

Fact Sheet

on the sale of electrical and electronic equipment

The German Electrical and Electronic Equipment Act ([Elektrogesetz](#) (in German), ElektroG) came into force on 24 October 2015. This carries the long name “Act on the reorganisation of the act on placing on the market, return and environmentally sound disposal of waste electrical and electronic equipment” and repeals the old Electrical and Electronic Equipment Act of 16.03.2005. From 15 August 2018 the final version of the law will apply.

1. Which devices are covered by the Electrical and Electronic Equipment Act and which are not?

Section 3 defines as electrical and electronic equipment

“Devices designed to operate on an alternating voltage of not more than 1000 volts or a direct current of not more than 1500 volts and

- a. Which are dependent on electric currents or electromagnetic fields for their proper operation; or
- b. Are used for the generation, transmission and measurement of electrical currents and electromagnetic fields.”

The Electrical and Electronic Equipment Act applies pursuant to Section 2 to electrical and electronic equipment falling into one of these categories:

1. Temperature exchange equipment
2. Screens, monitors, and equipment containing screens having a surface greater than 100 cm²
3. Lamps
4. Large equipment (any external dimension more than 50 cm)
5. Small equipment (no external dimension more than 50 cm)
6. Small IT and telecommunication equipment (no external dimension more than 50 cm)

An extensive but not exhaustive list of the individual devices falling under the equipment categories is contained in Appendix 1 to the ElektroG. Every electrical device must be registered in a category as result of the change in the law on 15.08.2018.

The few exceptions still existing are listed in Section 2 (2) ElektroG. These include, for example, devices that can only fulfil their function specifically as part of this other device, but also incandescent lamps or devices that have been specially designed exclusively for research and development purposes.

In case of doubt, the responsible persons have the possibility to ask stiftung ear (German register for waste electric equipment) for information on the obligation to register. The stiftung ear offers the oppor-



tunity to obtain an application for a certificate of the registration obligation (declaratory motion).

The responsible person can submit the application, after creating an applicant account in the ear-Portal, by e-mail or in writing to the stiftung ear. The applicant must explain which device is involved (e.g. indicating the area of application and mode of operation) and explain why, in his or her opinion, there is a case of doubt.

2. The obligation to register

Before a manufacturer or his/her authorised representative places electrical or electronic equipment on the market, he/she or his/her authorised representative is obliged to register with the competent authority with the type of equipment and the trade mark.

If this registration is not carried out or is not carried out properly, these devices must not be placed on the market. The Electrical and Electronic Equipment Act refers to the first making available of an electrical or electronic device on the German market.

Distributors are prohibited from selling electrical and electronic equipment if the manufacturers or authorised representatives are not or are not properly registered.

Section 3 No. 9 defines the term **manufacturer** as:

“any natural or legal person or partnership, irrespective of the selling method, including distance communication media within the meaning of Section 312c (2) of the German Civil Code, who

- a. manufactures electrical or electronic equipment
 - aa) under its name or trade mark and offers it within the scope of this Act, or
 - bb) who has them designed or manufactured and offers them under its name or trade mark within the scope of this Act,
- b. offers or resells commercially electrical or electronic equipment of other manufacturers under their own name or trade mark within the scope of this Act, whereby the seller or reseller shall not be regarded as a manufacturer if the name or trade mark of the manufacturer as referred to in point (a) appears on the equipment,
- c. for the first time, offers on the market within the scope of this Act electrical or electronic equipment originating in another Member State of the European Union or a third country or
- d. offers electrical or electronic equipment directly to end users within the scope of this Act, using means of distance communication, and is established in another Member State of the European Union or a third country;

a manufacturer shall also mean any distributor as defined in No. 11 who, contrary to the provisions of Section 6 (2), second sentence, intentionally or negligently offers for sale new electrical or electronic equipment from manufacturers who are not or not duly registered or from manufacturers whose authorised representatives are not or not duly registered;”

In these cases, the distributors are legally regarded as manufacturers and have to comply with all ma-



manufacturer's obligations under the Electrical and Electronic Equipment Act ("quasi manufacturer").

Distributor is in accordance with Section 3 No. 11:

"any natural or legal person or partnership which offers or makes available on the market electrical or electronic equipment".

The costs for this registration are determined by the Ordinance on Fees for the Electrical and Electronic Equipment Act (Gebührenverordnung zum Elektroggesetz, [ElektroGGebV](#) (in German)). For the granting of registrations with effect from 15.08.2018, a fee will be charged for each registration in accordance with Fee Fact no. 1 in accordance with Annex 1 to Section 1 ElektroGGebV. Registration in the new device categories has been possible since 01.05.2018.

