

DRAFT SEPA Guidance on Waste Regulation that applies to Reuse Activities

Who is this guidance for?

This guidance is intended for:

- Anyone who undertakes activities which involves the reuse of products – for instance local authorities, charity shops, community reuse organisations, remanufacturing companies, repair shops / services, logistics companies that transport used goods, retailers that take back used goods, online reuse organisations, auction houses, pawnbroker etc.
- SEPA staff who advise and regulate reuse activities

What is the aim of the guidance?

The guidance aims to provide clarity on when waste legislation applies to reuse activities and what you have to do to comply.

When activities do fall within the scope of waste legislation, SEPA will act to protect the environment, maintain a level playing field and prevent illegal exports to developing countries. However, SEPA wants to make compliance as straightforward as possible, because we recognise the benefits of reuse to the environment, the economy and society in general.

We also want to ensure that SEPA staff are able to provide clear and consistent advice on which activities fall within the scope of waste legislation, and what the implications of this are.

What is the scope of the guidance?

This guidance applies to the reuse of **products** or components of products. It does not apply to **materials** for recycling, for example recovered paper, scrap metal, glass cullet etc.

Only products and components of products which are being **reused for their original purpose** can be considered to be 'reused' or 'prepared for reuse'. If the items are being used for a different purpose then this is 'recycling', and not within the scope of this guidance document. The Waste Framework Directive definitions of these terms are provided at the end of the guidance note.

SEPA reserves the right to depart from this guidance and to take appropriate action to avoid harm to human health or pollution of the environment.

What do we mean by 'reuse'?

Reuse means 'any operation by which products or components **that are not waste** are used again for the same purpose for which they were conceived' (Waste Framework Directive 2008)

If products become waste, then they must be prepared for reuse – 'checking, cleaning or repairing recovery operations by which products or components of products that have become waste are prepared so that they can be reused without any other pre-processing'. Preparation for reuse is a waste management activity and waste controls apply.

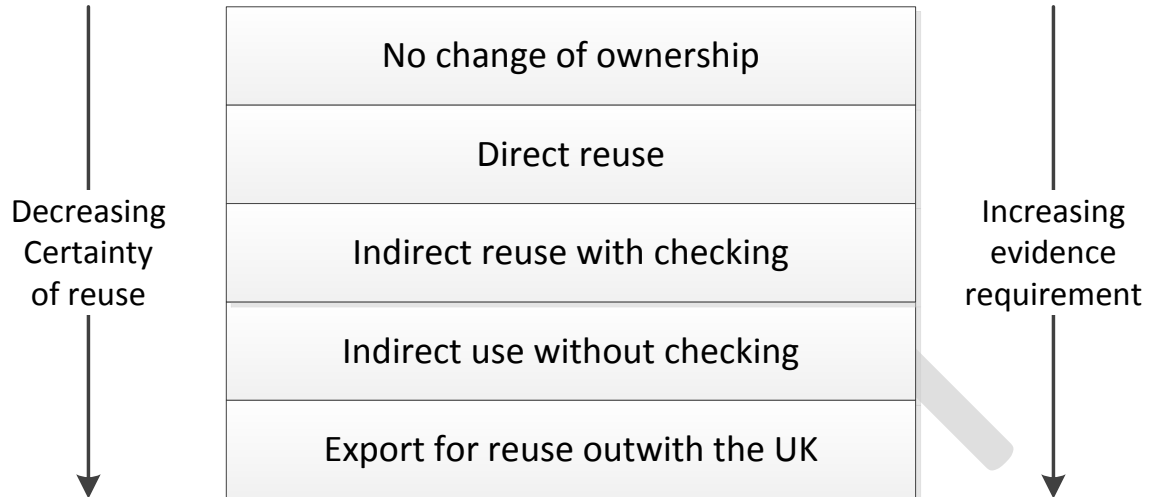
This document gives guidance on whether a product that is destined for reuse is a waste or a non-waste. Annex 1 provides full legal definitions and Annex 2 provides a flowchart to guide the decision.

SECTION 1 - I undertake an activity which involves reuse of products – does waste regulation apply to me?

