

# **NIEA WEEE & Batteries Compliance Monitoring Plan 2020 – 2021**



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# 1. Background

## 1.1 Introduction - The regulatory framework

The Waste Electrical and Electronic Equipment Regulations 2006 (SI/2006/3289) and subsequent amendments were introduced in 2006 and 2013. The purpose of the Regulations is to minimise the impact of waste electrical and electronic goods on the environment. They set out to achieve this by increasing the amount of WEEE that is sent for re-use or recycling and reducing the amount of WEEE going to landfill. This is achieved by making producers contribute to the financing the collection, treatment, and recovery of EEE waste. The Regulations also places an obligation on distributors who are required to establish collection systems for WEEE free of charge for consumers.

In 2013 the UK Government amended the WEEE Regulations which introduced the following measures:

- All producers who handle more than 5 tonnes have to join a Compliance Scheme. Producers below 5 tonnes will be required to register directly with a relevant environment agency.
- Each scheme will be given a tonnage target by category of EEE placed on the market in proportion to the Member State target and the total market share of their members during the previous compliance year.
- The proportion of the member state target to be met by each scheme will be set annually by the Government. Relevant environment agencies will then use this when calculating the individual scheme obligations which will be notified to them by 31 March.
- Late registering producers and in year changes to previously submitted producer EEE data will trigger a recalculation of the scheme obligation.
- WEEE delivered into an AATF/AE operated by a scheme generates evidence for that scheme.
- Any WEEE sent to/received by an AATF/AE by other persons generates data to be reported and counted towards the Member States' collection target.

- Additional WEEE data generated from protocol sampling of WEEE treated outside the system will potentially be counted towards Member State collection target using “substantiated estimates”.

## **2 Waste Electrical and Electronic Equipment**

### **2.1 Scope**

The WEEE Directive applies to a wide range of equipment ranging from large household appliances to medical devices.

### **2.2 Regulatory Roles**

Regulation 78 of the WEEE regulations places a duty on NIEA to monitor compliance in Northern Ireland. This duty covers:

- Registered producers
- Unregistered obligated producers
- Compliance schemes
- Approved Authorised Treatment Facilities and Approved Exporters

### **2.3 Registered Producers**

#### **Definitions**

A producer is defined as:

- A manufacturer of EEE, selling under their own brand in the UK; or
- A business based in the UK selling under their own brand EEE manufactured by another person; or
- A professional importer introducing EEE to the UK market; or
- A business based in the UK that places EEE in other European Member States by means of distance selling.

All producers that come under this definition are deemed obligated businesses (there is no exemption for small businesses). Producers are split into two tiers, large being over 5 tonnes and small being less than 5 tonnes.

Large producers are required to:

- Join a Producer Compliance Scheme to discharge their obligation as a producer of EEE. The Compliance Scheme will then register the company as a producer with the Environment Agencies, report data on EEE that they put on the market, and finance the costs of collection, treatment, recovery and disposal of WEEE in line with their notified obligation.
- Ensure the appropriate marking of EEE that they put onto the market to assist with its separate collection at the end of its life.
- Make information available to treatment facilities in respect of new types of EEE that they put onto the market.

Small producers must:

- Annually record and report data on EEE that they put on the market using NPWD. An administration charge of £30 is levied to cover administration costs. Reporting can be done directly by the producer without the need to join a Compliance Scheme or via a scheme if the producer prefers. (It is likely the latter would be at an extra cost to the producer).
- Ensure the appropriate marking of EEE that they put onto the market to assist with its separate collection at the end of its life.

NIEA is responsible for carrying out monitoring activities on those businesses based in Northern Ireland who have registered with a Compliance Scheme. The list of registered Northern Ireland members is based on the data returns provided by the Compliance Schemes and the producers registered on NPWD.

### **3. Compliance Monitoring Activities**

#### **Desk Review**

Using the UK WEEE database a basic assessment of the list of NI based registered producers is carried out. This helps decide the priorities for the compliance monitoring period ahead.

This is carried out using a risk-based approach which considers:

- Size of the company
- Time since last audit
- Companies which have been registered in the previous year and who have 'dropped off' the membership list

From this information a programme of compliance visits is planned to cover approximately a quarter of the overall number of registered obligated companies.

#### **Producer Compliance advisory visits**

Advisory visits are a key aspect of effective compliance monitoring as they enable the regulator to observe business processes first hand and ascertain in detail how the data is submitted to the Compliance Scheme.

