



## PROACTIVE RELEASE COVERSHEET

Minister		Portfolio	
	Hon David Parker		Minister for the Environment
	Hon Dr Duncan Webb		Minister of Commerce and Consumer Affairs
Name of package		Date to be published	
	Proactive release - New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP		This paper will be proactively released within 30 business days following Cabinet approval (4/09/2023)

### List of documents that have been proactively released

Date	Title	Author
24/05/2023	CAB-208: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Ministry for the Environment
06/06/2023	CAB-23-MIN-0217: Minute of Decision	Cabinet Office
1/06/2023	ENV-23-MIN-0016: Cabinet Environment, Energy and Climate Committee Minute of Decision: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Cabinet Office
23/08/2023	CAB-231: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Ministry for the Environment
1/09/2023	CAB-23-MIN-0418: Minute of Decision	Cabinet Office
31/08/2023	LEG-23-MIN-0177: Cabinet Legislation Committee Minute of Decision: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Cabinet Office
21/08/2023	Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023	Parliamentary Council Office

<b>Information redacted</b>	<b>Yes</b>	

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Redactions have been made to CAB-231. These redactions relate to legally privileged information that was provided by the Ministry of Foreign Affairs and Trade (MFAT) and MfE Legal under Section 9(2)(h) of the Official Information Act.

Furthermore, redactions have been made to CAB-23-MIN-0217 and CAB-23-MIN-0418 under Section 9(2)(f)(iv) of the Official Information Act to maintain the confidentiality of advice tendered by Ministers of the Crown and officials.

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## Policy and Privacy

### In-Confidence

#### Office of the Minister for the Environment

#### ENV - Cabinet Environment, Energy and Climate Committee

## New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP

### Proposal

- 1 This paper seeks Cabinet agreement to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order) to meet new international obligations under the Rotterdam Convention.
- 2 The proposed amendments will add two chemicals to Schedule 2 of the Imports and Exports Order: perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, and decabromodiphenyl ether (decaBDE). Both are industrial chemicals.

### Relation to government priorities

- 3 This is a routine operational adjustment that requires Cabinet approval.

### Executive Summary

- 4 The Rotterdam Convention promotes shared responsibility and cooperation in the international trade of certain hazardous chemicals among its parties. Chemicals listed in Annex III of this convention can still be moved between borders, provided the importing country gives prior informed consent (PIC). New Zealand is a party to the Rotterdam Convention.
- 5 At its most recent Conference of the Parties (COP) in June 2022, parties agreed to list two new chemicals in Annex III of the Convention:
  - a. PFOA, its salts and PFOA-related compounds.
    - i. the listing of PFOA (CAS number 335-67-1) includes several chemicals. The Rotterdam Convention provides a clear definition of which chemicals are included and excluded in its Annex III
  - b. decaBDE.
- 6 This decision means that export of PFOA, its salts and PFOA-related compounds, and decaBDE, are subject to a PIC procedure.

## IN CONFIDENCE

- 7 These listings entered into force under the Convention on 22 October 2022. To give domestic effect to these listings, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order to add PFOA, its salts and PFOA-related compounds, and decaBDE.

### Background

- 8 PFOA, its salts and PFOA-related compounds, and decaBDE are industrial chemicals.
- 9 There is no expected impact on New Zealand industry. Both chemicals are listed for elimination as persistent organic pollutants (POPs) under the Stockholm Convention. They are not approved for import into New Zealand under the Hazardous Substances and New Organisms Act 1996 besides certain, very specific exemptions, and they cannot be exported as a POP under Schedule 1 of the Imports and Exports Order without an export permit issued by the Environmental Protection Authority (EPA).
- 10 Despite the above controls, it is necessary to amend Schedule 2 of the Imports and Exports Order to implement our international obligations under the Rotterdam Convention. This will prevent an approval to export, without permission, being inadvertently made in future.
- 11 While the Minister of Commerce and Consumer Affairs has responsibility for the Imports and Exports Order, I have the authority to recommend policy changes on his behalf. Amendments to the Imports and Exports Order do not require statutory consultation, and I do not consider consultation to be necessary in this instance.

