

Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment

(Electrical and Electronic Equipment Act, or ElektroG) ¹ of 16 March 2005

The German Bundestag with the approval of the German Bundesrat has adopted the Act set out in the following:

Part 1 General Provisions

1

Waste Management Objectives

(1) The Act sets out producer responsibility requirements for electrical and electronic equipment pursuant to Article 22 of the Closed Substance Cycle and Waste

¹ This Act transposes Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE) (Official Journal L 37 p.24), last amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003 amending Directive 2002/96/EC on Waste Electrical and Electronic Equipment (Official Journal L 345 p.106) and Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Official Journal L 37 p.19). The obligations under Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and from the rules on information society services (Official Journal L 204 p. 37), amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (Official Journal L 217 p. 18) have been observed.

Management Act (KrW-/AbfG). Its main purpose is to prevent waste from electrical and electronic equipment and to promote reuse, recycling and other forms of recovery to reduce both the volume of waste for disposal and the inclusion in waste of harmful substances from waste electrical and electronic equipment (WEEE). By 31 December 2006, an average of at least 4 kg per capita per year of WEEE must be collected separately from private households.

(2) The German government shall assess the impacts on waste management of the provisions in Sections 9 to 13 no later than five years after the entry into force of this Act. The German government shall report the results of this assessment to the German Bundestag and Bundesrat.

2

Scope

(1) The Act applies to waste electrical and electronic equipment in the following categories unless it is part of another type of equipment not included in the scope of the Act:

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools with the exception of large-scale stationary industrial tools
7. Toys, leisure and sports equipment
8. Medical products (with the exception of implanted and infectious products)
9. Monitoring and control instruments
10. Automatic dispensers

Electrical and electronic equipment within the meaning of sentence 1 is listed in Annex 1. Section 5 also applies to electrical lightbulbs and luminaries in households.

(2) The Act does not apply to electrical and electronic equipment that serves key security interests of the Federal Republic of Germany or is solely intended for military purposes.

(3) Unless otherwise stated, the Closed Substance Cycle and Waste Management Act and its subordinate ordinances apply as amended. Section 21 (1), Section 26 and Section 54 (1) sentence 1 of the Closed Substance Cycle and Waste Management Act, Section 1 (3) of the Ordinance on Waste Disposal and Recovery Records (NachwV) and Section 1 (2) sentence 1 of the Ordinance on Transport Licences (TgV) apply as appropriate. Other legal provisions stipulating special requirements for the return, reuse or disposal of WEEE or for the use of specific substances contained in electrical and electronic equipment shall remain unaffected.

3

Definitions

(1) Electrical and electronic equipment means:

1. Equipment which is dependent on electric currents or electromagnetic fields in order to work properly.

2. Equipment for the generation, transfer and measurement of such currents and fields which is designed for use with a voltage rating not exceeding 1000 volts for alternating voltage and 1500 volts for direct voltage.

(2) Type of equipment means equipment in a given category which has comparable characteristics in terms of its uses or functions.

(3) Waste electrical and electronic equipment (WEEE) means electrical or electronic equipment which is waste within the meaning of Section 3 (1) sentence 1 of the Closed Substance Cycle and Waste Management Act, including all components, subassemblies and consumables which are part of the equipment at the time of disposal.

(4) Private households means private households as defined in the Closed Substance Cycle and Waste Management Act and other sources of origin of WEEE, provided that the WEEE from these other sources is comparable in nature and quantity to that from private households.

(5) Prevention means measures aimed at reducing the quantity and the harmfulness to the environment of WEEE and of the materials and substances it contains.

(6) Reuse means any operation by which WEEE or components thereof are used for the purpose for which they were conceived or placed on the market.

(7) Recovery means any of the operations listed in Annex II B of the Closed Substance Cycle and Waste Management Act.

(8) Recycling means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery.

(9) Disposal means any of the operations provided for in Annex II A of the Closed Substance Cycle and Waste Management Act.

(10) Treatment means any activity after WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or the disposal of WEEE.

(11) Producer means any person or legal entity, irrespective of the selling technique used, including by means of distance communication, within the meaning of Section 312b (2) of the German Civil Code (BGB), who:

1. Manufactures and places electrical and electronic equipment under an own brand on the market for the first time in the territory covered by this Act.

2. Resells under an own brand in the territory covered by this Act equipment produced by other suppliers, a reseller not being regarded as the 'producer' if the brand of the producer appears on the equipment, as provided for in No. 1.

3. Imports for the first time electrical and electronic equipment into the territory covered by this Act and places it on the market or exports it to another EU Member State and provides it directly to a user in that country.

(12) Distributor means any person or legal entity who provides new electrical or electronic equipment on a commercial basis to the user. Any distributor who knowingly sells new electrical and electronic equipment from a non-registered producer is deemed a producer.

(13) Dangerous substances or preparations means any substance or preparation which possesses one or more of the properties listed and described in Section 3a (1) of the Chemicals Act and in Annex VI to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (Official Journal L 196 p.1) as amended.

