

SUBSIDIARY LEGISLATION 433.28**FODDER PLANT SEED PRESERVATION
REGULATIONS**

3rd February, 2012

LEGAL NOTICE 51 of 2012.

1. (1) The title of these regulations is the Fodder Plants Seed Preservation Mixtures Regulations. Citation and scope.

(2) The scope of these regulations is to transpose Commission Directive 2010/60/EU providing for certain derogations for the marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment in order to assure that any such fodder plant seed mixtures that are produced and placed on the market in Malta meets specified quality standards.

2. These regulations shall apply without prejudice to the Flora, Fauna and Natural Habitats Protection Regulations, and to the Seeds of Agricultural Plants and Vegetables Regulations. Applicability.
S.L. 504.73
S.L. 433.21

3. (1) Unless otherwise stated in these regulations, the definitions in the Act and those contained in the Seeds of Agricultural Plants and Vegetables Regulations shall apply. Interpretation.
S.L. 433.21

(2) For the purpose of these regulations and unless the context otherwise requires, the following definitions shall apply:

"the Act" means the Plant Quarantine Act; Cap. 433.

"collection site" means a part of the source area where the seed has been collected;

"conservation of genetic resources" means the conservation or preservation of fodder plant seed genetic material of actual or potential value in the surroundings where they have developed their distinctive properties in in situ or local conditions;

"crop-grown mixture" means a seed mixture produced in accordance with the following procedure:

- (a) seed of individual species shall be taken at the collection site;
- (b) the seeds referred to in paragraph (a) shall be multiplied outside the collection site as a single species;
- (c) the seeds of those species shall then be mixed to create a mixture which is composed of those genera, species and, where relevant, sub-species which are typical for the habitat type of the collection site;

"directly harvested mixture" means a seed mixture marketed as collected at the collection site, with or without cleaning;

"the Directorate" means the directorate responsible for plant health;

"marketing of mixtures" means the marketing of mixtures of various species, genera, landraces, and where relevant, sub-species which have been traditionally grown in particular localities and regions, intended for use in the preservation of the natural environment and for the purpose of conserving genetic resources, which may contain seed of fodder plants and other seeds, thus forming conservation varieties in terms of regulation 4. Such mixtures are hereinafter referred to as "preservation mixtures";

"Member State" means a state which is a member of the European Union;

"quantitative restrictions" means the prohibition of the marketing of seeds in large quantities between regions of origin of the Member State concerned;

"region of origin" means the region with which a preservation mixture is naturally associated;

"source-area" means either:

- (a) an area designated by the Malta Environment and Planning Authority, hereinafter referred to as "MEPA", as a special area of conservation in accordance with regulation 9(2) of the Flora, Fauna and Natural Habitats Protection Regulations; or
- (b) an area contributing to the conservation of plant genetic resources and which is designated by MEPA, in accordance with the criteria mentioned in regulation 9(2) of the Flora, Fauna and Natural Habitats Protection Regulations, taking into account the meaning of "special area of conservation of National Importance" and "special area of conservation of International Importance" mentioned in regulation 3 of those regulations, and which is managed, protected and under surveillance in a manner equivalent to regulations 14 and 38 of those regulations.

Composition of
conservation
varieties.
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4. (1) By way of derogation from sub-regulation 7(2) of the Seeds of Agricultural Plants and Vegetables Regulations, the Directorate may authorise the marketing of preservation mixtures within the meaning and for the purpose of conservation of plant genetic resources referred to in regulation 34 of those regulations. Such preservation mixtures may contain seeds of fodder plants in terms of the Seeds of Agricultural Plants and Vegetables Regulations and, in addition, seeds of plants which are not fodder plants within the meaning of those regulations.

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(2) Where a preservation mixture contains a conservation variety, the provisions of the Seeds of Agricultural Landraces and Varieties Regulations shall apply.

Region of origin of
the varieties.

5. When the marketing of a preservation mixture is authorised by the Directorate, it shall define the region of origin. Information

from plant genetic resources authorities or from organisations recognised for this purpose by the Directorate shall be taken into account. If the region of origin is located in Malta and in other Member States, it shall be identified by all Member States concerned by common accord.

