Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2008/0240(COD)
Electrical and electronic equipment: restriction of the use of certain hazardous substances. Recast Repealing Directive 2002/95/EC 2000/0159(COD) Amended by 2013/0048(COD) Amended by 2017/0013(COD) Subject 3.40.06 Electronics, electrotechnical industries, ICT, robotics 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport)	Procedure completed

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ENVI Environment, Public Health and Food Safety		31/08/2009
		Verts/ALE EVANS Jill	
	Former committee responsible		
	ENVI Environment, Public Health and Food Safety		
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs		02/09/2009
		S&D GERINGER DE OEDENBERG Lidia Joanna	
	Former committee for opinion		
	JURI Legal Affairs		
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	3093	27/05/2011
	Environment	3021	11/06/2010
	Environment	2988	22/12/2009
	Environment	2968	21/10/2009
	Environment	2928	02/03/2009
European Commission	Commission DG	Commissioner	
	Environment	POTOČNIK Janez	

Key events

03/12/2008	Legislative proposal published	COM(2008)0809	Summary
02/03/2009	Debate in Council	2928	
12/03/2009	Committee referral announced in Parliament, 1st reading/single reading		
19/10/2009	Committee referral announced in Parliament, 1st reading/single reading		
21/10/2009	Debate in Council	2968	Summary

22/12/2009	Debate in Council	2988	Summary
02/06/2010	Vote in committee, 1st reading/single reading		Summary
11/06/2010	Debate in Council	3021	Summary
15/06/2010	Committee report tabled for plenary, 1st reading/single reading	A7-0196/2010	
22/11/2010	Debate in Parliament		
24/11/2010	Results of vote in Parliament		
24/11/2010	Decision by Parliament, 1st reading/single reading	T7-0431/2010	Summary
27/05/2011	Act adopted by Council after Parliament's 1st reading		
08/06/2011	Final act signed		
08/06/2011	End of procedure in Parliament		
01/07/2011	Final act published in Official Journal		

Technical information

Procedure reference	2008/0240(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
	Repealing Directive 2002/95/EC 2000/0159(COD) Amended by 2013/0048(COD) Amended by 2017/0013(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Modified legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/00135

Documentation gateway

Legislative proposal		COM(2008)0809	03/12/2008	EC	Summary
Document attached to the procedure		SEC(2008)2930	03/12/2008	EC	
Document attached to the procedure		SEC(2008)2931	03/12/2008	EC	
Economic and Social Committee: opinion, report		CES1032/2009	10/06/2009	ESC	
Committee of the Regions: opinion		CDR0217/2009	04/12/2009	CofR	
Committee draft report		PE430.424	14/12/2009	EP	
Amendments tabled in committee		PE439.865	19/03/2010	EP	
Amendments tabled in committee		PE439.897	19/03/2010	EP	

Amendments tabled in committee		PE442.855	26/05/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0196/2010	15/06/2010	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0431/2010	24/11/2010	EP	Summary
Commission response to text adopted in plenary		SP(2011)610	26/01/2011		
Draft final act		00062/2010/LEX	08/06/2011	CSL	
Follow-up document		COM(2016)0215	18/04/2016	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

Directive 2011/65
OJ L 174 01.07.2011, p. 0088 Summary

Corrigendum to final act 32011L0065R(01)
OJ L 209 04.08.2012, p. 0018 Summary

Corrigendum to final act 32011L0065R(02)
OJ L 044 14.02.2014, p. 0055 Summary

Final legislative act with provisions for delegated acts

Delegated acts

2016/2671(DEA)	Examination of delegated act
2016/2672(DEA)	Examination of delegated act
2013/2769(DEA)	Examination of delegated act
2013/2770(DEA)	Examination of delegated act
2013/2918(DEA)	Examination of delegated act
2013/2917(DEA)	Examination of delegated act
2013/2914(DEA)	Examination of delegated act
2013/2913(DEA)	Examination of delegated act
2013/2912(DEA)	Examination of delegated act
2013/2911(DEA)	Examination of delegated act
2013/2910(DEA)	Examination of delegated act
2013/2909(DEA)	Examination of delegated act
2013/2908(DEA)	Examination of delegated act
2013/2907(DEA)	Examination of delegated act
2013/2906(DEA)	Examination of delegated act
2013/2905(DEA)	Examination of delegated act

