



Environment briefing note | February 2017

## **#10ThingsSH you need to know about the restrictions on the use of hazardous substances in electrical and electronic equipment (ROHS)**

**In the latest of Stephenson Harwood's Environment Group's series on product stewardship, we look at the ROHS rules. ROHS is similar to [WEEE](#) in that it applies to electrical and electronic equipment. However, ROHS applies further up the supply chain and focuses on the chemicals contained within products as opposed to WEEE, which focusses on how those products are disposed of.**

**If your business manufactures, imports, or distributes products that contain hazardous substances in the UK or the EU, then it is likely the product will be governed by the ROHS rules.**

**Despite the Brexit uncertainty, these rules will continue to apply in the United Kingdom as the underlying EU Directives have now been fully transposed into domestic legislation.**

**In this note we set out the ten things businesses should know about ROHS.**

### **When does the law apply?**

1. The law places obligations and prohibitions on 'Economic Operators', which includes Manufacturers, Importers and Distributors of electrical and electronic equipment (EEE).
2. Obligations are imposed on Economic Operators at different stages in the supply chain, but if a business fulfils more than one role (e.g. is an importer and a distributor), then it will need to comply with both sets of regulations for each of these roles.

### **What are EEE?**

3. EEE are products that depend on electric current or electromagnetic fields to operate. This includes, for example, small and large household appliances, IT and telecommunications equipment (including personal computers and mobile phones), consumer equipment and electrical and electronic tools (except for large-scale industrial plant / tools).

### **What responsibilities does the law place on Economic Operators?**

4. The key restriction is that Economic Operators may not place on the market EEE containing lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE), in amounts exceeding the established maximum concentration values.

### **In addition...**

5. A Manufacturer must not place EEE on the market unless it:
  - complies with the rules on design and manufacture;
  - carries out a conformity assessment and draws up technical documentation, which must be kept for a period of ten years after placing the product on the market;
  - draws up an EU declaration of conformity and affixes the 'CE' marking;

- identifies the EEE and the manufacturer using information, such as a name and serial number; and
  - keeps a register of the EEE.
6. An Importer must ensure that the EEE complies with the law and that the Manufacturer has complied with its obligations. Importers also have obligations to affix information on the EEE and to maintain a product register.
  7. A Distributor must take care to ensure that EEE complies with the law and carries the requisite marking, and that the Manufacturer and Importer have complied with their obligations.
  8. All Economic Operators are required to take appropriate corrective measures if they become aware that EEE placed on the market is non-compliant and to co-operate with the National Measurement and Regulation Office (NMRO), which is the regulatory body in the UK.

### Could your business be in breach of ROHS, and if so, what are the consequences?

9. The law uses self-declaration as the basis of the compliance regime, although the NMRO also undertakes surveillance activities to detect non-compliance. In the UK non-compliance can lead to a potentially unlimited fine.
10. Economic Operators can take a variety of steps to ensure that ROHS is being complied with, including working closely with other Economic Operators in the supply chain. Some businesses appoint internal compliance teams to ensure compliance with ROHS and WEEE, while others may adopt independent advisors.

### How can Stephenson Harwood help?

More than ever, environmental and climate change issues are at the heart of law and policy, impacting every business sector. Stephenson Harwood's environment group has experience advising domestic and international product manufacturers on the full range of EU-led, product-based regulations.

To keep track of our full Product Stewardship Series keep an eye on **Stephenson Harwood's news and insights page**, or follow us on Twitter **@SH\_EnviroPlan** and look out for our hashtag **#10thingsSH**.

For further information please contact us.



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