

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of XXX

amending Directive 2000/53/EC of the European Parliament and of the Council as regards the exemptions for the use of lead in aluminium alloys for machining purposes, in copper alloys and in certain batteries

(Text with EEA relevance)

CONTEXT OF THE DELEGATED ACT

This Commission Delegated Directive amends, for the purpose of adapting to technical progress, Annex II of Directive 2000/53/EC of the European Parliament and of the Council on the end-of-life vehicles¹ (ELV) as regards an exemption for specific applications containing lead.

The draft delegated act is the result of the process under ELV Directive to amend Annex II according to technical and scientific progress, in accordance with the procedure established in the Article 4(2), point (b) of the ELV Directive.

The ELV Directive restricts the use of certain hazardous substances in materials and components of vehicles put on the market after 1 July 2003, as provided for in its Article 4(2)(a). Currently, vehicles and parts for vehicles placed on the Union market shall not contain lead, mercury, cadmium and hexavalent chromium². **Annex II to the ELV Directive lists the materials and components of vehicles for specific applications that are exempted from the substance restriction of ELV Article 4(2).** Article 4(2)(b) provides that Annex II shall be amended on a regular basis, according to technical and scientific progress. Furthermore, Article 1 of Directive 2018/849/EU³ amending Article 4(2), point (b) of the ELV Directive provides that such amendment of Annex II shall be done by means of delegated acts.

Please find in the following table, a short overview of the changes introduced in Annex II by this review (changes marked in yellow):

Annex II

Materials and components exempt from Article 4(2)(a)

A maximum concentration value of substances up to 0,1 % by weight in homogeneous material for lead, hexavalent chromium and mercury and up to 0,01 % by weight in homogeneous material for cadmium shall be tolerated.

Spare parts put on the market after 1 July 2003 which are used for vehicles put on the market before 1 July 2003, except for wheel balance weights, carbon brushes for electric motors and brake linings, shall be exempted from the provisions of Article 4(2), point (a) of Directive 2000/53/EC.

1. Regarding the exemption for aluminium alloys for machining purposes (cf. Annex II, entry 2(c)(i)):

| Materials and components | Current scope and expiry date of the exemption | Change in the Draft delegated Act |
|--|--|---|
| Lead as an alloying element | | |
| 2(c)(i). Aluminium alloys for machining purposes with a lead content up to 0,4 % by weight | (1) | Vehicles type-approved before 1 January 2028 and spare parts for these vehicles |

Explanation by the Commission:

“The Commission assessed the exemption set out in entry 2(c)(i) of Annex II to Directive 2000/53/EC regarding aluminium alloys for machining purposes in view of technical and scientific progress. This assessment led to the conclusion that there are suitable alternatives available, but that a transitional period is needed to replace the use of lead in all the materials and components covered by that exemption. The use of lead in the materials and components concerned, including lead in wrought aluminium, could be phased out by the end of 2027. It is therefore appropriate to provide for an expiry date for that exemption.”

Assessment by EuRIC:

The draft DA phases out the exemption for the use of lead in aluminium alloys for machining purposes for vehicles type approved starting from 1 January 2028.

For all vehicles type approved before that date, the exemption allowing the use of lead content up to 0,4 % by weight will be continue to apply.

Question to members:

- a) Is the phase out of lead in aluminium alloys for machinery purposes technically feasible until 1 January 2028?
- b) Does the phase out hinder the uptake of recycling materials?
- c) What is your opinion on this phase out? Please state any possible consequences this might have – if of course any.

2. Regarding the exemption for copper alloys (cf. Annex II, entry 3):

| Materials and components | Current scope and expiry date of the exemption | Change in the Draft delegated Act |
|--|--|--|
| Lead as an alloying element | | |
| 3. Copper alloys containing up to 4 % lead by weight | (1) | Use of lead should be prolonged and a review is recommended in 2025; |

Explanation by the Commission:

“The Commission assessed the exemption set out in entry 3 of Annex II to Directive 2000/53/EC regarding copper alloys in view of technical and scientific progress. This assessment led to the conclusion that there are still no suitable alternatives to the use of lead in the materials and components covered by that exemption. Taking into account the progress made in the development of substitutes to lead in the materials and components concerned, it is appropriate to provide for a new review date for that exemption.”

Questions for EuRIC Members:

- a) Please state if you believe that this exemption should be prolonged further than 2025.
- b) Any other comments?

3. Regarding the exemption for lead in batteries for battery applications other than batteries in high voltage systems (cf. Annex II, entry 5(b)):

| Materials and components | Current scope and expiry date of the exemption | Change in the Draft delegated Act |
|--------------------------|--|-----------------------------------|
|--------------------------|--|-----------------------------------|

| | | | |
|---|-----|---|--|
| Lead and lead compounds in components | | | |
| 5(b). Lead in batteries for battery applications not included in entry 5(a) | (1) | 5(b)(i) would continue the exemption on lead in batteries used in 12 V applications, with a review recommended in 2025. | 5(b)(ii) would allow the use of lead in batteries in 24 V and 48 V applications until the end of 2023; |

Explanation by the Commission:

“The Commission assessed the exemption set out in entry 5(b) of Annex II to Directive 2000/53/EC regarding lead in batteries for battery applications not included in entry 5(a) of that Annex, which concerns batteries in high voltage systems, in view of technical and scientific progress. This assessment led to the conclusion that the use of lead in batteries for battery applications not included in entry 5(a) of Annex II to Directive 2000/53/EC can be avoided for some applications but not for batteries used in 12 V applications. In order to apply a consistent regulatory framework for batteries, including those that are not falling under the exemption set out in entry 5(a) of Annex II to Directive 2000/53/EC and are not used in 12 V applications, it is appropriate to provide for two separate entries 5(b)(i) and 5(b)(ii) instead of a single entry 5(b). Entry 5(b)(i) should provide an exemption for the use of lead in batteries used in 12 V applications. Taking into account the progress made in the development of substitutes to the use of lead in the batteries concerned, it is appropriate to provide for a review date for that exemption. Entry 5(b)(ii) should provide for an exemption for the use of lead in batteries for other battery applications that are not included in entry 5(a) and entry 5(b)(i) of Annex II to Directive 2000/53/EC. The assessment led to the conclusion that lead-based batteries for those applications are avoidable given the progress made in the development of substitutes to the use of lead in those batteries. It is therefore appropriate to provide for an expiry date for that exemption that allows phasing out of the use of lead in those batteries.”

Further explanation

For exemption 5(b) the use of lead in batteries for battery applications can be avoided only for some applications. Two alternatives were proposed in the report:

- (1) Restrict the scope of exemption:
 - Restrict the exemption to lead in batteries used in 12 V applications, with a review recommended in 2025;
 - Remove the exemption to lead in batteries in all other applications such as 24 V and 48 V applications without prejudice to exemption 5(a) for lead in batteries in high voltage systems.
- (2) Introduce two separate entries 5(b)(i) and 5(b)(ii) as follows:
 - 5(b)(i) would continue the exemption on lead in batteries used in 12 V applications, with a review recommended in 2025.
 - 5(b)(ii) would allow the use of lead in batteries in 24 V and 48 V applications until the end of 2023;

It is proposed to follow this second option due to the lack of substantiated data on sufficient scientific and technical progress that would justify avoidance of lead in batteries used for the applications listed above.

Questions for EuRIC Members

- a) Should the exemption in points 5(b)(i) and 5(b)(ii) be prolonged further than 2025 and 2023 respectively?
- b) In the affirmative, please provide the reasoning (e.g., list of consequences for the recycling industry)