Commission Delegated Directive (EU) 2018/736 of 27 February 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 certain electrical and electronic components containing lead in glass or ceramic (Text with EEA relevance)

COMMISSION DELEGATED DIRECTIVE (EU) 2018/736

of 27 February 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 certain electrical and electronic components containing lead in glass or ceramic

(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 7(c)-I of Annex III to Directive 2011/65/EU exempted the use of lead in electrical and electronic components containing lead in a glass or ceramic other than dielectric ceramic in capacitors, e.g. piezoelectronic devices, or in a glass or ceramic matrix compound 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. Moreover, the Commission received in November 2014 a request for a new exemption (request No 2015-1) for lead use in thin film electronic sensor elements such as pyroelectric sensors or piezoelectric sensors, which is an application covered by point 7(c)-I. During the following stakeholder consultations it has been agreed with the applicant to evaluate the exemption request 2015-1 in the broader context of the exemption 7(c)-I.

(3) In ceramics, lead provides particular dielectric, piezoelectric, pyroelectric, ferroelectric, semiconductor, magnetic properties over a wide use ranges in terms of temperatures, voltages or frequencies. In glass, lead provides crucial properties such as lowering the melting and softening points, improving workability, machinability, and chemical stability and others. Lead-containing glass can be used over a wide range of applications, including insulation, protection, resistance, bonding or hermetic sealing.

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(4) Currently, substitution or elimination of lead in glass and/or ceramic is still scientifically or technically impracticable.

(5) Since for the applications concerned in categories 1 to 7 and 10, no reliable alternatives are available on the market or are likely to be available on the market in the near future, a renewal of the exemption with a validity period until 21 July 2021 is justified, while nonessential splitting of the wording and a shorter period could generate unnecessary administrative burden. In order to avoid overlapping scopes of exemptions within the Annex III to Directive 2011/65/EU, the proposed wording clarifies that the applications covered by exemption 34 are excluded from the exemption 7(c)-I. For categories other than categories 1 to 7 and 10, the existing exemption is valid as per the validity periods set out in in the second subparagraph of Article 5(2) of Directive 2011/65/EU.

(6) 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, 27 February 2018.

For the Commission

The President

Jean-Claude JUNCKER