

MINISTRY FOR ECOLOGY AND SUSTAINABLE DEVELOPMENT

Decree n° 2005-829 of 20 July 2005 relating to the composition of electrical and electronic equipment and to the elimination of waste from this equipment (Official journal of the French republic - 22 July 2005)

NOR: DEVX0400269D

The President of the Republic,

Considering the report of the Prime Minister and the Minister for Ecology and Sustainable Development,

Having regard to Council Regulation n° 259/93/EC of 1st February 1993, concerning the monitoring and inspection of waste transfers entering and leaving the European Community;

Having regard to Council Directive n° 75/442/EC of 15 July 1975 relating to waste, amended in the last instance by decision n° 96/350/EC of the Commission;

Having regard to Council Directive n° 91/689/EC of 12 December 1991 relating to dangerous waste, amended in the last instance by Directive n° 94/31/EC;

Having regard to Directive n° 98/34/EC of the European Parliament and the Council of 22 June 1998 providing for an information procedure in the field of technical standards and regulations and rules relating to information society services, and particularly notification n° 2004-0535;

Having regard to Directive n° 2002/95/EC of 27 January 2003 relating to the limitation of the use of certain dangerous substances in electrical and electronic equipment;

Having regard to Directive n° 2002/96/EC of 27 January 2003 relating to waste electrical and electronic equipment;

Having regard to the criminal code, in particular Article R. 610-1;

Having regard to the general code of local governments;

Having regard to the consumer code, in particular Article L. 214-1;

Having regard to the environmental code, in particular Part I and Chapter I of Part IV of Book V;

Having regard to amended Decree n° 91-732 of 26 July 1991 relating to the Agency for Environment and Energy Management;

Having regard to Decree n° 92-377 of 1st April 1992 applying, for waste resulting from removal of packaging, to amended Law n° 75-633 of 15 July 1975 relating to the elimination of waste and recovery of materials;

Having regard to Decree n° 97-34 of 15 January 1997 relating to the decentralisation of individual administrative decisions;

Having regard to Decree n° 97-1204 of 19 December 1997 made under the Minister for Town and Country Planning and the Environment of 1° of Article 2 of Decree n° 97-34 of 15 January 1997 relating to the decentralisation of individual administrative decisions;

Having regard to the opinion of the Consultative Committee of the financial legislation and regulations dated 21 March 2005;

Having regard to the opinion of the Competition Council dated 31 March 2005;

Having regard to the opinion of the Local Finance Committee dated 17 May 2005;

The Council of State (public works section) having been informed;

The Cabinet having been informed,

Decrees:

PART I

DEFINITIONS AND SCOPE OF APPLICATION

Art. 1. – This decree applies to electrical and electronic equipment and to waste which results from it, including all the components, sub-assemblies and consumables forming an integral part of the product when it is scrapped. By electrical and electronic equipment is meant equipment operating using electrical currents or electromagnetic fields, as well as equipment for the production, transfer and measurement of these currents and fields, designed to be used at a voltage not exceeding 1,000 volts in alternating current and 1,500 volts in direct current and which falls within the categories set out in Appendix 1 of this decree.

The following are excluded from the scope of application of this decree:

- electrical and electronic equipment forming part of another type of equipment which is not in itself electrical or electronic equipment within the meaning of this decree;
- electrical and electronic equipment associated with the protection of the fundamental interests of State security, arms, munitions and other war materials, if they are used solely for military purposes.

Art. 2. – For the application of this decree the following are considered as:

- household waste electrical and electronic equipment; waste from electrical and electronic equipment originating from households as well as equipment which, although used for commercial purposes or for the needs of associations, is similar to that of households due to its nature and the distribution networks through which it is supplied;
- commercial waste electrical and electronic equipment; other waste electrical and electronic equipment.

A joint order of the ministers for ecology and industry determines, as applicable, the conditions for applying this article.

Art. 3. – Within the meaning of this decree:

1° A producer is considered to be any person who manufactures, imports or introduces onto the domestic market for commercial purposes electrical and electronic equipment, unless this equipment is sold under the single trademark of a retailer. In this case, the retailer is considered as the producer.

2° A distributor is considered to be any person who, regardless of the distribution technique used, including via distance communication, supplies, in a business capacity, electrical and electronic equipment to the party which will use it.