2013/2904(DEA)	Examination of delegated act
2013/2903(DEA)	Examination of delegated act
2013/2902(DEA)	Examination of delegated act
2013/2901(DEA)	Examination of delegated act
2014/2671(DEA)	Examination of delegated act
2014/2677(DEA)	Examination of delegated act
2014/2683(DEA)	Examination of delegated act
2014/2684(DEA)	Examination of delegated act
2014/2685(DEA)	Examination of delegated act
2014/2687(DEA)	Examination of delegated act
2014/2678(DEA)	Examination of delegated act
2014/2686(DEA)	Examination of delegated act
2015/2542(DEA)	Examination of delegated act
2015/2544(DEA)	Examination of delegated act
2015/2546(DEA)	Examination of delegated act
2016/2577(DEA)	Examination of delegated act
2015/2646(DEA)	Examination of delegated act
2015/2651(DEA)	Examination of delegated act
2017/2609(DEA)	Examination of delegated act
2017/2807(DEA)	Examination of delegated act
2018/2943(DEA)	Examination of delegated act
2018/2951(DEA)	Examination of delegated act
2018/2945(DEA)	Examination of delegated act
2017/2613(DEA)	Examination of delegated act
2017/2615(DEA)	Examination of delegated act
2018/2946(DEA)	Examination of delegated act
2018/2947(DEA)	Examination of delegated act
2018/2948(DEA)	Examination of delegated act
2018/2949(DEA)	Examination of delegated act
2018/2950(DEA)	Examination of delegated act
2018/2952(DEA)	Examination of delegated act
2018/2611(DEA)	Examination of delegated act
2018/2604(DEA)	Examination of delegated act
2018/2606(DEA)	Examination of delegated act

2018/2607(DEA)	Examination of delegated act
2018/2612(DEA)	Examination of delegated act
2018/2613(DEA)	Examination of delegated act
2018/2615(DEA)	Examination of delegated act
2018/2944(DEA)	Examination of delegated act
2019/2793(DEA)	Examination of delegated act
2019/2792(DEA)	Examination of delegated act

2008/0240(COD) - 03/12/2008 Legislative proposal

PURPOSE: to clarify Directive 2002/95/EC restricting the use of certain hazardous substances in electrical and electronic equipment (RoHS Directive), in order to simplify its implementation, improve its application at national level, adapt it to scientific and technical progress and ensure that it is coherent with other legal texts of the Commission.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: uncertainty about the scope of the Directive, lack of clarity on legal provisions and definitions as well as disparities in Member States' approaches to product compliance and potential duplication of procedure with other pieces of EU legislation such as REACH, generate unnecessary administrative costs. If the RoHS Directive is not reviewed, environmental benefits reaped from the legislation will remain sub-optimal. Uncertainty among manufacturers about legal requirements for demonstrating compliance with the RoHS Directive and about enforcement methodologies in the 27 Member States will persist, maintaining or increasing administrative burden.

The RoHS recast will enhance its complementarity and coherence with other relevant Community legislation, such as the "Marketing of Products Package" (regarding definitions and enforcement), REACH (regarding the use of substances), the Energy-using Products (EuP) Directive regarding the design of electrical and electronic equipment (EEE), and legislation related to management of waste from EEE. The aim is to reduce the administrative burden and make the RoHS Directive more cost effective.

