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| FRENCH REPUBLIC | | |
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| Ministry of the Ecological and Inclusive Transition | | |
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Decree No  of  
  
on the ban on over-the-counter sales of certain categories of biocidal products, as defined by Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012, to non-professional users

NOR:

***Groups concerned:*** *biocidal product suppliers, non-professional users.*

***Purpose:*** *measures implementing Environmental Code Article L522-5-2, established by Article 76 of Law No 2018-938 of 30 October 2018 on improving trade relations in the agriculture and food sectors and healthy, sustainable and universally accessible nutrition, as regards the categories of biocidal products that cannot be sold directly over the counter to non-professional users.*

***Entry into force:*** *the text shall enter into force on the day after its publication.*

***Notice:*** *the decree lists the categories of biocidal products that cannot be sold directly over the counter to non-professional users in view of the risks they pose to human health and the environment. To sell these categories of products to non-professional users, suppliers must provide general information on the risks that the use of these products poses to human health and the environment. This information should relate in particular to hazards, exposure, suitable storage conditions, guidelines to be followed to ensure safe handling, application and disposal, and other, low-risk solutions.*

***References:*** *this decree is issued pursuant to Article L522-5-2 of the Environmental Code. It may be consulted on the Legifrance website (http://legifrance.gouv.fr).*

**The Prime Minister,**

On the basis of the report by the Minister of State for the Ecological and Inclusive Transition,

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products;

Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, as amended;

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 (Text with EEA relevance);

Having regard to the Environmental Code, particularly Articles L522-5-2 and R522-1 to R522-25;

Having regard to Notification No 2019/xxxx dated [date] [month] 2019 to the European Commission;

Having regard to the public consultation carried out between [date] [month] 2019 and [date] [month] 2019;

Having heard the Council of State;

Hereby decrees:

Article 1

In Book V, Title II, Chapter II, Section 5 of the Environmental Code (regulatory part), the following Article R522-16-1 is created:

Article R522-16-1:

‘The categories of biocidal products mentioned in Article L522-5-2 of this Code which may not be sold over the counter shall be specified by an Order of the Minister for the Environment, after consulting with the National Agency for Food, Environment and Occupational Health and Safety, as stated in Article L1313-1 of the Public Health Code. These categories of biocidal products may be the following:

- types of products as defined by the aforementioned Regulation (EU) No 528/2012;

- biocidal products as defined by the aforementioned Regulation (EU) No 528/2012;

- all biocidal products containing particular active ingredients as defined in the aforementioned Regulation (EU) No 528/2012.

The categories of biocidal products shall be specified according to the direct or indirect risks they pose for human health or the environment, including in particular:

- products to which organisms are suspected to have developed resistance;

- products where cases of poisoning have been reported.’

Article 2

Section 8 of Chapter II of Title II of Book V of the Environmental Code is amended as follows:

In Section I of Article R522-25, the following new subparagraph 9 is added:

‘9. Directly selling any product stated in Article R522-16-1 of Section 5 of Chapter II of Title II of Book V of the Environmental Code over the counter to non-professional users’.

**Article 3**

The Minister for the Ecological and Inclusive Transition shall be responsible for the implementation of this decree, which shall be published in the *Official Journal* of the French Republic.

Done on [date]

By the Prime Minister:

Edouard Philippe

The Minister of State for the Ecological and Inclusive Transition,

François de RUGY