

DIRECTIVE 2014/35/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 2014

on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits

(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,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) A number of amendments are to be made to Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits ⁽³⁾. In the interests of clarity, that Directive should be recast.

(2) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products ⁽⁴⁾ lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking.

(3) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common

framework for the marketing of products ⁽⁵⁾ lays down common principles and reference provisions intended to apply across sectoral legislation in order to provide a coherent basis for revision or recasts of that legislation. Directive 2006/95/EC should therefore be adapted to that Decision.

(4) This Directive covers electrical equipment designed for use within certain voltage limits which is new to the Union market when it is placed on the market; that is to say it is either new electrical equipment made by a manufacturer established in the Union or electrical equipment, whether new or second-hand, imported from a third country.

(5) This Directive should apply to all forms of supply, including distance selling.

(6) Economic operators should be responsible for the compliance of electrical equipment with this Directive, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety of persons, of domestic animals and property, and to guarantee fair competition on the Union market.

(7) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market electrical equipment which is in conformity with this Directive. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each economic operator in the supply and distribution chain.

(8) In order to facilitate communication between economic operators, market surveillance authorities and consumers, Member States should encourage economic operators to include a website address in addition to the postal address.

(9) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the conformity assessment procedure. Conformity assessment should therefore remain solely the obligation of the manufacturer. There is no conformity assessment procedure in this Directive which requires the intervention of a notified body.

⁽¹⁾ OJ C 181, 21.6.2012, p. 105.

⁽²⁾ Position of the European Parliament of 5 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

⁽³⁾ OJ L 374, 27.12.2006, p. 10. Directive 2006/95/EC is the codification of Council Directive 73/23/EEC of 19 February 1973 on the harmonization of the laws of Member States relating to electrical equipment designed for use within certain voltage limits (OJ L 77, 26.3.1973, p. 29).

⁽⁴⁾ OJ L 218, 13.8.2008, p. 30.

⁽⁵⁾ OJ L 218, 13.8.2008, p. 82.

ANNEX II

EQUIPMENT AND PHENOMENA OUTSIDE THE SCOPE OF THIS DIRECTIVE

Electrical equipment for use in an explosive atmosphere

Electrical equipment for radiology and medical purposes

Electrical parts for goods and passenger lifts

Electricity meters

Plugs and socket outlets for domestic use

Electric fence controllers

Radio-electrical interference

Specialised electrical equipment, for use on ships, aircraft or railways, which complies with the safety provisions drawn up by international bodies in which the Member States participate.

Custom built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

DIRECTIVE 2014/30/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 February 2014

**on the harmonisation of the laws of the Member States relating to electromagnetic compatibility
(recast)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

apply across sectoral legislation in order to provide a coherent basis for revision or recasts of that legislation. Directive 2004/108/EC should be adapted to that Decision.

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

(4) Member States should be responsible for ensuring that radiocommunications, including radio broadcast reception and the amateur radio service operating in accordance with International Telecommunication Union (ITU) radio regulations, electrical supply networks and telecommunications networks, as well as equipment connected thereto, are protected against electromagnetic disturbance.

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

(5) Provisions of national law ensuring protection against electromagnetic disturbance need to be harmonised in order to guarantee the free movement of electrical and electronic apparatus without lowering justified levels of protection in the Member States.

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

(6) This Directive covers products which are new to the Union market when they are placed on the market; that is to say they are either new products made by a manufacturer established in the Union or products, whether new or second-hand, imported from a third country.

Whereas:

(1) A number of amendments are to be made to Directive 2004/108/EC of the European Parliament and of the Council of 15 December 2004 on the approximation of the laws of the Member States relating to electromagnetic compatibility and repealing Directive 89/336/EEC ⁽³⁾. In the interests of clarity, that Directive should be recast.

(7) This Directive should apply to all forms of supply, including distance selling.

(2) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products ⁽⁴⁾ lays down rules on the accreditation of conformity assessment bodies, provides a framework for the market surveillance of products and for controls on products from third countries, and lays down the general principles of the CE marking.

(8) The equipment covered by this Directive should include both apparatus and fixed installations. However, separate provision should be made for each. This is so because, whereas apparatus as such may move freely within the Union, fixed installations on the other hand are installed for permanent use at a predefined location, as assemblies of various types of apparatus and, where appropriate, other devices. The composition and function of such installations correspond in most cases to the particular needs of their operators.

