

## Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes

### *Article 1*

This Directive shall apply to the production with a view to marketing, and to the marketing, of seed potatoes within the Community.

It shall not apply to seed potatoes shown to be intended for export to third countries.

### *Article 2*

For the purposes of this Directive:

- (a) ‘marketing’ means the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed potatoes to third parties, whether or not for consideration.

Trade in seed potatoes not aimed at commercial exploitation of the variety, such as the following operations, shall not be regarded as marketing:

- the supply of seed potatoes to official testing and inspection bodies,
- the supply of seed potatoes to providers of services for processing or packaging,

provided the provider of services does not acquire title to seed potatoes thus supplied.

The supply of seed potatoes under certain conditions to providers of services for the production of certain agricultural raw materials intended for industrial purposes, or seed propagation for that purpose, shall not be regarded as marketing, provided the provider of services does not acquire title to either the seed thus supplied or the product of the harvest. The supplier of seed potatoes shall provide the certification authority with a copy of the relevant parts of the contract made with the provider of services and this shall include the standards and conditions currently met by the seed potatoes provided.

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in article 25(2);

- (b) ‘basic seed potatoes’ means potato tubers
- (i) which have been produced according to accepted practices for the maintenance of the variety and of health;
  - (ii) which are intended mainly for the production of certified seed potatoes;
  - (iii) which satisfy the minimum conditions laid down in Annexes I and II for basic seed potatoes; and
  - (iv) which have been found by official examination to satisfy the minimum conditions laid down above;
- (c) ‘certified seed potatoes’ means potato tubers
- (i) which have been produced directly from basic seed or certified seed, or from seed of a generation prior to basic seed which have been found on official examination to satisfy the conditions laid down for basic seed;

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- (ii) which are intended mainly for the production of potatoes other than seed potatoes;
  - (iii) which satisfy the minimum conditions laid down in Annexes I and II for certified seed potatoes; and
  - (iv) which have been found by official examination to satisfy the abovementioned minimum conditions;
- (d) ‘official measures’ means measures taken
- (i) by State authorities; or
  - (ii) by any legal person whether governed by public or by private law, acting under the responsibility of the State; or
  - (iii) in the case of ancillary activities which are also subject to State control, by any natural person duly sworn for that purpose,
- provided that the persons mentioned under (ii) and (iii) derive no private gain from such measures.

### *Article 3*

1 Member States shall provide that seed potatoes may not be placed on the market unless they have been officially certified as ‘basic seed potatoes’ or ‘certified seed potatoes’ and unless they satisfy the minimum conditions laid down in Annexes I and II. The Member States shall provide that seed potatoes which do not, during marketing, satisfy the minimum conditions laid down in Annex II may be sorted. The tubers which are not rejected shall then undergo a further official examination.

2 Member States may subdivide the categories of seed potatoes provided for in Article 2 into grades satisfying different requirements.

3 For seed potatoes which have been officially certified, the following may be determined in accordance with the procedure referred to in Article 25(2):

- Community grades,
- the conditions applicable to such grades,
- designations applicable to such grades.

Member States may prescribe the extent to which they apply these Community grades in certifying their own production.

4 For seed potatoes produced by micropropagation techniques and not meeting the size requirements of this Directive, the following may be determined in accordance with the procedure referred to in Article 25(2):

- derogation from specific provisions of this Directive,
- the conditions applicable to such seed potatoes,
- the designations applicable to such seed potatoes.

### *Article 4*

Notwithstanding Article 3(1), Member States shall provide that bred seed potatoes of generations prior to basic seed potatoes may be placed on the market.

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#### *Article 5*

Member States may, as regards the minimum conditions laid down in Annexes I and II, impose additional or more stringent requirements for the certification of seed potatoes produced in their own territory.

#### *Article 6*

1 Notwithstanding Article 3(1), Member States may authorise producers in their own territory to place on the market:

- a small quantities of seed potatoes for scientific purposes or selection work;
- b appropriate quantities of seed potatoes for other test or trial purposes, provided they belong to varieties for which an application for entry in the catalogue has been submitted in the Member State in question.

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 2002/53/EC shall apply accordingly.

2 The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure referred to in Article 25(2).

3 Authorisation granted, before 14 December 1998, by Member States to producers in their own territory for the purposes set out in paragraph 1 shall remain in force pending determination of the provisions referred to in paragraph 2. Thereafter, all such authorisations shall respect the provisions established in accordance with paragraph 2.

#### *Article 7*

Member States shall require that, for the examination of seed potato tubers for certification, samples are taken officially in accordance with appropriate methods.

#### *Article 8*

1 Member States may require that seed potatoes produced in their own territory may be separated during production from other potatoes for plant health reasons.

- 2 The requirements provided for in paragraph 1 may include measures to:
- separate the production of seed and other potatoes,
  - separate the grading, storage, transportation and handling of seed and other potatoes.

#### *Article 9*

Member States shall provide that seed potatoes may not be placed on the market if they have been treated with sprout inhibitors.

