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DIRECTORATE-GENERAL
ENVIRONMENT
The Director-General

DRAFT

**Frequently Asked Questions on
Directive 2012/19/EU on Waste Electrical and Electronic Equipment
(‘new WEEE Directive’)**

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Foreword

The purpose of this Frequently Asked Questions (FAQ) document is to clarify certain aspects of Directive 2012/19/EU (hereafter referred to as the “new WEEE Directive”), which entered into force on 13 August 2012 and which Member States are required to transpose into national law by 14 February 2014. At that time, Directive 2002/96/EC (the “old WEEE Directive”) will be repealed.

The document is principally intended to help competent public authorities and economic operators interpret the provisions of the new WEEE Directive in order to ensure compliance with the Directive’s requirements. However, the Directive being addressed only to the Member States, the rights and obligations for private parties exclusively flow from the measures enacted by the authorities of the Member States to implement it.

When formulating the answers to the questions raised in this FAQ document the two following criteria have been applied:

- *they should not deviate from the answers given in the old FAQ document of August 2006, unless the underlying legal text has changed, the answer can be given in a more precise manner than was the case in 2006, or, as an exception, a change of interpretation is necessary;*
- *they should not deviate from the answers to identical ‘frequently asked questions’ contained in the [RoHS 2 FAQ document](#), unless the underlying problems (different objectives and nature of the two Directives) require a different answer ;*

This FAQ document is considered to be a ‘living document’ and the Commission may update it as necessary at any time, according to the experience with the implementation and review of the new WEEE Directive.

Finally, as is customary, this FAQ document reflects the views of DG Environment and as such is not legally binding. Binding interpretation of EU legislation is the exclusive competence of the Court of Justice of the European Union.

DATE

Signature

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Introductory remark on the structure of this FAQ document

With respect to its scope, the new WEEE Directive distinguishes between two main periods:

- i. a transitional period (from 13 August 2012 until 14 August 2018) and
- ii. an 'open-scope' period from 15 August 2018 onwards.

Because of the differentiation between the two periods, this FAQ document has two main sections:

1. The 'General FAQ'-section that deals with:
 - a) general questions on the new WEEE Directive which are valid for both transitional and open-scope periods
 - and
 - b) questions concerning the scope of the new WEEE Directive during the 'transitional period' that - according to Article 2(a) - is the period from 13 August 2012 to 14 August 2018.
2. The 'Open-scope' period-section that deals with questions concerning the scope during the period starting on 15 August 2018.

1. General FAQs

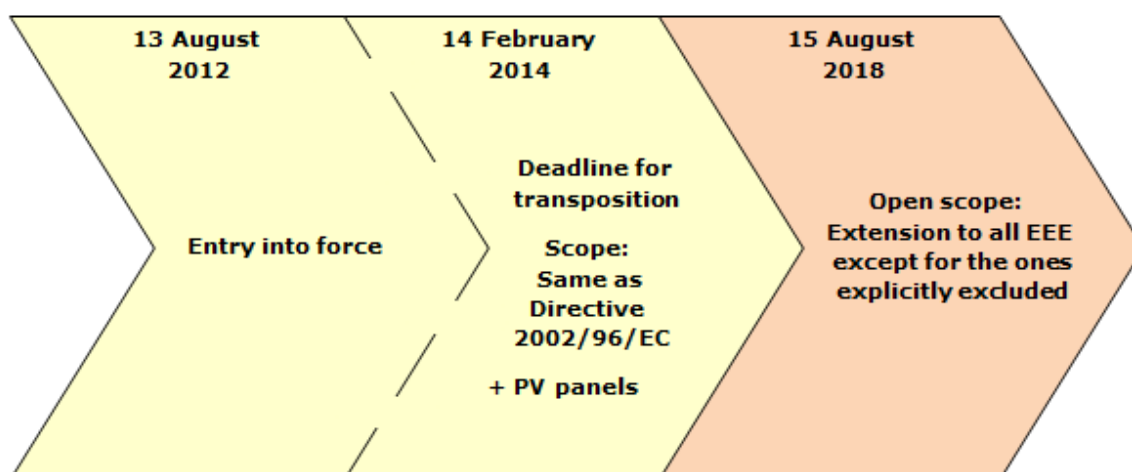
QUESTIONS ON IMPLEMENTATION

1.1. When does the new WEEE Directive start to apply?

The new WEEE Directive 2012/19/EU entered into force on 13 August 2012 and shall be transposed into national law by 14 February 2014. At that time, the old WEEE Directive (Directive 2002/96/EC), will be repealed.

The period between 13 August 2012 and 14 August 2018 is a transitional period. During this period the scope of the new WEEE Directive remains the same as the scope of the old WEEE Directive (10 categories). The exception is photovoltaic panels (PV panels), that have been added to the scope of the new WEEE Directive with immediate effect.

From 15 August 2018 onwards the scope of the Directive is widened to include all electrical and electronic equipment (EEE). All EEE shall be classified within 6 categories instead of the existing 10 categories.



1.2. Where can information on the provisions of the new WEEE Directive be obtained?

The legislation applicable to individuals and undertakings is primarily the national legislation of EU Member States in transposition of the new WEEE Directive. Questions of individual stakeholders are therefore best addressed to the national authorities responsible for the transposition and implementation of the Directive, a list of which can be found here:

http://ec.europa.eu/environment/waste/weee/contacts_en.htm.

Questions on registration can often also be answered by a network representing many national registers of Member States, the 'European WEEE Registers Network' (EWRN). The network can be contacted via <https://www.ewrn.org/contact-us/>.

Questions to the European Commission can be sent to DG Environment.

Moreover, there is a list of useful links on the Commission's web-page:

http://ec.europa.eu/environment/waste/weee/links_en.htm

SCOPE- ARTICLE 2

1.3. Is the 2006 FAQ document on the old WEEE Directive still valid during the transitional period?

The scope related questions and answers contained in the 2006 FAQ document (specifically Q&A: 1.3, 1.8, 1.9, 1.16, 1.17, 1.18 and 1.19) remain valid until 14.8.2018 (end of the transitional period after which the open scope period begins). Therefore, for clarification on one of the following questions, please use the 2006 FAQ document:

- What are the criteria for determining whether a product falls under the new WEEE Directive in the transitional period? ([See Q&A Nr. 1.3 of the 2006 FAQ document](#))
- Does the new WEEE Directive apply to electrical and electronic products for professional use? ([See Q&A Nr. 1.8 of the 2006 FAQ document](#))
- Does the new WEEE Directive apply to batteries? ([See Q&A Nr. 1.9 of the 2006 FAQ document](#))
- Are Radio Frequency Identification (RFID) chips included in the scope of the new WEEE Directive? ([See Q&A Nr. 1.16 of the 2006 FAQ document](#))
- Are antennas, cables, fibre optics and waveguides covered by the new WEEE Directive? ([See Q&A Nr. 1.17 of the 2006 FAQ document](#))
- What is meant by 'infected products'? ([See Q&A Nr. 1.18 of the 2006 FAQ document](#))
- What is meant by 'video games'? ([See Q&A Nr. 1.19 of the 2006 FAQ document](#))

1.4. Do Member States have to change/redesign the categories in Annex I of the new WEEE Directive during the transitional period?

No. Until 14 August 2018, the same 10 categories as in Directive 2002/96/EC remain in force as regards targets and reporting obligations. Member States should thus maintain the existing 10 categories during the transitional period. It is only from 15 August 2018 onwards that all EEE shall be classified within the 6 categories set out in Annex III of the new WEEE Directive as regards targets and reporting.

However, Member States and other relevant actors are free to design and use additional (sub-) categories, as long as reporting to the Commission is in line with the requirements of the new WEEE Directive.

1.5. What kind of lighting equipment fall within the scope of the new WEEE Directive?

All the different kinds of lighting equipment (both different kinds of lamps and different kinds of luminaries e.g. LED, (O)LED, LED retrofit lamps) not explicitly mentioned in the exclusions from the scope, fall within the scope of the new WEEE Directive.

Concerning specifically the transitional period, Annex II of the new WEEE Directive includes an indicative (non-exhaustive) list of EEE falling within the categories listed in Annex I. All lighting sources or equipment for the purpose of spreading or controlling light belong to category 5, except for those specifically exempted.

