



Pinsent Masons

# Update: Implementation of the WEEE Directive in the UK

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# Overview



- Summary of the WEEE Regulations 2006
- Who is Responsible?
  - Producers
  - Distributors
  - Business Users
  - Local Authorities
- Evidence and DEFRA Protocols
- On the Agenda.....



# Planning and Environment Team



## WEEE/RoHS instructions

- Itronix
- LG Electronics
- Performance Products
- Raymarine
- Railpart
- Creative Labs
- IMI
- Smith & Nephew
- BBC World Service
- Biwater Limited
- Geodis Valenda
- Husky Group Limited



# The WEEE Directive: Objectives



- Objectives (Art 1)
  - Prevention of WEEE
  - Encourage reuse, recycling and other forms of recovery
  - Improve environmental performance of producers, distributors, consumers and treatment facilities

# The WEEE Regulations 2006



- Implementation of the WEEE Directive in the UK has been a long and drawn out process
- Due to be transposed 13 August 2004....after nearly 4 years of consultations... finally implemented by WEEE Regs on 11 December 2006
- Came into force for the most part on 2 January 2007
- Deadline for ensuring full take back, treatment and recycling of WEEE was 1 JULY 2007

# What is WEEE ?



- Equipment dependent on electrical current or EMFs with a voltage of up to 1,000 volts AC or 1,500 volts DC and listed with the Annex 1A categories:
  - Large household appliances
  - Small household appliances
  - IT and telecommunications equipment
  - Consumer equipment
  - Lighting equipment
  - Electrical and electronic tools (Not: Large stationary industrial tools)
  - Toys, leisure and sports equipment
  - Medical devices (Not: Implanted and infected products)
  - Monitoring and control instruments
  - Automatic Dispensers

**“Provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of the Directive” Art 2(1)**

# Who will be responsible ?



- **Producers**

“... any person who, irrespective of the selling technique used, including by means of distance communication...:

- Manufactures and sells EEE under his own brand;
- Resells other EEE under his own brand;
- Imports or exports EEE on a professional basis into a MS”

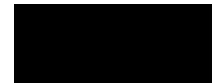
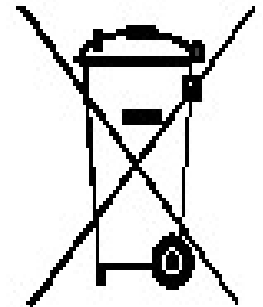
- **Distributors**

“...any person who provides EEE on a commercial basis to the party who is going to use it”

# Producer Obligations



- Finance the treatment, reprocessing and environmentally sound disposal of WEEE.
- Meet demanding recycling and recovery targets for the 10 different categories of EEE.
- Join a Producer Compliance Scheme (“PCS”)
- Mark all EEE placed on the UK market after 1 April 2007
- Provide information to assist treatment and recycling.
- Provide producer registration details.
- Keep records of sales, including the amount in tonnes of all EEE each producer puts on the UK market.



# Producer Compliance Schemes (“PCSs”)



- Compliance period = Calendar year
- Supply details of membership and weight of EEE to EA;
- EA will calculate the market share of each scheme;
- Scheme to advise EA of WEEE collected, reused, recycled and recovered (incl WEEE exported for treatment/processing);
- EA will monitor schemes;
- Schemes to liaise with LAs and DCFs
- Trading allowed between schemes (the Exchange System);
- Processing only allowed at AATFs;
- Evidence: Declaration of Compliance and Evidence Notes

# Distributors' Obligations



- No obligations in respect of non-household (business) WEEE
- With respect to new household EEE, a distributor must:-
  - From 1 July 2007 provide information to consumers;
  - Facilitate the free take-back of household WEEE from UK customers;
  - Make and retain records of the information on the number of units of WEEE from private households returned via in-store take back.
  - Records must be kept for a period of four years.

# Distributor Compliance



- Essentially there are two ways for a Distributor to comply:-
  - By joining a distributor take-back scheme (“DTS”) (by 15 March 2007)
  - By offering free in-store take back for all types of EEE sold when consumers buy a replacement item as long as  
  
“the EEE is of an equivalent type and has fulfilled the same function”.
- A National DTS has been approved by the SoS
- Valpak has been selected to run the DTS for the next 3 years.

# Business Users



- Responsibility for WEEE arising from business users will depend on whether the WEEE is “Historic WEEE” or “Non-Historic WEEE”
- Historic = WEEE arising from EEE put on the market before 13 August 2005
- Historic = business user is responsible unless the producer is supplying like for like to replace the EEE
- Non-Historic = EEE supplied to business users after 13 August 2005
- Non-Historic = producers are responsible unless “alternative arrangements” are made

# Local Authorities' Obligations



- No direct obligations on local authorities
- Household WEEE will be collected via the UK's network of civic amenity sites
- Local Authorities to volunteer sites as Designated Collection Facilities (“DCFs”)
- Need to seek approval as a DCF from Valpak
- A PCS will need to negotiate directly with local authorities to collect sufficient WEEE to meet the recycling targets of its members.
- See DTI Code of Practice for Collection of WEEE from Designated Collection Facilities (February 2007)



# Treatment and Recovery

- Network of Approved Authorised Treatment Facilities (“AATFs”)
- Network of Approved Exporters
- Will process WEEE and provide evidence to the PCS on the amounts of WEEE received for treatment
- Will produce Evidence Notes (“ENs”)
- End of year settlement period – ensures each PCS is able to meet the obligations of its members
- The Settlement Centre – trading/exchange of ENs

# Evidence



- Evidence and reporting system is complex
- Two DEFRA Protocols
  - Trial to Establish WEEE Protocols dated April 2007
    - Category Protocol, Category Composition Protocols
    - The Small Mixed WEEE Composition Protocol
  - Trial to determine WEEE Protocol for category one Large Domestic Appliances

# Evidence

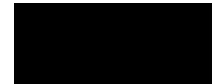
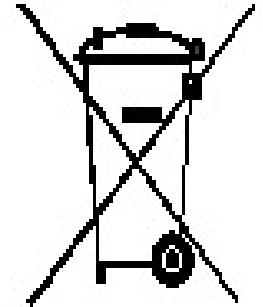


- An EN must contain:-
  - A unique evidence note reference number and the AATF operator name
  - The site name, address, PCS name and PCS operator
  - A statement to provide that WEEE has been treated, recovered and/or recycled and that no other ENs have been issued on the that WEEE
  - The total tonnage of WEEE covered by the EN
  - An indication if the EN is the original, a substitute or a duplicate
  - The signature of the representative of the AATF and the date
  - The printed name and position of the person signing the note
- A continuous chain of proof, demonstrating WEEE material movements (in waste transfer paperwork) will be required
- Evidence can only be issued to the PCS by the AATF or AE taking original possession of the WEEE.

# Penalties



- In England and Wales the EA will enforce
- Enforcement Notices
- A producer will be guilty of an offence if it:-
  - fails to finance treatment, recovery and reuse
  - does not register with a PCS
  - fails to mark products
  - Fails to provide required information to an operator of a PCS
- Fines not exceeding the stat. maximum (£5,000) on summary conviction and an unlimited fine on conviction on indictment
- Director and Officer Liability
- Penalties to be “effective, proportionate and dissuasive”
- Recent Case Law - Boots Ireland prosecution



# Useful Guidance/Sources of Information



- Department for Business, Enterprise & Regulatory Reform website
- Government Guidance Notes dated August 2007 URN 07/1303
- Environment Agency Website and Frequently Asked Questions
- Government Guidance for issuing Evidence Notes (version 1.43 dated 24/07/2007)

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