

**STATUTORY ORDER NO. 243 of 19 APRIL 2002 ON
CERTAIN OZONE-DEPLETING SUBSTANCES¹
(PROHIBITION AND RESTRICTIONS ON USE)**

Pursuant to sections 4a, 7a, 8(1), 30, 45(1) and (2), 59(4) and 60 of Act on Chemical Substances and Products, cf. Consolidated Act no. 21 of 16 January 1996, as amended by Act no. 424 of 10 June 1997 and Act no. 256 of 12 April 2000, and following negotiations with the Minister for Taxation, the following provisions are laid down:

PART 1

Scope

1.-(1) The EU Regulation on substances that deplete the ozone layer² in force at any time lays down the minimum level for the regulation of controlled substances.

2.-(1) This Order regulates controlled substances that are mentioned in subsection (2) below, and products, including equipment, containing controlled substances or whose operation depends on such substances.

(2) Controlled substances are the following chemical substances and their isomers, whether alone or in a mixture with other substances, where the mixture contains more than one percent by weight:

- 1) All CFCs (fully halogenated chlorofluorocarbons)
- 2) Tetrachloromethane
- 3) Trichloroethane
- 4) All halons (fully halogenated bromofluorocarbons, bromochlorocarbons and bromochlorofluorocarbons)
- 5) All HBCFs (hydrobromofluorocarbons)
- 6) All HCFCs (hydrochlorofluorocarbons), and:
- 7) Methyl bromide

3.-(1) This Order does not apply to:

¹ Statutory Order no. 974 of 13 December 1995, replaced by the present Statutory Order, has been notified in draft form in compliance with Council Directive 83/189/EEC (information procedure directive) as amended primarily by Council Directive 88/183/EEC and European Parliament and Council Directive 94/10/EC, and notified to the Commission in pursuance of article 130T of the EU Treaty (now article 176(EC))

² The regulation in force on 1 May 2002 is Regulation (EC) No. 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer, as amended by Regulation No. 2038/2000/EC and Regulation No. 2039/2000/EC. The regulations are published in OJ L244 of 29 September 2000

- 1) controlled substances that are used as feedstock to manufacture chemical substances that are not covered by this Statutory Order, and
- 2) medical dose inhalators and medication pumps containing controlled substances

PART 2

Restrictions on Use of Controlled Substances

4.-(1) Commercial use of controlled substances which are not recovered is prohibited, cf. however subsection 2, point 2.

(2) Commercial use of all halons, whether new or recovered, is prohibited. However, the use of halons is permitted

- 1) in aircraft, and
- 2) in equipment in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention, 1969, of less than 100 meters, up to 31 December 2003.

5.-(1) Commercial filling of controlled substances, which are not recovered, into products, including equipment, is prohibited.

(2) Charging of all halons, whether new or recovered, is prohibited. However, charging of recovered halons is permitted

- 1) into equipment in aircraft, and
- 2) into handheld fire extinguishers for aircraft, and
- 3) into equipment established in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention of less than 100 meters, up to 31 December 2002.

(3) Enterprises charging halon into equipment in aircraft, cf. subsection 2, point 1) above, or handheld fire extinguishers for aircraft, cf. subsection 2, point 2) above shall report to the Danish Environmental Protection Agency amounts and types of halons used no later than 20 January of the subsequent year.

PART 3

Restrictions on Sale, Exportation, Use and Possession of Products, Including Equipment, Containing Controlled Substances

6.-(1) Commercial exportation of products, including equipment that are not chemical products and that contain controlled substances is prohibited. The prohibition does not cover exportation of aircraft and ships.

(2) Commercial sale of products, including equipment that are not chemical products and that contain non-recovered controlled substances is prohibited, cf. however subsection (3) below.

(3) Irrespective of the above, the resale of products in Denmark is permitted of

- 1) products complying with Danish requirements at the time of the first sale, or
- 2) products complying, at the time of the first sale in the EU, with requirements ensuring the same level of protection with regard to ozone-depleting substances.

7.-(1) Continued use of products, including equipment containing controlled substances and acquired legally is permitted, cf. however subsection (2) below.