Generally, for both the transitional and the open scope periods, whatever source is 'electrical or electronic equipment' according to the EEE definition and is made in order to produce optical radiation should be considered to be a lamp: for example light sources using LED, (O)LED technology including LED retrofit lamps (which are products that substitute 'normal' lamps), and light sources that consist of non-removable integrated LED, fall under 'lamps' of the new WEEE Directive.

1.6. Is there a difference between the terms 'equipment' and 'product'?

No. The term equipment and product are used synonymously in the new WEEE Directive.

1.7. Does the new WEEE Directive apply to components?

Generally speaking, components are not covered by the new WEEE Directive. Components cover the range of internal items that, when assembled, enable a product to perform its intended function. Equipment that is covered by Annex I or III of the Directive is not a component.

However, an assembly kit that consists of components that form an EEE when assembled is also an EEE at the stage when it is sold as an assembly kit (Example: remote controlled electric helicopter delivered as an assembly kit).

Where an EEE contains components when it is placed on the market, or when it is discarded as WEEE, the components will contribute to the reported weight of EEE or WEEE. But components put on the market separately in order to be used for repair and/or construction of an EEE and not as part of a complete assembly kit, fall outside the scope of the Directive.

Some examples of components are:

- electronic parts such as resistors, transistors, capacitors, valves and diodes and single LED
- connectors
- internal wiring.

1.8. Does the new WEEE Directive apply to consumables?

This depends on the nature of the consumable.

Non-electrical/non-electronic consumables do not fall under the definition of electrical and electronic equipment (EEE) and therefore they do not fall within the scope of the new WEEE Directive (i.e. compact discs-CDs, vacuum cleaner bags).

Consumables with an equipment constituent meeting the definition of EEE in Article 3(1)(a) fall within the scope of new WEEE Directive.

1.9. Do printer cartridges fall within the scope of the new WEEE Directive?

This depends on the type of the printer cartridge.

A printer cartridge falls within the scope of the new WEEE Directive if it meets the definition of electrical and electronic equipment given in Article 3(a) of the Directive and does not fall under the exclusions made in Article 2 of the Directive. The decisive criterion is the fulfilment of the definition of EEE. Thus, printer cartridges which contain electrical parts and are dependent on electric currents or electromagnetic fields in order to function properly fall within the scope of the Directive.

Printer cartridges which merely consist of ink and a container, without electrical parts, do not fall within the scope of the Directive.

1.10. Do inverters fall within the scope of the new WEEE Directive?

Yes. An inverter (i.e. an electrical device that changes direct current (DC) to alternating current (AC), commonly used to supply AC power from DC sources such as solar panels or batteries) falls under the definition of electrical and electronic equipment and thus falls within the scope of the new WEEE Directive.

1.11. Is any equipment that contains photovoltaic cells, modules or panels a photovoltaic panel under category 4 of Annex I?

No. This depends on the precise nature of the equipment. A photovoltaic (PV) panel is a piece of electrical equipment which has been designed with the sole purpose to generate electricity from solar light for public, commercial, industrial, rural and residential applications. This definition does not include equipment with integrated PV cells whose function is to generate the electricity needed to make that equipment work. The following non-exhaustive list illustrates equipment containing a solar cell which are not to be considered as photovoltaic panels, but falling into other categories of equipment covered by the new WEEE Directive: solar air conditioning, solar backpack, solar cell phone charger, solar fan, solar keyboard, solar lamp, solar notebook, solar powered calculator, solar powered fountain, solar powered radio, solar powered refrigerator, solar powered watch, solar road stud and solar garden light.

This kind of equipment should not be reported as a PV panel under category 4 of Annex I but should be reported under the respective category (e.g. a pocket calculator with a small PV panel should be reported under category 3 of Annex I, a luminaire with a small PV panel should be reported under category 5 of Annex I).

1.12. What is meant by the ‘specifically designed and installed’-exclusion in Article 2.3(b)?

If equipment is specifically produced to be used for ‘out-of-scope electrical and electronic equipment’ and can only be used for that equipment, such equipment is ‘specifically designed’ and falls out of the scope of the new WEEE Directive, provided the following conditions are met:

- The ‘specifically designed’ equipment is installed as an integral part of the other type of equipment.
- The ‘specifically designed’ equipment is tailor made; it is designed to meet the needs of a specific application in the equipment that it is part of.

Examples of ‘specifically designed and installed’ equipment to be used for ‘out-of-scope EEE’ include:

- equipment specifically designed, dimensioned and customized to be used as part of a specific large-scale fixed installation (‘LSFI’) (i.e. sensor equipment designed to fit inside drill heads)
- equipment designed specifically to be installed as part of a large-scale stationary industrial tool ‘LSSIT’ (i.e. pumps designed for transport of cooling lubricants for LSSIT).

Examples of equipment that is not ‘specifically designed and installed’ to be part of ‘out-of-scope electrical and electronic equipment’ include standard electronic racking systems, and other non-standard equipment intended to be fitted to an automobile such as hands-free phone systems and retrofit satellite navigation devices.

DEFINITIONS- ARTICLE 3

1.13. What does ‘dependent on electric currents or electromagnetic fields in order to work properly’ mean (Article 3(1)(a)),?

‘Dependent on electric currents or electromagnetic fields in order to work properly’ means that the equipment needs electric currents or electromagnetic fields (e. g. not petrol or gas) as its primary energy to fulfil its basic function. It also means that when the electric current is off, the equipment cannot fulfil its basic function.

If electrical energy is used only for support or control functions, this type of equipment is not covered by the new WEEE Directive.

1.14. What is the meaning of 'B2B' and 'B2C' equipment?

The terms B2B (business-to-business) and B2C (business-to-consumer) are not mentioned in the new WEEE Directive. However, in trade terms B2B and B2C describe the link:

- between a company and another company, where the buyer can be a company who re-sells the equipment or uses the equipment (B2B) and
- between a business and a private consumer (B2C).

Under the new WEEE Directive, 'B2B equipment' is synonymous with equipment which is solely intended for professional use/applications. 'B2C equipment' on the other hand is equipment which is intended for private consumer use/applications (also described as domestic, household applications or non-professional applications) and equipment which is applied for both professional and non-professional applications ('dual-use' equipment).

1.15. What is 'dual-use' equipment and how is it registered?

EEE that is likely to be used by private households as well as by users other than private households shall be considered to be 'dual-use' EEE.

The term 'likely to be used' needs to be interpreted by the Member States based on the context applicable for the specific equipment.

Equipment that is considered to be of 'dual use' is registered and reported as household EEE (B2C).

An example of 'dual-use' EEE designed for household use but also used professionally is a kettle to heat water or a coffee machine. There is also EEE designed for professional use such as high-quality cordless screwdrivers that are also sold to and used by non-professionals.

1.16. Is a photovoltaic panel to be considered as WEEE from private households or as WEEE from users other than private households?

Generally speaking, due to the 'dual-use' principle, standard photovoltaic panels will have to be considered as WEEE from private households when reaching their end of life. However, there may be some photovoltaic panels on the market that can be clearly distinguished by their specific 'for professional use only' design and that, when reaching their end of life, will have to be considered as WEEE other than WEEE from private households.

1.17. Can a manufacturer or seller who is not established in any Member State be considered as a producer of EEE?

Yes. According to Article 3(1)(f)(iv) of the new WEEE Directive, in cases where the manufacturer or other seller, established in a non-EU country, sells EEE directly to an end-user located in a Member State by means of distance communication, this seller is considered to be the producer of that EEE

and must make provisions for compliance with the Directive (e.g. register, fulfil take-back obligations, report).

1.18. Does the placing on the market on a professional basis of EEE, already used in one Member State for many years, within the territory of another Member State meet the definition of ‘placing on the market’ in Article 3(1)(k) ?

Yes. The new WEEE Directive is applied at Member State level, only equipment moved within a Member State remains in the same market in which it was originally placed.

If an EEE is imported to a Member State from another Member State on a professional basis, it is made available on the market of that Member State, and this is a new ‘placing on the market’.

This should be considered in Member States’ analysis of their collection rates.

SEPARATE COLLECTION- ARTICLE 5

1.19. What does ‘all collected WEEE’ mean?

The new WEEE Directive applies to all WEEE, not only to WEEE that is handled by systems established according to the ‘producer responsibility principle’¹. The environment will only be adequately protected if Member States adopt measures to ensure correct treatment of all WEEE handled by all actors. All WEEE shall be sent for proper treatment and Member States shall report all quantities accordingly, as specified in Article 16(4) of the Directive.

