

Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants

TITLE I

SCOPE

Article 1

1 This Directive shall apply to the marketing of propagating material of ornamental plants within the Community. This shall be without prejudice to the rules on protection of wild flora laid down by Regulation (EC) No 338/97, the rules on packaging and packaging waste laid down by Directive 94/62/EC of the European Parliament and of the Council⁽¹⁾, or, save where otherwise provided for in this Directive or on the basis thereof, the plant health rules laid down by Directive 77/93/EEC.

2 This Directive shall not apply to:

- material shown to be intended for export to third countries, which is identified as such and is kept sufficiently isolated,
- material the products of which are not intended for ornamental purposes, if it is covered by other Community legislation on the marketing of such material.

3 In accordance with the procedure laid down in Article 17, it may be decided that some or all of the requirements of this Directive shall not apply in respect of seed of particular species or groups of plants, where intended for the production of further propagating material and where there is no significant connection between the quality of such seed and the quality of the material grown from it.

TITLE II

DEFINITIONS

Article 2

For the purpose of this Directive, the following definitions shall apply:

1. 'Propagating material': plant material intended for:
 - the propagation of ornamental plants, or
 - the production of ornamental plants; however, in the case of production from complete plants, this definition applies only to the extent that the resulting ornamental plant is intended for further marketing.

'Propagation': reproduction by vegetative or other means.

2. 'Supplier': any natural or legal person engaged professionally in marketing or importing of propagating material.
3. 'Marketing': sale or delivery by a supplier to another person. 'Sale' includes holding available or in stock, display with a view to sale, offering for sale.
4. 'Responsible official body':

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- (a) an authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning quality;
- (b) any State authority established:
 - either at national level, or
 - at regional level, under the supervision of national authorities, within the limits set by the constitution of the Member State concerned.

The bodies referred to above may, in accordance with their national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to any legal person, whether governed by public or by private law, which, under its officially approved constitution, is charged exclusively with specific public functions, provided that such person, and its members, has no personal interest in the outcome of the measures it takes.

Moreover, in accordance with the procedure laid down in Article 17, other legal persons established on behalf of the body referred to in point (a) and acting under the authority and supervision of such body may be approved, provided that such person has no personal interest in the outcome of the measures it takes.

Member States shall notify the Commission of their responsible official bodies. The Commission shall forward that information to the other Member States.

- 5. ‘Lot’: a number of units of a single commodity, identifiable by its homogeneity of composition and origin.

TITLE III

REQUIREMENTS TO BE MET BY PROPAGATING MATERIAL

Article 3

1 Suppliers may market propagating material only if it meets the requirements laid down in this Directive.

2 Paragraph 1 shall not apply to propagating material intended for:

- a trials or scientific purposes,
- b selection work, or
- c the conservation of genetic diversity.

3 Detailed rules for the application of paragraph 2 may be adopted in accordance with the procedure laid down in Article 17.

Article 4

Propagating material shall, where applicable, comply with the relevant plant health conditions laid down in Directive 77/93/EEC.

Article 5

1 Without prejudice to the provisions of Article 1 and Article 4, propagating material when marketed:

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- shall at least on visual inspection, be substantially free from any harmful organisms impairing quality, or any signs or symptoms thereof, which reduce its usefulness,
 - shall be substantially free of any defects likely to impair its quality as propagating material,
 - shall have satisfactory vigour and dimensions in respect of its usefulness as propagating material,
 - in the case of seeds, shall have satisfactory germination capacity,
 - if marketed with reference to a variety pursuant to Article 9, shall have satisfactory varietal identity and purity.
- 2 Any propagating material which, on the basis of visible signs or symptoms, is not substantially free of harmful organisms, shall be properly treated or, where appropriate, shall be removed.
- 3 In the case of citrus material the following requirements shall also be met:
- a it shall be derived from initial material which has been checked and found to show no symptoms of any viruses, virus-like organisms or diseases;
 - b it shall have been checked and found to be substantially free of such viruses, virus-like organisms or disease since the beginning of the last cycle of vegetation; and
 - c in the case of grafting, it shall have been grafted onto rootstocks other than those susceptible to viroids.
- 4 In the case of flower bulbs the following requirement shall also be met:
- the propagating material shall be derived directly from material which, at the stage of the growing crop, has been checked and found to be substantially free from any harmful organisms and diseases, signs or symptoms thereof.
- 5 In accordance with the procedure laid down in Article 18, a schedule may be established for a particular genus or species, laying down additional conditions concerning the quality with which propagating material when marketed must comply. A genus or species shall only be included in the schedule if there is a demonstrated need for such additional rules. In determining such need the following criteria shall apply:
- the existence of problems with the quality of propagating material of the species or genus concerned, which can only be resolved satisfactorily through legislative means,
 - the economic importance of propagating material of the species or genus concerned,
 - consistency with any international standards on regulated non-quarantine pests.

