

## **WEEE Management Regulations**

Directorate General for Environmental Management  
Chemicals, Waste and Radiation Protection Directorate  
Non-Hazardous Waste Department

Regulations laid down by the State Secretary for Housing, Spatial Planning and the Environment, on 19 July 2004, under reference no. SAS\2004072357, relating to waste electrical and electronic equipment (**WEEE Management Regulations**)

The State Secretary for Housing, Spatial Planning and the Environment,

Having regard to Directive no. 2002/96/EC of the European Parliament and the Council of the European Union of 27 January 2003 relating to waste electrical and electronic equipment (OJEC 2003, L 37), as amended by Directive no. 2003/108/EC of 8 December 2003 (OJEC L 345), Section 8.45, Section 10.16, subsection 1, Section 10.17, subsection 1, Section 10.19, Section 10.61, Section 21.6, subsection 6, and Section 21.8 of the Environmental Management Act as well as Section 4, subsection 1, of the WEEE Management Decree;

HEREBY DECREES:

### **§ 1. Definitions and scope**

#### **Section 1**

1. In the context of these regulations, the following definitions shall apply:
  - a. Directive no. 2002/96: Directive no. 2002/96/EC of the European Parliament and the Council of the European Union of 27 January 2003 relating to waste electrical and electronic equipment (OJEC 2003, L 37);
  - b. electrical and electronic equipment: 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, which:
    - (i) falls under one of the categories listed in Annex IA to Directive no. 2002/96; and
    - (ii) is intended for use with a rated alternating voltage not exceeding 1000 volts or a rated direct voltage of 1500 volts;
  - c. waste electrical and electronic equipment (WEEE): electrical or electronic equipment which is waste, including all components, subassemblies and consumables which are part of the product at the time of discarding;
  - d. prevention: measures aimed at reducing the quantity and the harmfulness to the environment of waste electrical and electronic equipment and the materials and substances contained therein;
  - e. reuse: the further use of waste electrical and electronic equipment or components thereof for their original intended purpose, including the further use of the equipment or components thereof following their return via collection points, distributors, recyclers or manufacturers;

- f. energy recovery: the use of combustible waste to generate energy through direct incineration with or without other waste and the recovery of the heat generated during this process;
  - g. recycling: reusing materials after treatment or processing for their original purpose or for other purposes, excluding energy recovery;
  - h. treatment: any activity carried out after the waste electrical and electronic equipment has been handed over to an establishment for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or disposal of such equipment;
  - i. finance agreement: a loan, lease, hire or deferred sale agreement or arrangement relating to any equipment, irrespective of whether 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;
  - j. producer: any person who, irrespective of the selling technique used:
    - (i) manufactures and sells electrical and electronic equipment under his own brand, or
    - (ii) resells under his own brand electrical and electronic equipment produced or imported and sold by other suppliers, unless the brand of a producer, as defined above under (i), appears on the equipment, or
    - (iii) in the pursuit of his profession or conduct of his business imports or exports electrical and electronic equipment into or out of the Netherlands, with the exception of any party who exclusively provides finance under or pursuant to a finance agreement;
  - k. distributor: any party that provides electrical and electronic equipment on a commercial basis to the subsequent user of that equipment;
  - l. waste electrical and electronic equipment from private households: waste electrical and electronic equipment which comes from:
    - (i) private households, or
    - (ii) commercial, industrial, institutional and other sources, insofar as the equipment in question is similar to equipment from private households in terms of its nature and quantity;
  - m. hazardous substance or preparation: any substance or preparation which is identified as 'dangerous' in Annex 1 to Directive no. 67/548/EEC of the Council of the European Communities of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJEC L 196).
2. The categories of electrical and electronic equipment listed in Annex IA to Directive no. 2006/96 include in any case the products referred to in Annex IB to the same Directive.

## Section 2

These regulations shall not apply to:

- a. electrical and electronic equipment integrated within other equipment which is not electrical or electronic equipment in the sense of these regulations;
- b. electrical and electronic equipment connected with the protection of the essential interests of the security of the Netherlands or another member state of the European Union, or

arms, munitions and war material, excluding equipment which is not intended for specifically military purposes.

## **§ 2. Collection**

### Section 3

1. The Waste Regulation stipulates that municipal authorities shall bear responsibility for the separate collection of waste electrical and electronic equipment as referred to in Section 1, subsection 1, definition (l), introductory phrase and item (i), of these WEEE Management Regulations.
2. Every municipal authority shall ensure that in at least one location within the municipality or, when several municipalities are working together, within one of the municipalities in question, sufficient opportunity is provided for final holders and distributors to return waste electrical and electronic equipment from private households at least free of charge.
3. Every municipal authority must comply with the provisions of subsection 1 no later than six months after the date on which these regulations come into force.

### Section 4

When supplying a new product, a distributor shall, at least free of charge, take back a similar item of waste electrical and electronic equipment from a private household if this item is offered for return.

### Section 5

A municipal authority or distributor may decline to take back an item of waste electrical and electronic equipment, as provided for in Sections 3 and 4, if the item in question has been contaminated in use, and consequently poses a risk to the health and safety of the party taking it back.

### Section 6

Without prejudice to the provisions of Sections 3 and 4, a producer may introduce and operate a system for collecting waste electrical and electronic equipment from private households, on the condition that any such system is consistent with the objectives of Directive no. 2002/96.

### Section 7

A producer shall ensure that any waste electrical and electronic equipment originally produced by him, other than waste electrical and electronic equipment from private households, is separately collected.

## **§ 3. Treatment**

### Section 8

1. A producer shall ensure that any waste electrical and electronic equipment originally produced by him and subsequently taken back from private households by municipal authorities and distributors is collected from the locations referred to in Section 3, subsection 2, and from the distributors, and is transported and treated.
2. A producer shall ensure that any waste electrical and electronic equipment originally produced by him, other than waste electrical and electronic equipment from private households, is removed and treated.
3. Waste electrical and electronic equipment collected by a producer shall be treated using the best available techniques.

### Section 9

1. The competent authority shall attach conditions to the permits issued to establishments treating waste electrical and electronic equipment so that, with effect from 13 August 2005, at least the selective treatment of materials and components referred to in Annex II to Directive no. 2002/96 is achieved and such treatment at least comprises the removal of all liquids.
2. The competent authority shall attach conditions to the permits issued to establishments treating waste electrical and electronic equipment so that the technical requirements contained in Annex III to Directive no. 2002/96 are satisfied with effect from 13 August 2005.
3. Subsections 1 and 2 shall not apply to establishments of the type referred to in Section 3, subsection 2, nor to the establishments of distributors referred to in Section 4, if the waste electrical and electronic equipment in question has been taken in and is stored temporarily prior to transport to an establishment for further treatment.
4. Not later than nine months after the date on which these regulations come into force, the competent authority shall attach conditions, as referred to in subsections 1 and 2, to all permits, as referred to in Section 8.1 of the Environmental Management Act, issued to establishments treating waste electrical and electronic equipment and valid immediately prior to the date on which these regulations will come into force.

### **§ 4. Recovery**

#### Section 10

1. When treating waste electrical and electronic equipment (as referred to in Section 8) that was originally produced by him and subsequently returned to him, a producer shall ensure that, within a period of one calendar year:
  - a. insofar as equipment falling under the categories 1 and 10 referred to in Annex IA to Directive no. 2002/96 is concerned:
    - at least 80 per cent by weight is recovered, and
    - at least 75 per cent by weight is reused or recycled (components, materials and substances);
  - b. insofar as equipment falling under the categories 3 and 4 referred to in Annex IA to Directive no. 2002/96 is concerned:
    - at least 75 per cent by weight is recovered, and
    - at least 65 per cent by weight is reused or recycled (components, materials and substances);

- c. insofar as equipment falling under the categories 2, 5, 6, 7 and 9 referred to in Annex IA to Directive no. 2002/96 is concerned:
  - at least 70 per cent by weight is recovered, and
  - at least 50 per cent by weight is reused or recycled (components, materials and substances); and
- d. insofar as gas discharge lamps are concerned, at least 80 per cent by weight is reused or recycled (components, materials and substances).
- 2. When calculating the percentages referred to in subsection 1, reuse of an appliance as a whole shall not be counted.
- 3. When calculating the percentages referred to in subsection 1, waste electrical and electronic equipment exported to countries outside the European Community shall not be counted, unless the party exporting the equipment can demonstrate that the equipment has been recovered, reused or recycled under circumstances equivalent to those provided for in Section 9.

