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**COUNCIL DIRECTIVE**

**of 11 December 1973**

**amending the Directives of 14 June 1966 on the marketing of beet seed, fodder plant seed, cereal seed and seed potatoes; the Directive of 30 June 1969 on the marketing of seed of oil and fibre plants; and the Directives of 29 September 1970 on the marketing of vegetable seed and on the common catalogue of varieties of agricultural plant species**

(73/438/EEC)

(OJ L 356, 27.12.1973, p. 79)

Corrected by:

► C1 Corrigendum, OJ L 138, 21.5.1974, p. 27 (73/438/EEC)



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**amending the Directives of 14 June 1966 on the marketing of beet seed, fodder plant seed, cereal seed and seed potatoes; the Directive of 30 June 1969 on the marketing of seed of oil and fibre plants; and the Directives of 29 September 1970 on the marketing of vegetable seed and on the common catalogue of varieties of agricultural plant species**

(73/438/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular, Articles 43 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee;

Whereas, for the reasons given hereafter, amendments should be made to certain provisions of the Directives listed below, which were last amended by the Directive of 6 December 1972 <sup>(2)</sup>: the Council Directives of 14 June 1966 on, respectively, the marketing of beet seed <sup>(3)</sup>, the marketing of fodder plant seed <sup>(4)</sup>, the marketing of cereal seed <sup>(5)</sup>, the marketing of seed potatoes <sup>(6)</sup>; the Council Directive of 30 June 1969 <sup>(7)</sup> on the marketing of seed of oil and fibre plants; the Council Directives of 29 September 1970 on the marketing of vegetable seed <sup>(8)</sup> and on the common catalogue of varieties of agricultural plant species <sup>(9)</sup>;

Whereas in the case of fodder plant seed and cereal seed provision should be made for the possibility of special marking concerning the presence of *Avena fatua*;

Whereas the maximum content of hard seed should be increased in the case of the species *Trifolium repens*; whereas, moreover, the species *Phleum Bertolinii* should be brought within the field of application of the Directive concerned;

Whereas it is appropriate that to a certain extent the minimum conditions for cereal species should be reinforced; whereas on the other hand less strict requirements for the official inspection of autogamous species should, be authorized for a transitional period;

Whereas experience of supplying flax seed makes it necessary to admit for four further years the category 'Certified seed, third generation';

Whereas mixtures of standard seed of several varieties should be authorized for a transitional period in the case of certain vegetable species in small packages; whereas it is also necessary to modify the minimum weights of samples and to introduce a transitional clause concerning the germination of vegetable seed;

Whereas an addition should be made to the Directive on the common catalogue of varieties of agricultural plant species as regards those varieties which, it has been established, cannot be grown in any part of the territory of a Member State;

<sup>(1)</sup> OJ No C 62, 31. 7. 1973, p. 37.

<sup>(2)</sup> OJ No L 287, 26. 12. 1972, p. 22.

<sup>(3)</sup> OJ No 125, 11. 7. 1966, p. 2290/66.

<sup>(4)</sup> OJ No 125, 11. 7. 1966, p. 2298/66.

<sup>(5)</sup> OJ No 125, 11. 7. 1966, p. 2309/66.

<sup>(6)</sup> OJ No 125, 11. 7. 1966, p. 2320/66.

<sup>(7)</sup> OJ No L 169, 10. 7. 1966, p. 3.

<sup>(8)</sup> OJ No L 225, 12. 10. 1970, p. 7.

<sup>(9)</sup> OJ No L 225, 12. 10. 1970, p. 1.

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Whereas certain of the abovementioned Directives provide that from 1 July 1973 the equivalent of seed and plants harvested in other countries, particularly in third countries, can no longer be established nationally by Member States; whereas, however, since it has not been possible to carry out the Community examination in all cases, the abovementioned period should be extended in order to avoid disturbing current commercial relations;

Whereas provision should be made for the simplification of the procedure for the amendment of Annexes where implementing measures of a technical nature are concerned, by the application of the procedure of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry in the event of amendments being necessitated by the development of scientific or technical knowledge;

Whereas, finally, a number of drafting corrections should be made to several of the abovementioned Directives,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The Directive of 14 June 1966 on the marketing of beet seed shall be amended as follows:

1. The following shall be substituted for Article 16 (2):

‘Member States may themselves take decisions under paragraph 1 concerning a third country, in so far as the Council has not yet taken any decision with regard to that country within the framework of this Directive. This right shall expire on 1 July 1975.’