Extract:

**Annex 1 to Section 1 ElektroGGebV
Ordinance on Fees**

(reference: BGBl. I 2007, pp. 3977-3979)

Nr.	Gebührentatbestand	Gebühr in Euro
Registrierung (§ 37 Absatz 1 ElektroG)		
1	Registrierung nach § 37 Absatz 1 Satz 1 oder Satz 2 ElektroG je Hersteller, Marke und Geräteart oder je Bevollmächtigten, vertretenen Hersteller, Marke und Geräteart	192,80

**Annex 1 to Section 1 ElektroGGebV
Ordinance on Fees**

(reference: BGBl. I 2007, pp. 3977-3979)

No.	Fee Fact	Fee in Euro
Registration (Section 37 (1) ElektroG)		
1	Registration according to Section 37 (1), first sentence or second sentence, ElektroG per manufacturer, trade mark and type of equipment or per authorised representative, represented manufacturer, trade mark and type of equipment	192.80

Issued registrations will be automatically transferred to the corresponding new device category on 26.10.2018, free of charge.



Changes regarding the transferred category can be achieved with an application. This is subject to a fee and is determined in accordance with the Fee Fact no. 15 of Annex 1 to Section 1 ElektroGGebV.

Extract:

15	Änderung der Registrierung im Hinblick auf die registrierte Geräteart nach § 37 Absatz 5 Satz 4 ElektroG je Registrierung nach Nummer 1 und je Änderung	166,80
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15	Change of registration with regard to the registered type of equipment according to Section 37 (5), fourth sentence, ElektroG per registration according to No. 1 and per change	166.80
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status as of: 30.07.2018)

For more information, see <https://www.stiftung-ear.de/en/>.

3. The WEEE registration number

The registration of electrical and electronic equipment is carried out at the stiftung elektro-altgeräte register (stiftung ear).

Each manufacturer is obliged to state its registration number when submitting an offer and on the invoices.

If a manufacturer does not have a registration number, the merchant must ask the manufacturer or must inquire on the website set up by stiftung ear whether the manufacturer is registered.

4. The labelling of the equipment

Electrical and electronic equipment, placed on the market after 13 August 2005 (for luminaires from private households and photovoltaic modules that are old equipment and were placed on the market before 24.10.2015), must be labelled in accordance with Section 9 (1) ElektroG before they are placed on the European market.

The labelling must be permanently affixed and includes the clear identification of the manufacturer and the labelling which can be used to establish that the equipment has been placed on the European market for the first time after the respective dates.

The equipment must also be permanently labelled with the symbol of the crossed-out bin.

Should it be necessary in exceptional cases due to the size or function of the electrical or electronic equipment, the symbol can be printed on the packaging, the instructions for use or the guarantee certificate instead of on the equipment. This shall also apply to labelling with a view to the time of placing



on the market, provided that the labelling is carried out together with the symbol.

Detailed information on the labelling of electrical and electronic equipment can be found in the e-book of the Händlerbund on the [Trade in electrical and electronic equipment](#) (in German).

5. The appointment of authorised representatives

There are further obligations for natural or legal persons or partnerships which are established in Germany and provide equipment commercially using means of distance communication in another Member State of the European Union.

If this equipment is to be made directly available to end users, Section 8 (5) ElektroG stipulates that, before it is made available on the market of this EU Member State, it is obligatory to appoint an authorised representative. This obligation already exists before equipment is offered there. Whether a purchase from this country actually takes place is irrelevant for the registration obligation.

An authorised representative is a natural or legal person or partnership which has been appointed by a manufacturer to carry out all the tasks on its own behalf in order to fulfil the manufacturer's obligations.

This obligation already applies now and without transitional periods.

6. The take-back obligation

In the course of taking back, a distinction must be made between two different constellations: the so-called 1-to-1 take-back obligation and the 0-to-1 take-back obligation.

a. 1-to-1 take-back obligation

Distributors with a sales area of at least 400 square metres for electrical and electronic equipment shall be obliged to take back, free of charge and at the point of sale or in the immediate vicinity thereof, a waste equipment of the end user of the same type of equipment, which essentially fulfils the same functions as the new equipment, when supplying a new electrical or electronic equipment to an end user.

The returned waste equipment does not have to be identical in all characteristics; otherwise the technological development could not be taken into account. For example, a conventional CRT monitor can be returned when buying a new LCD flat screen or a tower PC can be returned when buying a new laptop. The take-back obligation exists irrespective of whether the distributor carries the brand of the returned equipment in his assortment.

All storage and shipping areas for electrical and electronic equipment are regarded as sales area. According to the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit; BMUB), horizontal and vertical storage areas should be taken into account. This means that in addition to the shelf space, the remaining storage space for electrical and electronic equipment must also be taken into account. In the case of distributors with several dispatch warehouses, only the area at the respective location is decisive.



