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STATUTORY INSTRUMENTS

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**2006 No. 3289**

**The Waste Electrical and Electronic  
Equipment Regulations 2006**

**PART 8**

**APPROVAL OF AUTHORISED TREATMENT FACILITIES AND EXPORTERS**

**Requirement for approval**

**46.—**(1) A person shall not issue an evidence note under regulation 47(2) in relation to the treatment, recovery or recycling of WEEE unless he is at the time of issue an operator of an AATF and that evidence relates to WEEE received at that AATF in a relevant approval period.

(2) A person shall not issue an evidence note in relation to WEEE exported for treatment, recovery or recycling unless he is at the time of issue an approved exporter and that evidence relates to WEEE exported by him in a relevant approval period for treatment, recovery or recycling at a specified site for which he is approved under regulation 47.

**Application for approval**

**47.—**(1) An application for approval of an ATF or an exporter under this Part shall be made to the appropriate authority and shall—

- (a) be in writing;
- (b) contain the information set out in Part 1 of Schedule 8, which shall be submitted in the format published by the appropriate authority under regulation 64; and
- (c) be accompanied by—
  - (i) where the appropriate authority is the Environment Agency or SEPA,
    - (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates, the application charge specified in regulation 51(1)(a); and
    - (bb) in any other case, the application charge specified in regulation 51(1)(b); or
  - (ii) where the appropriate authority is the Department of the Environment,
    - (aa) in the case of an applicant who undertakes to issue evidence notes for not more than 400 tonnes of WEEE in the approval period to which the application relates; and
    - (bb) in any other case,  
the application charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006.

(2) An application for approval made by—

- (a) an operator of an ATF, to issue an evidence note in relation to—

- (i) the treatment of WEEE at an ATF, and
- (ii) the recovery or recycling of WEEE at a reprocessor; or
- (b) an exporter, to issue an evidence note in relation to the treatment, recovery or recycling of WEEE for the export of WEEE for treatment, recovery and recycling in one or more specified treatment, recovery or recycling operations at a specified site outside the United Kingdom, or a combination of such operations,

shall be granted where the appropriate authority is satisfied as to the matters set out in paragraph (3) and shall otherwise be refused.

(3) The matters referred to—

(a) in paragraph (2)(a) are—

- (i) that the applicant is an operator of an ATF;
- (ii) that the applicant will comply with the conditions referred to in regulation 49(1); and
- (iii) that the application has been made in accordance with paragraph (1); and

(b) in paragraph (2)(b) are—

- (i) that the applicant is an exporter;
- (ii) where the application for approval relates to one or more treatment, recovery or recycling sites outside the EEA, that the requirements of Article 6(4) of the Directive shall be met in respect of each such site;
- (iii) that the applicant will comply with the conditions referred to in regulation 49(2); and
- (iv) that the application has been made in accordance with paragraph (1).

(4) The appropriate authority shall notify the applicant in writing of its decision under paragraph (2) no later than 12 weeks after the application was made and, if the decision is a decision to refuse approval, such a notification shall state—

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

(5) Subject to regulation 50, where approval is granted under paragraph (2), it shall take effect—

(a) where the application is made in the preceding year to that in which the person has applied to be approved—

- (i) from 1st January where the decision to grant approval was made before that date; and
- (ii) in all other cases, from the date of the decision,

and shall remain in force until 31st December in the year for which the person has applied to be approved;

(b) where the application is made during the year in which the person has applied to be approved, from the date of the decision, and shall remain in force until 31st December in that year.

(6) Where an operator of an ATF or an exporter who has—

- (a) given the undertaking referred to in paragraph (1)(c)(i)(aa); and
- (b) paid the application charge specified in regulation 51(1)(a),

subsequently breaches that undertaking, he shall from the date of that breach be liable to pay the appropriate authority the balance of the charge which would have been payable under paragraph (1)(c)(i)(bb) had the undertaking not been given.

(7) In this Part, “relevant approval period” means the period in respect of which a grant of approval that has been made under this regulation remains in force.

### **Application for extension of approval of an exporter to an additional site**

**48.**—(1) An application to extend a grant of approval of an exporter made by an appropriate authority under regulation 47 during a relevant approval period to include an additional site to which he wants to export WEEE for treatment, recovery or recycling shall be made to that appropriate authority and shall—

- (a) be in writing;
- (b) contain the information referred to in Part 1 of Schedule 8, which shall be submitted in the format published by the appropriate authority under regulation 64; and
- (c) be accompanied by—
  - (i) where the appropriate authority is the Environment Agency or SEPA, the extension of approval charge specified in regulation 51(2); and
  - (ii) where the appropriate authority is the Department of the Environment, the extension of approval charge specified in the Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006.

