

Decree No 2024-316 of 5 April 2024 on the durability index of electrical and electronic equipment

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Text No 21

Target audience: producers, importers, distributors or other suppliers of electrical and electronic equipment, sellers of this equipment, and those using a website, platform or any other online distribution channel as part of their commercial activity in France.

Subject: implementing rules of the durability index defined in Article L. 541-9-2 of the Environmental Code.

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

Notice: the Decree defines the implementing rules of Article L. 541-9-2 of the Environmental Code, which provides for the introduction of a durability index for certain categories of electrical and electronic equipment. It shall specify in particular the criteria and parameters of the calculation used to establish this index, as well as the general framework of the obligations relating to its communication and display.

References: the Decree may be consulted on the Légifrance website (<https://www.legifrance.gouv.fr>).

The Prime Minister,

On the report of the Minister for the Economy, Finance and Industrial and Digital Sovereignty and of the Minister for the Ecological Transition and Territorial Cohesion;

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, together with Notification No 2023/477-481/FR sent to the European Commission on 2 August 2023 and the replies to them of 27 October 2023 and 5 February 2024;

Having regard to the Environmental Code, in particular Articles L. 541-9-1, L. 541-9-2, L. 541-9-4 and L. 541-9-4-1;

Having regard to the Code of relations between the public and the administration, in particular Book III thereof;

Having regard to the observations made during the public consultation carried out between 5 September and 13 October 2023, pursuant to Article L. 123-19-1 of the Environmental Code;

Having heard the Council of State (Public Works Section),

Decrees:

Article 1

In Title IV of Book V of Chapter I of Section 9 of the Regulatory Part of the Environmental Code, a subsection 2 is added as follows:

“ Subsection 2

“Display of the durability index applicable to electric and electronic equipment

“ Article R. 541-215.-This subsection applies to the categories of new electrical and electronic equipment defined by order of the Ministers responsible for the environment and the economy.

“ Article R. 541-216.-The durability index established by producers or importers pursuant to II of Article L. 541-9-2 shall consist of a score established, for each model of equipment, in accordance with the procedures set out below. This score is brought to the attention of consumers at the time of purchase of the equipment.

“ The durability index shall replace the reparability index provided for in I of Article L. 541-9-2 from the entry into force of the durability index obligations for the relevant equipment category.

“ Article R 541-217.- For the purposes of this subsection, the following definitions shall apply:

“1. “Making available on the market”: any supply, in the course of a commercial activity, of equipment intended for distribution or use on the national market, whether for consideration or free of charge;

“2. “Placing on the market”: the first making available of equipment on the national market;

“3. “Producer”: any natural or legal person who manufactures equipment or has it designed and marketed under his own name or brand;

“4. “Importer”: any natural or legal person placing equipment on the national market from Member States of the European Union or from third countries;

“5. “Distributor”: any natural or legal person in the supply chain, other than the producer or importer, who offers equipment for sale on the domestic market;

“6. “Seller”: any natural or legal person who, in the course of a commercial activity, makes available on the market by selling equipment, including remotely, to consumers;

“7. “Distance selling”: a contract entered into remotely between a professional seller and a consumer, within the context of an organised sales system, without the simultaneous physical presence of the professional and the consumer, by the exclusive use of one or more distance communication techniques until the contract is concluded;

“8. “ Model”: a version of a piece of equipment, all of the units of which share the same relevant technical characteristics for the purposes of calculating the index;

“9. “Equivalent models”: a group of models which has the same technical characteristics relevant for the purpose of the reliability test to be carried out, and which is placed on the market or put into service by the same manufacturer, importer or other placing on the market as another model with another model reference.

“ Article R. 541-218.-I.- Producers or importers shall establish, for each model of the equipment they place on the market, the durability index and the parameters which enabled it to be established in accordance with procedures specified by order of the ministers responsible for the Environment and the Economy.

“II.- Producers or importers shall communicate in an electronic format and free of charge and to distributors or sellers at the time of listing and delivery of equipment, for each model of equipment placed on the market:

“1. The durability index in accordance with the terms and signs provided for by the order mentioned in I;

“2. A table containing details of the elements taken into account for the durability index score, in accordance with the format of presentation provided for by the order mentioned in I.

“ III.-When not the same person as the seller, the distributor shall communicate free of charge to the seller, under the conditions referred to in points 1 and 2 of II, the index and the table referred to in II, at the time of listing and delivery of the electrical and electronic equipment.

“ IV.- The index may, in addition, be affixed directly to each equipment or to the packaging by means of labelling or marking, while observing the signs prescribed by the order mentioned in I.

