

Subsidiary Legislation made under s. 18 of the Environment Act 2005.

**ENVIRONMENT (WASTE) REGULATIONS 2007**

**(LN. 2007/125)**

*Commencement*      **29.11.2007**      (*LN. 2007/126*)

Amending enactments	Relevant current provisions	Commencement date
LN. 2010/050	rr. 22, 23, 24 & Sch. 6	25.3.2010
2010/137	rr. 2, 10(b) & Sch. 2	27.9.2010
“	r. 2	1.12.2010
2011/156	r. 14A	22.9.2011
2011/210	rr. 1A, 2, 2A, 5(2)(d), (5)(a) & (6), 9(2), 11(2), 12(1) & (2)(d), 14B-14V, 15(1), 16(2), 22(1), Schs. 1, 4 & 7	27.10.2011
2014/014	rr. 2(1), 2A, 2A(1), (2), (3), (4), (5), 3, 3A, 4(1), 5(1), (1A), (2)(c)(a), (d), (e), (f), (3A), (3B), (3C), (5), (6), 9(1)(b), (2), (3), 10(a), (b), (c), (d), 11, 11A, 11B, 12(1), (2)(a), (b), (c), (d), 13, 13A, 15(1), (2), (3), (4), 16, Schs. 1, 1A, 2, 2A, 3, 4, 5 & 5A	14.2.2014
2015/096	r. 14O(4), (5), (6), 14P(1), (7), (8), Sch. 8	1.7.2015
2017/094	r. 2A	18.5.2017
2018/024	Sch. 2	6.2.2018

**EU Legislation/International Agreements involved:**

Directive 67/548/EEC	Directive 2006/66/EC
Directive 75/442/EEC	Directive 2008/112/EC
Directive 76/768/EEC	Directive 2008/99/EC
Directive 88/378/EEC	Directive 2012/19/EU
Directive 91/157/EEC	Directive 2013/59/EURATOM
Directive 97/7/EC	Regulation (EC) No 1272/2008
Directive 1999/13/EC	Regulation (EEC) No.259/93
Directive 1999/45/EC	Regulation (EC) No.1420/1999
Directive 2000/53/EC	Regulation (EC) No.761/2001
Directive 2002/96/EC	Decision 2005/369/EC
Directive 2003/108/EC	Recommendation 2001/331/EC
Directive 2004/42/EC	

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*In the exercise of the powers conferred upon it by section 18 of the Environment Act 2005, the Government has made the following Regulations—*

**PART I  
GENERAL**

**Title and commencement.**

1. These Regulations may be cited as the Environment (Waste) Regulations 2007 and come into operation on the day prescribed by the Minister by Notice in the Gazette.

**Scope of regulations.**

1A. The application of these Regulations is without prejudice to the fact that Gibraltar does not form part of the European Union's common customs territory and that European Union rules on the free movement of goods do not apply to Gibraltar.

**Interpretation.**

2.(1) In these Regulations—

“the Competent Authority” means the Minister or such other body or person as the Minister may, by notice in the Gazette, prescribe;

“disposal” means any of the applicable operations provided for in Annex IIA to Directive 2006/12/EC;

“the Minister” means the Minister with responsibility for the environment;

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat;

“the Batteries Directive” means Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC;

“the WEEE Directive” means Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) as amended from time to time.

(2) Any term used, but not defined, shall be construed in accordance with the provisions of the WEEE Directive or the Batteries Directive, as the case may be.

**PART II  
WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT**

**Interpretation of Part.**

2A.(1) In this Part—

“active implantable medical device” means an active implantable medical device within the meaning of point (c) of Article 1(2) of Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices which is EEE;

“collection” means the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

“disposal” means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy and includes those disposal operations set out in Annex 1 of Directive 2008/98/EC;

“distributor” means any person in the supply chain who makes EEE available on the market;

“EEE” means electrical and electronic equipment to which these Regulations apply;

“economic operators” means producers, distributors, collectors, dismantlers, shredders, recoverers, recyclers and other treatment operators of waste electrical and electronic equipment, including their components and materials;

“electrical and electronic equipment” or “EEE” means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with

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a voltage rating not exceeding 1,000 volt for alternating current and 1,500 volt for direct current;

“finance agreement” means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place;

“hazardous waste” means waste which displays one or more of the hazardous properties listed in Annex III of Directive 2008/98/EC;

“historical WEEE” means WEEE from products put on the market before 13 August 2005;

“in vitro diagnostic medical device” means an in vitro diagnostic device or accessory within the meaning of, respectively, point (b) or (c) of Article 1(2) of Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices which is EEE;

“large-scale fixed installation” means a large size combination of several types of apparatus and, where applicable, other devices which—

- (i) are assembled, installed and de-installed by professionals;
- (ii) are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location; and
- (iii) can only be replaced by the same specifically designed equipment;

“large-scale stationary industrial tools” means a large size assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;

“making available on the market” means any supply of a product for distribution, consumption or use on the market of a Member State in the course of a commercial activity, whether in return for payment or free of charge;

“medical device” means a medical device or accessory within the meaning of, respectively, point (a) or (b) of Article 1(2) of Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices which is EEE;

“Member State” means a Member State of the European Union and includes Gibraltar;

“non-road mobile machinery” means machinery, with on-board power source, the operation of which requires either mobility or continuous or semi-continuous movement between a succession of fixed working locations while working;

“placing on the market” means the first making available of a product on the market within the territory of a Member State on a professional basis;

“preparing for reuse” means checking, cleaning or repairing recovery operations, by which products or components or products that have become waste are prepared so that they can be reused without any other preprocessing;

“prevention” means measures taken before a substance, material or product has become waste, that reduce—

- (i) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (ii) the adverse impacts of the generated waste on the environment and human health; or
- (iii) the content of harmful substances in materials and products;

“producer” means any person who, irrespective of the selling technique used, including distance communication within the meaning of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts—

- (i) is established in Gibraltar and manufactures EEE under his own name or trademark, or has EEE designed or manufactured and markets it under his name or trademark within Gibraltar;



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- (ii) is established in Gibraltar and resells in Gibraltar, under his own name or trademark, equipment produced by other suppliers, a reseller not being regarded as the producer if the brand of the producer appears on the equipment, as provided for in paragraph (i);
- (iii) is established in Gibraltar and, on a professional basis, places EEE on the market of Gibraltar where that EEE is not from Gibraltar; or
- (iv) sells EEE by means of distance communication directly to private households and to users other than private households in Gibraltar, and is established outside of Gibraltar.

Whoever exclusively provides financing under or pursuant to any finance agreement shall not be deemed to be a producer unless he also acts as a producer within the meaning of paragraphs (i) to (iv);

“recovery” means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy and includes those recovery operations set out in Annex II of Directive 2008/98/EC;

“recycling” means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes;

“removal” means manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, mixtures and components are contained in an identifiable stream and are an identifiable part of a stream within the treatment process; a substance, mixture or component is identifiable if it can be monitored to verify environmentally safe treatment;

“reuse” means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

“separate collection” means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment;

“treatment” means recovery or disposal operations, including preparation prior to recovery or disposal;

“very small WEEE” means WEEE with external dimensions of no more than 25cm;

“waste electrical and electronic equipment” means electrical or electronic equipment which is waste within the meaning of Article 3(1) of Directive 2008/98/EC, including all components, subassemblies and consumables which are part of the product at the time of discarding;

“WEEE” means waste electrical and electronic equipment as defined herein;

“WEEE from private households” means WEEE which comes from private households and WEEE which comes from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households.

- (2) A person may be a distributor and a producer at the same time.
- (3) Waste from EEE likely to be used by both private households and users other than private households is WEEE from private households for the purposes of these Regulations.
- (4) Recycling includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations.
- (5) Where the definitions of “hazardous waste”, “collection”, “separate collection”, “prevention”, “reuse”, “treatment”, “recovery”, “preparing for reuse”, “recycling” and “disposal” in this regulation are inconsistent with the definition of those terms in Article 3 of Directive 2008/98/EC as amended from time to time, the definition in Article 3 applies.

