

Protocol

North / South Retail Activity in Respect of Electrical and Electronic Equipment.

1. Background

- 1.1 The European Parliament and Council Directive (2002/96/EC of 27 January 2003) on waste electrical and electronic equipment as amended by European Parliament and Council Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE). This Directive hereinafter referred to as “the WEEE Directive”, places producer obligations on, *inter alia*, any person who, irrespective of the selling technique used, including by means of distance communication, imports electrical and electronic equipment (EEE) on a professional basis into a Member State.
- 1.2 Thus, a retailer who supplies EEE to a householder, by means of delivery, in another Member State has producer obligations in the Member State where the household customer concerned is resident.
- 1.3 Consequently a retailer in Northern Ireland (NI) who delivers EEE to a household customer in the Republic of Ireland (RoI) is required, *inter alia*, to –
- Register with WEEE Register, the body established to register EEE producers in RoI,
 - Register with a local authority, a competent body for registering EEE retailers in RoI,
 - Take back WEEE on a one-for-one, like-for-like basis from household customers,
 - Join an approved collective compliance scheme (i.e. WEEE Ireland or the European Recycling Platform (ERP)) or self-comply,
 - Make a monthly return to the WEEE Register’s “Blackbox“ function and generally comply with any procedures laid down by WEEE Register, and
 - Fulfill his or her financial obligations by contributing to the approved collective compliance scheme which he or she is a member of, or where a producer opts to self comply, provide a financial guarantee in accordance with the RoI Regulations¹,

If the retailer in NI is also a producer and wishes to self comply under the Regulations in ROI he/she must arrange for the recycling of the WEEE collected and ensure that the recycling facility achieves the prescribed component, material and substance recovery targets.

¹ Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005, SI No. 340 of 2005

- 1.4 On the other hand a retailer in RoI who delivers EEE to a household customer in NI is required, *inter alia*, to –
- Fulfill his or her financial obligations by contributing to the approved compliance scheme which he or she is a member of in accordance with the UK Regulations².
 - Takeback WEEE on a one-for-one, like-for-like basis or join an approved WEEE distributor take-back scheme (DTS).

2. Position of both Environment Departments, North and South

- 2.1 The Department of the Environment, Heritage and Local Government (DEHLG) and the Department of the Environment (DOE) recognise that transfrontier retail activity is a characteristic of trade in border areas. Furthermore, both Departments acknowledge that requiring retailers to undertake the producer obligations prescribed in the WEEE directive on account of having a proximate customer base in two jurisdictions can be disproportionate to the scale of the retail activity itself.
- 2.2 Consequently, both RoI and NI agree that provision should be made to facilitate the transfrontier retail activity in respect of EEE subject to the retailers concerned fulfilling their retailer obligations in accordance with the spirit of the WEEE Directive and in particular fulfilling the conditions set out at 3.1 or 4.1 hereunder.

3. Management of WEEE by retailers in Northern Ireland who deliver EEE to household customers in the Republic of Ireland

- 3.1 Provided both the place of business of the retailer and the residence of the household customer are no more than 40 km/25 miles from the border, the retailer will have an obligation to takeback on delivery, as the EEE will be delivered to an address in RoI.

The retailer will, however, be exempt from the producer obligations listed in paragraph 1.3 subject provided he or she complies will all of the following conditions –

- (a) The retailer must be registered with a local authority in accordance with the provisions of article 37 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) and must be in compliance with all other relevant requirements of S.I. No. 340 of 2005.
- (b) The retailer must give at least 24 hours notice of delivery to the customer.

