

EXPLANATORY MEMORANDUM TO
THE WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (AMENDMENT)
(No. 2) REGULATIONS 2009

2009 No. 3216

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This instrument amends the Waste Electrical and Electronic Equipment (Amendment) Regulations (SI 2009/2957) (“the 2009 Regulations”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 This instrument is being made in consequence of a defect in the 2009 Regulations and is being issued free of charge to all known recipients of that Statutory Instrument.

4. **Legislative Context**

- 4.1 This instrument is being made to give effect to the conclusions of a review of the operation of the Waste Electrical and Electronic Equipment Regulations 2006 (SI 2006/3289) as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 (SI 2007/3454) (“the 2006 Regulations”).

5. **Territorial Extent and Application**

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

6. **European Convention on Human Rights**

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

7. **Policy background**

- 7.1 The 2006 Regulations place obligations on the producers of electrical and electronic equipment (“EEE”) to finance the collection, treatment and environmentally sound disposal of such equipment when it reaches its end of

life. They implement in the UK the European Parliament and Council's 2002 directive on waste electrical and electronic equipment ("the Directive").

- 7.2 The 2006 Regulations came into force on 1 January 2007 and have been in operation for two compliance periods. A review of the 2006 Regulations sought to consolidate lessons learnt and to build upon the successes of the current infrastructure. The amendments made by the 2009 Regulations sought to improve the Producer Compliance Scheme approval process and reduce the administrative burdens placed on business by simplifying the data reporting requirements and the evidence system.
- 7.3 However, the 2009 Regulations were defective because instead of requiring details of EEE put on the market intended for use by private households to be reported quarterly and details of other EEE put on the market to be reported annually they required details of all EEE put on the market to be reported annually. This instrument corrects that defect.
- 7.4 The Department does not intend to consolidate the 2006 Regulations until it is clear what further amendments may be required as a result of proposals to recast the Directive which are currently being negotiated in Brussels.

8. Consultation outcome

- 8.1 The 2009 Regulations were made following a public consultation. The consultation was held between 19 December 2008 and 6 April 2009. 93 responses were received with the majority supporting one or more proposals outlined in the consultation document.
- 8.2 In addition to the formal consultation, discussions were undertaken with stakeholders, in groups and on a one to one basis to assess the impact of the proposals in both practical and monetary terms.
- 8.3 An analysis of the consultation responses is included in the Impact Assessment prepared for the 2009 Regulations which is attached to this Memorandum.

9. Guidance

- 9.1 Non-statutory guidance on the 2006 Regulations is being updated to take account of the amendments made by this instrument and the 2009 Regulations and will be published shortly.

10. Impact

- 10.1 The impact of the 2009 Regulations on business, charities or the voluntary sector relates to the amendments to the data reporting requirements and reporting of evidence made by the 2009 Regulations. Those amendments have impacts on the data reporting requirements for monitoring and enforcement

purposes. They have a potential positive impact in terms of cashflow for treatment facilities as a result of changes to the evidence reporting (i.e. the proposals should ensure payments from one party to another are able to be made at an earlier stage in the process). Changes to the approval process for producer compliance schemes will ensure greater co-operation and therefore greater certainty for producers, local authorities and the waste management and treatment sectors.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment prepared for the 2009 Regulations, which assumed the amendments made by this instrument, is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small businesses that produce electrical and electronic equipment, distribute electrical and electronic equipment or are involved in the treatment and environmentally sound disposal of such equipment.

11.2 To minimise the impact on the requirements on firms employing up to 20 people, the approach taken is to ease the administrative burdens involved. This should have a relatively positive impact on small firms operating in the system.

11.3 The basis of the final decision on what action to take to assist small businesses followed discussions with small business representative organisations and individual companies.

12. Monitoring & review

12.1 Ongoing monitoring and review of the UK WEEE system under the 2006 Regulations will continue as the system matures.

12.2 A recast of the Directive is currently being negotiated in Brussels. It is likely the adoption of the recast proposals will result in further changes to the 2006 Regulations being required. It is unlikely that any changes as a result will need to be considered before 2011.

