

**WEEE2 guidance document:
Equipment which is specifically designed
and installed as part of another type of equipment**



WEEE2 guidance document:

***Equipment which is specifically designed and
installed as part of another type of equipment***

July, 2023

**WEEE2 guidance document:
Equipment which is specifically designed
and installed as part of another type of equipment**

Content

| | | |
|---|---|---|
| 1 | Objective..... | 3 |
| 2 | Definition of “part of another type of equipment” subject to WEEE2 | 3 |
| 3 | Interpretation of the four prerequisites of the exclusion “part of another type of equipment” | 3 |
| 4 | Decision Tree | 7 |
| 5 | European WEEE Registers Network (EWRN) | 8 |

1 Objective

The European Commission published two FAQ documents¹ to interpret the prerequisites of equipment which is specifically designed and installed as part of another type of equipment that is excluded or does not fall in the scope (“part of another type of equipment”). Unfortunately, those interpretations did not remove all possible misunderstandings in this area. Therefore, this document provides guidance and clarification for the interpretation of the exclusion for the WEEE directive (Directive 2012/19/EU: “WEEE2”) and reflects the interpretation of this exclusion by the Court of Justice.

2 Definition of “part of another type of equipment” subject to WEEE2

According to WEEE2 the directive shall not apply to the following EEE:

“equipment which is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment”²

The exclusion has four prerequisites. In detail:

- (i) a **specifically designed equipment;**
- (ii) that [specifically designed equipment] is **installed as part of** another type of equipment;
- (iii) that [**other type of equipment**] is **excluded or does not fall within the scope of the directive;**
- (iv) and that [specifically designed and installed] **equipment can fulfil its function only if it is part of that** [other type of] **equipment.**

All four prerequisites must be met for the exclusion to apply.

3 Interpretation of the four prerequisites of the exclusion “part of another type of equipment”

The interpretation of the prerequisites follows the Commission’s FAQs subject to WEEE2 and RoHS2. EWRN provides further interpretation where the Commission’s interpretation does not lead to a clear conclusion.

¹ <http://ec.europa.eu/environment/waste/weee/pdf/faq.pdf> concerning Directive 2012/19/EU and http://ec.europa.eu/environment/waste/rohs_eee/pdf/faq.pdf concerning Directive 2011/65/EU

² Article 2 (3) (b) WEEE2

WEEE2 guidance document: Equipment which is specifically designed and installed as part of another type of equipment

According to the **European Court of Justice** the **exceptions to the application of those directives**, set out in Article 2(1) of Directive 2002/96 and 2(3)(b) of Directive 2012/19 respectively, **must be interpreted restrictively**. The **exception** set out in Article 2(3)(b) of Directive 2012/19 **is to be construed even more restrictively** than that provided for in Article 2(1) of Directive 2002/96 since it is intended to exclude only equipment ‘**specifically designed and installed**’ as part of another type of equipment and which ‘**can fulfil its function only if it is part of that equipment**’.³

Ad (i). “**Specifically designed equipment**” means that the equipment is **tailor made**. It is designed to meet the needs of a specific application in the other equipment that it is part of. This might apply if the equipment is specifically designed, dimensioned and customised to have specific characteristics, such as dimensions, functions or others.⁴

*Example 1: An individual designed and dimensioned computer that can only be integrated into a certain kind of large-scale stationary industrial tool that also has special (hardware) interfaces **and** that can only function with that kind of large-scale stationary industrial tool. Such a specifically designed computer cannot be used in any other way than installed as part of that kind of large-scale stationary industrial tool. In other words, this computer is tailor made, it is exclusively designed, dimensioned and customised to be incorporated into this kind of large-scale stationary industrial tool.*

Example 1a: A standardized computer that only runs with a special programmed software does not fulfil the exclusion because the computer is not tailor made.

Ad (ii). The prerequisite “**installed as part of** another type of equipment” is not fulfilled if the specifically designed equipment can at any time be dismantled, re-installed and/or added to the other type of equipment.⁵

The justification for the existence of this exclusion is that the specifically designed and installed equipment shares the fate of the other type of equipment - where it is installed as part of - when it turns into waste and is discarded because it cannot be dismantled, re-installed and/or added to the other type of equipment at any time.