Part 2

Obligations Involving the Placing on the Market of Electrical and Electronic Equipment

4

Product Design

Electrical and electronic equipment should, wherever possible, be designed to provide for and facilitate its disassembly, recycling and recovery, and particularly the reuse and recycling of WEEE and its components and substances. Producers should not prevent its reuse through specific design features or manufacturing processes, unless such specific design features are required by law or the specific design features or manufacturing processes present overriding advantages, for example with regard to the protection of human health and the environment or safety requirements.

5

Prohibited Substances

(1) The placing on the market of new electrical and electronic equipment containing more than 0.1 percent weight of lead, mercury, hexavalent chromium, polybrominated biphenyls (PBBs) or polybrominated diphenyl ethers (PBDEs) per homogeneous substance or more than 0.01 percent weight of cadmium per homogeneous substance is prohibited. Sentence 1 does not apply to electrical and electronic equipment in Categories 8 and 9 or to electrical and electronic equipment first placed on the market in an EU Member State prior to 1 July 2006. Nor does it apply to spare parts for the repair or reuse of electrical or electronic equipment first placed on the market prior to 1 July 2006.

(2) Paragraph 1 does not apply to the uses listed in the Annex (as amended) to Directive

2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Official Journal L 37 p.19).

6

Clearing House, Registration and Financing Guarantee

(1) Producers shall set up a Clearing House (Section 14) within three months of the date this Act enters into force. If producers fail to fulfil this obligation or if the Clearing House fails to perform its duties as set out in Section 14 (3), (5) sentence 1 or (6) sentence 1 and 3, each producer shall reimburse public waste management authorities the costs incurred in collecting, sorting and disposing of his WEEE. The Competent Authority as designated by the law of the respective *Länder* (states) shall rule on the costs in an administrative decision.

(2) Each producer shall register with the Competent Authority (Section 16) according to sentence 2 and 3 before placing electrical and electronic equipment on the market. Registration applications must contain the brand name, the company's name, domicile or branch location, address and the name of the authorised representative. Registration applications must be accompanied by a guarantee as required in (3) sentence 1 below or plausible documentation as required in (3) sentence 2 below. Producers shall state their registration number in all business transactions. Producers who fail to register or whose registration is withdrawn are prohibited from placing electrical and electronic equipment on the market.

(3) Each producer shall provide to the Competent Authority an annual guarantee for the event of insolvency to guarantee financing of the return and disposal of the electrical and electronic equipment which is placed on the market after 13 August 2005 and which is suited to use in private households. This does not apply to electrical and electronic equipment for which the producer plausibly documents that it is used solely in establishments other than private households or that such equipment is not usually used in private households. The guarantee may be provided in the form of an insurance policy, a frozen bank account or the producer's participation in an appropriate system to fund WEEE disposal, for example a system based on the calculations contained in Section 14 (5) sentence 3 No. 2.

(4) The disposal costs for Category 1 WEEE from private households may be indicated to the customer at the time of purchase up to 13 February 2013, and up to 13 February 2011 for all other categories of WEEE that come from private households and which were placed

on the market before 13 August 2005. The costs indicated must not exceed the actual costs incurred. Indication of disposal costs for electrical and electronic equipment placed on the market after 13 August 2005 is prohibited.

7

Labelling

Electrical and electronic equipment placed on the market in an EU Member State after 13 August 2005 must be indelibly marked in such a way that the producer is easily identifiable and that it is recognisable that the equipment was placed on the market after that date. Equipment must also be marked with the symbol shown in Annex II in cases where a guarantee is required under Section 6 (3). Where the product's size or function make it necessary, the symbol must be printed on the packaging, the instructions or the warranty for the electrical or electronic equipment.

8

Selling via Distance Communication

The provisions of Section 6 (2), (3) and (4), Sections 7 and 13 (1) No. 1 and (3) sentences 1 to 5 shall apply to all producers of electrical and electronic equipment who operate sales via distance communication to directly supply consumers in private households in another EU Member State.

Part 3

Collection, Take-back, Treatment and Recovery Obligations

9

Separate Collection

(1) Owners of WEEE are required to place it in a collection separate from that for unsorted domestic waste.

(2) Legal entities (public waste management authorities) obligated under *Länder* (state) law to dispose of WEEE must notify private households of their obligation under (1) above. They must also inform private households about:

1. Options in their district for the return or collection of WEEE.
2. Their role in the reuse, recycling and other forms of recovery of WEEE.
3. The possible impacts on the environment and human health from the disposal of harmful substances contained in electrical and electronic equipment.
4. The meaning of the symbol shown in Annex II.

