

Waste Electrical and Electronic Equipment Directive

Conclusions of Implementation Review

Introduction

1. On 14 December 2005 Malcolm Wicks, Minister for Energy, announced a review of the implementation of the Waste Electrical and Electronic Equipment Directive in the UK.
2. This paper is a result of the review team's subsequent dialogue with the stakeholder community including producers, retailers, the treatment and recycling industries, reuse and refurbishment organisations and local authorities. We are grateful to stakeholders for their help.
3. The review team has listened carefully to all views expressed through the review process via face-to-face meetings and correspondence. The team has weighed the concerns and needs of SMEs against those of larger organisations.

Purpose of this document

4. The Review's *conclusions* are listed below. The attached paper sets out the Review's key *proposals for implementing those conclusions*.
5. Officials will now begin informal discussions with stakeholders on the implementation proposals. However consensus is not expected or sought. Nor is there any intention to reopen the Review's conclusions. Instead officials will be looking for *evidence* to show whether the implementation proposals will deliver the objectives and obligations set by the Directive in an effective and efficient way. They will welcome suggestions from stakeholders for improving those proposals. They may issue revised or supplementary papers during the discussions.
6. Once the conclusions of the review have been fully tested in this way, Ministers of the UK Government and the Devolved Administrations shall take decisions on proposals for formal consultation. A consultation on draft regulations shall follow in the Spring.

Conclusions of the Review

7. The Government strongly supports the principles of producer and retailer responsibility. In formulating the implementation proposals the Review team has sought to maintain in full these responsibilities.

8. The Review has concluded that UK implementation of the WEEE Directive should have the following main features:
- Approved compliance schemes for retailers, which will establish networks of Designated Collection Facilities (DCFs);
 - Obligatory registration for producers, which may be either direct or through an approved compliance scheme;
 - A system for calculating producers' obligations under the Directive;
 - A quasi-market mechanism for allocating WEEE from DCFs to producer schemes;
 - A code of practice covering the collection of WEEE from DCFs;
 - A network of Authorised Treatment Facilities, which will process WEEE and provide evidence of this to producers;
 - Protocols to enable producers to demonstrate achievement of recycling targets in a cost effective way;
 - A voluntary approach for producers to show the cost of handling historical WEEE.

Benefits to Stakeholders

9. The overriding benefit of the proposed approach is the large element of control it gives to stakeholders:
- Producer Compliance Schemes will be able to control the collection and processing of deposited WEEE in partnership with DCFs;
 - Local Authorities will be able to control the collection of WEEE from their sites with the comfort of a fall back position if sites are not cleared – ie they will be able to recover their costs from the “exchange” system;
 - SMEs will have confidence that they will be not be excluded from compliance schemes and that membership fees will be structured accordingly;
 - Retailers and producers will have the freedom to agree through their supply chain negotiations the need to display the cost of handling historical WEEE and the most appropriate methods (ie on packaging or in store displays etc);

- The approach recognises the importance of the voluntary sector in the refurbishment and recycling of WEEE (an area which will be developed further through the code of practice).

WEEE Implementation Team
March 2006

IMPLEMENTATION PROPOSALS

Background: the WEEE Directive

1. The WEEE Directive is European environmental legislation. It is one of a small number of European Directives, which implement the principle of “extended producer responsibility”. Under this principle producers are required to take responsibility for the environmental impact of their products, especially when they become waste. The WEEE Directive applies this in relation to electrical and electronic equipment (EEE).
2. The broad aim of the WEEE Directive is to address the environmental impacts of WEEE and to encourage its separate collection and subsequent treatment, reuse, recovery, recycling and environmentally sound disposal.
3. The Directive seeks to improve the environmental performance of all operators involved in the lifecycle of EEE especially those dealing with WEEE. Accordingly it sets certain requirements relating to the separate collection of WEEE, standards of its treatment at permitted facilities, and sets targets for its recycling and recovery.
4. Under the Directive
 - retailers have an obligation to give consumers the opportunity to return WEEE, free of charge on the sale of a new item.
 - producers are responsible for funding the collection, treatment, recovery and recycling of separately collected WEEE in proportion to their EEE market share (ie the amount of EEE they place on the UK market in any compliance period).
5. The remainder of this paper describes how the regulations will require producers and retailers to discharge their obligations.

