

Suspension and Cancellation of AATF and AE Approvals

1.0 Background

The document sets out the process and implications for an operator of an authorised treatment facility (ATF) or WEEE export business when their approval is suspended or cancelled. It also sets out our understanding of amendments to evidence notes issued on the Settlement Centre.

Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) and WEEE producer compliance schemes should read this document.

This note should be read alongside the Waste Electrical and Electrical Equipment Regulations 2006 (as amended) (the Regulations) and the sources of further information listed in Section 4 of this document.

2.0 Suspension of approval

Where we suspend or cancel your approval the following arrangements will apply:

2.1 What happens if my approval is suspended?

- We will send to you a notice of suspension; this will set out the reasons for the suspension and your right of appeal.
- We can only suspend your approval under the circumstances set out in Regulation 50 (please refer to Annex 1).
- You must ensure you read the notice carefully to understand the exact nature and extent of the suspension and what you need to do to comply with the notice i.e. to have the suspension removed.
- The suspension only applies to the 'approval' status. It does not affect your status under other regulatory regimes, for example if you are operating under an exemption or environmental permit; these are not affected by the suspension notice.
- We will notify BERR that your approval has been suspended, your Settlement Centre account will be closed and access will be blocked for the period of the suspension.
- We will notify WEEE producer compliance schemes that your approval has been suspended.
- We will update our public register to indicate your change of status from approved to suspended.

2.2 May I issue evidence notes whilst my approval is suspended?

- You must not issue any evidence notes during the period your approval is suspended. The suspension means you are not approved for the period specified in your notice of suspension.

2.3 I received WEEE before my approval was suspended, may I issue evidence on this WEEE?

- Where you have received WEEE **before** the date on which your approval was suspended, evidence may only be issued once your suspension is lifted. You should note that you may be suspended for the rest of the relevant period, during which time you must not issue evidence notes.

2.4 I receive WEEE during the period of suspension, may I issue evidence on this WEEE?

- Where WEEE is received **during** the suspension period, you must not issue evidence notes on this WEEE at any point. This is because the Regulations only allow you to issue evidence on WEEE received while you are approved. So, if your suspension is removed you cannot issue evidence on the WEEE received during the suspension period.

2.5 What happens when suspension of my approval is removed?

- We will notify BERR who will reinstate your access to the Settlement Centre.
- We will notify WEEE producer compliance schemes that your approval has been reinstated for the relevant approval period.
- We will update our public register and amend your status to approved.
- If your suspension is lifted at a later date in the relevant approval period, you **must not** issue evidence for WEEE received **during** your period of suspension. You may issue evidence notes on WEEE received before the time of suspension, and WEEE received after the suspension period.

2.6 What happens if the suspension of my approval turns into a cancellation?

- If you do not comply with the suspension notice within the agreed timeframe your approval may be cancelled.
- Any evidence notes issued by you prior to the suspension notice taking effect will remain valid.
- If your approval is cancelled you must not issue any evidence notes on WEEE received from the date of the suspension notice, or on any WEEE received prior to that date on which you have not yet issued an evidence note.
- Depending on the reason for the initial suspension and the subsequent cancellation we may investigate the matter further and consider enforcement action in line with our published Enforcement and Prosecution Policy.
- If you reapply for approval for the next approval period and are approved, you must not issue evidence notes on WEEE received in the previous approval period.

2.7 I am a Producer Compliance Scheme, how will suspension of an AATF/AE affect me?

- You must have arrangements in place for WEEE to be cleared to or received for treatment at an approved ATF or approved exporter. Where an AATF or AE is suspended they are no longer approved.
- We will update you when we suspend the approval of an AATF or AE.
- You should ensure that you have in place contingency arrangements to divert your WEEE from a suspended AATF or AE to one able to treat it and provide you with evidence notes.

customer service line

08708 506 506

www.environment-agency.gov.uk

incident hotline

0800 80 70 60

floodline

0845 988 1188

- A suspended AATF or AE **must not** issue you with an evidence note for any WEEE you send to it while the AATF or AE is suspended.

