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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION DELEGATED DIRECTIVE (EU) .../... of 16.12.2022 amending Directive 2000/53/EC of the European Parliament and of the Council as regards the exemptions for the use of lead in aluminium alloys for machining purposes, in copper alloys and in certain batteries

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Delegations will find attached document C(2022) 9214 final.

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Encl.: C(2022) 9214 final



Brussels, 16.12.2022  
C(2022) 9214 final

**COMMISSION DELEGATED DIRECTIVE (EU) .../...**

**of 16.12.2022**

**amending Directive 2000/53/EC of the European Parliament and of the Council as regards the exemptions for the use of lead in aluminium alloys for machining purposes, in copper alloys and in certain batteries**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

This Commission Delegated Directive amends, for the purpose of adapting to technical progress, Annex II of Directive 2000/53/EC of the European Parliament and of the Council on the end-of-life vehicles<sup>1</sup> (ELV) as regards an exemption for specific applications containing lead. The draft delegated act is the result of the process under ELV Directive to amend Annex II according to technical and scientific progress, in accordance with the procedure established in the Article 4(2), point (b) of the ELV Directive.

The ELV Directive restricts the use of certain hazardous substances in materials and components of vehicles put on the market after 1 July 2003, as provided for in its Article 4(2)(a). Currently, vehicles and parts for vehicles placed on the Union market shall not contain lead, mercury, cadmium and hexavalent chromium<sup>2</sup>.

Annex II to the ELV Directive lists the materials and components of vehicles for specific applications that are exempted from the substance restriction of ELV Article 4(2).

Article 4(2)(b) provides that Annex II shall be amended on a regular basis, according to technical and scientific progress. Furthermore, Article 1 of Directive 2018/849/EU<sup>3</sup> amending Article 4(2), point (b) of the ELV Directive provides that such amendment of Annex II shall be done by means of delegated acts.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The current exemptions 2(c)(i), 3, and 5(b) in Annex II permit the use of lead in aluminium alloys, copper alloys and in batteries. Annex II to the ELV Directive<sup>4</sup> provides that exemptions 2(c)(i), 3, and 5(b) shall be reviewed in 2021.

With a view to evaluating these exemptions, the Commission launched a study to carry out the required technical and scientific assessment, including an eight-week online open-ended stakeholder consultation. The consultants' final report<sup>5</sup> concluded:

- for exemption 2(c)(i) the use of lead is currently unavoidable. Technical progress indicates that the use of lead is expected to be phased out by end of 2027. Therefore, the use of lead should be prolonged and the exemption will be removed as of 1 January 2028;
- for exemption 3 the use of lead should be prolonged and a review is recommended in 2025;
- for exemption 5(b) the use of lead in batteries for battery applications can be avoided only for some applications. Two options were proposed in the report:
  - (1) Restrict the scope of exemption:

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<sup>1</sup> OJ L 269, 21.10.2000, p.34.

<sup>2</sup> See Article 4(2)(a) of the ELV Directive.

<sup>3</sup> Directive 2018/849/EU amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators and 2012/19/EU on waste electric and electronic equipment, OJ L 150, 14.6.2018, p. 93

<sup>4</sup> Commission Directive (EU) 2017/2096/EC amending Annex II to Directive 2000/53/EC of the European Parliament and the Council on end-of-life vehicles, OJ L 299, 16.11.2017, p. 24

<sup>5</sup> <https://data.europa.eu/doi/10.2779/373311>.

- Restrict the exemption to lead in batteries used in 12 V applications, with a review recommended in 2025;
  - Remove the exemption to lead in batteries in all other applications such as 24 V and 48 V applications without prejudice to exemption 5(a) for lead in batteries in high voltage systems.
- (2) Introduce two separate entries 5(b)(i) and 5(b)(ii) as follows:
- 5(b)(i) would continue the exemption on lead in batteries used in 12 V applications, with a review recommended in 2025.
  - 5(b)(ii) would allow the use of lead in batteries in 24 V<sup>6</sup> and in 48 V applications until the end of 2023.

Based on the conclusions provided in the consultants' final report, it is proposed to follow this second option due to the lack of substantiated data on sufficient scientific and technical progress that would justify avoidance of lead in batteries used for the applications listed above.

Taking into account the contributions received during the 4-week-public consultations with the stakeholders<sup>7</sup>, it is proposed to complement entry 5(b)(i) and only to allow the use of lead in batteries in 24 V applications in special purpose vehicles as defined in Article 3 of Regulation (EU) 2018/858 of the European Parliament and of the Council<sup>8</sup>, with a review recommended in 2025.