The decisive factor for chain stores or so-called shop-in-shops is the area of each individual store.

b. 0-to-1 take-back obligation

Distributors with a sales area for electrical and electronic equipment of at least 400 square metres are also obliged to take back waste equipment, which is not larger than 25 centimetres in external dimensions, free of charge. The peculiarity here is that the return must not be tied to the purchase of electrical or electronic equipment. Furthermore, since 01.06.2017 it has been limited to five devices per type of equipment.

All other distributors, i.e. distributors with a sales area of less than 400 square metres, can voluntarily take back waste equipment.

c. Practical implementation

For the fulfilment of their take-back obligation, online merchants, who are obliged to take back waste equipment, can basically choose how they comply with their take-back obligation at a reasonable distance from the end consumer. It is conceivable, for example, to cooperate with stationary retailers or social enterprises (e.g. Caritas, Lebenshilfe workshops) to which the end user brings the waste equipment directly.

Alternatively, return possibilities can be created. In the latter case, the nearest receiving point of a parcel service with which the distributor has contractual relations can generally be regarded as being at a reasonable distance from the final consumer.

The Electrical and Electronic Equipment Act allows distributors to set up additional collection systems, where the waste equipment can be collected at the domicile, for example. However, this does not release distributors from their take-back obligations, e.g. in cooperation with stationary retailers or social enterprises.

The collection and transfer points of the public waste management authorities (e.g. recycling facilities) are not such collection points. Reason: If online merchants could continue to refer to the public waste management authorities, this would undermine the merchants' own take-back obligation.

However, this does not exclude cooperation between distributors and public waste management companies. This does not limit the possibility of handing over old equipment to the public waste management authorities.

Distributors, who are obliged to take back waste equipment, must notify the collection points set to the competent authority. The competent authority is the German Federal Environment Agency (Umweltbundesamt).

With the amendment of the ElektroG as of 1st June 2017, a new fine was introduced. Anyone who does not take back waste equipment, does not do so correctly, not completely or not in time is now acting in



an administrative offence. This violation will be punished with a fine of up to €100,000.

7. Information requirements for distributors and manufacturers

The Electrical and Electronic Equipment Act stipulates, among other things, an obligation to provide information for **manufacturers** or their authorised representatives and for **distributors** who are subject to take-back obligations. Distributors, who are not subject to take back waste equipment, have no information obligations.

a. What does the distributor's obligation to inform include?

- Distributors, who are obliged to take back waste equipment, must inform private households of the following:
- The collection points they have created themselves,
- The individual responsibility of the end user with regard to deleting personal data from the old equipment to be disposed of, and
- The meaning of the symbol of the crossed-out bin,
- On the fact that owners of old equipment must ensure that it is collected separately from unsorted household waste. They must be informed that old batteries and accumulators which are not enclosed in the old equipment must be disconnected from it before disposal at a collection point.

b. Practical implementation in the online shop

In the online shop, a separate button labelled "Information for the disposal of Waste Electrical and Electronic Equipment" or similar wording must be set up and the corresponding information text is to be inserted centrally there.

If it is technically not possible to set up a centrally retrievable button with the information (such as on eBay or similar platforms), the information text should be inserted in the item description.

c. What does the manufacturer's obligation to inform include?

Manufacturers or their representatives must inform private households of the following:

- The collection points they have created themselves,
- The individual responsibility of the end user with regard to deleting personal data from the old equipment to be disposed of, and
- The meaning of the symbol of the crossed-out bin,
- On the fact that owners of old equipment must ensure that it is collected separately from unsorted household waste. They must be informed that old batteries and accumulators which are not enclosed in the old equipment must be disconnected from it before disposal at a collection point.



Each manufacturer is also obliged to state its registration number when offering and on invoices. “Offering” means the presentation or making available to the public of electrical or electronic equipment for sale as part of a commercial activity aimed at concluding a purchase contract; this also includes the invitation to submit an offer. Manufacturers should therefore complete the WEEE registration number in the item description.

8. End user’s request for the return of old equipment

When concluding the purchase contract for the new electrical or electric equipment, the end user must inform the distributor of his intention to return waste equipment when the new equipment is delivered.

For this reason, we recommend that online merchants include a query for end users in the checkout process of the online shop, asking the end users whether they want to return old equipment when the new equipment is delivered. At this point, the end user should explain his or her express request for return by activating an opt-in checkbox, for example.

Yes, I would like to return old equipment of the same type, which essentially fulfils the same functions as the new equipment, free of charge, when I buy the new equipment.

On platforms there is no possibility for online merchants to set up this query form. It is therefore advisable to request the customer’s feedback by e-mail immediately after placing an order. Alternatively, the customer can be asked within the item description to send a message about the return of old equipment during the purchase process.