

Regulation of the State Secretary of Infrastructure and the Environment, of, no. IENM/BSK-IENM/BSK-2013/287023, establishing rules on waste electrical and electronic equipment (Regulation on waste electrical and electronic equipment)

The State Secretary of Infrastructure and the Environment,

In view of Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (OJEU 2012, L 197), Articles 9.2.2.1, 9.5.2, 10.29, 10.41, 10.43 and 21.6 (6) of the Environmental Management Act (*Wet milieubeheer*) and Article 5.8 (2) of the General Environmental Conditions Decree (*Besluit omgevingsrecht*);

DECREE:

Article 1. Definitions

1. In this Regulation the following definitions shall apply:

a. active implantable medical device: active implantable medical device within the meaning of point (c) of Article 1 (2) of Directive 90/385/EEC of the Council of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices (OJEU 1990, L 189) which is electrical and electronic equipment;

b. waste electrical and electronic equipment (WEEE): electrical or electronic equipment which is waste within the meaning of Article 3 (1) of the Waste Framework Directive, including all components, sub-assemblies and consumables which are part of the product at the time of discarding;

c. waste electrical and electronic equipment from private households: waste electrical and electronic equipment which comes from private households and waste electrical and electronic equipment from other sources which, because of its nature and quantity, is similar to that from private households;

d. removal: manual, mechanical, chemical or metallurgic handling with the result that hazardous substances, mixtures and components of electrical and electronic equipment are contained in an identifiable stream or as an identifiable part of a stream within the treatment process;

e. distributor: any natural person or legal person in the supply chain who makes electrical and electronic equipment available on the market, on the understanding that a distributor may, at the same time, be a producer;

f. electrical and electronic equipment (EEE): 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 and designed for use with a voltage rating not exceeding 1000 volts for alternating current and 1500 volts for direct current;

g. finance agreement: any loan, lease, hiring or deferred sale agreement or any other agreement relating to any electrical or electronic equipment;

h. large-scale stationary industrial tools: a large-size assembly of machines, equipment and/or components functioning together with a specific application, permanently installed and de-installed

by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;

i. large-scale fixed installation: a large-size combination of several types of apparatus and, where applicable, other devices, which:

1. are assembled, installed and de-installed by professionals,
2. are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location, and
3. can only be replaced by the same specifically designed equipment;

j. very small waste electrical and electronic equipment: waste electrical and electronic equipment with external dimensions of no more than 25 centimetres;

k. placing on the market: the first making available of electrical or electronic equipment on the market within the territory of the Netherlands on a professional basis;

l. medical device: a medical device or accessory within the meaning of point (a) or (b) of Article 1(2) of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJEU 1993, L 169) which is electrical and electronic equipment;

m. in vitro diagnostic medical device: an in vitro diagnostic device or accessory within the meaning of, respectively, point (b) or (c) of Article 1(2) of Directive 98/79/EEC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices (OJEU 1998, L 331) which is electrical and electronic equipment;

n. non-road mobile machinery: machinery with on-board power source, the operation of which requires either mobility or continuous or semi-continuous movement between a succession of fixed working locations while working;

o. making available on the market: any supply of electrical or electronic equipment for distribution, consumption or use on the market of the Netherlands in the course of a commercial activity, whether in return for payment or free of charge;

p. producer: any natural or legal person who, irrespective of the selling technique used, including distance communication within the meaning of Directive 97/7/EU of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (OJEU 1997, L 144):

- 1°. is established in the Netherlands and manufactures electrical and electronic equipment (EEE) under his own name or trademark or has EEE designed or manufactured and markets it under his name or trademark within the territory of the Netherlands,
- 2°. is established in the Netherlands and resells within the territory of the Netherlands, under his own name or trademark, equipment produced by other suppliers, a reseller not being regarded as the producer if the brand of the producer appears on the equipment, as provided for in point (1).
- 3°. is established in the Netherlands and places on the market of the Netherlands, on a professional basis, EEE from a third country or from another Member State of the European Union, or
- 4°. sells EEE by means of distance communication directly to private households or to users other than private households in the Netherlands, and is established in a country other than the Netherlands;

q. Directive 2012/19/EU: Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (recast) (OJEU 2012, L 197).

2. For the application of this regulation:

NEN-EN 50419: NEN-EN 50419:2006 en means: Dutch Standard for Marking of electrical and electronic equipment in accordance with Article 11 (2) of Directive 2002/96/EC (WEEE), March 2006;

NEN-EN 50574: NEN-EN 50574:2012 en means: Dutch Standard for Collection, Logistics and Treatment Requirements for end-of-life household appliances containing volatile fluorocarbons or volatile hydrocarbons, June 2012;

WEEELABEX Treatment means: WEEELABEX normative document on Treatment V9.0, May 2011.

