L.N. 199 of 2009

PLANT QUARANTINE ACT (CAP. 433)

Seeds of Agricultural Landraces and Varieties Regulations, 2009

IN exercise of the powers conferred by article 32 of the Plant Quarantine Act, the Minister for Resources and Rural Affairs has made the following regulations:-

Title.

1. The title of these regulations is the Seeds of Agricultural Landraces and Varieties Regulations, 2009.

Scope.

2. (1) The scope of these regulations is to make provisions to assure that any seeds of agricultural landraces and varieties produced and placed on the market in Malta, meets specified standards of quality.

(2) These regulations transpose Commission Directive 2008/62/EC and their purpose is to aid landraces and varieties which are naturally adapted to local and regional conditions and threatened by genetic erosion to be grown and marketed even when they do not comply with the general requirements as regards the acceptance of varieties and the marketing of seeds and seed potatoes.

Interpretation.

3. For the purpose of these regulations, the following definitions shall apply:

"conservation in situ" means the conservation of genetic material in its natural surroundings and, in the case of cultivated plant species, in the farmed environment where they have developed their distinctive properties;

"the Department" means the department responsible for plant health;

"genetic erosion" means the loss of genetic diversity between and within populations or varieties of the same

species over time, or reduction of the genetic basis of a species due to human intervention or environmental change;

"landrace" means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region;

"seed" means seed and seed potatoes, unless seed potatoes are expressly excluded.

Acceptance of conservation varieties.

4. (1) Landraces and varieties of agricultural plant species of the species listed in Schedule I to the Seeds of Agricultural Plants and Vegetables Regulations, 2006 may be accepted in the national catalogue of varieties of agricultural plant species provided that the requirements laid down in regulations 5 and 6 hereof are met. Such landraces or varieties shall be referred to in the Common Catalogue of varieties of agricultural plant species as "conservation varieties".

L.N. 81 of 2006.

Substantive requirements for acceptance.

5. (1) In order to be accepted as a conservation variety, a landrace or variety shall present an interest for the conservation of plant genetic resources.

(2) (a) By way of derogation from sub-regulation 2(1)(a) of the Examination of Varieties of Agricultural Plant Species Regulations, 2006 provisions may be made with regard to distinctness, stability and uniformity of conservation varieties.

L.N. 246 of 2006.

(b) In such cases, it shall be ensured that for distinctness and stability, at least the characteristics which are referred to in the following shall apply:

(i) the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO) listed in Schedule I to the Examination of Varieties of Agricultural Plant Species Regulations, 2006, which apply to those species, or

(ii) the technical questionnaires of the guidelines of the International Union for the Protection of New Varieties of Plants (UPOV) listed in Schedule II to the Examination of Varieties of Agricultural Plant Species Regulations, 2006, which apply to those species.

(c) For the assessment of uniformity, the provisions of the Examination of Varieties of Agricultural Plant

Species Regulations, 2006 shall apply. However, if the uniformity level is established on the basis of off-types, a population standard of 10 % and an acceptance probability of at least 90 % shall be applied.

Procedural requirements.

6. By way of derogation from the provision of regulation 8(4) of the Seeds of Agricultural Plants and Vegetables Regulations, 2006, requiring the acceptance of varieties to be based on the results of official examinations, particularly growing trials, covering a sufficient number of characteristics for the variety to be described, no official examination shall be required if the following information is sufficient for the decision on the acceptance of the conservation varieties to be taken:

(a) the description of the conservation variety and its denomination;

(b) the results of unofficial tests;

(c) knowledge gained from practical experience during cultivation, reproduction and use, as notified by the applicant to the Department concerned;

(d) other information in particular that from the plant genetic resources authorities or from organisations recognised for this purpose by the Department.

Exclusion of acceptance.

7. A conservation variety shall not be accepted for inclusion in the national catalogue of varieties of agricultural plant species if:

(a) it is already listed in the Common Catalogue of varieties of agricultural plant species as a variety other than a conservation variety, or it was deleted from such catalogue within the last two years or within the last two years from the expiry of the acceptance period granted under regulation 8(11) to the Seeds of Agricultural Plants and Vegetables Regulations, 2006; or

(b) it is protected by a Community plant variety right as provided for in Council Regulation (EC) No 2100/94 or by a national plant variety right, or an application for such a right is pending.

Denominations of the varieties.

8. (1) With respect to denominations of conservation varieties which were known before 25th May 2000, the Department

may permit derogations from the provisions of Commission Regulation (EC) No 930/2000, except where such derogations would violate prior rights of a third party which is protected under Article 2 of that Regulation.

(2) Notwithstanding regulation 8(6) to the Seeds of Agricultural Plants and Vegetables Regulations, 2006 stating that a variety is known by the same name in all Member States at the time of acceptance, the Department may accept more than one name for a variety if the names concerned are historically known.

Region of origin of the varieties.

9. (1) When a conservation variety is accepted, the region or regions in which the variety has historically been grown and to which it is naturally adapted shall be identified and hereinafter, these shall be referred to as the "region of origin". Information from plant genetic resources authorities or from organisations recognised for that purpose 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.

(2) Malta or the other Member States, as the case may be, performing the identification of the region of origin shall notify the identified region to the European Commission.

Maintenance of the varieties.

10. It shall be ensured that a conservation variety is maintained in its region of origin.

Certification of seeds.

11. (1) By way of derogation from the certification requirements provided for in regulations 9(1)(a) and (2) and 34(1) to the Seeds of Agricultural Plants and Vegetables Regulations, 2006, the Department may provide that seed of a conservation variety may be placed on the market if it complies with sub-regulations (2), (3) and (4) hereof.