CONTENT: the basic objectives and mechanisms of this Directive have not been changed. The ultimate aim is the elimination of certain hazardous substances from electrical and electronic equipment; where this is temporarily not possible, exemptions are granted. No new substances are proposed to be banned. The main proposed modifications are as follows:

Harmonisation of the scope: two new annexes describing the Directive?s scope are added, the first describing the broad product categories and the second, amendable by the Commission, providing binding product lists within each category. Medical devices and control and monitoring instruments are included to reap the environmental and health benefits from the reduction of use of hazardous substances in such equipment, but in a gradual manner so that adverse socioeconomic impacts are avoided.

Definitions: the definitions for economic operators are aligned to the "Marketing of products" package and new definitions, such as for "medical devices" and "homogeneous material" are added. Harmonised definitions, coherent with related Community legislation, enhance legal clarity and reduce administrative cost.

Substance ban: maximum concentration values for the banned substances are set (incorporation in the Directive of a Commission Decision) and permission to use non-compliant spare parts is extended to equipment benefiting from an exemption when placed on the market, to prevent premature withdrawal of equipment from use. A new annex with exemptions specific to the new product categories (medical devices and control and monitoring instruments) is added for cases where substitution is currently not feasible. A mechanism for introducing new substance bans in line with the REACH methodology is inserted to ensure coherence and maximise synergy with the work carried out under the chemicals' legislation. Detailed rules of this process will be developed through comitology. When developing these detailed rules, the Commission will give priority to using the expertise available at the European Chemicals Agency (ECHA). The Commission will invite ECHA to evaluate the substances concerned as a priority.

Exemptions mechanism: a 4-year maximum validity period for the exemptions is set to stimulate substitution efforts, provide legal security and shift the burden of proof to the applicant, in line with REACH. New criteria such as availability and reliability for granting exemptions are introduced to take into account broader socio-economic aspects. A mandate is given to the Commission for establishing detailed rules for the applicants to apply when requesting an exemption for facilitating them and speeding up the scrutiny process.

Evaluation of product conformity and market surveillance mechanisms: new provisions introduce product conformity assessment requirements and market surveillance mechanisms in line with the "Marketing of products" package. Reducing the number of non-compliant products through strengthened and harmonised market surveillance is a cost effective way of increasing the environmental benefit of the Directive. Harmonised conformity assessment requirements increase legal certainty and reduce the administrative cost for Member States and manufacturers.

2008/0240(COD) - 02/06/2010 Vote in committee, 1st reading/single reading

The Committee on the Environment, Public Health and Food Safety adopted the report by Jill EVANS (Greens/EFA, UK) on the proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances (RoHS) in electrical and electronic equipment (recast).

It recommended that the European Parliament?s position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission?s proposal as follows:

Purpose and scope: according to Members, the Directive should contribute to protection of human health and the environment, as well as the environmentally sound recovery and disposal of waste electrical and electronic equipment. The RoHS Directive should apply to all electrical and electronic equipment (EEE, and not simply to certain categories. Hence, the need to include in it cables, consumables and accessories.

The Directive should apply to electrical and electronic equipment that falls into category 11 of Annex I (other electrical and electronic equipment that that does not fall within the 10 existing categories) from 1 July 2014.

One amendment specifically excludes end-of-life vehicles and electronic components in these vehicles from the scope of the RoHS Directive.

In addition the Directive should not apply to:

- means of transport for persons or goods;
- large-scale fixed installations, except monitoring and control equipment;
- large-scale stationary industrial tools, except monitoring and control equipment;
- renewable energy generation technology intended to be used in a system that is designed, assembled, and installed for permanent use at a defined location to produce energy for public, commercial and residential applications;
- equipment which is manufactured in the Union or imported, and specifically designed for the purposes of research and development and not made available on the market for sale to the general public;
- non-road mobile machinery intended exclusively for professional use;
- equipment designed to be sent into space.