### Implementation and timeline

- 12 Following Cabinet approval, I will issue drafting instructions to Parliamentary Counsel Office.
- 13 I will then seek Cabinet approval for regulatory amendments.
- 14 The amendments are expected to enter into force 28 days after Gazettal. I expect this will be in September 2023.

### Financial Implications

- 15 There are no direct fiscal implications to the Crown from the proposals in this paper.
- 16 There are no direct impacts on New Zealand industry, as both chemicals are not approved for use in New Zealand, except for very specific purposes.

### Legislative Implications

- 17 If the Committee agrees to the recommendation that these chemicals be added to Schedule 2 of the Imports and Exports Order, the Parliamentary Counsel Office will draft an appropriate Order in Council.

<https://dpmc.govt.nz/publications/co-02-4-acts-binding-crown-procedures-cabinet-decision>

## Impact Analysis

### *Regulatory Impact Statement*

18 The Treasury's Regulatory Impact Analysis team has determined that the proposal to amend Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

### *Climate Implications of Policy Assessment*

19 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

## Population Implications

20 There are no gender implications in this proposal.

21 There are no specific implications from a disability perspective in this proposal.

22 There are no implications for iwi and Māori in this proposal.

## Human Rights

23 There are no inconsistencies between the proposal and the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

## Legal Risks

24 There are no additional legal risks that would arise from the amendment, other than those identified above.

## Reputational Risks

25 These listings entered into force on 22 October 2022. The New Zealand government could face international criticism if the amendments were not implemented into New Zealand law, and New Zealand would not be compliant with the Rotterdam Convention. To avoid these risks, these amendments should be implemented into domestic New Zealand law as soon as possible.

## Consultation

26 I have consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry of Foreign Affairs and Trade, the Treasury, and the Environmental Protection Authority. The Department of the Prime Minister and Cabinet was informed.

## Communications

- 27 No publicity and/or communication is planned as the proposal has a low public interest and it is unlikely to be controversial.

## Proactive Release

- 28 Consideration of the proactive release of this paper will be delayed to coincide with consideration of the proactive release for a subsequent and related Cabinet paper that is intended to be lodged with the Cabinet Legislation Committee following this paper. The proactive release of both papers will then be considered at the same time.
- 29 Any release will be subject to redactions as appropriate under the Official Information Act 1982.

## Recommendations

- 30 On behalf of the Minister of Commerce and Consumer Affairs, I recommend that the Committee:
- a. **Agree** that the following chemicals be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention:
    - i. Perfluorooctanoic acid (PFOA), its salts, and PFOA-related compounds as listed or excluded in Annex III to the Rotterdam Convention.
    - ii. Decabromodiphenyl ether.
  - b. **Invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposal.

Authorised for lodgement

Hon David Parker

Minister for the Environment



# Cabinet

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Report of the Cabinet Environment, Energy and Climate Committee: Period Ended 2 June 2023

On 6 June 2023, Cabinet made the following decisions on the work of the Cabinet Environment, Energy and Climate Committee for the period ended 2 June 2023:

ENV-23-MIN-0015	9(2)(f)(iv) [Redacted]	CONFIRMED
ENV-23-MIN-0017	9(2)(f)(iv) [Redacted]	CONFIRMED
ENV-23-MIN-0018	9(2)(f)(iv) [Redacted]	Separate minute: CAB-23-MIN-0217.01
ENV-23-MIN-0019	9(2)(f)(iv) [Redacted]	CONFIRMED
ENV-23-MIN-0014	9(2)(f)(iv) [Redacted]	CONFIRMED
ENV-23-MIN-0016	<b>New Zealand's Implementation of New Obligations Under the Rotterdam Convention Following the 2022 COP</b> Portfolio: Environment	CONFIRMED

