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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 140

Adopted 22 February 2011

## **By-law of the Latvian Catalogue of Plant Varieties**

*Issued pursuant to  
Section 2, Clause 1, Sub-clause "b" of the Seed and Variety Circulation Law*

### **I. General Provisions**

1. This Regulation prescribes the procedures by which the Latvian Catalogue of Plant Varieties (hereinafter – Catalogue) shall be approved and the procedures by which a variety shall be included and maintained in the Catalogue or deleted therefrom, as well as the procedures for the storage and publication of information related to the creation of the Catalogue.
2. A variety shall be included in the Catalogue for 10 years following the year when the variety has been included in the Catalogue, if the requirements of this Regulation have been met.

### **II. Application for Inclusion of a Variety in the Catalogue**

3. An application for inclusion of a variety in the Catalogue (Annex) (hereinafter – application) shall be submitted to the State Plant Protection Service (hereinafter – Service) by one of the following persons (hereinafter – applicant):
  - 3.1. a breeder;
  - 3.2. a holder of the breeder's right – a natural person or legal person who has acquired the breeder's right;
  - 3.3. if the time period for protection of the variety has expired, a maintainer of the variety – a natural or legal person who ensures the maintenance of the variety in accordance with the Seed and Variety Circulation Law;
  - 3.4. an authorised representative of the breeder, holder of the breeder's right or maintainer of a variety (hereinafter – authorised representative).

4. If the assessment of the value for cultivation and use is performed for a variety in accordance with the regulatory enactments regarding circulation of seeds and varieties, the applicant shall submit an application to the Latvia University of Agriculture within the time period specified in the regulatory enactments regarding assessment of the value for cultivation and use of a plant variety.

*[24 July 2012]*

5. [24 July 2012]

6. [24 July 2012]

7. A variety test shall be performed in accordance with the regulatory enactments regarding a test of the distinctness, uniformity and stability of the variety. If the distinctness, uniformity and stability test of the variety (hereinafter – variety test) has not been performed for a variety, the applicant shall submit an application to the Service prior to performance of the variety test.

*[24 July 2012]*

8. The following documents shall be attached to the application referred to in Paragraph 3 of this Regulation:

8.1. an authorisation, if the application is submitted by an authorised representative;

8.2. information regarding the date of payment of the State fee;

8.3. if a variety test has been performed:

8.3.1. a report of the variety test;

8.3.2. a variety description issued by the institution which performed the variety test according to the methodology of the International Union for the Protection of New Varieties of Plants (hereinafter – UPOV) or an approved copy of the variety description;

8.4. if a variety test has not been performed – a technical questionnaire of the variety in accordance with the regulatory enactments regarding the distinctness, uniformity and stability test of the variety;

8.5. for a potato variety resistant to potato cyst nematode or potato wart disease – an attestation of the relevant institution regarding resistance of the variety to potato cyst nematode (with an indication regarding the relevant pathotype to which the variety is resistant) and regarding resistance to potato wart disease (with an indication regarding the race of the potato wart disease to which the variety is resistant).

9. If all the information referred to in Annex to this Regulation has been indicated in the application and the documents referred to in Paragraph 8 of this Regulation have been submitted, the Service shall, within 10 working days after receipt of the application, evaluate it and the documents attached thereto, take a decision on advancing of a variety for inclusion in the catalogue and inform the applicant thereof in writing within five working days after registration of the application.

10. If all the information referred to in Annex to this Regulation has not been indicated in the application or the documents referred to in Paragraph 8 of this Regulation have not been submitted, the Service shall, within seven working days after evaluation of the application, request in writing to submit the necessary information and documents. Information and documents shall be submitted within 20 working days.

11. If an applicant by the end of the time period referred to in Paragraph 10 of this Regulation has not eliminated the discrepancies, the Service shall, within five working days after the end

of the time period, take a decision to reject advancing of a variety for inclusion in the Catalogue and shall inform the applicant thereof in writing.

### **III. Examination of the Denomination of a Variety**

12. If an application is submitted regarding a variety, which has not been included by another state in the common variety catalogues of the European Union or the denomination of which has not been evaluated in compliance with the regulatory enactments regarding plant variety protection, the Service shall, within two weeks after receipt of a proposal of the applicant regarding the denomination of the variety, examine the conformity of the applied denomination of the variety with the requirements specified in Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (hereinafter – Regulation No 2100/94) and Commission Regulation No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of denominations of varieties of agricultural plant species and vegetable species (hereinafter – Regulation No 637/2009).