6. (1) The Directorate may authorise preservation mixtures for marketing in the region of origin in Malta, provided that those mixtures fulfil the requirements established in regulation 7 in the case of directly harvested preservation mixtures, or the requirements laid down in regulation 8 in the case of crop-grown preservation mixtures.

Authorisation for marketing.

(2) The authorisation for marketing of preservation mixtures shall include the following information:

- (a) name and address of the producer;
- (b) whether the harvesting method shall be directly harvested or crop-grown;
- (c) percentage by weight of the components as species and, where relevant, sub-species;
- (d) in the case of crop-grown preservation mixtures, a specific germination rate for components of the mixture in terms of the Seeds of Agricultural Plants and Vegetables Regulations, which do not comply with the germination requirements set out in Schedule III to the Seeds of Agricultural Plants and Vegetables Regulations;
- (e) quantity of the mixture regarding which the authorisation shall apply;
- (f) region of origin;
- (g) restriction to marketing in the region of origin;
- (h) source area;
- (i) collection site and, in addition, in the case of a crop-grown preservation mixture, the multiplication site;
- (j) habitat type of the collection site; and
- (k) year of collection.

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(3) As regards sub-regulation (2)(c), for directly harvested preservation mixtures, it shall suffice that the applicant submits to the Directorate those components as species and, where relevant, sub-species, which are typical for the habitat type of the collection site and which are, as components of the mixture, of importance for the preservation of the natural environment for the intended use of conserving genetic resources.

7. (1) A directly harvested preservation mixture shall have been collected in its source area at a collection site which has not been sown in forty (40) years prior to the date of the application by the producer, referred to in regulation 9(1). The source area shall be located in the region of origin.

Authorisation requirements for directly harvested preservation mixtures.

(2) The percentage of the components of the directly harvested

preservation mixture that are species and, where relevant, sub-species which are typical for the habitat type of the collection site and which are, as components of the mixture, of importance for the preservation of the natural environment for the intended use of conservation of genetic resources, shall be adequate for the purpose of recreating the habitat type of the collection site.

(3) The germination rate of the components referred to in sub-regulation (2) shall be sufficient for the purpose of recreating the habitat type of the collection site.

(4) The maximum content of species and, where relevant, sub-species which do not comply with sub-regulation (2) shall not exceed 1% by weight. The directly harvested preservation mixture shall not contain *Avena fatua*, *Avena sterilis* and *Cuscuta* spp. The maximum content of *Rumex* spp., other than *Rumex acetosella* and *Rumex maritimus* shall not exceed 0.05% by weight.

Authorisation
requirements for
crop-grown
preservation
mixtures.

8. (1) As regards crop-grown preservation mixtures, the collected seed from which the crop-grown seed mixture is produced shall have been collected in its source area at a collection site which has not been sown in forty (40) years prior to the date of the application by the producer, referred to in regulation 9(1). The source area shall be located in the region of origin.

(2) The seed of the crop-grown preservation mixture shall be of species and, where relevant, sub-species which are typical for the habitat type of the collection site and which are, as components of the mixture, of importance for the preservation of the natural environment for the intended use of conservation of genetic resources.

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(3) Components of a crop-grown preservation mixture which are seeds of fodder plants in terms of the Seeds of Agricultural Plants and Vegetables Regulations shall, before mixing, comply with the requirements for commercial seed set out in Section II of Schedule III to the Seeds of Agricultural Plants and Vegetables Regulations, as follows:

- (a) as regards analytical purity, with the requirements set out in columns 3 to 9 of Table 1.4 and columns 9 and 10 of Table 1.15 of that Schedule; and
- (b) as regards the maximum content of other plant species in a sample of the weight specified in column 4 (total per column) of Schedule IV to those regulations, with the requirements set out in columns 12, 13 and 14 of the Table 1.15 of that Schedule.

(4) Multiplication of seeds may take place for five generations.

Procedural
requirements.

9. (1) Authorisation shall be granted on application by the producer. The application shall be accompanied by the information necessary to verify compliance with regulations 6 and 7 in the case of directly harvested preservation mixtures, or with regulations 6 and 8 in the case of crop-grown preservation mixtures.

