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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION DELEGATED DIRECTIVE (EU) .../... of 17.12.2019
amending Annex II to Directive 2000/53/EC of the European Parliament
and of the Council on end-of-life vehicles as regards certain exemptions for
lead and lead compounds in components

Delegations will find attached document C(2019) 9121 final.

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Brussels, 17.12.2019
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COMMISSION DELEGATED DIRECTIVE (EU) .../...

of 17.12.2019

amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles as regards certain exemptions for lead and lead compounds in components

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

CONTEXT OF THE DELEGATED ACT

This Commission Delegated Directive amends, for the purpose of adapting to technical and scientific progress, Annex II of Directive 2000/53/EC of the European Parliament and of the Council on the end-of-life vehicles¹ (ELV) as regards four exemptions 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 and under Article 1(1) of Directive (EU) 2018/849 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 electrical and electronic equipment².

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 chromium³.

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 (EU) 2018/849 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.

CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The current exemptions 8(e), 8(f)(b), 8(g) and 8(j) in Annex II permit the use of lead in solders. Annex II to the ELV Directive⁴ provides that exemptions 8(e), 8(f)(b) and 8(g) shall be reviewed in 2019 and exemption 8(j) has been re-assessed in view of the latest information on technical difficulties in this area.

With a view to evaluating these exemptions, the Commission launched a study to carry out the required technical and scientific assessment⁵, including an eight-week online open-ended stakeholder consultation.

For exemption 8(e) it was assessed the progress achieved on component and material level since the last review in 2015/2016 (7th amendment of Annex II), in particular whether the substitution or elimination of lead is still technically and scientifically impracticable for attach of small dies. Furthermore, available lead-free solutions were investigated as to whether and how far they can be or are already qualified for use in automotive applications. The information available by the stakeholders suggests that the use of lead is still unavoidable. A review is proposed in 2024.

For exemption 8(f)(b) the assessment showed that lead-free compliant pin connector systems (CoPICS) are increasingly available. However, as some additional time is needed to

¹ OJ L 269, 21.10.2000, p.34.

² OJ L 150, 14.6.2018, p. 93

³ See Article 4(2)(a) of the ELV Directive.

⁴ Commission Directive (EU) 2017/2096 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

⁵ http://ec.europa.eu/environment/waste/elv/events_en.htm.

accommodate the automotive industry's responsibility for the safety of their products, the exemption will be ended by 31 December 2023.

Exemption 8(g) is relevant for all automotive models being designed, produced and currently on the market. Some examples of applications used in vehicles are electronic stability control system, advance emergency braking systems, distance control, lane departure warning system, frontal projection systems, pedestrian protection, hydrogen and hybrid cars, car radios, vision systems, navigation. The report also evaluated whether the new wording of exemption 15(a) of Annex III of Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment⁶ (RoHS Directive) can be adopted for exemption 8(g). However, a transition period is needed for the flip chip on lead frame (FCOL) to be adapted. Subsequently, the new wording granting an exemption with a more narrow scope, in alignment with the wording of exemption 15 of RoHS Annex III is introduced as from 1 October 2022. Until this time, the existing exemption remains valid. A review is proposed in 2024.

For exemption 8(j) there are lead-free solutions. Although it cannot be excluded that lead could be replaced, there are still unsatisfactory testing results for some applications. Subsequently, in line with the EU policies and aquis, the existing exemption 8(j) expires by 31 December 2019 and the new exemption 8(k) with a more narrow scope will be applicable until 31 December 2023.

The final report containing the assessment of the exemptions was published.⁷

The Commission consulted the Member States expert group for delegated acts under ELV during an expert meeting on 8 March 2019. The evaluation challenges, in particular for exemption 8(j) were discussed and the views of the Member States were collected. The Commission consulted the Member States expert group for delegated acts under ELV again on 3 September 2019 and their views were collected.

The Council and the European Parliament were notified of the draft delegated act.

LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Directive grants an exemption from the restrictions in Article 4(1), 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 (EU) 2018/849, and in particular meeting the relevant requirements of Article 1(1)(b) thereof.

On the basis of the information collected, the Commission proposes the following:

for exemptions 8(e) the use of lead remains unavoidable, therefore, the use of lead will be prolonged and a review date in 2024 is proposed;

for exemption 8(g) the use of lead remains unavoidable, therefore the use of lead will be prolonged. However, it is proposed to keep the current wording until 30 September 2022 to allow the automotive industry to transition to the scope changes and a new exemption with a more narrow scope is proposed as from 1 October 2022 with a review date in 2024;

for exemption 8(f)(b) the use of lead can be avoided, therefore, it is proposed to end the exemption for the use of lead;

⁶ OJ L 174, 1.7.2011, p. 88

⁷ https://ec.europa.eu/environment/waste/elv/events_en.htm

exemption 8(j) gives exemption for the use of lead in solders for soldering of laminated glazing for vehicles type approved before 1 January 2020 and spare parts for these vehicles. For exemption 8(j) the use of lead can be avoided. However, there is no certainty that suitable alternatives to the use of lead exist at this time for some applications. It is therefore appropriate to narrow the scope of the exemption, with a limited continuation, as follows:

8(k). Soldering of heating applications with 0.5A or more of heat current per related solder joint to single panes of laminated glazings not exceeding wall thickness of 2.1 mm. This exemption does not cover soldering to contacts embedded in the intermediate polymer for vehicles type approved before 1 January 2024 and spare parts for these vehicles.

In accordance with the principle of proportionality, the measure does not go beyond what is necessary to achieve its objective.

The proposal has no implications for the EU budget.

Commission Delegated Directive (EU) .../... of 17.12.2019 amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles as regards certain exemptions for lead and lead compounds in components

(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 vehicles⁸, and in particular Article 4(2)(b) thereof,

Whereas:

- (1) Pursuant to Article 4(2)(a) of Directive 2000/53/EC, Member States are to prohibit the use of lead, mercury, cadmium and hexavalent chromium in materials and components of vehicles put on the market after 1 July 2003.
- (2) Annex II to Directive 2000/53/EC lists vehicle materials and components exempt from the prohibition pursuant to Article 4(2)(a) thereof. Pursuant to Annex II, exemptions 8(e), 8(f)(b) and 8(g) are to be reviewed in 2019. Exemption 8(j) also needs to be re-assessed in view of the latest information on technical and scientific progress.
- (3) An assessment of exemptions 8(e) and 8(g) in view of that information led to the conclusion that there are currently no suitable alternatives to the use of lead for the materials and components covered by those exemptions. A date for a new review of those exemptions should therefore be set. Exemption 8(g), however, should be further specified with a more narrow scope. In order to allow the automotive industry to adapt to those changes, the current scope of exemption 8(g) should be maintained for vehicles of a type approved before 1 October 2022, while the narrower scope of that exemption should apply for vehicles of a type approved from that date.
- (4) The assessment of exemption 8(f)(b) leads to the conclusion that the use of lead in the applications covered by that exemption should not be prolonged because there are alternatives to the use of lead in those applications.
- (5) The assessment of exemption 8(j) which gives an exemption to the use of lead in solders for soldering of laminated glazing led to the conclusion that, for some applications, there are alternatives to the use of lead in solders for soldering of laminated glazing. However, there are some glass panes and applications for which there is no certainty that suitable alternatives to the use of lead exist at this time. It is therefore appropriate to lay down a new, more limited, exemption 8(k) for those glass panes and applications.
- (6) Exemption 8(j) applies only with respect to vehicles of a type approved before 1 January 2020. In order to ensure that the use of lead continues to be exempted for those glass panes and applications for which there is no certainty that suitable alternatives to the use of lead exist at this time, it is necessary for the new exemption 8(k) to apply as soon as possible. Therefore, this Directive should enter into force as a matter of urgency.

⁸ OJ L 269, 21.10.2000, p. 34.

(7) Directive 2000/53/EC should therefore be amended accordingly.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 2000/53/EC is amended as set out in the Annex to this Directive.

Article 2

1. Member States shall adopt and publish by (xxx one month after publication) at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. 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 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, 17.12.2019

For the Commission
The President
Ursula VON DER LEYEN