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13. If it has been ascertained in the examination referred to in Paragraph 12 of this Regulation that the denomination of the variety conforms to the requirements of Regulation No 2100/94 and Regulation No 637/2009, the Service shall, within a month after completion of the examination, publish the denomination of the variety in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia].

14. A person who has been granted earlier rights to an equivalent or similar name of the trade mark may, within three months after publication of the denomination of the variety, submit objections to the Service against the published denomination of the variety.

15. If an objection has been submitted to the Service in accordance with Paragraph 14 of this Regulation against the published denomination of the variety, the Service shall:

15.1. within two weeks after receipt of the objection, examine the conformity of the objection with the requirements of Regulation No 2100/94 and Regulation No 637/2009;

15.2. inform the applicant regarding the objection received and the decision of the Service in relation to the objection.

16. If the Service recognises that the denomination of the variety does not conform to the requirements of Regulation No 2100/94 and Regulation No 637/2009, it shall, within five days after termination of the examination referred to in Sub-paragraph 15.1 of this Regulation, request the applicant to provide a proposal regarding a new denomination of the variety within two weeks in writing.

17. If the Service recognises that the denomination of the variety conforms to the requirements of Regulation No 2100/94 and Regulation No 637/2009, it shall take a relevant decision and inform the applicant thereof within five working days.

18. If it is detected after inclusion of a variety in the Catalogue that due to any new fact the denomination of the variety cannot be recognised in accordance with the requirements of Regulation No 2100/94 and Regulation No 637/2009, the Service shall:

18.1. request the applicant to submit a proposal regarding a new denomination of the variety within a month;

18.2. verify the conformity of the denomination of the variety with the requirements of Chapter III of this Regulation;

18.3. indicate the previous denomination in the Catalogue next to the new denomination of the variety for two years.

#### **IV. Assessment of Value for Cultivation and Use of the Variety**

19. The value for cultivation and use of the variety shall be assessed for the species specified in the regulatory enactments regarding circulation of seeds and varieties prior to inclusion thereof in the Catalogue in accordance with the regulatory enactments regarding assessment of the value for cultivation and use of a plant variety. Assessment of the value for cultivation and use of the variety shall be started within 12 months after receipt of an application.

*[24 July 2012]*

20. Results of the assessment of the value for cultivation and use of the variety shall be deemed positive:

20.1. if the total assessment of the value for cultivation and use (in points), including yield and winter hardiness in accordance with the variety assessment criteria specified in the regulatory enactments regarding assessment of the value for cultivation and use of a plant variety, is equal with the relevant assessment of the standard variety or exceeds it;

20.2. if some criteria for the assessment of the value for cultivation and use exceed the relevant criteria of the standard variety (to be assessed in cases if the total assessment of the value for cultivation and use of the variety (in points) is lower than the assessment of the standard variety) and they are of the essence to cultivation or use of cultivated yield (not taking into account some lower indicators);

20.3. the intervals during assessment of the value for cultivation and use of the variety do not exceed one assessment year.

*[24 July 2012]*

20.<sup>1</sup> If the standard variety of the relevant cultivated plant has not been specified (for example, there is no variety in the Catalogue), however, the properties of the variety are adequate for cultivation in agro-climatic conditions of Latvia, the results of the assessment of the value for cultivation and use of the variety shall be recognised positive.

*[24 July 2012]*

21. If it is intended to sell seeds of a variety in such European Union Member State, which has already included the variety in the variety catalogue thereof, the value for cultivation and use of the variety need not be assessed.

22. If the National Plant Variety Council, on the basis of the results of the assessment of the value for cultivation and use of the variety, provides a proposal to prohibit the cultivation of the relevant variety in Latvia or provides a proposal to cultivate it, complying with some mandatory conditions in order to prevent harm to cultivation of other varieties and species (for example, if during all trial years the variety presents poor winter hardiness or such vegetation period that plants do not achieve full maturity under the conditions of Latvia), the Service shall, within two months, evaluate the potential harm and, after co-ordination with the Ministry of Agriculture, send an application to the European Commission so that it would allow the state to take a decision on prohibition to cultivate the relevant variety in the State territory.

## **V. Variety Assessment in the National Plant Variety Council and Expert Groups Thereof**

23. After receipt of the results of the assessment of the value for cultivation and use of the variety indicated in the regulatory enactments regarding assessment of the value for cultivation and use of a plant variety the Service shall aggregate the information obtained and, by 15 January of the subsequent year, send to the expert groups of the National Plant Variety Council (hereinafter – expert groups):

23.1. the results of the assessment of the value for cultivation and use of the variety in comparison with the standard variety according to years and trial sites;

23.2. information regarding the variety test.

