



DUE DILIGENCE PROCESS FOR WEEE AND RoHS DIRECTIVES

1.0 Introduction

The purpose of this document is to assess HiTek Power's legal obligation for compliance to the WEEE and RoHS Directives. The scope of the RoHS Directive is taken from the scope of the WEEE Directive with the exception that product categories 8 and 9 (Medical devices and control & monitoring equipment respectively) are presently exempt from the RoHS Directive.

This document is only applicable for products that HiTek Power sells into the EU.

Unless otherwise stated HiTek Power means HiTek Power (UK).

2.0 Summary

The table below summarises the legal obligation for compliance to the WEEE and RoHS Directives. The reasons behind the statements are discussed below in greater detail.

No	Directive and product	HiTek Power legal obligation
1	WEEE – component power supplies	NONE
2	RoHS – high voltage component power supplies	NONE
3	RoHS – low voltage component power supplies	NONE
4	WEEE – high voltage finished power supplies	NONE
5	WEEE – low voltage finished power supplies	NONE
6	RoHS – high voltage finished power supplies	NONE
7	RoHS – low voltage finished power supplies	NONE
8	WEEE – cables	POSSIBLY
9	RoHS – cables	POSSIBLY

3.0 Who do the Directives apply to?

3.1 WEEE Directive

The WEEE Directive applies to a wide variety of organisations from producers through users to recyclers. From the organisations referred to in the UK guidance notes (2006) the appropriate ones relevant to HiTek Power are:

- a) A “producer” of Electrical and Electronic Equipment (EEE)
- b) A distributor selling EEE
- c) A non-household user of EEE

For the purpose of this document the first two directly relate to HiTek Power as a producer and distributor of EEE. The third one is relevant to HiTek Power when it comes to discard equipment and is not relevant here.

3.2 RoHS Directive

Responsibility for compliance to the RoHS Directive rests solely with the “producer” who places the “finished” product on the market. They have to ensure that all “producers” who supply components and subassemblies for incorporation into their finished product supply these parts as RoHS compliant. Producers of components and sub-assemblies may be required to sign Declarations to state that the parts they are supplying are RoHS compliant so Declarations will need to be supported by evidence.

HiTek Power will have a legal responsibility to ensure that the “finished” products it sells comply with the RoHS Directive provided that the products fall within the product categories specified in the RoHS Directive.

HiTek Power must ensure that all “component” power supplies that it sells as being RoHS compliant have robust evidence to support the RoHS claim.

It is also necessary to make a distinction for supplying RoHS compliant product for marketing or good environmental governance reasons when there is no legal basis to do so.

4.0 HiTek Power product range

The HiTek Power product range can be split into two distinct and different market groups. The first group is high voltage power supplies which HiTek Power designs and manufactures. The second group is low voltage power supplies which HiTek Power acts as a distributor of.

HiTek Power high voltage products are generally sold as low volume, high cost and high reliability. They tend to have a long life cycle with options to come back for upgrade/refurbishment. In contrast the low voltage products are targeted at the high volume low cost market with a correspondingly short life cycle.

For both groups HiTek Power products are used by professionals (ie business) and not sold for household use. All our products require electricity to make them work.

Within each of the two groups some of the power supplies can be classified as “finished” and others as “component”. A “finished” product has a direct function and is ready for use. A product of this type is often referred to as “stand-alone”. Both terms are used interchangeably within this document. In contrast a “component” product is designed exclusively for incorporation into a system.

The EC FAQs on the WEEE and RoHS Directive define a finished product as one that has a direct function, its own enclosure and, if applicable, ports and connections intended for end users. In the same document direct function is defined as any function which fulfils the intended use specified by the manufacturer in the instructions for an end user. This function can be available without further adjustment or connections other than simple ones which can be performed by any person not fully aware of the EMC implications.

This document analyses each of the 4 possible options against the WEEE Directive to see which one HiTek Power has a legal obligation towards. The options are:

- 1) High voltage – component
- 2) High voltage – finished
- 3) Low voltage – component
- 4) Low voltage – finished

At the same time it is necessary to determine whether any of the above 4 options fall under the scope of the RoHS Directive.

5.0 WEEE and RoHS Product categories

The product categories covered by the WEEE Directive are stated in Annex IA as:

- 1) Large household appliances
- 2) Small household appliances
- 3) IT and telecommunications equipment
- 4) Consumer equipment
- 5) Lighting equipment
- 6) Electrical and electronic tools (with the exception of large scale stationary industrial tools)
- 7) Toys, leisure and sports equipment
- 8) Medical devices (with the exception of all implanted and infected products)
- 9) Monitoring and control instruments
- 10) Automatic dispensers

Annex IB contains a list of products that fall under the under the categories set out in Annex IA (Article 2, point 1). Taken literally, the WEEE (and RoHS) Directives are only applicable to the products listed in Annex IA. Note that many of the guidance documents published claim that the list in Annex IB is for illustrative purposes only and is not exhaustive. However there is no such statement made in either the WEEE or RoHS Directives.

The product categories within the scope of the RoHS Directive follow those of the WEEE Directive with the exceptions of categories 8 and 9.

It should be noted that there is not a product category dedicated to power supplies. They tend to be either incorporated within another product, used in conjunction with a product (eg charger for a mobile phone) or be a standalone product used in isolation (eg in a laboratory / research environment). At first glance it would appear that our products fall within a “grey” area. This document aims to clarify the situation. It is recognised that a definitive ruling on whether a particular product falls within the scope of the WEEE Directive and hence the RoHS Directive can only be made by the legal profession, with the European Court of Justice having the final judgement.

