EXPLANATORY MEMORANDUM TO

THE WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (AMENDMENT, ETC.) REGULATIONS 2025

2025 No. 910

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Mary Creagh CBE, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs has confirmed that this Explanatory Memorandum meets the required standard.

2.2 Emma Bourne OBE Director for Resources and Waste at the Department for Environment, Food and Rural Affairs has confirmed that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Matthew Stocks at the Department for Environment, Food and Rural Affairs can be contacted with any queries regarding the instrument. Telephone: 07828046423 or email: weee@defra.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Statutory Instrument (SI) amends the Waste Electrical and Electronic Equipment Regulations 2013 ("2013 WEEE Regulations") by creating a new category of electrical and electronic equipment (EEE) for devices intended to be used for the consumption of tobacco, nicotine, vaping and other similar substances, such as e-cigarettes, vapes and heated tobacco products. It also shifts the obligation to finance the costs of dealing with the waste from EEE ("WEEE") supplied by overseas sellers via online marketplaces ("OMPs") to private households in the UK from those sellers to the OMP operators.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument is (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The 2013 WEEE Regulations place obligations on producers of EEE to finance costs of the collection, treatment, recovery and environmentally sound disposal of WEEE (the "WEEE financial obligation"). This is done through the setting of annual collection targets by the Defra Secretary of State.

5.2 Targets for household equipment are split into 10 categories of equipment listed in schedule 3 plus "display equipment", "appliances containing refrigerants", "gas discharge lamps and LED light sources" and "photovoltaic panels".

5.3 Producers must join a Producer Compliance Scheme ("PCS") who must discharge the WEEE financial obligations of their members and report necessary data, including the amount of EEE placed on the market by their members to the appropriate authority. The WEEE financial obligation is apportioned amongst producers registered with a PCS based on their market share of EEE in the particular category for each compliance period. The provision of categories helps to fairly apportion waste costs between producers of different products since EEE products can have significantly different collection and treatment costs at end of life. These requirements do not apply to registered small producers (those placing less than 5 tonnes of EEE on the UK market in a given compliance period), who are instead subject to data requirements and other product marking and information obligations.

5.4 The appropriate authorities who enforce the producer obligations set out in the WEEE Regulations are the Environment Agency in England, Natural Resources Wales in Wales, the Scottish Environmental Protection Agency in Scotland and DAERA in Northern Ireland. The appropriate authorities maintain a register of producers of EEE and carry out monitoring and enforcement activities to ensure that all producers are registered with a PCS in the UK.

5.5 There are difficulties with enforcement of the 2013 Regulations against non-UK based suppliers selling EEE via an OMP where they are not registered with a PCS in the UK, as the appropriate authorities do not have the jurisdiction to carry out enforcement action overseas. This means that the costs of dealing with WEEE from items supplied by overseas sellers cannot be recouped from those sellers effectively and those costs are instead apportioned amongst those who are registered. This mean that the costs largely fall unfairly on UK businesses. The intention of this SI is to ensure that OMP operators who facilitate these sales into the UK are responsible for those costs, ensuring the costs are distributed more fairly.

5.6 The amending regulations place the WEEE financial obligations arising from EEE that is placed onto the UK market by overseas sellers via an OMP onto the OMP operators. This has been done by making those OMP operators the producers ("OMP producers") in respect of that EEE.

5.7 There is also an issue in relation to the apportionment of costs for financing the collection, treatment, recovery and environmentally sound disposal of waste e-cigarettes, vaping and other similar devices. Under the current regulations, the WEEE financial obligation for these items is apportioned amongst all producers of EEE in the toy and leisure category. These amending regulations will make changes to ensure that the costs of collecting and treating these items at the end of life falls squarely on those who produce them by creating a specific category of EEE for such items.

What was the previous policy, how is this different?

Online marketplaces (OMPs)

5.8 The existing 2013 WEEE Regulations make businesses who place EEE on the market in the UK, 'producers', meaning they are subject to the WEEE financial obligations, irrespective of whether they are based in the UK. As a result, these businesses must join a PCS or appoint an authorised representative in the UK to do so.