*[24 July 2012]*

24. In accordance with Paragraph 23 of this Regulation the Service shall submit results of the assessment of the value for cultivation and use to expert groups only regarding such varieties, which conform to the following criteria:

24.1. an application has been submitted;

24.2. a variety test has been completed, and the variety has been recognised as distinct, uniform and stable;

24.3. the cycle of the assessment of the value for cultivation and use of the variety has been completed in accordance with the regulatory enactments regarding assessment of the value for cultivation and use of a plant variety;

24.4. *[24 July 2012]*.

*[24 July 2012]*

25. Two weeks prior to a meeting of the expert group, in which the issue regarding inclusion of the relevant variety in the Catalogue will be examined, the Service shall send the applicant information regarding the time and place of the meeting. The applicant has the right to participate in the meeting.

26. The expert groups shall, within two weeks after receipt of the information referred to in Paragraph 23 of this Regulation, evaluate it and in accordance with the conditions referred to in Paragraph 20 and Sub-paragraph 23.2 of this Regulation provide proposals to the National Plant Variety Council regarding inclusion of varieties in the Catalogue and regarding indicators characterising the variety.

27. The National Plant Variety Council shall, within two weeks after receipt of the proposal of the expert group, evaluate it and provide proposals to the Service regarding inclusion of varieties in the Catalogue and indicators characterising the variety.

## **VI. Inclusion of a Variety in the Catalogue**

28. If the results of the variety test and the assessment of the value for cultivation and use of the variety (if such are necessary in accordance with the regulatory enactments regarding circulation of seeds and varieties) are positive, the applied denomination of the variety conforms to the requirements referred to in Paragraph 12 of this Regulation and the National Plant Variety Council has expressed a proposal to include the variety in the Catalogue, the Service shall, within 10 working days, take a decision on inclusion of the variety in the Catalogue and regarding the indicators characterising the variety. The Service shall, within five working days, inform the applicant regarding the decision taken.

29. Genetically modified varieties shall be included in the Catalogue only if a permit for the distribution thereof on the market has been issued in accordance with the regulatory enactments regarding circulation of genetically modified organisms. If it is intended to make products for use in food or fodder from the derived material of the variety containing genetically modified organisms, the variety shall conform to the requirements specified in the regulatory enactments regarding circulation of genetically modified organisms.

30. If a variety (inbred line, hybrid) is used only as a component for the creation of a hybrid, the variety shall be included in the Catalogue with the denomination assigned by the applicant and it shall be indicated that it is a component variety.

31. Vegetable varieties, the seed of which are examined only as the standard seed, shall be indicated in the Catalogue in a separate chapter.

32. The Service shall prepare a separate file for each variety, regarding which an application has been submitted. The file shall include at least the following documents:

32.1. an application;

32.2. the variety description referred to in Sub-paragraph 8.3.2 of this Regulation (not required for vegetable standard seed);

32.3. the results of the variety test and of the assessment of the value for cultivation and use of the variety ;

32.4. a decision on inclusion of the variety in the Catalogue.

33. The Catalogue shall be inserted on the website of the Service.

## **VII. Maintenance of a Variety in the Catalogue and Extension of the Term of Maintenance**

34. In order to maintain a variety in the catalogue, the applicant shall:

34.1. provide information to the Service regarding any changes related to the information referred to in the application (within a month after changes are made);

34.2. upon the request of the Service, submit to the Service the original seed sample in accordance with the regulatory enactments regarding the distinctness, uniformity and stability test of the variety;

34.3. each year by 31 January, notify the Service in writing or in electronic form regarding the date of payment of the State fee for the maintenance of the variety in the Catalogue in the current year.

35. The maintenance of a variety included in the Catalogue in accordance with the generally accepted practice shall be ensured by the maintainer of the variety.

36. The Service has the right to inspect the variety maintenance scheme of the maintainer of the variety, as well as documentation in accordance with the regulatory enactments regarding circulation of seeds and varieties.

37. The term referred to in Paragraph 2 of this Regulation shall be extended if:

37.1. the applicant submits the following to the Service not later than two years prior to the end of the term:

37.1.1. an application regarding the necessity to extend the term for a specific time period, indicating the areas where the variety is cultivated;

37.1.2. information regarding the date when the State fee for extension of the term of maintenance of the variety in the Catalogue was paid;

37.2. the variety is still distinct, uniform and stable (for example, data attesting to the opposite have not been obtained in post-control, field inspection or from the breeder or maintainer of the variety).

