

CONSULTATION PAPER

OF 24 MAY 2005

**BY THE UK GOVERNMENT, SCOTTISH EXECUTIVE, WELSH ASSEMBLY
GOVERNMENT AND NORTHERN IRELAND ADMINISTRATION**

**ON IMPLEMENTATION OF DIRECTIVE OF THE EUROPEAN COUNCIL
AND PARLIAMENT 200/96/EC OF 27 JANUARY 2003**

PROPOSED ENVIRONMENT AGENCIES FEES

**Department of Trade and Industry
Publication number URN 05/1210**

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SECTION 1: INTRODUCTION

1. This consultation paper seeks your views on the fees which the Environment Agency (England and Wales) (EA), the Scottish Environment Protection Agency (SEPA) and the Northern Ireland Environment and Heritage Service propose to charge to recover their costs in carrying out their intended roles and responsibilities in relation to the Waste Electrical and Electronic Equipment (WEEE) (Producer Responsibility) Regulations.
2. This consultation is being undertaken by the UK Government in conjunction with the Scottish Executive, Welsh Assembly Government and Northern Ireland Administration.
3. Your views are invited in response to this consultation by **Wednesday 22 June 2005**.
4. This consultation follows the previous one, between 30 July – 29 October 2004, on the draft WEEE Regulations and accompanying non-statutory Guidance. The Government is now working towards final implementing legislation and guidance for the transposition of the European legislation into national law.
5. The Government has announced its timetable for the making of these Regulations this summer and for the practical implementation of the Directive's obligations on producers and distributors/retailers of electrical and electronic equipment in January 2006. More details are available on the DTI website at: www.dti.gov.uk/sustainability/weee/index.htm. The Government also announced that it planned this further short consultation on Agency fees as part of this implementation approach.
6. At the previous stage of consultation last year, certain policy decisions were still to be finalised, including on how a UK register of producers putting electrical and electronic equipment onto the market, as required by the WEEE Directive, would be set up. However, following the previous consultation, the Government's policy is now settled. The Environment Agencies will register producers. This will complement their other responsibilities under the implementing Regulations.
7. This short, additional consultation now invites your views on proposed fees for the Agencies to recover their costs in providing a registration and monitoring service.

How to Respond to this Consultation

8. You can obtain hard copies of this consultation paper by contacting:

Gordon Tarrant
Sustainable Development

Department of Trade and Industry
Bay 430
151 Buckingham Palace Road
London SW1W 9SS

gordon.tarrant@dti.gsi.gov.uk

Tel: 0207 215 5823
Fax: 0207 215 5835

9. Your views are invited in response to this consultation paper by **Wednesday 22 June 2005**. You may respond to the following:

<p>For England</p> <p>Gordon Tarrant Sustainable Development Department of Trade and Industry Bay 430 151 Buckingham Palace Road London SW1W 9SS</p> <p>weee/rohsresponses@dti.gsi.gov.uk</p> <p>Tel: 0207 215 5823 Fax: 0207 215 5835</p>	<p>For Wales</p> <p>Lynda Webb Welsh Assembly Government Office of the Chief Technology Officer Crown Buildings Cathays Park Cardiff CF10 3NQ</p> <p>lynda.webb@wales.gsi.gov.uk</p> <p>Tel: 029 2082 6769 Fax: 029 2082 5137</p>
<p>For Scotland</p> <p>Gary Gray Environment Protection Unit The Scottish Executive Mailpoint 11 Victoria Quay Edinburgh EH6 6QQ</p> <p>waste.team@scotland.gsi.gov.uk</p> <p>Tel: 0131 244 0363 Fax: 0131 244 0245</p>	<p>For Northern Ireland</p> <p>Maureen Chambers Environmental Policy Division Department of the Environment for Northern Ireland 20-24 Donegal Street Belfast BT1 2GP</p> <p>Maureen.Chambers@doeni.gov.uk</p> <p>Tel: 028 9054 4526 Fax: 028 9054 4520</p>

