

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
(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) A number of substantial changes are to be made to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽⁴⁾. In the interest of clarity, that Directive should be recast.
- (2) The disparities between the laws or administrative measures adopted by the Member States regarding the restriction of the use of hazardous substances in electrical and electronic equipment (EEE) could create barriers to trade and distort competition in the Union and may thereby have a direct impact on the establishment and functioning of the internal market. It therefore appears necessary to lay down rules in this field and to contribute to the protection of human health and the environmentally sound recovery and disposal of waste EEE.
- (3) Directive 2002/95/EC provides that the Commission shall review the provisions of that Directive, in particular, in order to include in its scope equipment which falls within certain categories and to study the need to adapt the list of restricted substances on the basis of scientific progress, taking into account the precautionary principle, as endorsed by Council Resolution of 4 December 2000.

(4) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste ⁽⁵⁾ gives first priority to prevention in waste legislation. Prevention is defined, *inter alia*, as measures that reduce the content of harmful substances in materials and products.

(5) Council Resolution of 25 January 1988 on a Community action programme to combat environmental pollution by cadmium ⁽⁶⁾ invited the Commission to pursue without delay the development of specific measures for such a programme. Human health also has to be protected and an overall strategy that in particular restricts the use of cadmium and stimulates research into substitutes should therefore be implemented. The Resolution stresses that the use of cadmium should be limited to cases where suitable alternatives do not exist.

(6) Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants ⁽⁷⁾ recalls that the objective of protecting the environment and human health from persistent organic pollutants cannot be sufficiently achieved by the Member States, owing to the trans-boundary effects of those pollutants, and can therefore be better achieved at Union level. Pursuant to that Regulation, releases of persistent organic pollutants, such as dioxins and furans, which are unintentional by-products of industrial processes, should be identified and reduced as soon as possible with the ultimate aim of elimination, where feasible.

(7) The available evidence indicates that measures on the collection, treatment, recycling and disposal of waste EEE as set out in Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁽⁸⁾ are necessary to reduce the waste management problems associated with the heavy metals and flame retardants concerned. In spite of those measures, however, significant parts of waste EEE will continue to be found in the current disposal routes inside or outside the Union. Even if waste EEE were collected separately and submitted to recycling processes, its content of mercury, cadmium, lead, chromium VI, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE) would be likely to pose risks to health or the environment, especially when treated in less than optimal conditions.

⁽¹⁾ OJ C 306, 16.12.2009, p. 36.

⁽²⁾ OJ C 141, 29.5.2010, p. 55.

⁽³⁾ Position of the European Parliament of 24 November 2010 (not yet published in the Official Journal) and decision of the Council of 27 May 2011.

⁽⁴⁾ OJ L 37, 13.2.2003, p. 24.

⁽⁵⁾ OJ L 312, 22.11.2008, p. 3.

⁽⁶⁾ OJ C 30, 4.2.1988, p. 1.

⁽⁷⁾ OJ L 158, 30.4.2004, p. 7.

⁽⁸⁾ OJ L 37, 13.2.2003, p. 24.

ANNEX II

Restricted substances referred to in Article 4(1) and maximum concentration values tolerated by weight in homogeneous materials

Lead (0,1 %)

Mercury (0,1 %)

Cadmium (0,01 %)

Hexavalent chromium (0,1 %)

Polybrominated biphenyls (PBB) (0,1 %)

Polybrominated diphenyl ethers (PBDE) (0,1 %)