1.20. What are the responsibilities of retailers for separate WEEE collection?

Article 5(2) of the new WEEE Directive obliges retailers to accept a discarded item when a new equivalent item is purchased. It also requires retailers with sales areas relating to EEE of at least 400 m² to accept very small WEEE when returned to them with no further obligation to the end-user to buy EEE of an equivalent type.

If Member States want to deviate from the requirement of Article 5(2)(c) by applying alternative existing collection schemes, such schemes must be shown to be at least as effective, and the assessment must be made available to the public.

¹ See e.g. recital 23 of the new WEEE Directive

1.21. How to measure external dimensions of ‘very small’ EEE as used in Article 5(2)(c) with respect to:

a) *curved surfaces?*

Simply draw a box around the product and measure those dimensions.

b) *accessories?*

Measure the dimensions by drawing a box around the product (without any accessories that can be removed from it).

c) *cables?*

Measurements of cables sold as standalone items should be done as the cables are packed during sale.

RE-USE CENTERS — ARTICLE 6

1.22. Do re-use centres have access to collection points?

Yes. Article 6(2) asks, where appropriate, to promote separation of WEEE at collection points in order to give priority to preparing for re-use and to grant personnel from re-use centres access to municipal, retail or other collection points, provided that the re-use centres are accredited or approved, as called for in Annex IV (16) of the EU Waste Framework Directive.

Regarding such access a number of different practices existing in Member States can be applied. For example, if producer responsibility systems establish collection points they can also control access to all collection points and cooperate with approved/accredited re-use centres. The access could also be granted on the basis of individual contracts between the respective operators and the re-use centre(s); examples of ‘operators’ include municipalities or associations of municipalities (operating municipal collection centres), private waste companies (operating compliance scheme regional collection centres) or social enterprises (operating collection centres as contractors for municipalities and/or compliance schemes).

COLLECTION RATE- ARTICLE 7

1.23. Who is responsible for achieving the collection rates in Article 7(1)?

Article 7(1) is addressed to Member States. Therefore, Member States shall ensure that the collection rates referred to in paragraph 7(1) are achieved.

Member States shall ensure that collective and/or individual systems are set up, e.g. by establishing municipal collection points or taking any other action (e.g. nationwide awareness campaigns) to achieve the collection target.

Moreover, all collected WEEE should be reported accordingly and sent for proper treatment. In this respect national authorities have to ensure that collection rates are achieved taking into account all the channels, as specified in Article 16(4). Member States should put in place measures to gather information on all WEEE that has been separately collected.

It is critical for Member States to ensure that anyone who handles WEEE (e.g. recyclers, waste collectors, local authorities, traders), properly reports it, including the type and the quantity of WEEE they handle. All actors handling WEEE should be subject to the corresponding obligations of the new WEEE Directive.

However, organising the actual collection of WEEE and achieving a collection rate that is at least relative to the market share of the producers who establish a system is a responsibility of individual or collective systems themselves.

1.24. Can Member States set more ambitious collection rates?

Yes. According to the last paragraph of Article 7(1), Member States may set more ambitious rates for separate collection of WEEE and shall in such a case report this to the Commission.

1.25. Do Member States need to choose between a collection rate based on 65 % of EEE placed on the market in the three preceding years and a collection rate based on 85 % of WEEE generated on their territory?

No. Article 7(1) does not require Member States to choose; it merely requires Member States to demonstrate achievement of either one of the collection rates from 2019 onwards (seven years after entry into force). This means that Member States are permitted to demonstrate compliance with either the former or the latter collection rate annually, and they do not need to choose a particular collection rate in advance.

In accordance with Article 7(5), the Commission will produce guidance on the methodology for the calculation of the weight of EEE placed on the national market and the quantity of WEEE generated by weight in each Member State.

1.26. Can Member States require that information on all WEEE collected separately through all routes is reported to them free of charge?

Yes. Article 7(2) requires that Member States gather information on all separately collected WEEE. Member States collect that information from collection and treatment facilities, distributors and producers or third parties acting on their behalf.

According to the same Article, the information should be transmitted to Member States free of charge. Significant room for national implementing rules is however left to Member States as regards the national consolidation/clearing system for data collection. A Member State may for

instance choose to set up systems based on payments between relevant WEEE actors in order to promote collection and clear collection and treatment data.

1.27. Are Member States required to collect information on WEEE collected through all routes?

Yes. According to Article 16(4), Member States are required to collect information on WEEE collected through all routes as well as EEE placed on their markets, prepared for re-use, recycled and recovered within the Member State, and on separately collected WEEE exported, by weight. In this context, it is obvious that Member States should adopt measures to involve all actors in WEEE collection and to receive information on the quantities and categories of WEEE collected through all routes.

There are significant flows of WEEE outside producer responsibility schemes set up and operated by producers and it is important that all waste streams count towards the collection rate. These so called 'complimentary WEEE flows' are collected by an array of actors, ranging from small-scale door-to-door collectors to large scale scrap dealers and recyclers. The challenge for Member States is to ensure that these 'complimentary flows' are properly measured.

Given the complexity of WEEE flows, Member states may opt to use substantiated estimates of WEEE collected through all routes to demonstrate or to help demonstrate the achievement of the collection targets laid down in Article 7(1). Substantiated estimates must be supported by independent scientific methodologies and be based as far as possible on real market data.

1.28. Should the collection rate be applied to specific product categories?

No. The collection rate referred to in Article 7(1) does not set individual collection rates for specific product categories. It refers to the national target to be achieved for WEEE in general and not to each one of the different WEEE categories.

Article 7(6) states that the Commission shall examine setting possible individual collection rates for one or more categories set out in Annex III. A report on this matter shall, if appropriate, be accompanied by a legislative proposal.

1.29. How does the collection rate in Article 7(1) relate to WEEE from users other than private households (B2B WEEE)?

During the transitional period the collection target set out in the old WEEE Directive will change. Until 31 December 2015 a separate collection target of at least 4 kilograms on average per inhabitant per year of WEEE from private households or the same amount of weight of WEEE as was collected in that Member State on average in the three preceding years, whichever is greater, shall continue to apply.

However, from 2016 onwards the minimum collection rate shall be 45%, calculated on the basis of the total weight of WEEE collected in a given year in the Member State concerned and expressed as a percentage of the average weight of EEE placed on the market in the three preceding years (2013-2014-2015) in that Member State.

This means that from 2016 onwards the collection rate applies to the total amount of WEEE both from private households and from users other than private households.

Article 7(1) does not establish separate rates for WEEE collected from private households and WEEE collected from users other than private households.

FINANCING IN RESPECT OF WEEE FROM PRIVATE HOUSEHOLDS- ARTICLE 12

1.30. How will the date establishing the distinction between 'historical' and 'new' waste apply to products newly covered by the new WEEE Directive?

The date for 'historical waste', 13 August 2005, has not been changed in the new WEEE Directive and applies to all products: both those covered by the new WEEE Directive for the first time and those already covered by the old WEEE Directive.

INFORMATION FOR TREATMENT FACILITIES- ARTICLE 15

1.31. In case where according to Article 15(2) EEE is marked when it is placed on the market of a Member State, does this EEE has to be re-marked when it is traded between Member States?

No. According to Article 15(2) Member States shall ensure that a mark on the EEE — preferably, the European Standard EN 50419 — specifies that that EEE was placed on the market after 13 August 2005. If the manufacturer of the EEE (or anyone cooperating in the supply chain) marked the EEE when it was placed on the market of a Member State for the first time and the EEE is traded to another Member State, the party responsible for marking the EEE (e.g. producer) in that other Member State shall not be obliged to re-mark the EEE, since the information requested under Article 15(2) already exists on the EEE.

If there is no relevant marking on the EEE coming from a Member State or a third country the party responsible for marking has to mark the EEE.

Marking should take place before the EEE is placed on the EU market for the first time.

AUTHORISED REPRESENTATIVE- ARTICLE 17

1.32. Do producers have the right to appoint an authorised representative, instead of establishing in a Member State?

Yes. Article 3(1)(f)(i) to (iii) defines the establishment of a producer in a Member State as the norm to fulfil the obligations under the new WEEE Directive in that Member State. However, by way of exception to Article 3(1)(f)(i) to (iii), Article 17(1) stipulates that a producer established in another Member State *may* appoint an authorised representative in a Member State in order to fulfil his obligations in that Member State.