² Waste Electrical and Electronic Equipment Regulations 2006, SI 2006/3289

- (c) If the customer wishes to dispose of an item of WEEE which has fulfilled the same function as the supplied equipment and is available for immediate collection (i.e. is not connected to any electrical, gas or water supply, waste water pipe, or permanent structure), then the retailer must collect it free of charge.
- (d) The retailer must deposit the WEEE at an authorised collection point, including a local authority civic amenity facility, in RoI.
- (e) The retailer depositing WEEE at an authorised collection point must –
 - (i) have a prior arrangement with the operator of such a facility on the maximum quantity, by weight or, as appropriate, by number of units, of waste consignments together with the size and type of vehicle or vehicles to be permitted access to the aforementioned facility and any conditions that may be appropriate, and
 - (ii) provide the operator of such a facility the details of each residence where WEEE has been collected from, including the full name, full postal address and telephone number of each householder, together with any additional information that the aforementioned operator may require.
- (f) The provisions of article 15(1)(b)(ii) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) shall not apply in respect of the deposit of WEEE by the retailer at a local authority civic amenity facility.
- (g) The retailer shall be prohibited from transporting any WEEE across the border unless in possession of a valid Transfrontier Shipment (TFS) Notification Form.
- (h) Notwithstanding paragraphs (a) to (g), if the customer wishes to dispose of an item of WEEE which has fulfilled the same function as the supplied equipment but is not available for immediate collection when the new item is being delivered, then the customer may deposit it free of charge at a civic amenity facility operated by a local authority in RoI.

3.2 A retailer who fails to comply with any or all of the conditions paragraph 3.1 above will be deemed to have placed the EEE on the market in RoI and will be required to fulfill his or her producer obligations as set out in paragraph 1.3.

Notwithstanding the above, if the customer wishes to dispose of an item of WEEE which has fulfilled the same function as the supplied equipment and is available for immediate collection (i.e. is not connected to any electrical, gas or water supply, waste water pipe, or permanent structure) and the retailer has failed to collect it; the retailer concerned must return to collect that WEEE within 15 days.

4. Management of WEEE by retailers in the Republic of Ireland who deliver EEE to household customers in Northern Ireland

- 4.1 Provided both the place of business of the retailer and the residence of the household customer are no more than 40 km/25 miles from the border, the retailer will not have an obligation to takeback on delivery, as the EEE will be delivered to an address in NI.

WEEE, however, may be collected, either free of charge or at a cost, on a one-for-one, like-for-like basis by the retailer.

The retailer will, however, be exempt from the producer obligations listed in paragraph 1.4, subject to compliance with all the following conditions –

- (a) The premises of the retailer must be registered with the appropriate local authority in RoI.
 - (b) The retailer depositing WEEE at an Approved Authorised Treatment Facility³ must have entered into an agreement with a Producer Compliance Scheme to pick up the cost of treatment and recovery of the WEEE. The retailer must transport the WEEE in compliance with NI waste legislation.
 - (c) The retailer shall be prohibited from transporting any WEEE across the border unless in possession of a valid Transfrontier Shipment (TFS) Notification Form.
 - (d) Notwithstanding paragraphs (a) to (c), if the customer wishes to dispose of an item of WEEE which has fulfilled the same function as the supplied equipment but is not available for immediate collection when the new item is being delivered or has not been collected on account of the retailer not having a takeback obligation, then the customer may deposit it free of charge at a civic amenity facility operated by a Council in Northern Ireland.
- 4.2 A retailer who fails to comply with any or all of the conditions paragraph 4.1 above will be deemed to have placed the EEE on the market in NI and will be required to fulfill his or her producer obligations as set out in paragraph 1.4.

5. Exclusions

This protocol shall not apply –

- in respect of EEE sold –
 - by means of distance communications to households,
 - to retailers, or
 - to business customers,

³ WEEE Regulations Government Guidance Notes, February 2007, URN 07/619

in another jurisdiction,

- where either the place of business of the retailer or the residence of the household customer is more than 40 km/25 miles from the border,
- where a retailer fails to comply with any or all of the conditions at 3.1 or 4.1 above, or
- in respect of the movement of any waste other than household WEEE that is taken back in compliance with all the conditions at 3.1 or 4.1 above.

6. Final Provisions

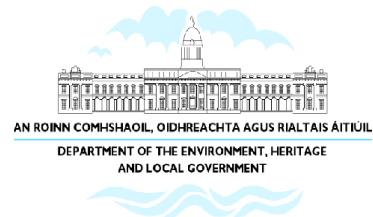
This Protocol will come into effect on 1 July 2007.

Both the Department of the Environment, Heritage and Local Government and the Department of the Environment reserve the right to renegotiate part or all of this Protocol at any time.

Signed:
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North / South Retail Activity – Home Deliveries of EEE Other than Distance Sellers