(3) In compliance with their obligations under Section 15 of the Closed Substance Cycle and Waste Management Act, public waste management authorities shall set up collection points in their districts to which final holders and distributors may return WEEE from private households in the vicinity (bring-back system). Public waste management authorities may restrict return and acceptance of WEEE at specific collection points to specific groups under Paragraph 4 if this is necessary in individual instances due to space limitations and taking account of the collection of other recyclables, provided that collection of all WEEE groups under Paragraph 4 in the collection area served by the public waste authorities is assured. No charges may be levied for returns to the collection points. Public waste management authorities may also set up a collection system to collect WEEE directly from private households (collection system). When deciding the number of collection points or their combination with a collection system, consideration must be given to population density, local conditions and the waste management objectives contained in Section 1. Public waste management authorities may refuse to accept WEEE if it is contaminated in such a way as to pose a safety risk or a hazard to human health. Collection points and times for delivery of more than 20 pieces of equipment in Categories 1 to 3 as cited in Paragraph 4 must be coordinated with public waste management authorities. The return obligations for private households under Section 13 (1) sentence 1 of the Closed Substance Cycle and Waste Management Act and the obligations for public waste management authorities regarding waste from private households under Section 15 (1) to (3) of the Closed Substance Cycle and Waste Management Act shall remain unaffected by sentences 6 and 7.

(4) Public waste management authorities shall hold the waste equipment ready for collection by producers at no charge in groups of separate containers as follows:

1. Large household appliances, automatic dispensers
2. Refrigerators and freezers
3. IT and telecommunications equipment, consumer equipment
4. Gas discharge lamps

5. Small household appliances, lighting equipment, electric and electronic tools, toys, sports and leisure equipment, medical products, monitoring and control instruments.

When a collection volume of at least 30 m³ has been reached for groups 1, 2, 3 and 5 and at least 3 m³ for group 4, public waste management authorities shall report to the Clearing House (Section 14) that containers are full and ready for collection.

(5) Producers are responsible for providing the containers required under Paragraph 4 at no charge. The containers must be covered and, with the exception of containers for group 4 equipment, be suitable for use with generic collection vehicles. Containers for group 3 equipment must provide for separate, damage-free collection of monitors and televisions. In individual cases as necessary, the Competent Authority shall, based on the calculations provided by the Clearing House under Section 14 (6) sentence 4 and verified by the Competent Authority, issue instructions to ensure that the public waste management authorities are equipped with the necessary number of containers. For this purpose, public waste management authorities shall provide the Clearing House with a list of all collection points set up for their respective areas.

(6) Public waste management authorities may, by providing three months' notice to the Clearing House, choose not to make all WEEE in a specific group under Paragraph 4 available for collection for a period of at least one year. In exercising this option, public waste management authorities shall reuse the WEEE or its components or treat it in compliance with Section 11 or dispose of it in compliance with Section 12. Section 13 (1) Nos. 3 to 7, (3) sentence 6 and (4) apply accordingly.

(7) Distributors may voluntarily accept returned WEEE. Paragraphs 2 and 3 sentence 3 apply accordingly. If distributors fail to return voluntarily accepted WEEE or WEEE components to producers or to public waste management authorities, they shall reuse the WEEE or treat it in compliance with Section 11 or dispose of it in compliance with Section 12. Section 13 (1) Nos. 3 to 7, (3) sentence 6 and (4) apply to such equipment. Distributors may not charge private households for activities performed under sentence 3.

(8) Producers may choose to set up and operate individual or collective take-back systems for WEEE from private households provided they fulfil the objectives set out in Section 1. They shall reuse the WEEE or its components or treat it in compliance with Section 11 and

dispose of it in compliance with Section 12.

(9) Collection and acceptance of WEEE by public waste management authorities, distributors and producers must be conducted in such a way that it does not prevent its later reuse, disassembly and recovery, including recycling.

10

Producer Obligation to Take Back WEEE

(1) Producers shall collect in a timely manner containers made available for collection under Section 9 (4) in compliance with the instructions issued by the Competent Authority under Section 16 (5). Section 9 (8) applies as appropriate. Producers shall either reuse the WEEE or its components or treat it in compliance with Section 11 or dispose of it in compliance with Section 12, and shall bear the costs of collection and disposal.

(2) Each producer shall create from 13 August 2005 a reasonable option for the return and disposal of WEEE of users other than private households for new equipment placed on the market after this date. Holders are responsible for the disposal of WEEE that does not come from private households and was placed on the market before 13 August 2005. Producers and users may reach an agreement which departs from the provisions contained in sentences 1 and 2 above. The party responsible for disposals shall either reuse WEEE or its components or treat it in compliance with Section 11 and dispose of it in compliance with Section 12, and shall bear the costs of disposal.

(3) Section 9 (2) applies for producers accordingly.

11

Treatment

(1) Where technically and financially feasible, a check must be made prior to treatment as to whether the waste equipment or individual components thereof can be sent for reuse.

(2) Treatment shall use the state of the art within the meaning of Section 3 (12) of the Closed Substance Cycle and Waste Management Act. At a minimum, all liquids shall be removed and the requirements for selective treatment in Annex III complied with. Other treatment technologies that ensure the same level of protection to human health and the

environment may be used once approved under Annex II of Directive 2002/96/EC of 27 January 2003 (Official Journal L 37 p. 34) in accordance with the procedure applied under Article 14 (2) of the Directive. Treatment must at minimum comply with the technical requirements laid down in Annex IV.