In contrast, according to Article 17(2), distance sellers, who sell EEE in a Member State by means of distance communication directly to private households or to users other than private households, and that are established on the territory of another Member State, *must* appoint an authorised representative in the Member States where they are not established, in order to have somebody who ensures compliance with their obligations as producers.

The new WEEE Directive does not stipulate explicitly that distance sellers established in a non-EU country have the obligation to appoint an authorised representative in the Member State to which they sell. However, distance sellers are producers according to Article 3(1)(f)(iv) and they have to be registered in the Member State to which they sell EEE (according to Article 16(1)). Moreover, Article 16(1) generally provides for all producers under definition 3(1)(f)(iv) (without differentiating between those established in a Member State and those established in a third country) to be registered in the Member State where they sell EEE either themselves or through their authorised representative. This may entail that the distance sellers established in a non-EU country *shall be allowed to* appoint an authorised representative, in accordance with the national legislation of a Member State. This means that Member States, in their national legislation, may make provisions to ensure that distance sellers that are not established in the EU take the appropriate measures to comply with the national legislation of the Member State concerned (e.g. register by themselves or by appointing an authorised representative, take part in a collective system, etc.).

1.33. Which obligations may producers pass on (or not pass on) to their authorised representatives?

Article 17(1) grants producers, as defined in Article 3(1)(f)(i) to (iii), the right to appoint an authorised representative responsible for fulfilling their obligations. Article 17(2) obliges producers, as defined in Article 3(1)(f)(iv) and established in another Member State, to appoint an authorised representative for fulfilling their obligations. The nature of that right and that obligation is not further defined or limited and should therefore be understood broadly.

However, the roles and responsibilities of the producer and his appointed authorised representative must be clear and transparent, also as regards the roles and responsibilities of other producers whose rights and obligations may be affected. The arrangement made between the producer and his authorised representative must not undermine compliance with the obligations of the new WEEE Directive, or other legislation.

INSPECTION AND MONITORING- ARTICLE 23

1.34. Does Article 23(2) mean that Member States must impose the criteria in Annex VI for all shipments of used EEE?

No. Member States are required to apply the requirements of Annex VI only in cases where there is suspicion that a shipment of used EEE is a shipment of WEEE.

Annex VI of the new WEEE Directive supplements the general waste management legislation of the European Union², such as Regulation (EC) No 1013/2006 on shipments of waste ('Waste Shipment Regulation') and the Directive 2008/98/EC ('Waste Framework Directive'). Annex VI does not alter the provisions of other waste management legislation. When equipment has reached the waste state, shipments have to be conducted according to the Waste Shipment Regulation.

The purpose of Article 23(2) of the new WEEE Directive in connection with Annex VI is to give to the competent authorities (as meant in Article 2(18) of the Waste Shipment Regulation) the legal tool to test, in case of reasonable suspicion, whether WEEE is shipped contrary to the provisions of the Waste Shipment Regulation, or not.

The minimum requirements for shipments should not hinder the legal trade of used equipment. Where there is a suspicion that a shipment is de facto an illegal shipment of waste, Annex VI gives Member States the legal instrument to clarify the situation³.

1.35. Can the producer/person responsible for the shipment be charged for storage by a Member State even if the used EEE is proven not to be WEEE?

Yes. The new WEEE Directive (Article 23(3)) allows Member States to charge the indicated costs regardless of whether or not the suspected EEE was proven to be WEEE.

MINIMUM REQUIREMENTS FOR SHIPMENTS — ANNEX VI

1.36. Is the 'holder of the object' always the legal owner of the used EEE?

No. Annex VI point (1) refers to the 'holder of the object' who intends to ship or is shipping used EEE; Points (1)(c) and (5) of Annex VI refer to the 'holder who arranges the transport'.

The 'holder of the object' is the person who is (directly or indirectly) in possession of the used EEE, but who is not necessarily the legal owner of the used EEE. In this framework, the 'holder of the object' can also be any natural or legal person who acts in the role of principal in respect of the used EEE.

² See recital 4 of the new WEEE Directive

³ Commission Communication COM(2012)139 Final/11.4.2012

1.37. What is the meaning of a ‘warranty’ in the context of Annex VI point 2(a)?

In the context of Annex VI, ‘warranty’ should be considered to be either an obligation under national legislation towards consumers for the lack of conformity of equipment on the sale of consumer goods, or any written agreement by a seller or producer to repair equipment if it does not meet the specifications set out in the guarantee statement or in the relevant advertising.

Warranties include the legal and consumer guarantees under Directive 1999/44/EC as well as warranties provided by manufacturers and sellers in relation to business to business transactions involving EEE. The term also covers additional contractual undertakings, e.g. extended warranties, or obligations undertaken in the context of sales, service, maintenance and repair agreements.

1.38. Does the derogation from the requirements listed in point 1 (a) and (b) and point 3 of Annex VI apply when specific EEE is sent to the producer or a third party acting on his behalf for re-calibration?

Yes. Although the shipment of specific EEE sent for re-calibration, is not explicitly mentioned in point 2 of Annex VI, it is very similar to the cases listed in point 2, (especially point 2(c)), where such equipment is sent back for root cause analysis. The derogation should thus be applied by way of analogy.

1.39. Does the derogation from the requirements listed in point 1 (a) and (b) and point 3 of Annex VI apply when EEE is leased?

Generally speaking, used EEE under a valid leasing contract is not WEEE and should therefore not be considered as ‘suspected to be WEEE’.

1.40. Does the derogation from the requirements listed in point 1 (a) and (b) and point 3 of Annex VI apply when a repairer returns irreparable used professional EEE to the user/ owner?

Annex VI does not ban the repairer to return irreparable used professional EEE (i.e. used EEE examined by the repairer, but then found to be irreparable for technical or economic reasons) as it is generally the intent of the owner of the irreparable EEE that determines whether the specific item is EEE or WEEE. In other words, irreparable EEE will become waste only if and when the owner intends to discard of it after he receives the irreparable EEE from the repairer. Therefore a repairer may assume that he returns EEE and not WEEE when he is obliged to return the item to its owner.

However, a shipment of irreparable used EEE that is returned to the user/ owner and is likely to raise a reasonable suspicion that WEEE is shipped, should be accompanied by a document carrying conclusive proof that the shipment is taking place in order to return irreparable EEE to the user/ owner and that this shipment is covered by a ‘valid contact’. E.g. the records of the results of

evaluation and testing shall be fixed on the used EEE intended to be returned or on its packaging in analogy to point 3 step 2(a) as part of the 'conclusive proof'.

1.41. Is the derogation in Annex VI point 2(b) limited to OECD countries in part or in full?

The new WEEE Directive in Article 23(2) requires Member States to ensure that shipments of used EEE suspected to be WEEE are carried out in accordance with the minimum requirements in Annex VI, and that such shipments are monitored accordingly.

Point 2 of Annex VI allows for the application of three derogations (a), (b) and (c), under certain conditions.

Subparagraph (a) applies to EEE sent as defective for repair under warranty with the intention of re-use, either to the producer or to a third party acting on his behalf.

Subparagraph (c) applies to certain defective used EEE as described in that subparagraph, sent to the producer or to a third party acting on his behalf.

Subparagraph (b) applies to used EEE for professional use sent for refurbishment or repair under a valid contract with the intention of re-use, sent to 'the producer' or 'a third party acting on his behalf' or a 'third-party facility' to certain countries. The question is whether the geographical restriction applies to 'the producer', to 'a third party acting on his behalf' and to 'a third-party facility', or only to one or some of these text elements. In view of the analogy with subparagraphs (a) and (c), the derogation of subparagraph (b) is limited to OECD countries only as regards the last text element, 'a third-party facility'.

In other words, it is understood that Annex VI point 2(b) applies to used EEE for professional use sent for refurbishment or repair under a valid contract with the intention of re-use, sent:

- to the producer; or
- to a third party acting on behalf of the producer; or
- to a third-party facility in countries to which 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.

1.42. Does the term 'professional use', as used in points 2(b) and 2(c) of Annex VI include used EEE shipped under a leasing contract?

Yes. For the purpose of points 2(b) and 2(c), used EEE under a leasing contract that is sent to the producer or a third party acting on his behalf and intended to be repaired or to undergo root-cause analysis will be considered equipment for 'professional use'.

1.43. What is the purpose of the ‘declaration by the liable person on its responsibility’ referred to in point 4(b) of Annex VI? What form shall this declaration take?

