Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,079, 4 ta' Lulju, 2023

Taqsima B

L.N. 144 of 2023

PLANT QUARANTINE ACT
(CAP. 433)

Examination of Varieties of Agricultural Plant and Vegetable Species Regulations, 2023

IN EXERCISE of the powers conferred by article 32 of the Plant Quarantine Act, the Minister responsible for agriculture, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Examination of Varieties of Agricultural Plant and Vegetable Species Regulations, 2023.

(2) The scope of these regulations is:

(a) to ensure that varieties of species of agricultural plants and vegetables which shall be included in the national catalogue of such varieties in Malta shall comply with internationally recognised guidelines as regards the characteristics to be covered as a minimum by the examinations and the minimum conditions for examining such varieties;

(b) to further transpose the provisions of:

(i) Commission Directive 2003/90/EC of 6 October 2003 setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species, as may be amended from time to time; and

(ii) Commission Directive 2003/91/EC of 6 October 2003 setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species as may be amended from time to time.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"the competent authority" means the Directorate

responsible for plant health.

Conditions for the examination of varieties of agricultural plants and vegetables. S.L. 433.30.

3. (1) Varieties of agricultural plant species and vegetable species shall be officially accepted in the national catalogue within the meaning of regulation 6(1) of the Seeds of Agricultural Plants and Vegetables Regulations after fulfilling the requirements set out below:

(2) (a) As regards distinctness, uniformity and stability, without prejudice to sub-regulation (2)(b):

(i) the species listed in Schedule I shall comply with the conditions laid down in the Protocols for distinctness, uniformity and stability tests of the Administrative Council of the Community Plant Variety Office, (hereinafter referred to as the "CPVO") which are relevant for the particular species;

(ii) the species listed in Schedule II shall comply with the test guidelines for the conduct of tests for distinctness, uniformity and stability of the International Union for the Protection of New Varieties of Plants (hereinafter referred to as "UPOV") which are relevant for the particular species.

(b) (i) By way of derogation from sub-regulation (2)(a), as regards uniformity, the organic agricultural plant varieties suitable for organic production which belong to the species listed in Schedule IV Part A, may instead comply with the conditions listed in Part B of the said Schedule.

(ii) By way of derogation from sub-regulation (2)(a), as regards uniformity, the organic vegetable varieties suitable for organic production, which belong to the species listed in Schedule VI Part A, may instead comply with the conditions listed in Part B of the said Schedule.

(c) The competent authority shall report to the Commission and the other Member States, by 31st December of each year, until 31st December 2030, on the number of applications for variety registrations and results of the examinations for distinctness, uniformity and stability (DUS) concerning those organic varieties.

(3) (a) As regards the value for cultivation or use, varieties of agricultural plant species listed in Schedules I and II shall comply with the conditions laid down in Schedule III without prejudice to regulation 6(3) of the Seeds of Agricultural Plants and Vegetables S.L. 433.30.

Regulations.

(b) By way of derogation from sub-regulation (2), as regards the value for cultivation or use, organic varieties suitable for organic production which belong to the species listed in Schedule V Part A, may instead comply with the conditions laid down in Part B of the said Schedule.

(c) The competent authority shall report, to the Commission and the other Member States by 31st December of each year, until 31st December 2030, on the number of applications and results of the examinations for the value of cultivation and use (VCU) concerning those organic varieties.

(4) All the varietal characteristics within the meaning of sub-regulation (2)(a)(i) and any characteristics in the UPOV referred to in sub-regulation (2)(a)(ii) shall be used, provided that observation of a characteristic is not rendered impossible by the expression of any other characteristics and provided that the expression of a characteristic is not prevented by the environmental conditions under which the test is conducted.

(5) It shall be ensured that in respect of the species of agricultural plants and vegetables listed in Schedules I and II, the minimum requirements for carrying out the examinations in respect of trial design and growing conditions, as laid down in the test guidelines referred to in the said Schedules, are fulfilled at the time of the examinations.

Repeal.
S.L. 433.22.
S.L. 433.23.