Subsequently, the Commission informed Member States expert group on the draft findings of the consultancy study during an expert meeting on 28 June 2021 and then via written consultation until 20 January 2022.

All applicable steps relating to exemptions from the substance restriction pursuant to Articles 5(3) to 5(7) have been performed.<sup>9</sup>

### 3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Directive grants an exemption from the restrictions in Article 4(2), to be listed in Annex II of Directive 2000/53/EC, for the use of lead in specific applications.

The instrument is a Delegated Directive, as provided for by Directive 2018/849/EU, and in particular meeting the relevant requirements of Article 1(1)(b) thereof.

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<sup>6</sup> With the exception for special purpose vehicles

<sup>7</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13006-Heavy-metals-in-scrapped-vehicles-updated-list-of-exemptions\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13006-Heavy-metals-in-scrapped-vehicles-updated-list-of-exemptions_en)

<sup>8</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1)

<sup>9</sup> A list of the required administrative steps is available on the [Commission website](https://webgate.ec.europa.eu/regdel/#/home). Current stage of the procedure can be viewed for each draft delegated act in the Interinstitutional Registry of Delegated Acts at <https://webgate.ec.europa.eu/regdel/#/home>.

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of 16.12.2022

**amending Directive 2000/53/EC of the European Parliament and of the Council as regards the exemptions for the use of lead in aluminium alloys for machining purposes, in copper alloys and in certain batteries**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles<sup>10</sup>, and in particular Article 4(2), point (b), thereof,

Whereas:

- (1) Pursuant to Article 4(2), point (a), of Directive 2000/53/EC, Member States are to ensure that materials and components of vehicles put on the market after 1 July 2003 do not contain lead, mercury, cadmium or hexavalent chromium.
- (2) Annex II to Directive 2000/53/EC lists vehicle materials and components that are exempt from the prohibition pursuant to Article 4(2), point (a), thereof.
- (3) The Commission assessed the exemption set out in entry 2(c)(i) of Annex II to Directive 2000/53/EC regarding aluminium alloys for machining purposes in view of technical and scientific progress. This assessment led to the conclusion that there are suitable alternatives available, but that a transitional period is needed to replace the use of lead in all the materials and components covered by that exemption. The use of lead in the materials and components concerned, including lead in wrought aluminium, could be phased out by the end of 2027. It is therefore appropriate to provide for an expiry date for that exemption.
- (4) The Commission assessed the exemption set out in entry 3 of Annex II to Directive 2000/53/EC regarding copper alloys in view of technical and scientific progress. This assessment led to the conclusion that there are still no suitable alternatives to the use of lead in the materials and components covered by that exemption. Taking into account the progress made in the development of substitutes to lead in the materials and components concerned, it is appropriate to provide for a new review date for that exemption.
- (5) The Commission assessed the exemption set out in entry 5(b) of Annex II to Directive 2000/53/EC regarding lead in batteries for battery applications not included in entry 5(a) of that Annex, which concerns batteries in high voltage systems, in view of technical and scientific progress. This assessment led to the conclusion that the use of lead in batteries for battery applications not included in entry 5(a) of Annex II to Directive 2000/53/EC can be avoided for some applications but not for batteries used

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<sup>10</sup> OJ L 269, 21.10.2000, p. 34.

in 12 V applications. In order to apply a consistent regulatory framework for batteries, including those that are not falling under the exemption set out in entry 5(a) of Annex II to Directive 2000/53/EC and are not used in 12 V applications, it is appropriate to provide for two separate entries 5(b)(i) and 5(b)(ii) instead of a single entry 5(b).

- (6) Entry 5(b)(i) should provide an exemption for the use of lead in batteries used in 12 V applications and for the use of lead in batteries used in 24 V applications in special purpose vehicles as defined in Article 3 of Regulation (EU) 2018/858 of the European Parliament and of the Council<sup>11</sup>. Taking into account the progress made in the development of substitutes to the use of lead in the batteries concerned, it is appropriate to provide for a review date for those exemptions.
- (7) Entry 5(b)(ii) should provide for an exemption for the use of lead in batteries for other battery applications that are not included in entry 5(a) and entry 5(b)(i) of Annex II to Directive 2000/53/EC. The assessment led to the conclusion that lead-based batteries for those applications are avoidable given the progress made in the development of substitutes to the use of lead in batteries used in such applications. It is therefore appropriate to provide for an expiry date for that exemption that allows phasing out of the use of lead in the batteries concerned.
- (8) Directive 2000/53/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

Annex II to Directive 2000/53/EC is replaced by the text 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 1 June 2023. 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*.

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<sup>11</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 16.12.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*