(3) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products ⁽⁵⁾, lays down common principles and reference provisions intended to

(9) Where this Directive regulates apparatus, it should apply to finished apparatus placed on the market. Certain components or sub-assemblies should, under certain conditions, be considered to be apparatus if they are made available to the end-user.

⁽¹⁾ OJ C 181, 21.6.2012, p. 105.

⁽²⁾ Position of the European Parliament of 5 February 2014 (not yet published in the Official Journal) and decision of the Council of 20 February 2014.

⁽³⁾ OJ L 390, 31.12.2004, p. 24.

⁽⁴⁾ OJ L 218, 13.8.2008, p. 30.

⁽⁵⁾ OJ L 218, 13.8.2008, p. 82.

(10) Radio equipment and telecommunications terminal equipment should not be covered by this Directive

- (51) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽¹⁾.
- (52) The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.
- (53) In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure
- (54) When matters relating to this Directive, other than its implementation or infringements, are being examined, i.e. in a Commission expert group, the European Parliament should in line with existing practice receive full information and documentation and, where appropriate, an invitation to attend such meetings.
- (55) The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of non-compliant apparatus are justified or not.
- (56) Member States should lay down rules on penalties applicable to infringements of the provisions of national law adopted pursuant to this Directive and ensure that those rules are enforced. The penalties provided for should be effective, proportionate and dissuasive.
- (57) It is necessary to provide for reasonable transitional arrangements that allow the making available on the market and putting into service, without the need to comply with further product requirements, of apparatus that has already been placed on the market in accordance with Directive 2004/108/EC before the date of application of national measures transposing this Directive. Distributors should therefore be able to supply apparatus that has been placed on the market, namely stock that is already in the distribution chain, before the date of application of national measures transposing this Directive.
- (58) Since the objective of this Directive, namely to ensure the functioning of the internal market by requiring

equipment to comply with an adequate level of electromagnetic compatibility, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

- (59) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.
- (60) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directive set out in Annex V,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

This Directive regulates the electromagnetic compatibility of equipment. It aims to ensure the functioning of the internal market by requiring equipment to comply with an adequate level of electromagnetic compatibility.

Article 2

Scope

1. This Directive shall apply to equipment as defined in Article 3.
2. This Directive shall not apply to:
 - (a) equipment covered by Directive 1999/5/EC;
 - (b) aeronautical products, parts and appliances as referred to in Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC⁽²⁾;

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

⁽²⁾ OJ L 79, 19.3.2008, p. 1.

- (c) radio equipment used by radio amateurs within the meaning of the Radio Regulations adopted in the framework of the Constitution of the International Telecommunication Union and the Convention of the International Telecommunication Union ⁽¹⁾, unless the equipment is made available on the market;
- (d) equipment the inherent nature of the physical characteristics of which is such that:
- (i) it is incapable of generating or contributing to electromagnetic emissions which exceed a level allowing radio and telecommunication equipment and other equipment to operate as intended; and
- (ii) it operates without unacceptable degradation in the presence of the electromagnetic disturbance normally consequent upon its intended use;
- (e) custom built evaluation kits destined for professionals to be used solely at research and development facilities for such purposes.

For the purposes of point (c) of the first subparagraph, kits of components to be assembled by radio amateurs and equipment made available on the market and modified by and for the use of radio amateurs are not regarded as equipment made available on the market.

3. Where, for the equipment referred to in paragraph 1, the essential requirements set out in Annex I are wholly or partly laid down more specifically by other Union legislation, this Directive shall not apply, or shall cease to apply, to that equipment in respect of such requirements from the date of implementation of that Union legislation.

4. This Directive shall not affect the application of Union or national legislation regulating the safety of equipment.

Article 3

Definitions

1. For the purposes of this Directive, the following definitions shall apply:

- (1) 'equipment' means any apparatus or fixed installation;
- (2) 'apparatus' means any finished appliance or combination thereof made available on the market as a single functional unit, intended for the end-user and liable to generate electromagnetic disturbance, or the performance of which is liable to be affected by such disturbance;

- (3) 'fixed installation' means a particular combination of several types of apparatus and, where applicable, other devices, which are assembled, installed and intended to be used permanently at a predefined location;
- (4) 'electromagnetic compatibility' means the ability of equipment to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to other equipment in that environment;
- (5) 'electromagnetic disturbance' means any electromagnetic phenomenon which may degrade the performance of equipment; an electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;
- (6) 'immunity' means the ability of equipment to perform as intended without degradation in the presence of an electromagnetic disturbance;
- (7) 'safety purposes' means the purposes of safeguarding human life or property;
- (8) 'electromagnetic environment' means all electromagnetic phenomena observable in a given location;
- (9) 'making available on the market' means any supply of apparatus for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (10) 'placing on the market' means the first making available of apparatus on the Union market;
- (11) 'manufacturer' means any natural or legal person who manufactures apparatus or has apparatus designed or manufactured, and markets that apparatus under his name or trade mark;
- (12) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;
- (13) 'importer' means any natural or legal person established within the Union who places apparatus from a third country on the Union market;
- (14) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes apparatus available on the market;