4. The Examination of Varieties of Agricultural Plant Species Regulations and the Examination of Varieties of Vegetable Species Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder.

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SCHEDULE I
(Regulation 3(2)(a)(i))
CPVO guidelines

The following tables list the genera and species for which CPVO guidelines apply. These technical protocols can be found on the CPVO website www.cpvo.europa.eu.

1. Agricultural Plants

A. Cereals

Table 1.1:

Scientific name	Common name	CPVO protocol
Avena nuda L.	Small naked oat, Hulless oat	TP 20/3 of 6.3.2020
Avena sativa L. (includes *A. byzantina* K. Koch)	Oats and Red oat	TP 20/3 of 6.3.2020
Hordeum vulgare L.	Barley	TP 19/5 of 19.3.2019
Secale cereale L.	Rye	TP 58/1 Rev of 27.4.2022
Sorghum bicolor (L.) Moench subsp. *bicolor*	Sorghum	TP 122/1 of 19.3.2019
Sorghum bicolor (L.) Moench subsp. *drummondii* (Steud.) de Wet ex Davidse	Sudan grass	TP 122/1 of 19.3.2019
Sorghum bicolor (L.) Moench subsp. *bicolor* x *Sorghum bicolor* (L.) Moench subsp. *drummondii* (Steud.) de Wet ex Davidse	Hybrids resulting from the crossing of *Sorghum bicolor* subsp. *bicolor* and *Sorghum bicolor* subsp. *drummondii*	TP 122/1 of 19.3.2019
xTriticosecale Wittm. ex A. Camus	Hybrids resulting from the crossing of a species of the genus *Triticum* and a species of the genus *Secale*	TP 121/3 of 27.4.2022
Triticum aestivum L. subsp. *aestivum*	Wheat	TP 3/5 of 19.3.2019
Triticum turgidum L. subsp. *durum* (Desf.) van Slageren	Durum wheat	TP 120/3 of 19.3.2014
Zea mays L. (partim)	Maize	TP 2/3 of 11.3.2010

B. Fodder Plants

Table 1.2:

Scientific name	Common name	CPVO protocol
Poaceae (Gramineae)		
Festuca filiformis Pourr.	Fine-leaved sheep's fescue	TP 67/1 of 23.6.2011
Festuca ovina L.	Sheep's fescue	TP 67/1 of 23.6.2011
Festuca pratensis Huds.	Meadow fescue	TP 39/1 of 1.10.2015
Festuca rubra L	Red fescue	TP 67/1 of 23.6.2011

Festuca trachyphylla (Hack.) Hack.	Hard fescue	TP 67/1 of 23.6.2011
Lolium multiflorum Lam.	Italian ryegrass	TP 4/2 of 19.3.2019
Lolium perenne L.	Perennial ryegrass	TP 4/2 of 19.3.2019
Poa pratensis L.	Smooth-stalked meadow grass	TP 33/1 of 15.3.2017
Fabaceae (Leguminosae)		
Medicago sativa L.	Lucerne	TP/6/1 of 22.12.2021
Pisum sativum L. (partim)	Field pea	TP 7/2 Rev. 3 Corr of 16.3.2020
Trifolium pratense L.	Red clover	TP/5/1 of 22.12.2021
Vicia faba L.	Field bean	TP 8/1 of 19.3.2019
Vicia sativa L.	Common vetch	TP 32/1 of 19.4.2016

C. Potatoes

Table 1.3:		
Scientific name	**Common name**	**CPVO protocol**
Solanum tuberosum L.	Potato	TP 23/3 of 15.3.2017