#### *Article 10*

1 Member States shall provide that seed potatoes may not be placed on the market unless they have a minimum size such that they do not pass through a square mesh of 25 × 25 mm. In the case of tubers which are too large to pass through a square mesh of 35 × 35 mm, the upper and lower size limits shall be expressed in multiples of five.

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The maximum variation in size between tubers in a lot shall be such that the difference between the dimensions of the two square meshes used does not exceed 25 mm. These sizing standards may be modified in accordance with the procedure referred to in Article 25(2).

2 A lot shall not contain more than 3 % by weight of tubers smaller than the minimum size indicated or more than 3 % by weight of tubers larger than the maximum size indicated.

3 Member States may, in respect of seed potatoes produced in their national territory, further reduce the permitted variation in size between tubers in a lot.

#### *Article 11*

1 Member States shall require that basic seed potatoes and certified seed potatoes be marketed only in sufficiently homogeneous lots and in closed packages or containers which must be sealed and bear, as prescribed in Articles 12 and 13, a sealing device and markings. The packages must be new; the containers must be clean.

2 Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.

#### *Article 12*

1 Member States shall require that packages and containers of basic seed potatoes and certified potatoes be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the system of sealing or leaving evidence of tampering on either the official label provided for in Article 13(1) or the package.

In order to ensure closure, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph above shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 25(2) it may be established whether a particular sealing system complies with the provisions of this paragraph.

2 Packages and containers which have been officially sealed shall not be resealed, whether one or more times, except officially or under official supervision. If packages are resealed, the fact of resealing, the most recent date of resealing and the authority responsible therefor shall be stated on the label required under Article 13(1).

3 Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

#### *Article 13*

1 Member States shall require that packages and containers of basic seed potatoes and certified seed potatoes:

- a be labelled on the outside with an official label which has not previously been used, which fulfils the conditions laid down in Annex III and the particulars of which are provided in one of the official languages of the Community. The colour of the label shall be white for basic seed potatoes and blue for certified seed potatoes. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. The use of official adhesive labels shall be authorised. In accordance with with

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procedure referred to in Article 25(2), the indelible printing of the prescribed particulars on the package in accordance with the label model may be authorised under official supervision;

- b contain an official document, in the same colour as the label, providing at least the label particulars required under Annex III(A)(3), (4) and (6). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a).

This document shall not be necessary if the particulars are printed indelibly on the package or if, in accordance with the provisions under (a), an adhesive label or a label of tear resistant material is used.

- 2 Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

#### *Article 14*

In accordance with the procedure referred to in Article 25(2), it may be provided that, in cases other than those provided for in this Directive, packages or containers of basic seed potatoes or certified seed potatoes shall bear a supplier's label (which may either be a label separate from the official label or take the form of the suppliers' information printed on the package or container itself). The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 25(2).

#### *Article 15*

In the case of seed potatoes of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, under the provisions of this Directive, shall clearly indicate that the variety has been genetically modified.

#### *Article 16*

Member States shall require that any chemical treatment of basic seed potatoes or certified seed potatoes be noted either on the official label or on the supplier's label and on the package or inside it or on the container.

#### *Article 17*

- 1 Member States shall ensure that seed potatoes which are placed on the market under the provisions of this Directive, whether mandatory or discretionary, are not subject to any marketing restrictions as regards their characteristics, examination requirements, marking and sealing other than those laid down in this or any other Directive.

- 2 The Commission, acting in accordance with the procedure referred to in Article 25(2), shall, in respect of the marketing of seed potatoes in all or part of the territory of one or more Member States, authorise more stringent measures than those provided for in Annexes I and II to be taken against harmful organisms which do not exist in those regions or which appear particularly harmful to crops in those regions. Where there is imminent danger of the introduction or spread of such harmful organisms, and until such time as the Commission has given a final ruling on the matter, such measures may be taken by the Member State concerned as soon as its request has been submitted.

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### Article 18

The conditions under which bred seed potatoes of generations prior to basic seed potatoes may be placed on the market under Article 4, shall be as follows:

- (a) they must have been produced in accordance with accepted practices for the maintenance of the variety and of health;
- (b) they must be intended mainly for the production of basic seed potatoes;
- (c) they must satisfy the minimum conditions to be established by the procedure referred to in Article 25(2) for pre-basic seed potatoes;
- (d) they must have been found by official examination to satisfy the minimum conditions referred to in (c);
- (e) they must be placed in packages or containers in accordance with this Directive; and
- (f) the packages or containers must bear an official label giving at least the following particulars:
  - certification authority and Member State or their distinguishing abbreviation,
  - producer's identification number or lot reference number,
  - month and year of sealing,
  - species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both,
  - variety, indicated at least in roman characters,
  - the description 'pre-basic seed potatoes'.

The label shall be white with a diagonal violet line.

### Article 19

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, other than those relating to plant health, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 25(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

### [<sup>F1</sup>Article 20

1 Community comparative tests and trials shall be carried out within the Community for the post-control of samples of seed potatoes placed on the market under the provisions of this Directive, whether mandatory or discretionary, including those relating to plant health and taken during sampling. The comparative tests and trials may include the following:

- seed potatoes harvested in third countries,
- seed potatoes suitable for organic farming,
- seed potatoes marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

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2 These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3 The Commission, acting in accordance with the procedure referred to in Article 25(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 25(1) about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

4 The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5 The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 25(2).