## **§ 5. Finance**

### **Section 11**

1. The producer shall finance the management of waste electrical and electronic equipment from private households, insofar as the equipment in question was produced by him and put on the market after 13 August 2005.
2. A producer active on the market at the time that costs are incurred in connection with the management of waste electrical and electronic equipment from private households that was originally put on the market before 13 August 2005 shall finance the management of this waste equipment to an extent proportional to his market share at the time that the waste management costs were incurred.
3. The obligation to provide finance, as referred to in subsections 1 and 2, shall commence when an appliance is returned at a location of the type referred to in Section 3, or when an appliance is returned to a distributor as referred to in Section 4.
4. When electrical and electronic equipment, as referred to in subsection 1, is put on the market, the producer shall provide a guarantee stating that the management of such equipment when it is discarded will be financed in accordance with the provisions of subsection 1.
5. The guarantee referred to in subsection 4 may take the form of recycling insurance, a blocked bank account or participation by the producer in an appropriate financial scheme for financing the management of waste electrical and electronic equipment.
6. When new products are sold, the cost of the waste management referred to in subsection 1 shall not be made known to buyers as a separate item.
7. When new products are sold, the waste management costs referred to in subsection 2 may be made known to buyers as a separate item, provided the disclosed figure does not exceed the actual cost.
8. The provisions of subsection 7 apply until 13 February 2013 in relation to electrical and electronic equipment falling under category 1 of Annex IA to Directive no. 2002/96, and until 13 February 2011 in relation to electrical and electronic equipment falling under categories 2 through 10 of the same Annex.

## Section 12

1. The producer shall finance the management of waste electrical and electronic equipment from sources other than private households, insofar as the equipment in question was produced by him and put on the market after 13 August 2005.
2. The discarder shall finance the management of waste electrical and electronic equipment from sources other than private households, insofar as the equipment in question was discarded by him and was put on the market prior to 13 August 2005.
3. Contrary to the provisions of subsections 1 and 2, producers and discarders may enter into alternative finance arrangements.

## **§ 6. Obligation to provide information**

### Section 13

1. The producer shall apply the following to all electrical and electronic equipment produced by him and put on the market after 13 August 2005:
  - a. the symbol shown in Annex IV to Directive no. 96/2002;
  - b. information clearly identifying the producer; and
  - c. information specifying that the product was put on the market after 13 August 2005.
2. The symbol referred to in subsection 1(a) shall be applied so as to be clearly visible.
3. If, in view of the size or function of the product, it is impossible to apply the symbol referred to in subsection 1(a) to the product itself, the symbol may be applied on the packaging, on the instructions for use or on the warranty accompanying the product.

### Section 14

1. A producer who puts a new type of electrical or electronic equipment on the market shall provide information on the reuse, recycling and further treatment of this equipment to the establishments that repair, maintain or treat such equipment.
2. The information referred to in subsection 1 shall identify the different components and materials used in the equipment, as well as the location(s) within the equipment of any hazardous substances and preparations, if the establishments referred to in subsection 1 require such details in order to comply with the provisions of these regulations.
3. The information referred to in subsection 1 shall be made available by the producer in the form of manuals or by means of electronic media and shall be made available within one year of the equipment being put on the market.

## **§ 7. Reporting and concluding provisions**

### Section 15

When submitting a notification as referred to in Section 4 of the WEEE Management Decree, the producer shall make use of the form included in the Annex to these Regulations.

### Section 16

Within six months of the end of each calendar year, the producer shall inform the Minister of Housing, Spatial Planning and the Environment regarding the action taken pursuant to sections 7, 8, 9, 10, 11, 12 and 13 of these Regulations and regarding the amount of electrical and electronic equipment put on the market during the year in question.

### Section 17

For the purposes of these Regulations, an amendment to one or more of the Annexes to Directive no. 2002/96 shall take effect from the day on which this amendment is required to have been implemented, unless a different date is announced by a ministerial decree which is published in the Netherlands Government Gazette.

### Section 18

With the exception of Section 14, the provisions of these Regulations will apply to lighting equipment of the type referred to in item 5 of Annex IA to Directive no. 2002/96 with effect from 13 August 2005.

### Section 19

In Section 6 of the Decree on the Appointment of Officials to Supervise Regulations Issued by the Ministry of Housing, Spatial Planning and the Environment, the words "Section 3, subsection 1, of the Disposal of White and Brown Goods Decree" shall be replaced by the words "Section 3 of the WEEE Management Decree".

### Section 20

In Section 2, subsection 1, of the Regulations Establishing Further Rules Concerning the Minor Chemical Waste (KCA) Logo, item b shall expire and items c and d shall be relettered to items b and c.

### Section 21

These Regulations shall come into force on 13 August 2004, with the exception of:

- a. Section 10, which shall come into force on 1 January 2005;
- b. Section 16, which shall come into force on 1 January 2006; and
- c. Section 20, which shall come into force on 13 August 2005.

### Section 22

These regulations shall be referred to as the WEEE Management Regulations.

I decree that these Regulations and the accompanying Explanatory Memorandum be published in the Netherlands Government Gazette.

The Hague, 19 July 2004

The State Secretary for Housing,  
Spatial Planning and the Environment,

PLBA van Geel

## Annex to Section 15 of the WEEE Management Regulations

### NOTIFICATION FORM

The questions on this form must be answered as completely as possible. If you make use of the services of third parties in fulfilling your obligations, you must always state the names of the transporters, waste treatment companies or others whose services you have engaged. You may also enclose appendices to substantiate the information provided.

Producers may submit the relevant information jointly. A collective executive organisation may also submit information on behalf of the affiliated producers.

Please send this form to the Ministry of Housing, Spatial Planning and the Environment, Notification Handling Office, P.O. Box 441, 3440 AK Woerden, The Netherlands (telephone no. +31 (0)348 487560). You may also obtain a digital version of this form and submit the information electronically. The completed form will be evaluated in accordance with Section 4 of the WEEE Management Decree. This procedure is subject to the provisions of Title 4.1 of the General Administrative Law Act.

#### A. Company details

Name	
Visiting address	
Postal address	
Telephone no.	
Fax no.	
E-mail address	
Chamber of Commerce registration no.	
Contact	
Telephone no.	

Name of signatory	
Position of signatory	
Date of signature	

Signature	
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## B. General questions

In order to correctly assess your notification, we would like you to provide some general information. Please answer the following questions regarding the electrical and electronic equipment you manufacture or import and the structure of your sales organisation.

Which product categories do you manufacture?	
Who are the end users of your products: private households, companies or both?	
Are your products supplied directly to end users or do end users purchase your products from retailers?	
Do you intend to discharge your obligations under these regulations individually or collectively? If you are affiliated with a collective executive organisation which fulfils (some of) your obligations, please provide the name and address details of this organisation.	

## C. Specific questions

Please indicate in the table below how you intend to fulfil your obligations under the WEEE Management Regulations (referred to below by the abbreviation 'WEEE Regs'). If certain questions do not apply to you, please indicate this in the space provided.

Section 6, WEEE Regs: Do you intend to set up your own collection system for waste equipment from private households? If so, please indicate how you intend to introduce and operate this system. In addition, please indicate how you intend to ensure that this system is consistent with the objectives of Directive no. 2002/96.