The purpose of the site visit is to make sure that the WEEE data submitted is as accurate as reasonably possible and to assess the services producers get from their Compliance Scheme. The site visit allows an exploration of the data supplied by the company on:

- The declared amount of EEE by unit type, category and weight that the producer placed onto the market during the current and previous compliance periods (as appropriate)
- The method used for calculating the above
- The turnover band of the company, based on documentary evidence

There may be reasons for additional reasons for audit visits within a calendar year:

- The producer has failed to take account of previous audit recommendations from NIEA in their data submission.
- The producer is a new registered business and is still uncertain about the requirements of the regulations.
- There are significant and unexplained differences from the previous year's data.
- The producer requests an advisory visit to help them improve the accuracy of their data submission.

In addition the audit is an opportunity to ask the company about the service that they have received from their compliance scheme.

## **2.4 Unregistered obligated producers**

### **Definitions**

The definition of an unregistered obligated producer or free-rider is a company that meets the definition of a producer as stated in 2.3 but has not met their obligation by joining a Compliance Scheme or registering as a producer with the relevant Agency.

### **Compliance Monitoring Activities**

In addition to the UK WEEE databases, NIEA developed a separate WEEE database which captured regulatory activity with NI registered producers and non-registered potential producers. NIEA have since amalgamated the information on the WEEE database with the database of records of packaging-handling companies – The PR Database. This exercise has given the benefit of having all records of WEEE and Packaging in the one place.

There are now in the region of 500+ WEEE businesses that require further investigation. NIEA have adopted a similar approach to that which proved successful for packaging companies and this includes -

- Issue of an annual data questionnaire
- Internet searching for company information
- Information from industry sources (e.g. trade bodies, compliance schemes, other businesses)
- Direct liaison with companies
- Information from EA, NRW or SEPA on potential free riders
- Drop-offs in registration from the previous compliance year
- Business directories and databases

It is important to recognise that not all 'potential' obligated companies will turn out to be obligated. In many cases NIEA begins an investigation with limited information, and in the course of their activities, determines the compliance obligations of the business. Only a proportion of the businesses currently identified as potential obligated producers will turn out to be obligated producers. In some cases issues of scope are investigated with the Environment Agency (EA), Natural Resource Wales (NRW) and the Scottish Environment Protection Agency (SEPA) through meetings and teleconference meetings.

There are a number of possible outcomes to a free rider investigation:

- Company is confirmed as a producer and must comply by joining a Compliance Scheme or registering directly on NPWD where appropriate
- Company has ceased trading or been bought over
- Company is deemed to be non-obligated

Companies who fall into the latter two categories are withdrawn from the PR Database and are subject to a further review in five years' time.



## 2.5 Compliance Schemes

### Definitions

A Compliance Scheme is a body, usually a limited company, through which producers discharge their legal obligations including: registration, financing the cost of collection, treatment, recovery and disposal of WEEE.

Compliance Schemes have to apply for approval to operate in the UK from one of the Environment Agencies: EA, NRW, SEPA or NIEA. Schemes must also meet their members' recycling and recovery obligations by ensuring WEEE collected on their behalf is recycled and recovered by AATFs and AEs who issue evidence of this activity.

There is currently one Compliance Scheme registered with NIEA: All WEEE Compliance.

### Compliance Monitoring Activities

NIEA also helps the other agencies to audit the performance of their respective Compliance Schemes where they have members in Northern Ireland. These duties include:

- Providing support to the other agencies as required into a three yearly approval process
- Contacting the appropriate scheme, or appropriate agency, for clarification where an issue arises in relation to a Northern Ireland based scheme member
- Keeping a watching brief on scheme performance in relation to their Northern Ireland membership base. As appropriate, NIEA may request to attend Compliance Scheme audits conducted by EA, NRW and SEPA for schemes with significant numbers of NI based members
- Liaising with the Compliance Scheme(s) responsible for collecting WEEE from Designated Collection Facilities in Northern Ireland and providing a collection service to retailers

## **2.6 Approved Authorised Treatment Facilities and Approved Exporters**

### **Definitions**

Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) are approved by the Environment Agencies to issue evidence of recycling and recovery of WEEE or export of WEEE for recycling or recovery. They are responsible for carrying out recycling and recovery activities in line with waste management licence or exemption conditions, and using the 'best available treatment recovery and recycling techniques' (BATRRT). Only AATFs or AEs can issue evidence for WEEE recycling and recovery or export for recovery.