(3) Operators of facilities in which primary treatment takes place must ensure that annual certification is performed by an expert. Certification may only be issued if a facility is technically suitable and all the primary data, up to the recoverer, needed to calculate and substantiate recovery rates are documented in a verifiable manner. Certification is valid for a period of no longer than 18 months. The expert shall set a deadline not exceeding 3 months for the operator within which the requirements for this certification must be satisfied. When verifying compliance, certification results must be taken into account which are performed:

1. by an independent environmental auditor or an environmental audit organisation in accordance with Article 4 (3) of Council Regulation (EEC) 1836/93 of 29 June 1993 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme (Official Journal L 168 p. 1) or Article 3 (2)d and (3)a of Regulation (EC) 761/2001 of the European Parliament and of the Council allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (Official Journal L 114 p. 1).

2. by a DIN EN 45012 accredited agency as part of Quality Management Certification under DIN EN ISO 9001 or 9004.

3. by experts as part of systems certification under Section 19i (2) sentence 3 of the Federal Water Act (WHG) and the respective *Länder*-specific ordinances.

Operators of facilities in which primary treatment takes place are required to provide producers with the data they need on volume flows in order to comply with their obligations as laid down in Section 13.

(4) Treatment facilities within the meaning of this Act are deemed certified if the facility is a specialised waste management company and its compliance with the provisions of this Act has been verified and documented in monitoring certification.

(5) Certification as required under (3) above may only be performed by

1. Auditors as appointed under Section 36 of the German Trade Regulation Act (Gewerbeordnung, or GWO).

2. Environmental auditors or environmental audit organisations accredited under Section 9 and 10 of the German Environmental Audit Act (Umweltauditgesetz, or UAG) for services listed in Section D, Subsection DN No. 37 of the Annex to Council Regulation (EEC) No. 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (Official Journal L 293, p.1) as amended by Regulation (EEC) No. 761/93 of 24 March 1993 (Official Journal L 83, p.1).

12

Recovery

(1) In treating WEEE, producers must meet the following targets:

1. For WEEE in Categories 1 and 10

- a) The rate of recovery shall be a minimum of 80 per cent by average weight per appliance and
- b) Component, material and substance reuse and recycling shall be a minimum of 75 per cent by average weight per appliance.

2. For WEEE in Categories 3 and 4

- a. The rate of recovery shall be a minimum of 75 per cent by average weight per appliance and
- b. Component, material and substance reuse and recycling shall be a minimum of 65 per cent by average weight per appliance.

3. For WEEE in Categories 2, 5, 6, 7 and 9

- a. The rate of recovery shall be a minimum of 70 per cent by average weight per appliance and
- b. Component, material and substance reuse and recycling shall be a minimum of 50 per cent by average weight per appliance.

4. For gas discharge lamps, the rate of component, material and substance reuse and recycling shall be a minimum of 80 per cent by weight of the lamps.

(2) Fully recoverable WEEE will not be included when calculating the targets set out in Paragraph 1 until 31 December 2008.

(3) As part of the certification process required under Section 11 (3), primary treatment facilities shall keep records on the mass of WEEE, its components, materials or substances when:

1. Entering the treatment facility (input)
2. Leaving the treatment facility (output)
3. Entering the recovery or recycling facility (input).

For this purpose, operators of facilities in which primary treatment takes place shall be provided with the respective data from subsequent treatment and recycling facilities.

(4) WEEE exported from the European Union may only be included in calculation of the targets set out in Paragraph 1 when:

1. The producer provides proof of compliance with the requirements of Paragraph 1 and those of Section 11

2. The WEEE is lawfully exported, specifically in accordance with

- a) Council Regulation (EEC) No. 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (Official Journal L 30 p. 1) last amended by Regulation (EC) No. 2557/2001 of the Commission of 28 December 2001 (Official Journal L 349 p. 1).

- b) Council Regulation (EC) No. 1420/1999 of 29 April 1999 on establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of wastes (Official Journal L 166 p. 6) last amended by Commission Regulation (EC) No. 2243/2001 of 16 November 2001 (Official Journal L 303 p. 11).

c) Commission Regulation (EC) No. 1547/1999 of 12 July 1999 determining the control procedures to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92) 39 final does not apply (Official Journal L 185 p. 1) last amended by Commission Regulation (EC) No. 2243/2001 of 16 November 2001 (Official Journal L 303 p. 1).

13

Producers' Information and Reporting Obligations

(1) Each Producer shall report to the Clearing House (Section 14):

1. On a monthly basis, the types and quantities of electrical and electronic equipment the producer places on the market; the quantities of equipment sold for which a guarantee is required under Section 6 (3) sentence 1 must be listed separately.
2. The quantities per group of WEEE the producer collects in compliance with Section 9 (4) from public waste management authorities in a calendar year.
3. The types and quantities of WEEE the producer collects in compliance with Section 9 (8) in a calendar year.
4. The quantities per category of WEEE the producer reuses in a calendar year.
5. The quantities per category of WEEE the producer recycles in a calendar year.
6. The quantities per category of WEEE the producer recovers in a calendar year.
7. The quantities per category of WEEE the producer exports in a calendar year.