12.3 An informal consultation has taken place on the proposed recast and discussions will continue with stakeholders and other interested parties through the negotiation process.

13. Contact

13.1 **Kath Barker** at the Department for Business Innovation and Skills tel: 01142 794425 (Sheffield) email: Kath.Barker@bis.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:
BIS

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

Stage: Final

Version: 1

Date: 3 November 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 which were outlined in the Consultation Document, and which are now reflected in amending WEEE Regulations and changes to the administration of the UK WEEE System, have the aim of improving the existing UK WEEE System and of reducing the burdens to businesses operating within this system. The amendments relate to existing UK Regulations which transpose the European WEEE Directive, and to the administration of the UK WEEE system. This Directive aims to reduce the negative environmental impacts 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 the system operate more effectively and to reduce the administrative burdens on businesses operating within the UK WEEE System.

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

A number of policy options were presented in the Consultation Document relating to various aspects of the UK's WEEE System. The preferred option is to simplify evidence and data reporting, and scheme and treatment facility approval. The costs and benefits of the changes to the UK's WEEE system resulting from the consultation are discussed in this final IA, and are presented in comparison to 'doing nothing' i.e. not amending the WEEE Regulations nor changing the administration of this system.

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 BIS. The timing of post-implementation review is complicated by the European Commission's current re-casting of the WEEE Directive itself.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Ian Lucas

..... Date: 5th November
2009

Summary: Analysis & Evidence

Policy Option: 1	Description: Amend the existing UK WEEE Regulations
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' There are not expected to be any additional costs from the amending Regulations to the UK's WEEE System nor changes to its administration.				
	<table border="1" style="width: 100%;"> <tr> <td style="width: 70%;">One-off (Transition)</td> <td style="width: 30%;">Yrs</td> </tr> <tr> <td style="text-align: center;">£ 0 mn</td> <td></td> </tr> </table>		One-off (Transition)	Yrs	£ 0 mn	
	One-off (Transition)		Yrs			
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Average Annual Cost (excluding one-off)						
£ 0 mn						
Total Cost (PV)		£ 0 million				
Other key non-monetised costs by 'main affected groups' None						

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Administrative cost savings to Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) issuing evidence within the UK WEEE System.				
	<table border="1" style="width: 100%;"> <tr> <td style="width: 70%;">One-off</td> <td style="width: 30%;">Yrs</td> </tr> <tr> <td style="text-align: center;">£ 0 mn</td> <td></td> </tr> </table>		One-off	Yrs	£ 0 mn	
	One-off		Yrs			
	£ 0 mn					
<table border="1" style="width: 100%;"> <tr> <td style="width: 70%;">Average Annual Benefit</td> <td style="width: 30%;"></td> </tr> <tr> <td style="text-align: center;">£ 0.2 - 1.6 mn</td> <td></td> </tr> </table>	Average Annual Benefit		£ 0.2 - 1.6 mn			
Average Annual Benefit						
£ 0.2 - 1.6 mn						
Total Benefit (PV)		£ 0.2-1.6 million				
Other key non-monetised benefits by 'main affected groups' Slightly more equitable system with relation to producer charges, whereby overseas producers pay the full charge rather than the charge applicable to small businesses.						

Key Assumptions/Sensitivities/Risks Estimates taken from consultation responses, with assumptions used regarding average wage levels and hours worked.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ 0.2-1.6 million	NET BENEFIT (NPV Best estimate) £ 0.9 million
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What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	2010
Which organisation(s) will enforce the policy?	environment
What is the total annual cost of enforcement for these	£ none additional
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 year?	£ zero
What is the value of changes in greenhouse gas emissions?	£ zero
Will the proposal have a significant impact on competition?	No

Annual cost (£-£) per organisation (excluding one-off)	Micro N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ 0 mn	Decrease of	£ 0.1-1.4 m	Net Impact £ -0.1-(-)1.4m

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Purpose and intended effect

Objective

1. BIS (formerly BERR) issued a public consultation paper on 19 December 2008 outlining proposals to amend the existing UK Waste Electrical and Electronic (WEEE) Regulations and to change certain aspects of the administration of the UK's WEEE System. (BERR – URN 08/1516). The aim of these proposals was “*..to reduce the burdens on business and improve the effectiveness of the UK system.*” (Page 5 of Consultation Document). In particular, the proposals were 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 operating under the WEEE Regulations by simplifying evidence and reporting requirements.

