

S.I. No. 525 of 2002

EUROPEAN COMMUNITIES (NATIONAL CATALOGUE OF AGRICULTURAL PLANT VARIETIES) REGULATIONS 2002

I, Joe Walsh, Minister for Agriculture and Food in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 2002/53/EC¹ of 13 June 2002 hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002.

Interpretation

2. (1) In these Regulations –

“acceptance” has the meaning as set out in Regulation 5;

“authorised officer” means an officer of the Minister authorised in writing by the Minister for the purposes of these Regulations;

“Common Catalogue” means the Common Catalogue of Varieties of Agricultural Plant Species published for the time being by the Commission of the European Communities in the Official Journal of the European Communities;

“Directive” means Council Directive No. 2002/53/EC;

“European Commission” means the Commission of the European Communities;

“genetically modified variety” means a variety in which the genetic material has been altered in a way that does not occur naturally by mating or natural recombination;

“Minister” means the Minister for Agriculture and Food;

“Member State” means a Member State of the European Communities;

“National Catalogue” has the meaning specified in Regulation 4(1);

“seeds” means -

- (a) beet seeds,
- (b) seed of fodder plants,
- (c) cereal seeds,

¹ OJ L193, 20.07.02, p1.

- (d) seed potatoes and
- (e) seed of oil plants and fibre plants,

which may be marketed under the provisions of the Council Directive 2002/54/EC² of June 2002, Council Directive 66/401/EEC³ of June 1966, Council Directive 66/402/EEC⁴ of June 1966, Council Directive 2002/56/EC⁵ of June 2002 and Council Directive 2002/57/EC⁶ of June 2002; and

“variety” means a variety referred to in Article 1 of the directive.

(2) In this these Regulations –

(a) a reference to a Regulation, Schedule or part of a Schedule is to a Regulation of, Schedule to, or part of a Schedule to these Regulations, unless it is indicated that reference to some other Regulation is intended, and

(b) a reference to a paragraph or a subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) A word or expression that is used in the Directive and is also used in these Regulations has, in these Regulations, the same meaning as it has in the Directive.

Authorisation

3. The Minister or any other person authorised by the Minister for the purpose shall be the official authority for the State for the purposes of Article 2 of the Directive.

National Catalogue

4.(1) The Minister shall establish and maintain, in accordance with the Directive, a catalogue (which shall be known as the National Catalogue of Agricultural Plant Varieties and in these Regulations referred to as the National Catalogue) of varieties of species of agricultural crops in accordance with Article 3 of the Directive.

(2) An entry into the National Catalogue shall consist of:

- (a) the variety of plant accepted,
 - (i) for certification only in the State, or
 - (ii) for certification and marketing in the State, and

² O.J. No. L193, 20.07.02, p.12.

³ O.J. No. L125, 11.07.66, p.2298.

⁴ O.J. No. L125, 11.07.66, p.2309.

⁵ O.J. No. L193, 20.07.02, p.60.

⁶ O.J. No. L193, 20.07.02, p.74.

- (b) such particulars with respect to the variety registered as the Minister considers proper including particulars of the person accepting responsibility for the maintenance of the variety.

Acceptance

5. The Minister or any other person authorised by the Minister shall accept a variety where it satisfies the criteria in Articles 4 and 5 of the Directive in accordance with Article 7 of the said Directive.

Application for entry into the National Catalogue

6.(1) Any person applying for acceptance of a variety shall provide the Minister with such information, seeds and any other such material as the Minister may request.

(2) Any person making an application for acceptance of a variety of plant shall inform the Minister in writing if an application for acceptance of the variety of plant has been made in another Member State and the outcome of any such application.

(3) The Minister shall compile a file in accordance with Article 9.4 of the Directive for each variety for which acceptance has been authorised in the State.

Notice to other Member States and others

7. (1) The Minister shall notify other Member States and the European Commission of any application, withdrawal of application, amendment to entry or revocation of entry in the National Catalogue.

(2) The Minister shall for each new variety accepted for entry into the National Catalogue provide to other Member States and the European Commission a brief description of the most important characteristics for use except where the variety is intended solely for use as a component for a final variety (as in the case with inbred lines and hybrids).

(3) The Minister shall make available the file compiled under Regulation 6(3) in accordance with Article 10.

Refusal or revocation of acceptance of entry into the National Catalogue

8. (1) The Minister may refuse or revoke acceptance in the circumstances set out in Article 14 of the Directive.

(2) Subject to paragraph (3), where the Minister intends to refuse or revoke acceptance, he or she shall -

- (a) serve notice on the person responsible for the maintenance of the variety to this effect, providing reasons for such a decision and advise the person that he or she may make representations within fourteen days of issue of the notification,
- (b) consider any representations made, and
- (c) confirm, amend or annul the decision to refuse or revoke and notify the person for the reason for the decision.

