

Summary of stakeholder responses and Government response to 'Review of Producer Responsibility Regimes: Discussion paper on coherence across producer responsibility regimes'

September 2013

Contents	Page
Introduction	3
About this document.....	4
Summary of responses.....	5
Summary of responses by stakeholder group.....	6
Proposals affecting Producers.....	8
Proposals affecting Compliance Schemes.	17
Proposals affecting Reprocessors, Treatment Operators and Exporters.....	21

1. Introduction

On 18 April 2013, the Government published a discussion paper which invited views on ideas for developing a more coherent regulatory approach across the different Producer Responsibility regimes. 75 responses were received by the closing date of 31 May 2013; 23 responses from Producer Compliance Schemes, 23 from producers, 14 from trade associations, 6 from treatment operators and reproprocessors, 6 from advisory organisations and 3 from local authorities/other stakeholders.

The UK's four Producer Responsibility (PR) regimes originate from four separate EU Directives; namely the Packaging & Packaging Waste (94/62/EC), Waste Batteries & Accumulators (2006/66/EC), Waste Electrical & Electronic Equipment (WEEE) (2012/19/EU), and End of Life Vehicles (ELV) (2000/53/EC) Directives. Each Directive applies the principle of Producer Responsibility to a specific product category.

The PR regimes share a common financial obligation for producers to bear the costs of collecting, treating and recycling/recovering a proportion of their products to meet legal targets and minimum standards. They also have similar administrative processes such as producer registration, approval of compliance schemes and the authorisation of treatment facilities and exporters.

However, there are also significant differences between the regimes. Some differences are due to different products and markets or differences in EU Directives, but others are the result of policy being developed at different times. This has led to criticism, particularly from those businesses which have to comply with more than one producer responsibility regime.

Government agrees that the way in which these regimes work could be improved, maximising their overall effectiveness and reducing administrative burdens on businesses. In line with the Government's Red Tape Challenge and as part of a continuous commitment to improve regulation, Defra and BIS have been reviewing all Producer Responsibility regimes to explore opportunities to develop a greater degree of coherence across the regimes.

The discussion paper explored a total of 21 proposals for improving coherence, seeking views on the level of support for each proposal and how they could be improved. Whilst not specifically included in the proposals, the discussion paper invited any comments on any suggested improvements to the ELV regime. Two responses were received specifically regarding ELV and these have been passed to the responsible team for consideration.

2. About this document

This document is organised into sections relating to each of the 21 proposals in the discussion paper. This document does not attempt to repeat the background information given in the discussion paper and only provides a limited amount of context for each topic. Please refer to the discussion paper for a summary of the original proposals and impacts.

For each topic, this document states the proposal in the discussion paper, summarises the responses and then provides a government response to the issues raised. The “Government response” sections indicate whether we intend to take forward specific issues to the next stage of the policy making process. This will entail formal consultations on the application of the broad principles of coherence via specific amendments to the individual Regulations – WEEE, packaging and batteries.

The consultation on the WEEE Regulations to implement the recast EU WEEE Directive, was undertaken in June, and the revised regulations are due to come into force on 1 January 2014. The Government Response to the WEEE consultation will indicate that some of the coherence proposals will be included in these Regulations. The remaining coherence proposals will be brought forward at the same time as amendments to the Batteries and Packaging Regulations and will be subject to further consultation in due course.

The proposed amendments to the Batteries and Packaging Regulations are due to come into force on 1 January 2015. There are no amendments proposed for the ELV Regulations as a direct result of this exercise.

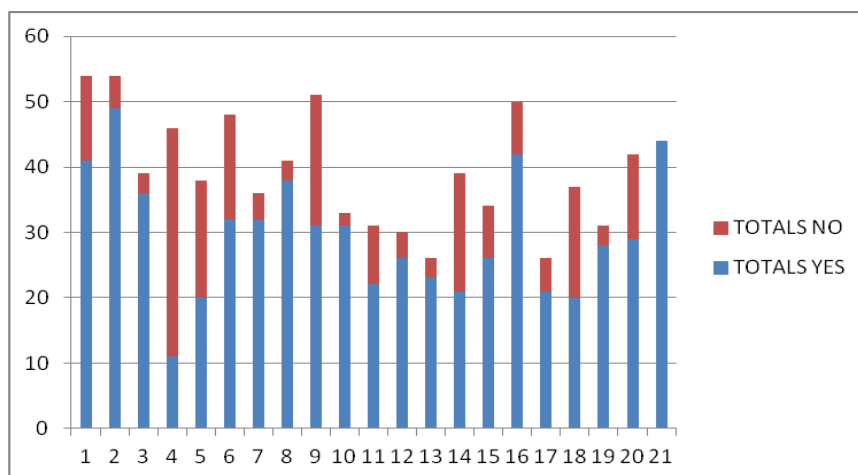
3. Summary of Responses

A total of 75 were responses received, spilt across stakeholder groups as follows:

Producer Compliance Schemes	23
Producers	23
Treatment operators/reprocessors	6
Advisory Organisations	6
Trade associations	14
Local Authorities/Other	3

3.1 Overall summary of responses

This graph shows the number of responses either supporting or objecting (vertical axis) to each proposal (horizontal axis) across all respondees to the consultation.

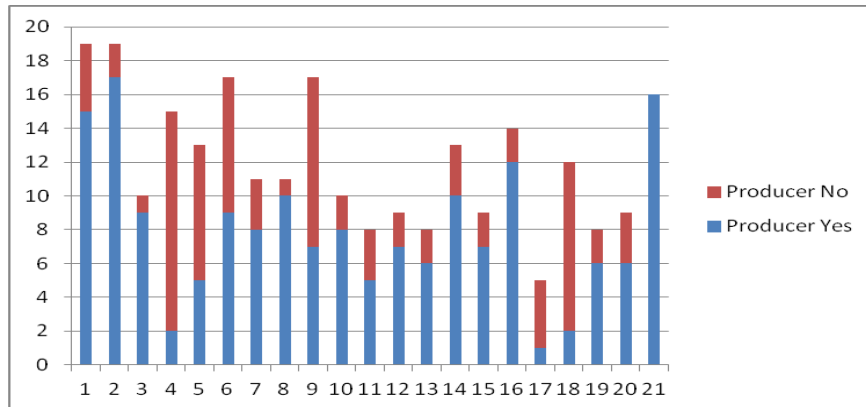


3.2 Summary of responses by stakeholder group

Producers –

This graph shows the number of responses from Producers either supporting or objecting (vertical axis) to each proposal (horizontal axis).

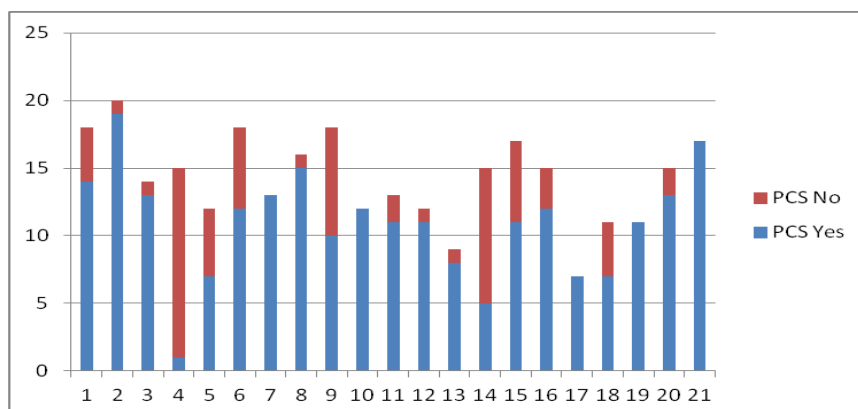
The key issues which impact on producers are issues 1-11.



Producer compliance schemes –

This graph shows the number of responses from Producer Compliance Schemes either supporting or objecting (vertical axis) to each proposal (horizontal axis).

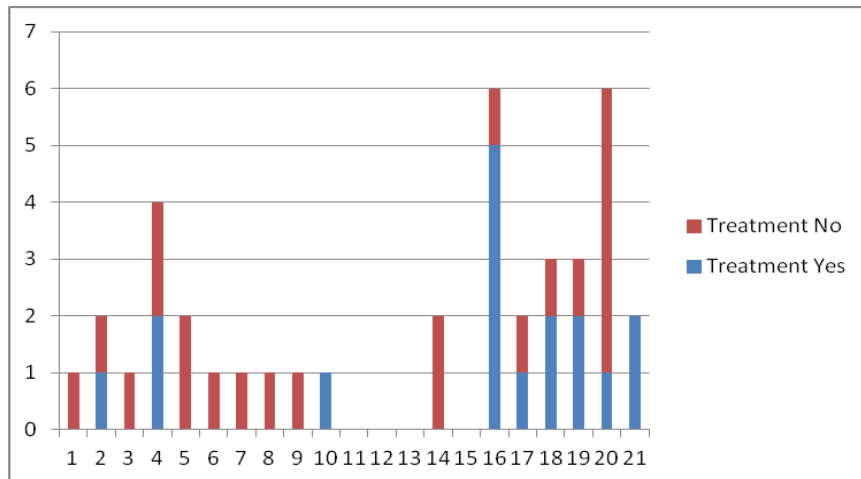
The key issues which impact on producer compliance schemes are issues 12-15. Issues 1-11 which directly impact producers are also likely to have some impacts on schemes.



