



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on the Environment, Public Health and Food Safety*

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**2008/0241(COD)**

3.10.2011

# **CONSOLIDATED AMENDMENT**

## **1**

**Draft recommendation for second reading**  
**Karl-Heinz Florenz**  
(PE469.957v01)

on the Council position at first reading with a view the adoption of a regulation of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE) (Recast)

Council position at first reading  
(07906/2/2011 - C7-0000/2011 – 2008/0241(COD))

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PE473.777v01-00

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*United in diversity*

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## Amendment 1

**Karl-Heinz Florenz, Kathleen Van Brempt, Vladko Todorov Panayotov, Michail Tremopoulos, Sabine Wils, Oreste Rossi on behalf of their respective groups**

Consolidated amendment replacing Amendments 64, 65, 73-79, 111, 126-128, 165-169 (or parts of them)

### Council position

#### Article 23

##### *Council position*

1. Member States shall carry out appropriate inspections and monitoring to verify the proper implementation of this Directive.

Those inspections shall at least cover shipments, in particular exports of WEEE outside the Union in compliance with applicable Union legislation and the operations at treatment facilities in accordance with Directive 2008/98/EC and Annex VII of this Directive.

2. Member States shall ensure that shipments of used EEE **suspected to be WEEE** are carried out in accordance with the minimum requirements in Annex VI and shall monitor such shipments accordingly.

3. The costs of appropriate analyses and inspections, including storage costs, of used EEE **suspected to be WEEE** may be charged to the producers, to third parties acting on their behalf or to other persons arranging the shipment of used EEE **suspected to be WEEE**.

4. ***In order to ensure uniform conditions***

##### *Amendment*

1. Member States shall carry out appropriate inspections and monitoring to verify the proper implementation of this Directive.

Those inspections shall at least cover ***the reported quantities of EEE placed on the market, in order to check the amount of the financial guarantees required under Article 12(2)***; shipments, in particular exports of WEEE outside the Union in compliance with ***Regulation (EC) No 1013/2006 and Regulation (EC) No 1418/2007***; and the operations at treatment facilities in accordance with Directive 2008/98/EC and Annex VII of this Directive.

2. Member States shall ensure that shipments of used EEE are carried out in accordance with the minimum requirements in Annex VI and shall monitor such shipments accordingly.

3. The ***usual*** costs of appropriate analyses and inspections, including storage costs, of used EEE may be charged to the producers, to third parties acting on their behalf or to other persons arranging the shipment of used EEE

4. ***The Commission shall be empowered to adopt delegated acts, in accordance with***

***for the implementation of this Article and of Annex VI, the Commission may, by means of implementing acts, establish*** additional rules on inspections and monitoring and in particular uniform conditions for the implementation of Annex VI, point 2.

#### ANNEX VI

##### Minimum requirements for shipments of used EEE ***suspected to be WEEE***

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member State authorities shall, in cases of used EEE ***suspected to be WEEE*** request the following to back up this claim:

- a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
- c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC, and
- d) appropriate protection against damage during

***Article 20, with regard to the establishment of*** additional rules on inspections and monitoring and in particular uniform conditions for the implementation of Annex VI, point 2.

#### ANNEX VI

##### Minimum requirements for shipments of used EEE

1. In order to distinguish between EEE and WEEE, where the holder of the object claims that he intends to ship or is shipping used EEE and not WEEE, Member State authorities shall, in cases of used EEE request the following to back up this claim

- a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
- c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC, and

transportation, loading and unloading in particular through sufficient packaging **or** appropriate stacking of the load.

2. By way of derogation, point 1 (a) and (b) and point 3 **do** not apply where EEE is sent to the producer or third parties acting on his behalf **when** it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and where:

- a) the EEE is sent back as defective for repair under warranty with the intention of re-use,
- b) the used EEE for professional use is sent for refurbishment or repair **under a valid after-sales service maintenance contract** with the intention of re-use, or
- c) the defective used EEE for professional use, such as medical devices or their parts, is sent for root cause analysis under a valid after-sales service maintenance contract, in case such an analysis can only be conducted by the producer or third parties acting on his behalf.

d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging **and** appropriate stacking of the load.

2. By way of derogation, point 1 (a) and (b) and point 3 **shall** not apply where EEE is sent to the producer or third parties acting on his behalf **or to third-party facilities for repair or refurbishment provided that** it is documented by conclusive proof that the shipment is taking place in the framework of a business-to-business transfer agreement and where:

- a) the EEE is sent back as defective for repair under warranty with the intention of re-use,
- b) the used EEE for professional use is sent **under a valid contract** for refurbishment or repair with the intention of re-use, or
- c) the defective used EEE for professional use, such as medical devices or their parts, is sent for root cause analysis under a valid after-sales service maintenance contract, in case such an analysis can only be conducted by the producer or third parties acting on his behalf.

***This derogation shall apply only to***

3. In order to demonstrate that the items being shipped are used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing

- a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.
- b) Results of evaluation and testing shall be recorded.

Step 2: Record

- a) The record shall be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.
- b) The record shall contain the following information:
- Name of item (Name of the equipment if listed in *Annex II or Annex IV, as appropriate*, and category set out in *Annex I or Annex III, as appropriate*);
  - Identification Number of the item (type no.) where applicable;
  - Year of Production (if available);
  - Name and address of the company

*shipments to countries to which the Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations applies.*

*In the event that EEE covered by this derogation cannot be repaired or refurbished it shall be considered to be WEEE.*

3. In order to demonstrate that the items being shipped are used EEE rather than WEEE, Member States shall require the following steps for testing and record keeping for used EEE to be carried out:

Step 1: Testing

- a) Functionality shall be tested and the presence of hazardous substances shall be evaluated. The tests to be conducted depend on the kind of EEE. For most of the used EEE a functionality test of the key functions is sufficient.
- b) Results of evaluation and testing shall be recorded.

Step 2: Record

- a) The record shall be fixed securely but not permanently on either the EEE itself (if not packed) or on the packaging so it can be read without unpacking the equipment.

responsible for evidence of functionality;

- Result of tests as described in step 1 (including date of the functionality test);
- Kind of tests performed.

4. In addition to the documentation requested in points 1 and 3, every load (e. g. shipping container, lorry) of used EEE shall be accompanied by:

- a) a relevant transport document, e.g. CMR or waybill.
- b) a declaration of the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 3 and 4 and of appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging or appropriate stacking of the load, Member State authorities shall consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of Regulation (EC) No 1013/2006.

b) The record shall contain the following information:

Name of item (Name of the equipment if listed in Annex IV and category set out in Annex III);

- Identification Number of the item (type no.) where applicable;

- Year of Production (if available);

- Name and address of the company responsible for evidence of functionality;

- Result of tests as described in step 1 (including date of the functionality test);

- Kind of tests performed.

4. In addition to the documentation requested in points 1 and 3, every load (e. g. shipping container, lorry) of used EEE shall be accompanied by:

a) a relevant transport document, e.g. CMR or waybill.

b) a declaration of the liable person on its responsibility.

5. In the absence of proof that an object is used EEE and not WEEE through the appropriate documentation required in points 1, 2, 3 and 4 and of appropriate protection against damage during

transportation, loading and unloading in particular through sufficient packaging or appropriate stacking of the load, ***which it is the responsibility of the holder of an appliance intended for shipment to provide in each case***, Member State authorities shall consider that an item is WEEE and presume that the load comprises an illegal shipment. In these circumstances the load will be dealt with in accordance with Articles 24 and 25 of Regulation (EC) No 1013/2006.

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