

DIRECTIVES

COMMISSION IMPLEMENTING DIRECTIVE (EU) 2021/415

of 8 March 2021

amending Council Directives 66/401/EEC and 66/402/EEC in order to adapt to the evolution of scientific and technical knowledge, taxonomic groups and names of certain species of seeds and weeds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, and in particular Article 2(1)(A)(a) and Article 21a thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed ⁽²⁾, and in particular Article 2(1)(A) and Article 21a thereof,

Whereas:

- (1) In the light of the development of scientific knowledge, the botanical names of hard fescue and of couch grass, as well as the botanical names of wheat, durum wheat, spelt wheat, sorghum and Sudan grass have been revised in accordance with the rules of the International Code of Nomenclature for algae, fungi, and plants.
- (2) The botanical name of hard fescue was revised since the name *Festuca trachyphylla* (Hack.) Hack. was published validly earlier than the name *Festuca trachyphylla* (Hack.) Krajina. *Elytrigia repens* as the botanical name of couch grass was not published validly. Instead, *Elymus repens* has been established as the valid botanical name of that species.
- (3) Genome- and phylogeny-based approaches to the taxonomy of *Triticum* species have confirmed that durum wheat and spelt wheat, previously considered independent species, are subspecies of other species. The previous botanical name of durum wheat, *Triticum durum* Desf., therefore has been revised and the new name is *Triticum turgidum* L. subsp. *durum* (Desf.) van Slageren. The botanical name of spelt wheat, *Triticum spelta* L., has been revised and now is *Triticum aestivum* L. subsp. *spelta* (L.) Thell. As a consequence of spelt wheat becoming a subspecies of wheat, the plant grouping previously named *Triticum aestivum* L. has been renamed *Triticum aestivum* L. subsp. *aestivum* in accordance with the rules of the International Code of Nomenclature for algae, fungi, and plants.
- (4) The previous botanical name of Sudan grass, *Sorghum sudanense* (Piper) Stapf, was not published validly and *Sorghum bicolor* (L.) Moench subsp. *drummondii* (Steud.) de Wet ex Davidse has been established as the valid botanical name of this plant grouping in accordance with the rules of the International Code of Nomenclature for algae, fungi, and plants. As a consequence of Sudan grass having the taxonomic rank of a subspecies of sorghum, the botanical name of sorghum, *Sorghum bicolor* (L.) Moench, has been revised in accordance with the rules of the International Code of Nomenclature for algae, fungi, and plants and now is *Sorghum bicolor* (L.) Moench subsp. *bicolor*.
- (5) Directives 66/401/EEC and 66/402/EEC should therefore be amended in order to reflect those changes.
- (6) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ 125, 11.7.1966, p. 2298.

⁽²⁾ OJ 125, 11.7.1966, p. 2309.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 66/401/EEC

Directive 66/401/EEC is amended as follows:

- (1) in Article 2(1)(A)(a), the 16th definition is replaced by the following:

' <i>Festuca trachyphylla</i> (Hack.) Hack.	Hard fescue'
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- (2) Annex II is amended in accordance with Part A of the Annex to this Directive.

Article 2

Amendments to Directive 66/402/EEC

Directive 66/402/EEC is amended as follows:

- (1) Article 2(1)(A) is amended as follows:

- (a) the eighth definition is replaced by the following:

' <i>Sorghum bicolor</i> (L.) Moench subsp. <i>bicolor</i>	Sorghum'
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- (b) the ninth definition is replaced by the following:

' <i>Sorghum bicolor</i> (L.) Moench subsp. <i>drummondii</i> (Steud.) de Wet ex Davidse	Sudan grass'
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- (c) the 11th definition is replaced by the following:

' <i>Triticum aestivum</i> L. subsp. <i>aestivum</i>	Wheat'
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- (d) the 12th definition is replaced by the following:

' <i>Triticum turgidum</i> L. subsp. <i>durum</i> (Desf.) van Slageren	Durum wheat'
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- (e) the 13th definition is replaced by the following:

' <i>Triticum aestivum</i> L. subsp. <i>spelta</i> (L.) Thell.	Spelt wheat'
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- (f) the 15th definition is replaced by the following:

' <i>Sorghum bicolor</i> (L.) Moench subsp. <i>bicolor</i> x <i>Sorghum bicolor</i> (L.) Moench subsp. <i>drummondii</i> (Steud.) de Wet ex Davidse	Hybrids resulting from the crossing of <i>Sorghum bicolor</i> (L.) Moench subsp. <i>bicolor</i> and <i>Sorghum bicolor</i> (L.) Moench subsp. <i>drummondii</i> (Steud.) de Wet ex Davidse'
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- (2) Annexes I, II and III are amended in accordance with Part B of the Annex to this Directive.

