliance period ran from 1 July 2007 to 31 December 2007. The second compliance period has recently been completed, and ran from 1 January 2008 to 31 December 2008. Future compliance periods are to be on an annual calendar year basis.

8. Data from the first compliance period shows that the UK WEEE System achieved a separate collection rate of household WEEE in the UK of over 6 kilogrammes per head of population. This exceeded, by over 50 per cent, the minimum 4 kilogrammes per head required by the WEEE Directive.

Rationale for Government Intervention

9. The rationale for Government intervention in relation to WEEE is market failure in terms of the negative externalities that can arise as a result of the production of EEE and the disposal of WEEE. Externalities occur when individuals impose costs on (or provide benefits for) others, but do not have an incentive to take these costs (or benefits) into account in their actions. Government intervention can change incentives and behaviour when externalities are present and this can lead to subsequent improvements in social welfare.

10. In addition, and in terms of sustainable consumption and production, Government intervention in the area of EEE and WEEE could lead to an improvement in the levels of information available to UK stakeholders and help correct any myopic (or short-term) behaviour on the part of producers and consumers. This could lead to benefits in terms of a more sustainable use of resources and energy for this generation and for future generations.

Consultation

11. The proposed changes to the UK's WEEE Regulations are the subject of public consultation currently. This consultation runs until 6 April 2009.

Options

12. The proposed changes to the UK's WEEE system are reflected in draft amendments to the WEEE Regulations of 2006. These form part of the consultation package. The consultation paper itself provides a number of options for amendments to the UK WEEE system, upon which views are being sought. These are discussed in the next sections of this partial IA.

Costs and Benefits

13. At this stage it is difficult to quantify the potential costs and benefits from the proposed amendments to the UK's WEEE System. This is because the proposals are aimed at reducing principally the administrative (or 'red tape') burdens of the current system. These burdens are difficult to quantify because they impact on different stakeholders across the WEEE system, and do not necessarily impact on the same type of stakeholder to the same extent.

Sectors and groups affected

14. All sectors and groups involved in WEEE under the UK's current WEEE Regulations will be affected to some degree by the proposed changes to the UK WEEE System. These include: producers of EEE; Distributors of EEE; Approved Authorised Treatment Facilities (AATFs) and Authorised Treatment Facilities (ATFs); Approved Exporters (AEs); Reprocessors of WEEE; Re-users of WEEE; the Voluntary and Charitable Sector involved with WEEE; Waste Management Companies and businesses; Local Authorities; End-users of WEEE; and Consumers of EEE.

Costs and Benefits

15. The potential costs and benefits from the main proposed changes to the UK WEEE System presented in the consultation document are discussed below in the order they are outlined in the document itself.

Section Three: Returning WEEE into the system

16. This section of the consultation document discusses that part of the UK WEEE System which relates the rights of end-users (or consumers/householders) to free takeback of their household WEEE at accessible collection points, to the obligations of distributors of household EEE to provide a means by which consumers can return their WEEE easily and for free, as required by the WEEE Directive itself.

17. In the UK, distributors of household EEE have a choice by which they can discharge their obligation in relation to providing free and easy takeback of household WEEE. This choice is to join the Distributor Takeback Scheme (DTS), or to provide in-store takeback of household WEEE.

18. Distributors who have joined the DTS are required to finance collectively a UK-wide collection system such that end-users/householders can return their household WEEE for free at accessible points. To this end, the DTS has financed the up-grading of all public Recycling and Re-use Centres, or Civic Amenity sites, in the UK to provide over 1,100 points where end-users/householders can take their household WEEE for free in the knowledge that it will be separately collected from their other waste, and will then be sent for treatment and recycling or recovery (or possibly, re-use) in accordance with the UK's WEEE Regulations.

19. Distributors who have not joined the DTS are required to provide in-store takeback for household WEEE. The UK's WEEE Regulations follow the WEEE Directive, by providing this free takeback for consumers on an 'old for new' basis. That is, consumers are entitled to free takeback of their WEEE in-store when they are purchasing new EEE to replace the old EEE they are discarding. In the UK, some distributors provide in-store takeback of WEEE for their consumers.

20. The means by which end-users (and householders or consumers) can discard their WEEE for free, at accessible points, has resulted in the UK exceeding the minimum separate collection rate for household WEEE set out in the WEEE Directive. The Consultation Document outlines five options for how the DTS could be developed in the UK in the future, such that the UK continues to promote and facilitate the separate collection of household WEEE from other forms of household waste.

