

THE END-OF-LIFE VEHICLES (PRODUCER RESPONSIBILITY) REGULATIONS 2005

STATUTORY INSTRUMENT 2005, No.263

DTI GUIDANCE NOTES

BACKGROUND

1 The main objective of the legislation is environmental protection. The End-of-Life Vehicles (Producer Responsibility) Regulations 2005 transpose into UK law a number of provisions of the End-of-Life Vehicles Directive (2000/53/EC), and cover, among other things:

- “Free take-back” of end-of-life vehicles (ELVs) from 1 January 2007
- Producer obligations for providing take-back of ELVs through accessible networks of authorised treatment facilities and collection points
- Producer and authorised treatment facility obligations in respect of achieving recovery and recycling targets for ELVs from 2006 onwards.

2 These Regulations complete the transposition of the ELV Directive in the UK. Other provisions in the Directive were earlier transposed in England and Wales by the End-of-Life Vehicles Regulations 2003 (Statutory Instrument 2003/2635) and equivalent legislation in Scotland and Northern Ireland (S.S.I. 2003/593 and S.R. 2003/493 respectively).

DISCLAIMER

3 These Guidance Notes seek to provide practical advice with respect to the Regulations as they implement certain provisions of the End-of-Life-Vehicles Directive in the United Kingdom. The advice may vary from that given in other member States in respect of their own implementing legislation. In the UK, the Guidance Notes do not carry any legal authority and do not replace the provisions of the Regulations. Only the Regulations interpreted by the Courts have force of law. The Guidance Notes do not cover every aspect of the Regulations. If you require further advice or information, you should contact the ELV Registrations Unit (elvregistration@dti.gov.uk) at the Department of Trade and Industry, 151 Buckingham Palace Road, London SW1W 9SS.

THE REGULATIONS

General information

Regulation 1 – Citation and commencement

4 This simply gives the formal title of the legislation and the date on which it came into force.

5 The ELV (Producer Responsibility) Regulations came into effect in the United Kingdom on 3rd March 2005.

Regulation 2 – Interpretation

6 This defines many of the terms used in the Regulations.

7 The Regulations apply to vehicles designated as category M₁ or N₁, as defined in Annex IIA to Council Directive 70/156/EEC relating to the type approval of motor vehicles and their trailers, and to three-wheel motor vehicles as defined in Council Directive 92/61/EEC relating to the type approval of two or three-wheel vehicles, but excluding motor tricycles. Category M₁ covers motor vehicles with at least four wheels, used for the carriage of passengers, and comprising no more than eight seats in addition to the driver's seat. Category N₁ covers motor vehicles with at least four wheels, used for the carriage of goods, and having a technically permissible maximum laden mass not exceeding 3.5 tonnes. Broadly speaking, therefore, the Regulations apply to "passenger cars" and "light vans".

8 The term "producer" in the Regulations means the manufacturer or the professional importer of a relevant vehicle who places that vehicle onto the UK market, but not a private individual who imports a relevant vehicle.

Application

Regulation 3 – Vehicles and end-of-life vehicles to which the Regulations apply

9 The Regulations apply to the above-defined categories of vehicles, and their components and materials. An end-of-life vehicle, in the context of these Regulations, is an M₁ or N₁ vehicle which has been discarded and is waste when

accepted by an authorised treatment facility for depollution and dismantling, rather than for repair and re-sale.

10 The Regulations apply irrespective of how the vehicle has been serviced and repaired. Producers' responsibility for free take back in Regulation 10(6), therefore, is maintained whether or not the vehicle is equipped with originally-supplied components. However, the Department does not believe that body conversions which have been added to the chassis during the life of the vehicle – for example, horse boxes with living accommodation, etc -- should be classified as “components”. In such circumstances, or when such significant user modifications have been carried out as to change the nature of the vehicle, the obligation to provide free take- back, should the vehicle have no value when scrapped, should not, in the Department's view, apply.

Regulation 4 – Existing Community legislation and relevant national legislation

11 This simply records that the Regulations do not override other EC legislation, or relevant national legislation, in respect of safety standards, air emissions, noise controls, and environmental protection.