(2) In the case of (1) No. 1, different reporting periods may be agreed with the Clearing House. If no guarantee is required under Section 6 (3), reports shall be submitted by 30 April.

(3) Quantities are to be stated by weight. If this is not possible, by numbers. If quantities

cannot be reported, a well-founded estimate will suffice. In the cases outlined in (1) Nos. 1 to 3, the Clearing House may also request the respective numbers. It may also request that information provided under (1) No. 1 and Nos. 3 to 6 be verified by an independent expert. Information provided under (1) Nos. 2 to 7 must be submitted to the Clearing House by 30 April of the following calendar year.

(4) Each producer shall also submit to the Clearing House an annual report by 30 April containing the data for the previous year for total quantities from primary treatment facilities according to Section 12 (3).

(5) In the absence of a Clearing House, producers shall submit the data required under (1) and (4) to the Competent Authority.

(6) Each producer shall provide reuse facilities, treatment facilities and recycling facilities with information, in the form of a handbook or in data form, on reuse and treatment for each type of new electrical and electronic equipment within a year of its placement on the market. The information must state the components and substances contained in the electrical and electronic equipment and the location of any dangerous substances and preparations. This obligation applies only if the information is required by reuse facilities, treatment facilities and recycling facilities for the purposes of complying with the provisions of this Act.

Part 4

Clearing House and Competent Authority

14

Clearing House Responsibilities

(1) The Clearing House assists the Competent Authority in preparing its decisions under Section 9 (5) sentence 4 and Section 16 (2), (3) and (5). It must provide the Competent Authority with information on the data reported by producers under Sections 13 (1) and (4) and on the calculations according to (5) and (6).

(2) The Clearing House collates reports submitted to the Competent Authority under Section 16 (4) and publishes the register of producers together with their equipment types and registration numbers on the Internet.

(3) The Clearing House receives reports from public waste management authorities under Section 9 (4) sentence 2.

(4) The Clearing House may assign equipment to specific types of equipment. It may prescribe uniform reporting formats under Paragraphs 2 and 3 and Section 13 (1) and (4).

(5) The Clearing House calculates the quantities of WEEE for each registered producer to collect from public waste management authorities and reports the figures to the Competent Authority. For equipment placed on the market before 13 August 2005, producers' obligations are based on the share of the total quantity of electrical and electronic equipment per type of equipment that the producer places on the market in the respective calendar year. For equipment placed on the market after 13 August 2005, producers may opt for their obligation to be based on either:

1. Their verified share of clearly identifiable WEEE, arrived at through sorting or application of scientifically recognised statistical methods, in the total quantity of WEEE according to equipment type.

2. Their share of the total quantity of electrical and electronic equipment per type of equipment placed on the market in the previous calendar year.

The calculation is based on producer reports submitted under Section 13 (1) No. 1 and (3) sentences 1 to 4. If a producer fails to fulfil its reporting obligations, the Clearing House may estimate the quantity of electrical and electronic equipment placed on the market by that producer. The quantity of specific equipment types of WEEE for which a guarantee under Section 6 (3) is required that is collected by a single producer is credited against the producer's share under sentence 2 or 3. Sentence 2 applies as appropriate to non-sortable or non-identifiable WEEE.

(6) The Clearing House calculates an even temporal and spatial distribution of WEEE collection quotas among all registered producers on the basis of a scientifically recognised formula verified by an independent expert. The formula must be published on the Internet. The Clearing House reports the collection quota to the Competent Authority. Sentences 1 and 2 also apply to calculation of the obligation to provide containers under Section 9 (5) sentence 1. Sentence 3 applies accordingly.

(7) The Clearing House produces an annual list of all registered producers and forwards it to the Federal Environmental Agency (UBA). It also reports figures for the previous calendar year to the UBA on 1 July each year concerning the following:

1. The quantities per category of electrical and electronic equipment placed on the market by all producers.
2. The quantities per category of WEEE from all producers collected and held by public waste management authorities under Section 9 (8).
3. The quantities per category of WEEE from all producers that is reused.
4. The quantities per category of WEEE from all producers that is recycled.
5. The quantities per category of WEEE from all producers that is recovered in another form under Section 3 (7).
6. The quantities of WEEE from all producers that is collected and exported.

Quantities are to be stated by weight. Where this is not possible they are to be stated by numbers. If numbers cannot be reported, a well-founded estimate shall suffice.

(8) The Clearing House shall also submit an annual report by 1 July to the Federal Environmental Agency (UBA) on the quantities reported by producers under Section 13 (4).

(9) The Clearing House shall neither enter into nor broker agreements with waste management companies.