(3) The Minister may revoke acceptance under the provisions of Article 18 of the Directive without application of paragraph (2).

- (4) In the event that the Minister invokes paragraph (3), the Minister shall-
- (a) notify the person who is responsible for the maintenance of the variety of his or her decision,
 - (b) permit any such person to submit representations within fourteen days of the issue of such notice,
 - (c) consider any such representations, and
 - (d) confirm, amend or nullify his or her decision.

(5) The Minister shall not be liable for any costs arising from a revocation under paragraph (3).

Restrictions

9. The Minister may prohibit or place restrictions on the cultivation of seeds in accordance with Article 16.2.

Duration of acceptance

10. (1) Subject to Regulations 8, 9 and 11, acceptance by the Minister shall remain valid until the end of the tenth year following the year of acceptance in accordance with Article 9.1 of the Directive.

(2) The Minister may renew acceptance in accordance with Article 12.2 and 12.3 of the Directive.

Review of acceptance

11. The Minister may review the acceptance where there is doubt regarding the distinctness or the name of the variety and amend or revoke acceptance in accordance with Article 13 of the Directive.

Maintenance

12. (1) The person responsible for the maintenance of a variety shall maintain it in accordance with the accepted practices for the maintenance of the variety.

(2) The person responsible for maintenance of a variety shall keep records relating to the maintenance of the variety and to the production of generations prior to basic seed or propagating material, which shall be sufficiently adequate to enable an authorised officer to determine whether or not the variety is being adequately maintained.

(3) The person responsible for the maintenance of a variety shall make available to an authorised officer all records for that variety including records relating to the production of all generation prior to the basic seed and propagating material and any such other information that the authorised officer may requested pursuant to these Regulations.

(4) The person responsible for the maintenance of a variety shall make available to an authorised officer such samples as the authorised officer may request.

Conservation

13. The Minister may set out specific conditions in relation to the conservation *in situ* and the sustainable use of plant genetic resources in accordance with Article 20 and 21 of the Directive.

Publication of the National Catalogue

14. (1) The Minister shall publish the National Catalogue once per annum.

(2) The Minister shall publish the name of the person responsible for the maintenance of the variety.

(3) The Minister shall, where a genetically modified variety has been accepted, indicate it as such in the National Catalogue.

(4) The Minister shall delete a variety from the National Catalogue where -

(a) acceptance has been revoked, or

(b) the period of validity has expired other than in respect of a seed certified and marketed in Ireland where the period for publication may be extended up to 30 June of the third year following the expiry of acceptance.

Restriction on marketing

15. The Minister shall not impose any restriction on the marketing of varieties other than in accordance with Article 16 of the Directive.

Forgery etc.

16. (1) A person shall not forge or utter knowing it to be forged any record, acceptance, certification or other document created under these Regulations or the Directive (referred to as a “forged record”).

(2) A person shall not alter or utter knowing it to be altered and record, acceptance, certification or other document created under these Regulations or the Directive (referred to as an “altered record”).

(3) A person shall not have, without lawful authority, in his or her possession a forged record or an altered record.

(5) A person, in purported compliance with these Regulations, shall not give information that he or she knows to be false or misleading.

Fees and costs

17. (1) Minister may charge such fees in respect of acceptance as may be agreed between the Minister and the Minister for Finance.

(2) The Public Offices Fees Act 1979 shall not apply in respect of fees charged under paragraph (1).

(3) The Minister shall not be liable for any costs incurred by a person responsible for the maintenance of a variety with respect to the maintenance of records or samples taken by an authorised officer.

Inspections

18. (1) An authorised officer may, at any reasonable time, enter and inspect any place where he or she has reasonable grounds to believe that maintenance of a variety is being carried on or records relating to the maintenance of a variety are being kept and carry out all such examinations as he or she considers necessary and take such samples of any seeds found in the course of such inspection.

(2) The Minister shall furnish an authorised officer with a certificate of appointment and when exercising his or her powers under these Regulations, the officer shall, if requested to do so, by any person affected, produce the certificate to that person.

(3) Any person who obstructs an authorised officer in the course of his or her duty under these Regulations shall be guilty of an offence and shall be liable under summary conviction to a fine not exceeding €2,000.

Revocations

19. The following Regulations are revoked:

- (i) The European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 1981, (S.I. 409 of 1981), and
- (ii) The European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 1985 (S.I. No. 350 of 1985).

GIVEN under my Official Seal
2002

Joe Walsh
Minister for Agriculture and Food