

**NB: Unofficial translation, legally binding texts are those in Finnish and Swedish
Ministry of the Environment, Finland**

**Act
on Restriction of the Use of Certain Hazardous Substances in Electrical and
Electronic Equipment
(387/2013)**

Chapter 1 – General provisions

**Section 1
Purpose of the Act**

The purpose of this Act is to protect human health and the environment by reducing the use of hazardous substances in electrical and electronic equipment and to promote the environmentally sound recovery and disposal of waste electrical and electronic equipment. This Act implements 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, hereinafter referred to as the *RoHS Directive*.

**Section 2
Scope of application**

- (1) This Act shall apply to electrical and electronic equipment.
- (2) However, this Act shall not apply to:
 - 1) arms, munitions and war material intended for military purposes or equipment, which is necessary for the protection of the essential interests of the security of the state, or equipment related to monitoring;
 - 2) equipment designed to be sent into space;
 - 3) large-scale industrial assemblies of machines, equipment or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;
 - 4) large-scale combinations of several types of apparatus and, where applicable, other devices, which are assembled and installed by professionals, intended to be used permanently in a pre-defined and dedicated location, and de-installed by professionals;
 - 5) means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;
 - 6) non-road mobile machinery made available exclusively for professional use with an on-board power source, the operation of which requires either mobility or continuous or semi-continuous movement between a succession of fixed working locations while working;
 - 7) active implantable medical devices referred to in Section 5, subsection 1, paragraph 2 of the Medical Devices Act (629/2010);

- 8) photovoltaic panels intended to be used in a system that is designed, assembled and installed by professionals for permanent use at a defined location to produce energy from solar light for public, commercial, industrial and residential applications;
- 9) equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis;
- 10) equipment which is specifically designed, and is to be installed, as part of the equipment referred to in paragraphs 1–9, which can only fulfil its function if it is part of that equipment, and which can only be replaced by the same specifically designed equipment.

Section 3 **Definitions**

In this Act:

- 1) *electrical and electronic equipment* means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current;
- 2) *cable* means all cables with a rated voltage of less than 250 volts that serve as a connection or an extension to connect electrical and electronic equipment to the electrical outlet or to connect two or more pieces of electrical and electronic equipment to each other;
- 3) *spare part* means a separate part of electrical and electronic equipment, necessary to its functioning as intended, that can replace a part of electrical and electronic equipment; the functionality of the electrical and electronic equipment is restored or is upgraded when the part is replaced by a spare part;
- 4) *manufacturer* means any natural or legal person who manufactures electrical and electronic equipment or who has electrical and electronic equipment designed or manufactured and markets it under its name or trademark;
- 5) *authorised representative* means any natural or legal person established within the European Economic Area who has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks;
- 6) *distributor* means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes electrical and electronic equipment available on the market;
- 7) *importer* means any natural or legal person established within the European Economic Area, who places electrical and electronic equipment from a third country on the market in the European Economic Area;
- 8) *economic operator* means the manufacturer, the authorised representative, the importer and the distributor;
- 9) *making available on the market* means any supply of electrical and electronic equipment for distribution, consumption or use on the market in the European Economic Area in the course of a commercial activity, whether in return for payment or free of charge;
- 10) *placing on the market* means making electrical and electronic equipment available on the market in the European Economic Area for the first time;
- 11) *CE marking* means the marking referred to in Article 30 of the Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the

requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, with which the manufacturer indicates that it takes responsibility for the conformity of the product with all applicable requirements set out in the relevant Union harmonisation legislation providing for its affixing;

- 12) *homogeneous material* means one material of uniform composition throughout or a material, consisting of a combination of materials, that cannot be disjointed or separated into different materials by mechanical actions, such as unscrewing, cutting, crushing, grinding and abrasive processes;
- 13) *harmonised standard* means a European standard, adopted on the basis of a request made by the Commission for the application of Union harmonisation legislation, referred to in Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council;
- 14) *technical document* means a document drawn up by the manufacturer, which is used as a basis for the assessment on whether the electrical and electronic equipment complies with the applicable requirements, including an appropriate analysis and risk assessment;
- 15) *technical specification* means a document that prescribes technical requirements to be fulfilled by the electrical and electronic equipment.