The key question is whether there is **certainty that the item will actually be reused** even if some repair or refurbishment is required. European case law has ruled that reuse must be a certainty, not a mere possibility, for an item to be classed as non-waste.¹

In some situations there is clear certainty of reuse, and so the level of proof required is low, however in other situations there is a degree of doubt, and the level of proof required will be higher (see fig 1). If there is no certainty then SEPA will regard the item as waste, until it has been fully prepared and made available for reuse.

Fig 1



No change of ownership

Where there is no change of ownership of the item, and there is certainty that the item will be reused for its original purpose, then the item has not been discarded, and is not waste.

For example:

- > Repair services (including those carried out under warranty), and the item is returned to its original owner to be reused for its original purpose.
- > Servicing / maintenance, and the item is returned to its original owner to be reused for its original purpose.
- > Refit / Overhaul / Refurbishment (eg of electronics, trains, ships, oilrigs etc) , and the item is returned to its original owner to be reused for its original purpose.

Similarly, where there are multiple users of an item, but the ownership doesn't change, and there is certainty that the item will be reused for its original purpose, then the item has not been discarded, and is not waste.

For example

- > Hire (eg of equipment; clothes; tools etc)
- > Lease (eg cars, office equipment, carpets etc)
- > Reuse systems (eg gas bottles, vegetable crates, reusable transit packaging, refillable containers) – where items are still actively used in the system.

Notes: (1) these activities may themselves generate waste – for instance repair may involve removing a faulty / worn part, and replacement with a new one. Waste management controls apply to that waste material as soon as the waste arises. (2) Items stockpiled with no certainty of future use are waste, even if ownership remains the same.

¹ [Shell C-241/12 and C-242/12](#)
SEPA Guidance - reference number

Direct Reuse

Where transfer of ownership is direct from one user to another user and there is certainty that the item will be reused for its original purpose, this will usually indicate that there is certainty of reuse (because somebody wants the item), and waste management controls would not apply.

For example:

- > Giving or selling an item to a friend / colleague, and there is certainty it will be reused for its original purpose
- > Buying an item at a car boot sale, for your own use, for its original purpose
- > Sale of used items from one business user directly to another business user which will use it for its original purpose

Direct reuse includes situations where the exchange of items is facilitated by a third party, but the transfer of ownership is direct.

For example

- > Classified advertisements, where there is certainty the new owner will use the item for its original purpose
- > Online exchange (eg E-bay; gumtree, freecycle, etc), where there is certainty the new owner will use the item for its original purpose.
- > Physical exchange sites (eg auction houses), where there is certainty the new owner will use the item for its original purpose.

This includes items that require repair prior to reuse for their original purpose. However, if the new user subsequently discards the item, or sends it for recycling rather than reuse, then waste controls would apply.

Indirect reuse with checking

Where ownership transfers to a third party before passing on to its new owner, this introduces a degree of uncertainty over whether the item will actually be reused. However, if the items are checked prior to, or at the point of, acceptance, then this can give certainty that the item will in fact be reused, and waste management controls would not apply.

The types of checks will vary for different product groups – but would generally cover

- Condition – whether the item is in an acceptable condition for reuse
- Functionality and requirement for repair – whether the product is fully functional; if repair is required then this must be economically viable
- Technical requirements – whether the product meets all technical requirements for its sale /use.
- Marketability – whether a market exists for the product

SEPA would require systems in place to give assurance that the product will actually be reused.

For example:

- > Second hand shops – eg. books, antiques, architectural salvage, where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Pawnbroker / cashconverter, where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Charity shops – where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Remanufacturer - where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Trade in (of used items for cash / vouchers / points or as part exchange) - where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Return to supplier of unused items (eg under sale or return agreements), where checks are undertaken to give certainty that the items will be reused for their original purpose
- > Third sector organisation taking items from reuse containers at HWRC, where checks are undertaken to give certainty that the items will be reused for their original purpose

Indirect reuse with no prior check

If a third party accepts items with no prior checks to give certainty of reuse, then SEPA considers the items to be waste therefore subject to waste management controls. For example, if bulk deliveries of used clothing, electrical items or furniture are accepted without sufficient prior checking to provide certainty of reuse for each item in the load, then both parties must comply with the Duty of Care obligations and the recipient must have the appropriate waste management authorisation.

Examples are:

- > Charities accepting bulk donations of used items (eg textile collections from bring sites)
- > Managing items from house clearances where everything needs to be removed
- > Clearing whole offices of IT equipment including items which cannot be repaired.
- > Local authority reuse containers / shops accepting used items from members of the public, with no checks

Once waste items have been prepared for reuse and made available for resale / reuse they are no longer considered to be waste. These items may become waste again if there is no market demand for them and they are discarded.