3.0 Evidence notes

WEEE evidence must only be issued by approved AATFs or AEs through the Settlement Centre. This is the on-line system set up by BERR in order for evidence to be issued and to facilitate the transfer of evidence between producer compliance schemes.

Terms and conditions on the use of the Settlement Centre are contained in Annex D to the BERR Government Guidance Notes on the WEEE Regulations. A user guide is available on the Settlement Centre web site (<https://www.weee-sc.org.uk>).

As part of our compliance role we monitor the issuing of evidence notes, both in terms of who is issuing them, their volume and who is receiving the evidence notes.

Once an evidence note is issued i.e. raised within the Settlement Centre, the Agencies have no remit to amend, cancel, delete or invalidate an evidence note.

Where the Agencies have suspicions that specific evidence notes have been unlawfully issued then we will investigate the matter. If a corrective action can be taken by the parties involved we will encourage them to do this. We cannot instigate cancellation ourselves, nor interfere with the transfer of evidence. In certain cases we may consider it appropriate to pursue enforcement action where evidence notes have been issued unlawfully.

4.0 Further information

If you need help with the Settlement Centre please contact the Centre on support@weee-sc.org.uk or 0845 460 0147.

For further information on the Regulations, please visit

Department for Business, Enterprise and Regulatory Reform:
<http://www.berr.gov.uk/whatwedo/sectors/sustainability/weee/page30269.html>

In England and Wales:
www.environment-agency.gov.uk/weee
Customer service line: 08708 506 506

In Scotland:
http://www.sepa.org.uk/waste/waste_regulation/producer_responsibility/weee.aspx
Telephone 01786 457700

In Northern Ireland:
www.ni-environment.gov.uk/waste/regulation/regulations_weee
Telephone 028 9056 9338

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Annex 1

Waste Electronic and Electrical Regulations 2006 (as amended)

Suspension and cancellation of approval

50. — (1) The appropriate authority may suspend or cancel the approval of an ATF or exporter where it appears to it that—

- (a) in the case of an AATF, the operator of that AATF has failed, or is likely to fail, to comply with any of the conditions specified in Part 2 of Schedule 8;
- (b) in the case of an exporter, the person who is approved has failed, or is likely to fail, to comply with any of the conditions specified in Part 3 of Schedule 8; or
- (c) the operator of an AATF or the approved exporter has knowingly or recklessly supplied false or misleading information—
 - (i) in his application for approval made under regulation 47 or 48,
 - (ii) in the case of an AATF, in connection with compliance with any of the conditions specified in Part 2 of Schedule 8, or
 - (iii) in the case of an approved exporter, in connection with compliance with any of the conditions specified in Part 3 of Schedule 8.

(2) Where the appropriate authority is no longer satisfied that the requirements of Article 6(4) of the Directive are met in relation to WEEE exported to a site outside the EEA, the appropriate authority shall cancel the approval of an exporter to the extent that it relates to that site.

(3) Where the appropriate authority suspends or cancels a grant of approval under paragraph (1) or cancels the approval of an exporter to the extent that it relates to a site under paragraph (2), it shall serve on the operator of the ATF or the exporter concerned a notification in writing stating—

- (a) its decision to cancel or suspend (as the case may be) the grant of approval;
- (b) its reasons for the decision;
- (c) the right of appeal under Part 12;
- (d) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice as provided for in Schedule 11; and
- (e) in the case of a suspension,
 - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notification; and
 - (ii) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.

(4) The approval of an ATF or an exporter shall be deemed to be cancelled—

- (a) on the date on which the approved facility ceases to be an ATF;
- (b) on the date on which the person who is approved ceases to be an exporter;
- (c) in the case where operator of an AATF requests that a grant of approval that relates to that AATF should be cancelled, with effect from the date of cancellation specified by that operator; or
- (d) in the case where an approved exporter requests that a grant of approval that relates to him should be cancelled, with effect from the date of cancellation specified by that exporter.

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