The purpose of the declaration referred to in point 4(b) on Annex VI is to identify the natural or legal person taking responsibility for the shipment with regard to the Annex VI requirements. The liable person is the one who has arranged the shipment. The declaration could be made by adding an appropriate text to the declaration required under Annex VI point 1(c).

1.44. Is it necessary to carry all information mentioned in point 5 of Annex VI in order to prove that an object is used EEE?

The wording of point 5 of Annex VI could be misunderstood as additionally calling for documentation that is not required when a shipment of used EEE is taking place according to one of the derogations of Annex VI point 2.

Shipments of used EEE which are covered by one of the derogations of point 2 need not be accompanied by documentation of point 1(a), 1(b) and point 3.

1.45. Would EEE that is excluded from the scope of the new WEEE Directive shipped for root-cause analysis, e.g. defective large-scale stationary industrial tools and large-scale fixed installations, have to meet the Annex VI requirements?

No. EEE that is excluded from the scope of the new WEEE Directive is not subject to the minimum requirements for shipments of Annex VI.

2. Questions related to the ‘open-scope’ period (from 15.8.2018 onwards)

Scope-related FAQs for the ‘open-scope’-period from 15.8.2018 onwards

2.1. What is covered by the scope of the new WEEE Directive from 15.8.2018 onwards?

Starting from 15 August 2018, the new WEEE Directive will have an ‘open scope’ with six categories. All EEE must then be placed in one of these six new categories set out in Annex III.

Under this open scope, any equipment that falls under the definition of ‘EEE’ is in scope of the new WEEE Directive.

Preamble 9 makes it clear that the new WEEE Directive covers all EEE used by consumers and EEE intended for professional use.

In the open-scope period, EEE is out of scope only if it falls under one of the 10 exclusions explicitly mentioned in Article 2, paragraphs (3) and (4).

2.2. Is R&D equipment excluded from the scope of the new WEEE Directive?

Yes. Equipment specifically and solely designed for the purpose of research and development (R&D) and which is made available solely on a business-to-business basis, is excluded from the scope of the new WEEE Directive as per Article 2(4)(f). This exclusion only applies to specialised EEE that is custom built for very specific R&D applications. Standard equipment, such as monitoring devices or instruments for chemical analysis and other laboratory equipment, that can be used both for R&D applications and in commercial or other applications, does not benefit from this exclusion. Neither does it apply to ‘non-R&D-equipment’ designed and put on the market to test, validate or monitor R&D equipment or to test, validate or monitor R&D prototypes.

In order to benefit from the R&D exclusion, the equipment concerned should be custom made for a specific client or a small number of clients involved in scientific research or prototype product development.

Examples of EEE that may benefit from this exclusion include:

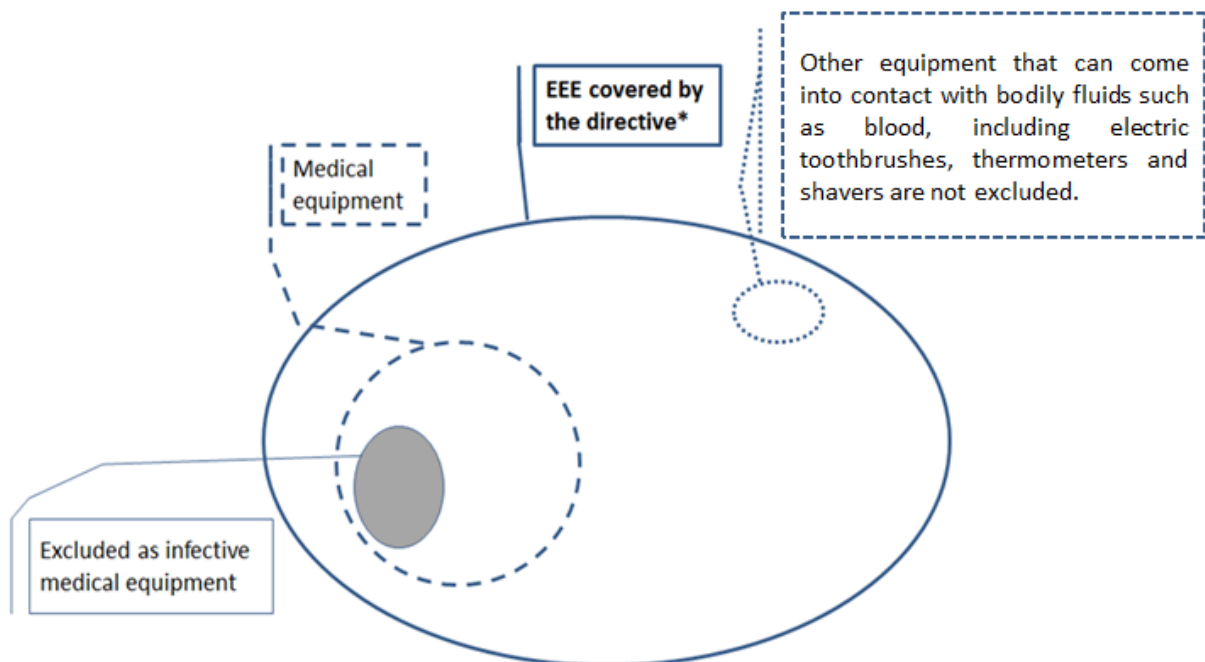
- Prototype or sample/test EEE. (These products are still being part of the development and pre-production process and not marketed).
- In-house custom built ‘development vehicles’ used solely for development, test, validation and evaluation of such non-finished products, including the evaluation of regulatory compliance, product performance and determination of customer acceptability. This type of EEE belongs to the conceptual, developmental, design or pre-production stage and is as such designed for R&D use.
- Devices specifically designed for the sole purpose of R&D in connection with a university study.

2.3. Is all medical equipment excluded from the scope of the new WEEE Directive?

No. Only medical equipment (medical devices and in vitro diagnostic medical devices) that lives up to the purpose of the exclusion as per Article 2(4)(g) is excluded. The purpose of the exclusion is to prevent an infectious health risk for humans, especially the personnel that collects and treats waste of such equipment and that is retrieving resources from the WEEE (e.g. metal recovery). Therefore, medical devices and in vitro diagnostic medical devices are excluded where such devices are expected to be infective prior to end of life. Furthermore, active implantable medical devices are excluded to avoid an obligation to remove electrical equipment from deceased persons for reasons of metal recovery.

Excluded by the new WEEE Directive as infectious medical equipment expected to be infective prior to end of life is e.g.:

- Single use medical equipment (e.g. electrodes used to attach to a baby's head in order to monitor the health condition of the baby during birth. The electrodes are disposed of as infective hospital waste).
- Medical equipment that due to national regulation shall be collected and treated via an infectious health hazard regime (clinical waste).



*Article 3 paragraph 1 (a):

2.4. Can any equipment featuring screens larger than 100cm² be considered as falling under category 2 of Annex III?

No. According to the mere wording in category 2 of Annex III, it could be considered that equipment that features a screen larger than 100cm² falls under this category 2. However, as reporting needs to be based on the categories of Annex III, EEE containing screens greater than 100cm², but whose main focus is different from displaying moving or still images or animated or un-animated information on a screen, shall not be seen to be belonging to category 2 of Annex III as this would distort the information content of reports.

Products like washing machines, refrigerators and printers (which happen to have a screen larger than 100m² and whose main function is different from that of a monitor), should be reported under their specific category and not under category 2 of Annex III.

2.5. What changes have been made under the 'open scope' with regards to lighting equipment?

Under the scope of the old WEEE Directive and during the transitional period lighting equipment is classified in category 5: 'lighting equipment' (Annex I).

Under the open scope of the new WEEE Directive lighting equipment can be classified in 3 different categories (Annex IV) according to the type and the size of the equipment:

- Lamps fall under category 3 of Annex IV
- Luminaries can either fall under category 4: 'large equipment' or under category 5: 'small equipment' of Annex IV depending on their size.

The exemption for 'luminaries in private households' (see category 5 of Annex II of the new WEEE Directive) is no longer applicable. Furthermore, lighting equipment is not covered by the exclusion of large scale fixed installations. However, filament bulbs (filament lamps) continue to be exempted from the scope of the new WEEE Directive.

EEE that is made in order to produce optical radiation should be considered to be a lamp: for example light sources using LED, (O)LED technology including LED retrofit lamps (which are products that substitute 'normal' lamps), and light sources that consist of non-removable integrated LED, fall under category 3 'lamps' of the new WEEE Directive.

