

Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (Recast version)

CHAPTER 7

**CONTROL MEASURES**

*Article 13*

**Official inspection**

1 Member States shall ensure that propagating material and fruit plants are officially inspected during production and marketing to verify compliance with the requirements and conditions set out in this Directive. To this effect, the responsible official body shall have free access to all parts of premises of suppliers at all reasonable times.

2 The responsible official bodies 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 private law, which, under its officially approved statute, 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.

In accordance with the procedure referred to in Article 19(2), any other legal persons established on behalf of a responsible official body and acting under the authority and the 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.

3 Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure referred to in Article 19(2). These rules shall be proportionate to the category of material concerned.

*Article 14*

**Community monitoring**

1 Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that propagating material or fruit plants comply with the requirements and conditions of this Directive, including those relating to plant health. The Commission may organise inspections of the trials by representatives of the Member States and of the Commission.

2 Community comparative tests and trials may be carried out within the Community for the post-control of samples of propagating material or fruit plants placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- propagating material or fruit plants produced in third countries,
- propagating material or fruit plants suitable for organic farming,
- propagating material or fruit plants marketed in relation to measures for the conservation of genetic diversity.

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3 The comparative tests and trials referred to in paragraph 2 shall be used to harmonise the technical methods of examination of propagating material and fruit plants and to check satisfaction of the conditions with which the material must comply.

4 The Commission, acting in accordance with the procedure referred to in Article 19(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 19(2) 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.

5 The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

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

6 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 referred to in Article 19(2).

7 The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.

#### *Article 15*

### **Community checks in Member States**

1 Commission experts may, in cooperation with the responsible official bodies of the Member States, make on-the-spot checks in so far as this is necessary to ensure the uniform application of this Directive, and in particular to verify whether suppliers are in effect complying with the requirements of this Directive. A Member State in whose territory a check is being carried out shall give all necessary assistance to the experts in carrying out their duties. The Commission shall inform the Member States of the result of the investigations.

2 Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure referred to in Article 19(2).

#### *Article 16*

### **Follow-up actions by Member States**

1 Member States shall ensure that propagating material and fruit plants produced in their territory and intended for marketing comply with the requirements of this Directive.

2 If, during the official inspection referred to in Article 13, or the trials referred to in Article 14, it is found that propagating material or fruit plants do not meet the requirements of this Directive, the responsible official body of the Member State shall take appropriate action to ensure that they do comply with the provisions of this Directive or, if that is not possible, to ban the marketing of that propagating material or those fruit plants in the Community.

3 If it is found that propagating material or fruit plants marketed by a particular supplier do not comply with the requirements and conditions of this Directive, the Member State concerned shall ensure that appropriate measures are taken against that supplier. If the supplier

is forbidden to market propagating material and fruit plants, the Member State shall accordingly inform the Commission and the competent national bodies in the Member States.

4 Any measures taken under paragraph 3 shall be withdrawn as soon as it has been established with sufficient certainty that the propagating material or fruit plants intended for marketing by the supplier will, in the future, comply with the requirements and conditions of this Directive.