

L.N. of 2020

**ENVIRONMENT PROTECTION ACT
(CAP. 549)**

**Waste Management (Electrical and Electronic Equipment)
(Amendment) Regulations, 2020**

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister for the Environment, Climate Change and Planning, after consultation with the Environment and Resources Authority, has made the following regulations:-

Citation.

1. The title of these regulations is the Waste Management (Electrical and Electronic Equipment) (Amendment) Regulations, 2020, and these regulations shall be read and construed as one with the Waste Management (Electrical and Electronic Equipment) Regulations, hereinafter referred to as "the principal regulations".

S.L. 549. 89.

Amends regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, immediately after the words "27 January 2003" there shall be added the words "as amended by Directive (EU) 2018/849 of the European

Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment"; and

(b) immediately after sub-regulation (3) thereof, there shall be added the following new sub-regulation:

"(4) These regulations shall be read and construed in the context of the provisions of the L.N. XX of 2020. Extended Producer Responsibility Framework Regulations."

3. Sub-regulation (1) of regulation 3 of the principal regulations shall be amended as follows:

Amends regulation 3 of the principal regulations.

(a) immediately after the definition "agreement", there shall be added the following new definition:

" "authorised waste electrical and electronic equipment collective organisation" means a producer responsibility organisation as defined in regulation 3 of the L.N. XX of 2020. Extended Producer Responsibility Framework Regulations, as authorised by the competent authority in accordance with these regulations, whose members, by virtue of these regulations and their membership of that organisation, are exempt from part of these regulations;"

(b) the definition "local agency" shall be substituted by the following new definition:

" "local agency" shall have the same meaning as "entity of Government" as defined in article 2 of the Act;" and

(c) in the definition "producer", the words "including by means of distance communication as defined in the Distance Selling Regulations" shall be substituted by the words "including by means of distance contracts as defined in the Consumer Rights Regulations".

4. Regulation 5 of the principal regulations shall be amended as follows:

Amends regulation 5 of the principal regulations.

(a) in sub-regulation (4) thereof, the words "and shall

thereafter be handed over to waste electrical and electronic equipment compliance schemes" shall be substituted by the words "and shall thereafter be handed over to authorised waste electrical and electronic equipment collective organisation";

(b) paragraph (b) of sub-regulation (4) thereof shall be substituted by the following new paragraph:

"(b) shall be proportionately distributed by the local agency, by category, amongst the authorised waste electrical and electronic equipment collective organisations on the basis of the average weight of EEE placed on the market by the members of the producer responsibility organisations in the three preceding years, as shall be determined by the competent authority.";

(c) immediately after paragraph (b) of sub-regulation (4) thereof, there shall be added the following new paragraph:

"With reference to the distribution of WEEE pursuant to paragraphs (a) and (b), an authorised WEEE collective organisation shall collect the share of the WEEE allocated to it within six months of notification by the local agency:

Provided that where the producer responsibility organisation fails to comply with such date, the local agency may treat such WEEE at the expense of the producer responsibility organisation subject to the Minister's approval."; and

(d) immediately after sub-regulation (5) thereof there shall be added the following new sub-regulation:

"(6) Producers, or authorised WEEE collective organisations acting on their behalf, shall ensure continuity of waste management services throughout the year, even if the collection targets laid down in regulation 7(1) are achieved.".

Adds new regulation to the principal regulations.

5. Immediately after regulation 8 of the principal regulations

there shall be added the following new regulation:

"Proof of recovery, preparation for reuse, recycling or disposal.

S.L. 549. 63.

8A. (1) For waste electrical and electronic equipment treated in Malta, it shall be the duty of the self-compliant producer or the waste electrical and electronic equipment collective organisation to acquire a signed declaration from local waste management undertakings or establishments, authorised by the competent authority according to the Waste Regulations indicating:

(a) the actual rate that has been recovered, prepared for reuse, recycled and, or disposed; and

(b) that the waste electrical and electronic equipment has been recovered or disposed of in an environmentally sound manner.