5.9 Non-UK suppliers who sell products via an online marketplace (OMP) are often not registered with a PCS in the UK (nor do they appoint an authorised representative in the UK to do so) thereby avoiding their financial and other obligations under the regulations. Instead, the entirety of the WEEE financial obligation falls upon those producers who are properly registered under the regulations, creating an unfair burden on compliant businesses.

5.10 This situation creates an unlevel playing field and damages the competitiveness of those businesses who are compliant with the regulations. This is a common problem across all categories of EEE, but particularly for items such as lamps that have high internet-based sales.

5.11 Under the new policy, OMP operators will become producers and responsible under the regulations in relation to the EEE placed on the UK market by non-UK suppliers via their platforms. OMP producers will need to register with a PCS and submit data on the volumes of EEE being placed on the market by non-UK suppliers on their platforms across all the EEE categories and will be responsible for the WEEE financial obligations under the regulations. This ensures that OMPs and, by extension, the overseas sellers that sell their products on those marketplaces, will pick up a fairer share of the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE.

5.12 Non-UK suppliers selling via OMPs will however retain certain obligations, such as the requirement to have a crossed-out wheelie bin marking on their products.

E-cigarettes, vapes, heated tobacco products and other similar items

5.13 Currently, e-cigarettes, vapes, and heated tobacco products fall within category 7 of EEE: 'toys and leisure equipment' in accordance with guidance issued by appropriate authorities. However, these products are significantly more expensive to collect and treat for recycling, compared to toys and other leisure equipment. This is because of the materials used in their design, and because they require specialist treatment to deal with nicotine and other substances found within them.

5.14 This means that producers of other toys and leisure equipment falling within category 7 are exposed to the disproportionately high costs for the treatment of e-cigarettes, vapes and heated tobacco products. Conversely, it means that those who produce e-cigarettes, vapes and heated tobacco products are not obligated for the full costs of treating these products when they become waste.

5.15 By creating a new category of EEE for e-cigarettes, vapes and heated tobacco products, we can ensure that the financial cost of the collection, treatment, recovery and environmentally sound disposal of these products fall squarely on those who produce them.

5.16 Under the new policy, there will be a separate category of EEE specifically for these products. They will be defined as any device (with the exception of a medical device or a medicinal product) which is intended to be used for the consumption of tobacco

products, nicotine or any substance containing nicotine, non-nicotine liquids, herbal smoking products, vaping substances, nicotine-containing vapour or any other such products (and EEE which is intended to form part of such a device).

5.17 The new policy position will allow the Defra Secretary of State to set the WEEE collection targets specifically for that category of product and the WEEE financial obligation will be apportioned solely amongst producers of such products, rather than the wider toy and leisure category. This will ensure the costs of the collection, treatment, recovery and environmentally sound disposal of these products fall squarely on those who produce them.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends the 2013 WEEE Regulations by creating a new category of producer – OMP producer – and shifting many of the producer responsibility obligations in relation to EEE sold in the UK by non-UK suppliers via an OMP from those non-UK suppliers to the OMP operator. The majority of the 2013 WEEE Regulations provisions that apply to producers will now extend to OMP producers, including the WEEE financial obligation, the obligation to join a PCS, reporting obligations and the related enforcement provisions will also apply. Specific provisions for reporting non-UK suppliers' EEE will apply to OMP producers.

6.2 The instrument also creates a new category of EEE for devices intended to be used for the consumption of tobacco products, nicotine or other substances. E-cigarettes, vapes and heated tobacco are included on the indicative list of these products. This will have the effect of requiring the specific reporting of EEE for that category, which will allow the Secretary of State to set specific collection targets for that category and for the apportionment of the WEEE financial obligation amongst producers of EEE in that category.

6.3 The instrument also makes consequential and transitional provision in light of these changes.

6.4 Transitional provisions reflect that the new vape and OMP obligations are being introduced within an existing compliance period and ensure that the new obligations are set and to be met in a way that is fair to both the new and existing producers.

