Commission Delegated Directive (EU) 2018/740 of 1 March 2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead as an alloying element in aluminium (Text with EEA relevance)

COMMISSION DELEGATED DIRECTIVE (EU) 2018/740

of 1 March 2018

amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead as an alloying element in aluminium

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)] and in particular Article 5(1)(a) thereof,

Whereas:

(1) Directive 2011/65/EU requires Member States to ensure that electrical and electronic equipment placed on the market does not contain lead.

(2) Point 6(b) of Annex III to Directive 2011/65/EU exempted the use of lead as an alloying element in aluminium containing up to 0,4 % lead by weight until 21 July 2016. The Commission received an application for renewal of this exemption in relation to categories 1 to 7 and 10 before 21 January 2015, in accordance with Article 5(5) of Directive 2011/65/EU.

(3) Lead is intentionally added to aluminium as a machinability enhancer for industrial production. Certain lead-free alternatives have been recently made available on the market. The technical practicability and reliability of these alternatives are still unclear.

(4) Furthermore, while lead-bearing aluminium scrap recycling is environmentally advantageous, the elimination of this unintentionally introduced lead from the aluminium recycling stream is not yet technically practicable.

(5) Aluminium alloys where lead is not intentionally introduced and aluminium alloys where lead is added to obtain certain properties should be differentiated in the wording of point 6(b) of Annex III to Directive 2011/65/EU, in accordance with Article 5(1)(a) of that Directive.

(6) In case of unintentional presence of lead stemming from lead-bearing aluminium scrap recycling, the impracticability of lead elimination and the lower environmental impact of recycled aluminium justifies granting an exemption until 21 July 2021 for categories 1 to 7 and 10. Regarding lead in aluminium alloys for machining purposes, an exemption

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for categories 1 to 7 and 10 with the duration of 3 years after the publication of this Directive in the *Official Journal of the European Union* should be granted to allow the industry to carry out necessary assessments of the performance of lead-free alternatives available on the market and adapt to possible changes. For categories other than categories 1 to 7 and 10, the existing exemption is valid as per the validity periods set out in the second subparagraph of Article 5(2) of Directive 2011/65/EU.

(7) Directive 2011/65/EU should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 2011/65/EU is amended as set out in the Annex to this Directive.

Article 2

1 Member States shall adopt and publish, by 30 June 2019 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.

They shall apply those provisions from 1 July 2019.

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*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 1 March 2018.

For the Commission

The President

Jean-Claude JUNCKER