PART II

PROVISIONS RELATING TO THE COMPOSITION OF ELECTRICAL AND ELECTRONIC EQUIPMENT

Art. 4. – Marketed electrical and electronic equipment, coming under Appendix 1 of this decree, except for those of categories 8 and 9, must not contain lead, mercury, cadmium, chromium VI, polybromobiphenyls (PBB) or polybromodiphenylethers (PBDE). A joint order of the ministers for ecology, industry and consumption set the cases and conditions under which the use of these substances may be authorised, taking account of the low quantities involved or the specific nature of the uses planned.

Art. 5. – Equipment coming under Appendix 1 of this decree must be designed and manufactured in such a way as to facilitate its dismantling and recovery.

Art. 6. – All electrical and electronic equipment marketed after 13 August 2005 must be labelled so that the producer can be identified and to show that it was marketed after this date. Furthermore, the

producers must affix on all household electrical and electronic equipment marketed after 13 August 2005 the pictogram shown in Appendix 2 of this decree. If the equipment's dimensions are too small to do this, this pictogram is shown on the packaging and on the guarantee documents and the instructions for use which accompany it.

Art. 7. – For each type of new electrical and electronic equipment marketed after 13 August 2005, the producers make available for the plant operators in charge of treating waste electrical and electronic equipment, information required for this treatment.

The producers fulfil this obligation, if applicable by electronic means, a year after the marketing of this equipment at the latest.

PART III

PROVISIONS RELATING TO THE COLLECTION OF HOUSEHOLD WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT

Art. 8. – I. – Producers, distributors, municipalities or their groupings take the measures defined in II and III of this article to reduce the quantities of waste electrical and electronic equipment eliminated with unsorted household waste.

II. – During the sale of household electrical and electronic equipment, the distributor freely takes back, or has a third party freely take back on its behalf, the used electrical and electronic equipment that the consumer transfers to it, up to the limit of the quantity and type of equipment sold.

III. – For each category of equipment that they market, producers must:

– either provide for the selective collection of household waste electrical and electronic equipment by setting up an individual system for the selective collection of waste under conditions defined in Article 10;

– or contribute to this collection by paying a financial contribution to a coordinating organisation approved under conditions defined in Article 9. This organisation bears, by means of an agreement made between municipalities, the extra costs associated with the selective collection of household waste electrical and electronic equipment.

Art. 9. – The coordinating organisations set out in the previous article are approved by joint orders of the ministers for ecology, industry and local authorities. Approval is subordinated to a commitment from the organisation relating:

a) To the amount of the contributions from which the municipalities or their groupings will benefit by applying the second paragraph of III from Article 8;

b) To the territorial coverage planned and to the means implemented to reach it;

c) To the means which will be implemented to meet the information obligations defined in Article 12;

d) To the obligation to communicate to the minister for ecology an annual assessment of activity intended to be made public, in particular specifying the territorial coverage and the results obtained with regard to selective collection.

When several organisations seek approval, the ministers for ecology, industry and local authorities ensure the consistency of the commitments undertaken.

The approval is issued for a maximum duration of six years and is renewable.

A joint order of the ministers for ecology, industry, economy and local authorities specifies the conditions under which the approval is issued and those in which it may be terminated in the event of a breach by the holder of its obligations.

Art. 10. – Individual systems for the collection of household waste electrical and electronic equipment that the producers set up to fulfil the obligations provided for in III of Article 8 are approved by order of the minister for ecology, made after consultation with the ministers for industry and local authorities.

The order specified in the last paragraph of Article 9 sets the conditions under which the approval is issued as well as the conditions under which it can be terminated.

Art. 11. – The waste electrical and electronic equipment collected is stored under conditions enabling their sorting, selective treatment and recovery to be carried out.

Art. 12. – Municipalities or their groupings, producers, distributors and coordinating organisations implement the actions that they deem appropriate to inform users of household electrical and electronic equipment:

- of the obligation not to dispose of waste electrical and electronic equipment with unsorted municipal waste;
- of the collection systems available to them;
- of the potential effects on the environment and human health from the presence of dangerous substances in the electrical and electronic equipment.

PART IV

PROVISIONS RELATING TO THE REMOVAL AND TREATMENT OF WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT

CHAPTER I

Removal and treatment of waste household electrical and electronic equipment

Art. 13. – The producers of household electrical and electronic equipment are responsible for removing or have a third party remove, then treat or have a third party treat, the household waste electrical and electronic equipment selectively collected under conditions set out in Article 8, whatever the date on which this equipment has been marketed. These obligations are distributed between the producers according to the categories of equipment shown in Appendix 1 of this decree, prorata of the household electrical and electronic equipment marketed.