#### **Application.**

- 3.(1) Up to and including 14 August 2018, these Regulations apply to electrical and electronic equipment falling under the categories set out in Part I of Schedule 1, subject to regulation 3A.
- (2) Part II of Schedule 1 contains a non-exhaustive list of EEE which falls under the categories set out in Part I of Schedule 1.
- (3) From 15 August 2018, these Regulations apply to all electrical and electronic equipment, subject to regulation 3A.

(4) All electrical and electronic equipment is classified within the categories set out in Part I of Schedule 1A.

(5) Part II of Schedule 1A contains a non-exhaustive list of EEE which falls within the categories set out in Part I of Schedule 1A.

(6) Nothing in these Regulations shall affect the application of European Union legislation on waste management, product design, health and safety or on chemicals.

### **Exceptions.**

3A.(1) These Regulations do not apply to any of the following electrical and electronic equipment—

- (a) equipment that is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes;
- (b) equipment that is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of these Regulations and which can fulfil its function only if it is part of that equipment; or
- (c) filament bulbs.

(2) In addition to the equipment specified in subregulation (1), from 15 August 2018, these Regulations do not apply to the following EEE—

- (a) equipment designed to be sent into space;
- (b) large-scale stationary industrial tools;
- (c) large-scale fixed installations, except any equipment which is not specifically designed and installed as part of those installations;
- (d) means of transport for persons or goods;
- (e) non-road mobile machinery made available exclusively for professional use;

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- (f) equipment specifically designed solely for the purposes of research and development that is only made available on a business to business basis; or
- (g) medical devices and in vitro diagnostic medical devices where such devices are expected to be infective prior to end of life, and active implantable medical devices.

**Product design.**

4.(1) Where EEE is manufactured in Gibraltar, the Competent Authority shall encourage cooperation between producers and recyclers and measures to promote the design and production of EEE, notably in view of facilitating reuse, dismantling and recovery of WEEE, its components and materials.

(2) The Competent Authority shall take necessary measures to ensure that producers shall not prevent, through specific design features or manufacturing processes, WEEE from being reused, unless such specific design features or manufacturing processes present overriding advantages, such as with regard to the protection of the environment or safety requirements, or both.

**Separate collection.**

5.(1) The Competent Authority shall take necessary measures to ensure that the disposal of WEEE as unsorted municipal waste is minimised, the correct treatment of all collected WEEE is carried out and a high level of separate collection of WEEE is achieved.

(1A) When taking the measures required in subregulation (1), the Competent Authority shall prioritize temperature exchange equipment containing ozone-depleting substances and fluorinated greenhouse gases, fluorescent lamps containing mercury, photovoltaic panels and small equipment as referred to in categories 5 and 6 of Part I of Schedule 1A.

(2) For WEEE from private households, the Competent Authority shall take necessary measures to ensure—

- (a) that economic operators use existing systems or set up systems for the collection of such waste allowing holders of such waste to return it at least free of charge;
- (b) the availability and accessibility of the necessary collection facilities, taking into account in particular the population density;

- (c) that when supplying a new product, distributors shall ensure that such waste can be returned to the distributor at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment;
- (ca) that where a retail shop has a sales area relating to EEE of at least 400m<sup>2</sup>, distributors shall provide for the collection of very small WEEE at that retail shop or in its immediate proximity and that WEEE collected is treated in accordance with regulation 6;
- (cb) that collection of WEEE under paragraph (ca) is provided free of charge to end-users and with no obligation to buy EEE of an equivalent type;
- (d) that, without prejudice to paragraphs (a), (b), (c), (ca) and (cb) and subregulations (3), (3A) and (3B) producers shall be allowed to set up and operate individual or collective take-back systems, or both, for WEEE from private households provided that these are in line with the objectives of the WEEE Directive;
- (e) that having regard to health and safety standards, including applicable EU standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under paragraphs (a), (b), (c), (ca) and (cb) and subregulations (3), (3A) and (3B) and that specific arrangements shall be made for such WEEE; and
- (f) that specific arrangements for the return of WEEE under paragraphs (a), (b), (c), (ca) and (cb) and subregulations (3), (3A) and (3B) may be provided for if the equipment does not contain the essential components or if the equipment contains waste other than WEEE.

(3) The Competent Authority may exempt distributors from paragraph (c) of sub-regulation (2) provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder.

(3A) Where the Competent Authority exempts a distributor under subregulation (3), it must inform the European Commission that such an exemption has been given.

- (3B) Subregulation (2)(ca) does not apply where—
- (a) an assessment by the Competent Authority shows that alternative existing collection schemes are likely to be at least as effective as collection provided under that subregulation; and
  - (b) the assessment is made available to the public.
- (3C) The Competent Authority may—
- (a) designate operators that are allowed to collect WEEE from private households as referred to in this regulation;
  - (b) require that WEEE deposited at collection facilities is handed over—
    - (i) to producers or third parties acting on their behalf; or
    - (ii) to designated establishments or undertakings for the purposes of preparing for reuse.
- (4) In the case of WEEE other than WEEE from private households, and without prejudice to regulations 8, 12 and Part V, the Competent Authority shall take necessary measures to ensure that producers or third parties acting on their behalf provide for the collection of such waste.

**Offence.**

5A.(1) A person who disposes of separately collected WEEE which has not yet undergone the treatment specified in regulation 6 commits an offence.

(2) A person guilty of an offence under subregulation (1) is liable on summary conviction or conviction on indictment to a fine not exceeding level 5 on the standard scale.

**Transport of collected WEEE.**

5B.(1) The Competent Authority shall take necessary measures to ensure that the collection and transport of separately collected WEEE is carried out in a way which allows optimal conditions for preparing for reuse, recycling and the confinement of hazardous substances.

(2) The Competent Authority shall take necessary measures to promote that collection schemes or facilities provide, where appropriate, for the

separation of WEEE that is to be prepared for reuse from other separately collected WEEE and that the separation is provided for prior to any further transfer and in particular by granting access for personnel from reuse centres.

#### **Collection rate.**

5C.(1) Up to 31 December 2015, the Competent Authority shall, without prejudice to regulation 5(1), take necessary measures to ensure a rate of separate collection of at least 4 kilograms on average per inhabitant per year of WEEE from private households or the same amount of weight of WEEE as was collected in Gibraltar on average in the three preceding years, whichever is greater.

(2) Without prejudice to regulation 5(1), the Competent Authority shall take necessary measures to ensure the implementation of the “producer responsibility” principle and, on that basis, that a minimum collection rate is achieved annually.

(3) From 1 January 2016, the minimum collection rate shall be 45% calculated on the basis of the total weight of WEEE collected in accordance with regulations 5, 5A and 5B in a given year in Gibraltar, expressed as a percentage of the average weight of EEE placed on the market in Gibraltar in the three preceding years.

(4) The Competent Authority shall take necessary measures to ensure that the volume of WEEE collected increases during the period from 1 January 2016 to 1 January 2019, unless the collection rate laid down in subregulation (5) has already been achieved.

(5) From 1 January 2019, the minimum collection rate to be achieved annually shall be 65% of the average weight of EEE placed on the market in the three preceding years in Gibraltar or alternatively 85% of the WEEE generated in Gibraltar.

(6) The Competent Authority may set more ambitious rates for separate collection of WEEE and shall in such cases report this to the European Commission.

(7) In order to establish whether the minimum collection rate has been achieved, the Competent Authority shall take necessary measures to ensure that information concerning WEEE that is separately collected in accordance with regulation 5 is transmitted to other Member States free of charge, including at least information on WEEE that has been—

- (a) received by collection and treatment facilities;

- (b) received by distributors; or
- (c) separately collected by producers or third parties acting on their behalf.

**Proper treatment.**

6.(1) The Competent Authority shall take necessary measures to ensure that all separately collected WEEE undergoes proper treatment.

(2) Proper treatment, other than preparing for reuse and recovery or recycling operations shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Schedule 2.

(3) The Competent Authority shall take necessary measures to ensure that—

- (a) producers or third parties acting on their behalf set up systems, individually or collectively, or both, to provide for the recovery of WEEE using best available techniques;
- (b) any establishment or undertaking carrying out collection or treatment operations stores and treats WEEE in compliance with the technical requirements set out in Schedule 3.