Treatment operators / reproprocessors –

This graph shows the number of responses from Treatment operators/reproprocessors either supporting or objecting (vertical axis) to each proposal (horizontal axis).

The key issues affecting treatment operators are issues 16 – 20.



Other –

Advisory organisations

Of the responses from advisory organisations, either supporting or objecting to the 21 proposals, there was clear support for all 21 except:

- Issue 4 where one supported and two objected and
- Issue 11 where one supported and two objected.

Local authorities

Of the responses from local authorities, either supporting or objecting to the 21 proposals, there was support for all 21 except:

- Issue 4 where one supported and one objected and
- Issue 11 where one supported and one objected.

Trade associations

Of the responses from trade associations, either supporting or objecting to the 21 proposals, there was support for all 21 except:

- Issue 5 where three supported and three objected and
- Issue 14 where three supported and three objected.

4. Proposals affecting Producers

Issue 1: De-minimis

55% of respondents supported this proposal, whilst 17% were in opposition.

Proposal

The proposal was to move to a position where Packaging, Batteries and WEEE all have de-minimis arrangements, which broadly exclude similar sized smaller business from the need to become a registered producer.

This reflects the commitment made in response to the Red Tape Challenge to review de-minimis arrangements with a view to excluding more businesses from the requirement to register.

Respondent views

The principle was broadly supported by those stakeholders who responded to this question, but often with conditions. Notable amongst these was to ensure that there is a fair and reasonable balance between reducing burdens on smaller business compared to any increase on the burdens larger businesses would have to pick up to offset lost obligations. Some concerns were raised about WEEE and whether different de-minimis levels would be required to reflect the tonnages/treatments costs of different WEEE categories.

Government response

The Department for Business Innovation and Skills (BIS) consulted separately on detailed proposals to introduce a de-minimis within the UK WEEE Regulations; a Government Response to this consultation will be published shortly.

In relation to Packaging and Batteries, the Government will work up a number of options for de-minimis levels for consultation in due course. Careful consideration will need to be given to the de minimis levels to avoid unintended consequences. This supports the commitment made in response to the Red Tape Challenge with a view to excluding more businesses from the requirement to register.

Issue 2: Retrospective data

65% of respondents supported this proposal, whilst 7% were in opposition.

Proposal

The proposal was to require all producers to report, at the time of registering, data on the amount of product supplied or placed on the market in the previous calendar year (or years). Schemes and producers would be provided with a target for compliance prior to or early in the compliance period and would therefore have a confirmed position as to their compliance obligation.

Respondent views

Supported by most stakeholders who responded to this question, but often with conditions flagged within the responses. For example, some stakeholders flagged a need to retain quarterly reporting of sales data to help with internal reporting processes, whilst others commented that the timing of registration should be in the autumn prior to compliance year and for sales data and obligation to be based on the preceding June-June year.

Government response

This proposal provides a major administrative benefit to producers and schemes. We will consider further and consult on detailed proposals for amending the Batteries Regulations.

The Government Response to the WEEE consultation will describe how this proposal will be taken forward in relation to the revised WEEE Regulations planned.

Issue 3: Excluding exported product

48% of respondents supported this proposal, whilst 4% were in opposition.

Proposal

The proposal was to enable all the regimes to have the option of setting out in producer data returns tonnages of product which have been exported directly or indirectly; this would then be netted off when calculating their recovery obligations.

Inclusion of any exports in their data returns would need to be supported by auditable evidence that the exports have occurred. It is not proposed that supporting evidence be supplied to the Agencies, but it would have to be available on request.

It would be optional for producers to choose to quantify and evidence any exports of their product.

Respondent views

Supported by most stakeholders who responded to this question. Many of the comments received emphasised that this must be optional and not a mandatory provision. There were some suggestions that distributors/retailers should be required to play a role in providing data on exported product; this would avoid multiple requests for downstream information by producers.

Government response

To be considered further, with consultation on detailed proposals for amendments to the WEEE and Batteries Regulations in due course, as it reduces the costs for businesses who export their products. Producers will be able to choose whether to they wish to quantify and evidence any exports of their product.

