Commission Regulation (EC) No 2039/2005 of 14 December 2005 amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) 2100/94 as regards the fees payable to the Community Plant Variety Office

COMMISSION REGULATION (EC) No 2039/2005

of 14 December 2005

amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) 2100/94 as regards the fees payable to the Community Plant Variety Office

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights[(1)], and in particular Article 113 thereof,

After consulting the Administrative Council of the Community Plant Variety Office,

Whereas:

(1) Commission Regulation (EC) No 1238/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office[(2)] sets out fees payable to the Community Plant Variety Office (the Office), and the levels of such fees.

(2) The financial reserve of the Office has reached a level which exceeds the level necessary to safeguard the continuity of its operations. For this reason, the level of the annual fee and the fees related to technical examinations were decreased during a transitional period.

(3) As regards the annual fee, the transitional period during which the level of this fee was decreased was already prolonged until the end of 2007. As regards the fees for technical examinations, the transitional period during which the level of these fees was decreased was prolonged until the end of 2006.

(4) It is however foreseen that despite the measures taken in order to decrease the financial reserve of the Office, the level of the reserve will not decrease to an appropriate level in the short term. The level of the annual fee should therefore be further decreased. Therefore, Regulation (EC) No 1238/95 should be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Community Plant Variety Rights,

HAS ADOPTED THIS REGULATION:

Article 1

Article 9(1) of Regulation (EC) No 1238/95 is replaced by the following:

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 2039/2005. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

1. The office shall charge a holder of a Community plant variety right (hereinafter referred to as the holder) a fee for each year of the duration of a Community plant variety right (hereinafter referred to as annual fee) of EUR 300 for the years 2003 to 2005 and of EUR 200 for the year 2006 and the following years. Where a person paid a fee of EUR 300 for the year 2006, the office shall refund the difference of EUR 100 to that person.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2006.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 14 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission