












Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2017/0013(COD) Procedure completed
Restriction of the use of certain hazardous substances in electrical and electronic equipment: scope of the Directive Amending Directive 2011/65/EU 2008/0240(COD)	
Subject 3.40.06 Electronics, electrotechnical industries, ICT, robotics 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport)	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Environment, Public Health and Food Safety	 VĂLEAN Adina-Ioana	31/01/2017
		Shadow rapporteur	
		 KADENBACH Karin	
		 DOHRMANN Jörn	
		 HUITEMA Jan	
		 RIVASI Michèle	
		 PEDICINI Piernicola	
		 D'ORNANO Mireille	
		Committee for opinion	Rapporteur for opinion
 Industry, Research and Energy		The committee decided not to give an opinion.	
 Legal Affairs		The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Employment, Social Policy, Health and Consumer Affairs3569		23/10/2017
European Commission	Commission DG	Commissioner	
	Environment	VELLA Karmenu	
European Economic and			

Key events			
26/01/2017	Legislative proposal published	COM(2017)0038	Summary
01/02/2017	Committee referral announced in Parliament, 1st reading		
30/05/2017	Vote in committee, 1st reading		
30/05/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
01/06/2017	Committee report tabled for plenary, 1st reading	A8-0205/2017	Summary
12/06/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
14/06/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
11/07/2017	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE608.074	
03/10/2017	Results of vote in Parliament		
03/10/2017	Decision by Parliament, 1st reading	T8-0362/2017	Summary
23/10/2017	Act adopted by Council after Parliament's 1st reading		
15/11/2017	Final act signed		
15/11/2017	End of procedure in Parliament		
21/11/2017	Final act published in Official Journal		

Technical information	
Procedure reference	2017/0013(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2011/65/EU 2008/0240(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/8/09146

Documentation gateway					
Legislative proposal		COM(2017)0038	26/01/2017	EC	Summary

Document attached to the procedure		SWD(2017)0022	26/01/2017	EC	
Document attached to the procedure		SWD(2017)0023	26/01/2017	EC	
Committee draft report		PE602.843	28/04/2017	EP	
Amendments tabled in committee		PE604.650	08/05/2017	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0205/2017	01/06/2017	EP	Summary
Economic and Social Committee: opinion, report		CES1986/2017	05/07/2017	ESC	
Text agreed during interinstitutional negotiations		PE608.074	14/07/2017	EP	
Text adopted by Parliament, 1st reading/single reading		T8-0362/2017	03/10/2017	EP	Summary
Draft final act		00040/2017/LEX	15/11/2017	CSL	
Commission response to text adopted in plenary		SP(2017)766	06/12/2017	EC	

Final act

[Directive 2017/2102](#)

[OJ L 305 21.11.2017, p. 0008](#) Summary

Final legislative act with provisions for delegated acts

Restriction of the use of certain hazardous substances in electrical and electronic equipment: scope of the Directive

PURPOSE: to contribute to the protection of human health and the environmentally sound recovery and disposal of waste electrical and electronic equipment by the means of restriction on the use of hazardous substances in electrical and electronic equipment (EEE).

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2011/65/EU (RoHS 2) sets out rules on the restriction of the use of certain hazardous substances in electrical and electronic equipment (EEE). RoHS 2 is a recast of the earlier RoHS Directive 2002/95/EC (RoHS 1). Both RoHS directives have stimulated a reduction in hazardous materials all over the world.

The Commission has a mandate to examine the need to amend the Directives scope in respect of the EEE definition and of additional exclusions of product groups covered by RoHS 2 by virtue of the open scope introduced with the 2011 recast.

The Commission has carried out this assessment and identified a number of issues related to the scope of RoHS 2 that need to be addressed to avoid the legislation having unintended effects. In absence of a Commission proposal, the following problems would arise after 22 July 2019:

- the interdiction of secondary market operations (e.g. reselling, second-hand market) for new-in-scope EEE. This is known as the 'hard-stop';
- the stop of the possibility to repair with spare parts a subset of new-in-scope EEE once legally placed on the market before that date;
- the different (distorting) treatment of cord-connected non-road mobile machinery in comparison to otherwise identical machinery powered by a battery or an engine (currently excluded from RoHS scope);
- the de-facto prohibition of pipe organs placement on the EU market (as not RoHS-compliant due to the lead used to produce the wanted sound).

This proposal treats these four problems which could affect the EU market, manufacturers and citizens and trigger negative economic, environmental, social and cultural impacts.

IMPACT ASSESSMENT: the Commissions proposed measures would solve the four identified problems:

- restoring the secondary market and increasing spare part availability for certain EEE will have the following positive impacts: (i) a reduction of costs and administrative burden both for business, including SMEs, and for public authorities; (ii) positive economic impact in terms of additional market opportunities given to the repair industries and secondary selling; (iii) positive social impact, including for EU hospitals, which would save about EUR 170 million after 2019, due to maintaining the possibility to resell and buy used medical devices; (iv) environmental benefits in terms of reduced overall waste generation;
- the exclusion of pipe organs from the Directives scope will help avoid the loss of up to 90% of jobs in the sector and the annual loss of up to EUR 65 million by 2025;
- the exclusion of non-road mobile machinery powered through a traction drive from the Directives scope will support industry

development in the sector by removing distortion in the treatment of machinery.

CONTENT: the proposal seeks to amend Directive 2011/65/EU (RoHS 2). It tackles scope problems that cannot be resolved by either substance substitution or exemptions and guidance, e.g. for specific product groups with permanent compliance problem or where scope provisions generate market distortions.