Retailers

6. Under the UK regulations retailers will be allowed to discharge their obligation by:
 - Taking back WEEE from private households when selling new EEE which serves the same purpose; or
 - Joining an approved retail compliance scheme which will provide appropriate signage directing consumers to a Designated Collection Facility (DCF) where WEEE can be deposited free of charge

7. The Government expects that retail compliance schemes will establish the majority of their DCFs in existing local authority Civic Amenity sites and Waste Transfer Stations.
8. Approval criteria for retail compliance schemes will be detailed in a subsequent paper. They will include such factors as: signing up of DCF sites to cover areas where members are based; financial viability to cover a compliance period; and a membership strategy taking account of SME needs and appropriate membership fee structure. It will be a condition of approval that schemes agree to work with other schemes to form a UK wide network if required to do so.

Re-use of WEEE

9. Voluntary sector groups already play a valuable role in promoting the re-use of WEEE, which will continue when the Directive comes into force. Some of these groups have already adapted their operations in anticipation of the Directive's requirements. Delay to implementation has caused them difficulties.
10. The work of these groups has both environmental and socio-economic benefits. They can contribute to the delivery of both producer and local authority objectives. It is in the interests of producers and authorities to work with them in advance of full implementation of the Directive, so that their subsequent contribution can be maximised.

Producer registration

11. Under the Directive all producers of EEE must be registered. In the UK, registration will be with the appropriate environment agency¹ either directly or through an approved producer compliance scheme. The environment agencies will set and levy appropriate registration fees.
12. The Government wants to encourage producers to register via schemes. To register directly, a producer will have to meet the same criteria as approved producer compliance schemes, including the collection and recycling criteria. Unless explicitly stated to the contrary, all the duties of producer compliance schemes set out in this paper also apply to directly-registered producers.
13. Producers will not be able to join more than one scheme to meet their obligations under the Directive and will not be permitted to change scheme membership part way through a compliance period.

¹ For England and Wales, the Environment Agency; for Scotland SEPA, and for NI NIEHS

Producer compliance schemes

14. Producer compliance schemes will be required register with the environment agencies. Registration of Schemes will last three years. Producers will be required to register their members annually.
15. Approval criteria for compliance schemes will be set out in a subsequent paper. They will include such factors as ability to collect from DCF sites; appropriate membership structures to cater for SMEs (including an appropriate membership fee structure); an operating plan which shows financial viability to operate through a compliance period; and adequate financial guarantees (for example, through appropriate insurance) to cover producer obligations if a member ceases trading in the UK market. Compliance schemes will be expected to discharge both their members obligations for both WEEE from private households and business to business WEEE.

Calculating producer obligations

16. The “compliance period” against which producers’ obligations will be calculated will be the calendar year.
17. At the end of each compliance period producer compliance schemes will need to demonstrate they have met the obligation described in paragraph 4 above. Compliance schemes will be legally responsible for the share of WEEE attributable to their members. Each scheme will need to agree with its members how the cost of dealing with WEEE will be divided between them.
18. The exact quantity of WEEE deposited within a compliance period will not be known until the period is over. This section describes the information flows which will allow producer compliance schemes to monitor their likely obligations.
19. At the beginning of the compliance period each producer compliance scheme will be required to supply the environment agencies with details of its membership, and the weight of EEE, which its members placed in the market in the preceding year. This will be used by the environment agencies to calculate the market share of each scheme.
20. Each producer compliance scheme will be required to advise the environment agencies of any changes in membership, and the quantities of WEEE collected, reused, recycled and recovered

(including any collected WEEE which may be exported for treatment or recycling).

21. The environment agencies will monitor the volume of WEEE arising through the year, and publish quarterly reports. Together with the prior-year market share information described above, this will give producer schemes a guide for the level of WEEE to be collected, treated and recycled.
22. At the end of the compliance period the environment agencies will calculate producer scheme obligations based on the actual levels of WEEE placed on the market and the levels of WEEE arising. Schemes will then be notified of their final obligations and will be required to show evidence of their discharged obligations.