Section 7, WEEE Regs: How do you intend to fulfil your obligation as a producer to ensure the separate collection of waste equipment that you have produced (with the exception of waste equipment from private households)?

Section 8, subsection 1, WEEE Regs: How do you intend to fulfil your obligation to ensure that any waste electrical and electronic equipment collected from private households by municipal authorities and distributors is collected from the distributors and from the locations

referred to in Section 3, subsection 2, and is removed and treated?

Section 8, subsection 2, WEEE Regs: How do you intend to fulfil your obligation to ensure that any waste electrical and electronic equipment from sources other than private households is transported and further treated?

Section 8, subsection 3, WEEE Regs: How do you intend to ensure that the collected waste electrical and electronic equipment is treated using the best available techniques?

Section 11, subsections 1 and 3, WEEE Regs: How do you intend to finance the management of waste equipment put on the market after 13 August 2005?

Section 11, subsections 2, 3, 7 and 8, WEEE Regs: How do you intend to finance the management of waste equipment put on the market before 13 August 2005? Make mention of your market share in your answer. Do you intend to make use of the option referred to in subsection 7, namely to make the costs of waste management known to new buyers as a separate item?

Section 11, subsections 4 and 5, WEEE Regs: How do you intend to fulfil your obligation to provide a guarantee?

Section 12, subsections 1 and 3, WEEE Regs: How do you intend to fulfil your obligation as a producer to finance the waste management of equipment from sources other than private households, insofar as such equipment is put on the market after 13 August 2005? Please also indicate if you intend to make use of the option to enter into alternative finance arrangements (subsection 3). If you intend to make use of this option, please also indicate the specific

finance arrangements you have concluded.

Section 12, subsections 2 and 3, WEEE Regs: How do you intend to fulfil your obligation as a producer to finance the waste management of equipment from sources other than private households, insofar as that equipment is put on the market before 13 August 2005? Please indicate if you intend to make use of the option to enter into alternative finance arrangements (subsection 3). If you intend to make use of this option, please also indicate the specific finance arrangements you have concluded.

Section 14, WEEE Regs: How do you intend to fulfil your obligation to provide information about new types of equipment?

Section 16, WEEE Regs: How do you intend to monitor results in connection with the implementation of Section 16? How do you intend to validate these data to ensure that they provide a reliable picture of the actual situation?

## **Explanatory memorandum**

### **I. General**

#### **1. Introduction**

These WEEE Management Regulations implement Directive no. 2002/96/EC of the European Parliament and the Council of the European Union of 27 January 2003 concerning waste electrical and electronic equipment (OJEC 2003, L 37), as amended by Directive no. 2003/108/EC of 8 December 2003 (OJEC L 345), referred to below simply as “Directive no. 2002/96”.

Directive no. 2002/96 provides for the introduction of the principle of ‘producer responsibility’ with regard to the management of waste electrical and electronic equipment. This means that when such equipment is discarded after use, producers (who include importers) are responsible for the collection and treatment of the products that they have put on the market. The introduction of producer responsibility represents a change to the existing division of responsibilities. When equipment is discarded after use, it is no longer the government that is responsible for managing the waste, but the producer who originally put the equipment on the market. As a result, the cost of waste management associated with a product will become integrated in its selling price, in line with the principle that ‘the polluter pays’. It is also anticipated that this shift in responsibility will encourage producers to pay more attention during design and production to the scope for environmentally friendly end-of-life treatment of their products – that they will ‘design for recycling’. The principle of producer responsibility is similarly incorporated into legislation on motor vehicles (implementation of the European Directive on End-of-life Vehicles), packaging (implementation of European Directive), batteries and car tyres.

These new regulations for electrical and electronic equipment supersede the national regulations providing for producer responsibility for the management of waste white and brown goods (Management of White and Brown Goods Decree). The Netherlands became the first country in Europe to introduce the principle of producer responsibility for a wide range of electrical and electronic equipment when the Management of White and Brown Goods Decree came into force in 1998. The experience gained in the Netherlands was used in the formulation of Directive no. 2002/96. The legal basis for the Directive is Article 175, paragraph 1, of the EC Treaty.

In the interests of European harmonisation in the field of electrical and electronic equipment, the Directive has been implemented as strictly as possible. Hence the definitions and terminology of the European Directives have been adopted in these Regulations as much as possible. The Annexes to Directive no. 2002/96 have been incorporated into these regulations through dynamic references, so that any amendment to one of these Annexes is automatically reflected in these Regulations.

The WEEE Management Regulations are closely linked to the WEEE Management Decree, which regulates the use of certain hazardous substances in electrical and electronic equipment (thus implementing Directive no. 2002/95) and prohibits trade in refrigerators and freezers that contain CFCs or HCFCs. These regulations also require producers to inform the Minister

of Housing, Spatial Planning and the Environment regarding their plans for fulfilling their obligations under these regulations.

The reason for the implementation of the Directive in the form of ministerial regulations is that Section 21.6, subsection 6, of the Environmental Management Act stipulates that international rules by which the Netherlands is bound must be implemented not by a general administrative order, but by ministerial regulations. Creation of an obligation to provide information is not strictly an implementation of any such rule, however, so appropriate provision has been made in the WEEE Management Decree.

## **2. Scope of these regulations**

These regulations apply to nearly all products that have a power cord or can run on batteries. The term 'electrical and electronic equipment' is defined in Section 1. The regulations cover not only appliances for household use, but also business equipment. This means that the regulations apply to products such as photocopiers, coin or card-operated telephones, automatic teller machines, medical equipment and vending machines for food and drinks, as well as to domestic appliances such as refrigerators, coffee percolators, televisions, thermostats and power tools. Lighting equipment (e.g. luminaires, low-energy light bulbs and fluorescent tubes) also fall within the scope of these regulations.

In the context of these regulations, the term 'producer' covers not only the party that manufactures a product, but also the party that distributes or imports a product. The selling method used is irrelevant in this regard, so goods sold via the Internet are also covered by these regulations.

The provisions of Section 2 mean that these regulations do not apply, however, to equipment that is incorporated into other equipment, if that other equipment does not itself fall within the scope of these regulations. So, for example, radios and navigational equipment installed in cars are not covered by these regulations, but by the Management of End-of-life Vehicles Decree. Readily removable (replaceable) batteries inserted in products fall within the scope of the Management of Batteries Decree.

## **3. Content of these regulations**

These regulations make producers responsible for the waste management of electrical and electronic equipment that they have put on the market, when such equipment is discarded after use. The municipal authorities are responsible for the separate collection of equipment from private households. Opportunity has to be created for both private individuals and retailers in possession of equipment from households to hand such equipment in to the municipal authorities, at no cost to themselves (Section 3). When a retailer sells a new appliance, he is obliged to take back, free of charge, any similar appliance that the purchaser wants to return, provided it comes from a private household (Section 4). The producer is then responsible for collecting from the municipalities and retailers the waste electrical and electronic equipment returned by private households (Section 8, subsection 1). Equipment that has been discarded by parties other than private households (i.e. by businesses and institutions) also falls under the responsibility of the producer, provided such equipment was put on the market after 13 August 2005. The producer is responsible for (organising) the

collection, removal and treatment of such equipment (Section 8, subsection 2). Waste management is the producer's responsibility, not only in organisational terms, but also in financial terms. Where waste electrical and electronic equipment from private households is concerned, the two forms of responsibility run in parallel (Section 11). Where waste electrical and electronic equipment from other sources is concerned, the producer is financially responsible for waste management if the equipment was put on the market after 13 August 2005 (Section 12, subsection 1). However, management of waste equipment from sources other than private households that was put on the market before 13 August 2005 is paid for by the discarders (Section 12, subsection 2).