The main elements of the proposal are as follows:

Secondary market: after 22 July 2019, both the first placing on the market and secondary market operations (e.g. reselling) of non-compliant EEE will be prohibited. EEE affected by this 'hard-stop' of secondary market operations are medical devices, monitoring and control instruments and other new-in-scope EEE. This barrier to secondary market operations is not consistent with the general harmonisation of EU product legislation.

For this reason, the Commission proposes to remove the hardstop of secondary market operations.

Spare parts: RoHS 2 creates an exception (to the general substance restriction) for cables and spare parts for the repair, reuse, updating of functionalities or upgrading of capacity of the groups of EEE gradually becoming subject its scope. However, newly-in-scope EEE other than medical devices and monitoring and control instruments are not listed.

The Commission therefore proposes to introduce a specific provision to exclude spare parts from substance restriction, so to allow the repair at any time of all EEE in RoHS 2 scope, which were placed on the EU market.

Non road mobile machinery: the proposal broadens the definition of non-road mobile machinery to include machinery powered by a cord-connected traction drive, in addition to similar machinery powered by an on-board power source. As a consequence, non-road mobile machinery powered through a traction drive will be excluded from the scope of RoHS 2.

Pipe organs: the Commission also proposes to add pipe organs to the list of excluded equipment due to the lack of alternatives for substitution.

Restriction of the use of certain hazardous substances in electrical and electronic equipment: scope of the Directive

The Committee on the Environment, Public Health and Food Safety adopted the report by Adina-Ioana V?LEAN (EPP, RO) on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

As a reminder, the Commissions proposal amends the scope of [Directive 2011/65/EU](#) on the restriction of the use of certain hazardous substances in electrical and electronic equipment (or RoHS 2). The scope review aims to tackle unintended side-effects of the Directive that would arise after 22 July 2019.

The parliamentary committee recommended that the European Parliaments position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Assessment of existing equipment: to support the wide idea of circular economy, Members proposed using retrofit as a process for assessing the condition of existing equipment in order to decide, which components need to be replaced, which ones need to be repaired or modified and which ones can be reused, all based also on the future requirements of the equipment owner/user.

Adaptation of the Annexes to scientific and technical progress: Members stressed that an individual delegated act may cover a limited number of technically-related or interdependent measures.

Exemptions: for the sake of better regulation and legal predictability, the report introduced a requirement for the Commission to provide to the applicant, the Member States and the European Parliament a clear timeline for the adoption of its decision, within one month after receipt of an application for an exemption.

Review: Members stated that the next general review of this Directive shall be accompanied by a legislative proposal.

Restriction of the use of certain hazardous substances in electrical and electronic equipment: scope of the Directive

The European Parliament adopted by 645 votes to 28, with 6 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending [Directive 2011/65/EU](#) on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

The European Parliaments position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Assessment of existing equipment: to take account of the concept of circular economy, Parliament proposed to use not only repair, replacement of spare parts, refurbishment and reuse but also retrofitting as an assessment of the state of existing equipment.

Conditions for exemption: Parliament clarified that reused spare parts from EEE should be exempted provided that reuse takes place in auditable closed-loop business-to-business return systems, and that the reuse of spare parts is notified to the consumer.

Exemptions limiting the use of certain hazardous substances shall apply to reused spare parts:

- recovered from EEE placed on the market before 1 July 2006 and used in EEE placed on the market before 1 July 2016;
- recovered from medical devices or monitoring and control instruments placed on the market before 22 July 2014 and used in EEE placed on the market before 22 July 2024;
- recovered from in vitro diagnostic medical devices placed on the market before 22 July 2016 and used in EEE placed on the market

- before 22 July 2026;
- recovered from industrial monitoring and control instruments placed on the market before 22 July 2017 and used in EEE placed on the market before 22 July 2027;
- recovered from all other EEE that was outside the scope of Directive 2002/95/EC and which is placed on the market before 22 July 2019, and used in EEE placed on the market before 22 July 2029.

Requests for renewal of exemptions: Parliament introduced an obligation for the Commission to communicate to the applicant, the Member States and the European Parliament a timeline for the adoption of its decision on the application, renewal or revocation of an exemption, within one month of receipt of the exemption request.

Transposition: Member States shall transpose the Directive 18 months after the date of entry into force of this Directive but no later than 21 July 2019.

Restriction of the use of certain hazardous substances in electrical and electronic equipment: scope of the Directive

PURPOSE: to contribute to the protection of human health and the environmentally sound recovery and disposal of waste electrical and electronic equipment

(EEE) by means of the restriction of the use of hazardous substances in EEE.

LEGISLATIVE ACT : Directive (EU) 2017/2102 of the European Parliament and of the Council amending Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment.

CONTENT: the Directive provides for the exclusion of pipe organs and non-road mobile machinery with a traction drive powered by an external power source from the scope of application of Directive 2011/65/EU.

It also provides for the promotion of promote a circular economy in the Union by lifting the prohibition of secondary market operations (which involve repair, replacement of spare parts, refurbishment and reuse, and retrofitting) for EEE that fell outside the scope of the previous Directive 2002/95/EC, but which would not comply with [Directive 2011/65/EU](#).

The Directive specifies that reused spare parts, recovered from EEE, shall be exempted provided that reuse takes place in auditable closed-loop business-to-business return systems, and that the reuse of spare parts is notified to the consumer.

The Commission will be required to provide to the applicant, the Member States and the European Parliament a timeline for the adoption of its decision on granting, renewing or revoking an exemption within one month of receipt of the a request for exemption.

ENTRY INTO FORCE: 11.12.2017.

TRANSPOSITION: by 12.6.2019.