(2) An application to extend an exporter's approval to include an additional site located within the EEA shall be granted by the appropriate authority where it is satisfied that the application has been made in accordance with regulation 47, and shall otherwise be refused.

(3) An application to extend an exporter's approval to include an additional site located outside the EEA shall be granted by the appropriate authority where it is satisfied that that site meets the requirements of Article 6(4) of the Directive and is satisfied that the application was made in accordance with regulation 47, and shall otherwise be refused.

(4) The appropriate authority shall notify the applicant in writing of a decision made under paragraph (2) or (3) no later than 12 weeks after the application was made and, if the decision is a decision to refuse approval, such a notification shall state—

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

(5) Subject to regulation 50, where an application is granted under paragraph (3), it shall take effect from the date of the decision under paragraph (3) or the date that the applicant's grant of approval under regulation 47 took effect, whichever is the later date, and shall remain in force until the date that the applicant's approval granted under regulation 47 expires.

### **Conditions of approval**

**49.**—(1) An operator of an AATF shall comply with the conditions specified in Part 2 of Schedule 8.

(2) An approved exporter shall comply with the conditions specified in Part 3 of Schedule 8.

### **Suspension and cancellation of approval**

**50.**—(1) The appropriate authority may suspend or cancel the approval of an ATF or exporter where it appears to it that—

- (a) in the case of an AATF, the operator of that AATF has failed, or is likely to fail, to comply with any of the conditions specified in Part 2 of Schedule 8;
- (b) in the case of an exporter, the person who is approved has failed, or is likely to fail, to comply with any of the conditions specified in Part 3 of Schedule 8; or
- (c) the operator of an AATF or the approved exporter has knowingly or recklessly supplied false information—

- (i) in his application for approval made under regulation 47 or 48,
- (ii) in the case of an AATF, in connection with compliance with any of the conditions specified in Part 2 of Schedule 8, or
- (iii) in the case of an approved exporter, in connection with compliance with any of the conditions specified in Part 3 of Schedule 8.

(2) Where the appropriate authority is no longer satisfied that the requirements of Article 6(4) of the Directive are met in relation to WEEE exported to a site outside the EEA, the appropriate authority shall cancel the approval of an exporter to the extent that it relates to that site.

(3) Where the appropriate authority suspends or cancels a grant of approval under paragraph (1) or cancels the approval of an exporter to the extent that it relates to a site under paragraph (2), it shall serve on the operator of the ATF or the exporter concerned a notification in writing stating—

- (a) its decision to cancel or suspend (as the case may be) the grant of approval;
  - (b) its reasons for the decision;
  - (c) the right of appeal under Part 12;
  - (d) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice as provided for in Schedule 11; and
  - (e) in the case of a suspension,
    - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notification; and
    - (ii) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.
- (4) The approval of an ATF or an exporter shall be deemed to be cancelled—
- (a) on the date on which the approved facility ceases to be an ATF;
  - (b) on the date on which the person who is approved ceases to be an exporter;
  - (c) in the case where operator of an AATF requests that a grant of approval that relates to that AATF should be cancelled, with effect from the date of cancellation specified by that operator; or
  - (d) in the case where an approved exporter requests that a grant of approval that relates to him should be cancelled, with effect from the date of cancellation specified by that exporter.

## Charges

**51.**—(1) The application charge referred to in—

- (a) regulation 47(1)(c)(i)(aa) shall be £500; and
- (b) regulation 47(1)(c)(i)(bb) shall be £2,590.

(2) The extension of approval charge referred to in regulation 48(1)(c)(i) shall be £110.

(3) Where for any reason approval is refused under regulation 47 or 48 or is suspended or cancelled under regulation 50 the appropriate authority shall not be under any obligation to refund the whole or any part of the application fee that has been paid in accordance with regulation 47(1)(c)(i)(aa), 47(1)(c)(i)(bb) or 48(1)(c)(i).

(4) The provisions of paragraphs (1), (2) and (3) shall not apply if, or to the extent that, they have been superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995—

- (a) by the Environment Agency in respect of applications for approval made under regulation 47 or 48 to that appropriate authority; or
  - (b) by SEPA in respect of applications for approval made under regulation 47 or 48 to that appropriate authority.
- (5) A charging scheme made under section 41 of the Environment Act 1995 shall specify the extent to which it supersedes any of the provisions in paragraphs (1), (2) and (3).
- (6) To the extent that any of the provisions of paragraphs (1), (2) and (3) are superseded in accordance with paragraph (4), any reference in these Regulations to a charge specified in paragraph (1) or (2) shall be read as a reference to the charge which supersedes that charge and which is prescribed by a charging scheme.