³ ECJ, C-369/14 (no. 56, see also no. 53)

⁴ FAQ Com, Q. 3.14, p.10 and RoHS2 FAQ Q4.1 p. 13

⁵ ECJ, C-369/14 (no. 57, 59): The European Court of Justice ruled that electrical garage-door operating devices and the relevant garage doors that could at any time be dismantled, re-installed and/or added to that structure [the garage] are not excluded under this exclusion as part of the garage structure.

**WEEE2 guidance document:
Equipment which is specifically designed
and installed as part of another type of equipment**

That means that the specifically designed equipment must be incorporated in the other type of equipment as an integral part. A separation after the installation is not possible because otherwise the specifically designed equipment would not function.

Example 2: A standardized car radio, bought from a retailer, which can be inserted and separated from the car again at any time is not excluded. In this case the car radio is not installed as part of the car. Furthermore, if the car radio can be installed in any other car it is not a specifically designed equipment. Standardized car radios that fit in any car model with a standardized installation bay do not meet the criteria because they can be exchanged at any time.

Example 3: A car radio produced for a specific car model and is designed with specific dimensions, setup, fixing points and connections to meet the particular dashboard specifications into which it is incorporated in the manufacturing and assembly process of the car manufacturer. The dashboard itself is prepared with holes, fixing points and connections to receive that particular car radio. The specific car radio only functions if incorporated in the specific car (dashboard).

Any **equipment that is only attached by nails, screws or any other means** to another type of equipment does not fulfil the criteria of being installed as part of another type of equipment. It usually can at any time be dismantled, re-installed and/or added to the other type of equipment.

Ad (iii). The [other type of] **“equipment”** [where the specifically designed equipment is installed as part of] **“is excluded or does not fall within the scope of the directive”**.

This is the case when the other type of equipment (i) falls under one of the legally defined exclusions of the WEEE2 (for example large-scale stationary industrial tools, Article 2 (4) (b) WEEE2) or (ii) is not in the scope of the WEEE2 (for example it is not an EEE or it exceeds the voltage thresholds, Article 3 (1) (a) WEEE2).

Example 4: An individual designed and dimensioned computer that can only be incorporated into a certain kind of (excluded) large-scale stationary industrial tool and that cannot be used in any other way.

WEEE2 guidance document: Equipment which is specifically designed and installed as part of another type of equipment

It is important to notice that **buildings are not another type of equipment**⁶ because they are, by definition, not equipment. The European Court of Justice confirmed that such misinterpretation would exclude a considerable number of the examples of EEE expressly included in the categories listed in the Annex of the WEEE2 solely because they are attached to a building or connected to its electricity supply and would therefore run counter to the Directive's objectives.⁷

Example 5: A TV set that is designed with fixing holes to be attached to the wall or furniture cannot be excluded as "being specifically designed and installed as part of another type of equipment". This is because its functions are not dependent of being fixed to the wall or furniture and the wall of a building or the furniture is not another type of equipment.

Example 6: Electrical thermostats, smoke detectors, electrical driven blinds or shutters, photovoltaic panels etc. that are used in or on buildings are not excluded. This is because buildings are not another type of equipment.

Ad (iv). "Fulfil its function only if it is part of that [other type of] equipment", means that the specifically designed equipment can only function when it is **incorporated** in the other type of equipment. It has no function if it is not incorporated in the other type of equipment.

Example 7: The computer mentioned under Ad (i) example 1, is a good example of a specific equipment that can only function when installed as part of that specific large-scale stationary industrial tool.