Notwithstanding the exclusion of certain EEEs from the Directive?s scope, Member States would have to take all necessary measures to ensure that economic operators reduce the exposure of consumers, workers and the environment to substances listed in Annex IV, present in EEE materials and components to as low a level as is technically and practically possible.

By 31 December 2014 at the latest, the Commission should present to Parliament and Council a report examining the Directive?s scope.

Reduction of emissions of persistent organic pollutants (POPs): the report stresses that the recast of the RoHS Directive needs to be put into the context of the EU?s international obligations to reduce total releases of dioxins and furans, with the goal of their continuing minimization and, where feasible, ultimate elimination. In this context, Members consider that the technical development of electrical and electronic equipment without heavy metals, brominated flame retardants, chlorinated flame retardants, PVC and its hazardous plasticisers should be taken into account.

Gradual elimination of PVC: the report refers to a study commissioned by the Commission on hazardous substances in electrical and electronic equipment highly recommended a phase-out of organobromines and organochlorines due to their potential to form polybrominated and polychlorinated dioxins and furans in waste treatment operations. It also recommends the labelling of beryllium metal and beryllium oxide and the voluntary phase-out combined with market surveillance of several other examined substances.

Priority risks: the report calls for consideration to be given as a matter of priority to the risks to human health and the environment arising from the use of substances listed in Annex XIV of Regulation (EC) No 1907/2006 with special attention to Hexabromocyclododecane (HBCDD), Bis (2-ethylhexyl) phthalate, Butyl benzyl phthalate (BBP) and Dibutylphthalate (DBP).

Adaptation to the REACH Regulation: underlining that the RoHS Directive supplements REACH, Members consider that a mechanism needs to be introduced to allow that restrictions or phase-outs under authorisation as adopted under REACH are carried over into RoHS. A detailed analysis of the added value of the RoHS should be undertaken on the occasion of the next reappraisal of Regulation (EC) No 1907/2006.

Development of renewable energies: according to Members, the Directive should not hinder the development of renewable energy technologies that present no danger to the environment and that are sustainable and economically viable, such as photovoltaic solar panels which should be excluded from the scope of this Directive.

Period of exemption: exemptions from the substitution requirement should be permitted if substitution is not possible from a scientific and technical point of view. Socio-economic considerations should be taken into account when deciding on the duration of an exemption. It should be possible to grant a grace period after expiry of an exemption in case more time is required to ensure adequate availability of substitutes, including for reasons of intellectual property restrictions.

Nanomaterials: to enable the Commission to assess the safety of nanomaterials in electrical and electronic equipment, economic operators should notify the use of nanomaterials in electrical and electronic equipment and provide all relevant data with regard to their safety for human health and the environment. The Commission should assess the information received and come forward with a legislative proposal for adequate risk management, if necessary. Producers should label electrical and electronic equipment that contains nanomaterials that can lead to exposure of consumers, in order to enable consumers to make an informed choice. Members also adopted an amendment that proposes the labelling of nanosilver and carbon nanotubes.

Comitology: the proposal provides that when there is an unacceptable risk to human health or the environment arising from the use of certain substances, and in particular those listed in Annex III, which needs to be addressed on a Community-wide basis, the list of prohibited substances in Annex IV shall be reviewed using a methodology based on the process set out in Regulation (EC) No 1907/2006. Those measures shall be adopted in accordance with the regulatory procedure with scrutiny.

Members consider that RoHS is a one-issue directive, i.e. it restricts hazardous substances in EEE. They feel that is not acceptable to delegate the power for decisions on the very essence of RoHS to comitology, let alone to a methodology in comitology which is yet to be defined, all the more that the legislator clearly mandated the Commission to make such proposals in co-decision.

To facilitate the adaptation of the Directive?s provisions, the Commission should be able to adopt delegated acts in relation to the adaptation of Annexes V, VI, VI, Via and VIb for the adoption of a format for applications for exemptions, detailed rules for compliance with maximum concentration values, on sampling and inspection, the definition of nanomaterials, standards for the detection of nanomaterials, the application of the labelling of nanomaterials and adaptations to REACH.