### **Compliance Monitoring Activities**

NIEA monitors AATFs and AEs to ensure that evidence of WEEE treatment and recovery is only issued in compliance with the regulations. Monitoring focuses upon documentation to demonstrate that:

- The waste on which the evidence is issued is obligated WEEE
- The operator has full traceability on all WEEE on which evidence notes have been issued
- It is UK waste only
- The recording of inputs and outputs weights is accurate
- The operator has accurate data and management systems for tracking material through the process
- The operator has adequate information on the final reprocessing destinations for WEEE derived materials and components in the UK or abroad

Compliance monitoring is a combination of office based checks and site audits, and includes the following activities:

- Review of the annual application to be an AATF or AE

- Pre-approval site visit as a part of the first application to be an AATF or AE
- Review of quarterly reporting figures
- Review of evidence issued on the WEEE Settlement Centre and proof of its traceability via AATFs/AEs (part of auditing process)
- Annual site audit where evidence has been issued
- One or more routine spot checks in addition to the full annual audit, as required
- Advisory visits as requested

### Planned audits/monitoring visits in 2019/20

Activity	Target	Achieved
Registered producer audits	15	15
Compliance scheme audits	2	2
Spot checks of AATF/AEs	All	16
Audits of AATFs/AEs	All	15*
Free-rider visits / checks	Issue annual data questionnaire and follow up as appropriate	128

### Points to note

\*Auditing remains ongoing: impacted by COVID-19 at the end of the year

**Planned audits/monitoring visits in 2020/21\***

<b>Activity</b>	<b>Target</b>
Registered producer audits	15
Compliance scheme audits	1
Spot checks of AATF/AEs	All (13)
Audits of AATFs/AEs	All (13)
Free-rider visits / checks	Issue annual data questionnaire and follow up as appropriate

**\*Please note that these targets may be subject to change given the current regulatory restrictions imposed by the COVID-19 pandemic.**

### 3. Batteries and Accumulators

#### 3.1 Scope

The Waste Battery and Accumulators Regulations 2009 aim to significantly increase UK collection and recycling of batteries and accumulators. They set out requirements for waste battery collection, treatment, recycling and disposal of all battery types. This will be achieved by making producers responsible for financing the collection, treatment, and recovery of batteries, and by obliging distributors to facilitate the return of waste equipment from consumers free of charge.

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

Batteries are split into three main categories:

- (a) automotive batteries;
- (b) industrial batteries;
- (c) portable batteries;

For the purposes of reporting and the issuing of evidence these can be further split into three main chemistry types:

- (a) lead-acid,
- (b) nickel-cadmium, or
- (c) any other chemistry;

The Compliance period runs from the 1<sup>st</sup> January of each year to the 31<sup>st</sup> December of that year.

## 3.2 Regulatory Roles

The Department of Agriculture, Environment and Rural Affairs for Northern Ireland (DAERA) is the appropriate authority. NIEA as an agency within DAERA is the designated authority within Northern Ireland for the enforcement of the regulations.

NIEA has a duty under the regulations to monitor compliance in Northern Ireland. This duty covers:

- Registration of Battery producers placing less than 1 tonne of batteries onto the market (Small Producers)
- Approval and monitoring of Approved Battery Treatment Operators (ABTOs) and Approved Battery Exporters (ABEs)
- Approval of Battery Compliance Schemes (BCS) registered in Northern Ireland

## 3.3 Registration of Small Producers

### Definitions

*“Producer” means any person in the United Kingdom that, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council on the protection of consumers in respect of distance contracts (d), places batteries, including those incorporated into appliances or vehicles, on the market for the first time in the United Kingdom on a professional basis. “Small producer” means a producer of portable batteries who places 1 tonne or less of portable batteries on the market in the United Kingdom during a year.*

### Compliance Monitoring Activities

Small producers are required to register on the National Packaging Waste Database (NPWD) within 28 days of first placing batteries onto the UK Market. They are further required to submit figures for the batteries placed on the market during the previous compliance year by 31st January of each year. An administration charge of £30 is levied to cover administration costs.

The role of NIEA is to ensure that all small producers register on NPWD and provide an annual submission of the quantities of portable batteries that they have placed on the market.