Rules are also laid down regarding the treatment of waste electrical and electronic equipment (Section 8, subsection 3, Section 9 and Section 10). Section 10, for example, sets targets for the recovery and reuse of equipment. Furthermore, the producer is required to submit an annual report on his activities in this regard to the Minister of Housing, Spatial Planning and the Environment (Section 16).

The regulations also lay down various requirements regarding the labelling of new products, with a view to optimising waste management. Electrical and electronic equipment has to carry a special symbol (the so-called 'Minor Chemical Waste logo' or 'KCA logo'), plus information identifying the producer and stating that the equipment was put on the market after 13 August 2005.

#### **4. Changes relative to the Management of White and Brown Goods Decree**

These regulations differ in a number of respects from the Management of White and Brown Goods Decree, which is repealed on the date that the WEEE Management Decree comes into force. One difference is that the scope of these regulations is wider than that of the Management of White and Brown Goods Decree. Hence, these regulations cover various types of equipment not covered by the Decree, such as medical devices, lighting equipment (e.g. luminaires and fluorescent tubes) as well as vending machines and the like. Other new features of the regulations include the provision for private households to be able to return waste electrical and electronic equipment to municipalities free of charge and the creation of producer responsibility for all products (i.e. including abandoned products and historical stock). Because the government wished to make these fundamental changes, it was decided to draw up new regulations rather than simply amend the Management of White and Brown Goods Decree.

#### **5. Workability and enforcement**

These regulations are based on the Environmental Management Act. Scope for their enforcement exists under both administrative and criminal law. The powers provided for in Part 18 of the Environmental Management Act may be used for administrative enforcement (involving, for example, administrative coercion or penalties). Infringement of these regulations is punishable under the Economic Offences Act. So, for example, fines may be imposed if a business does not comply with these regulations.

The Minister of Housing, Spatial Planning and the Environment is responsible for monitoring compliance with these regulations and ensuring their enforcement under administrative law.

Day-to-day discharge of the minister's responsibilities in this regard is delegated to the VROM Inspectorate. For enforcement purposes, the authorities are entitled to require financial and other records to be made available for perusal. Enforcement under criminal law is the duty of the Public Prosecutor's Office, to which the VROM Inspectorate may refer cases as appropriate. Monitoring and enforcement will focus particularly on the way enterprises fulfil their obligations under these regulations. Monitoring activities associated with Sections 3 through 16 will take place on the premises of the parties addressed by the regulations (i.e. producers, distributors and municipal authorities).

Checks will be performed to ascertain whether producers are, for example, meeting their obligations with regard to the financing of waste management, taking back and treating waste electrical and electronic equipment as required, providing guarantees as required, submitting the requisite reports and meeting their prevention obligations. Retailers' compliance with the obligation to take back old appliances when supplying new ones (Section 4) will also be monitored, as will municipal authorities' discharge of their obligation to take back discarded products free of charge at their waste collection facilities (Section 3, subsection 2).

Producers may choose to collectively discharge their obligations under these regulations. Producers who decide to fulfil their obligations through a collective organisation will nevertheless remain individually responsible for compliance, since any collective executive organisations set up in this context will not be addressees of the regulations.

## **6. Administrative burden for businesses**

Since the administrative obligations created by these regulations are not entirely new, the estimates of the associated costs presented below reflect the additional cost over and above that which an addressee already has to meet. The calculations take account of the obligation to provide information (created by the WEEE Management Decree), since this obligation is inseparable from the obligations arising out of the WEEE Management Regulations. The calculated figures are presented in tables 1 and 2. Brief explanatory notes are provided below.

The WEEE Management Regulations comprise the following information provision obligations for the business community (the associated administrative cost to the business community has been calculated accordingly):

1. the obligation to provide information (Section 4 of the WEEE Management Decree);
2. the obligation to submit an annual report detailing the outcome of activities undertaken in compliance with sections 7, 8, 9, 10, 11, 12 and 13, as well as the amount of equipment put on the market in the year under review (Section 16);
3. the obligation to submit reports on the treatment of CFC-containing and HCFC-containing refrigerators and freezers (arising out of Annex II to Directive no. 2002/96);
4. the obligation to provide recycling information on the products (Section 14); and
5. the obligation to apply a waste separation symbol to the products (Section 13).

Roughly six hundred businesses are covered by the provisions of the Management of White and Brown Goods Decree. It is estimated that these businesses together put roughly 27 million products on the market every year. When the WEEE Management Regulations come into force, they are expected to apply to about a thousand businesses, which put approximately 62 million products on the market every year. At present, there are two management systems, one run by the Netherlands Association for Disposal of Metal and Electronic Products

(NVMP) and one run by the ICT Environmental Foundation (*Stichting ICT Milieu*). Eleven collective submissions have been made. The expectation is that the two management systems will remain in existence when these Regulations come into force, and that up to three additional systems will be created. There are also likely to be between six and eleven additional collective submissions (bringing the total to between seventeen and twenty-two submissions). For the purpose of cost calculation, it has been assumed that each submission will involve 300 hours' work at a cost of EUR 50 per hour. It is further assumed that each business will spend three hours registering with a collective system.

The administrative cost associated with submitting an annual report is comprised of the cost involved in operating the collective system, the cost to the individual business of maintaining and passing on sales records, the cost to the individual business of obtaining an auditor's report and the cost of compiling the collective annual report. For each individual business, the administrative cost is likely to fall slightly, since more businesses will be participating in the collective systems. As stated before, an annual report must be submitted on the treatment of CFC-containing and HCFC-containing refrigerators and freezers. At present, all treatment activities are carried out by a single company.

The administrative cost associated with providing information about the recycling of products previously put on the market has been calculated on the assumption that each business involved brings out an average of two new models a year and that the provision of information costs EUR 1,000 per model. Finally, all products put on the market have to be labelled with a waste separation symbol (a waste bin with a superimposed cross). The cost of labelling has been estimated at EUR 0.09 per unit, and it has been assumed that 62 million products a year will need to be labelled. Hence, the total cost of requiring use of the symbol works out at EUR 5.6 million per year.

**Table 1: Administrative cost per business**

	old situation	new situation (estimated)	new situation (maximum)	additional cost (estimated)	additional cost (maximum)
Submission of information	567	405	480	162	87
Annual report	6,000	5,250	5,775	750	225
Annual CFC report	83	50	50	33	33
Recycling information	-	2,000	2,000	2,000	2,000
Waste separation symbol	-	5,616	5,616	5,616	5,616
Total	6,650	13,321	13,921	6,671	7,271

**Table 2: Overall administrative cost**

	old situation	new situation (estimated)	new situation (maximum)	additional cost	additional cost

				(estimated)	(maximum)
Submission of information	68,000	81,000	96,000	13,000	28,000
Annual report	3,600,000	5,250,000	5,775,000	1,650,000	2,175,000
Annual CFC report	50,000	50,000	50,000	-	-
Recycling information	-	2,000,000	2,000,000	2,000,000	2,000,000
Waste separation symbol	-	5,616,000	5,616,000	5,616,000	5,616,000
Total	3,718,000	12,997,000	13,537,000	9,279,000	9,819,000

On 11 December 2003, the Dutch Advisory Board on Administrative Burden issued a recommendation on an earlier draft of these regulations (including the WEEE Management Decree). Those draft regulations included an obligation for producers to provide information about their collection and treatment systems and the significance of the waste separation symbol. The Advisory Board recommended that this obligation should be removed from the regulations and that government authorities should take on the task of informing the public. The Board also recommended limiting the administrative burden of annual reporting. Both these recommendations have been adopted. If the government takes over the task of informing the public, this will result in a lessening of the administrative burden for businesses amounting to EUR 620,000 per year.