Regulation 5 – Application to special-purpose vehicles

12 The recovery and recycling targets described in regulation 18 do not need to be attained in respect of special-purpose vehicles (e.g motor-caravans, ambulances, hearses, etc). The weight of such vehicles, when they become ELVs, does not therefore count towards the baseline against which the UK needs to achieve the overall recovery and recycling target, and their producers have no recovery and recycling obligation in respect of them, although the Government would encourage such recovery and recycling.

Regulation 6 – Application to three-wheel motor vehicles

13 Producers have neither an obligation to provide free take-back for three-wheel vehicles when they reach end-of-life, nor to achieve the recovery and recycling targets in respect of their weight. The weight of such vehicles, when they become ELVs, does not therefore count towards the baseline against which the UK needs to achieve the overall recovery and recycling targets. However, as is the case for special-purpose vehicles, the Government would encourage recovery and recycling of three-wheel vehicles.

Registration

Regulation 7 – Registration and declaration of responsibility by producers

14 This regulation sets down the arrangements for declarations of “producer responsibility”.

15 Regulation 7(1) requires producers to apply to the Secretary of State for Trade and Industry in writing (this can include by electronic means) by 30th April 2005 for registration and to declare responsibility for the vehicles which they have put on the market prior to the date of their application and, if known, for the vehicles which they expect to put on the market after that date (such a future declaration will only be practicable for producers declaring their responsibility by other than VIN numbers -- see paragraph 18 below).

16 Regulation 7(2) requires that, from 1st May 2005, producers must declare responsibility for vehicles which were not the subject of an earlier declaration, within six months of putting those vehicles on the market. In most cases (the introduction of new marques or a change in marque ownership being exceptions), declarations under regulation 7(2) are likely only to be made by producers who declare their responsibility through VIN numbers – see paragraph 18 below).

17 Regulation 7(3) requires a producer who no longer places vehicles on the market to inform the Secretary of State within 28 days of that change in his circumstances. Regulation 7(6), however, makes clear that responsibility under the Regulations for the vehicles for which that producer has previously declared responsibility remains with the producer unless the circumstances in regulation 9 apply (see paragraph 25 below).

18 Regulation 7(4) and Schedule 1 to the Regulations set down the information that must be provided in any application for producer registration. An application must include a clear description of the vehicles for which the producer declares responsibility. Such a description may be in the form of:

- (a) the marque (i.e the brand or make) of the vehicles for which the producer declares responsibility; or
- (b) the individual VINs (Vehicle Identification Numbers) of the vehicles for which the producer declares responsibility; or
- (c) the marque plus type of VIN (e.g. 10 digit or 16 digit etc, to distinguish original market location) of the vehicles for which the producer declares responsibility.

19 As noted at paragraph 15 above, it follows therefore that only producers declaring via (a) or (c) will be able to declare simultaneously for past and future responsibilities. Producers declaring responsibility by quoting individual VINs must make such further declarations no later than within six months of putting those vehicles on the market.

20 Applications for registration should be made:

By post to

ELV Registrations Unit
Department of Trade and Industry
Bay 426
151 Buckingham Palace Road
London
SW1W 9SS

Or by e-mail to

elvregistration@dti.gov.uk

21 Regulation 7(5) explains that the details provided by producers in respect of regulations 7(1) to (4) will be included in the public register which is to be maintained by DTI under regulation 21 (see paragraph 68 below).

22 Regulation 7(7) sets down the timetable in which producers will be notified that their applications for registrations comply with the requirements of the Regulations, and that registration has been granted. Producers will be so notified within 3 weeks of receipt of compliant applications made by 30th April 2005, and within 4 weeks of receipt of any compliant application made after that date. Regulation 7(8) stipulates that when a producer's application for registration is rejected, that producer will be informed within 4 weeks of receipt of his application, and given reasons for the rejection.

23 Regulation 7(9) requires a producer to inform the Secretary of State within 4 weeks of any change in the circumstances which relate to his registration (other than where he has been ascribed responsibility for additional vehicles under regulation 8 – see paragraph 24 below).