21. The first option is for the DTS to operate as it does currently, and thus is not expected to involve any additional costs and benefits over and above the current WEEE Regulations. The second option is for *"..membership fee levels to be based on an agreed level of funding needed by Local Authorities."* Any funding level, and how this would be distributed would need to be determined, and so it is not possible to quantify the costs and benefits of this option at this stage.

22. The third option is for *"..open ended approval..with..the submission of an annual report."* This option is for the DTS to remain approved, once this has been granted, and for the DTS to produce an annual report (as part of this approval) to demonstrate its activities. At this stage it is not clear what the cost of an annual report would be, but it is expected to be less than the costs of undertaking a procurement exercise to appoint a DTS every three years, as is in essence required under the current UK WEEE system.

23. Option four is for *"..membership fees to be based on the size of the distributor with no set..funding required for the scheme to be viable."* Option 5 is for *"..funding to be focused towards specific needs.."* The fourth option is expected to have more of an impact on the distribution of DTS funding as opposed to the level of funding. The fifth option is for Local Authorities to bid for funding based on local requirements, and for these bids to be assessed by a panel of DTS members, local authority representatives, and BERR officials. Again, this option is expected to have more of an impact on the distribution of DTS funding as opposed to the level of funding.

Section Five: Financing the collection, treatment and reprocessing of WEEE: Producers and Producer Compliance Schemes (PCSs)

24. The WEEE Directive requires producers of household EEE to finance the collection, treatment, and recycling or recovery of separately collected household WEEE. For so-called 'historic' WEEE (i.e. waste arising from EEE which was first placed on the market prior to 13 August 2005) the Directive requires this financing obligation to be based on a 'market share' approach. For new WEEE (i.e. waste arising from EEE placed on the market after 13 August 2005) the Directive requires this to be financed by individual producer responsibility (i.e. by producer 'own brand' or 'own marque').

25. In the UK, as in all other member States, the lifespan of EEE means that the vast majority, if not all, of household WEEE arising currently and being separately collected is likely to be 'historic' WEEE. In the future, the vast majority, if not all, of household WEEE arising, and being separately collected, will be 'new' WEEE. In accordance with the WEEE Directive, the UK implements producer responsibility for the financing of separately collected 'historic' household WEEE on a market share basis currently. In the UK this financing is based on the weight of household EEE placed on the UK market by a producer in proportion to the total weight of household EEE placed on the UK market, and according to the different categories of EEE in the WEEE Directive.

26. UK WEEE implementation is particular amongst member States by requiring producers to join one of a number of Producer Compliance Schemes (PCSs) - who then discharge the obligations of producers. Within this requirement, producers have discretion to join the PCS of their choice, or establish their own PCS.

27. Each PCS needs to obtain approval to operate from one of the environment agencies in England and Wales, Scotland, and Northern Ireland. Once obtained this approval is valid for three years currently, which means that under the current WEEE Regulations the majority of PCSs are approved until the end of 2009, unless for any reason their approval is removed. Newer PCSs' are currently approved to either the end of 2010 or 2011.

28. The Consultation Document proposes to change the current approval process for PCSs in two ways from 2010 onwards. First, it is proposed that the approval process for each PCS will be a two-stage process as opposed to the current one-stage process. Secondly, once approval is obtained this will not be time-limited but will be reviewed each year based on the submission of an annually submitted operational plan covering three compliance periods on a rolling basis.

29. The Consultation Document says that there will be a number of benefits from the proposed new approach to PCS approval. These include: two-stage approval will allow PCSs more time to make arrangements and to ensure their operational plans are viable; on-going approval will give the agencies more power to reject applications; the new approval process will give the agencies a more clearly defined monitoring role; and PCSs should be subject less to the need to trade evidence to discharge their obligations in the future.

30. The environment agencies do not anticipate any significant changes in the level of resources required to monitor PCSs under the new proposals. The environment agencies will

be developing a charging system for WEEE in the future. This charging system will in turn be subject to public consultation.

Section Six: Data Reporting

31. Under the UK WEEE system, producer compliance schemes (PCSs) are required to demonstrate that they have discharged their obligations in relation to financing the collection, treatment and recycling or recovery of separately collected household WEEE by obtaining evidence. This evidence can be issued by approved authorised treatment facilities (AATFs) and/or approved exporters (AEs) only.