2. Vegetables

Table 1.4:		
Scientific name	**Common name**	**CPVO protocol**
Allium cepa L. (Cepa group)	Onion and Echalion	TP 46/2 of 1.4.2009
Allium cepa L. (Aggregatum group)	Shallot	TP 46/2 of 1.4.2009
Allium fistulosum L.	Japanese bunching onion or Welsh onion	TP 161/1 of 11.3.2010
Allium porrum L.	Leek	TP 85/2 of 1.4.2009
Allium sativum L.	Garlic	TP 162/1 Corr of 25.3.2004
Allium schoenoprasum L.	Chives	TP 198/2 of 11.3.2015
Apium graveolens L.	Celery	TP 82/1 of 13.3.2008
Apium graveolens L.	Celeriac	TP 74/1 of 13.3.2008
Asparagus officinalis L.	Asparagus	TP 130/2 of 16.2.2011
Beta vulgaris L.	Beetroot including Cheltenham beet	TP 60/1 of 1.4.2009
Beta vulgaris L.	Spinach beet or Chard	TP 106/2 of 14.4.2021
Brassica oleracea L.	Curly kale	TP 90/1 of 16.2.2011
Brassica oleracea L.	Cauliflower	TP 45/2 Rev. 2 of 21.3.2018
Brassica oleracea L.	Sprouting Broccoli or Calabrese	TP 151/2 Rev. 2 of 21.4.2020
Brassica oleracea L.	Brussels sprouts	TP 54/2 Rev. of 15.3.2017

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Brassica oleracea L.	Kohlrabi	TP 65/1 Rev. of 15.3.2017
Brassica oleracea L.	Savoy cabbage, White cabbage and Red cabbage	TP 48/3 Rev. 2 of 25.3.2021
Brassica rapa L.	Chinese cabbage	TP 105/1 of 13.3.2008
Capsicum annuum L.	Chilli or Pepper	TP 76/2 Rev. 2 Corr of 21.4.2020
Cichorium endivia L.	Curled-leaved endive and Plain-leaved endive	TP 118/3 of 19.3.2014
Cichorium intybus L.	Industrial chicory	TP 172/2 of 1.12.2005
Cichorium intybus L.	Leaf chicory	TP 154/1 Rev.2 Corr of 14.4.2021
Cichorium intybus L.	Witloof chicory	TP 173/2 of 21.3.2018
Citrullus lanatus (Thunb.) Matsum. & Nakai	Watermelon	TP 142/2 Rev of 14.4.2021
Cucumis melo L.	Melon	TP 104/2 Rev. 2 of 25.3.2021
Cucumis sativus L.	Cucumber and Gherkin	TP 61/2 Rev. 2 of 19.3.2019
Cucurbita maxima Duchesne	Gourd	TP 155/1 of 11.3.2015
Cucurbita pepo L.	Marrow or Courgette	TP 119/1 Rev. of 19.3.2014
Cynara cardunculus L.	Globe artichoke and Cardoon	TP 184/2 Rev. of 6.3.2020
Daucus carota L.	Carrot and Fodder carrot	TP 49/3 of 13.3.2008
Foeniculum vulgare Mill.	Fennel	TP 183/2 of 14.4.2021
Lactuca sativa L.	Lettuce	TP 13/6 Rev. 3 of 27.4.2022
Solanum lycopersicum L.	Tomato	TP 44/4 Rev. 5 of 14.4.2021
Petroselinum crispum (Mill.) Nyman ex A.W. Hill	Parsley	TP 136/1 Corr of 21.3.2007
Phaseolus coccineus L.	Runner bean	TP 9/1 of 21.3.2007
Phaseolus vulgaris L.	Dwarf French bean and Climbing French bean	TP 12/4 of 27.2.2013
Pisum sativum L. (partim)	Wrinkled pea, Round pea and Sugar pea	TP 7/2 Rev. 3 Corr of 16.3.2020
Raphanus sativus L.	Radish, Black radish	TP 64/2 Rev. Corr. of 11.3.2015
Rheum rhabarbarum L.	Rhubarb	TP 62/1 of 19.4.2016
Scorzonera hispanica L.	Scorzonera or Black salsify	TP 116/1 of 11.3.2015
Solanum melongena L.	Aubergine or Egg plant	TP 117/1 of 13.3.2008
Spinacia oleracea L.	Spinach	TP 55/5 Rev. 4 Of 27.4.2022
Valerianella locusta (L.) Laterr.	Corn salad or Lamb's lettuce	TP 75/2 of 21.3.2007
Vicia faba L. (partim)	Broad bean	TP 206/1 of 25.3.2004
Zea mays L. (partim)	Sweet corn and Pop corn	TP 2/3 of 11.3.2010