6 The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.

7 In accordance with the procedure referred to in Article 25(2), the Commission may prohibit, in whole or in part, the marketing of seed potatoes harvested in a particular area of the Community if the progeny of officially drawn samples of basic seed potatoes or certified seed potatoes harvested in that particular area and grown in one or more Community tests and trials has for three successive years fallen appreciably below the minimum conditions laid down in Annex I(1)(c), (2)(c), (3) and (4).

8 Any measures taken under paragraph 7 shall be withdrawn by the Commission as soon as it has been established with adequate certainty that the basic seed potatoes and certified seed potatoes harvested in the particular area of the Community concerned will in future satisfy the minimum conditions referred to in paragraph 7.]

#### **Textual Amendments**

- F1** Substituted by Council Directive 2003/61/EC of 18 June 2003 amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials.

#### *Article 21*

1 The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether seed potatoes harvested in a third country and affording the same assurances as regards their characteristics and the arrangements for their inspection, for ensuring identity, for marking and for control are equivalent in these respects to basic seed potatoes or certified seed potatoes harvested within the Community and complying with the provisions of this Directive.

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2 Until such time as the Council has taken a decision under paragraph 1, the Member States shall be free to take such decisions themselves. This right shall expire on 1 July 1975.

3 Member States are hereby authorised to extend until [F<sup>2</sup>31 March 2024] the validity of decisions taken in accordance with paragraph 2, it being understood that these decisions may be used only in accordance with Member States' obligations under the common rules on plant health laid down by Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread in the Community<sup>(1)</sup>.

The period in the first subparagraph may be extended for third countries, in accordance with the procedure laid down in Article 25(2), if the available information does not permit a determination according to paragraph 1 and for as long as such information does not permit such a determination.

4 Paragraphs 1 and 2 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

#### **Textual Amendments**

- F2** Substituted by [Commission Implementing Decision \(EU\) 2019/119 of 24 January 2019 amending Council Directive 2002/56/EC as regards the date laid down in Article 21\(3\) until which Member States are authorised to extend the validity of decisions concerning equivalence of seed potatoes from third countries \(notified under document C\(2019\) 247\)](#).

#### *Article 22*

1 In order to remove any temporary difficulties in the general supply of basic seed potatoes or certified seed potatoes that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure referred to in Article 25(2) that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed potatoes of a category subject to less stringent requirements, or of seed potatoes of varieties not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogues of varieties of the Member States.

2 For a category of seed potatoes of any given variety, the official label shall be that provided for the corresponding category; for seed potatoes of varieties not included in the abovementioned catalogues the colour of the official label shall be brown. The label shall always state that the seed potatoes in question are of a category satisfying less stringent requirements.

3 Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 25(2).

#### *Article 23*

1 Member States shall ensure that official inspections are carried out in relation to the marketing of seed potatoes, at least by random checks, to verify compliance with the requirements and conditions of this Directive.

2 Without prejudice to the free movement of seed potatoes within the Community, Member States shall take all necessary measures to ensure that they are supplied with the following particulars during the marketing of quantities exceeding two kilograms of seed potatoes imported from third countries:



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- a species,
- b variety;
- c category;
- d country of production and control authority;
- e country of dispatch;
- f importer;
- g quantity of seed potatoes.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 25(2).

#### *Article 24*

Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 25(2).

#### *Article 25*

1 The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, set up by Article 1 of Council Decision 66/399/EEC<sup>(2)</sup>.

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3 The Committee shall adopt its rules of procedure.

#### *Article 26*

Save as otherwise provided in Annexes I and II in respect of tolerances for diseases, harmful organisms or their vectors, this Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial and commercial property.

#### *Article 27*

1 Specific conditions may be established in accordance with the procedure referred to in Article 25(2) to take account of developments in the areas of:

- a conditions under which chemically treated seed may be marketed;
- b conditions under which seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, which are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- c conditions under which seed suitable for organic production may be marketed.

2 The specific conditions referred to in paragraph 1(b) shall include in particular the following points:

- a the seed of these species shall be of a known provenance approved by the appropriate authority in each Member State for marketing the seed in defined areas;
- b appropriate quantitative restrictions.

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*Article 28*

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.

The Commission shall inform the other Member States thereof.

*Article 29*

Directive 66/403/EEC, as amended by the acts set out in Annex IV, part A, is repealed, without prejudice to the obligations of the Member States concerning the deadline for transposition of the said Acts set out in Annex IV, part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

*Article 30*

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

*Article 31*

This Directive is addressed to the Member States.

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- (1) [OJ L 169, 10.7.2000, p. 1](#). Directive as last amended by Commission Directive 2002/28/EC ([OJ L 77, 20.3.2002, p. 23](#)).
- (2) [OJ 125, 11.7.1966, p. 2289/66](#).