(2) The possession of mobile and stationary fire extinguishers containing halons is prohibited, unless the equipment is permanently installed in an aircraft or in a vehicle or ship registered abroad. Until 31 December 2003, however, the possession of equipment containing halons established in fishing vessels and commercial ships of a length in pursuance of the International Tonnage Convention of less than 100 meters is permitted.

8.-(1) Servicing, maintenance or dismantling of

- 1) refrigeration, air-conditioning and heat pump equipment,
- 2) equipment containing controlled substances as solvents, and
- 3) fire protection systems and fire extinguishers

must be conducted in a way so as to ensure that controlled substances are recovered for recycling or reclamation, or recovered for destruction.

(2) Any person servicing, maintaining or dismantling refrigeration, air-conditioning or heat pump equipment cf. subsection (1), point 1 above, must be authorised to carry out control under the rules of the National Labour Inspection Service on refrigeration equipment, have a training as refrigeration technician, have completed relevant training under the adult vocational training scheme, have a corresponding education ensuring as a minimum knowledge of measures preventing or limiting leakage of controlled substances, or work under the instructions of such a person.

(3) Any person servicing, maintaining or dismantling equipment or installations cf. subsection (1) above must have knowledge of the requirements laid down in this Order and of measures preventing or limiting leakage of controlled substances.

(4) Enterprises carrying out work with controlled substances covered by subsection (1) above must ensure that work is done by persons complying with the requirements stipulated in subsections (2) and (3) above.

(5) Anyone contracting work covered by subsection (1) above must ensure that work is done by persons or enterprises complying with the requirements stipulated in subsections (2) and (3) above.

PART 4

Control, Exemptions and Complaints

9.-(1) Supervision and control of compliance with the provisions of this Order and of compliance with the Regulation on substances that deplete the ozone layer are in the hands of the Danish Environmental Protection Agency, cf. Part 10 of the Act on Chemical Substances and Products. The Central Customs and Tax Administration assists the Danish Environmental Protection Agency in the control. Control of compliance with section 7(2) is in the hands of the Danish Maritime Authority who reports any infringements to the Danish Environmental Protection Agency.

(2) The Danish Environmental Protection Agency may in very special cases waive the provisions of this Order, including granting of authorisation for

- 1) use of halons for critical uses, cf. article 4 (4), point iv), of the Regulation on substances that deplete the ozone layer
- 2) use of controlled substances for purposes where alternatives with less impacts on the environment or human health are not available, and where the use is found to be essential,
- 3) use of HCFC in laboratories, including research and development, or
- 4) use of controlled substances for purposes implying that total emissions of ozone-depleting substances from the application area in question are substantially reduced.

(3) Complaints against the decisions of the Danish Environmental Protection Agency under subsection (2) above cannot be made to other administrative authorities.

PART 5

Penalty and Entry into Force

10.-(1) Unless more severe penalty is due under other legislation, persons infringing sections 4, 5, 6(1-2), 7(2) or 8 or infringing conditions in authorisations pursuant to section 9(2) above shall be punished by fine.

(2) Penalties may increase to imprisonment of up to two years, if a violation is committed intentionally or through gross negligence, and if a violation results in:

- 1) damage to the life or health of humans or risk of danger thereto, or
- 2) damage to the environment or risk of danger thereto, or
- 3) actual or intentional economic advantage for the person in question or for others, including by the saving of costs.

(3) Companies etc. (legal persons) may incur criminal liability under the rules of Part 5 of the Penal Code.

11.-(1) This Order enters into force on 1 June 2002, cf. however subsections (3) to (5) below.

(2) As from this date Statutory Order from the Ministry of Environment and Energy no. 974 of 13 December 1995 prohibiting the use of certain ozone-depleting substances is repealed.

(3) Sections 4(2) and 7(2) shall enter into force on 1 December 2002 for vital uses of recovered halons for fire-fighting purposes in ships, flight control centres, and defence installations.

(4) Section 8(2-5) shall enter into force on 1 December 2002.

(5) Exemptions granted under rules in force so far will remain valid until they cease in conformity with their contents, or until a new decision is made under this Order. Infringements of terms of exemptions shall be punished under the rules applying so far.

Ministry of the Environment
19 April 2002

Hans Chr. Schmidt

/Helge Andreasen