32. The Consultation Document outlines a range of proposals to streamline the data collection and reporting requirements of the current UK WEEE system. These include:

- The data requirements of AATF/AEs. AATFs/AEs will no longer be required to report the weights of WEEE as they pass through the treatment process. They will simply be required to report what enters the facility, by category/household/and where it has come from and what whole items leave the facility for treatment elsewhere. AEs will be required to report what they export. This will cut down a number of requirements in the which have been estimated by a handful of AATFs will save them between 2/3 and 3/4 of the recourses needed to record and report the data. The exact level will depend on the systems they have in house and the size of the organisation.
- Requiring PCSs to report sales of non-household EEE sales on an annual basis rather than a quarterly basis as at present. If we assume that PCSs expend the same effort each quarter in terms of reporting non-household EEE then this proposal should save them 75 per cent of their current level of effort.

Section Seven: Evidence and AATF/AE Approval Criteria

33. Under the current UK WEEE system, the evidence that is issued by AATFs and AEs is of a 'two stage' nature. When AATFs (or AEs) receive household WEEE from a PCS or directly via an operator of a designated collection facility (DCF) they issue receipt of the tonnage of this household WEEE to the PCS or DCF operator. The actual evidence that a PCS or DCF operator can use to discharge obligations under the UK's WEEE Regulations currently can only be issued once the treated WEEE has crossed the gate of a UK reprocessor or is at port for export to an overseas reprocessor.

34. The Consultation Document proposes to remove the second stage of this current process. This will mean that AATFs/AEs will be able to issue evidence on receipt of WEEE which will be reused/treated/reprocessed/recovered or which will be exported for the same. AATF/AEs will need to demonstrate as part of the approval (to be verified by the independent audit process) that they can meet, and have met, as a minimum the targets currently in the Directive and UK Regulation 26. The benefit will be cashflow as the system will be shortened and there will be lower administrative burdens on AATF/AEs.

Section Eleven: Charges

35. As outlined in the Consultation Document, there appears an anomaly with respect to the annual registration charges for producers of EEE, where “..producers based overseas..” who are not registered for VAT are paying the lower registration charge irrespective of their size. Correcting this anomaly should produce a charging system for WEEE in the UK that is slightly fairer, as all large and smaller producers pay the appropriate charge. The environment agencies will be developing a charging system for WEEE in the future. This charging system will in turn be subject to public consultation

Section Twelve: Non-Household WEEE and Duty of Care

36. This section of the Consultation Document proposes changes to the Duty of Care to ensure that end-users deal with their WEEE as required to the standards of the UK's WEEE Regulations. At this stage it is not clear what, if any, additional costs there will be from this proposal.

Small Firms Impact Test

37. The proposed changes to the UK WEEE system as presented in the consultation document are not expected to have a disproportionate impact on small firms involved in the UK WEEE system currently.

Competition assessment

38. The proposed changes to the UK WEEE system as presented in the consultation document are not expected to have a detrimental impact on competition in the UK EEE market.

Costs to Public Sector – Monitoring and Enforcement

39. The environment agencies do not expect any significant changes in the effort required to monitor PCSs as a consequence of the amendments to the UK WEEE Regulations proposed in the Consultation Document.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	Yes
Sustainable Development	Yes	No
Carbon Assessment	No	Yes
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

SPECIFIC IMPACT TESTS

Legal Aid

It is not clear to what extent those who would be subject to the proposals outlined in the Consultation Document are eligible for legal aid, but the proposals are not expected to have any material effect on the criminal or civil liability of those who it affects, and so should not have any impact on legal aid in the UK.

Carbon Impact Assessment

The proposals are not expected to have any significant carbon impact above and beyond that already considered within the existing UK WEEE System.

Race Equality Assessment

The proposals do not have race equality as one of their aims, and are not expected to impact on race equality issues.

Disability Equality

The proposals do not have disability equality as one of their aims, and are not expected to impact on disability equality issues.

Gender Impact Assessment

The proposals are not aimed at overcoming gender inequalities or eliminating barriers to inequality, and so are not expected to have any impacts here.

Human Rights

The proposals are not expected to impact on the rights and freedoms of individuals as set out in the Human Rights Act 1998.

Rural Proofing

The proposals are not expected to have significant impacts on rural areas or circumstances.

Annex 2 – The Waste and Electronic Equipment Regulations 2009

STATUTORY INSTRUMENTS

2009 No. 0000

ENVIRONMENTAL PROTECTION

The Waste Electrical and Electronic Equipment (Amendment) Regulations 2009

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State is a Minister designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ 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) Subject to paragraph (3), these Regulations shall come into force on 1st January 2010.

(3) Paragraph 12 of the Schedule shall come into force on 1st August 2009.

Amendments to the Waste Electrical and Electronic Equipment Regulations 2006

2. The amendments to the Waste Electrical and Electronic Equipment Regulations 2006⁽⁴⁾ specified in the Schedule shall have effect.