38. If the application referred to in Sub-paragraph 37.1.1 of this Regulation has been submitted, the Service shall inform the National Plant Variety Council thereof every six months.

39. After receipt of the information referred to in Paragraph 38 of this Regulation the National Plant Variety Council shall evaluate it in a current meeting and provide proposals to the Service regarding extension of the term referred to in Paragraph 2 of this Regulation.

40. After receipt of the proposal of the National Plant Variety Council the Service shall, within five working days, take a decision on extension of the term referred to in Paragraph 2 of this Regulation and shall notify the applicant thereof within three working days. The term may be extended for a period of time referred to in Paragraph 2 of this Regulation.

### **VIII. Deletion of a Variety from the Catalogue**

41. The Service shall delete a variety from the Catalogue if:

41.1. data that the variety is not distinct, uniform and stable anymore has been obtained from the breeder, maintainer of the variety or in a repeated variety test;

41.2. the term by which the variety is included in the Catalogue has expired;

41.3. it is requested by the applicant, except cases when maintenance of the variety is taking place.

42. The Service may request the applicant to perform a repeated variety test, if for two successive years all seed batches of pre-base and base category of the relevant variety tested in post-control do not conform to the variety identity in accordance with the regulatory enactments regarding seed growing and marketing of seeds.

43. The Service may take a decision on deletion of a variety from the Catalogue if:

43.1. the requirements referred to in Sub-paragraph 34.1 of this Regulation have not been met;

43.2. a decision to include the variety in the Catalogue has been taken on the basis of false or unfounded data;

43.3. in accordance with Sub-paragraph 34.2 of this Regulation the original seed sample has not been submitted within one year after request of the Service;

43.4. in accordance with Sub-paragraph 34.2 of this Regulation the State fee for the maintenance of the variety in the Catalogue has not been paid within a year.

44. After establishment of the facts referred to in Paragraph 42 or 43 of this Regulation the Service shall, within a month, submit information to the National Plant Variety Council regarding the necessity to delete a variety from the Catalogue and shall inform the applicant thereof.

45. The National Plant Variety Council shall, within a month, evaluate the information submitted and provide proposals to the Service regarding deletion of the variety from the Catalogue.

46. The Service shall, within two weeks after receipt of the proposal of the National Plant Variety Council, take a decision on a repeated variety test or on the case referred to in

Paragraph 43 of this Regulation in relation to deletion of the variety from the Catalogue and shall, within five working days, inform the applicant thereof in writing.

47. The Service shall keep the application, the documents attached thereto, as well as the justification for inclusion of the variety in the Catalogue for five years after deletion of the relevant variety from the Catalogue.

48. After taking of the decision on deletion of the variety from the Catalogue until 30 June of the third year it shall be allowed to:

48.1. perform certification of the seed of the relevant variety, for vegetable varieties – also the test of the standard seed; and

48.2. market the seed of the variety.

49. If any State institution has established that any of the varieties included in the common variety catalogue of the European Union may cause harm to the cultivation of other varieties or species, cause risk to the environment or human health in the state:

49.1. it shall inform the Service and the Ministry of Agriculture regarding the situation;

49.2. the Service shall, within a month, evaluate the potential harm and provide a proposal to the Ministry of Agriculture regarding submitting and application to the European Commission so that it would grant a permission for the state to take a decision to prohibit the marketing of the seed of the relevant variety in the state territory;

49.3. the Service shall, after co-ordination with the Ministry of Agriculture, send the European Commission the application referred to in Sub-paragraph 49.2 of this Regulation;

49.4. if there is a real threat that harmful organisms may spread or human health or environment may be endangered, the Service may take the decision referred to in Sub-paragraph 49.2 of this Regulation concurrently with sending of the relevant application and determine that the term of operation thereof is until receipt of an answer from the European Commission regarding granting the permission.

## **IX. Inclusion of Varieties in the Common Variety Catalogues of the European Union**

50. The Service shall, within a month after receipt of an application or revocation of an application, send information to the European Commission and the competent authorities of the European Union Member States.

51. The Service shall, within a month after taking of a decision on inclusion of a variety in the Catalogue or on amendments to the Catalogue, send the information to the European Commission and the competent authorities of the European Union Member States.