ORGALIME is the European Engineering Industries Association and represents the interests of the mechanical, electrical, electronic and metalworking industries at the level of the EU. It has produced a guide specifically aimed to help with the scope, especially for products falling into the “grey” area. It clearly states that power supplies do not fall within the scope of the WEEE Directive because they do not fall within the 10 product categories of Annex IA. This guidance has also reproduced within the BSI document BIP2117 so adding credence to it.

6.0 Component power supplies and the WEEE Directive

The financing of the safe and responsible disposal of any HiTek Power component products that have been built into end equipment rests solely with the end user (ie the person discarding the equipment). In this case the legal obligation will fall upon the manufacturer of the end equipment. This applies to both high and low voltage power supplies. HiTek Power does not have a legal obligation for the WEEE Directive.

There may be contractual agreements set up between HiTek Power and the “producer” to cover the cost of disposal our product when the system reaches its end of life.

7.0 Component power supplies and the RoHS Directive

Legal compliance to the RoHS Directive will fall upon the producer who places the finished product on the market. Since these are component power supplies HiTek Power does not have a legal responsibility towards the RoHS Directive.

However some of the product range of component power supplies could be installed in equipment that fall within the scope of the RoHS Directive. In these cases HiTek Power should have a contractual duty to provide RoHS compliant product and must be able to provide a Declaration of Compliance with supporting evidence to justify this declaration.

It is considered that none of the high voltage product range would be used in equipment that falls within the scope of the RoHS Directive. The only exception could be the high voltage ink jet printer modules. In this case the ink jet printers will be used in industrial environments – some of our customers have requested RoHS compliant product, others have not.

In contrast it is considered that the low voltage product range could be used in equipment falling within the product categories, particularly product category 3. In fact it is considered that it is a general market requirement for the low voltage product range to be made RoHS compliant with very few exceptions.

8.0 Stand-alone power supplies and the WEEE Directive

From analysis of the examples of products given for each product category in Annex IB of the WEEE Directive it is clear that HiTek Power standalone products do not fall into the following product categories:

- 1) Large household appliances
- 2) Small household appliances
- 4) Consumer equipment
- 5) Lighting equipment
- 7) Toys, leisure and sports equipment
- 8) Medical devices
- 10) Automatic dispensers

This leaves the following product categories as possibilities:

- 3) IT and telecommunications equipment
- 6) Electrical and electronic tools
- 9) Monitoring and control equipment.

8.1 High voltage products

These would be laboratory type power supplies such as the OL400, OL1K with front panel controls. The possible product categories applicable are groups 3, 6 and 9. They would not be used as IT and telecommunications equipment. Based upon the examples in Annex IB they would not be classified as electrical and electronic tools and by a similar analysis they would not be classified as monitoring and control instruments. By this analysis there would be no legal obligation under the WEEE Directive for the high voltage products.

8.2 Low voltage products

These would include wall mount / desktop (lump in a cord) / plug top adaptors. This type of product fulfils the EU requirements for finished goods as they have a direct function, has its own enclosure and has ports and connections for end users. As there is no specific product category for power supplies there would be no legal obligation for HiTek Power under the WEEE Directive.

9.0 Stand-alone power supplies and the RoHS Directive

9.1 High voltage products

As for the high voltage products and the WEEE Directive the possible product categories applicable are groups 3, 6 and 9. Product group 9 is discounted because it is not applicable to the RoHS Directive. Product group 3 is discounted because HiTek Power does not sell standalone products that fit in with the examples quoted. Finally product group 6 is discounted for the same reasons as product group 3. There is no obligation for HiTek Power to meet the RoHS Directive for its standalone high voltage product range.

9.2 Low voltage products

There is no specific product category for power supplies so there would be no legal requirement to comply with the RoHS Directive. However if it was sold as a part of a product that had to comply with the RoHS Directive then it would also have to comply; however in this case it would be the responsibility of HiTek Power's customer to make RoHS compliance a contract requirement for the power supply he was purchasing. Again we are back to a case by case scenario; hence compliance to the RoHS Directive would have to be assessed on a case by case basis. This is clearly impractical and has led to most of the low voltage product range being made RoHS compliant.

10.0 Others

10.1 Cables

The EU has stated that cables fall under the scope of the RoHS and WEEE Directives although the UK is not in agreement with this. It is possible that we will have an obligation under the WEEE and RoHS Directives for cables that fall under the scope (or are supplied with or to be used with) of the Directive.

11.0 Documents consulted

The following documents were consulted during the preparation of this document:

- a) WEEE Directive
- b) DTI WEEE guidance documents (2004 & 2006)
- c) RoHS Directive
- d) DTI RoHS guidance documents (2004 & 2006)
- e) EU FAQs
- f) ORGALIME guide "A practical guide to understanding the scope of the WEEE and RoHS Directives"
- g) BSI publication BIP2117 "The Waste Electrical and Electronic Equipment Directive – A survey of requirements and implementation" October 2006.

12.0 Other correspondence

Correspondence with DEFRA via e-mail suggested that our products (both high voltage and low voltage) did not come under the WEEE Directive.

J Stroud

Version 2: 17 November 2006