Allocation arrangements

23. It will be the responsibility of producer compliance schemes to negotiate with local authorities and others who have registered DCFs to collect sufficient WEEE to meet their obligations. The Government will not intervene in this process. It is up to producer schemes collectively to decide whether these arrangements are best made through straightforward market mechanisms or by some allocation which they would agree between themselves.
24. Some producers and compliance schemes will process more than their proportionate share of WEEE. Equally, some schemes and producers will handle less than their share and will therefore not be able directly to meet their financial obligation.
25. To deal with these mismatches there will be a system of buying and selling surplus evidence via a central exchange. The exchange will buy evidence from producers with a surplus, at cost. It will sell that evidence to those producers, which have handled less than their share, at a price fixed by DTI a little in excess of the cost of processing. This will incentivise producers to meet their obligations by taking active responsibility for processing.
26. If any Waste Disposal Authority is unable, despite reasonable efforts, to secure collection of WEEE from its site in accordance with the code of practice it will be entitled to secure the processing of the WEEE and to sell the evidence generated to the exchange at cost.

27. Any surplus on the exchange in a given year will be used to reduce the producer registration fees levied by the environment agencies. Given the pricing arrangements, deficits are unlikely to arise: if a deficit did arise it would be funded as a first call on the following year's surplus.

Practical arrangements for collection of WEEE

28. Retailers and their compliance schemes will be required by the Regulations to make WEEE ready for collection by producers and their compliance schemes. Producer compliance schemes will need to negotiate with the operator of the site (for example the local authority or the retailer) to collect the WEEE. The collection arrangements will be governed by a code of practice. This is presently being developed in discussion with stakeholders. Part of the approval process for compliance schemes and DCF status will be agreement to adopt and follow the code.

Authorised Treatment Facilities (ATFs)

29. ATFs will be licensed under the DEFRA regulations by the appropriate environment agency.

Evidence of reprocessing

30. Producer compliance schemes and (individually registered producers) will be required to demonstrate that they have met their financial obligations through a declaration of compliance, supported by appropriate evidence notes. The declaration of compliance will be a signed statement by the compliance scheme confirming that the financial obligations have been met in line with the notification received from the EAs. Evidence notes demonstrating that WEEE has been treated and recycled appropriately will support this declaration.

31. An evidence note will specify the weight of the consignment of WEEE concerned, and declare that it has been processed in accordance with the Waste Management Licensing Regulations. The evidence must also demonstrate that the WEEE has been recycled to meet targets specified by the Directive. It is envisaged that protocols will be developed to simplify the information required to demonstrate this.

32. The transmission of evidence notes back to compliance schemes will depend on contractual arrangements between producers and ATFs or, where a consignment of WEEE passes through a series of ATFs, between different ATFs in the chain.

Additional cost to Producers for the recycling of historical WEEE

33. Article 8, paragraph 2 of the Directive provides that:

Member States shall ensure that for a transitional period of eight years (10 years for category 1 of Annex IA) after entry into force of this Directive, producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way. The costs mentioned shall not exceed the actual costs incurred.

34. The Review has received a range of representations on this issue.

There is no consensus across the producer community on the introduction of a mandatory right to display the additional cost of the recycling of historical WEEE. In the main representations from white goods producers have been in favour of a mandatory provision, whilst those from producers of other goods, and from retailers, have been opposed to a mandatory solution.

35. Proponents of a mandatory visible fee have argued that the cost of recycling historical WEEE will place financial burdens on producers and could damage their competitiveness. Opponents have noted that the transitional nature of Article 8 could mean that the implementation costs of a mandatory regime are likely to be higher than the revenue raised.

36. As noted above, the Government strongly supports the principle of producer responsibility. It would be inconsistent with that principle to introduce a mandatory visible fee, as this would explicitly transfer from producers to consumers of the costs of processing historic WEEE. Without a mandatory visible fee, the costs of historic WEEE would still be reflected in producers' overall pricing, but the incentive on producers to minimise those costs would be increased.

37. The Review has therefore concluded that the relevant passage from the Directive should be reproduced in the UK regulations. This is consistent with its established policy against unnecessary elaboration of EC legislation during its transposition into UK law.

38. Under this approach the showing of a visible fee will be a matter for supply chain negotiations. Producers will be able to propose in that context a visible fee, shown for instance through a sticker on the product.

WEEE Implementation Team
March 2006