STATUTORY INSTRUMENTS

2015 No. 1968

ENVIRONMENTAL PROTECTION

The Waste Electrical and Electronic Equipment (Amendment) Regulations 2015

Made - - - -	*1st December 2015*
Laid before Parliament	*3rd December 2015*
Coming into force - -	*25th December 2015*

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) 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. These Regulations may be cited as the Waste Electrical and Electronic Equipment (Amendment) Regulations 2015 and come into force on 25th December 2015.

Amendment to the Waste Electrical and Electronic Equipment Regulations 2013

2.—(1) The Waste Electrical and Electronic Equipment Regulations 2013(**3**) are amended as follows.

(2) In regulation 1—

(a) in paragraph (3), for "paragraph 15", substitute "paragraph 23";

(b) in paragraph (4), for "paragraph 16", substitute "paragraph 24".

(3) In regulation 2—

(a) in the definition of "appropriate authority"—

(**1**) S.I. 2004/706.

(**2**) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Under section 57 of the Scotland Act 1998 (c.46) despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Union law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by him as regards Scotland.

(**3**) S.I. 2013/3113, as amended by S.I. 2014/1771.

(i) omit sub-paragraph (e);

(ii) in sub-paragraph (f)—

(aa) for the words before sub-paragraph (i), substitute "subject to sub-paragraph (fa), for the purposes of Part 3 relating to the obligations of a producer";

(bb) after sub-paragraph (iv), insert—

"(v) where the producer's registered office or principal place of business is outside the United Kingdom, the Environment Agency;";

(iii) after sub-paragraph (f), insert—

"(fa) for the purposes of regulations 14(9) and 20(4) relating to the obligations of a producer or an authorised representative, who is a member of a scheme, the authority which granted the approval of that scheme under regulation 55;";

(b) for the definition of "evidence note", substitute—

""evidence note" means an evidence note issued, in the format approved by the Secretary of State under regulation 73, by—

(a) an operator of an AATF, as evidence of the receipt of tonnage of WEEE specified in the note for—

(i) reuse as a whole appliance; or

(ii) treatment at an ATF;

(b) an approved exporter, as evidence of the receipt of tonnage of WEEE for export specified in the note for reuse as a whole appliance outside the United Kingdom;";

(c) for the definition of "very small EEE", substitute ""very small WEEE" means an item of WEEE with no external dimension more than 25cm;".

(4) In regulation 4(1)(b), at the end, insert "or by electronic means to the person's email address provided by that person in accordance with these Regulations".

(5) In regulation 11—

(a) in paragraph (1)(b)—

(i) for "43", substitute "43, 50";

(ii) after "small producers", insert "under regulation 16";

(b) in paragraph (8)(b), for "on which it notifies", substitute "of the notification informing";

(c) for paragraph (11)(a)(iii), substitute—

"(iii) where applicable, by that producer or that authorised representative in compliance with a notification served under regulation 58(3);".

(6) In regulation 14—

(a) for paragraph (2), substitute—

"(1A) Paragraph 2 applies to a producer who is established in a Member State other than the United Kingdom and who either—

(a) places EEE on to the market in the United Kingdom; or

(b) sells EEE by means of distance communication directly to consumers in the United Kingdom.

(2) Where this paragraph applies, a producer must either—

(a) appoint an authorised representative in the United Kingdom to fulfil his producer obligations under these Regulations on his behalf; or

(b) comply with the requirements of paragraph (1).";

(b) in paragraph (3), for "(2)(b)(i)", substitute "(2)(a)".

(7) In regulation 16—

(i) in paragraph (2)(d)(ii), for "59(2)", substitute "59(4)";

(ii) omit paragraph (6).

(8) In regulation 17, omit paragraph (1)(c).

(9) In regulation 18—

(a) in paragraph (1)(c), for "regulations 37 or 38", substitute "regulation 37 or 38, as specified in Parts 2 and 3 of Schedule 8";

(b) after paragraph (2), insert—

"(3) In paragraph (2)(b), the meaning of "material change" includes the details of any incapacity, bankruptcy, or entry into liquidation, receivership or administration, including the date on which the event occurred and, if applicable, the date on which it concluded.".

(10) For regulation 20(1)(b)(ii), substitute—

"(ii) users other than private households;

(c) for each category referred to in sub-paragraph (a), where the information is available, the amount in tonnes of EEE which he has placed on the market in the United Kingdom during that compliance period that was exported in the same compliance period.".

(11) For regulation 21, substitute—

"**Declaration of EEE producer registration number**

21. A producer, or where one has been appointed, an authorised representative, must declare his EEE producer registration number to any distributor to whom he intends to sell, sells, or otherwise supplies EEE.".

(12) In regulation 26(4)(b), for "Schedule 8", substitute "Part 1 of Schedule 8".

(13) In regulation 27—

(a) in the heading, at the end, insert "member";

(b) in paragraph (2)(b), for "Schedule 8", substitute "Part 1 of Schedule 8".