Review: taking account of the precautionary principle and based on an impact assessment, the Commission shall review and amend, within four years of the entry into force of the Directive, and then at regular intervals, the list of prohibited substances in Annex IV if it is considered

that a substance, or a group of similar substances in EEE or in the waste derived from it, is detrimental to the environmentally sound recovery or disposal of waste electrical and electronic equipment, or has an adverse impact on human health or the environment during use of EEE or treatment of waste EEE.

Particular attention shall be paid during that review to whether such substances or groups of substances to establish whether they could be replaced by safer substitutes or alternative technologies.

The Commission shall adopt measures to extend the scope of Annex IV, as appropriate, by means of delegated acts. A Member State or the European Parliament may request the Commission at any time to submit such a proposal.

Obligation of distributors: when making an EEE available on the market distributors act with due care in relation to the requirements applicable, in particular that the EEE bears the CE marking, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in the Directive.

The EC declaration of conformity shall be available in the respective official languages of each Member State in which the EEE is placed on the market or made available on the market.

Transparency: to reduce legal uncertainty and economic risks the exemptions mechanism should become more workable, clear and transparent. Members propose the creation of a Consultation Forum, similar to Directive 2009/125EC on Eco Design, to ensure a continuous and structured stakeholder consultation mechanism in the implementation process of the directive.

2008/0240(COD) - 24/11/2010 Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 640 votes to 3, with 12 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the restriction of the use of certain hazardous substances (RoHS) in electrical and electronic equipment (recast).

Parliament adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission?s proposal as follows:

Purpose and scope: according to the compromise text, the Directive should contribute to protection of human health and the environment, as well as the environmentally sound recovery and disposal of waste electrical and electronic equipment.

Member States shall provide that electrical and electronic equipment that was outside the scope of Directive 2002/95/EC, but which would be in non-compliance with this Directive, may nevertheless continue to be made available on the market until eight years after the entry into force of the Directive.

In addition, the Directive does not apply to:

- equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes;
- equipment designed to be sent into space;
- equipment which is specifically designed and to be installed as part of another type of equipment that is excluded or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment, and which can be replaced only by the same specifically designed equipment;
- large-scale stationary industrial tools;
- large-scale fixed installations;
- means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;
- non-road mobile machinery made available exclusively for professional use;
- active implantable medical devices;
- photovoltaic panels intended to be used in a system that is designed, assembled and installed by professionals for permanent use at a defined location to produce energy from solar light for public, commercial, industrial and residential applications;
- equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis.

Definitions: a number of definitions should be included in this Directive in order to specify its scope. In addition, the definition of ?electrical and electronic equipment? should be complemented by a definition of ?dependent?, to cover the multipurpose character of certain products, where the intended functions of electrical and electronic equipment are to be determined on the basis of objective characteristics, such as the design of the product and its marketing.

Prevention: Member States shall ensure that EEE placed on the market, including cables and spare parts for its repair, its reuse, updating of its functionalities or upgrading of its capacity, does not contain the substances listed in Annex II.

This provision shall not apply to the re-use of spare parts recovered from EEE put on the market before 1 July 2006 in equipment placed on the market before 1 July 2016, under the condition that re-use takes place in auditable closed-loop business-to-business return systems, and that re-use of parts is notified to the consumer.

Adaptation to the REACH Regulation: for the purposes of adapting Annexes III and IV to scientific and technical progress, the Commission shall adopt measures such as the inclusion of materials and components of EEE for specific applications in Annexes III and IV on exemptions if such inclusion does not weaken the environmental and health protection of Regulation (EC) No 1907/2006 (REACH) and where any of the following conditions is fulfilled. In particular, the risks to human health and the environment arising from the use of Hexabromocyclododecane (HBCDD), Bis (2-ethylhexyl) phthalate (DEHP), Butyl benzyl phthalate (BBP) and Dibutylphthalate (DBP) should be considered as a priority.