6.5 Transitional provisions in relation to OMPs provide for information to be supplied if the OMP is already a registered producer or was required to be so registered prior to the coming into force of the regulations. Where they are not, they (or an authorised representative) must either apply to join a producer compliance scheme by 15th Nov 2025 or register as a small producer by 31st Jan 2026.

6.6 Transitional provisions in relation to e-cigarettes, vapes and, heated tobacco products etc. set out what information vape producers (or their authorised representatives) need to provide to the appropriate authorities following the coming into force of the regulations. Up until this point, data will continue to be provided under category 7. Following the coming into force of the regulations, data must be provided for products placed on the market in category 7 and category 7.1 for each of the remaining 2025 reporting periods. The provisions also set out the basis for calculating the financing obligations for category 7 and 7.1 WEEE from private households for the 2026 compliance period.

6.7 The Defra Secretary of State makes these regulations in in exercise of powers conferred by sections 50, 51, 142 (1) and (6) and 143(1) of, and paragraphs 1 to 5, 7

and 12 to 19 of Schedule 4 and paragraphs 1 to 9 and 11 to 17 of Schedule 5 Schedule 6 to, the Environment Act 2021.

6.8 The amendments made to the 2013 WEEE Regulations by this instrument (including the effects of those amendments in applying the wider provisions of the 2013 WEEE Regulations to OMP producers and in relation to the new category of EEE for e-cigarettes, vapes and heated tobacco products) fall within the powers provided by the Environment Act 2021 to make regulations about producer responsibility obligations, producer responsibility for disposal costs and about the enforcement of such obligations.

6.9 This instrument applies across the whole of the UK and, where it relates to devolved matters, is being laid with the consent of the Welsh Ministers, the Scottish Ministers and the Department of Agriculture, Environment, and Rural Affairs, Northern Ireland ("DAERA").

Why was this approach taken to change the law?

6.10 The 2013 WEEE Regulations set out the regulatory framework for producer responsibility for waste electrical and electronic equipment. It was therefore necessary to amend those regulations in order to apply that framework to the new category of OMP producers and in order to create a new category of EEE for e-cigarettes, vapes and heated tobacco products under that framework.

6.11 Given they attach to an existing framework, it is appropriate to incorporate these changes into the existing legislation rather than create a standalone instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 The previous Conservative government held a joint consultation with the Scottish Government, Welsh Government and Department for Agriculture, Environment and Rural Affairs in Northern Ireland on reforming the producer responsibility system for waste electricals. This consultation ran from 28 December 2023 – 7 March 2024.

7.2 In this consultation, the proposals around creating a new category of electrical equipment for vapes and obligating online marketplaces were consulted on.

7.3 On the OMP proposal 87% of respondents agreed, noting that large volumes of electricals are being placed on the market via online marketplaces and that we need to create a level playing field between producers who sell electricals via different distribution channels. The remaining 13% either disagreed or were unsure, but did not provide their reasons for this position.

7.4 On the proposal to create a new category for vapes in the WEEE Regulations, 91% of respondents agreed with this policy change. The remaining 9% either disagreed or were unsure about the proposals but did not provide reasons.

7.5 Those who said they were either unsure or disagreed with these proposals did not provide any substantive comments or evidence to support their positions.

7.6 The full government response to the consultation[1] and call for evidence[2] is available online.

[1] https://www.gov.uk/government/consultations/electrical-waste-reforming-the-producer-responsibility-system/outcome/summary-of-responses-and-government-response
[2] https://www.gov.uk/government/calls-for-evidence/electrical-waste-reforming-the-producer-responsibility-system-call-for-evidence/outcome/summary-of-responses-and-government-response

7.7 Defra policy officials have continued to engage closely with stakeholders following on from the consultation and call for evidence and have worked with them in the development of the policies outlined in this EM.

8. Applicable Guidance

8.1 Existing guidance on gov.uk[3] which outlines producer responsibilities will be updated to include guidance for online marketplaces on how to fulfil their new obligations under the amended WEEE Regulations and the steps they must take in order to register with a Producer Compliance Scheme.

8.2 Existing guidance[4] covering what electricals are in scope of the regulations and which give a breakdown of which items are covered under each category will be updated to show that there is a new separate category for e-cigarettes, vapes, heated tobacco and other similar products.

