

Are you prepared for WEEEDay?



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'D' day for the WEEE Directive, or WEEEDay as the Environment Agency prefers to call it, is 1st July 2007. This date marks the start of the first compliance period in which all 'producers', that is those who manufacture, re-brand or import electrical or electronic equipment and 'distributors', that is anyone who sells electrical or electronic equipment directly to household users/consumers, must make a provision for the return of and appropriate disposal of old equipment on purchase of a replacement item. How prepared are you for WEEEDay?

This article David Profit, Technical Manager at SSAIB, tries to unpick three issues:

- 1 Do intruder and fire alarm systems fall within the requirements of the directive?
- 2 Are installer classified as 'distributors'?
- 3 What obligations does the WEEE Directive and its Regulations place on Producers and Distributors?

Start with a caveat

Despite all the hype and publicity material that has heralded the launch of this Directive the position is, in many ways, still far from clear. While we have endeavoured to provide an accurate overview of the position as it is anticipated to impact upon SSAIB registered firms, there are still a number of matters to be resolved.

The Basics

The Environment Agency (EA) describes the Waste Electrical and Electronics Directive (or WEEE) as one of a series of 'producer responsibility' directives aimed to make equipment producers pay for the recycling and/or safe treatment and disposal of products that they put onto the market when they are eventually thrown away. 'Recycling' is the watchword of the EA and the requirements of the Directive apply to industry and consumers alike (albeit in different ways). Before getting into the detail, let's put the timeframe into perspective.

Dates and Deadlines

Those of you familiar with the evolution and implementation of European Standards will be aware that dates are often movable feasts and in this respect the WEEE Directive was no exception. However, eventually there is a call to arms and despite, or maybe because of the false dawns, organisations are rarely as informed or prepared as they should be. Several key dates have already passed and the next key day is 1st July.

Key Dates

2nd January 2007

WEEE Regulations came into force.

15th March 2007

Deadline for producers to join a compliance scheme or for distributors wishing to join a take-back scheme.

1st April 2007

From this date, all new electrical products placed on the market in the UK need to be marked with the crossed out wheeled bin symbol along with the producers identification mark.

1st July 2007

Start of take-back and consumer information requirements for distributors and start of first compliance period.

31st December 2007

End of first compliance period.

These dates and their significance is explained below.

The Scope of WEEE

The question is - do suppliers and installers of electronic security systems and fire detection and alarm systems fall within its gaze?

Annex A to the Government Guidance Notes, issued in February 2007, gives ten categories of product covered by the WEEE Regulations; category 9 is monitoring and control equipment. With respect to household applications, in this category smoke detectors are clearly identified as falling within the Regulation; monitoring and control instruments (e.g. control panels) used in industrial applications are also listed. Apart from that, the other 9 broad categories seemingly do not reference intruder or fire alarm systems or their component parts. However, accepting that the categories are not to be regarded as a comprehensive list of items covered by the Regulations, the decision tree in Annex B of the Guidance Notes says that if you do not fit within one of the 10 listed categories then you are not covered by the Directive. It would appear by this test that security and fire alarm systems are excluded.

Fixed Installations

Another aspect of the Regulations that also casts doubt on the role of installers is the definition of the 'fixed installation', defined as,

'...a combination of several pieces of equipment, systems, products and/or component (or parts) assembled and/or erected by a professional assembler or installer at a given place to operate together in an expected environment and to perform a specific task, but not intended to be placed on the market as a single functional or commercial unit'.



Would a bespoke intruder or fire alarm system fall within this definition and thus be excluded from the requirements of the WEEE Regulations? It may be argued that the component parts of these systems are not discernable EEE products in their own right or that they have no direct function away from the installations and thus are considered to be excluded from the scope of the Regulations.

The European Commission's Technical Adoption Committee (TAC) of member states is considering the interpretation of the term 'fixed installation' and while they deliberate, the definition provided above holds. To clarify the position specifically with respect to intruder and fire alarm system installations, I spoke to the Environment Agency (1st May 2007) and was told unequivocally that intruder and fire alarm systems are exempt from the WEEE requirements as they are 'fixed installations'.

It is perhaps worth noting, that if indeed fire alarm and intruder alarm systems are 'fixed installation' there is no legal obligation placed upon installers under the WEEE Regulations.

So, it would appear so far that installers of security and fire alarm systems do not fall within the Regulations. However, exactly why they do not is less clear. One other argument is that installers are not simply retailers (distributors) they add value through the installation process and another is that the main distributor is the 'duty holder' and as the installer/systems suppliers is down the distribution chain a little the main responsibilities for WEEE have already been catered for. However, when you consider the definition of distributor given below, this argument seems a little tenuous.