10. Responses from representative bodies should include a brief indication of whom they represent

Alternative Formats

11. Other versions of the document in Braille, other languages or audio cassette are available on request.

Confidentiality & Data Protection

13. DTI will copy all responses it receives to the Devolved Administrations, DEFRA and other interested Whitehall Departments. Your response may be made public by the DTI. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been requested.
14. Access to information held by or on behalf of DTI is governed by the Freedom of Information Act 2000. Any requests for information received by DTI in relation to this Consultation will be administered accordingly.
15. We will handle any personal data you provide appropriately in accordance with the Data Protection Act 1998.

Code of Practice on Consultation

16. If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

Nick van Benschoten, Consultation Co-ordinator

Department of Trade and Industry
Better Regulation Team
1 Victoria Street
London
SW1H 0ET

E-mail: Nick.vanbenschoten@dti.gsi.gov.uk
Tel: 020 7215 6206
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A copy of the Code of Practice on Consultation is in Annex X.

SECTION 2: AGENCIES' RESPONSIBILITIES

12. Producers will have a number of obligations under the WEEE Regulations. This Section outlines these and the related Agency functions.

Producer registration with one of the Environment Agencies.

13. Producers, i.e UK registered businesses manufacturing, importing and rebranding equipment under their own names and putting electrical and electronic equipment within the scope of the WEEE Directive onto the UK market will have to register. They can do so independently or, alternatively, via a compliance scheme.

14. The Agencies will administer the registration of producers. The Agencies will monitor registration. It will be an offence not to register. In this regard, the Agencies will be responsible for enforcement action.

15. The Agencies will accept applications from producers and/or compliance schemes acting on their behalf for registration according to the geographic location of the businesses'/compliance schemes' registered offices: e.g. a business or compliance scheme with registered office in either England or Wales should register with the EA whilst those located in Scotland should apply to SEPA; and those in Northern Ireland to the NI EHS. It should be noted that any UK producer may join any UK compliance scheme.

16. Producers will be expected to pay an annual registration fee to the appropriate Agency.

17. The detailed arrangements for registration are in preparation, and detailed guidance will be issued shortly.

Producer annual reporting of data on market presence

18. Producers, or compliance schemes acting on their behalf, will be required to report data on the amount of electrical and electronic equipment within the scope of the Directive which they put onto the UK market, distinguishing, by reasonable estimates¹, between that destined for household and non-household users.

19. Producers will be required to report this data annually to the Agencies. It will be an offence not to do so. The Agencies will monitor the accuracy of the data. The data will then be used by Government to report electrical and electronic equipment put onto the UK market to the European Commission, in line with the Directive's obligations. The reports on the amounts of household equipment will be used by Government to calculate producers' market share-based obligations in relation to household WEEE. Detailed arrangements for this data

¹ "Reasonable estimates" here means capable of verification if subject to scrutiny by the Agencies.

reporting are in preparation. They will be the subject of further guidance. Producers should submit their data reports when they register. This market data will be treated with appropriate confidentiality safeguards.

Producer obligations to finance collection, treatment, recovery and environmentally sound disposal of WEEE

20. Producers and compliance schemes will have to show annually that they have met their producer responsibility obligations in respect of the WEEE for which they are responsible. The compliance reporting arrangements are in preparation. They will be the subject of further guidance.
21. The Agencies will monitor compliance with the treatment and recovery obligations. This will include monitoring the treatment of WEEE and the accuracy of compliance reporting and evidence in terms of recycling, recovery and disposal of WEEE.

Producer compliance schemes

22. Many producers may choose to have their collection, treatment and recovery obligations under the WEEE Regulations met on their behalf by a compliance scheme.
23. The Agencies will monitor compliance schemes' discharge of their member's obligations, including the accuracy of their compliance reporting.
24. The Agencies will register compliance schemes annually, and will require from them key information to facilitate monitoring and enforcement, including their operator details and membership lists. The Agencies will also coordinate initial approval of schemes' operational plans, involving other Departments, primarily DTI, DEFRA and the Devolved Administrations; and will subsequently monitor delivery of their members' obligations.