(2) For waste electrical and electronic equipment exported for further treatment, it shall be the duty of the self-compliant producer or the waste electrical and electronic equipment collective organisation to acquire a signed declaration issued by the foreign waste management undertaking or establishment handling the waste electrical and electronic equipment indicating:

(a) the actual rate that has been recovered, prepared for re-use, recycled and, or disposed by the facility in the Member State or third country; and

(b) that the waste electrical and electronic equipment has been recovered or disposed of in an environmentally sound manner.

(3) Without prejudice to commercial and industrial confidentiality, if a self-compliant producer or a waste electrical and electronic equipment collective organisation engages the services of an authorised waste management undertaking or establishment to export waste electrical and electronic equipment for further treatment, then such undertaking or establishment is to provide the information referred to in sub-regulation (2) to the self-compliant producer or the waste electrical and electronic equipment collective organisation.

(4) Waste electrical and electronic equipment treated locally or abroad shall only count towards the fulfilment of the recovery targets set out in regulation 11 and Schedule 5, if the self-compliant producers or the waste electrical and electronic equipment collective organisation present the documentation referred to in sub-regulations (1), (2) or (3) to the competent authority."

Amends regulation 13A of the principal regulations.

6. Regulation 13A of the principal regulations shall be amended as follows:

(a) sub-regulation (4) thereof shall be deleted;

(b) sub-regulations (5), (6) and (7) thereof shall be re-numbered as sub-regulations (4), (5) and (6) respectively;

(c) in sub-regulation (4) thereof, as re-numbered, the words "sub-regulations (2) and (4)" shall be substituted by the words "sub-regulation (2)"; and the words "by its members" shall be substituted by the words "by the producer";

(d) sub-regulation (5) thereof, as re-numbered, shall be substituted by the following new sub-regulation:

"(5) In cases where a producer or an authorised representative acting as a self-compliant producer fails to achieve the obligations pursuant to regulations 12(1) and 13(1), the competent authority shall seize the financial guarantee to finance the operations related to the management of WEEE that has not been collected, treated, recovered and disposed of in an environmentally sound manner by such producer or authorised representative."; and

(e) in sub-regulation (6) thereof, as re-numbered, the words "a producer, authorised representative or waste electrical and electronic compliance scheme" shall be substituted by the words "a producer or authorised representative"; and the words "sub-regulations (2) and (4)" shall be substituted by the words "sub-regulation (2)".

Adds new regulation to the principal regulations.

7. Immediately after regulation 15 of the principal

regulations there shall be added the following new regulation:

"incentives for the application of the waste hierarchy. 15A. In order to contribute to the objectives laid down in these regulations, the Minister may make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures."

8. Regulation 16 of the principal regulations shall be amended as follows:

Amends regulation 16 of the principal regulations.

(a) sub-regulation (5) thereof shall be substituted by the following new sub-regulation:

"(5) When a producer ceases to place electrical and electronic equipment on the market, the producer shall apply for deregistration with the competent authority in accordance with the relevant administrative procedure prescribed by the Authority.";

(b) sub-regulation (8) thereof shall be substituted by the following new sub-regulation:

"(8) Without prejudice to commercial and industrial confidentiality, the information referred to in sub-regulation (4) shall be made available in accordance with the Freedom of Access to Information on the Environment Regulations."; and

S.L. 549.39.

(c) immediately after sub-regulation (11) thereof, there shall be added the following new sub-regulations:

"(12) It shall be the responsibility of a registered producer to retain for a minimum of five (5) years the information referred to in sub-regulation (4). Such records shall be made available on request to the competent authority.

(13) A self-compliant producer shall submit to the competent authority a statement of compliance in respect of his collection, recovery and recycling obligations in accordance with regulations 7 and 11, upon applying to renew his registration according to sub-regulation (3).

The provisions of Schedule 16 shall apply as regards the information to be contained in the statement of

compliance."

Amends
regulation 19 of
the principal
regulations.

9. Regulation 19 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, the words "regulation 17" shall be substituted by the words "regulation 16"; and

(b) in paragraph (a) of sub-regulation (2) thereof, the words "regulation 17" shall be substituted by the words "regulation 16".

Amends
regulation 21 of
the principal
regulations.