The decision on the inclusion of materials and components of EEE in Annexes III and IV on exemptions and the length of possible exemptions shall take into account the availability of substitutes and the socio-economic impact of substitution. Decisions on the length of possible exemptions shall take into account any potential adverse impacts on innovation.

Measures adopted for categories 1 to 7, 10 and 11 of Annex I, have a validity period of up to five years and, for categories 8 and 9 of Annex I, a validity period of up to seven years, to be decided on a case-by-case basis and which can be renewed.

An application for renewal shall be made no later than 18 months before an exemption expires. The Commission shall decide on an application for renewal no later than 6 months before the expiry date of the existing exemption unless specific circumstances justify other deadlines. The existing exemption shall in any case remain valid until a decision on the renewal application is taken by the Commission.

In the event that the application for renewal is rejected or that an exemption is deleted, there shall be a minimum period of 12 months and maximum period of 18 months from the date the decision is taken before the exemption expires.

In order to ensure uniform conditions of implementation, the Commission, in accordance with the procedure referred to in Article 19(2), shall adopt a harmonised format for applications pursuant to paragraph 3 as well as comprehensive guidance for such applications, taking into account the situation of SMEs.

Review and amendment of the list of restricted substances in Annex II: as soon as scientific evidence is available, and taking into account the precautionary principle, the restriction of other hazardous substances, including any substances of very small size or internal or surface structure (nanomaterials) which may be hazardous due to properties relating to their size or structure, and their substitution by more environmentally friendly alternatives which ensure at least the same level of protection of consumers should be examined

To this end, the review and amendment of the list of restricted substances in Annex II should be coherent, should maximise synergies with, and should reflect the complementary nature of the work carried out under other Union legislation, and in particular under Regulation (EC) No 1907/2006 while ensuring the mutually independent functioning of this Directive and that Regulation . Consultation with the relevant stakeholders should be carried out and specific account should be taken of the potential impact on SMEs.

Obligations of distributors: Member States shall ensure that when making an EEE available on the market, distributors act with due care in relation to the requirements applicable in particular by verifying that the EEE bears the CE marking, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in this Directive.

Presumption of conformity: in the absence of evidence to the contrary, Member States shall presume electrical and electronic equipment bearing the CE marking as conforming to this Directive.

Materials, components and EEE on which tests and measurements demonstrating compliance with the requirements of this Directive have been performed, or which have been assessed, in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union, shall be presumed to comply with the requirements of this Directive.

Comitology: there is a need for uniform conditions for implementing this Directive, particularly with regard to the guidelines and format of applications for exemptions.

According to Article 291 of the Treaty on the Functioning of the European Union (TFEU), rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

Delegated acts: the Commission should be empowered to adopt delegated acts in respect of amendments to Annex II, detailed rules for complying with maximum concentration values, and the adaptation to technical and scientific progress of Annexes III and IV.

Review: no later than three years following the entry into force of the Directive, the Commission shall examine the need to amend the scope of this Directive in respect of the EEE concerned, and shall present a report thereon to the European Parliament and the Council accompanied by a legislative proposal, if appropriate, with respect to any additional exclusions related to that EEE.

No later than ten years following the entry into force of the Directive, the Commission shall carry out a general review of this Directive, and shall present a report to the European Parliament and the Council accompanied, if appropriate, by a legislative proposal.

2008/0240(COD) - 08/06/2011 Corrigendum to final act

n/a

2008/0240(COD) - 08/06/2011 Corrigendum to final act

Corrigendum to Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment

(Official Journal of the European Union L 174 of 1 July 2011)

On page 95, at the end of Article 9(b),

for:

?... and that the manufacturer has complied with the requirements set out in points (f) and (g) of Article 7;',

read:

?... and that the manufacturer has complied with the requirements set out in points (g) and (h) of Article 7;'.

