

Texte zu EU-Regelungen zur umweltgerechten Produktgestaltung und zur Energieverbrauchskennzeichnung in der Beleuchtung – Zusammenstellung <sup>[1]</sup> des Umweltbundesamtes (UBA), Deutschland



## Anträge auf Erneuerung verschiedener Ausnahmeregelungen nach Richtlinie 2011/65/EU (RoHS)

### Entwürfe vom 13./16. Dezember 2021 für EU-Rat und -Parlament – Ausnahme 4(b) –

*Hinweis: Dies ist die englischsprachige Version. Zu Übersetzungen in andere Sprachen siehe <sup>[2]</sup>.*

**EN:** Information on EU Lighting Regulations – Ecodesign and Energy Labelling – Compilation <sup>[1]</sup> of the Federal Environment Agency (UBA), Germany

Requests for renewal of various exemptions under Directive  
2011/65/EU (RoHS)

**Drafts of 13/16 December 2021 for EU Council and Parliament**  
– Exemption 4(b) –

*Please note: This is a text in English. For translations into other languages please see <sup>[2]</sup>.*

**FR:** Informations sur réglementations de l'UE concernant l'éclairage – l'écoconception et l'étiquetage énergétique – Compilation <sup>[1]</sup> de l'Agence Fédérale de l'Environnement (UBA), Allemagne

Demandes de renouvellement pour diverses exemptions  
pertinentes accordées par la directive 2011/65/UE (LdSD)

**Projets du 13/16 décembre 2021 pour le Conseil et le Parlement de l'UE**  
– Exemption 4(b) –

*Indication : C'est un texte en anglais. Pour traductions dans d'autres langues, voir <sup>[2]</sup>.*

<sup>[1]</sup> <https://www.eup-network.de/de/eup-netzwerk-deutschland/offenes-forum-eu-regelungen-beleuchtung/dokumente/texte/>

<sup>[2]</sup> <https://www.eup-network.de/de/eup-netzwerk-deutschland/offenes-forum-eu-regelungen-beleuchtung/dokumente/texte/#c2235>

## Texte im Offenen Forum

(abc = vorliegender Text)

—	<b>Bestehende EG- und EU-Regelungen</b>			
—	<b>Studien der EU-Kommission</b>			
—	<b>Regelungsentwürfe</b>			
	Regelungsentwürfe (Produktgestaltung und -information)			
	Frühere Entwürfe (Verwendung gefährlicher Stoffe)			
	<b>Entwürfe vom Dezember 2021 für EU-Rat und -Parlament (Verwendung gefährlicher Stoffe)</b>			
	<b>Regelungsentwürfe</b>			
	1(a) ... (e)	[DE][EN][FR]	2(b)(3)	[DE][EN][FR] <b>4(b)</b> [DE][EN][FR]
	1(f)	[DE][EN][FR]	2(b)(4)	[DE][EN][FR]    4(c) [DE][EN][FR]
	1(g)	[DE][EN][FR]	3	[DE][EN][FR]    4(e) [DE][EN][FR]
	2(a)	[DE][EN][FR]	4(a)	[DE][EN][FR]    4(f) [DE][EN][FR]
	Arbeitshilfe			
	Übersicht [DE EN (FR)]			
—	<b>Öffentliche Konsultationen auf EU-Ebene</b>			
—	<b>Diskussion im Offenen Forum</b>			
—	<b>Weitere Dokumente</b>			