(10) The Clearing House may request that the Competent Authority reimburse the costs incurred in providing the services required under Section 14 (3), (5) and (6). Where a designated agency has been appointed, claims under this paragraph are made against the designated agency.

15

Clearing House Organisation

(1) By means of articles of association, partnership agreement or other provisions, the Clearing House must:

1. Draw up a binding agreement on the responsibilities assigned to it under Sections 14 (1) sentence 2, (2), (3) and (5) to (9).
2. Structure its organisation and operations in such a way as to ensure fulfilment of its assigned responsibilities.
3. Guarantee equal access for all producers under the same conditions and afford all producers the opportunity to cooperate in inhouse rule-making.
4. Ensure compliance with rules on confidentiality and data privacy and on operational and business secrets.

The provisions shall be published on the Internet. The Clearing House shall, in agreement with the regulatory authority responsible for data privacy pursuant to *Länder* (state) law, establish provisions for the protection of personal data and operational and business secrets.

(2) The Clearing House shall establish an Advisory Board. The board shall consist of representatives of the producers, distributors, public waste management authorities, the federal and *Länder* governments, the waste management industry, and environmental and consumer protection associations. The Board shall agree its own rules of procedure.

16

Competent Authority Responsibilities

(1) The Federal Environmental Agency (UBA) acts as the Competent Authority.

(2) Upon application, the Competent Authority registers producers by their brand name, company name, branch location or company domicile, address, name of authorised

representative and type of equipment, and assigns a registration number. If a guarantee is required under Section 6 (3), registration may only occur if the producer provides the guarantee.

(3) The Competent Authority may without prejudice to Section 49 of the Administrative Procedures Act (VwVfG) withdraw registration and registration numbers if producers fail to provide an annual guarantee as required under Section 6 (3) or commit a serious violation of their obligation to collect WEEE under Section 10 (1) sentence 1.

(4) The Competent Authority provides the Clearing House with details of the producers registered, their type of equipment and registration numbers. It also informs the Clearing House about registration withdrawals as soon as the withdrawal becomes official.

(5) If the Competent Authority receives a report from the Clearing House under Section 14 (6) sentence 3, it issues applicable instructions for timely collection of containers provided based on the calculations it receives from the Clearing House for approval under Section 14 (5) and (6).

Part 5

Designation of Responsibilities

17

Authority to Designate

(1) The Competent Authority may designate responsibilities set out in Section 9 (5) sentence 4 and Section 16 (2) to (5), including enforcement of associated administrative acts, to a civil-law legal entity, a partnership with capacity to act in its own right or another suitable agency set up by producers as a clearing house. The designated agency guarantees proper performance of its designated responsibilities. It is seen to provide the necessary guarantee if:

1. The persons who exercise managerial and representative duties by law, partnership agreement or articles of association are responsible and qualified.
2. The designated agency has the necessary facilities and structure to perform its duties.

3. Compliance with provisions on confidentiality and data privacy is ensured.

The designated agency may only assume the responsibilities set out in this Act.

(2) The designating authority may grant its designated agency the authority to levy charges for the services provided and claim associated expenses.

(3) Designation shall be made public in the Federal Gazette (Bundesanzeiger).

18

Supervision

(1) The designated agency is subject to both legal and operational supervision by the designating authority.

(2) If the designated agency fails to perform its responsibilities as assigned under Section 17 (1) or performs them inadequately, the designating authority shall either perform the duties itself or have them performed by a specially appointed representative.

19

Termination of Designation

(1) The designation of authority ends when the designated agency is disbanded.

(2) The designating authority may, without prejudice to Section 49 of the Administrative Procedures Act (VwVfG), withdraw its designation if the designated agency fails to perform its designated responsibilities in a proper manner.

(3) At any time, the designated agency may submit a written request for the designation to be terminated. The request must be granted within a reasonable period to ensure continued performance of the responsibilities set out under Section 16.

Part 6
Final Provisions

20
Commissioning of Third Parties

If the parties obligated under this Act commission a third party to fulfil certain obligations under this Act, Section 16 (1) sentences 2 and 3 of the Closed Substance Cycle and Waste Management Act shall apply.

21
Appeals and Judicial Review

(1) There shall be no appeal procedure for the purpose of contesting administrative acts under Section 9 (5) sentence 4 or Section 16 (2), (3) and (5).

(2) Applications for judicial review of instructions under Section 9 (5) sentence 4 or Section 16 (5) shall not have the effect of suspending the instructions.

22
Costs

(1) Charges shall be levied and expenses reimbursed for official duties the Competent Authority performs under this Act. Expenses within the meaning of sentence 1 include expenses reimbursed by the competent authority under Section 14 (10).

(2) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) is authorised by statute and without the need for Bundesrat approval to determine which duties shall be subject to charges, the amount to be charged and the expenses to be reimbursed, and to apply fixed rates and framework rates.