TITLE IV

REQUIREMENTS TO BE MET BY SUPPLIERS OF PROPAGATING MATERIAL

Article 6

1 Without prejudice to paragraph 2, suppliers shall be officially registered in relation to the activities which they carry out under this Directive. The responsible official body may deem suppliers, who are already registered under Directive 77/93/EEC, to be registered for the purposes of the current Directive. Such suppliers shall nonetheless comply with the requirements of the current Directive.

2 Paragraph 1 shall not apply to suppliers marketing only to persons not professionally engaged in the production or sale of ornamental plants or propagating material. Such suppliers shall nonetheless comply with the requirements of the current Directive.

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Article 7

- 1 Suppliers engaged in production of propagating material shall:
 - identify and monitor critical points in their production process which influence the quality of the material,
 - keep information, for examination when requested by the responsible official body on the monitoring laid down in the first indent,
 - take samples where necessary for analysis in a laboratory with suitable facilities and expertise,
 - ensure that, during production, lots of propagating material remain separately identifiable.
- 2 In the case of the appearance, on the premises of a supplier engaged in the production of propagating material, of a harmful organism listed in Directive 77/93/EEC or in any measures established pursuant to Article 5(5), the supplier shall report it to the responsible official body and shall carry out any measures laid down by that body.
- 3 When propagating material is marketed, registered suppliers shall keep records of their sales or purchases for at least 12 months.
- 4 Rules for the application of paragraph 1 above may be established in accordance with the procedure laid down in Article 17.

TITLE V

MARKETING AND LABELLING OF PROPAGATING MATERIAL

Article 8

- 1 Propagating material shall be marketed in lots. However, propagating material of different lots may be marketed in a single consignment, provided that the supplier keeps records of the composition and origin of the different lots.
- 2 Propagating material when marketed shall be accompanied by a label or other document made out by the supplier.
- 3 In accordance with the procedure laid down in Article 17, requirements as to the label or document referred to in paragraph 2 shall be established. In the case of marketing of propagating material for persons not professionally engaged in the production or sale of ornamental plants or propagating material, requirements on labelling may be confined to appropriate product information. Requirements as to packaging of propagating material may be adopted in accordance with the same procedure.
- 4 Paragraph 1 shall not apply to propagating material which is marketed for persons not professionally engaged in the production or sale of ornamental plants or propagating material.

Article 9

- 1 Propagating material may be marketed with a reference to a variety, only if the variety concerned is:
 - legally protected by a plant variety right in accordance with provisions on the protection of new varieties, or
 - officially registered, or
 - commonly known, or

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- entered on a list kept by a supplier with its detailed description and denomination. Such lists shall be drawn up in accordance with accepted international guidelines, where these are applicable. The lists shall be available, on request, to the responsible official body of the Member State concerned.
- 2 As far as possible, each variety shall bear the same denomination in all the Member States, in accordance with implementing measures which may be adopted in accordance with the provisions of Article 17 or, in their absence, in accordance with accepted international guidelines.
- 3 Where propagating material is marketed with a reference to a group of plants rather than a variety referred to in paragraph 1, the supplier shall indicate the group of plants in such a way as to avoid confusion with any varietal denomination.
- 4 Additional implementing provisions for the fourth indent of paragraph 1 may be adopted in accordance with the procedure laid down in Article 17.

TITLE VI

PROPAGATING MATERIAL MEETING LESS STRINGENT REQUIREMENTS

Article 10

In the event of temporary difficulties in the supply of propagating material satisfying the requirements of this Directive which cannot be overcome within the Community, rules may be adopted, in accordance with the procedure laid down in Article 17, concerning the marketing of propagating material meeting less stringent requirements.

TITLE VII

PROPAGATING MATERIAL PRODUCED IN THIRD COUNTRIES

Article 11

- 1 In accordance with the procedure laid down in Article 17, it shall be decided whether propagating material produced in a third country affords equivalent guarantees in all respects to material produced in the Community in accordance with this Directive.
- 2 Pending the decision referred to in paragraph 1, propagating material may not be imported from third countries unless the importing supplier ensures prior to import that the material to be imported affords equivalent guarantees in all respects to propagating material produced in the Community in accordance with this Directive, in particular in relation to quality, identification and plant health.
- 3 The importer shall notify the responsible official bodies of material imported under paragraph 2 and shall keep documentary evidence of his contract with the supplier in the third country.
- 4 Implementing measures relating to the procedure to be followed and further requirements to be met by importers may be established in accordance with the procedure laid down in Article 17.

TITLE VIII

CONTROL MEASURES AND GENERAL PROVISIONS

Article 12

1 Member States shall require that suppliers take all necessary measures to guarantee compliance with the requirements of this Directive. To this end Member States shall ensure that propagating material is officially inspected:

- at least by random checks, and
- at least in respect of marketing to persons professionally engaged in production or sale of ornamental plants or propagating material,

to verify compliance with the requirements. Member States may also take samples in order to verify compliance. In carrying out supervision and monitoring, the responsible official bodies shall have free access to all parts of suppliers' establishments at all reasonable times.

