
STATUTORY INSTRUMENTS

2020 No. 1647

The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020

PART 2

Retention of legislative functions: restriction of hazardous substances in electrical and electronic equipment

Power to grant, extend or revoke exemptions

5.—(1) The Secretary of State may, by regulations, amend Schedule A2 to the 2012 Regulations to make provision for or in connection with granting, renewing or revoking an exemption.

(2) Regulations under paragraph (1) may only be made if they are for the purposes of—

- (a) adapting Schedule A2 to take into account scientific or technical progress; and
- (b) contributing to achievement of the objective of the protection of human health and the environment, including the environmentally sound recovery and disposal of waste EEE.

(3) The Secretary of State must, when making regulations under paragraph (1)—

- (a) when determining whether to grant or renew an exemption, take into account the availability of substitute materials or components and the socioeconomic impact of substitution;
- (b) when determining the duration of an exemption, take into account any potential adverse impacts on innovation;
- (c) where relevant, take into account the overall environmental, social and economic impacts of an exemption over the whole duration of the exemption.

(4) The regulations may not make any provision which the Secretary of State considers would weaken the environmental or health protection afforded by GB REACH.

(5) The regulations may not grant or renew an exemption unless the Secretary of State considers that—

- (a) the elimination or substitution of the material or component, via design changes or use of materials or components which do not include any restricted substances, is scientifically or technically impracticable;
- (b) the reliability of substitute materials or components is not ensured; or
- (c) the total negative environmental, health and consumer safety impacts caused by substitution of another material or component is likely to outweigh the total environmental, health and consumer safety benefits of the substitution.

(6) Subject to paragraph (9), regulations which grant or renew an exemption must specify its expiry date.

(7) The expiry date must be not more than—

- (a) 5 years from the date on which the exemption or renewal comes into force, for an exemption relating to EEE in category 1 to 7, 10 or 11;
 - (b) 7 years from the date on which the exemption or renewal comes into force, for an exemption relating to EEE in category 8 or 9.
- (8) The expiry date for an exemption is subject to—
- (a) any regulations which may be made by the Secretary of State to revoke the exemption from an earlier date, or to renew the exemption; and
 - (b) the exemption continuing into force after its expiry date under regulation 6(4) or 7(4), or the expiry date not applying by virtue of regulation 10(3), where the circumstances specified in those paragraphs apply.
- (9) Regulations need not specify an expiry date for an exemption if the exemption is for spare parts for EEE manufactured before a date specified in the regulations.
- (10) The Secretary of State must make regulations to revoke an exemption if the Secretary of State considers that—
- (a) the exemption weakens the environmental or health protection afforded by GB REACH; or
 - (b) the relevant condition in paragraph (5) is no longer fulfilled in relation to the exemption.