Date _____ Department for Business, Enterprise and Regulatory Reform
Name
Minister of State for [],

⁽²⁾ S.I. 2004/706.

⁽³⁾ 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.

⁽⁴⁾ S.I. 2006/3289 as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 (S.I. 2007/3454).

SCHEDULE

Regulation 2

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)(h), for the words “operator of the ATF’s” wherever those words occur substitute the words “ATF is located”.

(3) There shall be inserted at the appropriate place in alphabetical order—

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

Amendments to Part 4 (scheme obligations)

2.—(1) Regulation 27 (reporting: WEEE) is amended as follows.

(2) For paragraph (1), substitute—

“(1) An 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)(ii), for the words “1st November” substitute “31st October”.

(6) In paragraph (2)(c)(iii), 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 (4) 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.”.

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

(2) For paragraph (2)(d), substitute—

“(d) be provided—

- (i) in relation to sub-paragraph (c)(i) for each quarter period of a relevant compliance period on or before the last day of the month that immediately follows the end of that quarter period; and
- (ii) in relation to sub-paragraph (c)(ii) for the whole of the relevant compliance period on or before the 31st January; and”.

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

(2) In paragraph (1), for the words “1st June” substitute “31st May”.

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

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

(2) In paragraph (1) for the words “1st July and ending with 31st August” substitute “15th April and ending with 15th May”.

(3) Paragraphs (5), (6) and (7) shall be omitted.

(4) After paragraph (8) there shall be added the following new paragraph (9)—

“(9) For schemes approved under these Regulations as at 1st January 2010 their approval will remain in force unless it is withdrawn for any reason under regulation 44.”.

6. After regulation 41 insert the following new regulations 41A, 41B and 41C—

“Determination of provisional approval

41A.—(1) The appropriate authority must notify an applicant in writing of its determination to grant or refuse provisional approval of a proposed scheme—

- (a) in the case of an application made under regulation 41(1), on or before the 15th June of the year immediately preceding the relevant compliance period;
- (b) in the case of an application made under regulation 41(2), within 28 days of the date of receipt of that application; and
- (c) in the case of an application made under regulation 41(1) or regulation 41(2) that has been the subject of a decision to make a determination to refuse to grant provisional approval and in respect of which there has been a successful appeal under regulation 68, within 28 days of the determination of the appeal.

(2) A notification made under paragraph (1) that the appropriate authority has made a determination to refuse to grant provisional approval must state—

- (a) the reason for the decision; and
- (b) the right of appeal under Part 12.

(3) A determination to grant provisional approval must be made by the appropriate authority where—

- (a) the operator of the proposed scheme has complied with all of the requirements of regulation 41(4);
- (b) the appropriate authority is satisfied that that the information provided by the operator of the proposed scheme in accordance with regulation 41(4) demonstrates that—
 - (i) the proposed scheme is likely to subsist for a period of at least three compliance periods;
 - (ii) the operator of the proposed scheme will comply with the code of practice; and
 - (iii) the criteria for approval of a scheme set out in Part 4 of Schedule 7 are capable of being met,

and shall otherwise be refused.

Further information to be supplied following provisional approval

41B.—(1) On the grant of provisional approval, the appropriate authority must notify the operator of the proposed scheme of any additional information which must be supplied in order to make a final determination.

(2) The operator of a proposed scheme which has received provisional approval must, on or before 31st August in the year immediately preceding the relevant compliance period, resubmit the application required by regulation 41 to the appropriate authority.

(3) The resubmitted application must be accompanied by—

- (a) a summary of the amendments made to the original application; and
- (b) any additional information required under paragraph (1).

Final determination

41C.—(1) The appropriate authority must make a final determination to grant an application for approval of a proposed scheme where—

- (a) the operator of the proposed scheme has complied with all the requirements of regulation 41B(2) and 41B(3);
- (b) the appropriate authority is satisfied that the information provided by the operator of the proposed scheme in accordance with regulation 41B(2) and 41B(3) demonstrates that—
 - (i) the proposed scheme is likely to subsist for a period of at least three compliance periods;
 - (ii) the operator of the proposed scheme will comply with the code of practice; and
 - (iii) the criteria for approval of a scheme set out in Part 4 of Schedule 7 are met,

and must otherwise refuse the application.

(2) Where an application for approval under this regulation is granted or refused the appropriate authority must notify the operator of the proposed scheme in writing of that decision—

- (a) in the case of an application made under regulation 41(1), on or before the 30th September of the year immediately preceding the relevant compliance period;
- (b) in the case of an application made under regulation 41(2), on or before the 30th September of the year immediately preceding the relevant compliance period or within 28 days of the date of receipt of that application, whichever is the later; and
- (c) in the case of an application made under regulation 41(1) or regulation 41(2) that has been the subject of a decision to refuse to grant approval and in respect of which there has been a successful appeal under regulation 68, on or before the 30th September of the year immediately preceding the relevant compliance period or within 28 days of the determination of the appeal, whichever is the later.

