Decree No. 2021-1318 of 8 October 2021 on the obligation to present for sale unprocessed fresh fruit and vegetables without packaging made entirely or partly of plastic

NOR: TREP2106919D

ELI: https://www.legifrance.gouv.fr/eli/decret/2021/10/8/TREP2106919D/jo/texte

Alias: https://www.legifrance.gouv.fr/eli/decret/2021/10/8/2021-1318/jo/texte

JORF No 0238 of 12 October 2021

Text No 2

Target Audiences: retail outlets specialised or not specialised in the sale of fruit and vegetables in shops, stores and markets

Subject: conditions for the implementation of the obligation of present for sale unprocessed fresh fruit and vegetables without packagings made entirely or partly of plastic.

Entry into force: the decree comes into force after its publication, and specifies deadlines for certain categories of fruit and vegetables for exemption from this obligation between 2023 and 2026.

Notice: the Decree lays down the conditions for the implementation of the provision laid down in the law of 10 February 2020 on the fight against waste and on the circular economy, which provides that all retail business shall present for sale unprocessed fruit and vegetables without plastic packaging.

It specifies that the provision applies to unprocessed fresh fruit and vegetables, that is to say, fruit and vegetables sold in their original state or having been subjected to preparation such as cleaning, trimming, draining or drying. It also specifies the definition of plastic packaging. It provides a list of fresh fruit and vegetables not subject to this obligation, as they present a risk of deterioration when sold in bulk.

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

The Prime Minister,

On the report by the Minister for the Ecological Transition;

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;

Having regard to Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector;

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 (codified text), and in particular Notification No 2021/149/F;

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

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

Having regard to Decree No 55-1126 of 19 August 1955 implementing Article L. 214-1 of the Consumer Code as regards trade in fruit and vegetables;

Having regard to the observations made during the public consultation carried out between 8 March and 29 March 2021, in application of Article L.123-19-1 of the Environmental Code,

Hereby decrees:

Article 1

Section 10 of Chapter I of Title IV of Book V of the regulatory part of the Environmental Code is supplemented by an article D. 541-334 as follows:

“Article D. 541-334. “I. - For the purposes of the 16th paragraph of III of Article L. 541-15-10, the following definitions shall apply:

1. "Fruits and vegetables": Plants or parts thereof, such as stems, roots, tubers, leaves, fruits, seeds, which are intended for human consumption, and edible fungi;

2. “Fruits and unprocessed fresh vegetables”: fresh fruits and vegetables the preparation of which is in accordance with the following limits:

- marketing standards as referred to in Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors;

- marketing standards as referred to in Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector;

- orders adopted pursuant to Article 4 of Decree No 55-1126 of 19 August 1955 implementing Article L. 214-1 of the Consumer Code as regards trade in fruit and vegetables;’

3. “Packaging”: receptacle, outer cover or closing device, covering the fruit and vegetables in whole or in part to constitute a unit of sale to the consumer and to ensure its presentation at the point of sale;

4. “Plastic material”: material as defined in Article D. 541-330 of the Environmental Code.

II. - The following fruits and vegetables are exempted from the obligation referred to in the first sentence of the 16th paragraph of section III of Article L. 541-15-10, and in accordance with the second sentence of that paragraph, the following fruits and vegetables presenting a risk of deterioration when sold in bulk:

1. Ribbed tomatoes, oblong tomatoes in the beefsteak category, cherry or cocktail tomatoes (miniature varieties), early onions, early turnips, Brussels sprouts, green beans, grapes, peaches, nectarines and apricots, until 30 June 2023;

2. Endives, asparagus, broccoli, mushrooms, early potatoes, early carrots and baby carrots, until 31 December 2024;

3. Salad, corn salad, young lettuce, aromatic herbs, spinach, seedlings, edible flowers, bean sprouts, until 31 December 2024;

4. Cherries, cranberries, lingonberries and physalis, until 31 December 2024;

5. Ripe fruit, i.e. fruit picked when fully ripe and indicated as such on the retail packaging, until 30 June 2026;

6. Sprouted seeds, until 30 June 2026;

7. Raspberries, strawberries, blueberries, blackberries, redcurrants, sorrel, surette and gooseberries, blackcurrants and hardy kiwis, until 30 June 2026.

III. - In order to enable stocks of packaging to be disposed of, fruit and vegetables produced or imported before 1 January 2022 and which are not exempted under II may be displayed for sale with a packaging composed entirely or partly of plastic material for up to 6 months from that date.

“In order to enable stocks of packaging to be disposed of, the fruit and vegetables referred to in number 1 of section II produced or imported before the date indicated therein may be displayed for sale with a packaging composed entirely or partly of plastic material for up to 4 months from that date”.

Article 2

The Minister of Ecological Transition, the Minister of Economy, Finance and Recovery and the Minister of Agriculture and Food are responsible, each according to their interest, for the execution of this decree, which will be published in the Journal Officiel (Official Gazette) of the French Republic.

Made on 8 October 2021

Jean Castex

By the Prime Minister,

Minister of Ecological Transition

Barbara Pompili

The Minister for the Economy, Finance and the Recovery,

Bruno Le Maire

The Minister of Agriculture and Food,

Julien Denormandie