

GAMBICA Position Paper – WEEE Scope (UK)

1. Purpose of this paper

The purpose of this GAMBICA paper is to help manufacturers to determine whether or not the products they place on the market fall within the scope of the UK's "The Waste Electrical and Electronic Equipment Regulations 2013" (SI 2013/3113) that transpose the recast WEEE Directive (2012/19/EU).

This paper should be read in conjunction with the text of the UK Regulations¹, the EU WEEE Directive² and relevant guidance issued by both the UK and the European Commission³.

2. GAMBICA Products

GAMBICA is the Trade Association for Instrumentation, Control, Automation and Laboratory Technology in the UK.

The scope of the Association covers four sectors of industry:

- Industrial automation products and systems
- Process instrumentation and control
- Laboratory technology
- Test and measurement equipment for electrical and electronics industries

¹ http://www.legislation.gov.uk/ukSI/2013/3113/pdfs/ukSI_20133113_en.pdf

² http://ec.europa.eu/environment/waste/wEEE/legis_en.htm

³ "Frequently Asked Questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE)" available at: <http://ec.europa.eu/environment/waste/wEEE/pdf/FAQ%20on%20the%20new%20WEEE%20Directive.pdf>

3. WEEE scope principles

The new WEEE Directive (2012/19/EU) entered into force on 13 August 2012. Member States were required to transpose it into national law by 14 February 2014, at the same date the old WEEE Directive (2002/96/EC) was repealed.

It applies to Electrical and Electronic Equipment (EEE) which is defined as:

“equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current”.

Regarding the scope, the new WEEE Directive will be applied in 2 stages:

- From 13 August 2012 to 14 August 2018 (transitional period) the new WEEE Directive applies to the same 10 product categories (see Annex I of Directive 2012/19/EU) as the old WEEE Directive, but with the addition of PV panels.
- After the transitional period (from 15 August 2018 onwards), the WEEE Directive will be extended to all EEE unless explicitly excluded (“open scope”). As a consequence, some additional GAMBICA products may be affected by the new Directive.

NOTE DEFRA (Department for Environmental and Food & Rural Affairs) plan to implement “open scope” in the UK from **1 January 2019**.

Some types of equipment are excluded from the scope, in particular:

“Equipment which is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment” (ref. Article 2(3)(b) of Directive 2012/19/EU).

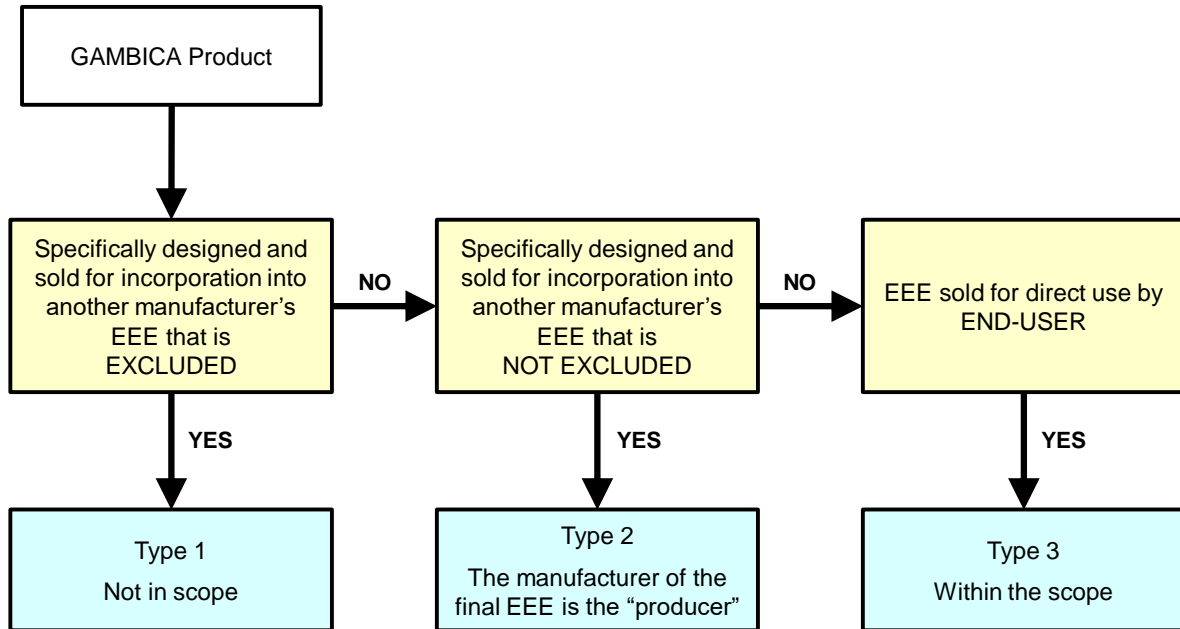
Furthermore, both “large-scale fixed installations” and “large-scale stationary industrial tools” are EEE that are excluded from the scope and are therefore examples of “another type of equipment that is excluded” that are referenced above. See also the detailed definition in the Annex “Definition of LSF and LSSIT”.

A number of factors therefore determine whether or not a particular GAMBICA product is in or out of the scope. These factors include the nature of the product itself and where it is intended to be used. Section 4 of this paper considers these factors and, when read in conjunction with the WEEE Directive itself, helps determine whether the WEEE Directive applies to GAMBICA products that are being “placed on the market” during the “open scope” phase.