Issue 4: Positive value streams

15% of respondents supported this proposal, whilst 47% were in opposition.

Proposal

It is recognised that there could be benefits for certain wastes to be excluded from obligations under the regulations. However having reviewed this from a coherence perspective we did not identify an overarching position that could be adopted.

Our discussion paper therefore welcomed suggestions for any specific arrangements that could be considered where defined, discrete waste streams could be relieved of the obligations as set out currently in the regulations.

Respondent views

The majority of responses to this question did not support the proposal. Most came from producers and compliance schemes, which would be directly impacted by the proposed option. No clear overarching option has emerged which could be carried across all of the regimes.

Government response

Several stakeholders flagged very specific options which could be considered for certain waste streams. These will be reviewed and considered on an individual regime basis. However, there are no plans to pursue this issue further in relation to our work on coherence.

Issue 5: Carry forward / backward

27% of respondents supported this proposal, whilst 24% were in opposition.

Proposal

The proposal was to extend the principle of carry forward of evidence to the WEEE and Batteries regimes.

The packaging system places a limitation on the amount of evidence that can be carried forward, by limiting it to the waste material delivered for reprocessing in December. In broad terms therefore the amount is limited to around 1/12th of the annual tonnage of material going into treatment/recovery. The proposal is to adopt similar limitations on carry forward within the WEEE and Batteries regimes.

Respondent views

There was a mixed response to the idea of carry forward of evidence from those who responded to this proposal and no support for carry back. Some suggested tweaks to improve arrangements in packaging e.g. limit that can be carried forward by one twelfth of total obligation. Some concerns were raised by those involved in WEEE that this could present significant risks to the WEEE system as it could negatively impact the ability of compliance schemes to meet their obligations.

Government response

Government will not take forward the idea of carry back due to the lack of support. However, we will consider further the idea of carry forward, with consultation on amendments to the Packaging, WEEE and Batteries Regulations in due course. This will provide flexibility that will help producers to potentially reduce costs and reduces risks to reprocessors, exporters and compliance schemes. We will consider further the suggested tweaks to the current arrangements in packaging to minimise the risk of negative impacts on the markets for evidence.

Government appreciate the concerns raised about the potential impact of carry forward on the functioning of the WEEE evidence market. Government will look to see how the changes to the WEEE regulations work operationally before considering the introduction of any further changes.

Issue 6: Registration

43% of respondents supported this proposal, whilst 21% were in opposition.

Proposal

It was proposed that the registration processes have a common procedure for the provision of; business information, data and any relevant charges. These elements would be provided to the Agencies as part of the process of registering the producers. Failure to provide any of the elements would mean that the registration could not be made.

A common registration process raises the question of a common registration deadline or staggered deadline, two options were suggested:

i) a common registration deadline date of 31st March

ii) staggered registration deadline dates:

- Batteries 31st January
- WEEE 1st March
- Packaging 31st March

Respondent views

General support for registration prior to compliance period from those who responded on this proposal. Most supported a move to staggered dates to help reduce burdens internally. A number of responses suggested that the packaging registration date should be brought forward ahead of the start of the compliance period. Some requests for quarterly reports of placed on market data to be maintained.

Government response

Government will consider further the potential for a common registration process with staggered reporting requirements as this would mean lesser costs for businesses. Proposals for amendments to the WEEE, Packaging and Batteries Regulations will be undertaken in due course. The registration deadlines will not be in the spring as proposed, but will be moved to the autumn prior to commencement of a compliance period, and sales data and obligation will be based on, for example, the preceding July-June year.

Issue 7: Group registration

43% of respondents supported this proposal, whilst 5% were in opposition.

Proposal

The proposal was to adopt within the WEEE and Batteries Regulations the option contained within the Packaging Regulations for a holding company to make a single group registration on behalf of all its subsidiary producers.

Respondent views

This was widely supported by those who responded to this proposal, but most would prefer for group registration to be kept optional. Questions were raised as to whether the de minimis applied to the group or to individual businesses within the group, with preference expressed for the latter.

Government response

To be considered further, with consultation on detailed proposals for amendments to the WEEE and Batteries Regulations in due course, as this avoids the need for multiple registrations for subsidiary businesses within a group and would therefore reduce the administrative burden.

Issue 8: Sign-off

51% of respondents supported this proposal, whilst 4% were in opposition.

Proposal

In relation to the sign off arrangements, the proposal was to enable delegation by the appropriate person. This will still require an appropriate person to give authority by means of delegation to someone within the business, but this would only be required each time that authority needs to change. Evidence of that delegated authority would need to be provided to the relevant agency to confirm that a person other than an appropriate person has the authority to make submissions.