2. The public consultation, which closed on 6 April 2009, received 93 responses. Along with the consultation paper BIS published draft amendments to the WEEE Regulations and a consultation Impact Assessment (IA) in support of the proposals to amend the WEEE Regulations, and change the administration of the UK WEEE system. This final IA updates the consultation IA in the light of the responses to the consultation.

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' based on Article 175 of the Treaty establishing the Community, and has 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 European 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 makes a distinction 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 introduces different principles for the collection and financing of these two types of WEEE. The Directive also makes a distinction between 'historic' and 'new' WEEE and also introduces different principles for the collection and financing of these two types of WEEE.

6. The UK's WEEE Regulations established, what can be termed, 'the UK's WEEE System' to achieve the aims and objectives of the WEEE Directive in the UK. The WEEE Regulations introduced a number of requirements across a range of parties, the main ones of which are:

- Producers of EEE are required to join a producer compliance scheme (PCS);
- Producers of EEE are required to finance a proportion of the costs of collecting, treating, recycling and recovering separately collected WEEE in relation to their market share based on the weight of EEE sales;

- Distributors of EEE are required to finance an 'adequate network' for the free takeback of household WEEE by households or provide in-store takeback of WEEE for their consumers of EEE;
- Separately collected WEEE needs to be sent for treatment in the UK at Approved Authorised Treatment Facilities (AATFs) and Authorised Treatment Facilities (ATFs) – prior to subsequent recycling and recovery, or sent for treatment and subsequent recycling or recovery overseas by Approved Exporters (AEs) to the standards required by the WEEE Directive;
- Evidence that WEEE has been treated and recycled or recovered to the requirements of the WEEE Directive is to be issued only by AATFs or AEs;
- Producers are to discharge their obligations by furnishing the environment agencies with evidence obtained from an AATF or AE, demonstrating that they have met their financial obligations.

7. The UK's WEEE Regulations established '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 and ran from 1 January 2008 to 31 December 2008, and the third runs for the calendar year 2009. Future compliance periods are also to be on an annual calendar year basis.

8. Data from the second compliance period showed that the UK WEEE System achieved a separate collection rate of household WEEE in the UK of just under 7 kilogrammes per head of population. This exceeded, by almost 75 per cent, the minimum 4 kilogrammes per head required by the WEEE Directive.

9. Estimates of average costs suggest that for the volume of separately collected household WEEE collected, treated and recovered in the UK in 2008, total costs were in the region of £58 million. The costs for non-household WEEE are more varied than for household WEEE and are therefore more difficult to 'average'. However, if the average costs reflected the costs for non-household WEEE, then the total costs for non-household WEEE separately collected in the UK in 2008 would have been in the region of £8 million.

10. There were additional costs relating to the following: producer registration fees were in the region of £2 million; PCS administration costs were also in the region of £2 million (assuming an average charge of £400/producer); monitoring and enforcement costs (public sector costs) were in the region of £3 million; licences for approved treatment facilities (ATFs) and approved exporters (AEs) dealing with WEEE were in the region of £0.35 million; and costs under the Distributor Takeback Scheme (DTS) were in the region of £3 million (presuming the total costs of the DTS are spread evenly over 3 years). This gives an estimated total cost of the UK WEEE Regulations of just over £76 million in 2008.

11. In terms of the benefits of the UK WEEE Regulations, there is less readily available information on the monetary value of these. The 2006 RIA for the initial WEEE Regulations estimated that the monetary value of climate change benefits from the additional separate collection, treatment, recycling and recovery of WEEE could be in the region of £4-16 million in 2008.