Rachel Hayward  
Secretary of the Cabinet







# Cabinet Environment, Energy and Climate Committee

## Minute of Decision

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### New Zealand's Implementation of New Obligations Under the Rotterdam Convention following the 2022 COP

**Portfolio**                      **Environment**

On 1 June 2023, the Cabinet Environment, Energy and Climate Committee:

- 1        **agreed** that the following chemicals be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention:
  - 1.1      Perfluorooctanoic acid (PFOA), its salts, and PFOA-related compounds as listed or excluded in Annex III to the Rotterdam Convention.
  - 1.2      Decabromodiphenyl ether.
- 2        **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decision above.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Kelvin Davis  
Hon Dr Megan Woods  
Hon Willie Jackson  
Hon Damien O'Connor  
Hon David Parker (Chair)  
Hon Jo Luxton  
Hon James Shaw

**Officials present from:**

Office of the Prime Minister  
Officials Committee for ENV

**In Confidence**

**Office of the Minister for the Environment**

**Chair, Cabinet Legislation Committee**

**New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP**

**Proposal**

- 1 This paper seeks authorisation for the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023.
- 2 This Order in Council will add two new chemicals to Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order):
  - 2.1 Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds as described in Annex III to the Rotterdam Convention
  - 2.2 Decabromodiphenyl ether (decaBDE).

**Relation to government priorities**

- 3 This is a routine operational adjustment that requires Cabinet approval.

**Executive Summary**

- 4 The Rotterdam Convention (the Convention) promotes shared responsibility and cooperation among parties (i.e., countries that are party to the Rotterdam Convention) in the international trade of certain hazardous chemicals. Chemicals listed in Annex III of the Convention can still be moved between borders, provided the importing country gives prior informed consent.
- 5 At the Conference of the Parties (COP) in June 2022, parties agreed to list two new chemicals in Annex III of the Convention: PFOA, its salts and PFOA-related compounds, and decaBDE. These listings entered into force globally on 22 October 2022. To give domestic effect to these listings, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order to add PFOA, its salts and PFOA-related compounds, and decaBDE.

**Background**

- 6 PFOA, its salts and PFOA-related compounds, and decaBDE are industrial chemicals.
- 7 There is no expected impact on New Zealand industry. Both chemicals are listed for elimination as persistent organic pollutants (POPs) under the Stockholm Convention on Persistent Organic Pollutants. They are not approved

for import into New Zealand under the Hazardous Substances and New Organisms Act 1996 besides certain, very specific exemptions, and they cannot be exported as a POP under Schedule 1 of the Imports and Exports Order unless a permit is issued by the Environmental Protection Authority (EPA).

- 8 The proposed amendments to the Imports and Exports Order will give effect to the policy agreed to by the Cabinet Environment, Energy and Climate Committee on 1 June 2023 and by Cabinet on 6 June 2023 [ENV-23-MIN-0016 Minute refers].
- 9 While the Minister of Commerce and Consumer Affairs has Parliamentary responsibility for the Imports and Exports Order, I as the Minister for the Environment have the authority to recommend policy changes on his behalf. The Minister of Commerce and Consumer Affairs has been consulted on this Cabinet paper.
- 10 The proposed amendments are necessary to meet New Zealand's international obligations. The amendments would implement the June 2022 decision by the parties to the Rotterdam Convention to list PFOA, its salts and PFOA-related compounds, and decaBDE in Annex III of the Convention. This decision means that export of PFOA, its salts and PFOA-related compounds, and decaBDE require prior informed consent from an importing party.

#### **Implementation and timeline**

- 11 If agreed to by Cabinet, the changes would be notified in the New Zealand Gazette on 7 September 2023 and will come into force 28 days afterwards on 5 October 2023.

#### **Regulations Review Committee**

- 12 Pursuant to Standing Order 323 of the House of Representatives 2020, the Minister for the Environment may refer draft regulations to the committee for consideration and the committee may report on the draft regulations to the Minister. Given the amendments are small, simple, and non-contentious, officials consider that there is no need to refer the draft amendments to the regulations review committee.