Respondent views

This proposal was widely supported by those who responded to this question. However some respondents queried what evidence is required to enable delegation and some asked whether similar arrangements could be introduced for compliance schemes.

Government response

To be considered further, with consultation on detailed proposals for amendments to the WEEE, Packaging and Batteries Regulations in due course, as the ability to delegate the sign off of submissions will reduce the burden and delays which are often reported with the current arrangements. Government considers that producer compliance schemes are specifically established to comply with the regulations and it is therefore not unreasonable for the Director to complete sign-off.

Issue 9: Charging

41% of respondents supported this proposal, whilst 27% were in opposition.

Proposal

The proposal was to review the charges and move to a consolidated position on the producer registration charge across all the regimes. The proposal would be for a two

tier registration charge based on the size of the producer. The size of producer for each regime will be based on a combination of factors which could include turnover and tonnage placed on the market. When looking at the registration options (Issue 6) the proposal was to explore a coherent arrangement across the regimes for a two tier registration arrangement.

This charging proposal is linked to the proposal for moving to a coherent charge arrangement for compliance schemes (issue 15), with them paying an annual subsistence charge.

Thus the combined proposal for a coherent charging model for producers and schemes would be:

- scheme subsistence charge, plus
- a charge for each producer member (with these charges split into medium and large).

Thus the annual charges placed on a compliance scheme with producer members would be:

- Scheme annual subsistence charge, plus
- No. of large producer members x large registration charge, plus
- No. of medium producer members x small registration charge.

The subsistence charge for the schemes would likely vary between the regimes, but the proposal was that the producer charges be common across all regimes. The scheme subsistence charge would be reflective of the work the Agencies undertake in compliance monitoring the scheme and its members. The range of activities undertaken by the Agencies for which this subsistence charge will cover include amongst other things:

- Receiving and processing annual registration information
- Compliance monitoring
- Site inspections
- Receiving and assessing end of year compliance declarations
- Providing advice and guidance and responding to queries.

The charges charged per member would cover the cost the regulators incur in inspecting and validating the individual members' information and data. It is proposed that the volume of such inspections is much reduced, with the emphasis

being on checking and validating the schemes systems and processes. It will be the responsibility of schemes to check and validate their producer members' data.

As is the case now, even if the above proposal was progressed to consolidate the scope and methodology for recovering charges across the regimes there may still be a need for individual Agencies to set different charge levels to reflect their individual cost recovery requirements.

Respondent views

There were mixed responses amongst those who responded on this proposal. Concerns raised related to the possible impact on smaller compliance schemes, particularly within WEEE system. Many linked any change on producer charges to the proposed introduction of a subsistence fee for compliance schemes, suggesting that if both are taken forward then the higher cost burden should be on the schemes, with a small incremental per member charge placed on scheme producer members. General view that there is no need for two tier producer fees as admin burden of demonstrating size of producer outweighs benefit of lower fee. Support was predicated on the assumption that it would lead to cost savings overall. Support for change in Agencies' emphasis on schemes rather than producers.

Government response

Government are keen to look at this issue further, but will need to carefully consider the costs and impacts in more detail and work up options for consultation. The scheme subsistence charge would be reflective of the work the Agencies undertake in compliance monitoring, site inspections, assessing end of year compliance declarations, and providing advice and guidance etc. Any changes would require amendments to the Packaging Regulations, but for WEEE and Batteries, we could consider taking forward through the Agencies charging scheme.

Issue 10: Late registration

41% of respondents supported this proposal, whilst 3% were in opposition.

Proposal

If the proposal on using retrospective data is adopted across all regimes, and calculations of recovery obligations are based on this data (Issue 2), then we proposed that all regimes have a charge for late submissions or re-submissions included in them.

Respondent views

Strong support from those who responded on this proposal although many expressed a belief that the fees are the wrong way round and should be higher for late registration to avoid perverse incentives.

Government response

To consider further the scale of charges. Detailed proposals for amendments to the EA's charging schemes will be worked up for consultation.

Issue 11: Incapacity

29% of respondents supported this proposal, whilst 12% were in opposition.

Proposal

It is proposed that when a producer (the legal entity) ceases to exist, any remaining obligations also cease to exist. This would only address the pro rata amount of the producer's remaining obligation. Up to the point of becoming incapacitated the requirement would be for the producer and/or its compliance scheme to have to meet the pro rata amount of its obligations based on the producers' previous year's data.