2. The following shall be substituted for Article 21a:

‘Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 21.’

*Article 2*

The Directive of 14 June 1966 on the marketing of fodder plant seed shall be amended as follows:

1. In the Dutch text of Article 2, (1), point A (a) the words ‘gebruikt raaigras’ shall be replaced by the words ‘gekruist raaigras’.

2. In Article 2 (1) point A (a), the words: ‘*Phleum Bertolinii*DC. ►C1 Timothy ◀.’

shall be added after the words: ‘*Lolium x hybridum* Hausskn. ryegrasses.Hybrid’

3. In Article 11, the following text shall be added: ‘or that seed lots complying with the special conditions concerning the presence of *Avena fatua* laid down according to the procedure provided for in Article 21, must be accompanied by an official certificate attesting compliance with these conditions.’

4. The following shall be substituted for Article 16 (2):

‘Member States may themselves take decisions under paragraph 1 concerning a third country, in so far as the Council has not yet taken a decision with regard to that country within the framework of this Directive. This right shall expire on 1 July 1975.’

5. The following shall be substituted for Article 21a:

‘Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 21.’

6. In Annex II, Part I, point (3), paragraph A, the figure ‘20’ which appears in column 5 for the species *Trifolium repens* L. shall be replaced by the figure ‘40’.

▼B*Article 3*

The Directive of 14 June 1966 on the marketing of cereal seed shall be amended as follows:

1. In Article 2 (2) the following subparagraph shall be added:
  - (d) be authorized, on request and according to the procedure laid down in Article 21, to officially certify seed of autogamous species of the categories “certified seed, first generation” or “certified seed, second generation” until 31 December 1978 at the latest:
    - when, instead of the official field inspection prescribed in Annex I, a field inspection, officially controlled by spot-checks on at least 20 % of the crops of each species, is carried out;
    - provided that, in addition to the basic seed, at least the two generations of pre-basic seed immediately preceding that category, have been found by an official examination carried out in Member State concerned, to satisfy the conditions laid down in Annexes I and II as to the varietal identity and varietal purity of basic seed.’
2. In Article 11 the following text shall be added: ‘or that seed lots complying with the special conditions concerning the presence of *Avena fatua* laid down according to the procedure provided for in Article 21, shall be accompanied by an official certificate attesting compliance with these conditions.’
3. The following shall be substituted for Article 16 (2):
 

‘Member States may themselves take decisions under paragraph 1 concerning a third country, in so far as the Council has not yet taken a decision with regard to that country within the framework of this Directive. This right shall expire on 1 July 1975.’
4. The following shall be substituted for the text of Article 21a:
 

‘Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 21.’
5. In Annex II, point (3), paragraph A (a) (aa), the figure ‘98’ which appears in column 5 for basic seed of oats, barley, wheat and spelt, shall be replaced by the figure ‘99’.
6. In Annex II, point (3), the following subparagraph shall be added:
 

‘D. Special conditions in respect of the maximum content of seeds of other cereal species:

Where the maximum content is fixed in subparagraph A at one seed, a second seed shall not be regarded as impurity if a second 500 g sample is free from seeds of other cereal species.’

*Article 4*

The Directive of 14 June 1966 on the marketing of seed potatoes shall be amended as follows:

1. In Article 15 (2) ‘1 July 1975’ shall be substituted for ‘1 July 1973’.
2. The following shall be substituted for Article 19a:
 

‘Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 19.’

*Article 5*

The Directive of 30 June 1969 on the marketing of seed of oil and fibre plants shall be amended as follows:

1. In Article 2 (1), point A and in Annex II, part I, point (2), paragraph A, the words ‘*Soia hispida* L.’ shall be replaced by the words ‘*Glycine max* (L.) Merrill.’