Chapter 2 – Compliance with the requirements and the obligations of a manufacturer

Section 4

Restrictions on the use of hazardous substances and exemptions therefrom

- (1) A piece of electrical and electronic equipment or a cable or spare part for its repair, its reuse, updating of its functionalities or upgrading of its capacity, may not contain hazardous substances in concentrations that exceed the maximum concentration values laid down in the RoHS Directive. Regulations in accordance with the RoHS Directive on the hazardous substances to be restricted and their maximum concentration values, as well as exemptions from these, shall be issued in a decree of the Ministry of the Environment.
- (2) An economic operator may make an application to the European Commission for granting, renewing or revoking an exemption referred to in Article 5 of the RoHS Directive. A procedure in accordance with the RoHS Directive shall be followed in drawing up and processing the application.

Section 5

Ensuring the compliance of electrical and electronic equipment with the requirements

- (1) Before placing electrical and electronic equipment on the market, the manufacturer shall ensure that the electrical and electronic equipment has been designed and manufactured in accordance with the requirements of this Act.

(2) In order to ensure that electrical and electronic equipment complies with the requirements, the manufacturer shall ensure that internal production control is carried out and that technical documentation is established in accordance with Annex II, module A of the Decision No 768/2008/EC of the European Parliament and of the Council on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC. The compliance of the equipment with the requirements can also be ensured in connection with a conformity assessment procedure in accordance with the other applicable European Union legislation that is at least as stringent.

(3) The manufacturer shall keep the technical documentation for 10 years after the electrical and electronic equipment has been placed on the market.

Section 6

EU declaration of conformity

(1) When the manufacturer has ensured that the electrical and electronic equipment is compliant with Section 4, the manufacturer shall draw up an EU declaration of conformity in accordance with Annex VI of the RoHS Directive in Finnish, Swedish or other language approved by the supervisory authority. The manufacturer shall keep the EU declaration of conformity for 10 years after the electrical and electronic equipment has been placed on the market.

(2) Regarding products in series production, changes in product design or characteristics and changes in the harmonised standards or in technical specifications by reference to which conformity of electrical and electronic equipment is declared shall be adequately taken into account in the EU declaration of conformity.

Section 7

Markings and contact information to be affixed to electrical and electronic equipment

(1) The manufacturer shall affix a CE marking to electrical and electronic equipment that complies with the requirements of this Act, or its data plate, before the equipment is placed on the market. The marking shall be affixed visibly, legibly and indelibly. If attaching the marking to the equipment or its data plate is not possible or not warranted, it shall be affixed to the packaging and to the accompanying documents.

(2) The manufacturer shall ensure that the electrical and electronic equipment bears a type, batch or serial number or other element allowing its identification. If the marking cannot be affixed to the equipment, it shall be affixed to the packaging or a document accompanying the equipment.

(3) The manufacturer shall indicate its name, registered trade name or registered trade mark as well as its address on the electrical and electronic equipment or, where that is not possible, on its packaging or in a document accompanying the equipment. The address must indicate a single point at which the manufacturer can be contacted.

Section 8

Presumption of conformity

In the absence of evidence to the contrary, equipment bearing the CE marking shall be presumed to comply with this Act. Before affixing the CE marking, the manufacturer must assess the compliance of the equipment or its materials and components by using measurement methods that are in accordance with harmonised standards or reproducible and generally considered to be the most accurate and reliable.

Section 9

Procedure in cases of non-compliance

(1) A manufacturer that has reason to suspect that the electrical and electronic equipment which they have placed on the market does not comply with the requirements of this Act must immediately take the necessary corrective measures to bring that equipment into conformity, to withdraw it or, if necessary, take measures to return the equipment that has been made available to users back to the manufacturer. The manufacturer must immediately inform the supervisory authority of the non-compliance of the equipment and of any corrective measures taken.

(2) The manufacturer must keep a register of non-conforming electrical and electronic equipment and product recalls carried out in accordance with subsection 1, and keep distributors informed thereof.

Section 10

Authorised representative

(1) The manufacturer may appoint an authorised representative in writing. In that case, the representative must be authorised to perform at least the following tasks:

- 1) keeping the EU declaration of conformity and the technical documentation at the disposal of the supervisory authority for 10 years following the placing of the electrical and electronic equipment on the market;
- 2) providing the supervisory authority with all the information and documentation necessary to demonstrate the conformity of electrical and electronic equipment with requirements;
- 3) cooperating in other ways with the supervisory authority on any action taken to ensure the compliance of the electrical and electronic equipment with the requirements of this Act.

(2) The manufacturer cannot transfer the obligations laid down in subsections 1 and 2 of Section 5 to an authorised representative.