(4) The Competent Authority shall take necessary measures to encourage establishments and undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organizations in a Community ecomanagement and audit scheme (EMAS).

(5) Without prejudice to subregulations (1), (2) and (3), the Competent Authority may set up minimum quality standards for the treatment of collected WEEE.

(6) Where the Competent Authority sets minimum quality standards in accordance with subregulation (5), it shall inform the European Commission of the standards set.

**Permits.**

6A. The Competent Authority shall take necessary measures to ensure that—



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- (a) any establishment or undertaking carrying out treatment operations obtains a permit under section 192D of the Public Health Act;
- (b) exemptions from permit requirements, conditions for exemptions and registration are in compliance with sections 192DA and 192E of the Public Health Act; and
- (c) the permit or registration referred to in paragraphs (a) and (b) includes all the conditions that are necessary for compliance with the requirements of regulation 6 and for the achievement of recovery targets set out in regulation 7.

**Shipment of WEEE.**

6B.(1) The treatment operation may be undertaken outside of Gibraltar or the European Union provided that the shipment of WEEE is in compliance with Regulation (EC) No 1013/2006 and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply.

(2) WEEE exported out of the European Union shall only count towards the fulfillment of obligations and targets set out in regulation 7 if, in compliance with Regulations (EC) No 1013/2006 and (EC) 1418/2007, the exporter can prove that the treatment took place in conditions that are equivalent to the requirements of regulations 6 and 6A.

**Recovery.**

7.(1) The Competent Authority shall take necessary measures to ensure that—

- (a) all WEEE separately collected in accordance with regulation 5 and sent for treatment in accordance with regulations 6, 6A and 6B meet the minimum targets set out in Schedule 2A;
- (b) for the purpose of calculating these targets, producers or third parties acting on their behalf keep records of the weight of WEEE, its components, materials or substances when leaving (output) the collection facility, entering (input) and leaving (output) the treatment facilities and when entering (input) the recovery or recycling/preparing for reuse facility;

- (c) for the purposes of Article 11(6) of the WEEE Directive, records on the weight of products and materials when leaving (output) the recovery or recycling or preparing for reuse facility are kept; and
- (d) the development of new recovery, recycling and treatment technologies are encouraged.

(2) The achievement of targets set out in Schedule 2A shall be calculated, for each category, by dividing the weight of the WEEE that enters the recovery, recycling or preparing for reuse facility, after proper treatment in accordance with regulation 6 with regard to recovery or recycling, by the weight of all separately collected WEEE for each category, expressed as a percentage.

(3) Preliminary activities, including sorting and storage prior to recovery, shall not count towards the achievements of targets set out in Schedule 2A.

**Financing of WEEE.**

8. The financing of all WEEE including all historical WEEE shall be by means of the levy provided for in Part V of these Regulations.

**Information to consumers.**

9.(1) The Competent Authority shall take necessary measures to ensure that users of electrical and electronic equipment in private households with the necessary information about—

- (a) the requirement not to dispose of WEEE as unsorted municipal waste and to collect such WEEE separately;
- (b) the return and collection systems available to them, encouraging the coordination of information on the available collection points irrespective of the economic operators which have set them up;
- (c) their role in contributing to reuse, recycling and other forms of recovery of WEEE;
- (d) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;

- (e) the meaning of the symbol shown in Schedule 4.

(2) With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, producers shall appropriately mark, preferably in accordance with the European standard EN 50419, electrical and electronic equipment put on the market after the 13 August, 2005 with the symbol shown in Schedule 4, the symbol shall be printed visibly, legibly and indelibly:

Provided that, in exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.

- (3) The Competent Authority may require—
- (a) producers to show purchasers, at the time of sale of new products, the cost (which shall not exceed the best estimate of actual costs incurred) of collection, treatment, and disposal in an environmentally sound way;
  - (b) that some or all information referred to in this regulation shall be provided by producers or distributors, or both, for example, in the instructions for use or at the point of sale and through public awareness campaigns.

#### **Information for treatment facilities.**

10. In order to facilitate the preparation for reuse and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, the Competent Authority shall take necessary measures to ensure that—

- (a) producers shall provide free of charge information about preparation for reuse and treatment for each type of new EEE placed for the first time on the European Union market within one year after the equipment is placed on the market;
- (b) the information referred to in paragraph (a) hereof shall identify, as far as it is needed by centres which prepare for reuse and treatment and recycling facilities in order to comply with the provisions of these Regulations, the different EEE components and materials, as well as the location of dangerous substances and mixtures in EEE;

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- (c) producers of EEE shall make available the information referred to in paragraphs (a) and (b) hereof to centres which prepare for reuse and treatment and recycling facilities in the form of manuals or by means of electronic media (such as CD-ROM, online services);
- (d) any producer of an electrical or electronic appliance put on the market after the 13 August, 2005 shall ensure that it is clearly identifiable by a mark on the appliance, preferably the European Standard EN 50419, that shall specify that the latter was put on the market after the 13 August, 2005 in order to enable the date upon which the appliance was put on the market to be determined unequivocally.

**Information and reporting.**

11.(1) The Competent Authority shall, in accordance with subregulation (2), maintain a register of producers, including producers supplying EEE by means of distance communication, which shall serve to monitor compliance with the requirements of these Regulations and the WEEE Directive.

(2) The Competent Authority shall take necessary measures to ensure that—

- (a) producers supplying EEE by means of distance communication to Gibraltar shall be registered in Gibraltar, or where they are not registered in Gibraltar, they shall be registered through their authorised representative appointed under regulation 11A;
- (b) each producer, or each authorised representative appointed under regulation 11A, is registered and has the possibility of entering online in the Gibraltar register, all relevant information reflecting that producer's activities in Gibraltar;
- (c) upon registering, each producer, or each authorised representative appointed under regulation 11A provides the information set out in Part A of Schedule 5 and undertakes to keep that information up to date;
- (d) each producer, or each authorised representative appointed under regulation 11A provides the information set out in Part B of Schedule 5;

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- (e) the Gibraltar register provides links to other national registers on its website to facilitate registration of producers or authorised representatives;
- (f) it collects information, including substantiated estimates, on an annual basis, on the quantities and categories of EEE placed on the market in Gibraltar, collected through all routes, prepared for reuse, recycled and recovered within Gibraltar and on separately collected WEEE exported, by weight.

(3) The Competent Authority shall, in accordance with the timescales and periods set out in Article 16(5) of the WEEE Directive, communicate to the European Commission a report on the implementation of the WEEE Directive in Gibraltar and the information set out in regulation 11(2)(f).

(4) The report communicated under subregulation (2) shall be drawn up by the Competent Authority on the basis of a questionnaire laid down in Commission Decisions 2004/249/EC and 2005/369/EC.

#### **Authorised Representatives.**

11A.(1) The Competent Authority shall take the necessary measures to ensure that a producer established in a Member State other than Gibraltar is allowed, by way of exception to paragraphs (i) to (iii) to the definition of producer, to appoint a person established in Gibraltar as an authorised representative that is responsible for fulfilling the obligations of that producer under the WEEE Directive or these Regulations in Gibraltar.

(2) The Competent Authority shall take the necessary measures to ensure that a producer, as identified in paragraph (iv) of the definition of producer, that is established in Gibraltar and sells EEE to a Member State in which it is not established, appoints an authorised representative in that Member State as the person responsible for fulfilling the obligations of that producer under these Regulations or the WEEE Directive in that Member State.

(3) Appointment of an authorised representative under this regulation shall be by written mandate.

#### **Administrative cooperation and exchange of information.**

11B.(1) The Competent Authority shall cooperate with other authorities responsible for implementing the WEEE Directive, in particular–

- (a) to establish an adequate flow of information to ensure that producers comply with the provisions of these Regulations and the WEEE Directive; and

- (b) to exchange information with other authorities and the European Commission to facilitate proper implementation of these Regulations and the WEEE Directive.
- (2) Cooperation under subregulation (1) shall include–
- (a) electronic means of communication in administrative cooperation and exchange of information in particular between the Gibraltar register and equivalent registers in Member States; and
  - (b) the granting of access to relevant documents and information including the results of any inspections shall be subject to applicable laws relating to data protection.

