

WEEE and the Retailer

Your role in ensuring the Environmentally Sound Management of Waste Electrical and Electronic Equipment (WEEE) in Ireland

Contents

<u>Retailer Obligations</u>	1
<u>Local Authority Registration</u>	2
<u>Retailer Take-back</u>	2
<u>Delivery to Approved Collection Facilities</u>	2
<u>Special Requirements for Storage and Transport of WEEE</u>	3
<u>Environmental Management Costs (EMC's)</u>	4
<u>Provision of Information</u>	5
<u>Retailer = Distributor</u>	5
<u>Frequently Asked Questions</u>	6
<u>Relevant Contact Details</u>	7

Retailers of electrical and electronic equipment (EEE) will be affected by new regulations, which were made on 5th July 2005 transposing EU legislation on waste electrical and electronic equipment (WEEE). While the WEEE Directive is based largely on the principle of **producer responsibility**, the regulations include specific provisions relating to retailers.

The regulations and other information on WEEE can be accessed on the Department's website by clicking on the following link:

<http://www.environ.ie/DOEI/DOEIPol.nsf/wvNavView/Waste+Electrical+&+Electronic+Equipment?OpenDocument&Lang=>

Retailer Obligations

From **13 August 2005**, each retailer must:

- » be registered with their local authority;
- » provide for free in-store take back of household WEEE on a one-for-one basis on the sale of a new like product;
- » ensure that any WEEE collected is delivered to an approved collection facility;
- » ensure that the storage and transport of WEEE collected as above meets the requirements of the Regulations; and
- » ensure that private households are informed of the WEEE take back facilities available to them and that they are encouraged to participate in the separate collection of WEEE.

Additional details, including simple ways to ensure you are meeting your obligations are provided below.

WEEE and the Retailer Information Note July 2005

Local Authority Registration

The first step in ensuring you are meeting your obligations is to register with your local authority i.e. County or City Council. The registration system will be simple and straightforward. Retailers will be required to complete and sign a simple form undertaking to comply with General Binding Rules* on the environmentally sound

management of WEEE and to forward this with a nominal fee (€20) to their local authority. The initial registration will cover a period of 16 months, with registration taking place annually from January 1st thereafter.

Retailer Take-back

From 13 August 2005, retailers will be required to take back WEEE from members of the public free of charge. Take back will be on a one-for-one basis only and the WEEE must be of a similar type or have performed the same function as the new item purchased. For example, you are not obligated to accept a microwave if your customer has purchased a toaster. Retailers cannot offer inducements in lieu of their take-back obligations.

Alternatives to In-store Take Back

Subject to the prior agreement of the local authority, retailers may make alternative arrangements to fulfil the one-for-one obligation. Any such arrangements must not be more inconvenient for the purchaser and, as with in-store take back, it must remain free of charge.

If an item of WEEE has not been exchanged at the time of sale of a new product, retailers must inform the purchaser in writing of the deadline by which WEEE must be returned to avail of the free one-for-one take back. WEEE must be returned within a maximum of 15 days of the date of sale or, if delivered, within a maximum of 30 days of the date of delivery. If an alternative arrangement has been agreed with the local authority, purchasers must be informed of the alternative collection facility.

Delivery to Approved Collection Facilities

Retailers will be entitled to dispose of household WEEE that has been exchanged for purchase of a new item free of charge at civic amenity sites. Please note that this applies only to household WEEE taken back free of charge from 13 August 2005 onwards. It is important to note that this is subject to prior arrangements being made with the relevant local authority and/or site owner/operators; a local authority may divert the WEEE to another facility operated by it or on its behalf.

Arrangements with Civic Amenity Sites

Civic amenity sites often have peak times when they are particularly busy, e.g., weekends. In addition, some sites such as those located in urban areas have restricted access and/or limited capacity.

It is important for site operators to know how many retailers they can expect at their sites. It is equally important for retailers to accommodate any specific requirements, such as limiting the number of items per trip, the number of trips per week or the times when retailers will have access to the site.

This is in everyone's best interest, including the public who also rely on these sites to recycle their waste. One retailer at a time may not present a problem, ten certainly could!

Alternatives to delivering it yourself

You may be able to make arrangements to have WEEE collected from your premises by the producers (or collective compliance schemes acting on their behalf) who are responsible for the WEEE. Appropriate waste authorisations will be required for those who undertake the collection e.g., a Waste Collection Permit.

* Further information on registration and General Binding Rules below...

WEEE and the Retailer Information Note July 2005

Local authorities have been encouraged to consult with all relevant stakeholders, including neighbouring local authorities, in advance of any plans or proposals in this regard being put in place. Retailers are advised to do the same and in particular to consult with other retailers and/or representative organisations.

In addition, two collective compliance schemes have been proposed to date. Options regarding the arrangements for collection of WEEE are currently receiving consideration by both schemes and it would be prudent to engage with these schemes as they develop. Contact details for each of the schemes are provided at the end of this document.

