

Commission Directive 2009/145/EC of 26 November 2009 providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties (Text with EEA relevance)

CHAPTER III

Varieties developed for growing under particular conditions

Section I

Acceptance of varieties developed for growing under particular conditions

Article 21

Varieties developed for growing under particular conditions

1 Member States may accept varieties developed for growing under particular conditions subject to the requirements provided for in Articles 22 and 23.

2 Member States may accept a variety developed for growing under particular conditions as a variety whose seed may only be verified as ‘standard seed of a variety developed for growing under particular conditions’. Such a variety shall be entered into the common catalogue of varieties of vegetable species as a ‘variety developed for growing under particular conditions whose seed shall be verified in accordance with Article 26 of Commission Directive 2009/145/EC’.

Article 22

Substantive requirements

1 In order to be accepted as a variety developed for growing under particular conditions, as referred to in Article 1(1)(b), a variety shall be with no intrinsic value for commercial crop production but developed for growing under particular conditions.

A variety shall be considered as having been developed for growing under particular conditions if it has been developed for growing under particular agro-technical, climatic or pedological conditions.

2 By way of derogation from Article 1(2) of Directive 2003/91/EC, Member States may adopt their own provisions as regards distinctness, stability and uniformity of varieties developed for growing under particular conditions.

In such cases Member States shall ensure that for distinctness and stability at least the characteristics shall apply which are referred to in:

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- a the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO), for the species listed in Annex I to Directive 2003/91/EC, which apply to those species; or
- b the technical questionnaires of the Guidelines of the International Union for the Protection of New Varieties of Plants (UPOV), for the species listed in Annex II to Directive 2003/91/EC, which apply to those species.

For the assessment of uniformity, Directive 2003/91/EC shall apply.

However, if the uniformity level is established on the basis of off-types, a population standard of 10 % and an acceptance probability of at least 90 % shall be applied.

Article 23

Procedural requirements

By way of derogation from the first sentence of Article 7(1) of Directive 2002/55/EC, no official examination shall be required if the following information is sufficient for the decision on the acceptance of the varieties developed for growing under particular conditions:

- (a) the description of the variety developed for growing under particular conditions and its denomination;
- (b) the results of unofficial tests;
- (c) knowledge gained from practical experience during cultivation, reproduction and use, as notified by the applicant to the Member State concerned;
- (d) other information, in particular from the plant genetic resource authorities or from organisations recognised for this purpose by the Member States.

Article 24

Exclusion of acceptance

A variety developed for growing under particular conditions shall not be accepted for inclusion in the national catalogue of varieties if:

- (a) it is already listed in the common catalogue of varieties of vegetable species as a variety other than a variety developed for growing under particular conditions, or it was deleted from that common catalogue of varieties of vegetable species within the last 2 years, or the period granted under Article 15(2) of Directive 2002/55/EC expired less than 2 years ago; or
- (b) it is protected by a Community plant variety right, as provided for in Regulation (EC) No 2100/94, by a national plant variety right, or if an application for such rights is pending.

Article 25

Denomination

1 With respect to denominations of varieties developed for growing under particular conditions which were known before 25 May 2000, Member States may permit derogations from Regulation (EC) No 637/2009, except where such derogations would violate prior rights of a third party which are protected under Article 2 of that Regulation.

2 Notwithstanding Article 9(2) of Directive 2002/55/EC, Member States may accept more than one name for a variety if the names concerned are historically known.

Section II

Marketing of seed of varieties developed for growing under particular conditions

Article 26

Verification

By way of derogation from Article 20 of Directive 2002/55/EC, Member States may provide that seed of a variety developed for growing under particular conditions may be verified as standard seed of a variety developed for growing under particular conditions if it meets the following requirements:

- (a) the seed complies with the requirements for the marketing of 'standard seed' provided for in Directive 2002/55/EC, with the exception of the requirements in respect of minimal varietal purity;
- (b) the seed has sufficient varietal purity.

Article 27

Seed testing

1 Member States shall ensure that tests are carried out to check that seed of varieties developed for growing under particular conditions complies with the requirements provided for in Article 26.

2 The tests referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

Article 28

Quantitative restrictions

Member States shall ensure that seed of varieties developed for growing under particular conditions is marketed in small packages, not exceeding the maximum net weight set out per species in Annex II.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Article 29

Sealing of packages

1 Member States shall ensure that seed of varieties developed for growing under particular conditions may be marketed only in closed packages bearing a sealing device.

2 Seed packages shall be sealed by the supplier in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on the supplier's label or on the package.

3 In order to ensure sealing in accordance with paragraph 2, the sealing system shall comprise at least the label or the affixing of a seal.

Article 30

Labelling

Member States shall ensure that packages of seed of varieties developed for growing under particular conditions bear a supplier's label or a printed or stamped notice including the following information:

- (a) the words 'EC rules and standards';
- (b) the name and address of the person responsible for affixing the labels or his identification mark;
- (c) the year of sealing expressed as: 'sealed ...' (year), or the year of the last sampling for the purposes of the last testing of germination expressed as: 'sampled ...' (year);
- (d) the species;
- (e) the denomination of the variety;
- (f) the words 'variety developed for growing under particular conditions';
- (g) the reference number of the lot given by the person responsible for affixing the labels;
- (h) the declared net or gross weight, or declared number of seeds;
- (i) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.

Article 31

Official post control

Member States shall ensure that the seed of a variety developed for growing under particular conditions is subject to official post control by random inspections to verify its varietal identity and purity.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

The official post control referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

Article 32

Monitoring

Member States shall ensure by official monitoring during production and marketing that the seed complies with this Chapter, paying particular attention to the variety and quantities.