Solanum habrochaites S. Knapp & D.M. Spooner*; Solanum lycopersicum* L. *x Solanum habrochaites* S. Knapp & D.M. Spooner; *Solanum lycopersicum* L. *x Solanum peruvianum* (L.) *Mill.; Solanum lycopersicum* L. *x Solanum cheesmaniae* (L. Ridley) Fosberg; *Solanum pimpinellifolium* L. *x Solanum habrochaites* S. Knapp & D.M. Spooner	Tomato rootstocks	TP 294/1 Rev. 5 of 14.4.2021
Cucurbita maxima Duchesne *x Cucurbita moschata* Duchesne	Interspecific hybrids of *Cucurbita maxima* Duchesne x *Cucurbita moschata* Duchesne for use as rootstocks	TP 311/1 of 15.3.2017

SCHEDULE II
(Regulation 3(2)(a)(ii))
UPOV guidelines

The following tables list the genera and species for which UPOV guidelines apply. These technical protocols can be found on the UPOV website www.upov.int.

1. Agricultural Plants

A. Fodder Plants

Table 2.1:

Scientific name	Common name	CPVO protocol
Poaceae (Gramineae)		
Agrostis canina L.	Velvet bent	TG/30/6 of 12.10.1990
Agrostis capillaris L.	Brown top	TG/30/6 of 12.10.1990
Agrostis gigantea Roth	Red top	TG/30/6 of 12.10.1990
Agrostis stolonifera L.	Creeping bent grass	TG/30/6 of 12.10.1990
Fabaceae (Leguminosae)		
Medicago doliata Carmign.	Straight-spined medic	TG 228/1 of 5.4.2006
Medicago italica (Mill.) Fiori	Disc medic	TG 228/1 of 5.4.2006
Medicago littoralis Rohde ex Loisel.	Shore medic/Strand medic	TG 228/1 of 5.4.2006
Medicago murex Willd.	Sphere medic	TG 228/1 of 5.4.2006
Medicago polymorpha L.	Bur medic	TG 228/1 of 5.4.2006
Medicago rugosa Desr.	Wrinkled medic/Gama medic	TG 228/1 of 5.4.2006
Medicago scutellata (L.) Mill.	Snail medic/Shield medic	TG 228/1 of 5.4.2006
Medicago truncatula Gaertn.	Barrel medic	TG 228/1 of 5.4.2006
Trifolium subterraneum L.	Subterranean clover	TG/170/3 of 4.4.2001

2. Vegetables

Table 2.2:

Scientific name	Common name	CPVO protocol
Brassica rapa L.	Turnip	TG/37/10 of 4.4.2001

SCHEDULE III
(Regulation 3(3)(a))
Examination of the value for cultivation or use

The following are the characteristics as regards the examination of the value for cultivation or use:

1. Yield;

2. Resistance to harmful organisms;

3. Behaviour with respect to factors in the physical environment;

4. Quality characteristics.

The methods used shall be specified when the results are submitted.

SCHEDULE IV
(Regulation 3(2)(b)(i))
PART A
List of species referred to in regulation 3(2)(b)(i)

Barley

Maize

Rye

Wheat

PART B
Specific provisions concerning tests for distinctness, uniformity and stability (DUS) for organic varieties of agricultural plant species suitable for organic production

1. General rule

The following shall apply to organic varieties of agricultural plant species suitable for organic production:

1.1. As regards distinctness and stability, all characteristics of the protocols and guidelines referred to in Schedules I and II shall be observed and described.

1.2. As regards uniformity, all characteristics of the protocols and guidelines referred to in Schedules I and II shall be observed and described and the following shall apply to the characteristics listed under item 2:

(a) those characteristics may be assessed in a less stringent way;

(b) where for those characteristics a derogation from the respective technical protocol is provided for in that item 2, the level of uniformity within the variety shall be similar to the level of uniformity of comparable varieties of common knowledge in the Union.

