FRENCH REPUBLIC

Ministry for the Ecological Transition
and Territorial Cohesion

Decree No.
on the durability index of electrical and electronic equipment

NOR:

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 on 1 January 2024.*

Notice: *this 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*: this Decree may be consulted on the Légifrance website (http://www.legifrance.gouv.fr).*

The Prime Minister,

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

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, 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;

Having regard to the Environmental Code, in particular Articles L. 541-9-2 and L. 541-9-4 thereof in their wording resulting from Articles 16 and 29 of Law No 2020-105 of 10 February 2020 on combating waste and the circular economy;

Having regard to the notification to the European Commission dated;

Having regard to the observations made during the public consultation carried out between ... and ..., 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 5 is added as follows:

“Display of the durability index

“Art. R 541-233.- The durability index provided for in Article L. 541-9-2 consists of one out of ten marks intended to be brought to the attention of consumers at the time of the purchase of new equipment.

“For each category of equipment covered by order of the Environment and Economy Ministers, and adopted pursuant to this Article, the durability index shall replace the repairability index provided for in I of Article R. 541-210, as from the entry into force of the durability index for the category of equipment concerned.

“This index relates to each of this equipment’s models.

“Art. R 541-234.- 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 durability index.

“Article R 541-235.

“I.- Producers or importers shall establish, for 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.

“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:

“a) the durability index in accordance with the terms and signs provided for by order.

“b) the table containing details of the durability index score, in accordance with the format provided for by order.

“III.- When not the same person as the seller, the distributor shall communicate free of charge under the same conditions referred to in (a) and (b) the index and the table of details with their score to the seller 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 order.

“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 5 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. 541-236. - Centralised access to the parameters for establishing the durability index shall be established by the administrative authority.

“For each category of equipment covered by decree of the Environment and Economy Ministers, the durability index and the parameters used to establish it, apart from those used to calculate the criterion on the price of spare parts, shall be data accessible on a basis open to all users under non-discriminatory conditions.

“This data shall also include information on the identification of the equipment models concerned and the calculation modalities.

“This data shall be made public, under the responsibility of the producer or importer referred to in Article R. 541-235, under the terms of the open licence for the re-use of public information referred to in Article D. 323-2-1 of the Public Relations Code, allowing the free re-use of such data. For a model, if the calculation of the durability index score is updated, these data shall be updated, within a period not exceeding one month after that update, under the conditions described above.

“Article R 541-237.

“I.- When the equipment is offered for sale in stores, the seller shall display in the manner and signage provided by order, the durability index provided by the producer or importer, in a visible 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 way in the presentation of the equipment and on all web pages allowing the purchase of the equipment, near its price, in the manner and signage provided for by an order.

“III.- The seller shall also make available to consumers the table of details of the durability index score of the equipment, by any appropriate process.
Where the equipment is offered for sale in-store, the table of details of the durability index score shall be accessible on the shelf. 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, the table of details of the durability index score shall be accessible directly from the same web pages where the durability index is displayed.

“Article R 541-238.

“I-. The durability index shall be calculated on the basis of the following parameters:

“a) A score out of ten relating to the repairability of the equipment;

“b) A score out of ten relating to the reliability of the equipment;

“c) Where appropriate, a score out of ten relating to software and hardware updates of the equipment;

“The durability index shall be obtained from the scores referred to in (a), (b) and (c) in accordance with the procedures laid down by order and shall be expressed as one score on a scale of 1 to 10.

“II -. For each category of equipment covered, an order by the Environment and Economy Ministers shall specify all the criteria and sub-criteria including the criteria specific to the category and the methods of calculating the index.

Article 2

The provisions of this Decree shall enter into force on 1 January 2024.

Article 3

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

Done on

By the Prime Minister:

Elisabeth BORNE

The Minister for Ecological Transition and Territorial Cohesion,

Christophe BECHU

The Minister for the Economy, Finance and Industrial and Digital Sovereignty,

Bruno LE MAIRE

The Secretary of State to the Minister for Ecological Transition and Territorial Cohesion responsible for Ecology,

Bérangère COUILLARD