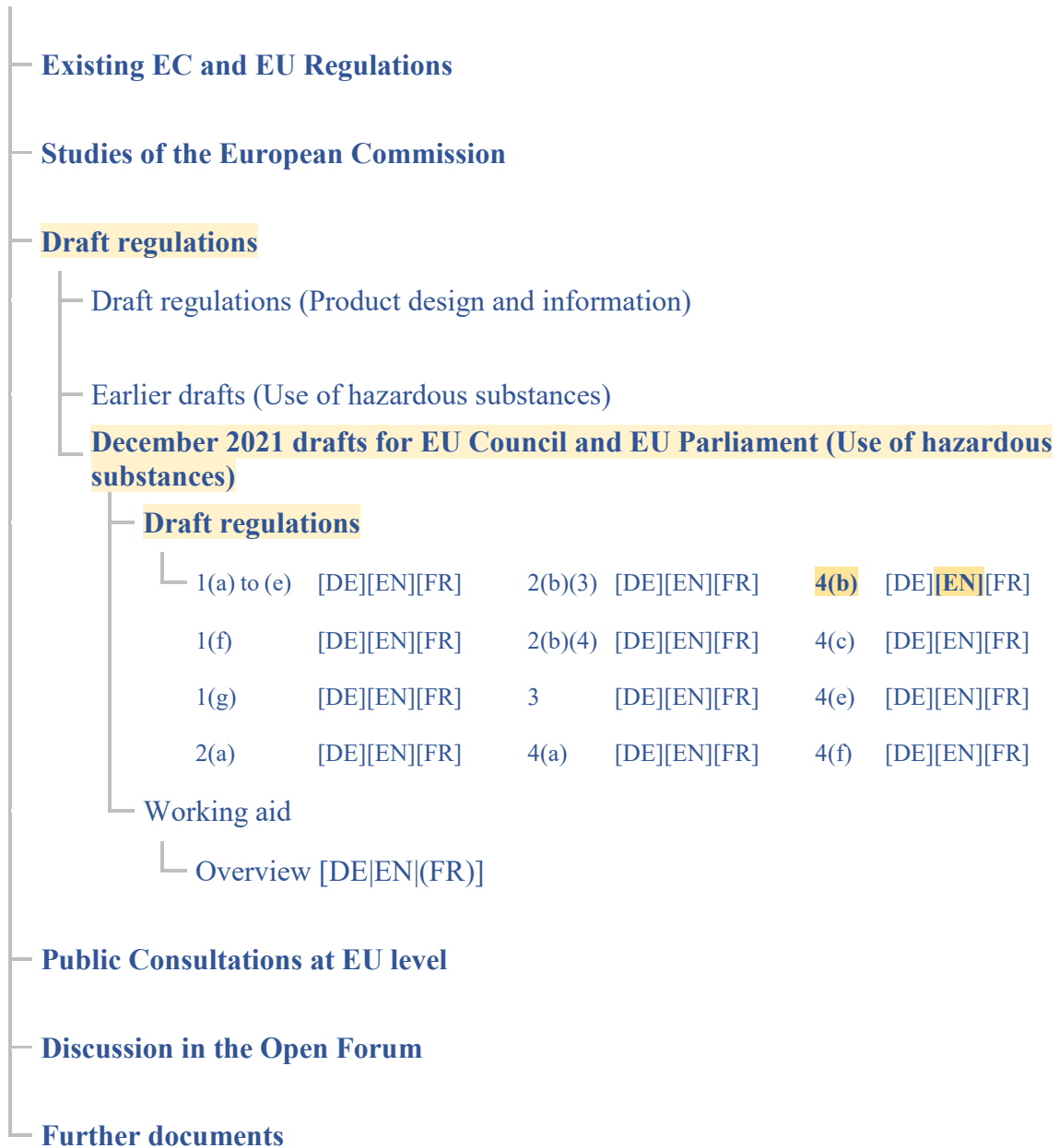
Übersicht zu den Dokumenten im Offenen Forum, die das Thema RoHS-Richtlinie (2011/65/EU) betreffen:

[https://www.eup-network.de/fileadmin/user\\_upload/Lichtquellen\\_Arbeitshilfe\\_05a\\_DE.pdf](https://www.eup-network.de/fileadmin/user_upload/Lichtquellen_Arbeitshilfe_05a_DE.pdf)

Abkürzungen: ● EG = Europäische Gemeinschaft ● EU = Europäische Union

**Documents in the Open Forum**

(abc = text at hand)



Overview of documents in the Open Forum concerning the topic of the RoHS Directive (2011/65/EU):

[https://www.eup-network.de/fileadmin/user\\_upload/Lichtquellen\\_Arbeitshilfe\\_05a\\_EN.pdf](https://www.eup-network.de/fileadmin/user_upload/Lichtquellen_Arbeitshilfe_05a_EN.pdf)

Abbreviations: ● EC = European Communities ● EU = European Union

## Documents dans le forum ouvert

(abc = présent document)