**Distance selling.**

12.(1) A producer who puts EEE on the market other than in Gibraltar shall comply with the requirements set out in Article 12 and 13 of the WEE Directive for the EEE that he puts on the market.

(2) A producer to whom paragraph (1) applies shall provide the Competent Authority with information that demonstrates that he has complied with his obligation under paragraph (1) and shall keep records in writing of the following information–

- (a) the amount by weight of all EEE which he has put on the market in any Member State (other than that placed on the market in Gibraltar) on or after 1st July 2007;
- (b) the categories of the EEE referred to in sub-paragraph (a) by reference to–
  - (i) the categories listed in Part I of Schedule 1 if before 15 August 2018, (excluding display equipment, cooling appliances containing refrigerants and gas discharge lamps),
  - (ii) display equipment,
  - (iii) cooling appliances containing refrigerants,
  - (iv) gas discharge lamps; and

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- (v) the categories listed in Part I of Schedule 1A if on or after 15 August 2018; and
- (c) for each category referred to in sub-paragraph (b), the amount by weight of EEE intended for use by-
  - (i) private households; and
  - (ii) users other than private households.

(3) The records referred to in this regulation 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 Competent Authority on demand.

**Inspection and monitoring.**

13.(1) The Competent Authority shall carry out appropriate inspections and monitoring to verify the proper implementation of these Regulations and the WEEE Directive.

- (2) Inspections carried out under subregulation (1) shall at least cover-
  - (a) information reported in the framework of the register of producers;
  - (b) shipments, in particular exports of WEEE outside the European Union in compliance with Regulation (EC) No 1013/2006 and Regulation (EC) No 1418/2007; and
  - (c) the operation at treatment facilities in accordance with Directive 2008/98/EC and Schedule 2.

(3) The Competent Authority may charge the costs of appropriate analyses and inspections including storage cost of used EEE suspected to be WEEE to producers, to third parties acting on their behalf or other persons arranging the shipment of used EEE suspected to be WEEE.

**Shipments.**

13A. The Competent Authority shall take necessary measures to ensure that shipments of used EEE suspected to be WEEE are carried out in accordance with the minimum requirements in Schedule 5A and that such shipments are monitored accordingly.

**PART III  
ENFORCEMENT NOTICES**

**Enforcement Notices.**

14.(1) Where these Regulations impose a duty on the Competent Authority and, in order for the Competent Authority to discharge that duty, the Competent Authority requires that a person take certain action (including providing such information as the Competent Authority requires), or to desist from taking certain action, the Competent Authority may issue an Enforcement Notice.

(2) An Enforcement Notice issued under subregulation (1) shall be in writing and shall set out the steps which the person to whom the notice is addressed is required to take and the time for compliance.

(3) A person who has been issued with an Enforcement Notice and fails to comply with that notice, or fails to comply within the time therein set out, is guilty of an offence and is liable on summary conviction to a fine up to level 5 on the standard scale and on conviction on indictment to a fine not exceeding £10,000.

**Liability of bodies corporate - general.**

14A.(1) A corporate body shall be liable for an offence under these Regulations where that offence is committed for its benefit by a person, acting either individually or as part of an organ of the corporate body, who has a leading position within the corporate body.

(2) For the purposes of subregulation (1), a leading position shall be deemed to exist where such a person has—

- (a) a power of representation of the corporate body;
- (b) an authority to take decisions on behalf of the corporate body;  
or
- (c) an authority to exercise control within the corporate body.

(3) A corporate body shall be liable for an offence under these Regulations committed by a person referred to in subregulation (1) where lack of supervision or control by that person has made possible the commission of the offence for the benefit of the corporate body by a person under its authority.

(4) Where a corporate body is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or



connivance of, or to be attributable to any neglect on the part of, any person referred to in subregulation (1), or any person who was purporting to act in any such capacity, that person, as well as the corporate body, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a corporate body are managed by its members, subregulation (4) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the corporate body.

(6) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(7) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of a partner he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

#### **PART IV BATTERIES AND ACCUMULATORS**

##### **Scope of Part.**

14B. This Part applies to batteries and accumulators except for those batteries and accumulators—

- (a) to which Part II of these Regulations are applied;
- (b) to which the provisions of the End-of Life Vehicle Rules 2004 are applied; or
- (c) that are used—
  - (i) in connection with the protection of essential security interests, arms, munitions, war material or are otherwise intended for military purposes; or
  - (ii) in equipment designed to be sent to space.

##### **Interpretation of Part.**

14C.(1) In this Part—

“appliance” means any electrical or electronic equipment, as defined by Directive 2002/96/EC, which is fully or partly powered by batteries or accumulators or is capable of being so;

“automotive battery or accumulator” means any battery or accumulator used for automotive starter, lighting or ignition power;

“battery” or “accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non rechargeable) or consisting of one or more secondary battery cells (rechargeable);

“battery pack” means any set of batteries or accumulators that are connected together and/or encapsulated within an outer casing so as to form a complete unit that the end user is not intended to split up or open;

“button cell” means any small round portable battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power;

“collection rate” in a given calendar year means the percentage obtained by dividing the weight of waste portable batteries and accumulators collected in accordance with regulation 14E (which transposes Article 8(1) of the Batteries Directive) or with Directive 2002/96/EC in that calendar year by the average weight of portable batteries and accumulators that producers either sell directly to end-users or deliver to third parties in order to sell them to end-users in Gibraltar during that calendar year and the preceding two calendar years;

“cordless power tool” means any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities;

“distributor” means any person that provides batteries and accumulators on a professional basis to an end-user;

“economic operators” means any producer, distributor, collector, recycler or other treatment operator;

“industrial battery or accumulator” means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle;

“placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

“portable battery or accumulator” means any battery, button cell, battery pack or accumulator that—

- (a) is sealed; and
- (b) can be hand-carried; and
- (c) is neither an industrial battery or accumulator nor an automotive battery or accumulator;

“producer” means any person who, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time in Gibraltar on a professional basis;

“waste battery or accumulator” means any battery or accumulator which is waste within the meaning of Article 3 of Directive 2008/98/EC of the European Parliament and of the Council on 19 November 2008 on waste and repealing certain Directives.

(2) Any term used but not defined in this Part must, unless the context requires otherwise, be construed in accordance with the meaning given to it in the Batteries Directive.

#### **Overarching objective.**

14D. The Competent Authority shall, having regard to the environmental impact of transport, take necessary measures to maximise the separate collection of waste batteries and accumulators and to minimise the disposal of batteries and accumulators as mixed municipal waste in order to achieve a high level of recycling for all waste batteries and accumulators.

#### **Waste portable batteries and accumulators.**

14E.(1) The Competent Authority shall ensure that the systems for the collection of WEEE set up in Part I of these Regulations accept waste

portable batteries and accumulators and incorporate the provisions set out in subregulation (2).

- (2) The provisions referred to in subregulation (1) are–
- (a) end-users must be able to discard waste portable batteries or accumulators at an accessible collection point in their vicinity, having regard to population density;
  - (b) distributors must take back waste portable batteries or accumulators at no charge when supplying portable batteries or accumulators, unless an assessment shows that alternative existing schemes are at least as effective in attaining the environmental aims of the Batteries Directive;
  - (c) no charges may be levied to end-users when they discard waste portable batteries or accumulators and no obligation to buy a new battery or accumulator may be imposed on the end-user.

(3) Where an assessment is made under subregulation (2)(b) the Competent Authority must take such steps as it deems necessary to bring the assessment to the attention of the public.

#### **Exemption from permit requirements.**

14F. A collection point that is established solely for the purposes of giving effect to regulation 14E(2)(a) shall be exempt from any requirement for a permit under Part VA (Waste) of the Public Health Act.

#### **Waste industrial batteries and accumulators.**

14G.(1) Producers of industrial batteries and accumulators, or third parties acting on their behalf, shall not refuse to take back waste industrial batteries and accumulators from end-users, regardless of chemical composition and origin.

(2) Subregulation (1) shall not act as a bar to independent third parties from collecting industrial batteries and accumulators.