Special Requirements for Storage and Transport of WEEE

Because WEEE is a waste, there are certain minimum requirements associated with how it is collected, stored and disposed. The WEEE regulations allow retailers to avail of an exemption from the normal waste permitting requirements for the storage and transport of WEEE; however, a modified permitting regime will operate to ensure certain minimum requirements are met. Under the modified regime which will be less burdensome than the normal waste permitting requirements, retailers will be required to register their premises with their local authority i.e. County or City Council.

Storage

WEEE taken back at retailers' premises needs to be stored and handled properly. All sites for the storage of WEEE must have impermeable surfaces. If the WEEE is to be stored in an outdoor area, this must have weatherproof covering. Spillage collection facilities must also be provided.

Registered retailers who store WEEE that has been taken back free of charge at their premises are exempted from requiring a Waste Permit, provided that the quantities in storage at any one time do not exceed the following:

- » 90 cubic metres (i.e. the capacity of a 45 foot high-cube container) of household WEEE other than WEEE listed in category 5 of the First Schedule (e.g. lighting equipment) and mobile phones,
- » 2,000 units WEEE listed in category 5 of the First Schedule (e.g. lighting equipment), and/or
- » 50 kgs of mobile phones.

This exemption will not apply where the WEEE is contaminated, and therefore a health and safety risk, or where storage does not meet the requirements noted above.

Transport

Retailers who are registered with their local authority and who have accepted WEEE back on a one-for-one basis are exempted from requiring a Waste Collection Permit when transporting that WEEE to an approved collection or recovery facility, provided that the vehicle used for its transport is registered in the State. The exemption will only apply where the WEEE concerned was taken back free of charge on a one-for-one basis from 13 August 2005, and will eventually be treated in accordance with relevant provisions of the Regulations.

Collection

WEEE taken back at retailers' premises should only be passed on to someone authorised to collect and manage this type of waste. These include:

The development of local arrangements between local authorities, retailers and producers (e.g., through collective schemes) could relieve some of the potential pressure on civic amenity sites. For example, retailers could divert WEEE direct to permitted waste collectors or recycling facilities, rather than taking it to civic amenity sites...

WEEE and the Retailer Information Note July 2005

- » A civic amenity facility, provided any necessary arrangements have been made with the relevant local authority in advance (e.g., days and times WEEE will be accepted from registered retailers);
- » Permitted waste collector acting on behalf of the producer(s) responsible for the WEEE or an approved collective compliance scheme;
- » Charities which are registered with the Revenue Commissioners;
- » Members of the public, provided that the equipment will be reused for the purpose for which it was originally designed

Retailer Registration – General Binding Rules

Most sites used for the storage of waste require a Waste Permit from the relevant Local Authority. Retailers can avail of an exemption to this, provided they register with their Local Authority.

A simple, universal registration form for the storage of WEEE by retailers is being developed and will be sent out to you shortly. The form will request information regarding the types of WEEE you intend to store and will ask you to sign a declaration stating you comply with the special requirements for the storage and treatment of WEEE, outlined above.

All sites used for the storage of waste are subject to periodic inspection by the relevant authority.

Environmental Management Costs (EMC's)

Most WEEE arisings in the short term will be historic waste (i.e. arising from EEE placed on the market before 13 August 2005. The Regulations allow producers to show EMC's on new products placed on the market for a limited period of time – 8 yrs for the various categories of historic WEEE and 10 yrs in the case of category 1 (i.e. large household appliances). Costs where EMC's are shown may not exceed the actual costs of collection, treatment and disposal in an

environmentally sound manner of historic WEEE. Where producers display EMC's, retailers must also display them to customers, subject to the following conditions –

- » The EMC must be shown on –
 - o any invoice, receipt or docket issued at the point of sale to the purchaser, which should state
“Producer Recycling Fund [amount of environmental management cost]”,
 - o a notice bearing at least the following wording in addition to details of the relevant environment management costs –
“The prices of these items include contributions to a producer recycling fund to ensure that waste electrical and electronic equipment is collected and recycled in a responsible manner.”
- » In addition to an invoice, receipt or docket displaying an EMC issued at the point of sale to the purchaser, each retailer must also make available to the purchaser concerned a document which shall state
“the price of this item includes a contribution to a producer recycling fund to ensure that waste electrical and electronic equipment is collected and recycled in a responsible manner”,
- » Retailers when quoting the price of a produced must quote the price inclusive of the EMC which will be regarded as the retail price,
- » From 13 February 2006, the price (including VAT) exclusive of the EMC, the EMC and the retail price to be shown separately at any point (e.g. shelf) where EEE for sale must be displayed.

WEEE and the Retailer Information Note July 2005

- » The retail price must not be less prominent than the price (including VAT) exclusive of the EMC and the EMC,

Provision of Information

When selling a new product, retailers must inform users of the return and collection systems available to them at the end of that product's life, when it becomes WEEE. Retailers can meet this obligation by providing the required information in leaflets at the point of sale. In addition, retailers who, in agreement with the appropriate local authorities, have made alternative arrangements to in store take-back are required to display notices at their premises advising the public that an alternative take back facility has been provided.