#### **Financial Implications**

- 13 There are no direct fiscal implications to the Crown from the proposals in this paper.

#### **Cost-of-living Implications**

- 14 I consider that the proposals in the Cabinet paper will not significantly impact New Zealander's ability to maintain their standard of living. This is because there are no direct impacts on New Zealand industry, as both chemicals are not approved for use in New Zealand, except for very specific purposes.

### Legislative Implications

15 The changes to the Imports and Exports Order can be made by Order in Council.

16 Section 9(2)(h)  
[Redacted]

### Certification by Parliamentary Counsel

17 The draft Order in Council has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

### Impact Analysis

#### *Regulatory Impact Statement*

18 The Treasury's Regulatory Impact Analysis team has determined that the proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

#### *Climate Implications of Policy Assessment*

19 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### Population Implications

20 There are no gender implications in this proposal.

21 There are no specific implications from a disability perspective in this proposal.

22 There are no implications for hapū, iwi and Māori in this proposal.

### Human Rights

23 There are no inconsistencies between the proposal and the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

### Legal Risks

24 Section 9(2)(h)  
[Redacted]

## Reputational Risks

- 25 These listings entered into force globally on 22 October 2022. The New Zealand government could face international criticism if the amendments were not implemented into New Zealand law, and New Zealand would not be compliant with the Rotterdam Convention. To avoid these risks, these amendments should be implemented into domestic New Zealand law as soon as possible.

## Use of External Resources

- 26 No external resources have been used to develop this policy advice and Cabinet paper.

## Consultation

- 27 The Ministry for the Environment has consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry for Foreign Affairs and Trade and the Environmental Protection Authority. The Department of the Minister and Cabinet was informed.

## Communications

- 28 No publicity and/or communication is planned as the proposal has a low public interest and it is unlikely to be controversial.

## Proactive Release

- 29 This paper will be proactively released within 30 business days following Cabinet approval. Proactive release will be subject to redaction as appropriate under the Official Information Act.

## Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that on 1 June 2023 the Cabinet Environment, Energy and Climate Committee agreed, and on 6 June 2023 Cabinet approved, that PFOA, its salts and PFOA-related compounds (as described in Annex III to the Rotterdam Convention), and decaBDE be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention [ENV-23-MIN-0016 Minute refers];
- 2 **note** that the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023 will give effect to the Cabinet approval;
- 3 **authorise** the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 Amendment Order 2023;
- 4 **note** that the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 Amendment Order 2023 will be gazetted on 7 September 2023 and will come into force on 5 October 2023.

Authorised for lodgement

Hon David Parker

Minister for the Environment

**IN CONFIDENCE**

**Appendix 1: Amendments to Schedule 2 of the Imports and Exports  
(Restrictions) Prohibition Order (No 2) 2004 as drafted by Parliamentary  
Counsel Office**

**IN CONFIDENCE**



# Cabinet

## Minute of Decision

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### Report of the Cabinet Legislation Committee: Period Ended 1 September 2023

On 4 September 2023, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 1 September 2023:

LEG-23-MIN-0173	9(2)(f)(iv) [REDACTED]	CONFIRMED
LEG-23-MIN-0174	9(2)(f)(iv) [REDACTED]	CONFIRMED
LEG-23-MIN-0175	9(2)(f)(iv) [REDACTED]	CONFIRMED
LEG-23-MIN-0176	9(2)(f)(iv) [REDACTED]	CONFIRMED
LEG-23-MIN-0177	<b>New Zealand's Implementation of New Obligations Under the Rotterdam Convention Following the 2022 COP</b> Portfolio: Environment	CONFIRMED
LEG-23-MIN-0178	<b>New Chemical Listing Under the Stockholm Convention on Persistent Organic Pollutants</b> Portfolio: Environment	CONFIRMED
LEG-23-MIN-0179	9(2)(f)(iv) [REDACTED]	CONFIRMED
LEG-23-MIN-0180	9(2)(f)(iv) [REDACTED]	CONFIRMED