—	<b>Règlements existants de la CE et de l'EU</b>				
—	<b>Études de la Commission européenne</b>				
—	<b>Projets de règlements</b>				
—	Projets de règlements (Conception des produits et informations sur les produits)				
—	Projets antérieurs (L'utilisation de substances dangereuses)				
—	<b>Projets de décembre 2021 pour le Conseil et le Parlement de l'UE (L'utilisation de substances dangereuses)</b>				
—	<b>Projets de règlements</b>				
—	1(a) à (e)	[DE][EN][FR]	2(b)(3)	[DE][EN][FR]	<b>4(b)</b> [DE][EN][FR]
—	1(f)	[DE][EN][FR]	2(b)(4)	[DE][EN][FR]	4(c) [DE][EN][FR]
—	1(g)	[DE][EN][FR]	3	[DE][EN][FR]	4(e) [DE][EN][FR]
—	2(a)	[DE][EN][FR]	4(a)	[DE][EN][FR]	4(f) [DE][EN][FR]
—	Aide du travail				
—	Aperçu [DE EN (FR)]				
—	<b>Consultations publiques au niveau de l'UE</b>				
—	<b>Discussion dans le Forum Ouvert</b>				
—	<b>Autres documents</b>				

Aperçu des documents du Forum Ouvert relatifs au sujet de la directive LdSD (2011/65/UE) :

[https://www.eup-network.de/fileadmin/user\\_upload/Lichtquellen\\_Arbeitshilfe\\_05a\\_FR.pdf](https://www.eup-network.de/fileadmin/user_upload/Lichtquellen_Arbeitshilfe_05a_FR.pdf)

Abréviations : ● CE = Communauté européenne ● UE = Union européenne

---

Nach Seite VI folgen zwei Originaltexte, die vom Herausgeber in ein Dokument gebündelt wurden.

**EN:** Page VI is followed by two original texts that have been bundled into one document by the editor.

**FR:** La page VI est suivie de deux textes originaux, regroupés en un seul document par l'éditeur.

---





Brussels, 13.12.2021  
C(2021) 8963 final

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

**of 13.12.2021**

**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 the use of mercury in High Pressure Sodium (vapour) lamps with improved colour rendering index for general lighting purposes**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

This Commission Delegated Directive amends, for the purpose of adapting to technical and scientific progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment (recast)<sup>1</sup> (the RoHS Directive). The amendment concerns an exemption for specified applications containing mercury in high pressure sodium lamps with improved colour rendering index for general lighting purposes.

The RoHS Directive restricts the use of certain hazardous substances in electrical and electronic equipment (EEE), as specified in Article 4. Ten substances are currently restricted and listed in Annex II to the RoHS Directive: lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE), bis (2-ethylhexyl) phthalate (DEHP), butyl benzyl phthalate (BBP), dibutyl phthalate (DBP) and diisobutyl phthalate (DIBP). Annexes III and IV list the EEE materials and components for specific applications that are exempt from the substance restrictions laid down in Article 4(1).

Article 5 of the Directive provides for the adaptation of Annexes III and IV to scientific and technical progress, which can include granting, renewing or revoking the exemptions. Pursuant to Article 5(1)(a), exemptions are to be included in Annexes III and IV only if this does not weaken the environmental and health protection afforded by Regulation (EC) No 1907/2006 (REACH)<sup>2</sup> and only if they meet any of the following conditions: (i) elimination or substituting the substance via design changes or materials and components which do not require any of the materials or substances listed in Annex II is scientifically or technically impracticable; (ii) the reliability of substitutes is not ensured; (iii) the total negative environmental, health and consumer safety impacts caused by substituting the substance are likely to outweigh the total environmental, health and consumer safety benefits thereof.

Decisions on exemptions, and their duration, must also take into account the availability of substitutes and the socioeconomic impact of substitution. Decisions on the duration of exemptions must take into account any potential impact on innovation. Life-cycle thinking on the overall impacts of the exemption must be applied, where relevant.

Article 5(1) also specifies that, to include or delete materials and components of EEE for specific applications listed in Annexes III and IV, the Commission must adopt individual delegated acts. Article 5(3) and Annex V describe the procedure for submitting exemption-related applications.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Commission receives requests<sup>3</sup> from economic operators to grant or renew exemptions under Article 5(3) and Annex V to the RoHS Directive.