Examples are:

- > Activities salvaging parts – once checked and made available for sale for its original purpose
- > Items sorted from bulk loads – once checked and made available for sale for its original purpose

Are items being exported or imported?

Where items are to be exported from, or imported to, the UK, then there is less certainty that the items will actually be reused. Because of this uncertainty, SEPA will assume that these items are waste unless it is demonstrated otherwise. [Schedule 9 of the WEEE Regulations 2013](#) sets out the minimum requirements for electrical and electronic items to be considered non waste, and SEPA considers this level of proof to be required for all exports intended for reuse – in summary:

- a copy of the invoice or contract stating that the item is destined for direct reuse and that it is fully functional and safe to use
- evidence of the testing should be attached to every item in the shipment, and records kept
- a declaration by the holder who arranges the transport that none of the items are waste
- appropriate protection against damage

If the items are classed as waste in any of the countries involved in the shipment, then the items must be treated as waste throughout the whole of the journey.

Protection of items for reuse

All items destined for reuse must be adequately protected during transit and storage - any failure to do so will reduce the certainty that the items can be reused, and will result in their classification as a waste.

SECTION 2: Waste legislation applies to me – how do I comply?

If you are handling waste then there is a 'duty of care' that applies. Please see the statutory [Duty of Care - Code of Practice](#) for further information. This duty includes a requirement to properly store waste, and only transfer it to someone authorised to handle it. You can check whether your contractor is registered [here](#). When waste is transferred it must be accompanied by a waste transfer note, which properly describes the waste, to ensure it can be managed safely and without harm to the environment.

If you are transporting waste in the course of your business then you must be registered as a professional collector and transporter of waste. If you use someone else to carry your waste they must be a registered waste carrier. Please see [here](#) for further information.

If waste is [classified as special](#) (ie hazardous), then any transfer of that waste must be notified in advance to SEPA and it must be accompanied by a Special Waste Consignment Note, which costs £15. Please see [SEPA guidance on special waste](#).

If you are carrying out activities to prepare a waste for reuse, then in most circumstances these activities do not need a waste management licence, but can be carried out as an exempt activity. These exempt activities must be registered with SEPA, and conditions must be complied with. You can see full details of exempt activities [here](#).

You can register the following exempt activities [on-line](#) for free. Alternatively you can download a paper form [here](#).

Paragraph	Activity
4	Cleaning, washing, spraying or coating of waste packaging and containers
11	Baling, sorting, shredding etc of specified wastes
14	The manufacture of finished goods and repair / refurbishment of waste goods
15	Beneficial use of waste without further treatment
17	Storage of specified wastes in a secure place
20	Cleaning waste textiles for recovery
48	The storage of WEEE pending recovery elsewhere

You must pay a fee to register certain other exempt activities, due to the nature of the materials. Paper forms can be downloaded [here](#).

Paragraph	Activity	Fee (2016-17)
45	The recovery of scrap metal or the dismantling of motor vehicles	£465 (Annual renewal £370)
47	The repair and/or refurbishment of WEEE	£465 (Annual renewal £370) Micro activity £150 (renewal £50)

If you are storing waste at the place of production then you do not need to register the exempt activity. Items are however regarded as waste and the duty of care applies.

If your activities are outwith the scope of any of the exempt activities, then you will need to apply for a waste management licence. Guidance on Waste Management Licensing is available [here](#).

Please note that the system of waste management licencing and exempt activities will be changing with the introduction of the new [environmental permitting regime](#).

If you are importing or exporting waste then [transfrontier shipment controls](#) apply.

Where do I get further information?

Further guidance is available on the [SEPA website](#), or via [NETREGS](#).

If you have any queries, you can contact SEPA on 03000 99 66 99, or by e-mail [here](#).