Regulation 8 – The Secretary of State's decision to ascribe responsibility to a producer in respect of vehicles placed on the market

24 Regulation 8(1) provides that the Secretary of State may ascribe, to a producer, responsibility for vehicles for which no other producer has declared responsibility. Where the Secretary of State takes such a decision, she shall send to the producer a notice in writing within 2 weeks of the decision having been taken, and will set down the reasons for the decision (regulations 8(2) and 8(4)). In reaching a decision, the Secretary of State will take into account the identity of the person who manufactured the vehicle, or put his name on the vehicle, or placed the vehicle on the market, or who used or has the right to use

a trademark or other distinguishing mark in relation to the vehicle (see Schedule 2 to the Regulations). The Secretary of State may revoke or amend a decision in the light of representations received from the producer to whom responsibility has been ascribed. Any such representations must be made by a producer within 4 weeks of the date on which the notice informing him of the decision to ascribe was issued. Regulation 8(7) explains that if the Secretary of State does not ascribe responsibility for vehicles for which no producer has declared responsibility, such vehicles could be subject to Agreements of the kind referred to in regulation 26 which the Secretary of State may enter into with one or more producers, or an organisation or organisations representing the interests of relevant producers.

Regulation 9 -- Transfer of a producer's business to another

25 If a producer transfers his business to another producer, he will remain responsible for the vehicles for which he has declared responsibility, unless he can demonstrate that the person to whom the business has been transferred has agreed to take over responsibility for the obligations in respect of those vehicles. These responsibilities include: to apply for registration; to establish and submit details of a system for collection and treatment; and to achieve the relevant targets for re-use, recovery and recycling.

Systems for collection of end-of-life vehicles

Regulation 10 – Producer's obligation to establish and submit details of his system for collection

26 Regulation 10(1) requires each producer to establish a system for the collection and treatment of the vehicles for which he has declared responsibility, or has been ascribed responsibility, when those vehicles become ELVs. By 31st August 2005, a producer must submit details of his system to the Secretary of State and seek approval. To be approved, an application must satisfy the Secretary of State that the producer has established a system for collection and treatment which is adequate to deal with (i.e. take back and treat) all the vehicles for which he has declared responsibility, or has been ascribed responsibility for, and which he believes are likely to become ELVs during 2006. A producer's system (or "network") must be of an extent that reflects certain specifications of treatment capacity and accessibility, which are set out below.

27 When establishing a system for collection and treatment of vehicles which were the subject of a registration made after 30th April 2005, the application for approval must be made within six months of those vehicles being placed on the market (regulation 10(2)(b)). In most cases, such systems need initially cover only predicted numbers of "premature" ELVs. An exception would be in respect

of imported elderly second-hand vehicles, since these would be more likely to become “natural” ELVs in the short-term. In circumstances where a producer has been ascribed responsibility for vehicles, he shall submit for approval a plan in respect of those vehicles within 3 months of having been notified of the responsibilities which have been ascribed to him (regulation 10(2)(c)).

28 Regulation 10(3) and Schedule 3 to the Regulations sets down the information which a producer’s application for approval must contain. This includes:

- The number of vehicles for which the producer has declared responsibility, or been ascribed responsibility for, which he believes will become ELVs in 2006
- Details of his collection system – number and location of contracted authorised treatment facilities and collection points (or alternative arrangements, such as collection from the household etc).
- In respect of a producer’s contracted authorised treatment facilities, the licence number which has been issued to each by the Environment Agency, the Scottish Environment Protection Agency, or the Environment and Heritage Service, as appropriate, and the depollution capacity of each facility which is available to that producer to treat vehicles for which he has responsibility.
- The measures that the producer intends to take to publicise his collection system for the benefit of last owners. Such measures may be tailored to a producer’s distribution of ELVs, and comprise locally-directed or web-based media.

29 Regulation 10(4) requires the producer to inform the Secretary of State within 28 days of any significant change in the details of his collection system (for example, the closure of, or reduced treatment capacity at, a contracted ATF, which results in the producer being unable to meet his obligations in respect of network capacity or accessibility. Within that same period, a producer must submit a revised application for approval of his network.

30 Regulation 10(5) provides that the Secretary of State shall require a producer to submit a revised application for approval, if she becomes aware of circumstances which materially affect the capacity or accessibility of a producer’s collection system.