*Article 3***Transposition**

1. Member States shall adopt and publish, by 31 January 2022 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 February 2022.

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.

2. Member States shall communicate to the Commission the text of the main provisions of national law, which they adopt in the field covered by this Directive.

*Article 4***Entry into force**

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

*Article 5***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 8 March 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Part A – Amendments to Annex II to Directive 66/401/EEC

The heading of column 7 in the table in point I(2)(A), and the heading of column 5 in the table in point II(2)(A) are replaced by the following:

'*Elymus repens*'

Part B – Amendments to Annexes I, II and III to Directive 66/402/EEC

(1) Annex I is amended as follows:

(a) in point 2, footnote (*) to the table is replaced by the following:

'(*) In the areas where the presence of *S. halepense* or *S. bicolor* subsp. *drummondii* is a particular cross-pollination issue, the following shall apply:

- (a) crops to produce basic seed of *Sorghum bicolor* subsp. *bicolor* or its hybrids must be isolated not less than 800 m from any source of such contaminating pollen;
- (b) crops to produce certified seed of *Sorghum bicolor* subsp. *bicolor* or its hybrids must be isolated not less than 400 m from any source of such contaminating pollen.;

(b) point 5 is replaced by the following:

'5. Crops to produce certified seed of hybrids of *Avena nuda*, *Avena sativa*, *Avena strigosa*, *Oryza sativa*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta* and self-pollinating x*Triticosecale* and crops to produce certified seed of hybrids of *Hordeum vulgare* by means of a technique other than Cytoplasmic Male Sterility (CMS)

- (a) The crop shall conform to the following standards as regards distances from neighbouring sources of pollen which may result in undesirable foreign pollination:
 - the minimum distance of the female component shall be 25 m from any other variety of the same species except from a crop of the male component,
 - this distance can be disregarded if there is sufficient protection from any undesirable foreign pollination;
- (b) The crop shall have sufficient identity and purity as regards the characteristics of the components.

Where seed is produced by use of a chemical hybridisation agent, the crop shall conform to the following other standards or conditions:

- (i) the minimum varietal purity of each component shall be:
 - *Avena nuda*, *Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Oryza sativa*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum* and *Triticum aestivum* subsp. *spelta*: 99,7 %,
 - self-pollinating x*Triticosecale*: 99,0 %;
- (ii) the minimum hybridity must be 95 %. The percentage hybridity shall be assessed in accordance with current international methods, in so far as such methods exist. In cases where the hybridity is determined during seed testing prior to certification, the determination of the hybridity during field inspection need not be done.;

(c) point 7(B)(a) is replaced by the following:

'(a) for *Avena nuda*, *Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Oryza sativa*, *Phalaris canariensis*, x*Triticosecale*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta*, *Secale cereale*: one;'

(2) Annex II is amended as follows:

(a) point 1 is amended as follows:

(i) point (A) is replaced by the following:

'A. *Avena nuda*, *Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Oryza sativa*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta* other than hybrids in each case:

Category	Minimum varietal purity (%)
Basic seed	99,9
Certified seed, 1st generation	99,7
Certified seed, 2nd generation	99,0

The minimum varietal purity shall be examined mainly in field inspections carried out in accordance with the conditions laid down in Annex I.;

(ii) point (C) is replaced by the following:

'C. Hybrids of *Avena nuda*, *Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Oryza sativa*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta*, and self-pollinating x*Triticosecale*

The minimum varietal purity of the seed of the category certified seed shall be 90 %.

In case of *Hordeum vulgare* produced by means of CMS, it shall be 85 %. Impurities other than the restorer shall not exceed 2 %.

The minimum varietal purity shall be examined in official post-control test on an appropriate proportion of samples.;

(b) in the table of point 2(A), the entry in the third row of column 1 is replaced by the following:

'*Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta*:';

(3) in Annex III the table is amended as follows:

(i) in the third row in the first column, the entry is replaced by the following:

'*Avena sativa*, *Avena strigosa*, *Hordeum vulgare*, *Triticum aestivum* subsp. *aestivum*, *Triticum turgidum* subsp. *durum*, *Triticum aestivum* subsp. *spelta*, *Secale cereale*, x*Triticosecale*:';

(ii) in the sixth row in the first column, the entry is replaced by:

'*Sorghum bicolor* (L.) Moench subsp. *bicolor*:';

(iii) in the seventh row in the first column, the entry is replaced by:

'*Sorghum bicolor* (L.) Moench subsp. *drummondii* (Steud.) de Wet ex Davidse:';

(iv) in the eighth row in the first column, the entry is replaced by:

'Hybrids of *Sorghum bicolor* (L.) Moench subsp. *bicolor* x *Sorghum bicolor* (L.) Moench subsp. *drummondii* (Steud.) de Wet ex Davidse'.