Article 2. Scope

1. This regulation is:

- a. applicable up to and including 14 August 2018 to EEE falling within the categories mentioned in Annex I of Directive 2012/19/EU, with due regard to Annex II of Directive 2012/19/EU which contains an indicative list of EEE falling within the categories mentioned in Annex I of Directive 2012/19/EU;
- b. applicable from 15 August 2018 to EEE, with due regard to Annex IV of Directive 2012/19/EU which contains a non-restrictive list of EEE falling within the categories mentioned in Annex III of Directive 2012/19/EU.

2. This regulation does not apply to:

- a. equipment which is necessary for the protection of the essential interests of the security of Member States of the European Union, including arms, munitions and war material intended for specifically military purposes;
- b. equipment which is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment, and
- c. filament bulbs.

3. From 15 August 2018 this Regulation shall not apply to:

- a. equipment designed to be sent into space;
- b. large-scale stationary industrial tools;
- c. large-scale fixed installations, except any equipment which is not specifically designed and installed as part of those installations;
- d. means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;
- e. non-road mobile machinery made available exclusively for professional use;
- f. equipment specifically designed solely for the purposes of research and development that is only made available on a business-to-business basis;
- g. medical devices and in vitro diagnostic medical devices, where such devices are expected to be infective prior to end of life and active implantable medical devices.

Article 3. Separate collection

1. The Mayor and Aldermen are responsible, either independently or in cooperation with the mayor and aldermen of other municipalities, for the separate collection of WEEE from private households.
2. Without prejudice to the first section, the Mayor and Aldermen shall ensure that at least one location is made available within the municipality or within the municipalities cooperating with each other for this purpose where sufficient opportunity is offered for holders and distributors of WEEE from private households to return this WEEE at least free of charge.

Article 4. Distributor's take-back obligation upon making new products available

A distributor who makes a new device available will take back a WEEE item, being WEEE from private households, of a similar type that has the same functions as the supplied equipment, that is offered to it at least free of charge and will point out this possibility in a clearly visible manner before the purchase and payment of that equipment has taken place.

Article 5. Take-back obligation of retailers with larger sales areas for electrical and electronic equipment

1. A retail operator, with a sales area relating to EEE of at least 400 square metres, will ensure that its distributors in, or in the immediate proximity of, its retail shop will provide for the collection of very small WEEE free of charge, and with no obligation for the end-user to buy EEE of an equivalent type.
2. The obligation referred to in the first section does not apply if an assessment has shown that alternative existing collection schemes are at least as effective and the result of this assessment is available to the public.

Article 6. Option for producers to set up their own take-back system for WEEE from private households

Without prejudice to Articles 3 to 5, producers may introduce and operate WEEE take-back systems, on condition that these systems are in accordance with the objectives of Directive 2012/19/EU.

Article 7. Refusal to take back contaminated WEEE

The collection and return of WEEE, as referred to in Articles 3 to 5, can be refused if the WEEE has become contaminated during use and thus presents a health or safety risk to the employees of the party taking back the WEEE.

Article 8. Separate collection of WEEE other than WEEE from private households

Without prejudice to Article 14, a producer ensures the separate collection of WEEE placed by it on the market, not being WEEE from private households.

Article 9. Transport and preparation for reuse of collected WEEE

1. The separate collection of WEEE and the transportation of that separately collected WEEE must be carried out in a way which allows optimal conditions for preparing the re-use or recycling of that separately collected equipment and the confinement of hazardous substances.
2. In order to maximize the preparation of WEEE for re-use, WEEE that is to be prepared for re-use, will be separated, wherever appropriate, from other separately collected WEEE at the collection points of collection systems or collection facilities, in particular by granting access to personnel from re-use centres.

Article 10. Collection rate

A producer shall ensure that:

- a. in 2014 and 2015, his share in the collection target of at least 4 kilograms of WEEE from private households per inhabitant per year will at minimum be collected and processed on its behalf in

accordance with the proportion of the average weight of EEE placed by it on the market in the relevant year in the Netherlands;

b. from 2016, WEEE weighing a minimum of 45% of the average weight of EEE placed by it in the market in the Netherlands in the three preceding years will be annually collected and processed on its behalf;

c. from 2019:

1°. WEEE weighing a minimum of 65% of the average weight of EEE placed by it in the market in the Netherlands in the three preceding years will be annually collected and processed on its behalf, or

2°. WEEE weighing a minimum of 85% of the average weight of EEE placed by it in the market in the Netherlands in the relevant year will be annually collected and processed.