## Reporting

**52.**—(1) Subject to paragraph (2), an operator of an AATF or an approved exporter shall provide reports to the appropriate authority —

- (a) on or before 1st May in a relevant approval period in respect of the first quarter period in that approval period;
- (b) on or before 1st August in a relevant approval period in respect of the second quarter period in that approval period;
- (c) on or before 1st November in a relevant approval period in respect of the third quarter period in that approval period; and
- (d) on or before 1st February in the year immediately following the end of a relevant approval period in respect of the fourth quarter period in that approval period.

(2) An operator of an AATF or an approved exporter shall provide reports to the appropriate authority —

- (a) on or before 1st November 2007 in respect of the period commencing on 1st July 2007 and ending with 30th September 2007; and
- (b) on or before 1st February 2008 in respect of the period commencing on 1st October 2007 and ending with 31st December 2007.

(3) The reports referred to in paragraphs (1) and (2) shall include details of—

- (a) in the case of an AATF—
  - (i) the total amount in tonnes of WEEE received for treatment under these Regulations; and
  - (ii) the total amount in tonnes of WEEE treated under these Regulations at that AATF;
  - (iii) the total amount in tonnes of WEEE delivered to another ATF for treatment under these Regulations;
  - (iv) where sub-paragraph (a)(iii) applies,
    - (aa) the name and address of the operator of the ATF referred to in that sub-paragraph; and
    - (bb) the address of the ATF where the treatment referred to in that sub-paragraph was carried out;
  - (v) the amount in tonnes of WEEE delivered to a reprocessor for recovery or recycling under these Regulations;
  - (vi) where sub-paragraph (a)(v) applies,
    - (aa) the name and address of the reprocessor referred to in that sub-paragraph; and

- (bb) the address of the site where the recovery or recycling referred to in that sub-paragraph was carried out;
    - (vii) the amount in tonnes of WEEE delivered to an approved exporter for treatment, recovery or recycling outside the United Kingdom under these Regulations;
    - (viii) where sub-paragraph (a)(vii) applies, the name and address of the exporter referred to in that sub-paragraph; and
    - (ix) where sub-paragraph (a)(i), (ii), (iii), (v) or (vii) applies, details of the amount in tonnes of WEEE shall be provided by reference to the following categories—
      - (aa) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
      - (bb) display equipment,
      - (cc) cooling appliances containing refrigerants, and
      - (dd) gas discharge lamps,
 and in the case of each category shall specify whether WEEE was intended for use by private households or by users other than private households;
  - (b) in the case of an approved exporter, the total amount of WEEE in tonnes exported for treatment, recovery and recycling by reference to the following categories—
    - (i) each of the categories listed in Schedule 1 (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
    - (ii) display equipment,
    - (iii) cooling appliances containing refrigerants, and
    - (iv) gas discharge lamps,
 and in the case of each category shall specify whether WEEE was intended for use by private households or by users other than private households; and
  - (c) the total number of evidence notes issued.
- (4) In addition to the requirements in paragraph (3), the report referred to in—
- (a) paragraph (1)(d) shall include all of the information provided in the quarterly reports that relate to the relevant approval period; and
  - (b) paragraph (2)(b) shall include all of the information provided in the report referred to in paragraph (2)(a).
- (5) An operator of an AATF or an approved exporter shall also provide a report to the appropriate authority on or before 28th February in the year immediately following the end of the relevant approval period which shall—
- (a) be from an independent auditor; and
  - (b) demonstrate to the satisfaction of the appropriate authority that the evidence notes issued by the operator of the AATF or the approved exporter during the relevant approval period are consistent with the amount of WEEE in tonnes received or exported for treatment, recovery or recycling in that relevant approval period.
- (6) For the purposes of paragraph (5), an “independent auditor” means—
- (a) an auditor who would be eligible for appointment as the company auditor of the operator of the AATF or the approved exporter under Part II of the Companies Act 1989(1); or
  - (b) an auditor who is—

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(1) 1989 c. 40.

- (i) independent of the operator of the AATF;
- (ii) independent of any operator of a scheme; and
- (iii) a member of a professional body for auditors that is recognised as such by an appropriate authority.

### **Record keeping**

**53.**—(1) An AATF or an approved exporter shall maintain records that enable completion of the reports referred to in regulation [52\(1\)](#), [52\(2\)](#) and [52\(5\)](#) for each quarter period in a relevant approval period.

(2) The records referred to in paragraph (1) shall be kept for a period of at least four years commencing on the date on which any such record is made and shall be made available to the appropriate authority on demand.