(2) The seed shall descend from seed produced according to well defined practices for the maintenance of the variety.

(3) The seed shall comply with the requirements for certification of certified seed provided for in the Seeds of Agricultural Plants and Vegetables Regulations, 2006 with the exception of the requirements in respect of minimum varietal purity and the requirements concerning official examination or examination under official supervision. The seed shall have sufficient varietal purity.

(4) As regards seed potatoes, Member States may provide that regulation 32 of the Seeds of Agricultural Plants and Vegetables Regulations, 2006 concerning the size shall not apply.

Region of seed production.

12. (1) It shall be ensured that seeds of a conservation variety may only be produced in the region of origin. If the conditions for certification provided for in regulation 11(3) hereof cannot be fulfilled in that region, due to a specific environmental problem, additional regions for seed production may be approved by the Department taking into account information from plant genetic resources authorities or from organisations recognised for this purpose by the Department. However, seed produced in those additional regions may be used exclusively in the regions of origin.

(2) (a) The European Commission and the other Member States have to be notified by Malta on the additional regions which it intends to approve for seed production pursuant to sub-regulation (1) hereof.

(b) The European Commission and the other Member States may, within 20 working days from receipt of those notifications, request the matter to be referred to the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry. A decision shall be taken according to established procedures, as appropriate, to lay down, if necessary, restrictions or conditions for the designation of such regions.

(c) If neither the European Commission nor the other Member States make a request referred to in sub-regulation (2)(b) hereof, Malta may approve the additional regions for seed production as notified.

Seed testing.

13. (1) It shall be ensured that tests are carried out to check that seeds of conservation varieties comply with the certification requirements provided for in regulation 11(3) hereof. 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.

(2) For the tests referred to in sub-regulation (1) hereof, samples have to be drawn from homogeneous lots. The rules on lot weight and sample weight provided for in Schedule IV to the Seeds of Agricultural Plants and Vegetables Regulations, 2006 shall are applied.

Marketing of seeds.

14. (1) Seeds of a conservation variety may only be marketed if the following conditions are satisfied:

(a) they shall have been produced in their region of origin or in a region referred to in regulation 12;

(b) marketing shall takes place in their region of origin.

(2) By way of derogation from sub-regulation (1)(b) hereof, additional regions may be approved by the Department in its own territory for the marketing of seed of a conservation variety provided that those regions are comparable to the region of origin as regards the natural and semi-natural habitats of that variety. If the Department approves such additional regions, it shall be ensured that the amount of seed necessary for the production of at least the quantity of seed referred to in regulation 15 hereof is reserved to conserve the variety in its region of origin. Malta shall inform the European Commission and the other Member States of the approval of such additional regions.

(3) If the Department approves additional regions for seed production in accordance with regulation 12 hereof, it shall not use the derogation provided for in sub-regulation (2) hereof.

Quantitative restrictions.

15. (1) For each conservation variety, the quantity of seed marketed shall not exceed 0.5 % of the seed of the same species used in Malta in one growing season, or a quantity necessary to sow 100 ha, whichever is the greater quantity.

(2) For the species Hordeum vulgare, Pisum sativum, Triticum spp., Solanum tuberosum and Zea mays, that percentage shall not exceed 0.3 %, or a quantity necessary to sow 100 ha, whichever is the greater quantity.

(3) However, the total quantity of seed of conservation varieties marketed in Malta shall not exceed 10 % of the seed of the species concerned used yearly in Malta. In cases where this leads to a quantity lower than necessary to sow 100 ha, the maximum amount of seed of the species concerned used yearly in Malta may be increased so as to reach the quantity necessary to sow 100 ha.

Application of quantitative restrictions.

16. (1) Before the beginning of each production season, producers shall notify the Department of the size and the location of the area for the seed production.

(2) If, based on the notifications referred to in sub-regulation (1) hereof, the quantities laid down in regulation 15 hereof are likely to be exceeded, the Department shall allocate to each producer concerned the quantity such producer may market in the respective production season.

Monitoring of seed crops.

17. Official monitoring shall be carried out to ensure that the seed crops of a conservation variety comply with the provisions of these regulations, paying particular attention to the variety, locations of seed production and quantities.

Sealing of packages and containers.

18. (1) It shall be ensured that seeds of conservation varieties may be marketed only in closed packages or containers bearing a sealing device.

(2) Seed 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 supplier's label, or on the package or container.

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

Labelling of packages or containers.

19. Packages or containers of seeds of conservation varieties shall bear a supplier's label or a printed or a stamped notice that includes the following information:

(a) the words "EC rules and standards";

(b) name and address of the person responsible for affixing the labels or his identification mark;

(c) year of sealing expressed as: "sealed .... (year)", or, except for seed potatoes, the year of the last sampling for the purposes of the last testing of germination expressed as: "sampled .... (year)";

(d) species;

(e) denomination of the conservation variety;

(f) the words "conservation variety";

(g) region of origin;

(h) where the region of seed production is different from the region of origin, the indication of the region of seed production;

(i) reference number of the lot given by the person responsible for affixing the labels;

(j) declared net or gross weight, or, except for seed potato, declared number of seeds;

(k) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight (this does not apply for seed potatoes).

Official post control.

20. It shall be ensured that seed is subject to official post control by random inspections to verify its varietal identity and varietal purity.

Reporting.

21. (1) Suppliers operating in Malta shall report for each production season the amount of seed of each conservation variety placed on the market.

(2) A report shall also be made on request to the European Commission and to the other Member States on the amount of seed of each conservation variety placed on the market.

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