1. ------IND- 2020 0401 F-- EN- ------ 202000706 --- --- PROJET

|  |  |  |
| --- | --- | --- |
| FRENCH REPUBLIC | | |
|  |  |  |
| Ministry of the Ecological and Inclusive Transition | | |
|  |  |  |
|  |  |  |

Decree No of

on the prohibition of certain single-use plastic products

NOR: […]

*Public concerned: natural or legal persons delivering, using, distributing or making available, for a consideration or free of charge, certain single-use plastic products for business purposes.*

*Subject: conditions of application of the prohibition on making available certain single-use plastic products.*

*Entry into force: the Decree shall enter into force on the day after its publication, with the exception of certain provisions of Article 3 which shall enter into force on 1 January and 3 July 2021.*

*Notice: the Decree defines the conditions of application of certain provisions of the Law of 10 February 2020 against waste and for the circular economy, which is aimed at prohibiting the making available of certain single-use plastic products.*

*It clarifies the prohibitions on certain single-use plastic products in accordance with the new prohibitions adopted under the law. The making available of single-use plastic products, as provided for by the law, is being progressively prohibited as stocks run out and by 1 July 2021 at the latest.*

*References: the Environmental Code, as amended by this Decree, may be consulted on the Légifrance website (*[*https://www.legifrance.gouv.fr*](https://www.legifrance.gouv.fr)*).*

The Prime Minister,

On the recommendation of the Minister for the Ecological and Inclusive Transition,

Having regard to Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices;

Having regard to Directive 93/42/EEC concerning medical devices;

Having regard to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste, as amended, in particular by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004;

Having regard to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services;

Having regard to 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;

Having regard to Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment;

Having regard to Law No 2020-105 of 10 February 2020 against waste and for the circular economy, in particular Article 77 thereof;

Having regard to the Environmental Code, in particular Article L541-15-10 thereof;

Having regard to Notification No xxx sent to the European Commission on xxx;

Having regard to the observations made during the public consultation carried out between xxx and xxx, in accordance with Article L123-19-1 of the Environmental Code,

**Article 1**

Section 21 of Chapter III of Title IV of Book V of the regulatory part of the Environmental Code is amended as follows.

1. In the first paragraph of Article D543-294, the reference to L541-10-5 is replaced by the reference to L541-15-10.

2. Subparagraph 1 of Article D543-294 is supplemented with the words: ‘and paints, inks and adhesives’.

3. Subparagraph 6 of Article D543-294 is replaced by a subparagraph reading as follows:

‘6. ‘Oxo-degradable plastics’: plastic materials that include additives which, through oxidation, lead to the fragmentation of the plastic material into micro-fragments or to chemical decomposition.’

4. Subparagraph 7 of Article D543-294is supplemented with the words: ‘, with the exception of cups and glasses intended to be used for the medical purposes covered by Directive 90/385/EEC or Directive 93/42/EEC or Regulation (EU) 2017/745’.

5. The seven subparagraphs 9 to 15 of Article D543-294 are replaced by five subparagraphs reading as follows:

‘9. ‘Cutlery’: forks, knives, spoons, chopsticks and any other similar table utensil used to pick up, cut or mix food, except the cutlery used in prisons, health establishments and on air, rail and sea transport and measuring utensils for non-food products;

10. ‘Expanded polystyrene containers intended for on-site or takeaway consumption’: Food containers made of expanded polystyrene, with or without a cover, used to contain food which is intended for immediate consumption, either on-the-spot or take-away, typically consumed from the receptacle, and ready to be consumed without any further preparation, such as cooking, boiling or heating;

11. ‘Straws except those intended to be used for medical purposes’: straws made available at the place of use or those sold individually or in batches to the end consumer, except those that fall under Directive 90/385/EEC or Directive 93/42/EEC or Regulation (EU) 2017/745;

12. ‘Disposable cup lids’: lids for glasses or cups containing beverages;

13. ‘Confetti’: confetti intended to be used for decorative or festive purposes.’

6. Article D543-295 is amended as follows:

‘The prohibition on making available single-use plastic products that is mentioned in subparagraphs 1 and 2 of paragraph III of Article L541-15-10 does not apply to products classed as packaging within the meaning of Article R543-43 of the Environmental Code.’

7. Article D543-296 is worded as follows:

‘The prohibition on making available single-use plastic products that is mentioned in subparagraphs 1 and 2 of paragraph III of Article L541-15-10 also applies to plastic products with durability, resistance and solidity properties comparable to those of single-use products. Products designed, created and placed on the market to fulfil several journeys or cycles during their lifetime by being returned to a producer for refilling are not affected by this prohibition.’

7. Article R543-296-2 is repealed.

**Article 2**

1. Article D543-294 is amended as follows:

*a)* in subparagraph 7, after the words ‘composed entirely of plastic’, the following phrase is added: ‘or composed partially of plastic, with a content greater than a maximum content set by a decree specifying the maximum authorised plastic content and the conditions under which the plastic content is gradually decreased’;

*b)* subparagraph 8 is supplemented by the following phrase: ‘and by *‘*other plates’: plates composed partially of plastic, including with a plastic film;’

c*)* in subparagraph 9, the words ‘the cutlery used in prisons, health establishments and air, rail and sea transport, and’ are deleted;

*d)* in subparagraph 11, the words ‘made available at the place of use or those sold individually or in batches to the end consumer’ are replaced by the words ‘that are mentioned in part B of the Annex to Directive (EU) 2019/904’;

2. in Article D543-295, the words ‘is not applicable’ are replaced by the words ‘also applies’.

**Article 3**

I. – The provisions of this Decree shall apply on the day after its publication in the Official Journal with the exception of:

1. Article 2(1)*(b)*, which shall enter into force on 1 January 2021;

2. Article 2(1)*(a), (c) and (d)* and Article 2(2), which shall enter into force on 3 July 2021.

II. – Products prohibited from being made available pursuant to subparagraph 2 of paragraph III of Article L541-15-10 shall benefit from a stock clearance period until 1 July 2021, provided that they were manufactured or imported before this date, with the exception of products whose prohibition on being made available enters into force on 3 July 2021 pursuant to this Article, which do not benefit from such a period.

**Article 4**

Article 3 of Decree No 2019-1451 of 24 December 2019 on the prohibition of certain single-use plastic products is repealed.

**Article 5**

The Minister for the Ecological and Inclusive Transition and the Minister for the Economy and Finance shall be responsible, within the scope of their respective competences, for the implementation of this Decree, which shall be published in the Official Journal of the French Republic.

Done on [date]