#### **Waste automotive batteries and accumulators.**

14H.(1) The Competent Authority shall ensure that producers of automotive batteries and accumulators, or third parties acting on their behalf, set up schemes for the collection of waste automotive batteries and accumulators from end-users or from an accessible collection point in their vicinity except

where these have been collected in accordance with the provisions in the End-of Life Vehicles Rules 2004.

(2) In the case of automotive batteries and accumulators from private, non-commercial vehicles, the schemes referred to in subregulation (1) shall not involve any charge to end-users when discarding waste batteries or accumulators, nor any obligation to buy a new battery or accumulator.

#### **Participation in collection schemes.**

14I. The Competent Authority may take such steps as are necessary to ensure that collection schemes referred to in regulations 14E, 14H and 14L–

- (a) are open to participation by all economic operators and all competent public authorities;
- (b) apply to batteries and accumulators imported from third countries under non-discriminatory conditions and that are designed to avoid barriers to trade or distortion of competition.

#### **Collection rates and target dates.**

14J.(1) The Competent Authority shall ensure that the following minimum collection rates are achieved–

- (a) 25 % up to 25 September 2016;
- (b) 45 % by 26 September 2016.

(2) In calculating the collection rate account shall be had of batteries and accumulators incorporated into appliances.

(3) The Competent Authority must establish the collection rate for the first time in relation to the year 2011 and thereafter shall monitor collection rates on a yearly basis according to the scheme set out in Schedule 7.

(4) For the purposes of calculating the annual sales of portable batteries and accumulators to end-users in a given year, the weight of portable batteries and accumulators placed on the market in the year concerned shall exclude any portable batteries and accumulators that have been exported in that year before being sold to the end-users.

(5) The placing on the market of each battery and accumulator shall be counted once.

(6) The calculation in subregulation (4) shall be based on collected data or statistically significant estimates based on collected data.

(7) The Competent Authority shall transmit reports to the Commission within six months of the end of the calendar year for which the report relates and shall indicate how it obtained the data necessary to calculate the collection rate.

**Removal of waste batteries and accumulators.**

14K.(1) A person who manufactures batteries or accumulators in Gibraltar must ensure—

- (a) that he designs appliances in such a way that waste batteries and accumulators can be readily removed; or
- (b) that appliances into which batteries and accumulators are incorporated are accompanied by instructions showing how the batteries or accumulators can be removed safely and, where appropriate, informing the end-user of the type of the incorporated batteries and accumulators.

(2) The Competent Authority may issue a written direction to a person who does not comply with subregulation (1) stating what he must do in order to comply with that subregulation and the date by which he must comply.

(3) A person who, without reasonable excuse, fails to do something when directed to do so under this regulation shall be guilty of an offence and on summary conviction is liable to a fine not exceeding level 4 on the standard scale.

(4) This regulation does not apply where, for safety, performance, medical or data integrity reasons, continuity of power supply is necessary and requires a permanent connection between the appliance and the battery or accumulator.

**Treatment and recycling.**

14L.(1) The Competent Authority shall that ensure that—

- (a) producers or third parties set up schemes using best available techniques, in terms of the protection of health and the environment, to provide for the treatment and recycling of waste batteries and accumulators; and

- (b) all identifiable batteries and accumulators collected under these Regulations undergo treatment and recycling through schemes that comply, as a minimum, with Community legislation, in particular as regards health, safety and waste management.

(2) Subregulation (1) shall not apply to waste batteries and accumulators that are disposed of in accordance with the provisions in the Landfill Act 2002.

(3) Batteries and accumulators that are collected together with waste electrical and electronic equipment under Part I of these Regulations must be removed.

#### **Participation in treatment and recycling schemes.**

14M. The Competent Authority may take such steps as are necessary to ensure that treatment and recycling schemes referred to in regulation 14L–

- (a) are open to participation by all economic operators and all competent public authorities;
- (b) apply to batteries and accumulators imported from third countries under non-discriminatory conditions and that are designed to avoid barriers to trade or distortion of competition.

#### **Increased environmental performance.**

14N. Where batteries or accumulators are manufactured in Gibraltar, the Competent Authority shall promote research and encourage improvements in the overall environmental performance of batteries and accumulators throughout their entire life cycle as well as the development and marketing of batteries and accumulators which contain smaller quantities of dangerous substances or which contain less polluting substances, in particular as substitutes for mercury, cadmium and lead.

#### **Financing of collection, treatment, recycling and public information.**

14O.(1) The financing of the collection, treatment and recycling of all waste batteries and accumulators, irrespective of the date on which they were placed on the market, shall be by means of the levy provided for in Part V of these Regulations save where producers and users of industrial and automotive batteries and accumulators conclude agreements stipulating alternative financing arrangements.

(2) The Competent Authority shall ensure that the producers of batteries and accumulators are not double charged under these regulations and the provisions of the End-of Life Vehicles Rules 2004.

(3) Where the Competent Authority incurs a cost in connection with a public information campaign on the collection, treatment and recycling of waste portable batteries and accumulators, the Competent Authority shall oblige producers, or third parties acting on their behalf, to finance any net costs arising from such public information campaigns, and where a producer fails to pay any such costs these may be recovered by the Competent Authority as a civil debt.

(4) Subject to subregulation (5) a producer deemed by the Competent Authority to be a small producer on the basis of the quantities of batteries or accumulators that it places on the market in Gibraltar, may be exempted by the Minister from the requirements in this regulation.

(5) The Competent Authority shall make publicly available by written notice or electronically on its website a list of the exemption measures that a producer must meet in order to be considered a small producer.

(6) Pursuant to subregulation (5) the Competent Authority shall ensure that the European Commission is informed of the grounds for exemption for small producers.

#### **Registration of producers.**

14P.(1) The Competent Authority shall establish and maintain a register of producers which shall meet the procedural requirements for registration contained in Schedule 8.

(2) A person who imports batteries or accumulators on a professional basis and who submits a declaration in accordance with regulation 22 shall be entered in the register established under subregulation (1).

(3) The register shall include the information set out in the Annex to Commission Decision (2009/603/EC) of 5 August 2009 establishing requirements for registration of producers of batteries and accumulators in accordance with Directive 2006/66/EC of the European Parliament and of the Council.

(4) The register shall be available for inspection by the public.

(5) A person who is registered under this regulation shall inform the Competent Authority of any change in the information contained in the



register within one month from the date of any change in the information contained in the register.

(6) A person who ceases to be a producer shall inform the Competent Authority who shall cause the register to be amended accordingly.

(7) The Competent Authority may impose proportionate fees for registration, but such fees shall not exceed the costs incurred by the Competent Authority.

(8) If a producer ceases to be a producer in Gibraltar, the producer shall inform the Competent Authority and shall then be removed from the register.

**Costs not to be shown separately.**

14Q.(1) It is prohibited to show end-users the costs of collection, treatment and recycling separately at the time of sale of new batteries and accumulators.

(2) A person who contravenes subregulation (1) is liable on summary conviction to a fine at level 1 on the standard scale.

**Information for end-users.**

14R.(1) The Competent Authority shall take necessary measures to ensure that end-users of batteries and accumulators are fully informed of—

- (a) the potential effects on the environment and human health of the substances used in batteries and accumulators;
- (b) the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling;
- (c) the collection and recycling schemes available to them;
- (d) their role in contributing to the recycling of waste batteries and accumulators;
- (e) the meaning of the symbol of the crossed-out wheeled bin shown in Schedule 4 and the chemical symbols Hg, Cd and Pb.

(2) The Competent Authority may issue directions requiring economic operators to provide some or all of the information referred to in subregulation (1).

(3) Distributors to whom regulation 14E(2)(b) applies must inform end-users about the possibility of discarding waste portable batteries or accumulators at their sales points.

**New recycling technologies.**

14S.(1) The Competent Authority shall encourage the development of new recycling and treatment technologies, and promote research into environmentally friendly and cost-effective recycling methods for all types of batteries and accumulators.

(2) The Competent Authority shall encourage treatment facilities licensed in Gibraltar to introduce certified environmental management schemes in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 (as amended from time to time) allowing voluntary participation by organisations in a Community ecomanagement and audit scheme (EMAS).

