

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE  
No. 4059 of 13 February, 2014**

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LEGAL NOTICE NO. 14 OF 2014.

**ENVIRONMENT ACT 2005**

**ENVIRONMENT (WASTE) (AMENDMENT) REGULATIONS 2014**

In exercise of the powers conferred upon it by section 18 of the Environment Act 2005, and in order to transpose into the law of Gibraltar Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE), the Government has made the following Regulations—

**Title and commencement.**

1.(1) These Regulations may be cited as the Environment (Waste) (Amendment) Regulations 2014 and come into operation on 14 February 2014, subject to subregulation (2).

(2) Regulation 2(32) comes into force on 15 August 2018.

**Amendment of Regulations.**

2.(1) The Environment (Waste) Regulations 2007 are amended in accordance with the provisions of this regulation.

(2) In regulation 2(1), in the definition of “the WEEE Directive”, substitute “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” for “2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) as amended by Directive 2003/108/EC, as the same may from time to time be further amended”.

(3) Renumber regulation 2A as regulation 2A(1).

(4) In renumbered regulation 2A(1)-

(a) for the definition of “dangerous substance or preparation”, substitute the following-

““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;”;

(b) for the definition of “distributor” substitute-

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

(c) in the definition of “electronic and electrical equipment”-

(i) delete “falling under the categories set out in Part I of Schedule 1”, and

(ii) substitute “volts” for “Volt” wherever it appears;

(d) after the definition of “finance agreement” insert-

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

(e) after the definition of “historical WEEE” insert-

““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 (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;

“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;”;

(f) in the definition of “prevention”, for “aimed at reducing the quantity and the harmfulness to the environment of WEEE and materials and substances contained therein;” substitute-

“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;”;

(g) for the definition of “producer” substitute-

““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;
- (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);”

- (h) delete the definition of “put on the market”;
- (i) in the definition of “recovery”, substitute “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” for “of the applicable operations provided for in Annex IIB to Directive 75/442/EEC”;
- (j) before the definition of “reuse”, insert the following-  
““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;”;
- (k) in the definition of “reuse”, substitute “products or components that are not waste are used again for the same purpose for which they were conceived” for “WEEE or components thereof are used for the same purpose for which they were conceived, including the continued use of the

equipment or components thereof which are returned to collection points, distributors, recyclers or manufacturers”;

(l) after the definition of “reuse”, insert-

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

(m) in the definition of “treatment”, substitute “recovery or disposal operations, including preparation prior to recovery or disposal” for “any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or the disposal of the WEEE, or both”;

(n) after the definition of “treatment”, insert-

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

(o) in the definition of “waste electrical and electronic equipment”, insert “within the meaning of Article 3(1) of Directive 2008/98/EC” after “waste”;

(p) in the definition of “WEEE from private households”, insert “WEEE which comes” before “from commercial”; and

(q) after renumbered subregulation (1), insert the following subregulations-

“(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.”.

- (5) For regulation 3, substitute for the following-

“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.”.

- (6) After regulation 3, insert the following-

**“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;
- (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.”.

(7) In regulation 4(1), substitute “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” for “encourage the design and production of that EEE in a manner which takes into account and facilitates



dismantling and recovery, in particular the reuse and recycling of WEEE, their components and materials”.

(8) In regulation 5–

(a) in subregulation (1), insert “, the correct treatment of all collected WEEE is carried out” after “minimized”;

(b) after subregulation (1), insert–

“(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.”;

(c) in subregulation (2)–

(i) insert the following after paragraph (c)–

“(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;”;

(ii) in paragraph (d) substitute “, (c), (ca) and (cb) and subregulations (3), (3A) and (3B)” for “and (c) and sub-regulation (3)”;

(iii) for paragraph (e) substitute–

“(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”;
- (iv) in paragraph (f) substitute “, (c), (ca) and (cb) and subregulations (3), (3A) and (3B)” for “and (c) and subregulation (3)”;
- (d) after subregulation (3), insert the following–
- “(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.”;
- (e) in subregulation (4), insert “and without prejudice to regulations 8, 12 and Part V,” before “the Competent Authority”; and

(f) delete subregulations (5) and (6).

(9) After regulation 5, insert the following–

**“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.”.

(10) For regulation 6, substitute the following—

**“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.”.

(11) After regulation 6, insert the following–

**“Permits.**

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

- (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.”.

