

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement 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 (recast) (OJ No L174, 01.07.2011, p88). The Directive imposes harmonised restrictions on the use of certain listed hazardous substances in 11 categories of electrical and electronic equipment. It also requires the use of EU declarations of conformity and CE marking, and provides for market surveillance. The Directive seeks to reduce the risks posed by hazardous substances to health and the environment.

The Directive repeals and replaces Directive [2002/95/EC](#) of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ No L37, 13.02.2003, p19) (as amended) which was implemented in the United Kingdom by the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2008 ([S.I. 2008/37](#)) (as amended). These Regulations revoke and replace [S.I. 2008/37](#) (regulation 7).

Regulation 3 sets out the restrictions on the use of certain hazardous substances in electrical and electronic equipment ('EEE'). Regulation 5 and Schedule 1 set out the EEE to which these Regulations apply. Regulation 6 sets out a time-limited exclusion from the scope of these Regulations.

Part 2 of the Regulations sets out the prohibitions and obligations that apply to economic operators. They are divided into prohibitions and obligations applying to manufacturers and their authorised representatives (regulations 10 to 22), importers (regulations 23 to 28), distributors (regulations 29 to 32), and all economic operators (regulations 33 and 34). The various categories of economic operator are defined in regulation 2. In certain circumstances importers and distributors are required to comply with the duties of manufacturers in place of, or in addition to, the duties that apply to importers and distributors (regulations 28 and 32).

Part 3 deals with the enforcement of these Regulations. Regulation 35 appoints the Secretary of State as the market surveillance authority, both for the purposes of these Regulations and for the purposes of Regulation [\(EC\) No 765/2008](#) of the European Parliament of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation [\(EEC\) No 339/93](#) (OJ No L218, 13.08.2008 p30). The powers under Regulation No 765/2008 are available to supplement the enforcement provisions in these Regulations.

Part 4 of the Regulations requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Schedule 1 sets out what EEE are inside and outside the scope of these Regulations. Schedule 2 contains the powers that the market surveillance authority can exercise, such as test purchases, powers of entry and warrants. Schedule 3 sets out the actions the market surveillance authority can take, and includes provision for compliance, enforcement and recall notices.

A transposition note and a full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector are available from the BIS website ([www.bis.gov.uk](http://www.bis.gov.uk)).

**Status:** Point in time view as at 31/12/2022.

**Changes to legislation:** The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

They are also annexed to the Explanatory Memorandum published alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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