Article 11. Proper treatment

1. A WEEE treatment operator shall ensure that separately collected WEEE undergoes proper treatment in accordance with the minimum recovery targets of Annex V of Directive 2012/19/EU.

2. Proper treatment as referred to in the first section shall at least entail that:

a. the treatment, other than preparing for re-use and recovery or recycling operations, shall include the removal of all fluids and a selective treatment in accordance with Annex VII of Directive 2012/19/EU;

b. the treatment of the collected WEEE shall take place using the best available techniques;

c. the treatment of the collected WEEE shall take place in compliance with the technical requirements set out in Annex VIII of Directive 2012/19/EU, and

d. from 1 July 2015 the collected WEEE will be treated in accordance with WEEELABEX Treatment.

3. Contrary to the provisions of section 2 (d), redundant household appliances containing volatile fluorocarbons or volatile hydrocarbons will be treated in accordance with NEN-EN 50574.

4. The party shipping WEEE outside the Netherlands shall ensure, and shall demonstrate prior to the shipment, that the WEEE will undergo proper treatment under conditions that are equivalent to those set out in the second section and the minimum requirements referred to in Annex VI of Directive 2012/19/EU.

5. Documents concerning the shipment as referred to in the fourth section are kept by the party initiating the shipment of WEEE for at least five years.

Article 12. Permits

The competent authorities shall ensure that the integrated environment permit for the WEEE treatment facility shall at least comply with Article 8, sections 2, 3 and 5, and Article 11 of Directive 2012/19/EU.

Article 13. Financing in respect of WEEE from private households

1. A producer shall provide for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households that was produced by it in so far as this EEE was placed on the market after 13 August 2005.

2. A producer who is present in the market at the time when the costs arise for the management of WEEE from private households which was placed on the market on or before 13 August 2005 shall finance the management of that WEEE in proportion to its market share at the time when the waste management costs arise.

3. The duty to provide for the financing as mentioned in the first and second sections starts with the return of the WEEE to the location mentioned in Article 3 and at the distributor mentioned in Article 4.

4. When EEE is placed on the market within the meaning of the first section, the producer provides a guarantee showing that the collection, treatment, recovery and environmentally sound disposal of that EEE will be financed when it is discarded in accordance with the first section.

5. The guarantee referred to in the fourth section may take the form of the producer's participation in appropriate schemes for the financing of the management of WEEE, a recycling insurance, or a blocked bank account.

Article 14. Financing in respect of WEEE other than WEEE from private households

1. A producer shall provide for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE that it produced, not being WEEE from private households, in so far as this EEE was placed on the market after 13 August 2005.

2. A disposer of waste provides for the financing of the collection, treatment, recovery and environmentally sound disposal of their WEEE, not being WEEE from private households, in so far as this EEE was placed on the market on or before 13 August 2005.

3. Contrary to the first and second provisions, producers and disposers of waste may agree on alternative finance arrangements.

Article 15. Information for users

1. A producer shall ensure that all EEE placed by it on the market is appropriately marked with the symbol shown in Annex IX of Directive 2012/19/EU.

2. If the symbol is placed on the EEE in accordance with NEN-EN 50419, the first section will at least have been complied with.

3. Where necessary because of the size or function of the EEE, the symbol referred to in section 1, will, contrary to that section, be placed on the packaging, the instructions for use and on the warranty of the EEE.

Article 16. Information for treatment facilities

1. A producer shall provide information free of charge about preparation for re-use and treatment in respect of each type of new EEE that it places for the first time on the market in the Netherlands within no more than one year after placing this equipment on the market.

2. The information, as referred to in the first section, shall identify for centres which prepare for re-use and treatment of WEEE the different EEE components and materials, as well as the location of hazardous substances and mixtures in the EEE in so far as necessary for these centres to comply with this regulation.

3. The information, as referred to in the first section, shall be made available to centres which prepare for re-use or treatment of WEEE in the form of manuals or by means of electronic media.

4. EEE placed on the market after 13 August 2005 shall be explicitly marked as having been placed on the market after 13 August 2005.

Article 17. Built-in batteries must be easily removable from WEEE

1. It is forbidden to import EEE, or to have EEE available for commercial purposes, or to make EEE available to third parties or to export EEE if this EEE contains batteries that cannot be easily removed from the equipment.