31 Regulation 10(6) provides that a producer’s contractual arrangements with all the elements in his collection system must preclude the charging of the last holder or owner for taking-back a relevant ELV, if that ELV is complete, and does not contain added waste. In circumstances where a local authority is discharging

its statutory responsibilities for removing an abandoned or nuisance vehicle, that local authority becomes the effective last owner or holder, and is entitled to the same free take-back arrangements as a private individual. Take-back is available even in circumstances where the appropriate vehicle paperwork (i.e. the registration document) has been lost, stolen or destroyed.

32 Regulation 10(7) defines what constitutes a “complete vehicle”, on its being delivered to an authorised treatment facility. This definition seeks to retain as much recoverable value as possible within the end-of-life vehicle, to maximise the prospect of parts reuse and materials recovery, and to minimise the number of vehicles that might have no market value on arrival at the authorised treatment facility. The essential components of a vehicle in this context are defined in regulations 10(7) and 12(3) as the engine, transmission, coachwork, wheels, and catalytic converter, if one was present when the vehicle was placed on the market. Against this background, DTI will encourage producers to develop an agreement to determine local authorities’ access to own marque networks, in good time for the commencement of “free take-back” in January 2007.

33 The ELV Directive requires producers to meet all or a substantial part of the costs of providing “free take-back” for ELVs, even when they have “no or negative market value”. But the Directive does not define “no or negative market value”. For the purposes of regulation 10(6), which expresses the producer’s responsibility for meeting the costs of providing free take-back of a vehicle with no market value, it is anticipated that such vehicles would be returned to an authorised treatment facility or collection point that had established a contractual relationship with the producer. The valuation of a vehicle would be the subject of negotiations between the authorised treatment facility or collection point and the producer who put the vehicle on the market. Such negotiations would be for the parties concerned, but DTI would expect negotiations to take into account the likely cost of treatment (depollution, dismantling and issue of the Certificate of Destruction (CoD)) and recovery and recycling, and the projected income from reused elements and materials recovered from dismantling, shredding and other recovery operations.

Regulation 11 -- Accessibility of the system for collection

34 The ELV Directive does not define “accessibility” but for the purposes of implementing the Directive in the UK, and following consultation, the Government has decided that the following arrangements are reasonable for ELV owners and obligated producers. A producer’s plan must indicate the number and geographical location of ATFs and other collection points in his network, and the plan must meet the criterion that 75% of last owners or holders of the ELVs for which that producer has responsibility are within 10 miles, on average, of the point of delivery of ELVs into the producer’s network. The 75% requirement applies separately to England, Scotland, Wales and Northern Ireland.

35 In addition, a producer must also ensure that no individual last owner is more than 30 miles from an ATF or collection point within the network established by that producer. It is expected that producers will wish to offer a collection service, or some similar approach, in remotely populated areas, rather than set up ATFs or collection points with low levels of throughput.

36 DTI understands that a number of producers have precise data relating to the location of registered vehicles of an age which makes them likely to become ELVs in the near future. Producers may also base their plans upon recognised population densities, rather than seek to predict the precise location of their own marque of ELVs. In the interests of efficiency, and to maximise throughput, producers may wish to position their contracted ATFs in locations which reflect the expected location and numbers of the ELVs arising. However, a producer not wishing to contract with such a number of facilities, on the grounds that his expected number of ELVs would require very limited depollution capacity, may choose to adopt alternative approaches, provided that the underlying convenience for last owners or holders is not compromised. Some producers with limited annual ELV numbers may wish, for example, to undertake to collect ELVs from last owners, and to transport to an ATF in their contracted network.

37 There is nothing in the Regulations to prevent an ATF being part of more than one producer's network, nor to prevent a producer sub-contracting delivery of his network and capacity obligations to a service provider - although the statutory obligations remain with the producer.

Regulation 12 – Capacity of a network of authorised treatment facilities

38 A producer's network must contain sufficient treatment capacity to depollute and dismantle all the vehicles for which the producer has declared responsibility, or has been ascribed responsibility, and which are likely to become ELVs during 2006 and annually thereafter (regulation 12(1)).

39 Regulation 12(2) provides that, when accepting an ELV for which it has a contract with a producer, an authorised treatment facility or collection point may not charge the last holder or owner for doing so, if that ELV is complete and has no or negative market value, and may not turn such a vehicle away.