The current Annex III exemption 4(b) entries I to III permit the use of mercury in High Pressure Sodium (HPS) (vapour) lamps for general lighting purposes not exceeding the following values (per burner) in lamps with improved colour rendering index  $R_a > 60$ :

---

<sup>1</sup> OJ L 174, 1.7.2011, p. 88.

<sup>2</sup> OJ L 396, 30.12.2006, p. 1.

<sup>3</sup> The list is available at: [https://ec.europa.eu/environment/waste/rohs\\_eee/adaptation\\_en.htm](https://ec.europa.eu/environment/waste/rohs_eee/adaptation_en.htm).



4(b) – I:  $P \leq 155$  W: 30 mg;

4(b) – II:  $155 \text{ W} < P \leq 405$  W: 40 mg;

4(b) – III:  $P > 405$  W: 40 mg.

The Commission received one application to renew the exemption 4(b) entries I to III in January 2015. The applicant claimed, in essence, that there were no mercury-free alternatives providing the same colour specification that could replace the lamps covered by exemption 4(b).<sup>4</sup> In January 2020, the same applicant submitted an updated renewal application for the lamps with colour rendering  $>80$  (not above 60 as in current exemption), below 105W (not 155W as in current exemption) and with a limited amount of mercury only 16 mg (instead of the currently allowed 30 mg). In line with the requirements of the RoHS Directive (Article 5(5), second subparagraph), an exemption remains valid until the Commission takes a decision on the renewal application.

To evaluate the applications for renewing that exemption, the Commission launched a study in June 2015<sup>5</sup>, concluded in 2016, to carry out the required technical and scientific assessment, including an eight-week online stakeholder consultation.<sup>6</sup> Further to that study assessing the extensive technical and scientific data and contributions received, as documented in the study report, the Commission carried out two complementary studies/updates, including stakeholder involvement. The study published in 2019<sup>7</sup> focused on the socioeconomic assessment and availability of substitutes, whilst an update based on recent figures and modelling was carried out in 2020<sup>8</sup>. The final reports of the study and of the socioeconomic assessment updates were published<sup>9</sup>; stakeholders were notified.

The Commission consulted the Member State expert group for delegated acts under the RoHS Directive during the expert meetings of 1 September 2016, 29 October 2018 and 21 October 2019 to collect Member States' views on an envisaged course of action in line with the conclusions of the evaluations. It carried out all the requisite procedural steps relating to exemptions from the substance restriction under Article 5(3) to 5(7).<sup>10</sup> The Council and the European Parliament were notified of all activities.

The evaluation studies, corroborated with the updated information on technical and scientific progress provided by the applicant in 2020, leads to the following conclusions:

- mercury cannot be substituted in HPS (vapour) lamps with colour rendering index  $>80$ , below 105W and with mercury limit of 16 mg which effectively means that exemption 4 (b) should be partly renewed as alternatives do not currently provide the relevant red part of the spectrum that is essential for this type of lamps;

---

<sup>4</sup> [https://rohs.exemptions.oeko.info/fileadmin/user\\_upload/RoHS\\_Pack\\_9/Exemption\\_4\\_b\\_III\\_/4b\\_LE\\_RoHS\\_Exemption\\_Req\\_Final.pdf](https://rohs.exemptions.oeko.info/fileadmin/user_upload/RoHS_Pack_9/Exemption_4_b_III_/4b_LE_RoHS_Exemption_Req_Final.pdf).

<sup>5</sup> The final report of the study is available at <https://op.europa.eu/en/publication-detail/-/publication/a3fdcc8c-4273-11e6-af30-01aa75ed71a1>.

<sup>6</sup> Consultation period: 21 August 2015 to 16 October 2015, <https://rohs.exemptions.oeko.info>.

<sup>7</sup> [https://rohs.exemptions.oeko.info/fileadmin/user\\_upload/reports/FWCW\\_RoHS\\_Lamps\\_SEA\\_20190729\\_Final.pdf](https://rohs.exemptions.oeko.info/fileadmin/user_upload/reports/FWCW_RoHS_Lamps_SEA_20190729_Final.pdf)

<sup>8</sup> <https://op.europa.eu/en/publication-detail/-/publication/f44f2383-dd0a-11ea-adf7-01aa75ed71a1/language-en/format-PDF/source-146144383>, starting on page 92.