Other Agency roles

25. Producers will also have obligations under the Regulations in relation to the marking of products, according to the requirements of the Directive, and to make available information to assist towards reuse and treatment of new types of equipment put onto the market. The Agencies will monitor producers' obligations in these contexts.
26. In instances where non-household users of equipment have obligations in relation to the treatment and recovery of non-household WEEE they will be expected to report on this to the Agencies.

Distributor (i.e. retailer) compliance scheme

27. Following the previous consultation on the draft Regulations and non-statutory Guidance, the Government has been reviewing its approach to the arrangements for approval of a distributor (i.e. retailer)

compliance scheme or schemes. The Government's intention is now for a scheme proposal, including detailed proposals for supporting a collection network, to be subject to approval by the Secretary of State for Trade and Industry. The scheme would be registered for monitoring purposes by the Environment Agency.

28. The Directive requires Member States to establish an adequate network of collection points to facilitate the return of WEEE by last holders. The Directive's default in this context is in-store take-back on an "old for new" basis. Member States may depart from this provided an adequate network is established. The Government has been working with retail organisations to determine the best means by which the UK can establish an adequate network of collection points for WEEE. The Government has encouraged retail organisations to maximise participation in a retail compliance scheme as a positive alternative to in-store take-back to spread the burden of costs in relation to the separate collection of WEEE.
29. Some retailers have called for the Government to establish a register of retailers selling electrical and electronic equipment to assist the prosecution of retailers who do not provide in-store take-back or alternatives to in-store take-back. The Directive does not require Member States to draw up a register of retailers, and the Government is not aware of other Member States currently proposing to do this.
30. It is not clear how many retailers currently sell electrical and electronic equipment within the UK. The British Retail Consortium estimates there are over 300,000 retail outlets in the UK, and because of the scope of the Directive, the Government thinks that a significant number of these could require registration. The Agencies estimate that, to register, monitor and enforce in-store take-back obligations, each retail business (including distance sellers) should pay an annual fee equivalent to £14 per outlet.
31. This consultation invites your views on registration of retailers selling electrical and electronic equipment in the UK and on fees calculated by the Agencies in relation to this.

SECTION 3: THE AGENCIES' FUNDING REQUIREMENTS

32. The WEEE Regulations will indicate where fees are payable to cover costs of Agency responsibilities.
33. The level and structure of the fees will be reviewed after the first year of operation. This approach takes account of the uncertainty over the number of producers to be registered.

34. The level and structure of the fees reflect cost modelling undertaken by the Environment Agency (England and Wales) on behalf of all three Agencies. All three Agencies propose to set their fees at the same levels initially.
35. The accompanying partial regulatory impact assessment provides more information on the cost modelling underpinning the proposed fees. This paper summarises it.
36. The Environment Agency's cost modelling makes some assumptions about the levels of the Agencies' activity in relation to registration and monitoring. It takes account of a central estimate of approximately 7,000 producers registering for year one. It assumes at least three producer compliance schemes and that 10% of registering producers will register individually, whilst the rest will do via membership of compliance schemes.
37. The modelling estimates full year costs to the Agencies of implementing the WEEE Regulations of £2.9 million.
38. The proposed fees are structured so that broadly they recover the regulatory effort spent on producers or on their compliance schemes.
39. The Agency cost estimates take account of the direct effort of registering producers and checking their market data; with a proposal for targeted visits to 15% of registered producers per annum; as well as monitoring all producers' reporting of compliance with their obligations. The Agencies will pass data on registered producers, including taking account of market entries and exits, and their market data to the Department of Trade and Industry which will establish and operate the allocation of household WEEE obligations amongst producers.
40. The Agency estimates of costs in relation to producer compliance schemes include the direct effort of registration, assessment and monitoring of operational plans; liaison with schemes; one proposed annual compliance visit to each scheme; and assessment of the compliance data they report.
41. The Agency cost estimates for monitoring of producers' compliance with their obligations take account of the direct effort of receiving, assessing and ongoing handling of compliance data from producers.
42. *It should be noted, in particular, that the cost estimates for monitoring producer compliance also include the monitoring of reproprocessors and exporters.* The estimates have assumed 100 reproprocessors and 100 exporters and include two proposed Agency monitoring visits to each per year.
43. The Agencies' costs have been allocated against the three producer charges set out below. The Government will be taking account of this approach in finalising the draft Regulations.