23
Regulatory Offences

(1) A regulatory offence is committed by anyone who wilfully or negligently

1. Contravenes Section 5 (1) sentence 1 by placing electrical and electronic equipment on the market.
2. Contravenes Section 6 (2) sentence 1 by failing to register.
3. Contravenes Section 6 (2) sentence 4 by not stating the assigned registration number in business transactions.
4. Contravenes Section 6 (2) sentence 5 by placing electrical and electronic equipment on the market.
5. Contravenes Section 6 (4) sentence 3 by indicating disposal costs.
6. Contravenes Section 9 (7) sentence 3 or Section 10 (1) sentence 3, each in conjunction with Section 11 (2) sentence 2 in conjunction with Annex III No. 1, 3, 5, 6 or 7, by failing to remove a liquid or by failing to comply with a requirement contained in those provisions.
7. Contravenes Section 9 (7) sentence 3 or Section 10 (1) sentence 3, each in conjunction with Section 12 (3) sentence 2, by not displaying records, displaying incorrect or incomplete records, or failing to display them in a timely manner.
8. Contravenes Section 10 (1) sentence 1 by failing to collect containers provided or by failing to collect them in a timely manner.
9. Contravenes Section 13 (1) by failing to submit a report, by submitting an incorrect or incomplete report, or by failing to report in a timely manner.

(2) In the case of (1) No. 1 to 5 and 7, regulatory offences shall be subject to a fine of up to EUR 50,000 (fifty thousand), and in all other cases a fine of up to EUR 10,000 (ten thousand).

24

Transitional Provisions

The rights and obligations under Section 6 (2) and (3), Section 9 (5) and (6), Section 13 (1) No. 1, (2) and (3) sentences 1 to 4, Section 14 (2), (4), (5), (6) and (9) and Section 16 (2) to (4) shall not be binding until(to fill in : day that follows a period of eight months from the day of promulgation); the rights and obligations under Sections 7 and 8, 9 (1) to (4), (7) and (8), Section 10 and 11, Section 13 (1) Nos. 2 to 7, (3) sentence 5 and 6, and (4) to (6), Section 14 (3), (7) and (8), and Section 16 (5) shall not be binding until..... (to fill in: day that follows a period of twelve months from the day of promulgation).

25

Entry into Force

(1) Section 6 (1) sentence 1, Section 14 (1), Section 15, Section 16 (1) and Sections 17 to 22 shall enter into force one day after the Act is announced.

(2) Section 5 shall enter into force on 1 July 2006.

(3) Section 12 shall enter into force on 31 December 2006.

(4) All other provisions set out in this Act shall enter into force on 13 August 2005.

Annex I
List of Categories and Equipment

1. Large Household Appliances

Large cooling appliances

Refrigerators

Freezers

Other large appliances for refrigeration, conservation and storage of food

Washing machines

Clothes dryers

Dish washing machines

Cooking appliances

Electric stoves

Electric hotplates

Microwaves

Other large appliances used for cooking and other processing of food

Electric heating appliances

Electric radiators

Other large appliances for heating rooms, beds and seating furniture

Electric fans

Air conditioning appliances

Other fanning, exhaust ventilation and air conditioning equipment

2. Small Household Appliances

Vacuum cleaners

Carpet sweepers

Other appliances for cleaning

Appliances used for sewing, knitting, weaving and other processing for textiles

Irons and other appliances for ironing, mangling and other care of clothes Toasters

Fryers

Grinders, coffee machines and equipment for opening or sealing containers or packages

Electric knives

Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances

Clocks, watches and other instruments for the purposes of measuring, indicating or registering time

Scales

3. IT and Telecommunications Equipment

Centralised data processing:

Mainframes

Minicomputers Printer

units Personal

computing:

Personal computers (CPU, mouse, screen and keyboard included)

Laptop computers (CPU, mouse, screen and keyboard included)

Notebook computers

Notepad computers

Printers

Copying equipment

Pocket and desk calculators

and other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means

User terminals and systems

Fax machines

Telex

Telephones

Pay telephones

Cordless telephones

Cellular telephones

Answering systems

and other products or equipment for transmitting sound, images or other information by telecommunications

4. Consumer Equipment

Radio sets

Television sets

Videocameras

Video recorders

Hi-fi recorders

Audio amplifiers

Musical instruments

and other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications

5. Lighting Equipment

Luminaries for fluorescent lamps excluding luminaries in households

Straight fluorescent lamps

Compact fluorescent lamps

High intensity discharge lamps, including pressure sodium lamps and metal halide lamps

Low pressure sodium lamps

Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs and luminaries in households

6. Electrical and Electronic Tools (with the exception of large-scale stationary industrial tools)

Drills

Saws

Sewing machines

Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials

Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses

Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

7. Toys, Sports and Leisure Equipment

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running, rowing, etc.