Retailer = Distributor

The WEEE Directive defines a 'distributor' as a person that supplies electrical EEE to the person who is going to use it. Retailers are, therefore, distributors for the purposes of the WEEE legislation.

If a retailer (or distributor) sells electrical and electronic products from a 'producer' who fails to register with the WEEE Registration Body,* which will be established shortly, that retailer/distributor takes on the producer responsibility obligations for that equipment.

In addition, if a retailer/distributor re-brands or imports equipment directly, they may be considered a producer for the purposes of implementing the Directive in Ireland. If you or your company re-brand or import equipment directly, you are advised to contact Retail Ireland or one of the compliance schemes that are being established to determine whether you qualify as a producer for the purposes of the Regulations. Contact details for these are provided at the end of this document.

How do I know if they are registered?

Registered producers will be issued with a registration number. From 13 August 2005, producers will be required to display this number on any invoice, credit note, dispatch or delivery docket they issue. If after 13 August a registration number cannot be provided, you are strongly advised to contact the producer or their representative in Ireland before agreeing or continuing to sell their products. Also, retailers should avoid stocking any EEE from producers that does not contain a crossed out wheeled bin symbol. From 13 August 2005, all EEE being put on the market in the European Union must be marked with a crossed out wheeled bin.

* Further information on producer registration below...

WEEE and the Retailer Information Note July 2005

Frequently Asked Questions

Q. Will my shop become a mini civic amenity site?

No. With regard to the taking back of WEEE the Regulations do not go beyond the requirements placed on retailers in the Directive, which is the taking back on a one-for-one basis of WEEE of similar type or fulfilling the same function of the new item that is being purchased. This is also in line with the recommendations made by the WEEE Taskforce. Retailers will be able to transfer WEEE collected in this fashion free of charge to civic amenity sites. They may also, subject to the agreement of the appropriate local authorities, make alternative arrangements to in-store take-back, provided that such arrangements are not more inconvenient for the purchaser and remain free of charge.

Q. Will I have to take back batteries?

No. Batteries which are not contained within a piece of electronic equipment are outside the scope of the Directive and retailers will not be required to take them back. Where an item of equipment taken back contains batteries, those batteries should be left in the equipment; any batteries removed by the retailer would then become the responsibility of that retailer.

Q. Will there be an additional health and safety risk for my staff? No. A retailer will not be required to take-back contaminated WEEE that presents a health and safety risk unless such contamination is on account of his or her liability under the Sale of Goods and Supply of Services Act 1980.

Q. Can I charge a collection fee for taking back WEEE on the delivery of a new product?

No. One for one take-back is free regardless of whether this happens at your premises or on the delivery of a new product. The retailers right to charge for

delivery of the new item of electrical or electronic equipment, however, is not affected.

Q. Will I need to obtain waste licenses or permits?

No. In order to minimise the regulatory burden of the WEEE Directive, the Regulations propose that retailers be allowed to avail of an exemption from the normal waste permitting requirements for the storage and transport of WEEE in certain circumstances. Under the modified regime, which will be considerably less burdensome and less expensive than the normal collection and waste permitting requirements, retailers will be required to register their premises with their local authority.

Q. Will my insurance costs go up?

Insurance costs should not increase as a result of obligations under the WEEE Directive as there is no change of function here. Retailers are constantly required to take back returned, damaged and faulty goods from consumers as part of their normal day-to-day business operations.

Q. Will I be at a competitive disadvantage now that other Member States have deferred implementation?

Deferral of the Directive in any other member state will not place retailers at a competitive disadvantage. The obligations involved for all who sell EEE will be the same, regardless of whether they are independent retailers or multiples, headquartered in or outside the State.

Q. Will I need to obtain a change of use for my premises under the Planning Regulations? No, there are no planning issues here. Retailers are simply continuing an everyday practice of taking back goods from consumers; before the implementation of the WEEE Directive this take-back related to returned, faulty or damaged goods, now it is extended to include WEEE. WEEE and the Retailer Information Note July 2005

Q. I haven't heard much about this legislation until now, have retailers been consulted throughout?

In addition to retailer representation on the WEEE Taskforce which has been up and running since February 2003; there have been two public consultations, the second of which has recently ended. As part of the consultation process, the Minister has also met with retailers' representatives. The Department, in finalising the Regulations, considered all comments and observations received.

Relevant Contact Details

Retail Ireland

In February 2003, the Government established a Taskforce made up of experts from relevant sectors including electronics manufacturers and retailers, the waste management industry and representatives of relevant Government Departments, local authorities and the Environmental Protection Agency (EPA). Retailer representation was via Retail Ireland.

Proposed Collective Compliance Schemes

To date three collective compliance schemes have been proposed. WEEE Ireland and the European Recycling Platform intend to cater to any/all producers.

WEEE Ireland European Recycling Platform

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Further information, including the regulations and accompanying explanatory memoranda can be obtained at the Department's website: www.environ.ie