

Council Directive 98/56/EC of 20 July 1998 on the
marketing of propagating material of ornamental plants

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on the marketing of propagating material of ornamental plants

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

- (1) Whereas the production of ornamental plants occupies an important place in the agriculture of the Community;
- (2) Whereas satisfactory results in the cultivation of ornamental plants depend to a large extent on the quality and health of the material used for their propagation;
- (3) Whereas the establishment of harmonised conditions at Community level will ensure that purchasers throughout the Community receive propagating material which is healthy and of good quality;
- (4) Whereas, so far as they relate to plant health, such harmonised conditions must be consistent with Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products and against their spread in the Community⁽⁴⁾;
- (5) Whereas it is appropriate to establish Community rules for all genera and species of ornamental plants in the Community, with the exception of those covered by Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein⁽⁵⁾;
- (6) Whereas, without prejudice to the plant health provisions of Directive 77/93/EEC, it is not appropriate to apply the Community rules on the marketing of propagating material when it is shown that such material and plants are intended for export to third countries, as the rules applicable there may be different from those contained in this Directive;
- (7) Whereas the determination of plant health and quality standards for particular genus and species of ornamental plant requires lengthy and detailed technical and scientific consideration; whereas a procedure should accordingly be established for the determination of these standards;
- (8) Whereas in the first instance it is the responsibility of the suppliers of propagating material to ensure that their products fulfil the conditions laid down in this Directive;

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- (9) Whereas the competent authorities of the Member States, when carrying out controls and inspections, should ensure that suppliers fulfil those conditions;
- (10) Whereas Community control measures should be introduced to ensure uniform application in all the Member States of the standards laid down in this Directive;
- (11) Whereas it is in the interests of the purchasers of propagating material that the names of varieties or of groups of plants be known and that their identity be safeguarded;
- (12) Whereas the characteristics specific to the industry operating in the ornamental plant sector are a complicating factor; whereas, accordingly, the objective stated above can best be achieved either through common knowledge of the variety or, in the case of varieties or groups of plants, through the availability of a description drawn up and kept by the suppliers;
- (13) Whereas, in order to ensure the identity and orderly marketing of propagating material, Community rules must be laid down concerning the separation of lots and marking; whereas the labels should give the particulars needed both for official control and for the information of the grower;
- (14) Whereas rules should be established permitting, in the case of temporary supply difficulties, the marketing of propagating material subject to requirements less stringent than those contained in this Directive;
- (15) Whereas provisions should be made for authorising the marketing, within the Community, of propagating material produced in third countries, provided always it affords equivalent guarantees in all respects to propagating material produced in the Community and complying with Community rules;
- (16) Whereas, in order to harmonise technical methods of examination used in the Member States and to compare propagating material produced in the Community with those produced in third countries, comparative trials should be carried out to check compliance of propagating material with the requirements of this Directive;
- (17) Whereas, in order to facilitate the effective operation of this Directive, the Commission should be entrusted with the task of adopting measures for its implementation; whereas such measures should be adopted by a procedure involving close cooperation between the Commission and the Member States within a Standing Committee for Propagating Material of Ornamental Plants;
- (18) Whereas Council Directive 91/682/EEC of 19 December 1991 on the marketing of ornamental plant propagating material and ornamental plants⁽⁶⁾ established harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and ornamental plants which are healthy and of good quality;
- (19) Whereas Member States have experienced difficulties in the interpretation and transposition of the said Directive;

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- (20) Whereas the said Directive was considered to be suitable for inclusion in the SLIM Initiative (Simpler Legislation for the Internal Market) which was launched by the Commission in May 1996;
- (21) Whereas the Ornamental Plants SLIM team made various recommendations aimed at simplifying the said Directive; whereas those recommendations are contained in the Communication from the Commission to the Council and the European Parliament on the SLIM Initiative;
- (22) Whereas those recommendations related to the persons to be controlled by the said Directive, the species to be covered by that Directive, varietal authenticity, the interrelationship with Directive 77/93/EEC and third country equivalence;
- (23) Whereas, after consideration of those recommendations it is desirable to amend certain provisions of Directive 91/682/EEC; whereas given the number of such amendments, the said Directive should be recast in the interests of clarity,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

SCOPE

Article 1

1 This Directive shall apply to the marketing of propagating material of ornamental plants within the Community. This shall be without prejudice to the rules on protection of wild flora laid down by Regulation (EC) No 338/97, the rules on packaging and packaging waste laid down by Directive 94/62/EC of the European Parliament and of the Council⁽⁷⁾, or, save where otherwise provided for in this Directive or on the basis thereof, the plant health rules laid down by Directive 77/93/EEC.

2 This Directive shall not apply to:

- material shown to be intended for export to third countries, which is identified as such and is kept sufficiently isolated,
- material the products of which are not intended for ornamental purposes, if it is covered by other Community legislation on the marketing of such material.

3 In accordance with the procedure laid down in Article 17, it may be decided that some or all of the requirements of this Directive shall not apply in respect of seed of particular species or groups of plants, where intended for the production of further propagating material and where there is no significant connection between the quality of such seed and the quality of the material grown from it.

TITLE II

DEFINITIONS

Article 2

For the purpose of this Directive, the following definitions shall apply:

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1. ‘Propagating material’: plant material intended for:
 - the propagation of ornamental plants, or
 - the production of ornamental plants; however, in the case of production from complete plants, this definition applies only to the extent that the resulting ornamental plant is intended for further marketing.

‘Propagation’: reproduction by vegetative or other means.
2. ‘Supplier’: any natural or legal person engaged professionally in marketing or importing of propagating material.
3. ‘Marketing’: sale or delivery by a supplier to another person. ‘Sale’ includes holding available or in stock, display with a view to sale, offering for sale.
4. ‘Responsible official body’:
 - (a) an authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning quality;
 - (b) any State authority established:
 - either at national level, or
 - at regional level, under the supervision of national authorities, within the limits set by the constitution of the Member State concerned.

The bodies referred to above may, in accordance with their national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to any legal person, whether governed by public or by private law, which, under its officially approved constitution, is charged exclusively with specific public functions, provided that such person, and its members, has no personal interest in the outcome of the measures it takes.

Moreover, in accordance with the procedure laid down in Article 17, other legal persons established on behalf of the body referred to in point (a) and acting under the authority and supervision of such body may be approved, provided that such person has no personal interest in the outcome of the measures it takes.

Member States shall notify the Commission of their responsible official bodies. The Commission shall forward that information to the other Member States.

5. ‘Lot’: a number of units of a single commodity, identifiable by its homogeneity of composition and origin.

TITLE III

REQUIREMENTS TO BE MET BY PROPAGATING MATERIAL

Article 3

- 1 Suppliers may market propagating material only if it meets the requirements laid down in this Directive.
- 2 Paragraph 1 shall not apply to propagating material intended for:
 - a trials or scientific purposes,

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- b selection work, or
- c the conservation of genetic diversity.

3 Detailed rules for the application of paragraph 2 may be adopted in accordance with the procedure laid down in Article 17.

Article 4

Propagating material shall, where applicable, comply with the relevant plant health conditions laid down in Directive 77/93/EEC.

Article 5

1 Without prejudice to the provisions of Article 1 and Article 4, propagating material when marketed:

- shall at least on visual inspection, be substantially free from any harmful organisms impairing quality, or any signs or symptoms thereof, which reduce its usefulness,
- shall be substantially free of any defects likely to impair its quality as propagating material,
- shall have satisfactory vigour and dimensions in respect of its usefulness as propagating material,
- in the case of seeds, shall have satisfactory germination capacity,
- if marketed with reference to a variety pursuant to Article 9, shall have satisfactory varietal identity and purity.

2 Any propagating material which, on the basis of visible signs or symptoms, is not substantially free of harmful organisms, shall be properly treated or, where appropriate, shall be removed.

3 In the case of citrus material the following requirements shall also be met:

- a it shall be derived from initial material which has been checked and found to show no symptoms of any viruses, virus-like organisms or diseases;
- b it shall have been checked and found to be substantially free of such viruses, virus-like organisms or disease since the beginning of the last cycle of vegetation; and
- c in the case of grafting, it shall have been grafted onto rootstocks other than those susceptible to viroids.

4 In the case of flower bulbs the following requirement shall also be met:

- the propagating material shall be derived directly from material which, at the stage of the growing crop, has been checked and found to be substantially free from any harmful organisms and diseases, signs or symptoms thereof.

5 In accordance with the procedure laid down in Article 18, a schedule may be established for a particular genus or species, laying down additional conditions concerning the quality with which propagating material when marketed must comply. A genus or species shall only be included in the schedule if there is a demonstrated need for such additional rules. In determining such need the following criteria shall apply:

- the existence of problems with the quality of propagating material of the species or genus concerned, which can only be resolved satisfactorily through legislative means,
- the economic importance of propagating material of the species or genus concerned,
- consistency with any international standards on regulated non-quarantine pests.