The producers fulfil the obligations which are incumbent upon them as part of the preceding paragraph either by belonging to an organisation approved under conditions defined in Article 14, or by setting up an individual system approved under conditions defined in Article 15.

Art. 14. – A joint order of the ministers for ecology, industry and local authorities approves the organisations to which the producers belong to fulfil the obligations provided for in Article 13.

The authorisation is subordinated to a commitment of the organisation relating:

- a) To the conditions for removing the waste electrical and electronic equipment selectively collected under conditions set out in Article 8;
- b) To the provisions provided for with regard to the re-use of electrical and electronic equipment;
- c) To the recovery objectives for waste and recycling and re-use of components, materials and substances;
- d) To the means that will be implemented to meet the information obligations provided for in Articles 7 and 12;

e) To its financial capacity;
f) To the obligation to communicate to the minister for ecology an annual assessment of activity to be made public, as well as the results obtained with regard to re-use, recovery or destruction of waste electrical and electronic equipment.

The approval is issued for a maximum duration of six years and is renewable.

The order provided for in the last paragraph of Article 9 specifies the conditions under which the approval is issued as well as the conditions under which it can be terminated in the event of a breach by the holder of its obligations.

Art. 15. – A joint order of the ministers for ecology, industry and local authorities approves the individual systems that the producers set up to fulfil the obligations provided for in Article 13.

Approval is subordinated to a commitment of the producer relating:

a) To the conditions for removing the waste electrical and electronic equipment selectively collected under conditions set out in Article 8;

b) To the provisions provided for with regard to the re-use of electrical and electronic equipment;

c) To the recovery objectives for waste and recycling and re-use of components, materials and substances;

d) To the means that will be implemented to meet the information obligations provided for in Articles 7 and 12;

e) To its financial capacity to ensure its obligations for the current year;

f) To the obligation to communicate to the minister for ecology an annual assessment of activity to be made public, as well as the results obtained with regard to re-use, recovery or destruction of waste electrical and electronic equipment.

The approvals are issued for a maximum duration of six years and are renewable.

The order provided for in the last paragraph of Article 9 specifies the conditions under which the authorisation is issued and those under which it can be terminated in the event of a breach by the holder of its obligations.

Art. 16. – The producers specified in Article 13 must fulfil their obligations at the latest before the end of the current year in which they have marketed the household electrical and electronic equipment.

They can fulfil their obligations in advance in the form of quarterly payments to an organisation approved under the conditions provided for in Article 14. Failing this, they must provide a guarantee stating that the financing of the obligations which is incumbent upon them for the current year under Article 13 is assured. This guarantee may take the form of an insurance policy, a blocked account or a deposit provided through a credit institution or an insurance company.

Art. 17. – During an interim period from the effective date of this decree until 13 February 2011 and, for some equipment belonging to the category given in paragraph 1 of the appendix of this decree, shown on a list set by a joint order of ministers for ecology, economy, industry and consumption, until 13 February 2013, the producers inform the purchasers, by means of a specific note displayed at the bottom of the sales invoice, of the cost corresponding to the elimination of the waste electrical and electronic equipment marketed before 13 August 2005.

The distributors also inform their own purchasers of the cost of this elimination under conditions provided for in the previous paragraph when an invoice is drawn up, by any suitable means in other cases.

The cost shown must not exceed the actual costs borne.

CHAPTER II

Removal and treatment of commercial waste electrical and electronic equipment

Art. 18. – Producers arrange and finance the removal and treatment of the waste from commercial electrical and electronic equipment marketed after 13 August 2005, unless otherwise agreed with users in the equipment sales contract. In the latter case, the commercial electrical and electronic equipment sales contract must provide for the conditions under which the user ensures all or part of the elimination of waste from this equipment under conditions provided for in Articles 21 and 22.

Art. 19. – Producers may fulfil the obligations which are incumbent upon them under Article 18 by joining an organisation approved by joint order of ministers for ecology and industry.

Approval is subordinated to a commitment from the organisation relating:

a) To the legal and technical conditions under which the removal on national territory and the treatment of this waste in France or abroad will be carried out;

b) To the recovery objectives for waste and recycling and re-use of components, materials and substances;

c) To the means implemented to meet the information obligations provided for in Article 7;

d) To the obligation to communicate to the minister for ecology an annual assessment of activity to be made public, as well as the results obtained with regard to removal, recovery or destruction of waste electrical and electronic equipment.