Chapter 3 – Obligations of the importer and the distributor

Section 11

Obligations of the importer in connection with placing equipment on the market

(1) Before placing electrical and electronic equipment on the market, the importer must ensure that the manufacturer has fulfilled the obligations laid down in subsections 1 and 2 of Section 5, Sections 6 and 7, as well as subsection 2 of Section 9. If the importer has

reason to suspect that the electrical and electronic equipment is not in conformity with this Act, the importer shall inform the manufacturer and the supervisory authority to that effect. The importer may only place the equipment on the market after it complies with the requirements of this Act.

(2) The importer shall indicate its name, registered trade name or registered trade mark and address at which it can be contacted on the electrical and electronic equipment or, where this is not possible, on its packaging or in a document accompanying the equipment.

(3) The importer shall keep, for 10 years following the placing of the electrical and electronic equipment on the market, a copy of the EU declaration of conformity at the disposal of the supervisory authority and ensure that the technical documentation can be made available to that authority upon request.

Section 12

Obligations of an importer in case of non-compliance of equipment that has been placed on the market

(1) If the importer has reason to suspect that electrical and electronic equipment which it has placed on the market is not in conformity with this Act, the importer shall immediately take the corrective measures necessary to bring that equipment into conformity, to withdraw it or, if necessary, take measures to return the equipment that has been made available to users back to the importer.

(2) The importer must immediately inform the supervisory authority of the non-compliance of the electrical and electronic equipment and of any corrective measures taken.

(3) The importer must keep a register of non-compliant electrical and electronic equipment and product recalls, and keep distributors informed thereof.

Section 13

Obligations of a distributor when equipment is placed on the market

Before placing electrical and electronic equipment on the market, the distributor shall inspect that it includes all the markings and information referred to in Section 7 and subsection 2 of Section 11. If the distributor has reason to suspect that the electrical and electronic equipment is not in conformity with this Act, the distributor shall inform the manufacturer or importer and the supervisory authority to that effect. The distributor may only place the equipment on the market after it is in compliance with the requirements of this Act.

Section 14

Obligations of a distributor in case of non-compliance of equipment that has been placed on the market

(1) If the distributor has reason to suspect that the electrical and electronic equipment which it has placed on the market is not in compliance with the requirements of this Act, the distributor shall ensure that the manufacturer, the importer or, if necessary, the

distributor itself takes the corrective measures necessary to bring that equipment into conformity, to withdraw it or, if necessary, take measures to return the equipment that has been made available to users back to the distributor.

(2) The distributor must immediately inform the supervisory authority of the non-compliance of the equipment and of any corrective measures taken.

Section 15

Applying the obligations of the manufacturer to the importer and the distributor

An importer or distributor is subject to the obligations of the manufacturer, if the importer or distributor places electrical and electronic equipment on the market under its name or trademark or modifies equipment already placed on the market in a way that may affect its compliance with the requirements of this Act.

Chapter 4 – Guidance and supervision

Section 16

Guidance and development

The general guidance, supervision and development of activities in accordance with this Act fall within the purview of the Ministry of the Environment.

Section 17

Supervisory authorities

The supervisory authority in accordance with this Act is the Finnish Safety and Chemicals Agency (Tukes). The authority of the National Supervisory Authority for Welfare and Health (Valvira) to supervise medical devices is provided for in the Medical Devices Act.

Section 18

Providing information on the preparation of changes to the RoHS Directive and their entry into force

The Ministry of the Environment and the Finnish Safety and Chemicals Agency shall provide information on the information network regarding the content of the restrictions on hazardous substances provided for in the RoHS Directive and the exemptions from these, as well as the preparation and entry into force of changes concerning the restrictions and exemptions.

Section 19

Authority of the Customs before release into free movement

(1) The Customs may interrupt the release of electrical and electronic equipment into free movement in the European Union market, if:

- 1) the equipment has characteristics that give reason to assume that it causes a serious risk to health or the environment;
- 2) the equipment has not been marked in accordance with the requirements of this Act; or
- 3) the CE marking of the equipment is incorrect or misleading.

(2) The Customs shall immediately notify the supervisory authority of the interruption.

Section 20

Releasing information and cooperation with the authority

(1) Upon request, the economic operator shall release to the supervisory authority any information or documents in Finnish or Swedish or another language approved by the supervisory authority that are necessary to the supervision and enforcement of compliance with this Act, and it shall cooperate with the supervisory authority in other ways in order to ensure the compliance of electrical and electronic equipment with the requirements.

(2) The supervisory authority shall have the right, for 10 years following the placing on the market of the electrical and electronic equipment, to receive from the economic operator, upon request, information about all economic operators that have delivered electrical and electronic equipment to it or to which it has delivered electrical and electronic equipment.

Section 21

Disclosure of confidential information to other authorities

(1) The supervisory authority has the right to receive information necessary to the supervision in accordance with this Act from other authorities without being prevented by the statutory secrecy obligation.