Respondent views

General support from those who responded on this proposal but some concerns were raised, particularly in relation to UK compliance with EU targets, and that producers may view this as a way of avoiding obligations.

Government response

To be considered further, with consultation on detailed proposals for amendments to the WEEE, Packaging and Batteries Regulations in due course, as it provides a pragmatic and simple way of dealing with producer obligations in the event of producer incapacity. We recognise this potentially provides a way for producers to avoid their obligations but believe this risk is minimal given the costs of pursuing such a course of action.

5. Proposals affecting Compliance Schemes

Issue 12: Approvals process

35% of respondents supported this proposal, whilst 5% were in opposition.

Proposal

It is proposed that the Agencies will take on the role of receiving and assessing packaging producer compliance scheme applications. In addition it is proposed that an application charge is introduced for the approval of packaging scheme applications and that the application charge across all 3 regimes is standardised.

Respondent views

Few comments received but those that responded were broadly supportive and offered no additional comments.

Government response

To be considered further, with consultation on detailed proposals for amendments to the Packaging Regulations. This will help ensure a consistent approach is taken to assessing and processing applications for new compliance schemes.

Issue 13: Conditions of approval

31% of respondents supported this proposal, whilst 4% were in opposition.

Proposal

The proposal is to have a common set of conditions of approval across the three regimes and for these conditions to be set out in a schedule to the regulations. In addition, if the proposal to remove the requirement for operational plans is progressed (Issue 14), some aspects of the operational plan provisions could be considered as conditions of approval.

There will be a single regulatory requirement in the regulations which places a duty on the compliance schemes to comply with the relevant obligations and the conditions of approval as listed in the schedule.

Respondent views

The proposal was broadly supported by the majority of those who responded, particularly on the basis of the operational plan (Issue 14) provision being removed and providing consistency across the regimes.

Government response

To be considered further, with consultation on detailed proposals for amendments to the WEEE, Packaging and Batteries Regulations in due course. This supports consistency across regimes, provides clarity for the schemes which operate in more than one regime, and simplifies the process for regulators.

Issue 14: Operational Plans

28% of respondents supported this proposal, whilst 24% were in opposition.

Proposal

We proposed removing the requirement for schemes in all 3 regimes to submit operational plans. Instead, certain aspects of the existing operational plan would be moved into the conditions of approval. For example, for a new scheme, a requirement to submit a business plan would be introduced. This will be the means by which a prospective scheme demonstrates that it has the ability to operate as a compliance scheme and that it has the systems, processes and plans in place to deliver compliance with its member's obligations. The requirement to submit a business plan will be a one-off condition.

Respondent views

This proposal was supported by most, *providing* that the standards for the conditions for approval (Issue 13) are high, and gives sufficient information for the environment agencies to make informed decisions concerning monitoring schemes. More specific concerns were also raised concerning WEEE with support that whatever approach is taken that it should be consistent with the outcome of the separate BIS consultation especially on the trading of evidence.

Government response

We appreciate that the requirement for operational plans has in the past provided some degree of confidence that targets will be met. However, we are keen to consider further the proposal to remove the plans because:

- our experience has been that the process for preparing, assessing and agreeing the plans is a time consuming process for all parties and inevitably

the plans are out-of-date shortly after they are agreed. In light of this we believe there would be greater benefit if the agencies were to use this resource to monitor progress towards targets during the course of the year and provide advice and guidance where necessary.

- Most compliance schemes have been operating for a number of years now and have demonstrated they are competent at developing and implementing plans for meeting their members' obligations. We would expect most schemes would continue to use such plans but do not see value in agreeing these with the agencies.
- New compliance schemes will need to meet the strengthened conditions for approval (Issue 13) to provide confidence that they have the ability to operate as a compliance scheme and that they have the systems, processes and plans in place to deliver compliance with their members' obligations.

We also appreciate the concerns raised about the potential impact of this change on the functioning of the WEEE evidence market. However, we believe the system changes proposed as a result of the recent WEEE consultation mean these risks should be greatly reduced/removed.

The Government Response to the WEEE consultation will describe how this proposal will be taken forward in relation to the revised WEEE Regulations. Detailed proposals for amendments to the Packaging and Batteries Regulations will be developed for consultation.

Issue 15: Compliance scheme subsistence charge

35% of respondents supported this proposal, whilst 11% were in opposition.

Proposal

The proposal is to move towards a model that places an annual subsistence charge on the compliance schemes, which is further supported by a per member charge.

The subsistence charge will be reflective of the variable and fixed charges incurred by the agencies in monitoring the compliance schemes. As such consideration will have to be given to the fixed charges incurred by the regulators and the best way to proportion these across the compliance scheme.