(12) For regulation 7 substitute—

**“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.”.
- (13) In regulation 8, substitute “V” for “II”.
- (14) In regulation 9–
- (a) in subregulation (1)(b), insert “, encouraging the coordination of information on the available collection points irrespective of the economic operators which have set them up” after “them”;

- (b) in subregulation (2), insert “, preferably in accordance with the European standard EN 50419,” after “appropriately mark”; and
  - (c) after subregulation (2), insert–
    - “(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.”.
- (15) In regulation 10–
- (a) in the frontispiece, insert “preparation for” before “reuse”;
  - (b) in paragraph (a)–
    - (i) substitute “free of charge” for “reuse and treatment”,
    - (ii) insert “about preparation for reuse and treatment” after “information”,
    - (iii) after “EEE”, substitute “placed for the first time on the European Union” for “put on the”, and
    - (iv) after “the equipment is”, substitute “placed” for “put”;
  - (c) in paragraphs (b) and (c), substitute “centres which prepare for reuse and” for “reuse centres,”; and
  - (d) in paragraph (d), insert “, preferably the European Standard EN 50419,” before “that shall specify”.



(16) For regulation 11, substitute–

**“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;
- (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.”.

(17) After regulation 11, insert the following–

**“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.”.

(18) In regulation 12–

- (a) in subregulation (1), substitute “12 and 13” for “8”;
- (b) in subregulation (2)–
  - (i) in paragraph (a), substitute “Member State (other than that placed on the market in Gibraltar)” for “member State”;
  - (ii) for paragraph (b) substitute–
    - “(b) the categories of the EEE referred to in subparagraph (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
- (v) the categories listed in Part I of Schedule 1A if on or after 15 August 2018; and”;
- (iii) in paragraph (c)(ii), substitute “.” for “; and”, and
- (iv) delete paragraph (d).

(19) For regulation 13, substitute the following-

**“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.”.

(20) After regulation 13, insert the following-

**“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.”.

(21) In regulation 15–

(a) in subregulation (1), substitute “to which these Regulations apply” for “falling under Part I of Schedule 1”;

(b) for subregulation (2), substitute the following–

“(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.”.

(22) In regulation 16(1), delete “provided for in Schedule 1”.

(23) In Schedule 1–

(a) in Part I–

(i) insert “up to 14 August 2018” after “Regulations” in the title,

(ii) in paragraph 4, insert “and photovoltaic panels” after “Consumer equipment”; and

- (b) in Part II–
- (i) in paragraph 3.2.11, insert “machine (fax) after “Facimile”,
  - (ii) in the heading to paragraph 4, insert “and photovoltaic panels” after “equipment”,
  - (iii) after paragraph 4.8, insert the following–  
“4.9 Photovoltaic panels”,
  - (iv) in paragraph 8.2, insert “equipment” after “Cardiology”,
  - (v) in paragraph 8.3, insert “equipment” after “Dialysis”, and
  - (vi) in paragraph 8.5, insert “equipment” after “medicine”.

(24) After Schedule 1, insert the following–

**“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.”.

(25) In Schedule 2–

(a) in paragraph 1–

- (i) after “components containing refractory ceramic fibres as described”, substitute “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” for “part 3 of Annex VI to Regulation (EC) No 1272/2008”,

- (ii) in the final paragraph, for “Article 4 of Council Directive 75/442/EEC” substitute “Directive 2008/98/EC”;
  - (b) in paragraph 2 for “2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer; and” substitute “No 1005/2009;”; and
  - (c) in paragraph 3, insert “preparation for” after “desirability of”.
- (26) After Schedule 2, insert the following—

**“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.”.

(27) In paragraph 2 of Schedule 3, substitute “scales” for “balances”.

(28) In Schedule 4, insert “The symbol must be printed visibly, legibly and indelibly.” after “below.”.

(29) For Schedule 5, substitute the following—

**“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.”.

(30) After Schedule 5, insert the following—

**“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
- (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.”

(31) In Schedule 6 at row 4 of the form, insert “and Photovoltaic panels” after “Consumer Equipment”.

(32) For Schedule 6, substitute the following—

*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. Temperature exchange equipment		
2. Screens, monitors, and equipment containing screens having a surface greater than 100cm <sup>2</sup>		
3. Lamps		
4. Large equipment (any external dimension more than 50cm)		
5. Small equipment (no external dimension more than 50cm)		
6. Small IT and telecommunication equipment (no external dimension more than 50 cm)		
7. Batteries (all types)		

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



PRINT NAME AND CONTACT DETAILS OF IMPORTER	SIGNATURE
<b>OFFICE USE ONLY</b>  <p style="text-align: right;"><u>Signed:</u>  Date:</p>	

Dated 13th February, 2014.

DR J CORTES,  
Minister with responsibility for the Environment,  
For the Government.

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**EXPLANATORY MEMORANDUM**

These Regulations transpose into the law of Gibraltar Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE).

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