ANNEX 1: Legal Definitions

The below definitions are given in the European Waste Framework Directive 2008:

'Reuse' means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived

'Preparation for reuse' means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be reused without any other pre-processing

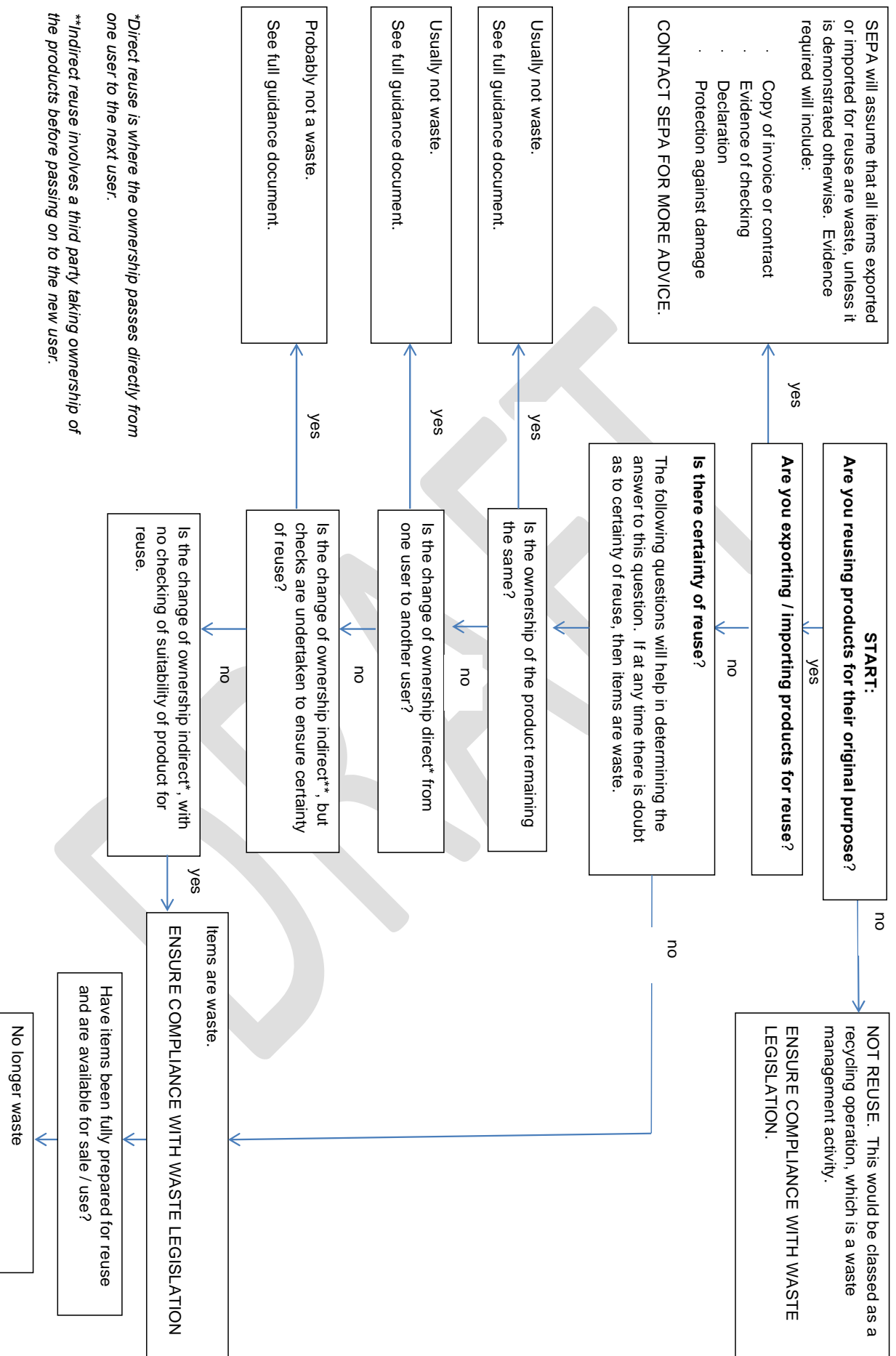
'Recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations

'Waste' means any substance or object which the holder discards or intends or is required to discard

SEPA has produced [guidance](#) to help decide whether something is waste or not. The European Commission has also produced [guidance](#) on interpretation of the key provisions in the Waste Framework Directive.

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ANNEX 2: DRAFT FLOWCHART TO HELP DETERMINE WHEN WASTE CONTROLS APPLY TO REUSE²



*Direct reuse is where the ownership passes directly from one user to the next user.

**Indirect reuse involves a third party taking ownership of the products before passing on to the new user.