44. *The Government is currently reviewing its approach to enforcement of the take-back obligation.* The Agencies' costs, *if* they were to register retailers for the purposes of registering, monitoring and enforcement of take-back obligations, would have been recovered by the fourth charge indicated below, levied on each retail business selling electrical and electronic equipment within the scope of the Directive. This would also apply to distance, e.g, internet, sellers. If this approach were to be pursued, the Agencies would envisage a charge to recover the costs of registration and making perhaps a three hour visit to 1% of retailers in response to queries/complaints about take-back raised by members of the public. The Agencies have assumed up to 250,000 retailers to register; with a total cost for registering them in the region of £3.9 million.

45. The Agencies envisage charging the retail compliance scheme according to estimates of costs associated particularly with a high anticipated level of interaction with the scheme, including in relation to the registration of participating retailers and monitoring and updating membership records in case of enquiries from retailers and the public.

Charge 1 – individually registered producers

Total Charge and sub-components	Total costs to Agencies	Percentage of costs	Charge per producer
Producer registration, data handling and compliance	£480,167	94%	£686
Monitoring of re-processors and exporters	£29,459	6%	£42
Total charge for individual registration *	£509,626	100%	£730 (rounded to nearest £5)

Charge 2 – compliance scheme approval and annual maintenance

Total Charge and sub-components	Total costs to Agencies	Charge per producer scheme
Producer Scheme set up and/or annual maintenance *	£36,795	£12,265

Charge 3 – for each scheme member

Total Charge and sub-components	Total costs to Agencies	Percentage of costs	Charge per producer
Receipt of data on and compliance of each scheme member	£2,108,318	89%	£335
Monitoring of re-processors and exporters	£265,178	11%	£42
Total charge for producer scheme members *	£2,373,496	100%	£380 (rounded to nearest £5)

Charge 4 – for each retail business and internet seller (established in the UK) selling equipment within the scope of the Directive to UK consumers

<i>Total Charge and sub-components</i>	<i>Total costs to Agencies</i>	<i>Percentage of costs</i>	<i>Charge per retail outlet</i>
<i>Charge for retail business or distance seller*</i>	£3,500,000	100%	£ 14

Charge 5 – Retail compliance scheme approval and annual maintenance

Total Charge and sub-components	Total costs to Agencies	Percentage of costs	Charge to scheme
Scheme*	£12,265	100%	£ 12,265

*** Note**

These are the charges which it is proposed to incorporate in the Regulations

The Consultation Questions

Question 1. What is your view on the level and structure of the fees proposed by the Agencies ?

Question 2. What is your view on the accompanying partial regulatory impact assessment on these proposed fees ?

Question 3. Do you have comments on the Agency's modelling of registration and monitoring costs, which is summarised in the partial regulatory impact assessment ? Do you agree with their priorities ?

Question 4. What are your views on registration of retailers selling electrical and electronic equipment in the UK and on the estimates of fees calculated by the Agencies in relation to this ?

Annex - the consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The complete code is available on the Cabinet Office's web site, address <http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp>

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to Nick Van Benschoten, DTI Consultation Co-ordinator, 1 Victoria Street, London SW1H 0ET or telephone him on 020 7215 6206 or email to: nick.vanbenschoten@dti.gsi.gov.uk

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