The Commission shall, by 31 December 2002, submit a report to the Council, on the operation of the control arrangements foreseen in this Article, together with any appropriate proposals which may, if appropriate, include proposals for removing requirements of this Directive from retail sales.

2 Detailed implementing procedures for official inspections under this Directive may be established in accordance with the procedure laid down in Article 17.

Article 13

1 If, during official inspections referred to in Article 12, or the trials referred to in Article 14, it is found that propagating material does not meet the requirements of this Directive, the responsible official body shall ensure that the supplier takes appropriate corrective action or, if that is not possible, shall prohibit the marketing of that propagating material in the Community.

2 If it is found that propagating material marketed by a particular supplier does not comply with the requirements of this Directive, the Member State concerned shall ensure that appropriate measures are taken in relation to that supplier.

3 Any measures taken under paragraph 2 shall be withdrawn as soon as it has been established with sufficient certainty that the propagating material intended for marketing by the supplier will, in future, comply with the requirements and conditions of this Directive.

[^{F1}Article 14

1 Where appropriate, trials or tests shall be carried out in the Member States on samples to check that propagating material complies with the requirements and conditions of this Directive. The Commission may organise inspections of trials by representatives of the Member States and of the Commission.

2 Community comparative tests and trials may be carried out within the Community for the post-control of samples of propagating material or ornamental plants placed on the market under the provisions of this Directive, whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- propagating material produced in third countries,
- propagating material suitable for organic farming,
- propagating material marketed in relation to measures for the conservation of genetic diversity.

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3 These comparative tests and trials shall be used to harmonise the technical methods of examination of propagating material of ornamental plants and to check satisfaction of the conditions with which the material must comply.

4 The Commission, acting in accordance with the procedure referred to in Article 17, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 17 about the technical arrangements for holding the tests and trials and the results thereof. When problems occur in relation to organisms covered by Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction in the Community of organisms harmful to plants or plant products and against their spread within the Community⁽²⁾, the Commission shall notify the Standing Committee on Plant Health, which shall also be consulted on protocols for Community trials where these concern organisms covered by Directive 2000/29/EC.

5 The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

6 The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 17.

7 The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.]

Textual Amendments

F1 Substituted by Council Directive 2003/61/EC of 18 June 2003 amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials.

Article 15

The marketing of propagating material which complies with the requirements of this Directive shall be subject to no restrictions as regards supplier, quality, plant health, labelling and packaging, other than those laid down in this Directive.

Article 16

In accordance with the procedure laid down in Article 17, a Member State may at its request and under certain conditions be wholly or partially released from certain obligations under this Directive in respect of types of propagating material of certain genera or species the production of which is of minimal economic importance in its territory, save where this would run counter to Article 15.

TITLE IX

COMMITTEE PROCEDURES

[^{F2}Article 17

^{F31} The Commission shall be assisted by the Standing Committee on Plants, Animals, Food and Feed established by Article 58(1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council⁽³⁾. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁴⁾.]

2 Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC⁽⁵⁾ shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3 The Committee shall adopt its Rules of Procedure.]

Textual Amendments

- F2** Substituted by Council Regulation (EC) No 806/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority).
- F3** Substituted by Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC.

[^{F2}Article 18

^{F31} The Commission shall be assisted by the Standing Committee on Plants, Animals, Food and Feed established by Article 58(1) of Regulation (EC) No 178/2002. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.]

2 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC⁽⁶⁾ shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.]

Textual Amendments

- F2** Substituted by Council Regulation (EC) No 806/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority).
- F3** Substituted by Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002,

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(EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC.

TITLE X

FINAL PROVISIONS

Article 19

1 Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive on 1 July 1999. They shall forthwith inform the Commission thereof.

2 When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods for making such reference shall be adopted by the Member States.

3 Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

Article 20

1 Directive 91/682/EEC shall be repealed with effect from 1 July 1999 without prejudice to Member States' obligations in relation to the period of transposition and implementation referred to in Part A of the Annex hereto.

2 References to the repealed Directive 91/682/EEC shall be understood as references to this Directive and shall be read in accordance with the correlation table in Part B of the Annex hereto.

3 Implementing provisions adopted under Directive 91/682/EEC shall continue to have effect unless amended or repealed by new implementing provisions.

Article 21

This Directive is addressed to the Member States.

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- (1) OJ L 365, 31. 12. 1994, p. 10.
- (2) [^{F1}OJ L 169, 10.7.2000, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).]
- (3) [^{F2}^{F3}Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).]
- (4) [^{F2}^{F3}Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).]
- (5) [^{F2}OJ L 184, 17.7.1999, p. 23.]
- (6) [^{F2}OJ L 184, 17.7.1999, p. 23.]

Textual Amendments

- F1** Substituted by Council Directive 2003/61/EC of 18 June 2003 amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials.
- F2** Substituted by Council Regulation (EC) No 806/2003 of 14 April 2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority).
- F3** Substituted by Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC.