Commission Implementing Directive (EU) 2018/100 of 22 January 2018 amending Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC and Article 7 of Council Directive 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species (Text with EEA relevance)

COMMISSION IMPLEMENTING DIRECTIVE (EU) 2018/100

of 22 January 2018

amending Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC and Article 7 of Council Directive 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species[(1)], and in particular Article 7(2)(a) and (b) thereof,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed[(2)], and in particular Article 7(2)(a) and (b) thereof,

Whereas:

(1) Commission Directives 2003/90/EC[(3)] and 2003/91/EC[(4)] were adopted to ensure that the varieties the Member States include in their national catalogues comply with the protocols established by the Community Plant Variety Office (CPVO) as regards the characteristics to be covered as a minimum by the examination of the various species and the minimum conditions for examining the varieties, as far as such protocols had been established. For the species not covered by CPVO protocols those Directives provide that guidelines of the International Union for Protection of New Varieties of Plants (UPOV) are to apply.

(2) Since the last amendment to Directives 2003/90/EC and 2003/91/EC by Commission Implementing Directive (EU) 2016/1914[(5)] the CPVO and UPOV have established further protocols and guidelines and have updated existing ones.

(3) Directives 2003/90/EC and 2003/91/EC should therefore be amended accordingly.

(4) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DIRECTIVE:

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Article 1

Annexes I and II to Directive 2003/90/EC are replaced by the text set out in part A of the Annex to this Directive.

Article 2

The Annexes to Directive 2003/91/EC are replaced by the text set out in part B of the Annex to this Directive.

Article 3

For examinations started before 1 September 2018 Member States may apply Directives 2003/90/EC and 2003/91/EC in the version applying before their amendment by this Directive.

Article 4

Member States shall adopt and publish, by 31 August 2018 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 September 2018.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 5

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

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 22 January 2018.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

PART A

ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO technical protocols[(6)]

Scientific name	Common name	CPVO protocol
Festuca arundinacea Schreb.	Tall fescue	TP 39/1 of 1.10.2015
Festuca filiformis Pourr.	Fine-leaved sheep's fescue	TP 67/1 of 23.6.2011
Festuca ovina L.	Sheep's fescue	TP 67/1 of 23.6.2011
Festuca pratensis Huds.	Meadow fescue	TP 39/1 of 1.10.2015
Festuca rubra L.	Red fescue	TP 67/1 of 23.6.2011
Festuca trachyphylla (Hack.) Krajina	Hard fescue	TP 67/1 of 23.6.2011
Lolium multiflorum Lam.	Italian ryegrass	TP 4/1 of 23.6.2011
Lolium perenne L.	Perennial ryegrass	TP 4/1 of 23.6.2011
Lolium × *hybridum* Hausskn.	Hybrid ryegrass	TP 4/1 of 23.6.2011
Pisum sativum L.	Field pea	TP 7/2 Rev. 2 of 15.3.2017
Poa pratensis L.	Smooth-stalked meadow grass	TP 33/1 of 15.3.2017
Vicia sativa L.	Common vetch	TP 32/1 of 19.4.2016
Brassica napus L. var. *napobrassica* (L.) Rchb.	Swede	TP 89/1 of 11.3.2015
Raphanus sativus L. var. *oleiformis* Pers.	Fodder radish	TP 178/1 of 15.3.2017
Brassica napus L.	Swede rape	TP 36/2 of 16.11.2011
Cannabis sativa L.	Hemp	TP 276/1 of 28.11.2012
Glycine max (L.) Merr.	Soya bean	TP 80/1 of 15.3.2017
Gossypium spp.	Cotton	TP 88/1 of 19.4.2016
Helianthus annuus L.	Sunflower	TP 81/1 of 31.10.2002
Linum usitatissimum L.	Flax/Linseed	TP 57/2 of 19.3.2014
Sinapis alba L.	White mustard	TP 179/1 of 15.3.2017
Avena nuda L.	Small naked oat, Hulless oat	TP 20/2 of 1.10.2015

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Avena sativa L. (includes *A. byzantina* K. Koch)	Oats and Red oat	TP 20/2 of 1.10.2015
Hordeum vulgare L.	Barley	TP 19/4 of 1.10.2015
Oryza sativa L.	Rice	TP 16/3 of 1.10.2015
Secale cereale L.	Rye	TP 58/1 of 31.10.2002
xTriticosecale Wittm. ex A. Camus	Hybrids resulting from the crossing of a species of the genus *Triticum* and a species of the genus *Secale*	TP 121/2 rev. 1 of 16.2.2011
Triticum aestivum L.	Wheat	TP 3/4 rev. 2 of 16.2.2011
Triticum durum Desf.	Durum wheat	TP 120/3 of 19.3.2014
Zea mays L.	Maize	TP 2/3 of 11.3.2010
Solanum tuberosum L.	Potato	TP 23/3 of 15.3.2017

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines[(7)]

Scientific name	Common name	UPOV guideline
Beta vulgaris L.	Fodder beet	TG/150/3 of 4.11.1994
Agrostis canina L.	Velvet bent	TG/30/6 of 12.10.1990
Agrostis gigantea Roth.	Red top	TG/30/6 of 12.10.1990
Agrostis stolonifera L.	Creeping bent grass	TG/30/6 of 12.10.1990
Agrostis capillaris L.	Brown top	TG/30/6 of 12.10.1990
Bromus catharticus Vahl	Rescue grass	TG/180/3 of 4.4.2001
Bromus sitchensis Trin.	Alaska brome grass	TG/180/3 of 4.4.2001
Dactylis glomerata L.	Cocksfoot	TG/31/8 of 17.4.2002
xFestulolium Asch. et Graebn.	Hybrids resulting from the crossing of a species of the genus *Festuca* with a species of the genus *Lolium*	TG/243/1 of 9.4.2008
Phleum nodosum L.	Small timothy	TG/34/6 of 7.11.1984
Phleum pratense L.	Timothy	TG/34/6 of 7.11.1984
Lotus corniculatus L.	Birdsfoot trefoil	TG 193/1 of 9.4.2008
Lupinus albus L.	White lupine	TG/66/4 of 31.3.2004
Lupinus angustifolius L.	Narrow-leaved lupine	TG/66/4 of 31.3.2004
Lupinus luteus L.	Yellow lupine	TG/66/4 of 31.3.2004