

## COMMISSION DIRECTIVE 2002/8/EC

of 6 February 2002

**amending Directives 72/168/EEC and 72/180/EEC concerning the characteristics and minimum conditions for examining vegetable and agricultural varieties respectively**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species <sup>(1)</sup>, as last amended by Directive 98/96/EC <sup>(2)</sup>, and in particular Article 7(2) thereof,

Having regard to Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed <sup>(3)</sup>, as last amended by Directive 98/96/EC, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Directives 72/168/EEC of 14 April 1972 on determining the characteristics and minimum conditions for inspecting vegetable varieties <sup>(4)</sup> and 72/180/EEC of 14 April 1972 determining the characteristics and minimum conditions for examining agricultural varieties <sup>(5)</sup> have established, with a view to official acceptance of the varieties in the Member States' catalogues, the characteristics to be covered as a minimum by the examinations of the various species, as well as the minimum requirements for carrying out the examinations.
- (2) Test guidelines relating to the examinations have recently been issued by the Administrative Council of the Community Plant Variety Office established by Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights <sup>(6)</sup>, as amended by Regulation (EC) No 2506/95 <sup>(7)</sup>, in respect of certain species.
- (3) It is necessary to establish consistency between the test guidelines, on the one hand, and the determination of the characteristics to be covered as a minimum by the examination of the species and also the minimum requirements for carrying out those examinations, on the other.
- (4) Directives 72/168/EEC and 72/180/EEC should therefore be amended accordingly.
- (5) The new provisions should also apply to the varieties which have not been accepted by 31 March 2002 for inclusion in the common catalogues.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee

on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 72/168/EEC is hereby amended as follows:

1. Article 1 is replaced by the following:

*'Article 1*

1. Member States shall provide that the official examinations carried out for the acceptance of varieties shall cover at least the following characteristics:

- (a) for tomato (*Lycopersicon lycopersicum* L. Karsten ex. Farw.), leek (*Allium porrum* L.), French beans (*Phaseolus vulgaris* L.), cabbage (*Brassica oleracea* L. convar. *Capitata* (L.) Alef.), cauliflower (*Brassica oleracea* L. convar. *Botrytis* (L.) Alef. Var. *botrytis* L.) and lettuce (*Lactuca sativa* L.), those characteristics listed in the respective test guidelines entitled "Protocol for Distinctness, Uniformity and Stability Tests", issued by the Administrative Council of the Community Plant Variety Office pursuant to Article 56 of Council Regulation (EC) No 2100/94 <sup>(\*)</sup>, and published in the Official Gazette of the Community Plant Variety Office.

All the characteristics shall be referred to, providing that observation of a characteristic is not rendered impossible by the expression of any other characteristic, and providing that the expression of a characteristic is not prevented by the environmental conditions under which the test is conducted. This provision is without prejudice to the application of provisions governing vegetable varieties.

- (b) for other vegetable species, those characteristics listed in Annex I.

2. Member States shall ensure that:

- (a) in respect of the vegetable species listed in point (a) of paragraph 1, the minimum requirements for carrying out the examinations in respect of trial design and growing conditions, as laid down in the test guideline referred to in paragraph 1, point (a), are fulfilled at the time of the examinations;

- (b) in respect of other vegetable species, the minimum requirements for carrying out the examinations, as listed in Annex II, are fulfilled at the time of the examinations.

<sup>(1)</sup> OJ L 225, 12.10.1970, p. 1.

<sup>(2)</sup> OJ L 25, 1.2.1999, p. 27.

<sup>(3)</sup> OJ L 225, 12.10.1970, p. 7.

<sup>(4)</sup> OJ L 103, 2.5.1972, p. 6.

<sup>(5)</sup> OJ L 108, 8.5.1972, p. 8.

<sup>(6)</sup> OJ L 227, 1.9.1994, p. 1.

<sup>(7)</sup> OJ L 258, 28.10.1995, p. 3.

<sup>(\*)</sup> OJ L 227, 1.9.1994, p. 1.'

2. In Annex I, points 2, 9, 12, 13, 14, 26, 29 and 33 are deleted.
3. In Annex II, Part A, points 2, 9, 12, 13, 14, 26, 29 and 33 are deleted.

#### Article 2

Directive 72/180/EEC is hereby amended as follows.

1. Article 1 is replaced by the following:

##### ‘Article 1

1. Member States shall provide that the official examinations carried out for the acceptance of varieties shall cover at least the following characteristics:

- (a) in respect of the characteristics as regards the examination of distinctness, stability and uniformity:

- (i) for wheat (*Triticum aestivum* L.) and maize (*Zea mays* L.), those characteristics listed in the respective test guidelines entitled “Protocol for Distinctness, Uniformity and Stability Tests”, issued by the Administrative Council of the Community Plant Variety Office pursuant to Article 56 of Council Regulation (EC) No 2100/94 (\*), and published in the Official Gazette of the Community Plant Variety Office.

All the characteristics shall be referred to, providing that observation of a characteristic is not rendered impossible by the expression of any other characteristic, and providing that the expression of a characteristic is not prevented by the environmental conditions under which the test is conducted. This provision is without prejudice to the application of provisions governing agricultural varieties.

- (ii) for other agricultural plant species, those characteristics listed in Annex I, Part A;

- (b) in respect of the characteristics as regards the examination of the value for cultivation and use, those listed in Annex I, Part B.

2. Member States shall ensure that:

- (a) in respect of wheat (*Triticum aestivum* L.) and maize (*Zea mays* L.), 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 paragraph 1, point (a), under (i), are fulfilled at the time of the examinations;
- (b) in respect of other agricultural plant species, the minimum requirements for carrying out the examinations, as listed in Annex II, are fulfilled at the time of the examinations.

(\*) OJ L 227, 1.9.1994, p. 1.’

2. In Annex I, Part A:

- (a) the words ‘Soft wheat’ and ‘*Triticum aestivum* L.’ under point 39 are deleted;
- (b) point 41 is deleted.

3. In Annex II:

- (a) the words ‘3.1 Autogamous species’ are replaced by the words ‘3.1 Self-pollinating species other than wheat’;
- (b) point 3.3 is deleted.

#### Article 3

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 31 March 2002 at the latest. They shall forthwith inform the Commission thereof.

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. Member States shall determine how such reference is to be made.

2. This Directive shall apply to all varieties which have not been accepted by 31 March 2002 for inclusion in the common catalogue of varieties of vegetable species or in the common catalogue of varieties of agricultural plant species respectively.

Where the official examinations carried out for the acceptance of the varieties have started prior to that date, either wholly or partially in accordance with the original provisions of Directives 72/168/EEC or 72/180/EEC, the varieties concerned shall not be required to undergo new examination to demonstrate compliance with the new provisions.

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 4

This Directive shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

#### Article 5

This Directive is addressed to the Member States.

Done at Brussels, 6 February 2002.

For the Commission

David BYRNE

Member of the Commission