Commission Delegated Directive (EU) 2016/1029 of 19 April 2016 amending, for the purposes of adapting to technical progress, Annex IV to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for cadmium anodes in Hersch cells for certain oxygen sensors used in industrial monitoring and control instruments (Text with EEA relevance)

COMMISSION DELEGATED DIRECTIVE (EU) 2016/1029

of 19 April 2016

amending, for the purposes of adapting to technical progress, Annex IV to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for cadmium anodes in Hersch cells for certain oxygen sensors used in industrial monitoring and control instruments

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard 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[(1)], and in particular Article 5(1)(a) thereof,

Whereas:

(1) Directive 2011/65/EU prohibits the use of cadmium in electrical and electronic equipment placed on the market. Cadmium is present in the anodes of Hersch Cells, which are used in specialised, high-sensitivity oxygen sensors. In comparison to the Hersch cell sensors, all available alternative technologies do not provide the same sensitivity, reliability and accuracy when measuring oxygen concentration at very low levels.

(2) The reliability of alternatives to Hersch Cells using cadmium for oxygen sensors in industrial monitoring and control instruments is not ensured where sensitivity below 10 parts per million is required. The use of cadmium anodes in Hersch cells for oxygen sensors used in industrial monitoring and control instruments, where sensitivity below 10 parts per million is required, should therefore be exempted from the prohibition.

(3) As currently no cadmium-free alternatives are sufficiently reliable for the specific use and considering that for monitoring and control instruments 7 years is a relatively short transition period which is unlikely to have adverse impacts on innovation, pursuant to Article 5(2) of Directive 2011/65/EU, a corresponding validity period of exemption should be granted.

(4) Directive 2011/65/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

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.

Article 1

Annex IV to Directive 2011/65/EU is amended as set out in the Annex to this Directive.

Article 2

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2017 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 19 April 2016.

For the Commission

The President

Jean-Claude JUNCKER

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.*

ANNEX

In Annex IV to Directive 2011/65/EU, the following point 43 is added:

43. Cadmium anodes in Hersch cells for oxygen sensors used in industrial monitoring and control instruments, where sensitivity below 10 ppm is required.

Expires on 15 July 2023.

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.*

(**1**) OJ L 174, 1.7.2011, p. 88.