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2. In Article 2 (2), subparagraph (c) '30 June 1978' shall be substituted for '30 June 1974'.
3. The following shall be substituted for Article 15 (2):  
'Member States may themselves take decisions under paragraph 1 concerning a third country, in so far as the Council has not yet taken a decision with regard to that country within the framework of this Directive. This right shall expire on 1 July 1975.'
4. The following shall be substituted for Article 20a:  
'Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 20.'

*Article 6*

The Directive of 29 September 1970 on the marketing of vegetable seed shall be amended as follows:

1. In Article 11 (2), first sentence, the following words shall be deleted:
  - in the German text 'betreffend ihre Verwendung';
  - in the French text 'concernant son utilisation';
  - in the Italian text 'in loro possesso riguardanti la sua utilizzazione';
  - in the Danish text 'med henblik på dens anvendelse';
  - in the English text 'in respect of use'.
2. The following paragraph shall be added to Article 24:  
'3. Member States may allow the marketing of mixtures of standard seed of different varieties of *Lactuca sativa* L. and of mixtures of standard seed of different varieties of *Raphanus sativus* L. in small packages not exceeding 50 g provided that the words "mixture of varieties" and the names of the varieties making up the mixture are shown on the package.'
3. The following Article shall be added after Article 33:  
*Article 33a*  
Member States may be authorized, in accordance with the procedure laid down in Article 40, to permit the marketing of seed harvested before 1 July 1973 which does not fully satisfy the requirements for germination laid down in Annex II if such seed is specially marked. Such authorization may only be granted until 1 July 1975.'
4. The following shall be substituted for Article 40a:  
'Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 40.'
5. The following shall be substituted for the text of Annex III, part 2:  
**'2. Minimum weight of a sample**

Species	<i>Weight (in g)</i>
Allium cepa	25
Allium porrum	20
Anthriscus cerefolium	20
Apium graveolens	5
Asparagus officinalis	100
Beta vulgaris	100
Brassica oleracea	25
Brassica rapa	20
Capsicum annuum	40
Cichorium intybus	15
Cichorium endivia	15

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Species	Weight (in g)
Citrullus vulgaris	250
Cucumis melo	100
Cucumis sativus	25
Cucurbita pepo	150
Daucus carota	10
Foeniculum vulgare	25
Lactuca sativa	10
Petroselinum hortense	10
Phaseolus coccineus	1 000
Phaseolus vulgaris	700
Pisum sativum	500
Raphanus sativus	50
Scorzonera hispanica	30
Solanum lycopersicum	20
Solanum melongena	20
Spinacia oleracea	75
Valerianella locusta	20
Vicia faba	1 000

In the case of F-1 hybrid varieties of the above species, the minimum weight of the sample may be decreased to a quarter of the specified weight. However the sample must have a weight of at least 5 g and consist of at least 400 seeds.'

*Article 7*

The Directive of 29 September 1970 on the common catalogue of varieties of agricultural plant species shall be amended as follows:

1. In Article 10 (2), first sentence of the Dutch text, the word 'ervan' shall be replaced by the words 'voor hun gebruik'.
2. The following shall be substituted for Article 15 (3), subparagraph (c): 'where official growing trials carried out in the applicant Member States, Article 5 (4) being applied correspondingly, show that the variety does not, in any part of its territory, produce results corresponding to those obtained from a comparable variety accepted in the territory of that Member State or, where it is well known that the variety is not suitable for cultivation in any part of its territory because of its type or maturity's class.'

*Article 8*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply:

- (a) by 1 July 1973 with Article 1, point (1), Article 2, point (4), Article 3, point (3), Article 4, point (1), and Article 5, point (3);
- (b) by 1 January 1974 at the latest with Article 1, point (2), Article 2, points (3) and (5), Article 3, points (2) and (4), Article 4 point (2), Article 5, point (4) and Article, 6 point (4);
- (c) by 1 July 1974 at the latest, with the other provisions of this Directive.

*Article 9*

This Directive is addressed to the Member States.