4. Applicability to GAMBICA products during the “open scope” phase

The following 3 scenarios can be used in conjunction with the figure below to determine the requirements that apply to an individual product and its producer:

- i. Check if scenario 1 applies – if YES, then the product is Type 1.
- ii. Otherwise, check if scenario 2 applies – if YES, then the product is Type 2.
- iii. Otherwise, the product is Type 3.



Scenario 1: Products specifically designed and sold for incorporation into another manufacturer’s EEE that is itself outside the scope

Products integrated in LSFI or LSSIT (see Annex) can benefit from the exclusion given in Article 2(3)(b) when they are specifically designed to be used for LSFI and/or LSSIT and can only be used for that equipment, provided the following conditions are also met:

- they are installed as an integral part of the LSFI and/or LSSIT;
- they are tailor made (i.e. designed to meet the needs of a specific application in the LSFI and/or LSSIT that they are part of);
- they can fulfil their function only if they are part of the LSFI or LSSIT.

Some products can be considered “specifically designed” because they are only intended for use in excluded applications due to their characteristics and installation requirements.

NOTE: GAMBICA believes that “specifically designed” should be interpreted to mean any EEE that is only intended for use in excluded applications. In other words, the EEE does not have to be unique to one individual application.

EEE meeting all of the aforementioned criteria are out of the scope of the WEEE Directive, and there are no obligations for the producer.

In the case of an EEE not meeting all of the aforementioned criteria, this exclusion does not apply. If a particular EEE can be used in both excluded and in-scope equipment, it would be in-scope unless it can be demonstrated (e.g. with sales documents, installation instructions, marketing literature, etc.) that it is only intended to be installed in excluded equipment.

Scenario 2: Products specifically designed and sold for incorporation into another manufacturer's EEE that is itself within the scope

Many GAMBICA products (unlike household equipment such as a television, dishwasher, etc.) need to be professionally installed, integrated with other equipment from different manufacturers, and then configured in order to perform a specific function. Such products are considered to be "components" according to Q3.6 of the WEEE FAQ which states:

"Components cover the range of items that, when assembled, enable an EEE to work properly. Components placed on the market separately in order to be used to manufacture and/or repair an EEE fall outside the scope of the Directive unless they have an independent function themselves."

GAMBICA components which are specifically intended to be integrated in other professional equipment are only sold via B2B channels (not High Street or DIY stores) and are typically supplied to:

- Original Equipment Manufacturers (OEM's) for incorporation into machinery / equipment;
- Panel builders for incorporation into control panels.

Such GAMBICA components are therefore outside the scope of the Directive, and the OEM or panel builder who supplies the final machinery / equipment / control panel to the end user is therefore the "producer".

NOTE This approach is also consistent with the need to ensure that accurate data is available – not only for the B2B WEEE that is collected, but also for the B2B EEE that is placed on the market. This latter requirement means that any double (or even triple) counting of B2B EEE needs to be eliminated. To achieve this objective, each B2B EEE must only have one "producer" who is liable for the obligations that arise.

Scenario 3: Products sold for direct use by the end user

Products placed on the market for direct use by end users are considered EEE and fall within the scope of the WEEE Directive.

Such products may be stand-alone (i.e. not intended for incorporation into any other EEE) or may be intended for incorporation, by the end user, in his equipment (e.g. a graphics card for a computer).

Products sold via High Street or DIY stores are considered to be made directly available to an end user and are therefore also in the scope.

Products that are not classed as Type 1 or Type 2 will fall within the scope of the WEEE Directive unless a specific exclusion applies.

5. Marking

Article 14(4) of the WEEE Directive states:

"With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, Member States shall ensure that producers appropriately mark — preferably in accordance with the European standard EN 50419 — EEE placed on the market with the symbol shown in Annex IX."

Therefore, if a product is in scope then it needs to be marked. However the crossed-out wheeled bin symbol does not imply any registration or reporting responsibility.

6. Conclusions

If the GAMBICA product is:

- Type 1, then it is outside the scope of the WEEE Directive.
- Type 2, then the manufacturer who supplies the final machinery / equipment / control panel to the end user is the "producer". There are no obligations for the manufacturer of the incorporated GAMBICA product.
- Type 3, then the GAMBICA product is within the scope of the WEEE Directive and the GAMBICA product manufacturer must comply with the obligations set out in the UK legislation that implements the WEEE Directive.

In each case, the GAMBICA manufacturer shall make the final decision regarding the IN or OUT status based on their business scenario and fulfil any associated requirements.

Annex

Definition of LSFI and LSSIT

Large-scale fixed installation (LSFI)

Article 3(1)(c) of the WEEE Directive defines large-scale fixed installation as meaning:

“a large-size combination of several types of apparatus and, where applicable, other devices, which:

- (i) are assembled, installed and de-installed by professionals;
- (ii) are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location; and
- (iii) can only be replaced by the same specifically designed equipment”

Large-scale stationary industrial tool (LSSIT)

Article 3(1)(b) of the WEEE Directive defines large-scale stationary industrial tool as meaning:

“a large size assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility”.