	9(2)(f)(iv)	
LEG-23-MIN-0191	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0181	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0182	9(2)(f)(iv)	Separate minute: CAB-23-MIN-0418.01
LEG-23-MIN-0190	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0183	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0185	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0184	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0186	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0187	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0188	9(2)(f)(iv)	CONFIRMED
LEG-23-MIN-0189	9(2)(f)(iv)	CONFIRMED

Rachel Hayward  
Secretary of the Cabinet



# Cabinet Legislation Committee

## Minute of Decision

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### New Zealand's Implementation of New Obligations Under the Rotterdam Convention Following the 2022 COP

**Portfolio**                      **Environment**

On 31 August 2023, the Cabinet Legislation Committee:

- 1        **noted** that in June 2023, the Cabinet Environment, Energy and Climate Committee agreed, that PFOA, its salts and PFOA-related compounds (as described in Annex III to the Rotterdam Convention), and decaBDE be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention [ENV-23-MIN-0016];
- 2        **noted** that the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023 gives effect to the Cabinet approval;
- 3        **authorised** the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023 [PCO 25670/6.0];
- 4        **noted** that the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 Amendment Order 2023 comes into force on 5 October 2023.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Willie Jackson  
Hon Andrew Little  
Hon David Parker  
Hon Peeni Henare  
Hon Kieran McAnulty  
Hon Barbara Edmonds  
Hon Dr Duncan Webb  
Hon Willow-Jean Prime  
Hon Rachel Brooking  
Tangi Utikere, MP (Chief Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

# Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023

## Order in Council

At Wellington this                      day of                      2023

Present:  
in Council

This order is made under section 3A(1) of the Imports and Exports (Restrictions) Act 1988—

- (a) on the advice and with the consent of the Executive Council; and
- (b) after the precondition specified in that section has been met.

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## Order

### 1 Title

This order is the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023.

**2 Commencement**

This order comes into force on 5 October 2023.

**3 Principal order**

This order amends the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004.

**4 Schedule 1 amended**

In Schedule 1, insert in its appropriate alphabetical order:

Perfluorohexane sulfonic acid (PFHxS; CAS No: 355-46-4), including any of its branched isomers, its salts, and any substance that contains the chemical moiety  $C_6F_{13}SO_2-$  as one of its structural elements and that potentially degrades to PFHxS

**5 Schedule 2 amended**

In Schedule 2, insert in their appropriate alphabetical order:

Decabromodiphenyl ether

Perfluorooctanoic acid (PFOA; CAS No: 335-67-1),—

including—

- its salts
- any related substance (including its salts and polymers) having a linear or branched perfluoroheptyl group with the formula  $C_7F_{15}-$  directly attached to another carbon atom as one of the structural elements
- any related substance (including its salts and polymers) having a linear or branched perfluorooctyl group with the formula  $C_8F_{17}-$  as one of the structural elements

but not including—

- $C_8F_{17}-X$ , where  $X = F, Cl, Br$
- $C_8F_{17}-C(=O)OH$ ,  $C_8F_{17}-C(=O)O-X'$  or  $C_8F_{17}-CF_2-X'$  (where  $X' =$  any group, including salts)
- perfluorooctane sulfonic acid (PFOS) and its derivatives ( $C_8F_{17}SO_2X$  ( $X = OH$ , metal salt ( $O-M^+$ ), halide, amide, and other derivatives including polymers))

Clerk of the Executive Council.

## **Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on 5 October 2023, amends the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (the **principal order**) to include 1 more chemical in the list of Stockholm chemicals in Schedule 1 of the principal order, and 2 more chemicals in the list of Rotterdam chemicals in Schedule 2 of the principal order.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Business, Innovation, and Employment.