The approval is issued for a maximum duration of six years and is renewable

A joint order of the ministers for ecology, economy and industry sets the conditions under which the approval is issued and under which it can be terminated in the event of a breach by the holder of its obligations.

Art. 20. – The removal and treatment of commercial waste electrical and electronic equipment from products marketed before 13 August 2005 is incumbent upon users unless otherwise agreed with the producers.

The order provided for in Article 17 of this decree may extend the application of Article 17 to certain categories of commercial waste electrical and electronic equipment from products marketed before 13 August 2005.

CHAPTER III

Methods of treating waste electrical and electronic equipment

Art. 21. – The selective treatment, recovery and destruction of waste electrical and electronic equipment selectively collected must be carried out in plants meeting technical demands set by the joint order of ministers for ecology and industry and complying with the provisions of Part 1 of Book V of the environmental code. These operations may also be carried out in any other plant authorised for this purpose in another Member State of the European Union or in another State when the transfer of this waste outside of France is carried out pursuant to the provisions of the aforementioned regulation of 1st February 1993.

The following are considered as operations: the recovery of components, materials and substances from waste electrical and electronic equipment, their re-use, their recycling or their use as a primary energy source in a plant.

During any recovery or destruction operation, the producers are responsible for carrying out or for having carried out by third parties a selective treatment of materials and components from waste electrical

and electronic equipment and for extracting all fluids, pursuant to the instructions of the order set out in the first paragraph of this article.

Art. 22. – The recovery and, particularly, the re-use of waste electrical and electronic equipment are preferable to its destruction.

PART V

PROVISIONS RELATING TO MONITORING AND SUPERVISION

Art. 23. – A national register of electrical and electronic equipment producers has been created. In particular it collects the information that the producers send concerning the electrical and electronic equipment quantities that they have marketed and the methods of eliminating waste from this equipment that they have implemented.

The Agency for Environment and Energy Management is in charge of setting up, updating and operating this register.

A joint order of the ministers for ecology and industry defines the registration procedure for this register and the nature of the information which must be submitted.

Art. 24. – Household electrical and electronic equipment distributors and purchasers of commercial electrical and electronic equipment may request that their suppliers send them documents attesting to the fact that producers are fulfilling all of the obligations which are incumbent upon them for this equipment.

PART VI

PENALTIES

Art. 25. – I. – The following 3rd class infractions are punishable by a fine:

a) If a producer:

- markets electrical and electronic equipment without complying with the provisions in Article 6 ;
- does not inform purchasers by a note displayed on sales invoices for any new household electrical and electronic equipment of the unit cost for eliminating household waste electrical and electronic equipment marketed before 13 August 2005, pursuant to Article 17;
- does not communicate the information provided for in Articles 7 and 23;

b) If a distributor:

- does not provide for the return of used electrical and electronic equipment under conditions defined in II of Article 8 of this decree;
- does not inform purchasers, under conditions provided for in Article 17, of the cost corresponding to the elimination of waste electrical and electronic equipment marketed before 13 August 2005.

II. – The following 5th class infractions are punishable by a fine, if a producer:

- markets electrical and electronic equipment without complying with the provisions in Article 4 as well as the order provided for in the same article;
- markets electrical and electronic equipment without having contributed to the selective collection of household waste electrical and electronic equipment under conditions provided for in III of Article 8;
- does not remove or have removed by a third party, treat or have treated by a third party, household waste electrical and electronic equipment pursuant to Article 13;
- does not carry out or have carried out by a third party the selective treatment of components under Article 21;

- does not provide a guarantee, failing to have paid in advance its contribution to an approved organisation pursuant to Article 16;
- does not carry out the removal and treatment of commercial waste electrical and electronic equipment pursuant to Article 18.

III. – Individuals may be declared legally responsible, under conditions provided for in Article 121-2 of the criminal code, for infractions set out in this article. They are punishable by a fine in accordance with the terms provided by Article 131-41 of the criminal code.

PART VII

OTHER PROVISIONS

Art. 26. – The provisions of Article 4 apply to equipment marketed from 1st July 2006.

These provisions are not applicable to the detached parts used for repairing equipment marketed before 1st July 2006 or to the re-use of this equipment.