40 Regulation 12(3) defines what constitutes a "complete vehicle", on its being delivered to an authorised treatment facility. As noted above, this definition seeks to retain as much recoverable value as possible within the end-of-life vehicle, to maximise the prospect of parts reuse and materials recovery, and to minimise the number of vehicles that might have no market value on arrival at the authorised treatment facility.

41 The ELV Directive does not define "no or negative market value". For the purposes of Regulation 10(6), which expresses the producer's responsibility for

meeting the costs of providing free take-back of a vehicle with no market value, it is anticipated that such vehicles would be returned to an authorised treatment facility that had established a contractual relationship with the producer. The valuation of a vehicle would be the subject of negotiations between the authorised treatment facility and the producer who put the vehicle on the market, or between the latter and the insurance company, recovery agent, or local authority who had become the last owner or holder. Such negotiations would be for the parties concerned, but the Department would expect negotiations to take into account the likely cost of treatment (depollution, dismantling and issue of CoD) and recovery and recycling, and the projected income from reused elements and materials recovered from dismantling, shredding and other recovery operations.

Regulation 13 – Approval of a producer’s application to establish a collection system

42 In assessing the adequacy of a producer’s capacity plan, the Regulator will take into account an estimate of the average time needed by an ATF to receive an ELV, issue a CoD, depollute, dismantle and otherwise deal with an ELV. Actual treatment times will depend on a number of factors, including the age, condition, make and model of the vehicle, the depollution equipment used, and the efficiency of the operator. Defra/DTI’s “Depollution Guidance for ATFs”, issued in November 2003, based on using custom-built equipment (a “depollution rig”), indicated that an ELV can be drained of fluids in 20-30 minutes. A doubling of that time to cover associated activity seems reasonable, but too rigid an approach to assessing capacity would be inappropriate. Producers’ capacity plans may include the number of depollution rigs each contracted ATF contains, and the number of operatives in situ. (The Depollution Guidance is available electronically at www.dti.gov.uk/sustainability/pub.htm or in printed form from the ELV Registrations Unit, whose contact details appear in paragraph 3 of this document). It will be important for DTI to be able to identify, from the number of depollution rigs at an ATF, the depollution capacity which has been allocated for the use of individual producers.

43 Approval of a producer’s application will be granted where the Secretary of State considers that it complies with both the treatment capacity and network accessibility requirements.

Regulation 14 – Revisions to a producer’s application for approval of a collection system

44 There are a number of circumstances in which a producer may wish, or need, to revise his collection system, or as a result of which the Regulator

requires him to revise his system. These various circumstances are set down in regulation 14.

45 Regulation 14(1) requires a producer to submit a revised application for approval, if he believes that his current network will be unable to deliver his treatment capacity and accessibility obligations in a coming year. This could be, for example, when a producer foresees a significant increase in the number of relevant vehicles which are likely to be taken in by his collection system, and capacity or accessibility may be compromised. Such an increase might result from a “bulge” in registrations in an earlier year.

46 Regulation 14(2) authorises the Secretary of State to require revisions to an application for approval, if she considers that such application does not meet a producer’s obligations for providing adequate treatment capacity and accessibility.

47 Regulation 14(3) requires that revised applications made under regulations 14(1) or 14(2) must be submitted to the Secretary of State at least 3 months before the start of the calendar year in which they are intended to operate. And regulation 14(4) explains that a compliant revised application will be approved within 4 weeks of receipt of that revised application.

48 Under regulation 14(5), a producer may submit a revised application for approval, if he has grounds for believing that either the treatment capacity or accessibility of his current approved network exceeds his obligations in respect of the number of vehicles which he expects to be dealt with by his network in a coming calendar year. Such grounds might include a significant trough in relevant vehicle registration numbers, or empirical evidence of substantial numbers of relevant ELVs being taken back by ATFs with whom the producer has no contractual arrangement. Applications must be made not less than 3 months before the beginning of the calendar year in which the revised network is intended to operate.

Regulation 15 – Authorised treatment facilities

49 A producer has no responsibility in respect of an ELV for which take-back has been provided to the last owner or holder by an authorised treatment facility which has no contractual arrangement with the relevant producer. Whether the take-back service there is free or not is a matter between the ATF and the last owner of the vehicle, since this a matter of private agreement.