## 7. Responses

The draft regulations have been submitted to both chambers of the Dutch Parliament in accordance with the provisions of Section 21.6, subsection 6, of the Environmental Management Act. The standing parliamentary committee on housing, spatial planning and the environment subsequently posed a number of factual questions, which were answered in a letter dated 13 April 2004. The questions and answers were published in the Proceedings of the Lower House (Proceedings of the Lower House II 2003/04, 29 200 XI, no. 95). On 3 June, a number of additional questions were asked (reference no. 49/VROM/2004), which were answered in a letter dated 21 June 2004. These questions and answers were also published in the Proceedings of the Lower House (Proceedings of the Lower House II 2003/04, 29 200 XI, no. 117).

A draft version of these regulations was prepublished in the Netherlands Government Gazette (no. 24 of 5 February 2004). A number of reactions to the draft version were received, including reactions from the Association for Refuse and Cleaning Management (NVRD), the Association of Netherlands Municipalities (VNG), the ICT Environmental Foundation, the Netherlands Retail Trade Council (RND), the Association of Airconditioning Equipment Suppliers (VERAC), the Netherlands Association of Refrigeration and Airconditioning Companies (NVKL) and UNETO-VNI (an employers' organisation for installing companies and technical retailers).

A number of these reactions pointed out that the new definition of ‘waste electrical and electronic equipment from private households’ also covers waste from companies and institutions that is comparable to waste from private households in terms of its nature and quantity. The authors point out that this definition deviates from the definition of the term ‘household waste’ in Section 1.1 of the Environmental Management Act, creating a precedent which will obligate municipal authorities to accept industrial waste. The conclusion that the new definition creates a precedent is correct. However, this obligation arises entirely from Directive no. 2002/96, which means that the regulations cannot be altered in this respect. However, the expectation is that the consequences of extending the definition will remain limited for municipal authorities, because Section 11 stipulates that producers are responsible for financing the waste management of this type of equipment. This financial responsibility commences when products are returned to municipal collection points. The notes on the individual sections (see below) have been adjusted accordingly.

A number of questions were raised concerning the sorting of collected equipment for various collective organisations. The notes on the individual sections devote attention to this issue. The same applies to a number of questions that were asked about municipal collection points.

Several issues were also raised concerning the implementation of the regulations. For instance, various respondents asked where (i.e. in what country) and by what party financial guarantees should be provided when equipment is transported across national borders. The same issues were raised concerning the requirement to place a symbol on the equipment. Firstly, it should be noted that these questions are in part related to the interpretation of terms such as ‘producer’ and ‘putting on the market’, which are derived from Directive no. 2002/96. The proper interpretation of these terms is reserved to the various institutions of the European Union. However, these problems associated with the Directive are duly noted and have been brought to the attention of the various EU consultation bodies dealing with the scope of the Directive. For that matter, the European Directive designates any party importing or exporting equipment into or out of an EU member state as a ‘producer’. Because Dutch regulations may only apply to Dutch territory, the words ‘into or out of an EU member state’ have been replaced by the words ‘into or out of the Netherlands’. This adjustment was carried out in consultation with the European Commission and the other member states and ensures that the regulations can be enforced.

The author of one of the responses raises the question of the exact responsibilities of the producer of equipment that has been discarded by parties other than private households. This refers to the obligation to collect such equipment (Section 7) and the financial responsibility of producers (Section 12). The following can be stated in response. Producers must ensure that this equipment is collected and treated. The related costs (including organisational expense) can be passed on to the discarders. For that matter, the latter are free to engage the services of a waste collection or treatment company; they are not obligated to make use of the producer’s services.

A number of reactions stated that attention should be directed to the continuity of current enforcement activities. In response, the authorities confirm that sufficient inspections and checks will be performed to enforce the provisions of Directive no. 2002/96, in accordance with Section 16 of that Directive.

In one of the reactions received, the authors request that certain types of airconditioning equipment be excluded from the scope of the regulations, as was the case with the

Management of White and Brown Goods Decree. However, airconditioning equipment falls within the scope of Directive no. 2002/96 and therefore cannot be excluded from these regulations. It should be noted that these are mainly business-to-business products, which means that while producers must set up a collection and treatment system, such a system can be financed together with the discarder.

Finally, it was remarked that the EU Waste Shipment Regulations should not apply to transboundary waste streams in the context of meeting 'old for new' requirements (taking back old appliances when supplying new ones). This issue falls outside the scope of these regulations. After all, national regulations cannot deviate from the provisions of the European directives they are based on.

## II. Notes on the individual sections of the Decree

### Section 1

Subsection 1, definition (b) specifies what constitutes electrical and electronic equipment. This is equipment that falls under one of the categories listed in Annex IA to Directive no. 2002/96. These categories are broken down into products, which are listed in Annex IB to Directive no. 2002/96. This list of products is not exhaustive, however, and so does not decide the question of whether a given product is 'equipment' in the sense of these WEEE Management Regulations; that question is decided by whether a product falls under one of the categories of Annex IA to Directive no. 2002/96. If it does and if the product also meets the other aspects of the definition, then the item qualifies as electrical or electronic equipment in the sense of these regulations. The phrase 'in order to work properly' in definition (b) implies that, to be classed as electrical and electronic equipment, an appliance must require electrical energy to perform its primary functions. A refrigerator, for example, cannot serve its intended purpose (keeping things cool) without electricity; thus electricity is necessary for a refrigerator to work properly. By contrast, a cuddly toy that emits electronically generated sounds when touched is *not* dependent on electricity to perform its primary function. Its primary function is 'being cuddly', for which battery power is not required, and making sounds is a subsidiary function.

Definition (c) in subsection 1 states that equipment is to be regarded as 'waste' if it conforms to the definition of waste in Section 1.1, subsection 1, of the Environmental Management Act. In other words, these regulations adopt the general definition of waste. With regard to the practical determination of whether a particular item is waste, the reader is referred to the National Waste Management Plan 2002-2012 (amended version of April 2004, Part I: Policy Framework, section 4.4, p. 52). The definition given also makes it clear that all the components of the waste product at the time of discarding are to be regarded as waste equipment. This does not mean, however, that individual components can be returned as 'waste electrical and electronic equipment'. This possibility is excluded by the use of the words 'which are part of the product at the time of discarding'. So a washing machine motor on its own is not 'waste electrical and electronic equipment' in the sense of these regulations, because, at the time of discarding, the washing machine is the product and the motor is merely a component of it.

Definitions (e) and (g) in subsection 1 tie in with the definitions given for the same terms in the Management of End-of-life Vehicles Decree. With a view to maximising terminological consistency across the various product decrees and the Environmental Management Act, the terminology used in the original Dutch-language version of these regulations has been harmonised with those instruments. This decision has led to a degree of terminological inconsistency between these regulations and Directive no. 2002/96. This problem does not exist in the translated version, however.

Definition (j) in subsection 1 defines who constitutes a producer. It is a broad definition. For example, one of the things it indicates is that the sales method is irrelevant. Hence, sales made via the Internet (electronic selling) and other distance selling techniques referred to in Directive no. 97/7/EC of the European Parliament and the European Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJEC L 144) are also covered

by these regulations. In these regulations, any party that imports equipment is also considered to be a producer. In practice, it has emerged that it is not always clear which party qualifies as the importer of the equipment. It is possible to determine whether an item of equipment has been imported from the VAT details on the invoice. If an entrepreneur has an invoice stating that foreign VAT has been raised, or that the zero rate of VAT has been applied, then the equipment has been 'imported' and the enterprise in question can be considered the 'producer' in the sense of these regulations. Parallel importers are also covered by this definition and are therefore producers in the sense of these regulations. As such, they have the same obligations as other producers. For that matter, any exporter of equipment is also a producer in the sense of these regulations. When equipment is sold from the Netherlands (e.g. via the Internet) and delivered to another country (whether an EU member state or not), the producer (i.e. the party exporting the equipment) has obligations in the Netherlands under these WEEE Management Regulations.