Art. 27. – The aforementioned Decree of 1st April 1992 is therefore amended:

I. – The *b* of Article 10 is replaced by the following provisions:

“*b*) Or to arrange, for the storage of this packaging, in special locations.

“In this case, the ministers for the environment, industry and agriculture approve by joint order the means for monitoring the system set up by each producer to track the proportion of packaging eliminated with regard to marketed packaging.”

II. – After Article 11 two articles are inserted, 11-1 and 11-2, which read as follows:

“*Art. 11-1.* – The aforementioned Decree of 19 December 1997 is therefore amended in the following way:

“To 1° of Part II of the appendix, the heading and following table are added:

“Decree n° 92-377 of 1st April 1992 concerning the application, for waste resulting from packaging, of amended Law n° 75-633 of 15 July 1975 relating to the elimination of waste and the recovery of materials

1	Approval from an organisation or company whose purpose is to take responsibility for used packaging from its counterparts.	Article 6, first paragraph
2	Approval of the methods for monitoring the elimination of used packaging system set up by a producer or an importer of packaged products for households.	Article 10 <i>b</i>

“*Art. 11-2.* – The provisions of this decree may be amended by decree in the Council of State, with the exception of those of the first paragraph of Article 6 and of *b* of Article 10 which will be amended, if applicable, under conditions provided for in Article 2 of the aforementioned Decree of 15 January 1997.”

Art. 28. – The aforementioned Decree of 19 December 1997 is thus amended as follows:

I. – To 1° of Part II of the appendix, the heading and following table are added:

“Decree n° 2005-829 of 20 July 2005 relating to the composition of electrical and electronic equipment and to the elimination of waste from this equipment

1	Approval from organisations coordinating the actions of producers.	Article 9, first paragraph
2	Approval from organisations in charge of the removal and treatment of waste electrical and electronic equipment.	Articles 14 and 19, first paragraph
3	Approval of the individual systems for the removal and treatment of household waste electrical and electronic equipment.	Article 15, first paragraph

To 2° of Part II of the appendix, at the end of A, the heading and following table are added:

“Decree n° 2005-829 of 20 July 2005 relating to the composition of electrical and electronic equipment and to the elimination of waste from this equipment

1	Approval of the individual systems set up by the producers for the selective collection of waste electrical and electronic equipment.	Article 10, first paragraph
---	---	-----------------------------

Art. 29. – The provisions of this decree may be amended by decree in the Council of State, with the exception of those of the first paragraph of Article 9, the first paragraph of Article 10, the first paragraph of Article 14, the first paragraph of Article 15 and the first paragraph of Article 19 which will be amended, if applicable, under conditions provided for in Article 2 of the aforementioned Decree of 15 January 1997.

Art. 30. – The Prime Minister, the Minister without Portfolio, the Minister of the Interior and Town and Country Planning, the Minister for Economy, Finances and Industry, the Minister of Justice, and the Minister for Ecology and Sustainable Development are responsible, each to the extent of his or her responsibility, the application of this decree, which will be published in the *Official Journal* of the French Republic.

Drawn up in Paris, on 20 July 2005.

JACQUES CHIRAC

By the President of the Republic:

The Prime Minister,
DOMINIQUE DE VILLEPIN

*The Minister for Ecology
and Sustainable Development,*
NELLY OLIN

*The Minister of State,
Minister of the Interior
and Town and Country Planning,*
NICOLAS SARKOZY

*The Minister for Economy,
Finances and Industry,*
THIERRY BRETON

The Minister for Justice,
PASCAL CLÉMENT

APPENDIX 1
CATEGORIES OF ELECTRICAL
AND ELECTRONIC EQUIPMENT TO WHICH THIS DECREE APPLIES

1. Large household appliances.
2. Small household appliances.
3. IT and telecommunications equipment.
4. Consumer equipment.
5. Lighting equipment (excluding domestic lighting appliances and filament bulbs, to which nevertheless Articles 4 and 5 of this decree apply).
6. Electrical and electronic tools (excluding large-scale stationary industrial tools).
7. Toys, leisure and sports equipment.
8. Medical devices (excluding all implanted or infected products).
9. Monitoring and control instruments.
10. Automatic dispensers.

APPENDIX 2
SYMBOL FOR THE LABELLING OF ELECTRICAL
AND ELECTRONIC EQUIPMENT

The symbol indicating that electrical and electronic equipment is the subject of selective collection is in the form of a crossed out wheellie bin, as shown below. This symbol must be affixed in a visible, legible and indelible way.