⁽¹⁾ Constitution and Convention of the International Telecommunication Union adopted by the Additional Plenipotentiary Conference (Geneva, 1992) as amended by the Plenipotentiary Conference (Kyoto, 1994).

RoHS 2 2011/05/EU

RoHS 2 frequently asked questions *continued*

What is a 'homogenous material?'

A homogenous material is any material that has a uniform composition throughout, or any component of the finished product that cannot be removed or detached by any action such as unscrewing or cutting. This can be anything from the speakers in a radio to the outer casing of its cables.

The tolerated MCV for each restricted substance is 0.1%, or 1,000 parts per million (PPM), except for cadmium which has a limit of 0.01% or 100 PPM. The limits apply to each homogenous material, so if any one contains more than the allowed concentration, the whole product fails to comply.

Have the restricted substances changed?

No. The listed substances are the same ones that are restricted under RoHS 1. However, the Directive commits the European Commission (EC) to reconsidering this list, with its first review to be completed by July 2014 and regular reviews after that. These reviews will look at how RoHS 2 can be harmonised with other regulations on chemical use, such as Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), 1907/2006/EC, in order to simplify the overall regulatory regime.

Which EEE is affected?

Restrictions on the use of hazardous substances already apply to these product categories:

- large household appliances
- small household appliances
- IT and telecommunications equipment
- consumer equipment
- lighting equipment (including electric lightbulbs and household luminaries)
- electrical and electronic tools (with the exception of large-scale stationary industrial tools)
- toys, leisure and sports equipment
- automatic dispensers.

RoHS 2 will extend the restrictions over the next few years to include:

- medical devices and monitoring and control instruments from **July 2014**
- *in vitro* medical devices from **July 2016**
- monitoring and control instruments from **July 2014**
- industrial monitoring and control instruments from **July 2017**
- all EEE not specifically exempted (see below) from **July 2019**.

Which EEE is exempted?

Some categories of EEE are exempt from restrictions on the use of hazardous substances, for example where they are required for important national purposes. These include:

- equipment built specifically for military purposes or which is essential for national security

- equipment designed to be sent into space
- transport for people or goods
- active medical implants
- photovoltaic panels (for public, commercial, industrial or residential use)
- equipment specifically designed for research and development (for professional use)
- non-road mobile machinery for professional use that has an onboard motor
- large-scale stationary industrial tools
- large-scale fixed installations
- equipment specifically designed to be part of another type of equipment that is exempted.

There are also exemptions that allow hazardous substances to be used above the tolerated MCV levels for certain specific technical applications. You can find a full list of the specific exemptions that were in force before RoHS 2 in Appendix 2 on page 25. There is a full list of the exemptions from the newly restricted product categories introduced by RoHS 2 in Appendix 1 on page 24.

RoHS 2 commits the EC to reviewing the exemptions regularly in order to see whether new exclusions need to be added. Manufacturers can apply for new specific exemptions at any time. However, the process for doing this has changed; see annex V of the directive for more information.

Read more about exemptions on our website at www.bis.gov.uk/nmo/enforcement/rohs-home/rohs-exemptions

What is 'placing on the market'?

RoHS 2 makes it an offence to place non-compliant EEE on the EU market. 'Placing on the market' happens when a product that has completed its manufacturing stage is made available for distribution and sale for the first time in the EU. It applies to individual products regardless of whether they are part of a wider product line or series. If EEE is placed on the market in another EU country, and subsequently imported to the UK, the UK importer must ensure that the products are compliant.

How does RoHS affect me?

RoHS 2 places legal obligations on you if you make or trade in EEE in any restricted product category as a:

- manufacturer
- manufacturer's authorised representative
- importer
- distributor (including retailers).

For example, manufacturers must ensure that EEE are CE marked and must prepare a declaration of conformity confirming that they have complied with the regulations. If you are involved in more than one of these roles, you will be responsible for complying with the obligations of each activity; for example, if you import or distribute EEE in the UK under your own brand, you are considered to be the manufacturer of those products and must comply with the obligations of a manufacturer.