12. 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 when externalities are present, and as a consequence of subsequent behavioural changes, improvements in social welfare can be achieved.

13. Practices in relation to EEE and WEEE can produce negative externalities in terms of waste and pollution. When WEEE is disposed, this waste can have negative impacts on soil, air, and water quality which can lead to environmental damage, and which can also lead to negative impacts on human health and animal health.

14. The recycling and recovery of energy from waste materials can also produce positive impacts on greenhouse gas (GHG) emissions. The recycling and recovery with energy from waste materials can lead to less energy being used compared to the production or extraction of virgin materials, and this can lead to a relative reduction in carbon dioxide (CO₂) and carbon dioxide equivalent (CO₂e) emissions. This, in turn, can produce positive impacts in terms of contributing to mitigating the harmful effects of climate change.

15. In addition, and in terms of sustainable consumption and production, Government intervention in the area of EEE and WEEE can 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 can lead to benefits in terms of a more sustainable use of resources and energy for this generation and for future generations.

Consultation

16. The proposed changes to the UK's WEEE Regulations and the administration of the UK's WEEE System, which are separate from any European changes to the WEEE Directive, were subject to full public consultation between December 2008 and April 2009. There were 93 responses to the consultation. Whilst many respondents provided qualitative comments on the potential impacts of the draft Regulations presented for consultation, relatively few provided any quantitative answers. This final IA updates the consultation IA in the light of the consultation responses.

Options

17. The amended WEEE Regulations reflect the outcome of the public consultation on the draft Regulations. A number of the options that were presented in the consultation paper are discussed in this final IA. The main ones relate to:

- PCS approval - a PCS applying for approval or re-approval after 1 January 2010 will have open ended approval (as opposed to the current three compliance periods). There will be the requirement for the PCS to submit a 3 year rolling operational plan in order to maintain their approved status;
- Evidence will now consist of one element, rather than the current two - the tonnage received by an AATF/AE;

- As part of the approval process for an AATF - they will need to demonstrate (via audit) their ability to, as a minimum, reach the recovery and reprocessing targets of the WEEE Directive;
- Changes have been made to the data reporting requirements to ease administrative burdens and result in more useful and focused data – e.g. changing the requirement to report B2B EEE placed in the market from quarterly to annually.

Sectors and groups affected

18. All sectors and groups involved in EEE and WEEE under the UK's existing WEEE Regulations will be affected to some degree, or another, by the 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

19. The potential costs and benefits from the main changes to the UK WEEE System reflected in the amending Regulations and in changes to the administration of the UK WEEE System, are discussed below in the order they were presented in the public consultation document.

Section Three: Returning WEEE into the system

20. This section of the consultation document discussed that part of the UK WEEE System relating to the rights of end-users (or consumers/householders) to free takeback of their household WEEE at accessible collection points, and 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).

21. 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.

22. 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.

23. 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.

24. The Consultation Document outlined 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.

25. The first option was for the DTS to operate as it does currently, and thus was not expected to involve any additional costs and benefits over and above the current WEEE Regulations. The second option was for *"..membership fee levels to be based on an agreed level of funding needed by Local Authorities."*

26. The third option was for *"..open ended approval..with..the submission of an annual report."* This option was 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. Option four was 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 was for *"..funding to be focused towards specific needs.."*

27. The consultation asked four questions on the issue of the DTS and its operation. Of those that responded on the question of whether distributors should continue to have more than one means by which they can discharge their obligations, virtually all supported this proposal. In terms of the questions relating to how the DTS should be funded and to what level, opinion was divided between ongoing and time-limited approval, and between minimum and specified levels.

28. Following consultation and further discussions with the affected parties, it has been agreed that the DTS will continue to operate for at least the next three compliance periods. A level of funding has been agreed that will support maintenance of existing Local Authority designated WEEE collection facilities, and will provide resources which could potentially be used for specific and/or local projects in relation to WEEE. Thus the DTS will continue to play an important role in enabling the UK to cost-effectively achieve the separate collection target for household WEEE required by the WEEE Directive.