Sports equipment with electric or electronic components

Coin slot machines

8. Medical Products (with the exception of all implanted and infectious products)

Radiotherapy equipment

Cardiology equipment

Dialysis equipment

Pulmonary ventilators

Nuclear medicine equipment

Laboratory equipment for in-vitro diagnosis

Analysers

Freezers

Fertilisation tests

Other appliances for detecting, preventing, monitoring, treating or alleviating illness, injury or disability

9. Monitoring and Control Instruments

Smoke detectors

Heating regulators

Thermostats

Measuring, weighing or adjusting appliances for household use or as laboratory equipment

Other monitoring and control instruments used in industrial installations (e.g. in control panels)

10. Automatic Dispensers

Automatic dispensers for hot drinks

Automatic dispensers for hot or cold bottles or cans

Automatic dispensers for solid products

Automatic dispensers for money

All appliances which deliver automatically all kind of products

Annex II

Symbol Identifying Electrical and Electronic Equipment Under Section 7

The symbol indicating separate collection of electrical and electronic equipment consists of a crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.



Annex III

Selective Treatment of Substances and Components of Electrical and Electronic Equipment under Section 11 (2)

1. At a minimum, the following substances, preparations and components must be removed from any separately collected WEEE:
 - a) Mercury-containing components such as switches or backlighting lamps
 - b) Batteries and accumulators
 - c) Printed circuit boards of mobile phones generally, and of other devices if the surface area of the printed circuit board is greater than 10 square centimetres
 - d) Toner cartridges, liquid and pasty, as well as colour toner
 - e) Plastic containing brominated flame retardants
 - f) Asbestos waste and components which contain asbestos waste
 - g) Cathode ray tubes
 - h) Chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), or hydrofluorocarbons (HFCs) or hydrocarbons (HCs)

- i) Gas discharge lamps
- j) Liquid crystal displays (together with their casing where appropriate) of a surface area greater than 100 square centimetres and all such displays back-lighted with discharge lamps
- k) External electric cables
- l) Components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances (Official Journal L 343 p.9)
- m) Electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume)
- n) Cadmium or selenium-containing photoreceptor drums.

These substances, preparations and components shall be disposed of or recovered in compliance with Section 10 (4) of the Closed Substance Cycle and Waste Management Act.

2. Components containing radioactive substances must be treated as follows:

- a) Components containing radioactive substances, except components of consumer goods, and those produced subject to approval under Section 106 of the German Radiation Protection Ordinance (StrlSchV) of 20 June 2001 (Federal Gazette I p. 1714 report 2002 I p. 1459), amended by Article 2 of the Ordinance of 18 June 2002 (Federal Gazette I p. 1869, 1903) or transported under Section 108 of the German Radiation Protection Ordinance and for which no take-back system is required under Section 107 (1) No. 1a and in accordance with Section 109 of the German Radiation Protection Ordinance, may be disposed of or be reused or recycled under Section 10 (4) of the Closed Substance Cycle and Waste Management Act without any further selective treatment.
- b) Components as listed under a) for which a take-back system is required under Section 107 (1) a and in Section 109 of the German Radiation Protection Ordinance must under Section 110 of the Radiation Protection Ordinance be handed back by the last user to the collection point stated in the information stipulated in Section 107 (1) No. 3 of the German Radiation Protection Ordinance.
- c) All other components containing radioactive substances must be disposed of in compliance with the requirements of the German Radiation Protection Ordinance.

3. Section 2 (2) No. 2 of the PCB/PCT Waste Ordinance applies for PCB-containing condensers (PCBs: polychlorinated biphenyls).
4. The following components of separately collected WEEE are to be treated as follows:
 - a) Cathode tubes: the fluorescent coating must be removed
 - b) Equipment containing gases that are ozone-depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer (Official Journal L 244 p.1, last amended by Regulation (EC) 1804/2003 of the European Parliament and of the Council of 22 September 2003 (Official Journal L 265 p.1)
 - c) Gas discharge lamps: the mercury shall be removed.
5. Taking into account environmental considerations and the desirability of reuse and recycling, Nos. 1 to 3 shall be applied in such a way that environmentally sound reuse and recycling of components or whole appliances is not obstructed.
6. Waste glass from lighting processing which is to be sent for recovery must have a maximum Hg content of 5 mg/kg waste glass.
7. Picture tubes are to be separated into screen and cone glass for treatment purposes.
8. Gas discharge lamps must be adequately protected against breakage during storage and transportation.

Annex IV
Technical Requirements Under Section 11 (3)

1. Sites for storage (including temporary storage) of WEEE prior to treatment (without prejudice to the requirements of the Landfill Ordinance):

- a) Impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleansers-degreasers
- b) Weatherproof covering for appropriate areas.

2. Sites for treatment of WEEE:

- a) Scales to measure the weight of the treated waste
- b) Impermeable surfaces and waterproof coverings for appropriate areas with the provision of spillage collection facilities and, where appropriate, cleansers-degreasers
- c) Appropriate storage for disassembled spare parts
- d) Appropriate containers for storage of batteries, PCB/PCT container capacitors and other hazardous waste such as radioactive waste
- e) Equipment for the treatment of water in compliance with health and environmental regulations.