Regulation 16 – Compliance Notice

50 This regulation provides that, where the Secretary of State has grounds for believing that a producer has not complied with any or all of regulations 7(1),

7(2), 7(3), 10, 11, and 12, a notice of compliance may be served on the relevant producer.

Regulation 17 – Content of a compliance notice served under regulation 16

51 This regulation sets down the contents of a compliance notice served under regulation 16. Among other things, this will specify the period of time within which the producer must comply with the notice.

Reuse, Recovery and Recycling

Regulation 18 -- Reuse, recovery and recycling targets

52 This regulation sets down the obligations which fall upon producers in respect of achieving the recovery and recycling targets in the Directive in respect of the relevant ELVs which are taken back through their appointed collection network. The same obligations fall upon authorised treatment facilities, should they decide to take back ELVs for which they do not have a contractual obligation on behalf of a producer.

53 Regulation 18(1) requires that a producer must achieve a reuse and recovery target of 85% and an 80% reuse and recycling target of the weight of the vehicles for which he has declared responsibility, together with any for which he has been ascribed responsibility, and which are treated by his collection network during 2006 and subsequent years.

54 Regulation 18(2) requires that a producer must achieve a reuse and recovery target of 95% and an 85% reuse and recycling target of the weight of the vehicles for which he has declared responsibility, together with any for which he has been ascribed responsibility, and which are treated by his collection network during 2015 and subsequent years.

55 Regulation 18(3) requires owners or operators of authorised treatment facilities to achieve the same targets in respect of the weight of vehicles which they treat without having an agreement with a producer to do so.

56 Regulation 18(4) sets lower targets in respect of the weight of vehicles put on the market before 1980 – namely, 75% reuse and recovery, and 70% reuse and recycling.

57 Regulation 18(5) requires producers and owners or operators to submit to the Regulator (see paragraph 65 below) details of the reuse, recovery and recycling rates they have achieved, by 1st April 2007 in respect of 2006, and by 1st April of each succeeding year, in respect of the preceding calendar year.

58 Under the Regulations, “reuse” means any operation by which components of end-of-life vehicles are used for the same purpose for which they were conceived; “recycling” means the reprocessing in a production process of waste materials from end-of-life vehicles for the original purpose or for other purposes; and “recovery” means either re-use, recycling, or incineration with energy recovery.

59 The precise form of evidence of re-use, recovery and recycling has yet to be decided, but evidence will have to relate to the tonnages of the relevant ELV materials (eg glass, plastics, rubber, fluids etc, but not metals derived from the shredding process, for the reasons given at paragraph 63 below) entering a licensed recycling operation, but further guidance will be issued in due course, ahead of 2006, the first year in which recovery and recycling targets must be achieved.

60 DTI is currently establishing, with industry’s help, a database of ELV weights. When this is linked to the issuing of Certificates of Destruction, it will at monthly intervals be used to inform obligated producers and authorised treatment facilities of the extent of the weight obligation against which their recovery and recycling targets must be achieved. The details of this system are being worked out now, with the assistance of DVLA, and further Guidance will be made available by DTI in due course, ahead of 2006, the first year in which recovery and recycling targets must be achieved.

61 Article 7 of the ELV Directive also says:

The Commission shall [.....] establish the detailed rules necessary to control compliance of member States with the targets [.....]. In doing so the Commission shall take into account all relevant factors, inter alia the availability of data and the issue of exports and imports of end-of-life vehicles. The Commission shall take this measure not later than 21 October 2002.

62 The UK, along with a number of other member States, has argued for a system which allows for a specific reuse and recycling rate for the metallic fraction of the total ELV waste stream to be assumed. In this way, monitoring and enforcement could be concentrated on the very much smaller quantities of non-metallic ELV materials, such as glass, plastics, rubber, fluids and textiles which have not traditionally been recovered from this waste stream in any significant amounts.