The term 'distributor', as defined in subsection 1, definition (k), covers various parties, including the seller and the supplier. The term 'delivery' refers to the actual transfer of the equipment. Domestic suppliers that make use of distance selling techniques (e.g. via the Internet) may also be covered by this definition.

As indicated in the definition of 'waste electrical and electronic equipment from private households' in subsection 1, definition (l), this phrase can also refer to equipment from sources other than private households. This is the case when the equipment is similar to equipment from private households in terms of its nature and quantity. So, for example, a discarded refrigerator from a works canteen counts as waste electrical and electronic equipment from private households if one might expect to find a refrigerator of that size and model in a private household.

## **Subsection 2**

In view of the provisions of subsection 1, definition (b), item 1, subsection 2 indicates which products in any case fall under the categories listed in Annex IA to Directive no. 2002/96. These are the same products listed in Annex IB to Directive no. 2002/96. The list is not exhaustive.

## **Section 2**

Section 2 stipulates that certain types of equipment fall outside the scope of these regulations. First, there is equipment that forms part of other equipment, if that other equipment does not qualify as 'electrical and electronic equipment' in the sense of these regulations. So, for example, a car radio is not covered by these regulations. The same applies to military materials and the like. However, the use of a computer or laptop for military purposes is not covered by this exclusion, not even if this equipment is used on a mission in a war situation. After all, such equipment is not specifically intended for military purposes.

## **Section 3**

Subsection 1 stipulates that municipal authorities are responsible for the collection of waste electrical and electronic equipment from private households. Such waste must be collected

separately in order to facilitate efficient treatment. Equipment must also be kept separate following collection. A condition to this effect must be included in the permit issued to a municipal waste collection facility or other collection point. Under Section 10.21 of the Environmental Management Act, the municipal authority is only responsible for the collection of waste from private households, though. A municipality's obligation to take back waste electrical and electronic equipment therefore does not apply to equipment discarded by businesses and institutions, not even if it is similar to equipment from private households in terms of its nature and quantity. It is worth emphasising at this point, that this section of the regulations relates to all electrical and electronic equipment, including so-called small white and brown goods. Arrangements will be made with municipal authorities concerning the way in which their obligations relating to the separate collection of waste are to be fulfilled.

Subsection 2 requires municipal authorities to ensure that sufficient drop-off facilities are available for the return of waste electrical and electronic equipment by private individuals and others, including distributors. The equipment must be from private households or similar to equipment from private households in terms of its nature and quantity (see definition (l) in Section 1, subsection 1). Municipal authorities are not permitted to charge for these facilities, not even for equipment from sources other than private individuals or distributors. The word 'sufficient' implies that an adequate number of drop-off facilities must be available and that they must be accessible in terms of their opening times. Factors such as population density must therefore be taken into account. The sufficiency condition is also met if a municipality operates a system whereby parties returning large quantities of waste electrical and electronic equipment from private households – e.g. retailers returning discarded products – are required to make use of, say, regional bulk drop-off facilities, rather than the local facilities used by individual householders. It goes without saying that the facilities provided would not be considered 'sufficient' if they consisted only of a regional bulk drop-off facility for private individuals and retailers with small quantities. In practice, the phrase 'small quantities' is interpreted to mean no more than seven large appliances.

Municipal authorities may fulfil their obligations with respect to drop-off facilities by collaborating with other municipal authorities. A municipality may also designate certain facilities which it does not own or operate, e.g. regional transshipment facilities (which must be financed in part from waste management levies). It goes without saying that these locations must also meet all relevant requirements; the municipal authority bears responsibility for this.

#### **Section 4**

When a new product is supplied, a distributor has an obligation to take back a similar product that the customer wants to discard. This provision applies only to equipment from private households (i.e. including equipment from other sources that is similar to equipment from private households in terms of its nature and quantity). This equipment must be taken back free of charge. A product is similar if it is equipment that fulfils the same function and is equivalent to the new product supplied. So, if a person buys a coffee maker, he or she may return another coffee maker (irrespective of size or brand). All accompanying components and accessories may also be returned. There is no requirement that the discarded product should still be in working order.

#### **Section 5**

This section stipulates that equipment that is contaminated and may consequently present a risk to the party taking it back need not be accepted by a municipal authority (Section 3) or a distributor (Section 4). There must be a real risk to the health and safety of the personnel taking back such waste equipment and this risk must be attributable to contamination of the equipment during use. Such equipment may reasonably be refused for return on the grounds that the user is liable for the contamination. Grounds certainly exist for refusing to accept equipment if acceptance would entail taking action that conflicted with other regulations (e.g. in the sphere of working conditions). However, it would not be reasonable to refuse, for example, a coffee machine whose hotplate included asbestos components on the assertion that it is contaminated and consequently presents a risk; although such an appliance might constitute a hazard, it cannot be said to have been contaminated in use.

It should be noted, however, that waste electrical and electronic equipment from private households that has been refused can always be handed over to the municipal authority because it qualifies as household waste and is subject to the regular waste substances regime. Section 10.21 of the Environmental Management Act requires municipal authorities to take back such waste.

## **Section 7**

This section stipulates who is responsible for the collection of waste equipment from sources other than private households, such as businesses, institutions, offices, etc. Equipment that is similar to equipment from private households in terms of its nature and quantity falls within the scope of Section 3, subsection 2, and Section 4.

While the producer is responsible for the collection of such equipment, he may contract out the actual work to, for instance, a commercial waste collector. Producers will be able to fulfil their obligations in this regard more easily if they work together in the context of one or more collective systems. The discarder may always choose to make his own waste removal arrangements, e.g. by employing the services of a commercial waste collector.

## **Section 8**

This section makes the producer responsible for (organising) the collection, transportation and treatment of waste electrical and electronic equipment from private households. This responsibility commences when equipment is collected at the municipal collection point or by the distributor and is brand-related. It runs parallel with the financial responsibility for which provision is made in Section 11. The producer is organisationally responsible for waste electrical and electronic equipment from sources other than private households from the time such equipment is returned by the discarder.

Subsection 3 stipulates that treatment, recovery and reuse of materials must be carried out using the best available techniques. This means that establishments engaged in recycling and treatment must meet certain minimum standards in order to prevent any harmful environmental effects of the treatment of waste electrical and electronic equipment. The best available techniques may be specified in more detail in accordance with the procedures of

Directive no. 96/61/EC of the Council of the European Union of 24 September 1996 concerning integrated pollution prevention and control (OJEC L 257).

## **Section 9**

This section specifies certain conditions that the competent authority (i.e. the municipal or provincial authority) must attach to permits issued to treatment facilities. The treatment facilities in question are those used by municipalities and retailers to transport waste equipment to, following collection of such equipment. To engage in the treatment of waste equipment, one has to obtain a permit pursuant to Section 8.1 of the Environmental Management Act and Annex I, category 28, of the Establishments and Permits (Environmental Management) Decree. Permits must be amended if they do not already have appropriate conditions attached to them. The change will affect only a handful of establishments in the Netherlands.

The municipal collection facilities (in the sense of Section 3, subsection 2) and the establishments of retailers (distributors) that take in waste equipment in accordance with the provisions of Section 4 do not have to meet the requirements of Annex II and Annex III. This is a consequence of the provisions of Sections 5 and 6 of Directive no. 2002/96, which state that the collection facilities of municipalities and retailers are not considered treatment facilities subject to the requirements of Annex II and III.

## **Section 10**

Recovery and reuse targets have been formulated for the various product categories. The reason for setting separate targets for the various categories is that each category is different from the next in terms of the nature of the products and the materials used in them; it would therefore be unrealistic to approach each category in the same way. New European-level targets will be set no later than 31 December 2008. At the same time, targets will be formulated for the reuse of whole appliances and for products falling under category 8 of Annex IA to Directive no. 2002/96.