**National implementation reports.**

14T.(1) The Competent Authority shall send the European Commission a report on the implementation of the Batteries Directive every three years.

(2) The Competent Authority shall also report on any measures that they take to encourage developments affecting the impact of batteries and accumulators on the environment, in particular–

- (a) developments, including voluntary steps taken by producers, reducing quantities of heavy metals and other hazardous substances contained in batteries and accumulators;
- (b) new recycling and treatment techniques;
- (c) economic operators' participation in environmental management schemes;
- (d) research in those fields; and
- (e) measures taken to promote waste prevention.

(3) The first report shall cover the period until 26 September 2012 and shall be made available to the European Commission no later than nine months after the end of the three-year period concerned or, in the case of the first report, no later than 26 June 2013.

**Voluntary agreements.**

14U.(1) The Government may approve agreements entered into by the Competent Authority and economic operators to implement the provisions in Articles 8, 15 and 20 of the Batteries Directive if such an agreement-

- (a) achieves the objectives set out in the Batteries Directive;
- (b) is in writing and legally enforceable;
- (c) sets out which regulations shall not have effect throughout the duration of the agreement;
- (d) specifies objectives with the corresponding deadlines;
- (e) is published in the Gazette;
- (f) is transmitted to the European Commission.

(2) The regulations set out in the agreement pursuant to subregulation (1)(c) shall not apply to the parties to the agreement whilst it is in force.

(3) The results achieved must be monitored regularly and reported to the European Commission and made available to the public under the conditions set out in the agreement.

(4) The Competent Authority shall ensure that the progress made under such agreements is examined.

(5) In the case of non-compliance with the agreement the Competent Authority may cancel the agreement and upon receipt of such written notification, any regulations whose application was suspended under subregulation (2) shall apply.

**Offence – failing to register.**

14V.(1) A producer who places batteries or accumulators on the market in Gibraltar commits an offence if he does so without first being registered.

(2) A person guilty of an offence under subregulation (1) is liable on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 6 months, or both.

**PART V  
WASTE CONTRIBUTION**

**Waste contribution.**

15.(1) A person who imports into Gibraltar electrical and electronic equipment to which these Regulations apply or batteries and accumulators to which Part IV applies, shall at the time of importation into Gibraltar be liable to the payment of a levy to pay for the cost of disposal in the manner provided for by the WEEE Directive, the Batteries Directive and these Regulations and that levy shall be referred to as the “waste contribution”.

(2) Where a person, at the time of importation, demonstrates to the satisfaction of the Collector of Customs that electrical and electronic equipment is transiting through Gibraltar, that person is not liable to pay waste contribution.

(3) Where a person who has imported electrical and electronic equipment into Gibraltar demonstrates to the satisfaction of the Collector of Customs that the equipment has been placed on the market outside Gibraltar, he shall be entitled to a refund of waste contribution paid in respect of that equipment.

(4) In this regulation, “placing on the market” has the meaning given to it in Part II.

**Rate of waste contribution.**

16.(1) The Minister shall by a Notice published in the Gazette set the rate of the waste contribution and that Notice may make provision for different rates to be applied to different categories of waste.

(2) In setting the level of waste contribution in respect of WEEE the Minister shall have regard—

- (a) to the actual costs of disposing of WEEE (including historical WEEE) in accordance with these Regulations and the WEEE Directive;

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- (b) the actual costs of collection, treatment and recycling of waste batteries or and accumulators, irrespective of when they were placed on the market; and
- (c) the net costs arising from public information campaigns on the collection, treatment and recycling of waste batteries and accumulators.

(3) The Minister shall review the rate of the waste contribution at least once in each calendar year and in conducting that review the Minister shall have particular regard to subregulation (2) and where appropriate the rate of the waste contribution shall be varied.

### **Liability for waste contribution.**

17. Liability for the waste contribution arises irrespective of whether the goods are liable to import duty.

### **Collector of Customs to collect waste contribution.**

18. The Collector of Customs shall be responsible for the collection of the waste contribution at the rates prescribed under regulation 16.

### **Powers of customs officer.**

19. Customs officers shall exercise the powers granted to them under the Imports and Exports Act 1986 in relation to the collection of the waste contribution as if the waste contribution were an import duty imposed under that Act.

### **Consolidated fund.**

20. The waste contribution levied and collected shall be paid into the Consolidated Fund.

### **Amendment of Schedules.**

21. The Minister may by notice in the Gazette amend the Schedules to these Regulations.

## **PART VI DECLARATIONS**

### **Declaration.**

22.(1) A person who imports into Gibraltar electrical and electronic equipment, batteries or accumulators to which these Regulations apply must, at the time of importation, make a declaration in respect of the goods being imported, in the form set out in Schedule 6.

(2) A declaration under subregulation (1) is made when it is submitted to a customs officer.

(3) A declaration under subregulation (1) is in addition to, and does not substitute, any requirement imposed under any other enactment.

**Offences.**

23.(1) A person who fails to make a declaration when required to do so under these regulations commits an offence.

(2) A person who makes a declaration under regulation 22 that contains information which he knows to be false in respect of a material particular is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Power of Collector of Customs.**

24. The Collector of Customs may, in his discretion, stay or compound any proceedings for an offence under these regulations.

**Schedule 1**

Regulation 3

**Part I**

**Categories of electrical and electronic equipment covered by these Regulations up to 14 August 2018**

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment and photovoltaic panels
5. Lighting equipment
6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Medical devices (with the exception of all implanted and infected products)
9. Monitoring and control instruments
10. Automatic dispensers

**Part II**

**List of products which shall be taken into account for the purpose of these Regulations and which fall under the categories of Part I**

**1. Large household appliances**

- 1.1 Large cooling appliances
- 1.2 Refrigerators
- 1.3 Freezers
- 1.4 Other large appliances used for refrigeration, conservation and storage of food
- 1.5 Washing machines
- 1.6 Clothes dryers
- 1.7 Dish washing machines
- 1.8 Cooking
- 1.9 Electric stoves
- 1.10 Electric hot plates
- 1.11 Microwaves
- 1.12 Other large appliances used for cooking and other processing of food
- 1.13 Electric heating appliances
- 1.14 Electric radiators
- 1.15 Other large appliances for heating rooms, beds, seating furniture
- 1.16 Electric fans
- 1.17 Air conditioner appliances

1.18 Other fanning, exhaust ventilation and conditioning equipment

## **2. Small household appliances**

- 2.1 Vacuum cleaners
- 2.2 Carpet sweepers
- 2.3 Other appliances for cleaning
- 2.4 Appliances used for sewing, knitting, weaving and other processing for textiles
- 2.5 Irons and other appliances for ironing, mangling and other care of clothing
- 2.6 Toasters
- 2.7 Fryers
- 2.8 Grinders, coffee machines and equipment for opening or sealing containers or packages
- 2.9 Electric knives
- 2.10 Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances
- 2.11 Clocks, watches and equipment for the purpose of measuring, indicating or registering time
- 2.12 Scales

## **3. IT and telecommunications equipment**

- 3.1 Centralised data processing
  - 3.1.1 Mainframes
  - 3.1.2 Minicomputers
  - 3.1.3 Printer units.
- 3.2 Personal computing:
  - 3.2.1 Personal computers (CPU, mouse, screen and keyboard included)
  - 3.2.2 Laptop computers (CPU, mouse, screen and keyboard included)
  - 3.2.3 Notebook computers
  - 3.2.4 Notepad computers
  - 3.2.5 Printers
  - 3.2.6 Copying equipment
  - 3.2.7 Electrical and electronic typewriters
  - 3.2.8 Pocket and desk calculators
  - 3.2.9 Other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means
    - 3.2.10 User terminals and systems
    - 3.2.11 Facsimile machine (fax)
    - 3.2.12 Telex
    - 3.2.13 Telephones
    - 3.2.14 Pay telephones



- 3.2.15 Cordless telephones
- 3.2.16 Cellular telephones
- 3.2.17 Answering systems
- 3.2.18 Other products or equipment of transmitting sound, images or other information by telecommunications