63 The Commission has now accepted this approach as being appropriate for those member States which wish to adopt it, provided that detailed analysis of the metallic fraction appearing in the ELV waste stream arising in the opting member State is presented to the Commission in justification of the rate to be assumed. Such a justification would need to be reviewed every few years, to reflect the changing composition of vehicles. According to the Commission, the

actual recovery and recycling rates of non-metallic materials “must be accounted for on the basis of declarations from the receiving recycling or recovery or collection company”. The Commission will also allow a choice of methods for establishing the weights of ELVs; the Department is in discussion with vehicle manufacturers about the creation of a database, linked to DVLA, from which cumulative “own marque” recovery and recycling tonnage obligations, triggered by the issue of Certificates of Destruction, can be calculated.

64 The Commission’s proposal was adopted by member States at a meeting of the EU Waste Legislation Technical Adaptation Committee on 10 June 2004, but the formal text of the decision has still to appear in the Official Journal. Meanwhile, DTI is commissioning the shredder trial necessary to establish the metallic fraction of ELVs likely to be scrapped in 2006.

65 The Environment Agency, in England and Wales, the Scottish Environment Protection Agency, in Scotland, and the Department of the Environment, in Northern Ireland, are likely to be appointed to enforce those Regulations which relate to the achievement and reporting of performance against the targets.

Regulation 19 – Certificate of Compliance

66 The Certificate of Compliance, at Schedule 4 to the Regulations, sets down the form in which a producer or an authorised treatment facility must declare compliance with the recovery and recycling obligations.

Regulation 20 -- Approval of persons to issue certificates of compliance

67 This regulation defines the persons able to submit Certificates of Compliance under regulation 19.

Regulation 21 – Public Register

68 This regulation sets down the purpose and operation of the public register, to be maintained by the Secretary of State, to contain information about producers’ declarations of responsibility for vehicles and compliance with their recovery and recycling obligations.

Regulation 22 – Entry and Inspection

69 This regulation refers to the powers of entry and inspection available to the Secretary of State and any other person whom she considers suitable and

whom she has authorised in writing to act on her behalf. The powers are set down in detail in Schedule 6.

Offences

Regulation 23 -- Offences

70 Regulation 23(1) (2) (3) and (4) list the requirements of the Regulations which, if not complied with, would cause a producer to be guilty of an offence.

Regulation 24 – Enforcement

71 This regulation explains that it is the duty of the Secretary of State for Trade and Industry to enforce these Regulations and that she may appoint the Environment Agencies, as appropriate, to carry out her enforcement duties on her behalf.

Regulation 25 – Penalties

72 Persons found guilty of an offence under these Regulations will be liable on summary conviction to a fine not exceeding the statutory maximum (£5,000), or, on conviction on indictment, to a fine (unlimited).

Regulation 26 – Power of the Secretary of State to enter into agreements

73 This regulation gives the Secretary of State powers to enter into Agreements with producers in order to achieve certain objectives of the Directive, including the prevention of waste from vehicles, and the reuse, recycling and recovery of ELVs. It is envisaged that such Agreements will, in the first instance, be entered into by the Secretary of State and producers in order to ensure that last owners or holders of ELVs which cannot be ascribed to a producer may secure their entitlement to free take-back, from January 2007, and that the recovery and recycling targets in respect of such vehicles will be achieved from 2006. Other matters may also be covered.

Regulation 27 – Enforcement of Agreements

74 This regulation describes the consequence of failure to comply with the terms of any agreement under regulation 26, and defines the penalties faced by those found guilty of an offence.

Regulation 28 – Amendments to the End-of-Life Vehicles Regulations 2003

75 This regulation amends the End-of-Life Vehicles Regulations 2003, by removing three-wheel motor vehicles from their scope, and by rescinding, from 1 January 2007, the system of take-back for vehicles put on the market on or after 1 July 2002. The latter vehicles will become subject to the requirements of the End-of-Life Vehicles (Producer Responsibility) Regulations 2005 from that date.

76 The regulation also specifies that Certificates of Destruction may only be issued by authorised treatment facilities, and that they must be in a form approved by the DVLA.

Schedule 1

Information to be contained in an application for producer registration

Schedule 2

Matters which the Secretary of State may take into account in reaching a decision under regulation 8(1)

Schedule 3

Information to be contained in an application for approval of a collection system

Schedule 4

Information in the certificate of compliance

Schedule 5

Public Register

Schedule 6

Powers of entry and inspection of premises exercisable by the Secretary of State and persons authorised under regulation 22

DTI

24.2.05