Subsection 2 stipulates that, when calculating reuse percentages, the reuse of whole appliances should be discounted. However, since the definition 'reuse' covers both the reuse of equipment and the reuse of components, component reuse may be included in such calculations. Perhaps unnecessarily, it should be noted that producers can fulfil this obligation collectively, as is the case with all other obligations.

## **Section 11**

Subsections 1 and 3 stipulate that the producer is responsible for financing the collection and treatment of waste electrical and electronic equipment from private households that he has produced. This financial responsibility starts when the product is returned to a municipal collection point or to a distributor. This obligation is therefore brand-related and runs in parallel with the substantive obligations specified in Sections 8 and 10. By joining forces to fulfil their obligations under these regulations through one or more collective systems, producers can make compliance considerably easier and cheaper. If producers wish to sort the

waste equipment (by brand or by type of equipment), for instance because there are several collective systems or because they wish to fulfil their obligations individually, then they themselves will be responsible for ensuring that the products are sorted. After all, subsection 3 stipulates that the responsibility starts when an appliance is returned to a collection point. Producers may sort out the products themselves after the waste appliances are picked up from the collection points. They may also set up an arrangement with the authority managing these collection points (e.g. a municipal authority or retailer) to the effect that the products are sorted at these collection points. Any related costs will be charged to the producers involved. If two collective producer organisations (or individual producers) wish to arrange for the products to be sorted, they will have to finance such activities together. If there are several systems, it seems sensible to divide the costs in proportion to the number of systems. After all, in sorting out appliances, the main cost-determining factor is the total number of appliances to be sorted, not the number of appliances (after sorting) that is allotted to a particular producer or collective producer organisation. All parties benefit equally from sorting the appliances. It is clear that municipalities and retailers will not enter into a sorting arrangement until agreement has been reached concerning the financing of such arrangements.

In the context of these regulations, the meaning of the phrase 'put on the market' is the same as the meaning of the phrase 'place on the market', as defined in the *Guide to the Implementation of Directives Based on the New Approach and Global Approach*. Hence, putting a product on the market is the initial action of making a product available for the first time on the Community market, with a view to distribution or use in the Community. Making a product available can be either for payment or free of charge. A product is made available for the first time when, following the production phase, possession of the product is transferred with a view to further distribution or use. The phrase 'putting on the market' refers to individual products, rather than types of product, whether manufactured as separate units or in series.

Subsection 2 regulates how the treatment of so-called historical waste will be financed. This is equipment put on the market before 13 August 2005.

Subsection 3 assigns responsibility for waste management from the moment that equipment is returned to the municipal collection facility or to the distributor.

Subsections 4 and 5 stipulate that, when equipment is put on the market, a guarantee must be given regarding financial responsibility for management of the product when it is discarded. This guarantee must provide assurance, even in the event of the issuer's insolvency. It may be based on recycling insurance, a blocked bank account or membership of an appropriate scheme for the financing of waste management activities. So, for example, a producer might join a collective system, whereby the members jointly and indefinitely guarantee to finance the management of waste equipment. In such a situation, the collective must be able to fulfil its guarantee and must therefore have enough members, a proper organisation and sufficient guarantees.

Subsections 6 and 7 specify certain rules concerning visible and invisible waste management levies (previously known as 'disposal levies'). A waste management levy that is visible to the buyer is permitted only if it represents the actual costs associated with the management of historical waste, as referred to in subsection 2. If a waste management levy is introduced to

finance the management of new equipment, this may not be shown separately to consumers; such levy must therefore be integrated in the selling price.

## **Section 12**

This section stipulates who is financially responsible for the management of waste equipment from sources other than private households. The producer is responsible for financing the waste management of equipment he has put on the market after 13 August 2005, while the discarder is responsible for the management of waste equipment put on the market prior to 13 August 2005. Article 9, subsection 1, paragraph 3, of the Directive allows the extension of producer responsibility to financing the management of waste products replaced by new appliances. However, it has been decided that the financial responsibility for managing historical waste should be assigned to the discarder, since such an arrangement is consistent with the regime in place before these WEEE Management Regulations came into force. These regulations do not prevent producers and discarders from agreeing to divide financial responsibility between them in other ways if they choose to do so.

## **Section 13**

Equipment put on the market after 13 August 2005 must be provided with a clearly visible special symbol (a wheeled bin with a superimposed cross). This symbol is intended to make consumers aware of the fact that this equipment must be handed in separately when discarded. In exceptional cases (when the size or function of the product makes this necessary), it is possible to depart from the main rule that the symbol must appear on the appliance itself.

An appliance must also carry information identifying the producer and specifying that the appliance was put on the market after 13 August 2005. This enables producers to fulfil their obligations in respect of their own appliances and also makes it clear whether an appliance is historical waste or not when it is discarded. Therefore, this information must always appear on the equipment itself. See Section 1, subsection 1, definition (j), for an explanation of the term 'producer'. In practice, it is possible (for instance in the event of parallel import) that a brand X appliance (with X trading as an independent producer as well as having a brand name) is put on the market by importer Y, with importer Y being the producer in the sense of these regulations. The information attached to the appliance therefore needs to identify importer Y.

## **Section 14**

The producer will be required to give information about the equipment he has produced to other parties engaged in the treatment and management of waste. This information may also be provided by means of electronic media (CD-ROM or on-line services).

## **Section 16**

To enable monitoring of compliance with these regulations, producers are required to submit annual reports on their progress. With a view to facilitating analysis and keeping

administrative costs to a minimum, these reports must be submitted using a special form defined by the Minister of Housing, Spatial Planning and the Environment. As provided for in the relevant European directives, the data provided in these annual reports will also be made available to the European Commission. Given the definition of the term 'producer' (see Section 1, subsection 1, definition (j)), parties engaged in remote selling are also covered by these reporting requirements.

## **Section 18**

The date on which these WEEE Management Regulations come into force largely coincides with the date on which the Directive must be implemented (13 August 2004), rather than the date from which the specific obligations apply. This is feasible for most of the equipment covered by these regulations, given the fact that a collection and treatment system already exists for these types of equipment. However, no such system yet exists for lighting equipment (in the sense of category 5 of Annex IA and IB to Directive no. 2002/96). In order to ensure a reasonable period of introduction, Section 18 contains a transitional provision stating that the new system for lighting equipment will come into force on the date determined in Directive no. 2002/96 as the date from which the relevant obligations will apply to lighting equipment (i.e. 13 August 2005).

## **Section 21**

These WEEE Management Regulations come into force on 13 August 2004, the date when the provisions of Directive no. 2002/96 are required to have been implemented. Items (a), (b) and (c) of Section 21 specify a number of exceptions to this.

### **Item (a)**

Because several objectives had already been defined in the period prior to these regulations (in the Management of White and Brown Goods Decree), it was decided to allow the targets of the Directive to come into force earlier.

### **Item (b)**

Section 16 contains an obligation to submit an annual report to the Minister of Housing, Spatial Planning and the Environment regarding action taken pursuant to sections 7, 8, 9, 10, 11, 12 and 13 and regarding the amount of electrical and electronic equipment put on the market. This annual report obligation only becomes relevant after the provisions of the Decree have come into force. Item (b) of Section 21 therefore stipulates that the obligation referred to in Section 16 comes into force on 1 January 2006, which means that the first reporting period will cover the year 2005.

### **Item (c)**

The requirement to label electrical and electronic equipment with the symbol shown in Annex IV to Directive no. 2006/96 comes into force on 13 August 2005. Section 20 states that the Regulations Concerning Further Rules for the Minor Chemical Waste (KCA) Logo must be adjusted accordingly. This change will also take effect from 13 August 2005.

## **Annex**

Each producer must submit certain information pursuant to Section 4 of the WEEE Management Decree. This information is in effect an action plan which sets out how the producer intends to fulfil his obligations under the WEEE Management Regulations. The Annex to these WEEE Management Regulations contains a form for submitting this information, with the purpose of reducing the administrative burden associated with the obligation to provide information.