Compliance monitoring is a combination of office based checks and site audits, and includes the following activities:

- Desk based search for non-registered producers using the internet, information from other teams within NIEA and media
- Monitoring of direct registrant small producers submissions and registrations on NPWD
- Advisory visits to small producers

### **3.4 Approved Battery Treatment Operators and Approved Battery Exporters.**

#### **Definitions**

- “Battery treatment operator” means a person who, in the ordinary course of a trade, occupation or profession, carries out the treatment or recycling of waste batteries.
- “Treatment” means any activity carried out on waste batteries after they have been handed over to a person for sorting, preparation for recycling or preparation for disposal.
- “Exporter” means a person who in the ordinary course of a trade, occupation or profession exports waste batteries for treatment or recycling outside the United Kingdom.
- “Best available techniques” has the meaning given in Article 2(12) of Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control (b).

## **Compliance Monitoring Activities**

The Waste Battery and Accumulators Regulations 2009 require all portable batteries accepted by a Battery Compliance scheme, and all Automotive and Industrial Batteries to be treated/ recycled at an Approved Battery Treatment Operator (ABTO), or exported by an Approved Battery Exporter (ABE). All treatment and recycling at UK sites, sites within the European Economic Area (EEA), and sites outside of the EEA to comply with all relevant waste management licensing and to treat and recycle using Best Available Technique (BAT).

Compliance monitoring is a combination of office based checks and site audits, and includes the following activities:

- Review of the annual application to be an ABTO or ABE
- Site visit as a part of the first application to be an ABTO or ABE
- Review of quarterly reporting figures for portable batteries and annual reporting figures for automotive/industrial batteries
- Review of evidence issued to Battery Compliance Schemes and proof of its traceability via the ABTO or ABE (part of auditing process)
- Annual site audit
- One or more routine spot checks in addition to the full annual audit, as required
- Advisory visits as requested

One ABTO was approved by NIEA mid-year in 2019. It was spot checked in 2019 and will be audited in 2020. Currently there are no ABTOs/ABEs approved for 2020.

### **3.5 Battery Compliance Schemes**

#### **Definitions**



A Battery Compliance Scheme is a body, usually a limited company, through which producers will meet their obligations to register with the appropriate authority and finance the cost of collection, treatment, recovery and environmentally sound disposal of Waste Portable Batteries. Battery Compliance Schemes have to apply for approval to operate in the UK from one of the Environment Agencies: Environment Agency (EA), Natural Resource Wales (NRW), the Scottish Environmental Protection Agency (SEPA) or the Northern Ireland Environment Agency (NIEA). Compliance Schemes must meet their members' recycling and recovery obligations by ensuring waste portable batteries collected on their behalf is recycled and recovered by ABTOs and ABEs who issue evidence of this activity.

### **Compliance Monitoring Activities**

There are currently no compliance schemes registered with NIEA, however there is a limited supporting role in the provision of support to the Environment Agency annually through NPWD in the application process and three yearly submission of viable plans.

## APPENDIX 1

- Compliance Schemes may choose to contract with each other in advance of collections. Compliance Schemes are free to make any collection arrangements for household WEEE.
- A Compliance Scheme may collect more or less than the obligation it has been given. If a Compliance Scheme collects too much, it must finance the excess or retain the income. If a Compliance Scheme collects too little, it must pay a Compliance Fee per tonne (collection stream specific) into a fund intended to support WEEE related projects or face appropriate sanctions for non-compliance.
- Government will approve proposals for the methodology and application of the compliance fee each year. Only one methodology will be approved for each compliance period. Deadline for submitting proposals will be 30th September each year.
- WEEE delivered into an AATF/AE by a Compliance Scheme generates evidence for that scheme.
- Any WEEE sent to/received by an AATF/AE by other persons generates data to be reported and count towards the MS collection target.
- Additional WEEE data generated from protocol sampling of WEEE treated outside the system will potentially be counted towards Member State collection target using “substantiated estimates”.
- Local authority DCFs can choose, annually and by WEEE stream, to manage collection and treatment directly, absorbing any revenues/costs for any specific WEEE stream. Those choosing self-management of WEEE streams will have to notify DEFRA.
- From 2019, producer compliance schemes (PCSs) who are approved to accept B2C members must join the government’s approved PCS Balancing System (PBS). This is intended to ensure that the costs of collecting and treating waste electrical and electronic equipment (WEEE) when requested by local authorities are shared amongst all PCSs with household WEEE obligations.