

## DRAFT

# Order concerning restrictions on the use of wood-based materials, that release formaldehyde, in the making of furniture, etc. and restrictions on the sale of furniture, etc., made of wood-based materials that release formaldehyde<sup>1</sup>

The following is laid down pursuant to § 8, § 30, § 43(1), § 45(1), § 47, § 58a and § 59(4) of the Chemicals Act (see Consolidation Act No 115 of 1 February 2017):

### *Scope of the Order*

**§ 1.** This Order covers the use of wood-based materials, that release formaldehyde, in the making of furniture and parts thereof. The Order also covers the sale of furniture, and parts thereof, made of wood-based materials that release formaldehyde, whether the wood-based material is untreated, surface-coated, or treated with a coating.

*Paragraph 2.* The Order does not cover furniture padding and upholstery.

*Paragraph 3.* The Order does not cover construction products that are subject to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC.

*Paragraph 4.* The Order does not cover used furniture or parts thereof which complied with Danish requirements concerning the release of formaldehyde when first sold.

*Paragraph 5.* The Order does not cover furniture or parts thereof that are made for export to countries outside the European Union.

### *Definitions*

**§ 2.** For the purposes of this Order, the terms below shall have the following meanings:

- 1) Wood-based materials: Wood-based panels as defined in DS/EN 13986:2004+A1:2015<sup>2</sup> and similar panels made with formaldehyde-releasing adhesives and moulded wood items made with formaldehyde-releasing adhesives.
- 2) Furniture: Fixed and movable objects, including furnishings and kitchen units, contained in the interior of a space.

### *Restrictions on use*

**§ 3.** Wood-based materials that release formaldehyde at a concentration greater than 0.124 mg/m<sup>3</sup> of air measured according to testing standard DS/EN 717-1:2004<sup>3</sup> may not be used in the making of furniture or parts thereof.

### *Restrictions on sales*

**§ 4.** Furniture and parts thereof (see § 1(1)(2)) made of wood-based materials that release formaldehyde at a concentration greater than 0.134 mg/m<sup>3</sup> of air measured according to testing standard DS/ISO 16000-9:2006<sup>4</sup> under the same material load and rate of air changes specified in DS/EN 717-1:2004 may not be sold.

### *Supervision, monitoring, and dispensation*

**§ 5.** Supervision and monitoring of compliance with this Order shall be conducted by the Environmental Protection Agency (see the associated provisions of the Act).

*Paragraph 2.* In special circumstances, the Environmental Protection Agency may permit derogation from the rules in §§ 3 and 4 of the Order. The Environmental Protection Agency may impose conditions on such derogation.

*Paragraph 3.* Appeals against the Environmental Protection Agency's decisions under paragraphs 1 and 2 may not be lodged with another administrative authority.

<sup>1</sup> [This draft order has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council (the Information Procedure Directive).]

*Penal provisions and entry into force*

**§ 6.** Unless higher penalties are stipulated under other legislation, fines will be imposed on those who:

- 1) use wood-based materials to make furniture or parts thereof in contravention of § 3;
- 2) sell furniture or parts thereof made of wood-based materials in contravention of § 4;
- 3) disregard conditions tied to a derogation permitted under § 5(2).

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

- 1) caused harm to or endangered human or domestic animal life or health,
- 2) caused damage to or endangered the environment, or
- 3) achieved, or intended to achieve, economic advantages, including savings, for the offender or others.

*Paragraph 3.* Companies, etc. (legal persons) may be rendered criminally liable in accordance with the rules of Chapter 5 of the Penal Code.

**§ 7.** This Order shall enter into force on [ ].

*Paragraph 2.* Order No 289 of 22 June 1983 on the restriction of formaldehyde in particle board, plywood, and similar panels used in furnishings, furniture and the like is repealed.

*Paragraph 3.* Wood-based materials that comply with Order No 289 of 22 June 1983 may be used in the making of furniture and parts thereof until [6 months after entry into force].

*Paragraph 4.* Furniture and parts thereof (see § 1(1)(2)) made prior to the entry into force date of the Order and which do not comply with the concentration limit for the release of formaldehyde in § 4 may be sold until [one year after entry into force].

*Ministry of Environment and Food, [DATE]*

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<sup>2</sup> Danish Standards DS/EN 13986:2004+A1:2015 Wood-based panels for use in construction – Characteristics, evaluation of conformity and marking (only available in English) is available for purchase from Danish Standards and may be browsed at the Environmental Protection Agency.

<sup>3</sup> Danish Standards DS/EN 717-1:2004 Wood-based panels – Determination of formaldehyde release – Part 1: Formaldehyde emission by the chamber method (only available in English) is available for purchase from Danish Standards and may be browsed at the Environmental Protection Agency.

<sup>4</sup> Danish Standards DS/ISO 16000-9:2006 Indoor air – Part 9: Determination of the emission of volatile organic compounds from building products and furnishing – Emission test chamber method (only available in English) is available for purchase from Danish Standards and may be browsed at the Environmental Protection Agency.