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 (recast) (Text with EEA relevance)

Article 5

Adaptation of the Annexes to scientific and technical progress

1 For the purposes of adapting Annexes III and IV to scientific and technical progress, and in order to achieve the objectives set out in Article 1, the Commission shall adopt by means of individual delegated acts in accordance with Article 20 and subject to the conditions laid down in Articles 21 and 22, the following measures:

a inclusion of materials and components of EEE for specific applications in the lists in Annexes III and IV, provided that such inclusion does not weaken the environmental and health protection afforded by Regulation (EC) No 1907/2006 and where any of the following conditions is fulfilled:

— their elimination or substitution via design changes or materials and components which do not require any of the materials or substances listed in Annex II is scientifically or technically impracticable,

— the reliability of substitutes is not ensured,

— the total negative environmental, health and consumer safety impacts caused by substitution are likely to outweigh the total environmental, health and consumer safety benefits thereof.

Decisions on the inclusion of materials and components of EEE in the lists in Annexes III and IV and on the duration of any exemptions shall take into account the availability of substitutes and the socioeconomic impact of substitution. Decisions on the duration of any exemptions shall take into account any potential adverse impacts on innovation. Life-cycle thinking on the overall impacts of the exemption shall apply, where relevant;

b deletion of materials and components of EEE from the lists in Annexes III and IV where the conditions set out in point (a) are no longer fulfilled.

2 Measures adopted in accordance with point (a) of paragraph 1 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.

[[F1]For the exemptions listed in Annex III as at 21 July 2011, unless a shorter period is specified, the maximum validity period, which may be renewed, shall be:

a for categories 1 to 7 and category 10 of Annex I, 5 years from 21 July 2011;

b for categories 8 and 9 of Annex I, 7 years from the relevant dates laid down in Article 4(3); and

c for category 11 of Annex I, 5 years from 22 July 2019.**]**

For the exemptions listed in Annex IV as at 21 July 2011, the maximum validity period, which may be renewed, shall be 7 years from the relevant dates laid down in Article 4(3), unless a shorter period is specified.

3 An application for granting, renewing or revoking an exemption shall be made to the Commission in accordance with Annex V.

Status: *EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

4 The Commission shall:

a acknowledge receipt of an application in writing within 15 days of its receipt. The acknowledgement shall state the date of receipt of the application;

b inform the Member States of the application without delay and make the application and any supplementary information supplied by the applicant available to them;

[[F2]ba within 1 month of receipt of an application, provide to the applicant, the Member States and the European Parliament a timeline for the adoption of its decision on the application;**]**

c make a summary of the application available to the public;

d evaluate the application and its justification.

5 An application for renewal of an exemption shall be made no later than 18 months before the exemption expires.

[[F3]The Commission shall decide on an application for renewal of an exemption no later than 6 months before the expiry date of the existing exemption unless specific circumstances justify other deadlines.**]** The existing exemption shall remain valid until a decision on the renewal application is taken by the Commission.

6 In the event that the application for renewal of an exemption is rejected or that an exemption is revoked, the exemption shall expire at the earliest 12 months, and at the latest 18 months, after the date of the decision.

7 Before Annexes are amended, the Commission shall, inter alia, consult economic operators, recyclers, treatment operators, environmental organisations and employee and consumer associations and make the comments received publicly available.

8 The Commission shall adopt a harmonised format for applications referred to in paragraph 3 of this Article as well as comprehensive guidelines for such applications, taking into account the situation of SMEs. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Textual Amendments

F1 Substituted by Directive (EU) 2017/2102 of the European Parliament and of the Council of 15 November 2017 amending Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Text with EEA relevance).

F2 Inserted by Directive (EU) 2017/2102 of the European Parliament and of the Council of 15 November 2017 amending Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Text with EEA relevance).

F3 Deleted by Directive (EU) 2017/2102 of the European Parliament and of the Council of 15 November 2017 amending Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Text with EEA relevance).