(3) A notification served under paragraph (2) shall specify whether the scheme is approved for the purposes of complying with that operator of a scheme's obligations in relation to—

- (a) WEEE from private households under regulation 22;
- (b) WEEE from users other than private households under regulation 23; or
- (c) both (a) and (b).

(4) Approval takes effect on the date of the decision to grant it and remains in force unless approval is withdrawn for any reason under regulation 44.

(5) The appropriate authority shall publish the following details of the scheme—

- (a) name of the scheme;
- (b) name and address of the operator of the scheme;
- (c) whether the scheme is approved for the purpose of complying with an operator of a scheme's obligations in relation to—
 - (i) WEEE from private households under regulation 22;

- (ii) WEEE from users other than private households under regulation 23; or
- (iii) both (i) and (ii).

(6) Where an application for approval made under regulation 41(2) is granted, the appropriate authority shall notify each member of the old scheme who has served a notice under regulation 10(7)(b)(i) in writing of that decision within 14 days of the date of the decision.”.

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

(2) After 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 August of each year in respect of which the approval remains in force.”.

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

8.—(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) In paragraph (3)(a)(xi), for the words “and WEEE from users other than private households” substitute “, WEEE from users other than private households and from or on behalf of which scheme it was received”.

(8) In paragraph (3)(b), for the words “and WEEE from users other than private households” substitute “, WEEE from users other than private households and from or on behalf of which scheme it was received”.

(9) In paragraph (3)(b), after the words “total amount of WEEE in tonnes” add “received and the total amount of WEEE in tonnes”.

(10) In paragraph (3)(c), after the word “issued” insert “and to whom they were issued”.

(11) After paragraph (3) insert—

“(3A) In addition to the requirements in paragraph (3) the report 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.”.

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

9. Regulation 58(1) shall be omitted.

Part 12 (appeals)

10.—(1) Regulation 66 (right of appeal) is amended as follows.

(2) For paragraph (2) substitute—

“(2) For the purposes of paragraph (1), a decision means a decision—

- (a) to refuse to grant provisional approval of that operator’s proposed scheme under regulation 41A;
- (b) to refuse to grant approval of that operator’s scheme under regulation 41C; and
- (c) to withdraw approval of that operator’s scheme under regulation 44.”.

Schedule 7 (approval of proposed schemes)

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

(2) In Part 3, for the words in the first line “The operational plan referred to in regulation 41(4)(b)(iii) must include the following information in relation to each of the three compliance periods in respect of which the application for approval has been made” substitute “The operational plans referred to in regulation 41(4)(b)(iii) and regulation 43(j) must include the following information in relation to each of the relevant three compliance periods”.

(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.

Schedule 8 (approval of authorised treatment facilities and exporters)

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

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

(3) In Part 2, paragraph 1 for the whole paragraph substitute—

“**1.** An evidence note of receipt of WEEE for—

- (a) reuse; and
- (b) treatment and either recycling or recovery;

shall only be issued with respect to WEEE that has arisen as waste in the United Kingdom. ”.

(4) In Part 2, paragraphs 2, 3, 7 and 8A shall be omitted.

(5) In Part 2, paragraph 8 for the words “for treatment, recovery or recycling” substitute “under paragraph 1(b)”.

(6) In Part 2, paragraph 8B for the words “treatment, recovery or recycling” substitute “or an evidence note under paragraph 1(b)”.

(7) 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. That the operator of the AATF will comply with the requirements of regulation 52.

14. That the operator of the AATF has systems and procedures in place to ensure that data included in reports produced under regulation 52(2) are accurate.”.

(8) In Part 3, paragraph 1 for the whole paragraph substitute—

“**1.** An evidence note under Part 2 paragraph 1 shall only be issued in respect of WEEE that will be exported in accordance with Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14th June 2006 on shipments of waste⁽⁵⁾.”.

(9) In Part 3 paragraph 5(a) after the words “WEEE” add “that will be”.

(10) In Part 3 paragraph 5(b) after the words “that is” add “or will be”.

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

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

“**8.** That the approved exporter will comply with the requirements of regulation 52.

9. That the approved exporter has systems and procedures in place to ensure that data included in reports produced under regulation 52(2) are accurate.”.

⁽⁵⁾ OJ L 190, 12.7.2006, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[Explanatory note text]