10. Regulation 21 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

S.L. 549. 63. "(1) Without prejudice to the Waste Regulations, any person who intends to operate a waste electrical and electronic equipment collective organisation as required under these regulations, including the collection, sorting, storage, treatment, export and recycling of waste electrical and electronic equipment, on behalf of producers, shall require and obtain a valid permit from the competent authority.";

(b) sub-regulation (4) thereof shall be re-numbered as sub-regulation (6), and the words "this information" shall be substituted by the words "any non-confidential information"; and

(c) immediately after sub-regulation (3) thereof there shall be added the following new sub-regulation:

"(4) A WEEE collective organisation shall, upon being granted a permit or a renewal of its permit, be required to submit a bank guarantee in accordance with Schedule 14 to ensure compliance with the conditions of the permit and these regulations:

Provided that a newly established WEEE collective organisation shall not be required to submit a bank guarantee during its first operational year."

11. Regulation 22 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 22 of the principal regulations.

"Participation in an authorised waste electrical and electronic equipment collective organisation.

22. (1) A producer shall be exempt from part of these regulations provided he is a member of an authorised waste electrical and electronic equipment collective organisation.

(2) A producer, who opts to participate in an authorised waste electrical and electronic equipment collective organisation shall, upon request by the competent authority, submit a copy of the signed agreement with the operator of the authorised waste electrical and electronic equipment collective organisation."

12. Regulation 23 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 23 of the principal regulations.

"Operation of a waste electrical and electronic equipment collective organisation.

23. (1) The operator of a waste electrical and electronic equipment collective organisation, authorised according to regulation 21, shall:

(a) bind himself to carry out the obligations agreed to and on behalf of the producer in accordance with any existing laws and regulations, as well as all the conditions in the permit issued by the competent authority;

(b) provide the competent authority by 31 March of each year with the required information in respect of electrical and electronic equipment placed on the market by each producer participating in the scheme, in the previous year;

(c) provide the competent authority with a statement of compliance by 31 March each year in respect of the collection, recovery and recycling obligations in accordance with regulations 7 and 11. The provisions of Schedule 15 shall apply as regards the information to be contained in the statement of compliance.

(2) The authorised waste electrical and electronic equipment collective organisation shall submit a half-yearly report to the competent authority within three (3) months following the end of that period, whereas an annual report shall be submitted to the competent authority within three (3) months of the closing of the year.

The half-yearly and annual reports shall contain at least the information set out in Part A and Part B of Schedule 16 together with any other information as specified in the authorisation issued by the competent authority.

(3) Without prejudice to commercial and industrial confidentiality, a digital copy of the half-yearly and annual reports referred to in sub-regulation (2) shall be made available in accordance with the Freedom of Access to Information on the Environment Regulations:

Provided that only the information relating to Part A of Schedule 16 shall be made available.

(4) It shall be the responsibility of an authorised waste electrical and electronic equipment collective organisation to retain for a minimum of five (5) years the information referred to in sub-regulations (1) and (2). Such records shall be made available on request to the competent authority."

13. Regulation 24 of the principal regulations shall be amended as follows:

Amends regulation 24 of the principal regulations.

(a) in sub-regulation (2) thereof, immediately after the words "of these regulations." there shall be added the words "Self-compliant producers shall submit the audit report upon applying to renew their registration according to regulation 16(3) together with the information referred to in regulation 16(4)."; and

(b) sub-regulation (3) thereof shall be substituted by the following new sub-regulation:

"(3) In the case of an authorised waste electrical and electronic equipment collective organisation, the auditor shall be required to certify that all of the information reported to the competent authority is in conformity with the obligations of these regulations and is

as specified in the permit issued by the competent authority. The authorised waste electrical and electronic equipment collective organisation shall submit the audit report together with the annual report referred to in regulation 23(2)."

14. The words "regulation 16", wherever they occur, in paragraph (1) of part A of the said Schedule 9 to the principal regulations, shall be substituted by the words "regulation 17".

Amends
Schedule 9 to
the principal
regulations.

15. The words "Regulation 12" in the sub-heading of Schedule 13 to the principal regulations, shall be substituted by the words "Regulation 13A(2)".

Amends
Schedule 13 to
the principal
regulations.

16. Schedule 14 to the principal regulations shall be substituted by the following new Schedule:

Substitutes
Schedule 14 to
the principal
regulations.