#### **4. Consumer equipment and photovoltaic panels**

- 4.1 Radio sets
- 4.2 Television sets
- 4.3 Videocameras
- 4.4 Video recorders
- 4.5 Hi-fi recorders
- 4.6 Audio amplifiers
- 4.7 Musical instruments
- 4.8 And other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications
- 4.9 Photovoltaic panels

#### **5. Lighting equipment**

- 5.1 Luminaires for fluorescent lamps with the exception of luminaires in households
- 5.2 Straight fluorescent lamps
- 5.3 Compact fluorescent lamps
- 5.4 High intensity discharge lamps, including pressure sodium lamps and metal halide lamps
- 5.5 Low pressure sodium lamps
- 5.6 Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs

#### **6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)**

- 6.1 Drills
- 6.2 Saws
- 6.3 Sewing machines
- 6.4 Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials
- 6.5 Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses
- 6.6 Tools for welding, soldering or similar use

- 6.7 Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means
- 6.8 Tools for mowing or other gardening activities

**7. Toys, leisure and sports equipment**

- 7.1 Electric trains or car racing sets
- 7.2 Hand-held video game consoles
- 7.3 Video games
- 7.4 Computers for biking, diving, running, rowing, etc.
- 7.5 Sports equipment with electric or electronic components
- 7.6 Coin slot machines

**8. Medical devices (with the exception of all implanted and infected products)**

- 8.1 Radiotherapy equipment
- 8.2 Cardiology equipment
- 8.3 Dialysis equipment
- 8.4 Pulmonary ventilators
- 8.5 Nuclear medicine equipment
- 8.6 Laboratory equipment for *in-vitro* diagnosis
- 8.7 Analysers
- 8.8 Freezers
- 8.9 Fertilization tests
- 8.10 Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

**9. Monitoring and control instruments**

- 9.1 Smoke detector
- 9.2 Heating regulators
- 9.3 Thermostats
- 9.4 Measuring, weighing or adjusting appliances for household or as laboratory equipment
- 9.5 Other monitoring and control instruments used in industrial installations (e.g. in control panels)

**10. Automatic dispensers**

- 10.1 Automatic dispensers for hot drinks
- 10.2 Automatic dispensers for hot or cold bottles or cans
- 10.3 Automatic dispensers for solid products
- 10.4 Automatic dispensers for money
- 10.5 All appliances which deliver automatically all kind of products

**Schedule 1A**

Regulation 3

**Part I****Categories of EEE covered by these Regulations**

1. Temperature exchange equipment
2. Screens, monitors, and equipment containing screens having a surface greater than 100 cm<sup>2</sup>
3. Lamps
4. Large equipment (any external dimension more than 50 cm) including, but not limited to:

Household appliances; IT and telecommunication equipment; consumer equipment; luminaires; equipment reproducing sound or images, musical equipment; electrical and electronic tools; toys, leisure and sports equipment; medical devices; monitoring and control instruments; automatic dispensers; equipment for the generation of electric currents. This category does not include equipment included in categories 1 to 3.

5. Small equipment (no external dimension more than 50 cm) including, but not limited to:

Household appliances; consumer equipment; luminaires; equipment reproducing sound or images, musical equipment; electrical and electronic tools; toys, leisure and sports equipment; medical devices; monitoring and control instruments; automatic dispensers; equipment for the generation of electric currents. This category does not include equipment included in categories 1 to 3 and 6.

6. Small IT and telecommunication equipment (no external dimension more than 50 cm).

**Part II****Non-exhaustive list of EEE which falls within the categories listed in  
Part I****1. Temperature exchange equipment.**

Refrigerators, Freezers, Equipment which automatically delivers cold products, Air conditioning equipment, Dehumidifying equipment, Heat

pumps, Radiators containing oil and other temperature exchange equipment using fluids other than water for the temperature exchange.

**2. Screens, monitors, and equipment containing screens having a surface greater than 100 cm<sup>2</sup>.**

Screens, Televisions, LCD photo frames, Monitors, Laptops, Notebooks.

**3. Lamps.**

Straight fluorescent lamps, Compact fluorescent lamps, Fluorescent lamps, High intensity discharge lamps - including pressure sodium lamps and metal halide lamps, Low pressure sodium lamps, LED.

**4. Large equipment.**

Washing machines, Clothes dryers, Dish washing machines, Cookers, Electric stoves, Electric hot plates, Luminaires, Equipment reproducing sound or images, Musical equipment (excluding pipe organs installed in churches), Appliances for knitting and weaving, Large computer-mainframes, Large printing machines, Copying equipment, Large coin slot machines, Large medical devices, Large monitoring and control instruments, Large appliances which automatically deliver products and money, Photovoltaic panels.

**5. Small equipment.**

Vacuum cleaners, Carpet sweepers, Appliances for sewing, Luminaires, Microwaves, Ventilation equipment, Irons, Toasters, Electric knives, Electric kettles, Clocks and Watches, Electric shavers, Scales, Appliances for hair and body care, Calculators, Radio sets, Video cameras, Video recorders, Hi-fi equipment, Musical instruments, Equipment reproducing sound or images, Electrical and electronic toys, Sports equipment, Computers for biking, diving, running, rowing, etc., Smoke detectors, Heating regulators, Thermostats, Small Electrical and electronic tools, Small medical devices, Small Monitoring and control instruments, Small Appliances which automatically deliver products, Small equipment with integrated photovoltaic panels.

**6. Small IT and telecommunication equipment (no external dimension more than 50 cm).**

Mobile phones, GPS, Pocket calculators, Routers, Personal computers, Printers, Telephones.

## SCHEDULE 2

**Selective treatment for materials and components of waste electrical and electronic equipment**

Regulation 6(1)

1. As a minimum the following substances, mixtures and components have to be removed from any separately collected WEEE:

- polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT);
- mercury containing components, such as switches or backlighting lamps;
- batteries;
- printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres;
- toner cartridges, liquid and pasty, as well as colour toner;
- plastic containing brominated flame retardants;
- asbestos waste and components which contain asbestos;
- cathode ray tubes;
- chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC);
- gas discharge lamps;
- liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those backlit with gas discharge lamps;
- external electric cables;
- components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress for the 23<sup>rd</sup> time Council Directive 67/548/EEC

on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances;

- components containing radioactive substances with the exception of components that are below the exemption thresholds set in Annex VII of Council Directive 2013/59/EURATOM of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom; and
- electrolyte capacitors containing substances of concern (height > 25mm, diameter > 25 mm or proportionately similar volume).

These substances, mixtures and components shall be disposed of or recovered in compliance with Directive 2008/98/EC.

2. The following components of WEEE that is separately collected have to be treated as indicated:

- cathode ray tubes: the fluorescent coating has to be removed;
- equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 1005/2009;
- gas discharge lamps: the mercury shall be removed.

3. Taking into account environmental considerations and the desirability of preparation for reuse and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound reuse and recycling of components or whole appliances is not hindered.

Schedule 2A

Minimum Recovery Targets

Regulation 7(1)(a)

**Part 1: Minimum targets applicable by category from 13 August 2012 until 14 August 2015 with reference to the categories listed in Annex I:**

- (a) for WEEE falling within category 1 or 10 of Annex I,
  - 80% shall be recovered, and
  - 75% shall be recycled;
- (b) for WEEE falling within category 3 or 4 of Annex I,
  - 75% shall be recovered, and
  - 65% shall be recycled;
- (c) for WEEE falling within category 2, 5, 6, 7, 8 or 9 of Annex I,
  - 70 % shall be recovered, and
  - 50% shall be recycled;
- (d) for gas discharge lamps, 80% shall be recycled.

**Part 2: Minimum targets applicable by category from 15 August 2015 until 14 August 2018 with reference to the categories listed in Annex I:**

- (a) for WEEE falling within category 1 or 10 of Annex I,
  - 85% shall be recovered, and
  - 80% shall be prepared for re-use and recycled;
- (b) for WEEE falling within category 3 or 4 of Annex I,
  - 80% shall be recovered, and
  - 70% shall be prepared for re-use and recycled;
- (c) for WEEE falling within category 2, 5, 6, 7, 8 or 9 of Annex I,
  - 75% shall be recovered, and
  - 55% shall be prepared for re-use and recycled;

- (d) for gas discharge lamps, 80% shall be recycled.