Questions related to Large Scale Fixed Installations (LSFI) and Large Scale Stationary Industrial Tools (LSSIT)

2.6. What are large-scale fixed installations (LSFI) and what are large-scale stationary industrial tools (LSSIT)?

The new WEEE Directive does not specify what 'large scale' means.

For large-scale fixed installations (LSFI), an indicative list of criteria is already given in the [RoHS 2 FAQ document](#) and can be used.

However, it is important to consider that the meaning of 'large-scale' in absolute terms may be a different one for tools and installations, as there are differences between tools and installations.

Moreover, as regards tools, the RoHS 2 FAQ document mentions that tools that are large-scale can be significantly smaller than large-scale installations. Therefore, as a rule of thumb, the following criteria may be applied in the case of large-scale stationary industrial tools (LSSIT) to define the term 'large':

- minimum weight of 3 tons
- dimension of at least 2.5 m x 2.5 m⁴.

In other words, LSSIT that do not exceed these dimensions/weight should not be considered 'large-scale' and therefore not be covered by the exclusions.

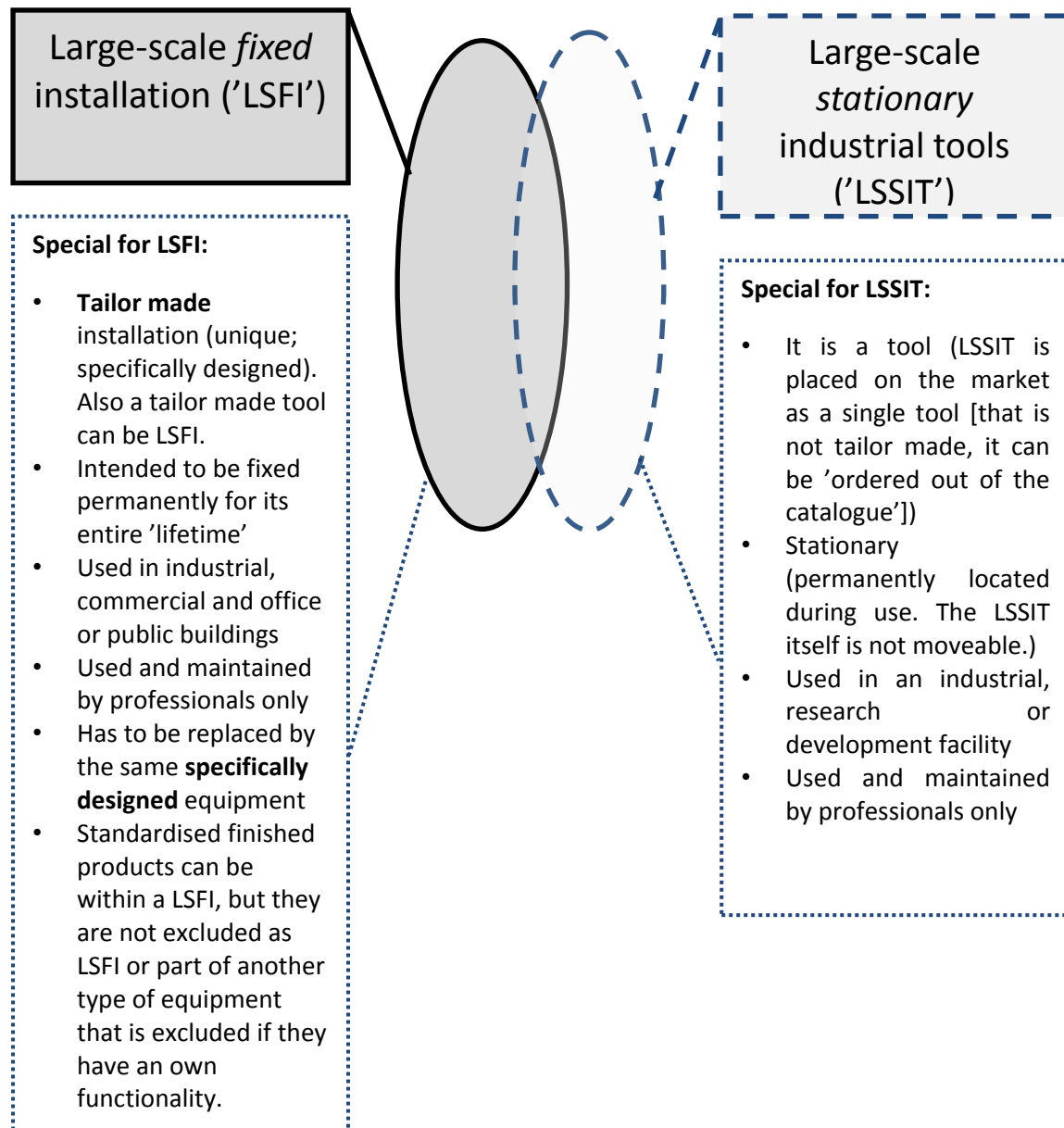
Examples for LSSIT, including installed parts/partial equipment:

- CNC machining centres
- industrial placement machines (e.g. SMD)
- stationary industrial drilling, grinding of milling machines.

Figure A compares and interprets the definition of LSSIT (Article 3(1)(b)) and LSFI (Article 3(1)(c)) and illustrates that some criteria can be found in each one of the exclusions. Both LSSIT and LSFI are combinations of various types of items, such as machinery, components etc. for permanent use at a specific place, installed and de-installed by professionals. Therefore the two categories may overlap.

⁴ Fully aware of the variance of fixed industrial tools available, these benchmarks-based on stakeholders' input- are proposed in order to ensure legal certainty.

Figure A. Illustration of the interpretation of and differentiation between LSFI and LSSIT



2.7. How should 'permanently' be understood in the definition given in Article 3(1)(b) for large-scale stationary industrial tools (LSSIT)?

LSSIT are often designed to facilitate installations by providing sub-modules with wheels or other means. Likewise, factories that routinely use LSSIT might design production floors, and related infrastructure, that can be reconfigured from time to time to accommodate the use of new production LSSIT. Therefore, permanent installation does not necessarily mean the LSSIT or the building will be damaged if the LSSIT is relocated. For LSSIT, 'permanently installed' means the useful function of the equipment is intended to occur in a fixed location. Equipment that has partial mobility, for example semi-mobile machinery running on rails, can be considered 'permanently installed'. On the other hand, equipment that is intended to be used on different sites, or in

different locations, while it is providing its useful function is not considered as permanent. It is an indicator of permanent use if the equipment is not readily re-locatable (or 'mobile intended') and if it is intended for use at one single location.

2.8. Under what circumstances is, for example, a computer used within a large-scale fixed installation in scope and when is it excluded as a large-scale fixed installation or part of such?

The computer is EEE and in scope, if it is a standard PC that drives processes of the large-scale fixed installation only because of (special) software installed. This computer has its own functionality and is neither a large-scale fixed installation nor part of such because this PC could also be used without the large-scale fixed installation with different software.

If the computer is specifically designed for the large-scale fixed installation, e.g. an industrial PC to be integrated in and attached with the large-scale fixed installation, and if it can only work and be used within the large-scale fixed installation (because of its special hardware and/or construction), then it is excluded as large-scale fixed installation or part of such. If not placed within the large-scale fixed installation, such a computer has no possible functionality or use of its own.

2.9. Is lighting equipment included in the exemption for large scale fixed installations?

No. Lighting equipment is normally not specifically designed to be part of a large scale fixed installation.

2.10. Is a production line out of scope?

This depends on how the production line is constructed. If it can be considered a large-scale fixed installation/large-scale industrial tool, it is out of scope. If not, it is in scope.

Example: A car repair shop (garage) could be considered a production line with a number of fixed work locations: a location to lift cars, to track wheels, to seal tires, to adjust lamps, etc. Each of these locations has independent electrical and electronic equipment which is in scope. They function independently from each other. Such a production line or parts of it is/are not excluded.

2.11. Is 'stationary' or 'fixed' a parameter to exclude equipment from the scope?

No. It is not an exclusion of its own to have a fixed or stationary product. Fixed/stationary is one of several criteria that together can define large-scale fixed installations (LSFI) and large-scale stationary industrial tools (LSSIT). Equipment defined as LSFI and LSSIT is excluded.