Requirements for Distributors

What is a Distributor?

While the distributor might commonly be regarded as being the retailer, the definition provided implies a much wider scope of activity. The definition draws in everyone selling new electrical or electronic equipment directly to household users/consumers irrespective of the method of sale and the Regulation places specific responsibilities on distributors. So, could a company selling and installing security or fire systems to householders be considered a distributor?



Obligation

The main obligation on distributors is to provide a take-back service to householders enabling them to return their WEEE free of charge on purchase of a replacement item. This may be in the form of an 'in-store' take back or through participation in the Distributor Take Back Scheme (DTS).

If the distributor is part of a registered Distributor Take-Back Scheme (DTS), they must direct householders to a collection facility they support through their DTS membership. The Regulations do not entitle householders to free collection of WEEE from home and householders may be charged for bulky waste collection from the Local Authority or for 'collection on delivery service' from retailers. However, they will not be charged for the disposal of the goods.

Distributors do not need to offer 'in-store' take back if they can demonstrate that they are a member of a DTS or have made arrangements for alternative free take-back services.

While there is no obligation on householders to dispose of their WEEE in a certain way, distributors should provide guidance in relation to the environmental impact of waste electrical products and how they be disposed of safely. The guidance must advise householders of the options available to them, either through the 'in-store' or 'take-back' facility and provide information on the environmental benefits of the correct disposal of waste electrical and electronic equipment. The aim is to encourage householders to act responsibly and to ensure that they are aware of the mechanisms in place to facilitate this.

The information, by way of a handout or leaflet, provided to householders must to be kept for four years. Distributors must record and retain for four years the number of units received through the 'take-back' scheme and the number of units returned to a Producer Compliance Scheme.

The cost of joining a Distributor Take-Back Scheme is based on the distributor's sales of EEE during 2006. Smaller distributors with sales of up to £100,000 will pay a flat rate fee of £200. Distributors with sales of between £100,000 - £ 1.5m during 2006 will pay a flat fee of £750. Large distributors, with sales of £1.5m plus, will pay a rate proportioned by sales. Distributors who failed to register before the 15th March deadline will pay fees significantly above these.

Distributors have no legal obligation in relation to the sale of non-household EEE or for the provision of take-back services for non-household WEEE.

Requirements for 'Producers'

What is a 'Producer'?

In simple terms every company in the UK that manufactures; imports or re-brands electrical or electronic equipment is called a producer. All producers should by now have joined an approved compliance scheme (see dates and deadlines above). All producers have obligations with respect to the products they place on the market and in terms of financing the treatment, reprocessing and environmentally sound disposal of the WEEE.

In addition, producers who sell directly to householders have responsibilities as distributors as outlined above.

Obligation

All producers must join an approved Producer Compliance Scheme (PCS). The producer is obliged to report the quantity of EEE placed on the market and arrange for the collection, treatment and appropriate disposal of the WEEE deposited at the designated collection facility (DCF). This must be declared to the appropriate authority and supported with evidence. The producer is obliged to finance the collection, treatment, recycling and environmental disposal of the EEE they place on the UK market on a quarterly basis, broken down by the 10 compliance categories referenced above and whether it is household or non-household in nature. This information must be retained for four years.

Are you prepared for WEEEDay?



Product Marking

The symbol of the crossed-out wheeled bin and the producer's unique registration number must be marked on all EEE place on the UK market. In some circumstances this information may appear on packaging or warranty documentation.

The product registration number must appear on the producer's letterhead and must be made available to distributors to signify that they are purchasing from an EEE producer registered in the UK.

The markings on EEE should confirm that the product was put on the market on or after 13th August 2005.

So, are you prepared for WEEEDay?

The obligations that the WEEE Regulations place upon Producers and Distributors as 'duty holders' seem relatively clear, once a company has actually determined that they are a 'duty holder'. What is unclear is whether installers may be regarded as distributors.

As far as we are able to determine installers appear to fall outside the scope of the Regulation; however why this is so is less clear.

Security and fire alarm systems appear not to be listed in the 10 main categories and so are excluded. They may also be excluded as 'fixed installation'. Nevertheless, given the nature of the Directive it is hard to believe that electric and electronic component parts used in protective systems fall outside the scope of the regulations.

What should be borne in mind is that a legal exemption at this stage does not exempt companies from their service responsibility. Householders would not except to be left with the task of disposing of waste electrical products following an installation, even if (unlike the installer) they can dispose of them free of charge at a designated collection facility. A progressive widening of responsibility after the initial settling in period is not uncommon with Regulations and installers need to develop a recycling culture and put in place mechanisms for dealing with waste electrical products even if at this stage there are no explicit requirements on them to do so under the WEEE Regulations.