<sup>9</sup> [https://ec.europa.eu/environment/waste/rohs\\_eee/studies\\_rohs1\\_en.htm](https://ec.europa.eu/environment/waste/rohs_eee/studies_rohs1_en.htm).

<sup>10</sup> A list of the required administrative steps is available on the [Commission website](#). The current stage of the procedure can be viewed for each draft delegated act in the Interinstitutional Registry of Delegated Acts at <https://webgate.ec.europa.eu/regdel/#/home>.

- there are suitable alternatives for HPS (vapour) lamps with improved colour rendering index  $Ra > 60$ :  $P \leq 155$  W which effectively means that exemptions entry 4 (b) – I is partly no longer needed, while entry 4 (b) – II can be fully revoked as those lamps were being replaced by mercury-free LED lamps.
- entry 4(b)-III should be revoked as manufacturers no longer place these lamps on the market; hence the exemption has become obsolete.

In conclusion, the scientific and technical assessments, including updated information provided by the applicant, detailed that the exemption criteria continue to be met with regard to the exemption for the use of mercury in HPS (vapour) lamps with colour rendering index  $> 80$  and with a mercury limit use of 16 mg per lamp, as substitutes require further development.

The evaluation results also showed that renewing the specific exemption would not weaken the environmental and health protection afforded by the REACH Regulation, in accordance with Article 5 of Directive 2011/65/EU.

In accordance with the Better Regulation Guidelines, the draft Delegated Directive was published on the Better Regulation Portal for a four-week public feedback period. During the consultation on the draft act, two contributions were received. The points raised were considered and no amendment to the draft was deemed necessary.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The delegated directive partially renews and reformulates exemption entry 4(b)-I listed in Annex III to Directive 2011/65/EU for the use of mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index  $Ra > 80$ :  $P \leq 105$  W: 16 mg. Given that the other entries listed under entry 4(b) are to be revoked, the part of entry 4(b)-I that is to be renewed is renumbered as entry 4(b).

The Commission's assessment based on the supporting studies, consultations and updated information submitted by the applicant concluded that the exemption request meets at least one of the criteria laid down in Article 5(1)(a): the substitution of mercury, with reliable substitutes, in the lamp categories concerned by this exemption cannot currently be ensured.

In light of the above, exemption entries 4(b)-II and 4(b)-III are to be revoked, and exemption 4(b)-I is to be partially revoked.

As concluded by the evaluation, the state of development of substitutes justifies partially renewing exemption entry 4(b)-I, as reworded, which is renumbered to exemption entry 4(b), for the maximum validity period of five years. The validity period is not expected to have an adverse impact on innovation.

For the part of entry 4 (b)-I that is to be revoked, as well as for entries 4(b)-II and 4(b)-III, the shortest expiry dates (i.e. 12 months) are appropriate in line with Article 5(6) of the RoHS Directive.

The legal instrument is a delegated directive, as provided for by Directive 2011/65/EU, in particular with the requirements set out in Article 5(1)(a) thereof.

The objective of the delegated directive is to contribute to the protection of human health and the environment and to align the provisions for the functioning of the internal market in the field of electrical and electronic equipment, by allowing the use of otherwise banned

substances for specific applications, with the provisions and under the conditions of the RoHS and the procedure for adapting Annexes III and IV to scientific and technical progress.

The delegated directive has no implications on the EU budget.

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

**of 13.12.2021**

**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 the use of mercury in High Pressure Sodium (vapour) lamps with improved colour rendering index for general lighting purposes**

(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<sup>1</sup>, and in particular Article 5(1), points (a) and (b) thereof,

Whereas:

- (1) Directive 2011/65/EU requires Member States to ensure that electrical and electronic equipment placed on the market does not contain the hazardous substances listed in Annex II to that Directive. That restriction does not apply to certain exempted applications listed in Annex III to that Directive.
- (2) The categories of electrical and electronic equipment to which Directive 2011/65/EU applies are listed in Annex I to that Directive.
- (3) Mercury is a restricted substance listed in Annex II to Directive 2011/65/EU.
- (4) By Decision 2010/571/EU<sup>2</sup>, the Commission granted, among other things, an exemption for the use of mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index  $R_a > 60$  ('the exemption'), which is now listed as exemption 4(b)-I, 4(b)-II and 4(b)-III in Annex III to Directive 2011/65/EU. The exemption was to expire on 21 July 2016, in accordance with Article 5(2), second subparagraph, point (a), of that Directive.
- (5) Mercury is used in High Pressure Sodium (vapour) lamps for light colour and colour rendering properties.
- (6) In January 2015, the Commission received an application for renewal of the exemption for applications in entries 4(b)-I, 4(b)-II and 4(b)-III ('the renewal application'), that is within the time limit laid down in Article 5(5) of Directive

---

<sup>1</sup> OJ L 174, 1.7.2011, p. 88.