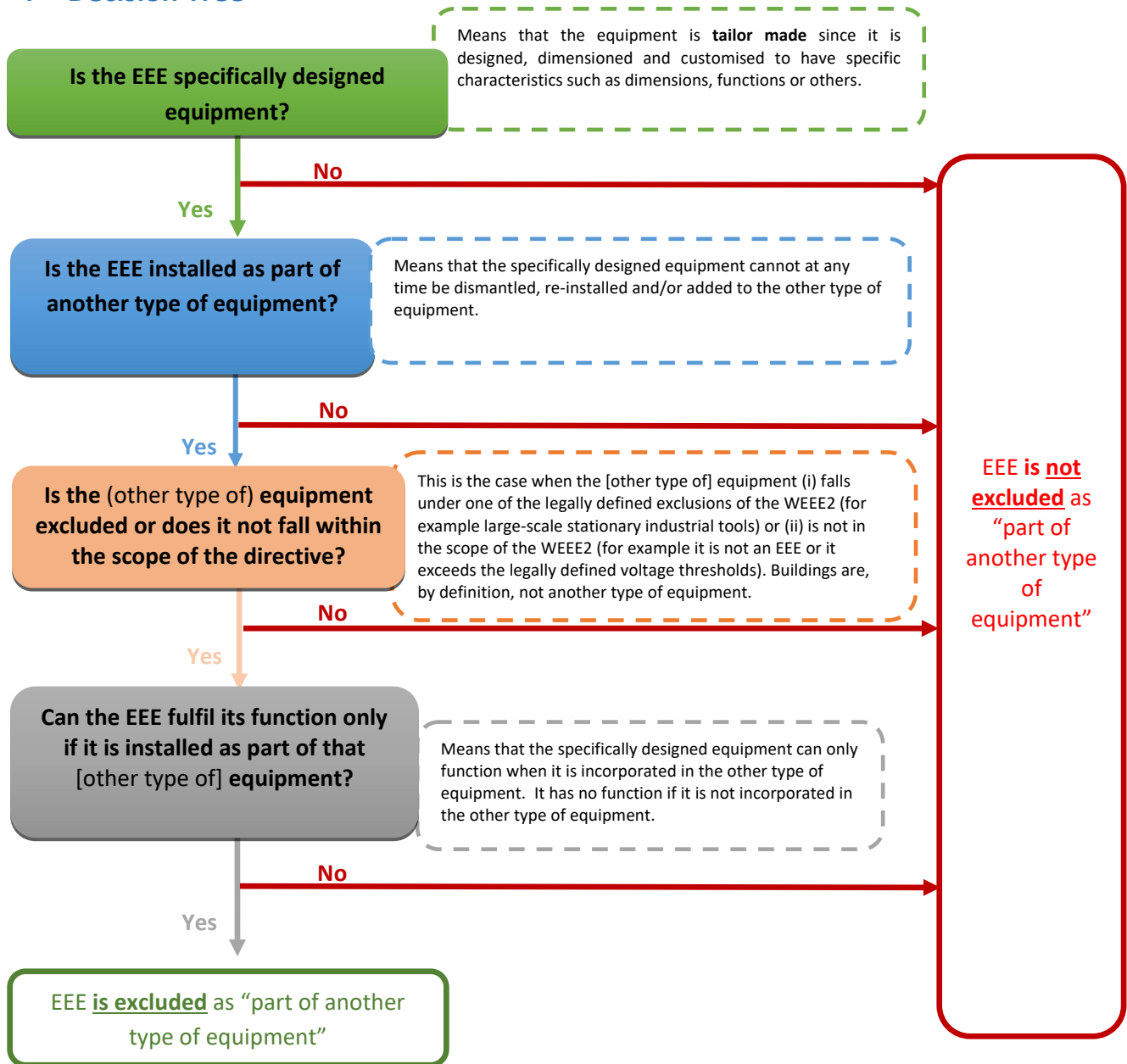
The specifically designed and installed equipment must be intended only to be installed in another type of equipment that is excluded or not in the scope. When the equipment can function in excluded as well as in EEE that is in scope the equipment is also in the scope and not excluded.⁸

⁶ ECJ, C-369/14 (para 55) and also see RoHS2 FAQ Q4.3 p. 15

⁷ ECJ, C-369/14 (para 55)

⁸ RoHS2 FAQ Q4.1 p. 14

4 Decision Tree



5 European WEEE Registers Network (EWRN)

EWRN is an independent network of national registers at the heart of the national implementation of Directive 2002/96/EC and the new Directive 2012/19/EU (“WEEE2”) in the respective EU Member States.

Those responsible for managing the national registers are working together at EWRN as experts regarding electrical and electronic equipment (“EEE”) and its proper treatment.

EWRNs primary objectives includes promoting a harmonised approach to registration, reporting and scoping issues across the Member States. This includes harmonised interpretation of the new exclusions under WEEE2.