2.12. Can the terms ‘professional’ and ‘industrial’ be used as synonyms in relation to LSFI and LSSIT?

Yes. The terms ‘professional’ and/or ‘industrial’ in relation to the definitions of large-scale fixed installations (LSFI) and large-scale stationary industrial tools (LSSIT) are synonymously used.

FAQ Appendix

The aim of the appendix is to give some more analytical information as regards the scope of the new WEEE Directive.

The Appendix is divided into two parts:

Part 1: Decision tree – to decide whether specific equipment is in scope of the Directive

Part 2: Exclusions from scope during the ‘open scope’ period from 15.8.2018 onwards.

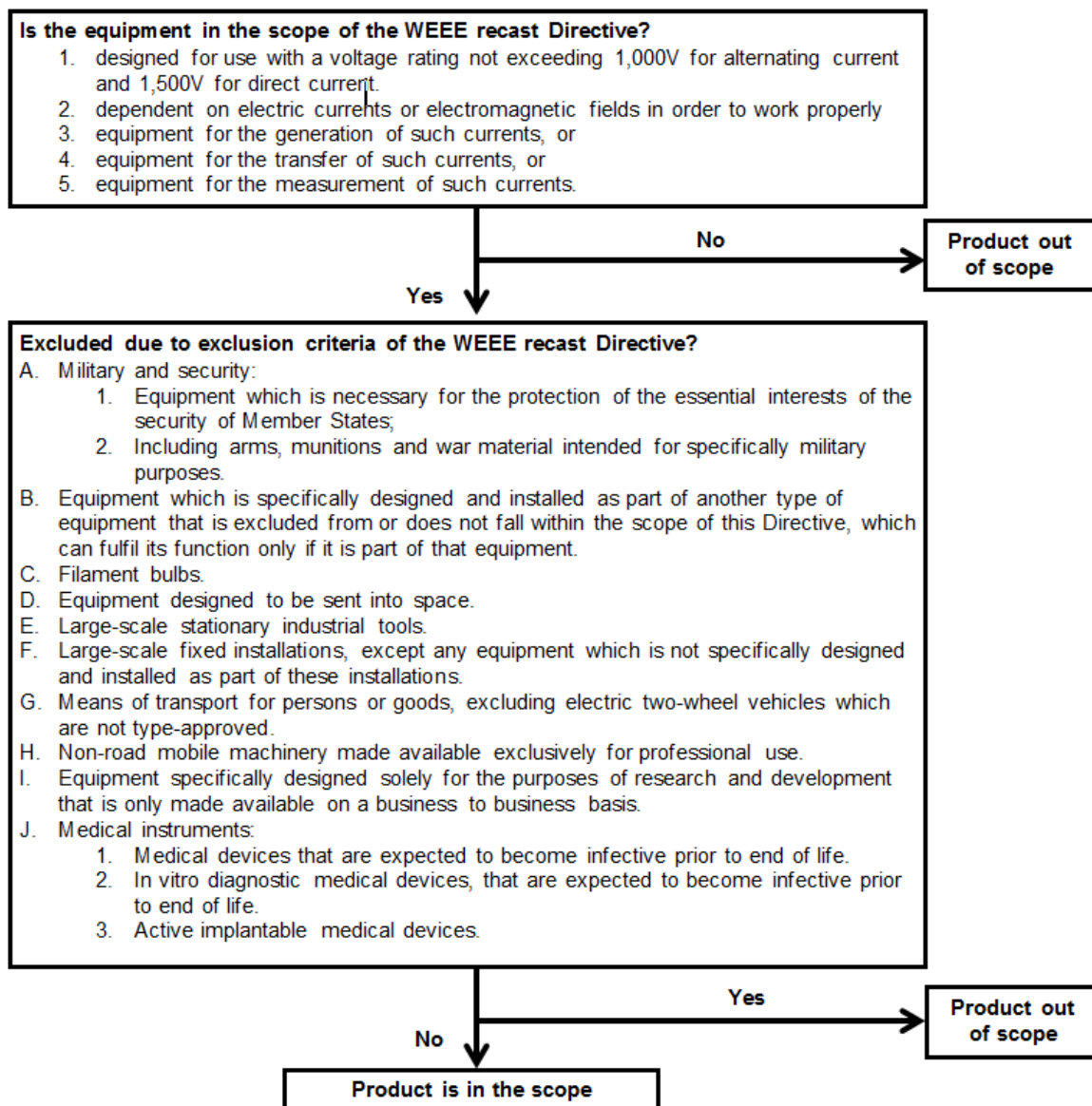
Part 1 presents a decision tree which the producers can use to find out if the new WEEE Directive applies to their products.

Part 2 is focused on the exclusions from scope during the ‘open scope’ period.

PART 1: Decision tree- How can I find out if the new WEEE Directive applies to my product?-

To find out if the requirements of the new WEEE Directive apply to your product follow the decision tree below. Go through each box. If you can answer **YES** to one of the criteria 1-5 in the first box the equipment is considered to be an EEE and is, as a point of departure, **IN** scope of the new WEEE Directive. If you can answer **NO** to all of the 5 criteria, your equipment is not regulated by the new WEEE Directive.

If you can answer YES to one of the criteria A-J in the second box, your equipment is likely to be excluded from the scope of the new WEEE Directive. Check the elaboration text of the exclusion criteria that applies to your product, to ensure you have understood the guide. If you are still in doubt, contact the national legal adviser for the new WEEE Directive in the Member State concerned. If no exclusion criteria apply for your equipment it is IN scope of the new WEEE Directive.



PART 2: Exclusions — purpose of criteria and examples of misinterpretation

This section of the appendix presents the 15 criteria defining what is in and what is out of scope of the new WEEE Directive. A purpose of each criterion is given and — where appropriate — examples of misinterpretation of the criteria are presented. This is done in order to clarify the possible grey areas of each criterion.

In the first column, the numbers used in this appendix are shown: Inclusion criteria 1-5 and exclusion criteria A-J. The second column, gives the criteria text from the new WEEE Directive and the third column, states the purpose of the criteria (why was it introduced) and examples of misinterpretation. The reason for introducing the purpose is that while discussing whether EEE is in or out of scope, words are often interpreted-understood-translated differently so that the track of the initial meaning can be lost.

Example: with the Directive 2002/96/EU it became a common ‘rumour’ that professional equipment within category 6 that is fixed to the wall is considered out of scope. This is however far from the wording of the Directive, which does not mention ‘fixed’ as an independent criterion to exclude equipment from scope in general.

| No | Criterion | Explanation |
|-----------|---|--|
| 1 | Equipment designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1 500 Volt for direct current, and | <p>Purpose: To exclude large industrial equipment where the voltage of the electrical input or output exceeds the specified and common limits.</p> <p>Example of misinterpretation:</p> <p>To exclude tools/machinery/equipment where the voltage that appears inside the equipment exceeds the limits. For example, the electric flyswatter that short-circuits when a fly hits the wires and briefly releases a high voltage, despite being powered by two AA batteries.</p> |

| No | Criterion | Explanation |
|----|---|---|
| 2 | Equipment dependent on electric currents or electromagnetic fields in order to work properly, | <p>Purpose:</p> <p>To ensure that equipment that does not need electricity as its primary energy, but requires, for example, a spark to start, is excluded from the scope of the Directive. Examples are petrol lawn mowers, lighters, gas stoves with electronic ignition only.</p> <p>‘Dependent on electric currents or electromagnetic fields in order to work properly’ means that the equipment needs electric currents or electromagnetic fields (e. g. not petrol or gas) as its primary energy to fulfil its basic function.</p> <p>It also means that when the electric current is off, the appliance cannot fulfil its basic function. If electrical energy is used only for support or control functions (e. g.) this type of equipment is not covered by the new WEEE Directive.</p> <p>Example of misinterpretation:</p> <p>To exclude equipment that is differentiated through an electric function.</p> <p>A toothbrush is out of scope whereas an electrical toothbrush is in.</p> |
| 3 | Equipment for the generation of electric currents or electromagnetic fields, | <p>Purpose:</p> <p>To ensure that all generators of electricity are included as EEE, including power generators working by combustion, wind, water, solar or other means of power.</p> <p>Example of misinterpretation:</p> <p>The purpose is not to include an entire power plant, but merely the EEE ranging from very small generators up to large-scale industrial tools.</p> |
| 4 | Equipment for the transfer of electric currents or electromagnetic fields, | <p>Purpose:</p> <p>To ensure that all media for the transfer of electric currents or electromagnetic fields are included as EEE. Including wires, cables, transformers and antennas. The equipment must have plug and socket.</p> <p>Example of misinterpretation:</p> <p>To exclude cables and antennas with the argument that they have no independent function. Their core function is transferring electric currents or electromagnetic fields.</p> |