2. Derogation from technical protocols

2.1. Barley

For the varieties belonging to the species barley (*Hordeum vulgare* L.), the following DUS characteristics of the CPVO technical

protocol CPVO/TP-019/5 of the tested variety may deviate from the following DUS requirements for uniformity:

CPVO No 5 — Flag leaf: anthocyanin colouration of auricles

CPVO No 8 — Flag leaf: glaucosity of sheath

CPVO No 9 — Awns: anthocyanin colouration of tips

CPVO No 10 — Ear: glaucosity

CPVO No 12 — Grain: anthocyanin colouration of nerves of lemma

CPVO No 16 — Sterile spikelet: attitude

CPVO No 17 — Ear: shape

CPVO No 20 — Awn: length

CPVO No 21 — Rachis: length of first segment

CPVO No 22 — Rachis: curvature of first segment

CPVO No 23 — Median spikelet: length of glume and its awn relative to grain

CPVO No 25 — Grain: spiculation of inner lateral nerves of dorsal side of lemma

2.2. Maize

For the varieties belonging to the species maize (*Zea mays* L.) the following DUS characteristics of the CPVO technical protocol CPVO-TP/002/3 of the tested variety may deviate from the following DUS requirements for uniformity:

CPVO No 1 — First leaf: anthocyanin colouration of sheath

CPVO No 2 — First leaf: shape of apex

CPVO No 8 — Tassel: anthocyanin colouration of glumes excluding base

CPVO No 9 — Tassel: anthocyanin colouration of anthers

CPVO No 10 — Tassel: angle between main axis and lateral branches

CPVO No 11 — Tassel: curvature of lateral branches

CPVO No 15 — Stem: anthocyanin colouration of brace roots

CPVO No 16 — Tassel: density of spikelets

CPVO No 17 — Leaf: anthocyanin colouration of sheath

CPVO No 18 — Stem: anthocyanin colouration of internodes

CPVO No 19 — Tassel: length of main axis above lowest lateral branch

CPVO No 20 — Tassel: length of main axis above highest lateral branch

CPVO No 21 — Tassel: length of lateral branch

2.3. Rye

For the varieties belonging to the species rye (*Secale cereale* L.), the following DUS characteristics of the CPVO technical protocol CPVO-TP/058/1 of the tested variety may deviate from the following DUS requirements for uniformity:

CPVO No 3 — Coleoptile: anthocyanin colouration

CPVO No 4 — Coleoptile: length

CPVO No 5 — First leaf: length of sheath

CPVO No 6 — First leaf: length of blade

CPVO No 8 — Flag leaf: glaucosity of sheath

CPVO No 10 — Leaf next to flag leaf: length of blade

CPVO No 11 — Leaf next to flag leaf: width of blade

CPVO No 12 — Ear: glaucosity

CPVO No 13 — Stem: hairiness below ear

2.4. Wheat

For the varieties belonging to the species wheat (*Triticum aestivum* L. subsp. *aestivum*.), the following DUS characteristics of the CPVO technical protocol CPVO-TP/003/5 of the tested variety may deviate from the following DUS requirements for uniformity:

CPVO No 3 — Coleoptile: anthocyanin colouration

CPVO No 6 — Flag leaf: anthocyanin colouration of auricles

CPVO No 8 — Flag leaf: glaucosity of sheath

CPVO No 9 — Flag leaf: glaucosity of blade

CPVO No 10 — Ear: glaucosity

CPVO No 11 — Culm: glaucosity of neck

CPVO No 20 — Ear: shape in profile

CPVO No 21 — Apical rachis segment: area of hairiness on convex surface

CPVO No 22 — Lower glume: shoulder width

CPVO No 23 — Lower glume: shoulder shape

CPVO No 24 — Lower glume: length of beak

CPVO No 25 — Lower glume: shape of beak

CPVO No 26 — Lower glume: area of hairiness on internal surface.