2008/0240(COD) - 08/06/2011 Final act

PURPOSE: to strengthen the rules on the use of hazardous substances in electrical and electronic equipment (EEE)in order to contribute to the protection of human health and the environmentally sound recovery and disposal of waste EEE.

LEGISLATIVE ACT: Directive 2011/65/EU of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

CONTENT: following an agreement in first reading with the European Parliament, the Council adopted a Directive recasting 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment. This will extend protection from dangerous chemicals to more electrical appliances and improve the safety of products such as mobile phones, refrigerators and electronic toys.

Scope: in the revised legislation: the ban on the use of six dangerous substances (amongst them lead, mercury, and cadmium) in electrical and electronic equipment is extended to more products, while harmonising it across the EU: in principle the ban will now apply to all electrical and electronic equipment as well as to cables and spare parts. Certain transitional periods are provided for: three years (22 July 2014) for monitoring and control devices and medical devices; five years (22 July 2016) for in vitro medical devices and six years (22 July 2017) for industrial control appliances.

In order to attain the EU's ambitious targets for renewable energy and energy efficiency, photovoltaic panels to produce energy from solar light do not have to comply with the restriction. Energy-saving light bulbs are also temporarily exempted from the Directive.

Adaptation of the Annexes to scientific and technical progress: the Directive ensures that the measures are kept under review and, if necessary, adjusted to take account of available technical and scientific information.

The annexes to the Directive will be reviewed periodically to take into account of Regulation (EC) No 1907/2006 (REACH). In particular, the risks to human health and the environment arising from the use of Hexabromocyclododecane (HBCDD), Bis (2- ethylhexyl) phthalate (DEHP), Butyl benzyl phthalate (BBP) and Dibutyl phthalate (DBP) must be considered as a priority.

Measures adopted in this context shall, for categories 1 to 7, 10 and 11 of Annex I, have a validity period of up to 5 years and, for categories 8 and 9 of Annex I, a validity period of up to 7 years. The validity periods are to be decided on a case-by-case basis and may be renewed. An application for renewal of an exemption shall be made no later than 18 months before the exemption expires. In order to ensure uniform conditions for the implementation of the Directive, the Commission shall adopt a harmonised format for applications as well as comprehensive guidelines for such applications, taking into account the situation of SMEs.

Review and amendment of the list of restricted substances in Annex II : as soon as scientific evidence is available, and taking into account the precautionary principle, it will be necessary to examine the restriction of other hazardous substances, including any substances of very small size or with a very small internal or surface structure (nanomaterials) which may be hazardous due to properties relating to their size or structure, and their substitution by more environmentally friendly alternatives which ensure at least the same level of protection of consumers.

CE marking: the conformity marking applicable for products at Union level, CE marking, will also apply to EEE that is subject to the Directive. In the absence of evidence to the contrary, Member States shall presume EEE bearing the CE marking to comply with Directive.

Review: no later than 22 July 2014 the Commission shall examine the need to amend the scope of this Directive in respect of the EEE concerned, and shall present a report accompanied by a legislative proposal, if appropriate, with respect to any additional exclusions related to that EEE. No later than 22 July 2021 the Commission shall carry out a general review of the Directive, and shall present a report accompanied, if appropriate, by a legislative proposal.

ENTRY INTO FORCE: 21/07/2011.

TRANSPOSITION: 02/01/2013.

DELEGATED ACTS: the Commission is empowered to adopt delegated acts in respect of amendments to Annex II, detailed rules for complying with maximum concentration values, and the adaptation of Annexes III and IV (exemptions) to technical and scientific progress. The power to adopt the delegated acts is conferred on the Commission for a period of 5 years from 21 July 2011. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it. The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification (which period may be extended for 2 months.) If the European Parliament or the Council objects to the delegated act, it shall not enter into force.