(14) After regulation 27, insert—

"**Notification of scheme member in liquidation etc. and obligations in relation to that scheme member**

27A.—(1) Where, in any compliance period, a scheme member goes into liquidation or receivership or enters administration, the scheme ceases to have obligations under regulation 28(1) or 29(1) in relation to that scheme member for—

(a) the remainder of the compliance period; and

(b) if the scheme member is already registered with that scheme for that compliance period, the following compliance period.

(2) Where paragraph (1) applies, the operator of that scheme must notify the appropriate authority within 28 days of the date that the operator was notified of the liquidation, receivership or administration.

(3) A notification made under paragraph (1) must—

(a) be made in writing;

(b) inform the authority of the fact and the date of the liquidation, receivership or administration;

(c) be accompanied by evidence that the scheme member has gone into liquidation or receivership or entered administration.

(4) If, on the date of entry into liquidation, receivership or administration, the scheme member is already registered with the scheme for the following compliance period, the operator of the scheme must notify the appropriate authority in writing of the details of the conclusion of the liquidation, receivership or administration.

(5) The notification referred to in paragraph (4) must be made within 28 days of the operator of the scheme receiving notification of the information referred to in that paragraph.

(6) In this regulation, in relation to a producer who is an individual, the references to a person going into liquidation or receivership or entering into administration are to be construed as references to a person dying or becoming bankrupt or incapacitated, and cognate expressions are to be construed accordingly.".

(15) In regulation 28—

(a) in paragraph (3)—

(i) in the definition of "B", after "producers", insert "and authorised representatives";

(ii) in the definition of "C", after "producers", insert "and authorised representatives";

(b) in paragraph (8)(a)(iii), for "where sub-paragraph (i) or (ii) applies", substitute "where applicable";

(c) in paragraph (11)—

(i) for "regulation 26(10)", substitute "regulation 26(10), 27(1) or 27A(2) or (4)";

(ii) in paragraph (a), for "using", substitute "adjusting as appropriate the figure "A" in";

(d) in paragraph (12)(a), after "paragraph 4(b)", insert "or 11(b)".

(16) In regulation 33—

(a) for paragraph (1)(d), substitute—

"(d) collecting WEEE under regulation 50; or

(e) a combination of (a), (b), (c) and (d);".

(b) in paragraph 2—

(i) in the definition of "B", after "producers", insert "and authorised representatives";

(ii) in the definition of "C", after "producers", insert "and authorised representatives".

(17) In regulation 34—

(a) for paragraph (1), substitute—

"**34.**—(1) If conditions A to C are met, the operator of a designated collection facility ("the specified facility") may contact the operator of any scheme that has been approved under regulation 55 for the purposes of complying with the obligations imposed on that scheme under regulation 28 and request that that operator of a scheme arranges for

the collection, treatment, recovery and environmentally sound disposal of the WEEE ("relevant WEEE") that has been deposited at the specified facility.

(1A) Condition A is that the operator of the specified facility is a local authority or is operating the specified facility on behalf of a local authority.

(1B) Condition B is that the operator of the specified facility has, during the compliance period in which the request is made or in the previous compliance period, been a party to a contract with a scheme for the collection, treatment, recovery and environmentally sound disposal of WEEE, in the same category as the relevant WEEE, deposited at the specified facility.

(1C) Condition C is that the contract has expired or terminated and has not been renewed or replaced.";

(b) in paragraphs (3) and (4), for "WEEE", in both places that it occurs, substitute "relevant WEEE".

(18) In regulation 35(1)—

(a) omit paragraph (b);

(b) in paragraph (d), for "regulation 50", substitute "regulation 52".

(19) In regulation 36(1)—

(a) omit paragraph (b);

(b) in paragraph (d), for "regulation 50", substitute "regulation 52".

(20) After regulation 37(1), insert—

"(1A) For the purposes of calculating the information referred to in paragraph (1), the operator of a scheme may deduct from the total amount of EEE that each member of that scheme has placed on the market in the United Kingdom, EEE which that member has placed on the market in the United Kingdom and which was exported in the same compliance period.".

(21) After regulation 38(1), insert—

"(1A) For the purposes of calculating the information referred to in paragraph (1), the operator of a scheme may deduct from the total amount of EEE that each member of that scheme has placed on the market in the United Kingdom, EEE which that member has placed on the market in the United Kingdom and which was exported in the same compliance period.".

(22) In regulation 51, for "person must not show a purchaser", substitute "producer or distributor must not show a person, who purchases EEE otherwise than in the course of a business,".

(23) For regulation 52(3), substitute—

"(3) For the purposes of this regulation, "final holder" means a person who decides to discard EEE that becomes WEEE from private households and who is not able for any reason to return that WEEE free of charge to a designated collection facility.".

(24) For regulation 53—

(a) for paragraph (2)(e), substitute—

"(e) confirm that any WEEE retained by the operator of a designated collection facility in accordance with paragraph (1) must be—

(i) prepared for re-use; or

(ii) treated at an AATF.";

(b) in paragraph (5), for "appropriate authority", substitute "Secretary of State".

(25) In regulation 55(6)(a)(iii), for "84", substitute "83".