"SCHEDULE 14

[regulation 21(4)]

Bank Guarantee for an authorised waste electrical and electronic equipment collective organisation

A bank guarantee in favour of the Authority shall be submitted to the competent authority within three (3) months of the issuance of the permit or its renewal and shall cover the WEEE collective organisation's operations and obligations as prescribed in these regulations and any permits granted by the Authority in favour of such WEEE collective organisation. The bank guarantee covering any operational year may only be released once the Authority confirms that the WEEE collective organisation has complied and fulfilled its obligations for that respective year that the release of the bank guarantee is being requested for:

Provided that in cases of renewal, the same bank guarantee may be extended for the duration of the renewed permit and amended in terms of value to reflect the calculation below whilst still be applicable for any expired permit which the Authority is still in the process of verifying compliance with.

The amount of bank guarantee shall be calculated as follows:

$$A*B = \text{Bank Guarantee}_{\text{PRO}}$$

where:

"A" is the average of the actual weight, in tonnes, of the EEE placed on the market as declared by the authorised WEEE collective organisation in its annual reports submitted in accordance with regulation 23(2), covering the three (3) preceding operational years:

Provided that in such cases where the authorised WEEE collective organisation has been operating for a period of three (3) years or less, but more than one (1) year, "A" shall be the average of the actual weight, in tonnes, of the EEE placed on the market during its preceding operational year/s as declared by the WEEE collective organisation in its annual report/s submitted in accordance with regulation 23(2); and

"B" is equivalent to a flat rate of thirty-five euro (€35) per tonne."

Adds new
schedules to the
principal
regulations.

17. Immediately after Schedule 14 to the principal regulations there shall be added the following new Schedules:

"SCHEDULE 15

(regulations 16 and 23)

Information in the statement of compliance

The statement of compliance shall contain the following information:

- name and address of the approved person who is issuing and signing the certificate;
 - date of the certificate;
 - the producer in respect of whom the approved person is issuing the certificate; and
 - certification by the approved person as to whether the relevant producer has complied with his collection, recovery and recycling obligations.
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SCHEDULE 16

(regulation 23)

Information to be contained in the half-yearly and annual report of an authorised waste electrical and electronic equipment collective organisation

Part A: Environmental Information on the operations of the waste electrical and electronic equipment collective organisation

- Statement of Compliance with the obligations of these regulations;
- General details on its ownership and membership;
- Quantities of electrical and electronic equipment (EEE) placed on the market by the members of the producer responsibility organisation;
- Quantities of WEEE collected and annual collection rate achieved by the producer responsibility organisation;
- Quantities of WEEE treated and quantities of WEEE recovered, prepared for reuse and recycled;
- The financial contributions paid by the members of the producer responsibility organisation per tonne of electrical and electronic equipment placed on the market;
- The selection procedure for waste management operators;
- List on information and awareness campaigns carried out by the producer responsibility organisation.

Part B: Commercial and other information on the operations of the waste electrical and electronic equipment collective organisation

- List of producers who were members of the producer responsibility organisation during the reporting period;

- Information on the financial guarantee covering the reporting period;

- A description of the return, collection and recovery systems used or set up by the producer responsibility organisation, including details on the collection of WEEE from private households;

- An appropriate description of how the data has been compiled, including any explanation of any estimates used;

- Information on the authorised waste management undertakings or establishments used during the reporting period for the carrying out of the waste management operations;

- Proof of recovery, preparation for reuse or recycling as well as disposal;

- Additional, detailed financial information other than the information provided under Part A;

- Details on information and awareness campaigns carried out by the producer responsibility organisation."

Amends various provisions of the principal regulations.

18. (1) In the principal regulations, the words "waste electrical and electronic equipment compliance scheme", wherever they occur, shall be substituted by the words "waste electrical and electronic equipment collective organisation".

(2) In the principal regulations, the word "scheme", wherever it occurs, provided that such word is not part of the phrase "waste electrical and electronic equipment compliance scheme", shall be substituted by the words "producer responsibility organisation".

(3) In the principal regulations, the words "collective scheme", wherever they occur, shall be substituted by the words "producer responsibility organisation".