## Transposition table

The WEEE Management Decree is referred to by the abbreviation 'WEEE Dec'.

The WEEE Management Regulations are referred to by the abbreviation 'WEEE Regs'.

<u>Directive no. 2002/95</u>	<u>Dutch laws and regulations</u>
Article 1	Does not require implementation
Article 2, paragraph 1	Section 2, subsection 1, WEEE Dec
Article 2, paragraph 2	Does not require implementation
Article 2, paragraph 3	Section 2, subsection 2 (b), WEEE Dec
Article 3 (a)	Section 1, subsection 1 (d), WEEE Dec
Article 3 (b)	Section 1, subsection 1 (e), WEEE Dec
Article 4, paragraph 1	Section 2, subsection 1, and Section 5 and 6, WEEE Dec
Article 4, paragraph 2	Section 2, subsection 2 (a), WEEE Dec
Article 4, paragraph 3	Does not require implementation
Article 5	Does not require implementation
Article 6	Does not require implementation
Article 7	Does not require implementation
Article 8	Inherent in Part 18 of the EMA and Sections 1a (1) and (2) of the Economic Offences Act
Article 9	Does not require implementation
Annex	Dynamic reference based on Section 2, subsection 2, WEEE Dec
<u>Directive no. 2002/96</u>	<u>Dutch laws and regulations</u>
Article 1	Does not require implementation
Article 2, paragraph 1	Section 2 (a) and Section 1, subsection 2, WEEE Dec
Article 2, paragraph 2	Does not require implementation
Article 2, paragraph 3	Section 2 (b), WEEE Regs
Article 3 (a)	Section 1, subsection 1 (b), WEEE Regs
Article 3 (b)	Section 1, subsection 1 (c), WEEE Regs
Article 3 (c)	Section 1, subsection 1 (d), WEEE Regs
Article 3 (d)	Section 1, subsection 1 (e), WEEE Regs
Article 3 (e)	Section 1, subsection 1 (f) and (g), WEEE Regs
Article 3 (f)	Section 1.1, subsection 1, EMA
Article 3 (g)	Section 1.1, subsection 1, EMA
Article 3 (h)	Section 1, subsection 1 (h), WEEE Regs
Article 3 (i)	Section 1, subsection 1 (j), WEEE Regs
Article 3 (j)	Section 1, subsection 1 (k), WEEE Regs
Article 3 (k)	Section 1, subsection 1 (l), WEEE Regs
Article 3 (l)	Section 1, subsection 1 (m), WEEE Regs
Article 3 (m)	Section 1, subsection 1 (i), WEEE Regs
Article 4	Financial support on project basis

Article 5, paragraph 1	Section 3, subsection 1, and Section 7 of the WEEE Regs, as well as information and promotion initiatives (e.g. SAM)
Article 5, paragraph 2 (a)	Section 3, subsection 2, WEEE Regs
Article 5, paragraph 2 (b)	Section 4 (option to deviate not exercised)
Article 5, paragraph 2 (c)	Section 6, WEEE Regs
Article 5, paragraph 2 (d) (1)	Section 5, WEEE Regs, and Section 10.21, EMA
Article 5, paragraph 2 (d) (1)	No use made of this option
Article 5, paragraph 3	Section 7, WEEE Regs
Article 5, paragraph 4	Section 8, WEEE Regs, and Sections 8.1, 10.37 and 10.1, EMA
Article 5, paragraph 5	Does not require implementation
Article 6, paragraph 1 (1)	Section 8 and Section 9, subsection 1, WEEE Regs
Article 6, paragraph 1 (2)	Does not require implementation
Article 6, paragraph 1 (3)	No use made of this option
Article 6, paragraph 2 (1)	Section 8.1, EMA, and Annex I, category 28, of the Establishments and Permits (Environmental Management) Decree
Article 6, paragraph 2 (2)	No use made of this option
Article 6, paragraph 3	Section 9, subsection 2, WEEE Regs
Article 6, paragraph 4	Section 8.1, EMA, and the Establishments and Permits (Environmental Management) Decree
Article 6, paragraph 5 (1)	National laws and regulations not counteractive Waste Shipment Directive is directly effective
Article 6, paragraph 5 (2)	Section 10, subsection 3, WEEE Regs
Article 6, paragraph 6	To be realised by CCM Foundation (set up by VROM)
Article 7, paragraph 1, first sentence	Inherent in WEEE Regs
Article 7, paragraph 1, second sentence	Section 10.4 and 10.5 of the EMA and National Waste Management Plan
Article 7, paragraph 1, third sentence	Section 10, subsection 2, WEEE Regs
Article 7, paragraph 2	Section 10, subsection 1, WEEE Regs
Article 7, paragraph 3 (1)	Sections 8.14 and 10.37, EMA
Article 7, paragraph 3 (2)	Does not require implementation
Article 7, paragraph 4	Does not require implementation
Article 7, paragraph 5	By application of financial resources
Article 8, paragraph 1	Section 11, subsections 1, 2 and 3, WEEE Regs
Article 8, paragraph 2 (1)	Section 11, subsection 1, WEEE Regs
Article 8, paragraph 2 (2)	Section 11, subsections 4 and 5, WEEE Regs
Article 8, paragraph 2 (3)	Section 11, subsection 6, WEEE Regs
Article 8, paragraph 3 (1)	Section 11, subsection 2, WEEE Regs
Article 8, paragraph 3 (2)	Section 11, subsection 7, WEEE Regs
Article 8, paragraph 4	Inherent in definition of the term 'producer'

	(Section 1 (j), WEEE Regs), which covers remote selling
Article 9, paragraph 1 (1)	Section 12, subsection 1, WEEE Regs
Article 9, paragraph 1 (2)	Section 12, subsection 2, WEEE Regs
Article 9, paragraph 1 (3)	Section 12, subsection 2 (alternative option exercised)
Article 9, paragraph 1 (4)	Section 12, subsection 2, WEEE Regs
Article 9, paragraph 2	Section 12, subsection 3, WEEE Regs
Article 10, paragraph 1 (a)	Incentive programmes for separate return by consumers (STAP and SAM), information programmes by ministry of VROM, executed by Milieu Centraal, AOO and VROM website and as a consequence of the EMA system: municipal authorities collect waste separately and must inform the public accordingly
Article 10, paragraph 1 (b)	See above
Article 10, paragraph 1 (c)	See above
Article 10, paragraph 1 (d)	See above
Article 10, paragraph 1 (e)	See above
Article 10, paragraph 2	See above
Article 10, paragraph 3	Section 13, subsection 1 (a), and Section 13, subsections 2 and 3, WEEE Regs
Article 10, paragraph 4	No use made of this option
Article 11, paragraph 1	Section 14, WEEE Regs
Article 11, paragraph 2	Section 13, subsection 1 (b) and (c), WEEE Regs
Article 12, paragraph 1	Section 16 WEEE Regs and Section 4 WEEE Dec
Article 12, paragraph 2	Does not require implementation
Article 13	Does not require implementation
Article 14	Does not require implementation
Article 15	Inherent in Part 18 of the EMA and Section 1a of the Economic Offences Act
Article 16	Does not require implementation
Article 17, paragraphs 1, 2, 4 and 5	Does not require implementation
Article 17, paragraph 3	No use made of this option
Annex IA	Dynamic reference based on Section 1, subsection 1 (b), WEEE Regs
Annex IB	Dynamic reference based on Section 1, subsection 2, WEEE Regs
Annex II	Dynamic reference based on Section 9, subsection 1, WEEE Regs
Annex III	Dynamic reference based on Section 9, subsection 2, WEEE Regs
Annex IV	Dynamic reference based on Section 13, subsection 1, WEEE Regs

Planning and the Environment,

PLBA van Geel