2. Instructions for use indicating:

a. the manner in which the batteries can be removed from the EEE;

b. information on the type of battery that is built into the EEE.

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3. A producer or distributor shall provide instructions for use that meet the requirements of the second section with any EEE containing built-in batteries.
4. The first and second sections are not applicable if a permanent connection between the EEE and the battery is required to ensure a continuous supply of power for:
 - a. safety and performance reasons,
 - b. medical reasons, or
 - c. data integrity reasons.

Article 18. Register

1. The Stichting Nationaal (W)EEE Register established at Zoetermeer is responsible for drawing up and managing a register within the meaning of Article 16 (1) of Directive 2012/19/EU, hereinafter called the register.
2. The data in the register are such and are registered in such a manner that:
 - a. directive 2012/19/EU is complied with;
 - b. those charged with the supervision of compliance with this Regulation are able to monitor and verify compliance within a reasonable term, and
 - c. this data can be consulted for at least five years.
3. To fulfil the reporting obligation within the meaning of Article 16 (5) of Directive 2012/19/EU, the entity, within the meaning of the first section, reports each year before 1 July to the Minister of Infrastructure and the Environment on the preceding calendar year, the first time from 14 February 2014, on at least:
 - a. the total amount of EEE placed on the market in the Netherlands;
 - b. the total amount of treated EEE, and
 - c. the results regarding the attainment of the minimum recovery targets within the meaning of Annex V of Directive 2012/19/EU.

Article 19. Registration, information and reporting

1. Each producer registers with the Register.
2. Upon registering, as referred to in the first section, each producer or each authorized representative provides the information mentioned in part A of Annex X with Directive 2012/19/EU and undertakes to update this information as appropriate.
3. Before 1 May of each year, each producer or each authorized representative sends to the register the information mentioned in part B of Directive 2012/19/EU about the preceding calendar year in so far as it was active as a producer in that year.

Article 20. Reporting of WEEE treatment operators

1. Each year before 1 May, each treatment operator to whom WEEE has been returned for recovery in the Netherlands reports the amount of EEE that it has treated in the preceding calendar year and the attained recovery targets as referred to in Annex V Directive 2012/19/EU in so far as it has treated EEE in that year.
2. In its report, the treatment operator will classify the treated EEE, as referred to in the first section, into at least the categories shown in Annex I, Directive 2012/19/EU.

Article 21. Authorized representatives

1. A producer who is not established in the Netherlands and who places EEE on the market in the Netherlands can appoint, by written mandate, a natural person or legal person established in the Netherlands as the person responsible for fulfilling the obligations of that producer under this Regulation.

2. A producer who is established in the Netherlands and who sells EEE in another Member State of the European Union, but is not established in that other Member State, shall appoint, by written mandate, a natural person or legal person in that Member State as the person responsible for fulfilling its obligations under Directive 2012/19/EU.

Article 22

In Article 3.44 (1i) of the Activities (Environmental Management) Regulation (*Activiteitenregeling milieubeheer*) 'Regeling beheer elektrische en elektronische apparatuur die overeenkomstig artikel 4 van die regeling is ingenomen' (Regulation on the management of electrical and electronic equipment taken back in accordance with Article 4 of that regulation) is replaced with: 'Regeling afgedankte elektrische en elektronische apparatuur die overeenkomstig artikelen 5 en 6 van die regeling is ingenomen'. (Regulation on electrical and electronic equipment taken back in accordance with Articles 5 and 6 of that Regulation).

Article 23

Any amendment of the Annexes with Directive 2012/19/EU shall enter into force for the application of this Regulation with effect from the day on which that amendment must be implemented, unless a different effective date is determined by ministerial decree that is published in the Government Gazette.

Article 24

The Regulation on the management of electrical and electronic equipment is withdrawn on the understanding that Article 16 of that Regulation continues to apply in respect of the results of the implementation of Articles 7, 8, 9, 10, 11, 12 and 13 as well as in respect of the amount of EEE placed on the market in 2013.

Article 25

This regulation enters into force with effect from 14 February 2014. If the Government Gazette in which this Regulation is placed is published after 13 February 2014, the regulation shall enter into force on the day after the date of publication of the Government Gazette in which it is placed.

Article 26

This regulation is referred to as the Regulation on Waste Electrical and Electronic Equipment ("Regeling afgedankte elektrische en elektronische apparatuur").

This regulation, together with an explanation, will be placed in the Government Gazette.

THE STATE SECRETARY OF INFRASTRUCTURE AND THE ENVIRONMENT,

Wilma J. Mansveld