8.3 Guidance on transitional measures is forthcoming and will be made available on gov.uk.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment was not required because the cumulative impacts of these changes on businesses fall below the £10 million threshold. A De Minimis Assessment has been prepared.

Impact on businesses, charities and voluntary bodies

9.2 In relation to online marketplaces, the impact of our policy will mean that OMP producers will be liable for the WEEE financial obligation in relation to EEE sold on their platforms by non-UK suppliers. Currently that obligation should be met by those overseas sellers but there is a high level of non-compliance. The new obligations on OMP producers therefore represent either a cost transfer from their overseas sellers or a fairer reallocation of costs currently falling disproportionately on UK businesses. Those costs are likely to be passported back to overseas sellers via the contractual arrangements they have with OMPs. New costs are therefore primarily related to familiarisation costs. These are estimated to be between £1,014 and £3,926 depending on the size of the business.

9.3 The new policy will require e-cigarette, vape and heated tobacco product producers to report EEE data they are already obliged to report under the new specific category for such products rather than the current category 7 (toys and leisure equipment). While these producers' costs may rise, this will be a result of more equitable allocation of financial obligations that ensure vape producers finance the costs associated with collection, treatment, recovery and environmentally sound disposal of waste vapes as well as minor familiarisation costs. We anticipate that this increased impact on vape producers will be broadly balanced by the reduced burden on toy and leisure item producers, who will no longer have to bear an unfair proportion of the collection, treatment, recovery and environmentally sound disposal costs. The policy is thus

[3] https://www.gov.uk/guidance/electrical-and-electronic-equipment-eee-producer-responsibility#:~:text=EEE%20producers%3A%20what%20you%20must%20do,-You%20must%20register&text=If%20you%20place%20more%20than,WEEE%20collected%20in%20the%20UK%20.
[4] https://www.gov.uk/government/publications/electrical-and-electronic-equipment-eee-covered-by-the-weee-regulations/electrical-and-electronic-equipment-eee-covered-by-the-weee-regulations

expected to have a positive impact on costs for other category 7 producers (toys and leisure) who will no longer carry a risk of bearing a portion of financial obligations for the new category 7.1 products. Producers of e-cigarettes, vapes and heated tobacco products have also participated in a voluntary system to more fairly allocate the costs of collection, treatment, recovery and environmentally sound disposal of their products. This should minimise the cost increases for those producers as they have already been assuming responsibility for their own WEEE costs.

9.4 There will be some small familiarisation costs associated with the changes to the new vape category at £10,871.

9.5 There is already a de minimis threshold laid down in the regulations which means that those producers who place less than 5 tonnes of EEE onto the UK market each year must register as a 'small producer'. Small producers are required to report EEE data but are not required to join a PCS or meet the financial obligations associated with dealing with waste electricals from private households. Consequently, the impact on small and micro businesses is limited.

9.6 The WEEE Regulations are aimed at making those who produce EEE are liable for dealing with their products they place on the market when they become waste. As such, no impact on charities or voluntary bodies, who are unlikely to produce EEE, is envisaged. There will be minimal costs for public sector regulators to update reporting systems. These costs will not be ongoing.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Regulation 93[5] of the 2013 WEEE Regulations makes clear that the Secretary of State must carry out a review of these regulations, set out the conclusions of the review in a report and publish the report at least every five years.

10.2 Here is a link[6] to the latest Post Implementation Review of the WEEE Regulations published in 2025. The impact of these measures will be included in future Post Implementation Reviews.

[5] https://www.legislation.gov.uk/uksi/2013/3113/regulation/93
[6] https://www.legislation.gov.uk/ukia/2025/5/pdfs/ukia_20250005_en.pdf

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument comes into force 21 days after the day on which the instrument is made.

12. European Convention on Human Rights

12.1 Mary Creagh CBE, Parliamentary Under-Secretary of State, has made the following statement regarding Human Rights:

"In my view the provisions of the Waste Electrical and Electronic Equipment (Amendment, etc.) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").