

COMMISSION DIRECTIVE 92/90/EEC

of 3 November 1992

establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 92/10/EEC⁽²⁾, and in particular Article 6 (7), fourth indent, and Article 6 (8),

Whereas the application of the Community plant health regime to the Community as an area without internal frontiers, will require the carrying out of plant health checks of Community products of plant health concern before their movement within the Community; whereas the most appropriate place for carrying out these checks is the place of production of producers listed in an official register;

Whereas, with a view to the production of plants, plant products or other objects which are not infested or infected by harmful organisms referred to in Council Directive 77/93/EEC, and adequate monitoring by Member States of that production, it is necessary to establish more rules on the listing of producers or other persons for which the listing in an official register is required, as well as certain detailed and — to that extent — uniform obligations to which producers of plants, plant products or other objects should be subject;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall ensure that any producer, collective warehouse, dispatching centre, other person or importer who come under Article 6 (4), third subparagraph, Article 6 (5), Article 10 (3), second indent or Article 12 (6), second subparagraph, of Directive 77/93/EEC respectively, shall enter an application for

listing in an official register, through an appropriate registration procedure, to the responsible official bodies referred to in Directive 77/93/EEC.

2. Member States shall ensure that on receipt of the application referred to in paragraph 1, the said responsible official bodies shall record this application in an official register of applications and shall examine the information supplied in the application form.

3. The said responsible official bodies shall list each producer, collective warehouse, dispatching centre, other person or importer referred to in paragraph 1, in the official register mentioned in the same paragraph, under an individual registration number enabling their respective identification, once the said responsible official bodies have established that the producer, collective warehouse, dispatching centre, other person or importer is able and willing to meet the obligations laid down in Article 2 (2) and those referred to Article 2 (3) and Article 3.

4. In those cases, where, upon the examination referred to in paragraph 2 it is considered that the obligations referred to in Article 2 (2) will not be met, the said responsible official bodies shall not list the producer, collective warehouse, dispatching centre, other person or importer in the official register mentioned in paragraph 1 as long as paragraph 3 does not apply.

5. The Member States shall ensure that the listing shall be amended or renewed, as appropriate, if the producer, collective warehouse, dispatching centre, other person or importer referred to in paragraph 1 decides to carry out activities in addition to, or instead of, those for which he was initially listed.

6. The Member States shall ensure that the said responsible official bodies shall take the necessary measures if the obligations referred to in Article 2 (2), and where appropriate Article 2 (3) and Article 3, cease to be met.

7. Any measure taken under paragraph 6 shall be withdrawn as soon as it has been established that the producer, collective warehouse, dispatching centre, other person or importer is likely, in the future, to comply with the requirements and conditions of this Directive.

Article 2

1. The Member States shall ensure that under the registration procedure, referred to in Article 1, any producer, collective warehouse, dispatching centre, other person or

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 70, 17. 3. 1992, p. 27.

importer concerned shall be subject to the obligations laid down in paragraph 2, without prejudice to those referred to in paragraph 3 and in Article 3.

2. The obligations referred to in paragraph 1 shall be as follows, without prejudice to those already laid down in Directive 77/93/EEC:

- (a) to keep an updated plan of the premises on which plants, plant products or other objects are grown, produced, stored, kept or used by the producer or collective warehouses or dispatching centres, person or importer referred to in Article 1 (1), or are otherwise present;
- (b) to keep records, with a view to having complete information available for the said responsible official bodies, on plants, plant products or other objects,
 - purchased for storage or planting on the premises,
 - under production, or
 - dispatched to others,
 and to keep related documents for at least one year;
- (c) to be available personally or to designate another person technically experienced in plant production and related plant health matters, to liaise with the said responsible official bodies;
- (d) to carry out visual observations as necessary and at appropriate times, and in a manner laid down in guideline instructions given by the said responsible official bodies;
- (e) to ensure access for persons entitled to act for the said responsible official bodies, in particular for inspection and/or sampling, and to the records referred to in point (b) and related documents;
- (f) to otherwise cooperate with the said responsible official bodies.

3. Additional obligations of a general nature may be set up to facilitate the assessment of the plant health situation on the premises; they shall be within the limits of national law and may take into account the details of the production and, where appropriate import conditions, in particular the type of crop, the location, the size, the management, the staffing and the equipment.

Article 3

The producer, collective warehouse, dispatching centre, other person or importer listed shall meet, at the request of the said responsible official bodies, specific obligations

relating to the assessment or improvement of the plant health situation of the premises and to safeguarding the identity of material until the plant passport is attached pursuant to Article 10 (2) of Directive 77/93/EEC; these specific obligations may include activities such as special examination, sampling, isolation, roguing, treatment, destruction and marking (labelling) and any other measure which is specifically required under Annex IV, part A, section II, or Annex IV, part B, where appropriate, of Directive 77/93/EEC.

Article 4

Member States shall ensure compliance with the obligations referred to in Article 2 (2) by examining periodically, at least once a year, the records and related documents as described in Article 2 (2) (b).

Article 5

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive on the date referred to in Article 3 (1) of Council Directive 91/683/EEC⁽¹⁾. They shall forthwith inform the Commission thereof.

2. 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. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 3 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 376, 31. 12. 1991, p. 29.