(2) In the case of directly harvested preservation mixtures, the Directorate shall carry out visual inspections where the collection

site is located. Such visual inspections shall be carried out on the collection site during the period of growth at intervals appropriate to ensure that the mixture complies, at least, with the authorisation requirements provided for in regulation 7(2) and (4).

(3) The Directorate shall document the results of the inspections carried out thereto.

(4) As regards crop-grown preservation mixtures, when the Directorate examines an application, it shall carry out tests or tests under official supervision of the Directorate to verify that the preservation mixture complies, at least, with the authorisation requirements provided for in regulation 8(2) and (3).

(5) Such tests shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

(6) For such tests, the Directorate shall ensure that samples are drawn from homogenous lots. It shall also ensure that the rules on lot weight and sample weight provided for in regulation 10(4) of the Seeds of Agricultural Plants and Vegetables Regulations are applied. S.L. 433.21

10. The Directorate shall ensure that the total quantity of seed of preservation mixtures marketed each year does not exceed 5% of the total weight of all fodder plant seed mixtures in terms of the Seeds of Agricultural Plants and Vegetables Regulations and marketed in the respective year in Malta. Quantitative restrictions. S.L. 433.21

11. (1) In the case of directly harvested preservation mixtures, the Directorate shall ensure that producers notify, before the beginning of each production season, the quantity of seed of preservation mixtures for which they intend to apply for authorisation together with the size and location of the intended collection site or sites. Application of quantitative restrictions.

(2) In the case of crop-grown preservation mixtures, the Directorate shall ensure that producers notify before the beginning of each production season the quantity of seed of preservation mixtures for which they intend to apply for authorisation together with both the size and location of the intended collection site or sites and the size and location of the intended multiplication site or sites.

(3) If, upon notifications referred to in sub-regulation (1), the quantities laid down in regulation 10 are likely to be exceeded, the Directorate shall allocate to each producer concerned the quantity allowed to be marketed in the respective production season.

12. (1) The Directorate shall ensure that seeds of preservation mixtures shall be marketed only in closed packages or containers bearing a sealing device. Sealing of packages and containers.

(2) The packages and containers shall be sealed by the supplier in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on the label of the producer, or on the package or container.

(3) In order to ensure sealing in accordance with sub-regulation (2), the sealing system shall comprise of at least the label or the affixing of a seal.

Labelling of
packages or
containers.

13. (1) Packages or containers of seeds of preservation mixtures shall bear a label of the producer or a printed or stamped notice which shall include the following information:

- (a) the words "EC rules and standards";
- (b) the name and address of the person responsible for affixing the labels or his identification mark;
- (c) whether the harvesting method shall be directly harvested or crop-grown;
- (d) the year of the sealing expressed as: "sealed " (year);
- (e) the region of origin;
- (f) the source area;
- (g) the collection site;
- (h) the habitat type of the collection site;
- (i) the words "preservation fodder plant seed mixture, intended for use in an area of the same habitat type as the collection site, not considering the biotic conditions";
- (j) the reference number of the lot given by the person responsible for affixing the labels;
- (k) the percentage by weight of the components as species and, where relevant, sub-species;
- (l) the declared net or gross weight;
- (m) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters or pure seeds and the total weight shall be indicated; and
- (n) in the case of crop-grown preservation mixtures, a specific germination rate for components of the mixture in terms of the Seeds of Agricultural Plants and Vegetables Regulations which do not comply with the germination requirements set out in Table 1.14 in Schedule III to the Seeds of Agricultural Plants and Vegetables Regulations.

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(2) In terms of sub-regulation (1)(k), it shall suffice to indicate the components of directly harvested preservation mixtures as provided for in regulation 6(3).

(3) In terms of sub-regulation (1)(n), it shall suffice to indicate an average of these required specific germination rates in case the number of required specific germination rates is more than five.

Official
monitoring.

14. The Directorate shall ensure that official monitoring is carried out in order to verify conformity to these regulations.

15. (1) The Directorate shall ensure that producers operating in Malta report the amount of preservation mixtures marketed for each production season. Reporting.

(2) The Directorate shall, on request, report to the European Commission and to other Member States the amount of preservation mixtures marketed in Malta.

16. The Directorate shall notify the European Commission about the plant genetic resources authorities or organisations recognised by Malta for the purpose of these regulations. Notification.