<sup>2</sup> Commission Decision 2010/571/EU of 24 September 2010 amending, for the purposes of adapting to scientific and technical progress, the Annex to Directive 2002/95/EC of the European Parliament and of the Council as regards exemptions for applications containing lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers (OJ L 251, 25.9.2010, p. 28).

2011/65/EU. In January 2020, the same applicant submitted an updated renewal application concerning entry 4(b)-I only. In accordance with Article 5(5) of Directive 2011/65/EU, the exemption remains valid until a decision on the renewal application has been taken.

- (7) The evaluation of the renewal application, which took into account the availability of substitutes and the socioeconomic impact of substitution, concluded that the substitution or elimination of mercury in the applications concerned was scientifically and technically practicable as concerns a part of entry 4(b)-I, as well as entries 4(b)-II and 4(b)-III of Annex III to Directive 2011/65/EU. The evaluation concluded nevertheless that the exemption should be renewed for the part of entry 4(b)-I which concerns lamps with a high colour rendering higher than 80, equal to or lower than 105W and that, whilst the use of mercury is still necessary, that can be further lowered. The evaluation included stakeholder consultations in accordance with Article 5(7) of Directive 2011/65/EU. The comments received during those consultations were made publicly available on a dedicated website.
- (8) It is therefore appropriate to renew part of exemption 4(b)-I, and renumber it as exemption entry 4(b), for a maximum period of five years in accordance with Article 5(2), first subparagraph, of Directive 2011/65/EU. This renewed exemption shall have a revised wording setting out the further limited scope of the exemption. In view of the results of the ongoing efforts to find a reliable substitution, the duration of the exemption is unlikely to have adverse impacts on innovation.
- (9) The renewed exemption is consistent with Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>3</sup> and thus does not weaken the environmental and health protection afforded by it.
- (10) As the conditions for the renewal of the exemption, set out in Article 5(1), point (a), of Directive 2011/65/EU, are no longer fulfilled for the applications listed in the remainder of entry 4(b)-I as well as in entries 4(b)-II and 4(b)-III of Annex III to that Directive, the exemption for those applications should be revoked. Expiry dates for those exemptions should be set in accordance with Article 5(6) of Directive 2011/65/EU.
- (11) 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 [\[the last day of the sixth month after the date of entry into force of this Directive\]](#) at the latest, the laws, regulations and

---

<sup>3</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

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 [\[the last day of the sixth month after the date of entry into force of this Directive + 1 day\]](#).

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, 13.12.2021

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*



Brussels, 13.12.2021  
C(2021) 8963 final

ANNEX

**ANNEX**

**to the**

**Delegated Directive**

**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 the use of mercury in High Pressure Sodium (vapour) lamps with improved colour rendering index for general lighting purposes**

## ANNEX

In Annex III to Directive 2011/65/EU, entries 4(b), 4(b)-I, 4 (b)-II and 4(b)-III are replaced by the following:

Exemption		Scope and dates of applicability
4(b)	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 80$ : $P \leq 105$ W: 16 mg may be used per burner	Expires on [PO: five years after the publication of the Delegated Directive in the Official Journal]
4(b)-I	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$ : $P \leq 155$ W: 30 mg may be used per burner	Expires on [PO: 12 months after the publication of the Delegated Directive in the Official Journal]
4(b)-II	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$ : $155$ W $< P \leq 405$ W: 40 mg may be used per burner	Expires on [PO: 12 months after the publication of the Delegated Directive in the Official Journal]
4(b)-III	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner) in lamps with improved colour rendering index $R_a > 60$ : $P > 405$ W: 40 mg may be used per burner	Expires on [PO: 12 months after the publication of the Delegated Directive in the Official Journal]