| No | Criterion | Explanation |
|-------------------|--|--|
| 5 | Equipment for the measurement of electric currents or electromagnetic fields, | <p>Purpose:</p> <p>To ensure inclusion of measuring equipment even if it is not in itself power consuming, for example a voltmeter.</p> <p>Example of misinterpretation:</p> <p>Not identified.</p> |
| Exclusions | | |
| A | Equipment which is necessary for the protection of the essential interests of the security of Member States including arms, munitions and war material intended for specifically military purposes. | <p>Purpose:</p> <p>To ensure that '007 equipment' (military intelligence) and war material for specifically military purposes can be constructed with the otherwise banned constituents and disposed of without bringing their construction to the knowledge of the public. Thus, it is a precondition that the equipment is not commercially available for other users than national security and military forces and will not follow ordinary waste streams.</p> <p>Example of misinterpretation:</p> <p>To exclude equipment which is publicly available with the argument that it is either part of or monitors for example a military weapons stock. An army green torch and military material where the secrecy of the equipment is not significant for national security.</p> |
| 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. | <p>Purpose:</p> <p>To ensure that equipment designed to be installed in out-of-scope EEE and disposed with that EEE is not covered by the new WEEE Directive. To ensure that individual equipment, without an independent functionality of its own, is not incorrectly considered in scope when it, in its final installation, will eventually be considered out of scope. In other words to insure that components are not considered in scope.</p> <p>Example: equipment designed to be installed as part of a ship or a car and disposed according to the legislation for end-of-life vehicles and ships, such as an integrated radio or computer for navigation.</p> <p>Example of misinterpretation:</p> <p>Can be misused to exclude almost anything, also for equipment with an independent functionality of its own. For example, an integrated refrigerator could be considered part of a kitchen cupboard which is excluded or normal TV panel that is permanently mounted on a wall could be considered part of the wall.</p> |

| No | Criterion | Explanation |
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| C | Filament bulbs | <p>Purpose:</p> <p>To exclude equipment which is already being phased out of the European market.</p> <p>Example of misinterpretation:</p> <p>To exclude lamps which are explicitly mentioned in Annex IV of the new WEEE Directive as in scope.</p> |
| D | Equipment designed to be sent into space. | <p>Purpose:</p> <p>To exclude equipment that is not designed to get back to earth.</p> <p>Example of misinterpretation:</p> <p>To exclude equipment used for the process to control satellites etc., but never leaves the ground.</p> <p>To exclude equipment originally designed to be sent into space, which has subsequently found applications on ground.</p> |
| E | <p>Large-scale stationary industrial tools ('LSSIT').</p> <p>Definition:</p> <p>'Large-scale stationary industrial tools' means a large size assembly of machines, equipment, and/or components, functioning together for 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;</p> | <p>Purpose:</p> <p>The idea is that large-scale industrial tools/machines that are installed, maintained, used and removed by professionals should be excluded from the new WEEE Directive.</p> <p>Example of misinterpretation:</p> <p>To exclude an industrial tool that is not large.</p> <p>To exclude a piece of equipment that cannot be considered a tool.</p> <p>To exclude equipment that is not stationary.</p> <p>To exclude equipment not designed for industrial applications.</p> <p>To exclude equipment that is not installed by professionals.</p> <p>To exclude equipment that is not maintained by professionals.</p> <p>To exclude equipment that is not used by professionals.</p> <p>To exclude equipment that is not removed by professionals at the end of the tools life.</p> |

| No | Criterion | Explanation |
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| F | <p>Large-scale fixed installations, except any equipment which is not specifically designed and installed as part of these installations ('LSFI').</p> <p>Definition:</p> <p>'large-scale fixed installation' means a large size combination of several types of apparatus and, where applicable, other devices, which:</p> <p>(i) are assembled, installed and de-installed by professionals,</p> <p>(ii) are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location, and</p> <p>(iii) can only be replaced by the same specifically designed equipment.</p> | <p>Purpose:</p> <p>The idea is that professional EEE which is large and fixed but not an industrial tool, can be exempted if it fulfils the criteria in the definition of 'large-scale fixed installation'.</p> <p>In recital 9 oil platforms, airport luggage transport systems and elevators are mentioned as examples of large-scale fixed installations.</p> <p>Example of misinterpretation:</p> <p>To argue that a streetlamp or stadium lamp bolted to a pole or a TV set mounted on the wall is a fixed installation.</p> <p>To argue that equipment is out of scope as part of a LSFI even though the equipment is not specifically designed and installed as part of the installation.</p> |
| G | <p>Means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved.</p> | <p>Purpose:</p> <p>To exclude trucks, cars, motorbikes, trains, boats and airplanes and the like. The intention is to differentiate between means of transportation such as cars and smaller means of transportation such as electric bikes and rollers.</p> <p>Example of misinterpretation:</p> <p>To exclude electric toy cars where 1 or 2 children can sit inside. Such cars could be excluded due to this definition but as such a toy vehicle is regarded as a toy first and foremost, such equipment is not excluded from scope.</p> <p>To exclude an electric bike or an electric roller.</p> |

| No | Criterion | Explanation |
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| H | <p>Non-road mobile machinery made available exclusively for professional use.</p> <p>Definition: ‘Non-road mobile machinery’ means 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;</p> | <p>Purpose:</p> <p>To exclude electric driven transport equipment and mobile machinery solely intended for professional use, which while working also moves around. Examples are forklifts, lawn movers, an electric wheelbarrow, street sweepers, mobile cranes and the like.</p> <p>Example of misinterpretation:</p> <p>To exclude equipment without a battery or electricity generator as primary power source.</p> <p>To exclude a machine designed to mix dough for bread professional bread production, with the argument that it can be moved around in the bakery.</p> <p>To exclude a concrete mixer, with the argument that it is moved from one construction site to another.</p> <p>To exclude a (non-fixed) water pump with the argument that it is not fixed and therefore mobile. The prerequisite to exclude the pump from scope is that it has got wheels or similar and while pumping water (working) it is moving around on these wheels.</p> <p>To state that a metal arm stretching and bending, is mobile.</p> |
| I | <p>Equipment specifically designed solely for the purposes of research (R&D) and development that is only made available on a business to business basis.</p> | <p>Purpose:</p> <p>Some R&D equipment can be so specialised that the producer does not wish to make its means of construction publicly known. Thus, it is a precondition that the equipment is only available for research and development and will not follow ordinary waste streams.</p> <p>Example of misinterpretation:</p> <p>The life cycle from R&D equipment to professional use to household equipment can be hard to define. To argue that equipment is R&D after it has become more widely available, is a misinterpretation of the exclusion.</p> <p>To exclude equipment such as a centrifuge or blood gasses measuring devices if the equipment is both used for R&D but also for ordinary caretaking in e.g. hospitals or for education purposes.</p> |

| No | Criterion | Explanation |
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| J | <p>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.</p> <p>Definition:</p> <p><i>‘Medical device’</i> means a medical device or accessory within the meaning of, respectively, points (a) or (b) of Article 1(2) of Directive 93/42/EEC of 14 June 1993 concerning medical devices(24) which is EEE;</p> <p><i>‘in vitro diagnostic medical device’</i> means an in vitro diagnostic device or accessory within the meaning of, respectively, points (b) or (c) of Article 1(2) of Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices(25) which is EEE;</p> <p><i>‘active implantable medical device’</i> means an active implantable medical device within the meaning of point © of Article 1(2) of Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices(26) which is EEE.</p> | <p>Purpose:</p> <p>To avoid removing electrical equipment from deceased persons. To avoid that infected equipment ends up in the waste stream, causing risks to human health. Infected equipment should be covered by other national legislation covering waste disposal.</p> <p>Example of misinterpretation:</p> <p>Anything having been in contact with body liquids may be excluded, including, thermometers, medical reusable equipment and sex toys, where the infected minor parts of the equipment (tubes) are disposed each time the equipment is used, whereas the key equipment may be disinfected.</p> <p>Example: an automatic insulin control and infusion device consists of a re-use electric product, a valve through the human skin and a pipe between the electric device and the valve. The re-use electric product is not expected to be infected. A misinterpretation would therefore be to exclude the electric control and infusion device.</p> |