

SAFEGUARDS

CONSUMER GOODS AND RETAIL

CONSUMER PRODUCTS

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DENMARK REPEALS NATIONAL RESTRICTION ON PHTHALATES

Denmark recently announced that it cannot maintain its national restriction on phthalates. The repeal was the result of the Lapin Judgment and can be considered as immediate.

In October 2012, Denmark implemented a national restriction on 4 forms of phthalates (bis(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzylbutyl phthalate (BBP) and diisobutyl phthalate (DIBP)) in specific consumer products. The new law was going to be enforced in December 2013 but was postponed to December 2015¹.

On 1 July 2014, the Danish Environmental Protection Agency (EPA) announced that Denmark cannot maintain the national restriction on the 4 phthalates². This was the result of a new ruling from the so-called Lapin Judgment from the European Court of Justice where a member state cannot adopt national rules in chemistry in parallel with the EU while the EU is in the process of evaluating the need for rules at the EU level. This in effect lifted the restriction on the 4 phthalates in Denmark.

¹ [SGS-Safeguard 205/12](#), [SGS-Safeguard 099/13](#)

² [Prohibition of four phthalates repealed, Danish EPA, 1 July 2014](#), and references therein



TABLE 1.

DENMARK EXECUTIVE ORDER 1113 OF 26 NOVEMBER 2012				
PHTHALATE	SCOPE	REQUIREMENT	EFFECTIVE DATE	NEW DECISION*
BBP DBP DEHP DIBP	Products for indoor use	≤ 0.1 % each phthalate	1 December 2015	Executive Order 1113 repealed (repeal can be considered as immediate)
	Materials in products that may come into contact with skin or mucous membrane		1 December 2016	
NB				
* Ruling from Lapin Judgment, Case C-358/11, in effect lifted restriction on 4 phthalates				

In a parallel action Danish authorities have notified ECHA that Denmark intends to propose that the 4 phthalates (which are already on the REACH Candidate List of Substances of Very High Concern based on their reprotoxic properties) are also designated as endocrine disruptors. Determination processes of safe thresholds differ between endocrine-disrupting and reprotoxic chemicals and Denmark hopes to tighten the authorised use of the 4 phthalates by industry with this new approach.

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