Respondent views

This proposal was generally supported by those who responded, although some concern was expressed that the fees should not adversely affect smaller schemes and that the fees reflect the real costs to the agencies. There was also support for

some scheme consolidation which could lead to efficiencies within the producer responsibility regimes.

Government response

As per issue 9, Government are keen to look at this issue further, but will need to carefully consider the costs and impacts in more detail and work up options for consultation. The approach would provide schemes with a greater degree of flexibility with regards to how they recover their costs from their members, and the proposal to revise downwards the individual registration charges for scheme members would allow the schemes additional flexibility with regards to their individual finance models.

6. Proposals affecting Reprocessors, Treatment Operators and Exporters

Issue 16: Approvals process

56% of respondents supported this proposal, whilst 11% were in opposition.

Proposal

There were two options under consideration for improving the application process for reprocessors/treatment operators and exporters:

Option 1 - streamline the application process for both domestic reprocessors and exporters.

Option 2 - remove the application process entirely for domestic reprocessors and instead rely on the application information being provided by the waste permitting/registered exemption process; the process for accreditation of exporters would remain the same.

Option 2 was likely to have the greatest potential for cost-savings but represented a significant change to the current system and so would require substantial further work to consider how it could work in practice. Therefore our intention is to pursue Option 1 in the short-term but continue to explore how we could implement Option 2 in the longer term if this receives sufficient support through feedback to this discussion document.

Respondent views

General support for Option One from those who commented on this proposal, however several responses suggested that a 3 yearly approval rather than open ended approval should be considered. Some concerns raised that open ended approval would raise the level of risk of non compliant activity.

Government response

Government will work up detailed proposals for consultation for amending the Packaging and Batteries Regulations to take forward Option 1. The Government Response to the WEEE consultation will describe how this proposal will be taken forward in relation to the revised WEEE Regulations.

We appreciate concerns that open-ended approval could lead to out-of-date information on accredited organisations and a fall in standards. However, we do not believe it is necessary to limit approval to 3 years because:

- the requirement for accredited organisations to provide an annual subsistence fee and update the relevant agency within 28 days of a material change in circumstances should ensure information is kept up-to-date; and
- the agencies' ongoing compliance checking activity should ensure standards are maintained; the strengthened conditions for issuing evidence and the introduction of a competency test (issues 17 and 19) should aid the agencies' enforcement efforts.

Option 2 received sufficient support to warrant further consideration in the longer term.

Issue 17: Conditions for issuing evidence

28% of respondents supported this proposal, whilst 7% were in opposition.

Proposal

The proposal is to consolidate the existing conditions of accreditation/approval for operators who are issuing evidence. The consolidation process would capitalise on those conditions which work well and clearly assist in ensuring the system works and would seek to remove / revise those that do not deliver clear benefits.

Respondent views

There was general support from those who responded to this proposal to consolidate the existing conditions of approval for treatment operators, reproprocessors and exporters across the regulations. However whilst many stakeholders broadly supported this, many commented that there were no details provided in the paper of what the conditions would be. Many indicated that there should not be any reduction of conditions or less strict conditions to achieve coherence. Some concerns were expressed that standards and requirements should continue to be robust to ensure the integrity of the evidence systems.

Government response

The Government Response to the WEEE consultation will describe how this proposal will be taken forward in relation to the revised WEEE Regulations planned for this autumn. We will work up detailed proposals for amendments to the Batteries Regulations for consultation.

Implementation of this proposal would result in the adoption of those conditions which work well and enable a simplification by removing those that don't provide any benefits. This will ensure that all operators involved in the issuing of evidence are

working to the same regulatory requirements and to the same standards. Government will put more detail on what conditions might look like in our consultation on the regulations.

Issue 18: Independent Audit Reports

27% of respondents supported this proposal, whilst 23% were in opposition.

Proposal

The proposal is to remove the requirement for Independent Audit Reports from the WEEE and Batteries regulations.

Respondent views

This proposal received a mixed response. Particular concerns raised focussed on a worry that removal would lead to reduced standards, and Compliance Schemes need to have confidence that there is effective monitoring of AATFs otherwise it would create an opportunity for fraud.

Government response

Despite the mixed responses received, Government consider that this proposal warrants further consideration. It could reduce the burdens and costs on industry with no discernable impact upon the Agencies' capability to enforce the Regulations efficiently and effectively. Removing the IARs should not affect the general smooth running and confidence of the system, as the report simply represents a duplication of existing compliance checks undertaken by the agencies. We will consult on amendments to the WEEE and Batteries Regulations in due course.