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

29. 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').

30. 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.

31. 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.

32. 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.

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

34. The consultation questions on this issue, Questions 7 and 8, produced the following outcome. Of those that responded to Question 7 (52 of the 93 responses in total) over 70 per cent of the responses agreed that the proposed changes would help improve the effectiveness of the UK WEEE system. Of those responding to Question 8, regarding the two-stage approval process, two-thirds were in favour, and one-third against. However, in the light of experience with the approval of schemes under the UK's new Waste Batteries Regulations, it has been decided to retain the one-stage approval process for WEEE schemes.

35. As outlined in the consultation IA, 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 be subject to public consultation in the future.

Section Six: Data Reporting and Section Seven: Evidence and AATF/AE Approval Criteria

36. 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.

37. The Consultation Document outlined a number of proposals to streamline the data collection and reporting requirements of the current UK WEEE system. These included:

- 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.
- Requiring PCSs to report sales of non-household EEE sales on an annual basis rather than a quarterly basis as at present.

38. 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.

39. The amending Regulations remove the second stage of this current process. This will mean AATFs/AEs will be able to issue evidence on receipt of WEEE for re-use, recycling, or recovery, or for export for one of these activities. AATF/AEs will need to demonstrate as part of their approval (to be verified by an independent audit process) that they can meet, and have met, as a minimum, the targets in the WEEE Directive and UK WEEE Regulation 26.

40. In total, four respondents provided estimates of the time or monetary savings from the amendments to the UK's WEEE system in relation to WEEE evidence and the approval criteria of ATFs/AEs. These estimates ranged from monetary savings of some £6,000 per annum to savings of time between 1 to 2 days per quarter. For the latter, using national average weekly earnings and average hours worked, with a 30 per cent mark-up for non-wage costs, enables these savings to be estimated in monetary terms.

41. There are 275 AATFs and AEs operating in the UK's WEEE system currently. Using the consultation responses outlined above enables an estimate to be made of the administrative savings in relation to these elements of the amending WEEE Regulations. These are for savings in the range of £0.2 million - £1.6 million per annum. The top of this range is equivalent to an estimated 15 per cent saving on the current compliance costs of the WEEE Regulations. In terms of the Government's admin burdens baseline, this represents an estimated reduction in administrative burden of some £0.1 million - £1.4 million in 2005 prices, when deflating by the growth in average wages.

Section Eleven: Charges

42. The consultation document, outlined an anomaly with respect to the annual registration charges for producers of EEE, where “..producers based overseas..” who are not registered for

VAT were paying the lower registration charge irrespective of their size. Correcting this anomaly should produce a charging system for WEEE in the UK that is fairer, as all large and smaller producers pay the appropriate charge. A number of respondents to the consultation supported this proposal on the grounds of equity.

Small Firms Impact Test

43. The changes to the UK WEEE system as reflected in the amended Regulations, and changes to the administration of the WEEE System, are not expected to have a disproportionate impact on small firms involved in the UK WEEE system currently. One of the main aims of the changes to the WEEE system is to ease the administrative burdens involved, and this should have a relatively positive impact on small firms operating in the system.

Competition assessment

44. The changes to the UK WEEE system as reflected in the amending Regulations and in its administration, are not expected to have a detrimental impact on competition in the UK EEE market. Rather, they are intended to enhance competition within the system by improving its workings and reducing any administrative burdens.

Costs to Public Sector – Monitoring and Enforcement

45. 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 and changes to the administration of the WEEE System. The amended Regulations and administrative framework will be monitored by BIS with the help of the Government's WEEE Advisory Board (WAB). A post implementation review will be undertaken by BIS, but the timing of this is difficult to determine given that the European Commission is currently re-casting the WEEE Directive itself. This in turn is likely to lead to new amendments to the UK WEEE system and its Regulations.

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

Annexes

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.