

Order prohibiting the import and sale to consumers of clothing, footwear and certain waterproofing agents containing PFAS¹⁾

Pursuant to Sections 30(1) 38f(1)), 45(1) and 59(4) of the Act on Chemicals, cf. Consolidation Act No 6 of 4 January 2023, as amended by Act No 1469 of 10 December 2024, the following is set out:

Section 1. The following definitions apply for the purposes of this Order:

- 1) PFAS: Any substance containing at least one fully fluorinated methyl (CF₃) or methylene (CF₂) carbon atom, without any hydrogen, chlorine, bromine, or iodine atoms attached to it.
- 2) Article: As defined in Article 3 No 3 of 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 Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, as amended.
- 3) Medical devices: As defined in Article 2 No 1 of Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC, as amended.

Section 2. The Order does not cover PFAS in clothing, footwear or waterproofing agents, which are regulated in the following legal acts:

- 1) 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 Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, as amended; or
- 2) Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (recast), as amended.

(2) The Order does not cover PFAS, which contain only the following structural elements: CF₃-X or X-CF₂-X', where X = -OR or -NRR' and X' = a methyl group (-CH₃), a methylene group (-CH₂-), an aromatic group, a carbonyl group (-C(O)-), -OR'', -SR'' or -NR''R''' and where R/R'/R''/R''' is a hydrogen atom (-H), a methyl group (-CH₃), a methylene group (-CH₂-), an aromatic group or a carbonyl group (-C(O)-).

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Section 3. Traders shall not import or sell:

- 1) Clothing or footwear for own or others' private use, where at least one article included in the clothing or footwear contains a total fluorine content of 50 mg F/kg or more.
- 2) Impregnating agents for clothing or footwear for private use containing a total fluorine content of 50 mg F/kg or more.

(2) Private individuals may not import:

- 1) Clothing or footwear for own or others' private use, where at least one article included in the clothing or footwear contains a total fluorine content of 50 mg F/kg or more.

2) Impregnating agents for clothing or footwear for private use containing a total fluorine content of 50 mg F/kg or more.

(3) The prohibition in (1) and (2) shall not apply to:

1) Reuse of clothing or footwear.

2) Recycling of clothing or footwear.

3) Personal protective equipment intended to protect users against the risks specified in Regulation (EU) 2016/425, Annex I, risk category III (a) or (c).

4) Personal protective equipment whose content of PFAS constitutes a safety function for the consumer.

5) Impregnating agents intended for the re-impregnation of personal protective equipment referred to in No 3 or 4.

6) Medical equipment.

7) Goods in transit.

(4) Subsections (1) and (2) shall not apply if the fluorine content comes from a substance that is not PFAS, cf. Section 1 No 1. The Danish Environmental Protection Agency may request documentation for this.

Supervision, control, exemption and appeals

Section 4. Supervision and control of compliance with the Order is carried out by the Environmental Protection Agency, cf. the relevant rules in the Chemicals Act.

(2) In special cases, the Environmental Protection Agency may grant exemptions from Section 3.

(3) Decisions taken under this Order by the Environmental Protection Agency may not be appealed to any other administrative authority.

Penalty, entry into force and transitional provisions

Section 5. Unless higher penalties are stipulated under other legislation, fines will be imposed on a person who:

1) violates the prohibition on the import or sale in Section 3(1) or (2); or
2) overrides the conditions attached to an exemption under Section 4(2).

(2) The penalty may increase to 2 years' imprisonment if the infringement was committed wilfully or through gross negligence, and said infringement:

1) caused injury to human life or health or introduced this risk;
2) caused damage to the environment or introduced this risk; or
3) achieved or intended to achieve a financial benefit, including savings, for the person in question or others.

(3) Companies, etc. (legal persons) may be held criminally liable in accordance with the regulations set out in Chapter 5 of the Penal Code.

Section 6. The Order shall enter into force on 1 July 2025.

(2) The prohibitions in Section 3(1) and (2) shall take effect from 1 July 2026.

(3) Sales covered by the prohibition in Section 3(1) from traders' stocks of clothing, footwear and impregnating agents shall be permitted until 1 January 2027.

Ministry of Environment and Gender Equality, 2 May 2025

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EU Notes

1 A draft of this Order has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).