Issue 19: Operator competence

37% of respondents supported this proposal, whilst 4% were in opposition.

Proposal

The proposal was to introduce a common competency test across all three regimes. An operator, who in the view of the relevant agency does not meet this fit and proper person test, will be refused accreditation for the purposes of the Regulations. The specific fit and proper person test will be similar to that already contained in the Waste and Contaminated Land (Northern Ireland) Order 1997 as set out below:-

“A person shall be treated as not being a fit and proper person if it appears to the appropriate Agency:-

That he or another relevant person has been convicted of an offence under these Regulations and no adequate steps have been taken to ensure that a further contravention will not occur in the future.

That the management of the accreditation under the Producer Responsibility Regulations (Batteries/Packaging/WEEE) are not or will not be in the hands of a technically competent person.”

The application of this test will be in the hand of the relevant agency that will be required to make a judgment on this in relation to each individual operator either when the organisation makes an application to become accredited or during the operational activity once accredited.

Failure to satisfy the requirements of the test will lead to either the refusal of an application, or if accredited, suspension of the accreditation. The suspension would be lifted once the relevant agency is satisfied the test has been met or if there is a failure to demonstrate the test is met within a defined period, the accreditation will be cancelled.

Respondent views

Good level of support from those who responded on this proposal, with in some cases very strong support. No strong concerns or negative impacts flagged from taking this option forward.

Government response

Government are keen to introduce amendments for a common competency test. We will consult on amendments to the WEEE, Packaging and Batteries Regulations in due course.

Issue 20: Evidence of Broadly Equivalent

39% of respondents supported this proposal, whilst 17% were in opposition.

Proposal

The proposal was for the Agencies to have a greater level of discretion in regard to the type of evidence an exporter can use to prove that the material they are exporting will be reprocessed under broadly equivalent conditions. This would mirror the current situation in relation to metal packaging exports allowing alternative forms of evidence to be used across all regimes and all materials.

In effect this would allow exporters of waste to issue evidence notes on material exported outside the UK without providing site-specific evidence for each overseas reprocessor if the below conditions are met:

The exports of UK waste are going for recovery within the European Union or to a country within the Organisation for Economic Co-operation and Development (OECD);

or

The exports are to a non-OECD country outside the European Union and the relevant agency is satisfied that the relevant conditions are met. The relevant conditions are likely to vary on a material by material/regulation by regulation basis. It is likely that the relevant conditions will need to be developed by the Agencies and set out in guidance.

The current conditions in relation to waste packaging metals are:-

The waste has been source segregated or has been processed to ensure that it is exported within a shipment of similar material.

There is a well-established international technical specification system for the exported material and the exported material meets the appropriate specification. These specifications serve as an implicit quality assurance system between companies along the supply chain.

The material requires minimal processing overseas prior to being recovered and the recovery process has process losses in line with industry norms in the European Union.

Processing prior to recovery should not require any hand sorting of the waste material which may give rise to significant harm to human health.

The material is subjected to a recognised form of recovery and unlikely to give rise to significant environmental harm.

It is clear from these conditions that the overall aim is to ensure that the material is of such value that there is high degree of certainty that the material will be recovered and not disposed of to landfill.

Implementation of this proposal would need to be taken forward in the context of wider work to improve the enforcement of controls on the export of waste, for example, as set out in the draft [Quality Action Plan for dry recyclates](#).

Respondent views

Mixed responses from some specific groupings, notably the plastics and WEEE sectors which raised significant concerns about further weakening of controls over

exported wastes. Wider comment was on the need to ensure there continued to be a robust inspection regime to ensure standards are maintained.

Government response

This will not be taken forward given the need to improve confidence in the application of controls over exports of many of the materials covered by the producer responsibility regimes.

7. Other Areas

Issue 21: Terminology

59% of respondents supported this proposal, whilst none were in opposition.

Proposal

It was proposed that the terminology used across the regulations is standardised.

Respondent views

All those who responded on this proposal were supportive of standardised terminology across the regimes. Several comments suggesting that this is only undertaken were it will provide a clear benefit for the functioning of each of the regulatory regimes.

Government response

Government plan to take this forward as it will help aid common understanding. This will require amendments to the WEEE, Packaging and Batteries Regulations.

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on the National Packaging Waste Database website at:
<http://npwd.environment-agency.gov.uk>

Any enquiries regarding this document/publication should be sent to Defra at:
packaging@defra.gsi.gov.uk