“ V.- The information referred to in II shall be made available to the public electronically and communicated free of charge by producers or importers, within five working days, to any person who requests it for a period of at least 2 years after the last unit of a model of equipment was placed on the market.

“ Article R. 541-219.-The administrative authority shall ensure centralised access to the information referred to in II of Article R. 541-218 under the conditions set out below.

“ For each category of equipment, the index, the calculation parameters which enabled it to be established, excluding those relating to the price of spare parts, as well as the information relating to the identification of the models and the methods of calculating the scores shall be publicly disseminated by the single interdepartmental portal referred to in Article R. 321-8 of the Code of relations between the public and the administration.

“ The data shall be transmitted and published under the responsibility of the producer or importer in accordance with a data scheme available on that portal. An order of the ministers responsible for the environment and the economy shall specify, where necessary, the technical arrangements for implementing the data scheme.

“ These data are reusable under the conditions laid down in Title II of Book III of the Code of relations between the public and the administration and under the terms of the open licence mentioned in point 1 of I of Article D. 323-2-1 of the same code.

“ If the calculation of the durability index score of a model is updated, these data shall be updated within a period not exceeding one month.

“ Article R. 541-220.-I.-When the equipment is offered for sale in stores, the seller shall display, in the manner and signage provided for by the order mentioned in I of Article R. 541-218, the durability index, in a visible, legible and easily accessible manner, on each equipment offered for sale or in the immediate vicinity.

“ II.-When the equipment is offered for sale remotely, the seller displays the durability index in a visible, legible and easily accessible way in the presentation of the equipment

and on all web pages on which the purchase of the equipment is offered, near the indication of its price, in the manner and signage provided for by the order mentioned in I of Article R. 541-218. This obligation does not apply to the order and payment summary pages.

“ III.-The seller shall also make available to consumers the table mentioned in point 2 of II of Article R. 541-218, by any appropriate process. Where the equipment is offered for sale in-store, a display on the shelf informing the consumer of the existence of the table and of the possibility of accessing it. Upon request by the customer, a copy must be issued in paper or electronic format, according to the customer’s choice. Where the equipment is offered for sale online, this table shall be accessible directly from the web pages where the durability index is displayed.

“ Article R. 541-221.-I.-The durability index shall be calculated on the basis of the following criteria and parameters:

“1. A score established on a scale of 0 to 10 on the reparability of the equipment, taking into account in particular the accessibility of technical documentation, the ease of disassembly, the availability and price of spare parts;

“2. A score established on a scale of 0 to 10 on the reliability of the equipment, taking into account, inter alia, stress and wear resistance, ease of maintenance and servicing, as well as the existence of a commercial guarantee and a quality process;

“3. Where appropriate, a score established on a scale of 0 to 10 relating to software and hardware updates of the equipment;

“ The durability index shall be calculated on the basis of the scores mentioned in points 1 and 2, and, where appropriate, in point 3. It is expressed as a global score on a scale from 0 to 10.

“ II.-For each category of equipment concerned, an order by the Environment and Economy Ministers shall specify all the criteria and sub-criteria taken into account, and the methods of calculating the index.

“ III.-The Order referred to in I of Article R. 541-218 may provide that certain criteria or sub-criteria relating to the reliability of the equipment may be established on a single model for a set of models that can be considered equivalent.”

Article 2

Article R. 541-211 of the Environmental Code is replaced by the following:

“ Article R. 541-211.-For the purposes of this subsection, the definitions provided for in points 1 to 8 of Article R. 541-217 apply.”

Article 3

Subsections 2.3 and 4 of Section 9 of Chapter I of Title IV of Book V of the Regulatory Part of the Environmental Code become subsections 3, 4 and 5 of the same section, respectively.

Articles D. 541-215 to D. 541-219 of the Environmental Code become Articles D. 541-222 to D. 541-226 of the same Code, Articles R. 541-220 to R. 541-223 of the

Environmental Code respectively become Articles R. 541-227 to R. 541-230 of the same code and Articles D. 541-225 to D. 541-232-1 of the Environmental Code respectively become Articles D. 541-231 to D. 541-239 of the same code.

In the regulations in force, the references to the provisions of Articles D. 541-215 to D. 541-232-1 of the Environmental Code are amended accordingly.

Article 4

The Minister for the Economy, Finance and Industrial and Digital Sovereignty and the Minister for the Ecological Transition and Territorial Cohesion are each responsible for the application of this Decree, which will be published in the Official Journal of the French Republic.

Done on 5 April 2024.

Gabriel Attal
By the Prime Minister:

The Minister for Ecological Transition and Territorial Cohesion,
Christophe Béchu

The Minister for the Economy, Finance and Industrial and Digital Sovereignty,
Bruno Le Maire