**Part 3: Minimum targets applicable by category from 15 August 2018 with reference to the categories listed in Annex III:**

- (a) for WEEE falling within category 1 or 4 of Annex III,  
— 85% shall be recovered, and  
— 80% shall be prepared for re-use and recycled;
- (b) for WEEE falling within category 2 of Annex III,  
— 80% shall be recovered, and  
— 70% shall be prepared for re-use and recycled;
- (c) for WEEE falling within category 5 or 6 of Annex III,  
— 75% shall be recovered, and  
— 55% shall be prepared for re-use and recycled;
- (d) for WEEE falling within category 3 of Annex III, 80% shall be recycled.



**Schedule 3**

**Technical requirements**

Regulation 6(1)(g)

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/EC):

- impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser degreasers; and
- weatherproof covering for appropriate areas.

2. Sites for treatment of WEEE:

- scales to measure the weight of the treated waste;
- impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers;
- appropriate storage for disassembled spare parts;
- appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste; and
- equipment for the treatment of water in compliance with health and environmental regulations.

**Schedule 4**

**Symbol for the marking of electrical and electronic equipment,  
batteries and accumulators**

Regulation 9, 14R

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.



## Schedule 5

**INFORMATION FOR REGISTRATION AND REPORTING  
REFERRED TO IN REGULATION 11**

Regulation 11

**PART A. Information to be submitted upon registration:**

1. Name and address of the producer or of the authorised representative where appointed under regulation 11A (postal code and location, street name and number, country, telephone and fax number, e-mail, as well as a contact person). In the case of an authorised representative as defined in regulation 11A, also the contact details of the producer that is represented.
2. National identification code of the producer, including European tax number or national tax number of the producer.
3. Category of EEE set out in Parts I of Schedule 1 or 2, as appropriate.
4. Type of EEE (household or other than household equipment).
5. Brand name of EEE.
6. Information on how the producer meets its responsibilities: individual or collective scheme, including information on financial guarantee.
7. Selling technique used (e.g. distance selling).
8. Declaration stating that the information provided is true.

**PART B. Information to be submitted for reporting:**

1. National identification code of the producer.
2. Reporting period.
3. Category of EEE set out in Parts I of Schedule 1 or 2, as appropriate.
4. Quantity of EEE placed on the national market, by weight.
5. Quantity, by weight, of waste of EEE separately collected, recycled (including prepared for re-use), recovered and disposed of within Gibraltar or shipped within or outside the European Union.

*Note:* information set out in paragraphs 4 and 5 must be given by category.

**Schedule 5A**

Regulation 13A

**MINIMUM REQUIREMENTS FOR SHIPMENTS**

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, the Competent Authority shall require the holder to have available the following to substantiate this claim:

- (a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- (b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to paragraph 3;
- (c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC; and
- (d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load.

2. By way of derogation, paragraphs 1(a), (b) and 3 do not apply where it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and that:

- (a) the EEE is sent back to the producer or a third party acting on his behalf as defective for repair under warranty with the intention of re-use; or
- (b) the used EEE for professional use is sent to the producer or a third party acting on his behalf or a third-party facility in countries to which Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations applies, for refurbishment or repair under a valid contract with the intention of re-use; or

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- (c) the defective used EEE for professional use, such as medical devices or their parts, is sent to the producer or a third party acting on his behalf for root cause analysis under a valid contract, in cases where such an analysis can only be conducted by the producer or third parties acting on his behalf.

3. In order to demonstrate that the items being shipped constitute used EEE rather than WEEE, the Competent Authority shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing—

- (a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.
- (b) Results of evaluation and testing shall be recorded.

Step 2: Record—

- (a) The record shall be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.
- (b) The record shall contain the following information:
  - name of item (name of the equipment if listed in Part II of Schedules 1 or 1A, as appropriate, and category set out in Part I of Schedule 1 or 1A, as appropriate),
  - identification number of the item (type No) where applicable,
  - year of production (if available),
  - name and address of the company responsible for evidence of functionality,
  - result of tests as described in step 1 (including date of the functionality test),
  - kind of tests performed.

4. In addition to the documentation requested in paragraphs 1, 2 and 3, every load (e.g. shipping container, lorry) of used EEE shall be accompanied by:

- (a) a relevant transport document, e.g. CMR or waybill;
- (b) a declaration by the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in paragraphs 1, 2, 3 and 4 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load, which are the obligations of the holder who arranges the transport, the Competent Authority shall consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of Regulation (EC) No 1013/2006.

*Form*

**ENVIRONMENT ACT 2005  
ENVIRONMENT (WASTE) REGULATIONS 2007**



**DECLARATION OF IMPORTATION OF ELECTRICAL AND  
ELECTRONIC EQUIPMENT (“EEE”)**

**IMPORTANT NOTE:**

You are required to fill in this form accurately and hand it to a customs officer at the time of importation of the EEE.

It is an offence to include information which is false in a material particular.

GROUP ITEMS	QUANTITY OF UNITS (number of individual items)	WEIGHT (KG)
1. Large household appliances		
2. Small household items		
3. IT and Telecommunications equipment		
4. Consumer Equipment and Photovoltaic panels		
5. Lighting Equipment		
6. Electrical and Electronic tools		
7. Toys, Leisure and Sports Equipment		
8. Medical Devices		
9. Monitoring and control instruments		
10. Automatic dispensers		
11. Batteries (all types)		

I/WE DECLARE THAT ALL THE INFORMATION AND PARTICULARS MENTIONED HEREIN ARE TRUE AND CORRECT.

**2005-27**

**Environment**

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PRINT NAME AND CONTACT DETAILS OF IMPORTER	SIGNATURE
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**OFFICE USE ONLY**

Signed:

Date:



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**SCHEDULE 7**

Regulation 14J(3)

**COLLECTION RATES**

YEAR	DATA COLLECTION		CALCULATION
2009	2009 sales (S1)		
2010	2010 sales (S2)	-	-
2011	2011 sales (S3)	2011 collection (C3)	$3 \times C3 / (S1 + S2 + S3)$
2012	2012 sales (S4)	2012 collection (C4)	$3 \times C4 / (S2 + S3 + S4)$
2013	2013 sales (S5)	2013 collection (C5)	$3 \times C5 / (S3 + S4 + S5)$
2014	2014 sales (S6)	2014 collection (C6)	$3 \times C6 / (S4 + S5 + S6)$
2015	2015 sales (S7)	2015 collection (C7)	$3 \times C7 / (S5 + S6 + S7)$
2016	2016 sales (S8)	2016 collection (C8)	$3 \times C8 / (S6 + S7 + S8)$
2017	2017 sales (S9)	2017 collection (C9)	$3 \times C9 / (S7 + S8 + S9)$
2018	2018 sales (S10)	2018 collection (C10)	$3 \times C10 / (S8 + S9 + S10)$
2019	2019 sales (S11)	2019 collection (C11)	$3 \times C11 / (S9 + S10 + S11)$

**Schedule 8**

**Procedural Requirements for Registration**

**Procedural requirements for registration.**

1. Requirements for registration–

Registration of a producer of batteries and accumulators shall take place with the Competent Authority in the manner prescribed by the Competent Authority.

Once a producer of batteries and accumulators is registered, the producer shall receive a registration number from the Competent Authority.

2. Information to be provided by the producers–

A producer of batteries and accumulators shall provide to the Competent Authority the following information–

- (i) name of the producer and brand names (if available) under which it operates;
- (ii) address of the producer: including telephone number, as well as a contact person, fax number and e- mail address of the producer, if available;
- (iii) indication on the type of batteries and accumulators produced by the producer: portable batteries and accumulators, industrial batteries and accumulators, or automotive batteries and accumulators;
- (iv) information on how the producer meets its responsibilities: by individual or collective scheme;
- (v) date of the application for registration;
- (vi) declaration stating that the information provided is true.

3. Change of registration data–

A producer of batteries and accumulators shall inform the Competent Authority if there is a change of particulars, no later than 1 month after that change has occurred.