SCHEDULE V
(Regulation 3(3)(b))
PART A
List of species referred to in regulation 3(3)(b)

Barley

Maize

Rye

Wheat

PART B
Conditions to be fulfilled – Value of cultivation and use for organic varieties suitable for organic production

1. The examination for cultivation and use shall be conducted under organic conditions in accordance with the provisions of Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 and in particular with the general principles under Article 5(d), (e), (f) and (g) and plant production rules under Article 12.

2. The specific needs and objectives of organic agriculture shall be taken into account in variety examination and in the evaluation of examination results. Disease resistance or tolerance and adaptation to diverse local soil and climate conditions shall be examined.

3. Where the competent authority is not able to provide for an examination under organic conditions or for the examination of certain characteristics, including disease susceptibility, testing may be carried out pursuant to one of the following points:

(a) under the supervision of the competent authority on organic breeders premises or organic farms;

(b) under low-input conditions and with minimum treatments;

(c) in another Member State, if bilateral agreement between a Member State and Malta has been concluded to achieve testing under organic conditions.

The value of a variety for cultivation or use shall be considered as satisfactory if, when compared to other organic varieties suitable for organic production accepted in the catalogue of the Member State in question, its qualities, taken as a whole, offer, at least as far as production in any given region is concerned, a clear improvement either for cultivation or for uses which can be made of the crops or the products derived therefrom. Superior characteristics for the agricultural production, as regards farming practices and food or feed production that present advantages for organic agriculture, shall be considered as particularly valuable for the VCU examination.

4. The competent authority shall provide for different examination conditions that are adapted to specific needs of organic agriculture and shall examine to the extent of its capacity specific traits and characteristics, at the applicant's request, if reproducible methods are available.

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SCHEDULE VI
(Regulation 3(2)(b)(ii))
PART A
List of species referred to in regulation 3 (2)(b)(ii)

Carrot

Kohlrabi

PART B
Specific provisions concerning tests for distinctness, uniformity and stability for organic varieties of vegetable species suitable for organic production

1. General rule

The following shall apply to organic varieties of vegetable species suitable for organic production

1.1. As regards distinctness and stability, all characteristics of the protocols and guidelines referred to in Schedules I and II shall be observed and described.

1.2. As regards uniformity, all characteristics of the protocols and guidelines referred to in Schedules I and II shall be observed and described and the following shall apply to the characteristics listed under item 2:

(a) those characteristics may be assessed in a less stringent way;

(b) where for those characteristics a derogation from the respective technical protocol is provided for in item 2, the level of uniformity within the variety shall be similar to the level of uniformity of comparable varieties of common knowledge in the Union.

2. Derogation from technical protocols

2.1. Carrot

For the varieties belonging to species carrot (*Daucus carota* L.) the following DUS characteristics of the CPVO technical protocol CPVO-TP/049/3 of the tested variety may deviate from the following DUS requirements for uniformity:

CPVO No 4 – Leaf: division

CPVO No 5 – Leaf: intensity of green colour

CPVO No 19 – Root: diameter of core relative to total diameter

CPVO No 20 – Root: colour of core

CPVO No 21 – Excluding varieties with white core; Root: intensity of colour of core

CPVO No 28 – Root: time of colouration of tip

CPVO No 29 – Plant: height of primary umbel at time of its flowering

2.2. Kohlrabi

For the varieties belonging to species kohlrabi (*Brassica oleracea* L.) the following DUS characteristics of the CPVO technical protocol CPVO-TP/065/1 Rev. of the tested variety may deviate from the following DUS requirements for uniformity of the respective CPVO technical protocol:

CPVO No 2 – Seedling: intensity of green colouration of cotyledons

CPVO No 6 – Petiole: attitude

CPVO No 8 – Leaf blade: length

CPVO No 9 – Leaf blade: width

CPVO No 10 – Leaf blade: shape of apex

CPVO No 11 – Leaf blade: division to midrib (on lower part of leaf)

CPVO No 12 – Leaf blade: number of margin incisions (on upper part of leaf)

CPVO No 13 – Leaf blade: depth of margin incision (on upper part of leaf)

CPVO No 14 – Leaf blade: shape in cross section

CPVO No 19 – Kohlrabi: number of inner leaves.

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