52. The Service shall, within a month, send information to the European Commission and the competent authorities of the European Union Member States regarding each variety, regarding which a decision has been taken to include it in the Catalogue. The referred to information shall include data regarding the indicators characterising the variety referred to in the Common Catalogue of Varieties of Agricultural Plant Species of the European Union and the Common Catalogue of Varieties of Vegetable Species of the European Union. The referred to information shall not be provided regarding varieties (inbred lines, hybrids), which are intended as components for the final variety.

53. Upon the request of the Commission and the competent authorities of other European Union Member States the Service shall:

53.1. send the information referred to in Paragraph 32 of this Regulation regarding the variety, which has been included in the Catalogue or deleted therefrom, containing an indication “Limited availability”;

53.2. notify the special features, by which the variety may be distinguished from other similar varieties.

## **X. Closing Provision**

54. Cabinet Regulation No. 182 of 15 April 2003, *By-law regarding the Latvian Catalogue of Plant Varieties (Latvijas Vēstnesis, 2003, No. 60; 2005, No. 131; 2006, No. 75; 2007, No. 117, 174; 2008, No. 174; 2009, No. 203)*, is repealed.

## **Informative Reference to the European Union Directives**

This Regulation contains legal norms arising from:

- 1) Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species; and
- 2) Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed.

Prime Minister

V. Dombrovskis

Minister for Agriculture

J. Dūklavs

**Information to be Included in the Application for Inclusion of a Variety in the Latvian  
Catalogue of Plant Varieties**  
*[24 July 2012]*

1. Botanical denomination of the plant species in Latin.
2. Denomination of the plant species in Latvian.
3. Proposal for the denomination of the variety (if it has not been recognised) and breeder's reference (if any).
4. Information regarding the applicant:
  - 4.1. for a legal person – name, legal address, registration number in the Enterprise Register or Commercial Register;
  - 4.2. for a natural person – given name, surname, personal identity number, address of the place of residence.
5. Type of the applicant – breeder, holder of the breeder's right, maintainer of a variety (for varieties that do not have a breeder), authorised representative of the breeder, holder of the breeder's right, maintainer of a variety.
6. For a protected variety – information regarding the holder of the breeder's right:
  - 6.1. for a legal person – name, legal address, registration number in the Enterprise Register or Commercial Register;
  - 6.2. for a natural person – given name, surname, personal identity number, address of the place of residence.
7. Information regarding the breeder:
  - 7.1. for a legal person – name, registration number in the Enterprise Register or Commercial Register;
  - 7.2. for a natural person – given name, surname, personal identity number.
8. Information regarding the maintainer of a variety:
  - 8.1. for a legal person – name, registration number in the Enterprise Register or Commercial Register;
  - 8.2. for a natural person – given name, surname, personal identity number.
9. Expanded denomination of the plant variety in Latin, specifying the genus, species, subspecies, variety.
10. Synonyms of the denomination of the variety (if any), using which seeds are marketed in another country.
11. State in which the variety was bred.

12. Information regarding applications for inclusion of the variety in national catalogues of other countries and granting of the breeder's right in other member states of the International Union for the Protection of New Varieties of Plants (UPOV) (application, date of submission, registration number of the application, date when the variety was included in the Catalogue and (or) the date when the breeder's right was granted, country, denomination of the variety, patent).

13. Test of distinctness, uniformity and stability (when and where it has been completed, is taking place or will take place).

14. Information regarding whether the variety has been genetically modified.

15. Information regarding such indicators characterising the variety, which are referred to in the Common Catalogue of Varieties of Agricultural Plant Species of the European Union and the Common Catalogue of Varieties of Vegetable Species of the European Union (for example, for cereal crop – winter crop or spring crop form, for barley – number of ear rows, for fodder herbaceous plants – type of use (for fodder or lawn), for flax – oil or fibre output, note whether the variety is a hybrid, and hybrid type).

16. Information regarding whether the variety has been applied for inclusion in the Latvian Catalogue of Plant Varieties:

16.1. in conventional farming;

16.2. in organic farming;

16.3. [24 July 2012]

17. [24 July 2012]

18. Date when the State fee was paid.

19. List of the documents attached to the application:

19.1. a technical questionnaire of a variety description;

19.2. a variety description;

19.3. a report of the variety test;

19.4. an authorisation (if the application is submitted by an authorised representative);

19.5. information regarding numbers and denominations (if any) of initial components of the variety, origin types of the variety.

20. [24 July 2012]

21. Date, signature and seal.

Note. Details of the document “signature”, “date” and “place for a seal” shall not be completed if the electronic document has been drawn up in conformity with the regulatory enactments regarding the drawing up of electronic documents.

Minister for Agriculture

J. Dūklavs