(2) In addition to the provisions of the Act on the Openness of Government Activities (621/1999), the supervisory authority may, without being prevented by the statutory secrecy obligation, release information within the scope of secrecy obligation acquired during the course of performing the duties referred to in this Act to the following parties:

- 1) the prosecutor, the police and the Customs, in order to prevent or solve a crime;
- 2) the Customs, the environmental protection authority and the consumer protection authority, if releasing the information is necessary to the performance of the authority's duties;
- 3) the competent foreign authority and international body in order to fulfil an obligation based on a regulation of the European Union or an international agreement binding Finland.

Section 22

Using an external expert

(1) The supervisory authority has the right to use external experts to study, test or assess the compliance of electrical and electronic equipment with the requirements. The external experts may participate in inspections in accordance with this Act and study and test electrical and electronic equipment in assistance of the supervisory authority or an officeholder appointed by it.

(2) An external expert must have the expertise and qualifications required by the tasks.

(3) Provisions on penal liability as a public official apply to external experts while they are performing the duties referred to in this Act. Provisions on tort liability are laid down in the Tort Liability Act (412/1974).

Section 23 **Right to inspection**

(1) In order to supervise and enforce this Act, the supervisory authority has the right to carry out inspections and studies, conduct measurements and take samples, as well as take any other measures required by supervision in areas other than premises used for permanent habitation. The provisions of Section 39 of the Administrative Procedure Act (434/2003) shall be followed in the inspections.

(2) Upon request, the economic operator must present documents that may have significance in supervising compliance with this Act to the supervisory authority carrying out the inspection. The supervisory authority conducting the inspection is entitled to receive copies of the documents being inspected and printouts of recordings in information systems.

Section 24 **Taking equipment for inspection and testing**

If it is necessary for supervising compliance with this Act, the supervisory authority and the Customs have the right to take electrical and electronic equipment for inspection and testing from the economic operator.

Section 25 **Reimbursing costs**

The supervisory authority and the Customs may charge the economic operator any costs incurred in inspecting and testing non-compliant electrical and electronic equipment as well as acquiring or storing equipment for this purpose.

Section 26 **Measures concerning non-compliant equipment**

(1) If the electrical and electronic equipment is not in compliance with the requirements of this Act, or the markings of the equipment or documents and information on the equipment are not in compliance with the requirements of this Act or they are not delivered to the supervisory authority upon request, the supervisory authority may:

- 1) prohibit the economic operator temporarily or permanently from manufacturing, placing on the market, making available on the market or otherwise releasing the equipment and order the economic operator to withdraw the equipment;
- 2) order the economic operator to take corrective measures to bring the equipment, its markings and the documents and information on the equipment to conformity with the requirements of this Act;
- 3) order the economic operator to take back from the users equipment that causes a serious risk to health or the environment and to replace it with the same or similar equipment that is not dangerous, or to cancel the sale, if the prohibition in paragraph 1 or the order in paragraph 2 is not sufficient;

- 4) order the economic operator to deliver the equipment to be processed as waste, if the obligation referred to in paragraphs 1–3 cannot be considered sufficient or, if processing the equipment as waste is not considered appropriate, order other measures to be taken with the equipment;
- 5) order the economic operator to give public notice about the danger related to the equipment or issue such a notification itself at the economic operator's cost;
- 6) prohibit the use of equipment that causes a serious risk to health or the environment.

(2) The economic operator shall give the supervisory authority a report on the implementation of the order or prohibition referred to in paragraphs 1–5 of subsection 1 within a reasonable period of time specified by the authority.

Section 27

Penalty payment and notice of enforced compliance

The supervisory authority may set a penalty payment or give a notice of enforced compliance to increase the effectiveness of a prohibition or order it has issued under this Act.

Section 28

Appealing the decision of the supervisory authority

A decision of the supervisory authority issued under this Act is appealed to the Administrative Court. Provisions on appeal are laid down in the Administrative Judicial Procedure Act (586/1996). The decision of the supervisory authority shall be followed regardless of appeal, unless the appeal authority orders otherwise.

Chapter 5 – Transitional provisions and entry into force

Section 29

Entry into force

(1) This Act enters into force on 20 June 2013.

(2) This Act repeals the Government Decree on Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (853/2004).

Section 30

Transitional provisions

Electrical and electronic equipment that is not within the scope of the Government Decree on Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment and that is not in compliance with the requirements of this Act can be made available on the market until 22 July 2019, unless it has been otherwise stipulated in this Act or Article 4(3) of the RoHS Directive.