

Statutory Instrument 2002 No. 1478

The Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2002

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STATUTORY INSTRUMENTS

2002 No. 1478

PLANT HEALTH

The Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2002

<i>Made</i>	<i>6th June 2002</i>
<i>Laid before Parliament</i>	<i>6th June 2002</i>
<i>Coming into force</i>	<i>27th June 2002</i>

The Forestry Commissioners, in exercise of the powers conferred on them by sections 2, 3(1), (2)(b) and (4) of the Plant Health Act 1967^[1], hereby make the following Order:

Title and commencement

1. This Order may be cited as the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2002 and shall come into force on 27th June 2002.

Interpretation

2. - (1) In this Order -

(a)

- "inspector" means any person authorised to be an inspector for the purposes of the

principal Order;

- "origin" means in respect of susceptible material, the place where the material is grown or produced, and "originating" shall be construed accordingly;
- a reference in respect of susceptible material to the place where material is produced shall be construed as referring to "the place of production" of that material as defined in the principal Order;
- "the principal Order" means the Plant Health (Forestry) (Great Britain) Order 1993^[2];
- "susceptible material" means the trees, bark or wood described in the first column of the Schedule; and

(b) the following words have the meaning given them in the principal Order -

- Customs Act
- Great Britain
- Growing medium
- Isolated bark
- Land, landed and landing
- Phytosanitary certificate
- Reforwarding phytosanitary certificate
- Seed
- Soil
- Tree
- Tree in tissue culture
- Wood.

(2) Unless otherwise stated, a reference in this Order to a numbered article refers to the article so numbered in this Order; a reference to a paragraph refers to a paragraph in the article in which the reference appears; and references to "the Schedule" refer to the Schedule to this Order.

Landing susceptible material from the USA

3. - (1) This article does not apply to susceptible material consigned directly to Great Britain from another member State, the Channel Islands, the Isle of Man or from elsewhere in the United Kingdom.

(2) Except under the authority of a licence granted by virtue of article 5 -

(a) no person shall land in Great Britain susceptible material originating in the USA unless the susceptible material meets such conditions of landing as are specified in the second column of the Schedule; and

(b) no person acting in the course of a trade or business shall move or keep any susceptible material landed in breach of paragraph (a).

(3) Susceptible material landed in breach of paragraph (2) shall be prohibited within the meaning of the Customs Act^[3].

Provisions as to phytosanitary certificates and reforwarding phytosanitary certificates

4. - (1) The provisions of this article apply where a phytosanitary certificate or re-forwarding phytosanitary certificate is required by virtue only of this Order to accompany susceptible material landed in Great Britain.

(2) Subject to paragraph (3), a phytosanitary certificate required under this Order may be issued in a country other than the country of origin to the extent that any condition of landing specified in the Schedule can be fulfilled at a place other than in the country of origin.

(3) Where, after a phytosanitary certificate has been issued in respect of susceptible material the subject of this Order, the consignment to which that certificate relates has been stored, repacked or split up in a country other than that in which the certificate was issued, the consignment shall be accompanied by a reforwarding phytosanitary certificate issued in that other country which meets the requirements of this Order.

(4) The provisions of articles 12(1) to (5), (6) and (7) and 13 of the principal Order shall apply in respect of any phytosanitary certificate or reforwarding phytosanitary certificate required under this Order as if the susceptible material the subject of this Order were the "relevant material" referred to in article 12 of the principal Order.

Application of provisions in the principal Order for licences for scientific research purposes

5. - (1) The provisions of article 28A ("article 28A") of the principal Order (Licences for trial or scientific purposes and for work on varietal selection) shall apply in respect of the landing, movement and keeping of susceptible material originating in the USA (other than that consigned to Great Britain from another member State, the Channel Islands, the Isle of Man or elsewhere in the United Kingdom) which does not fulfil the conditions of landing specified in the Schedule as if the susceptible material were "relevant material" the landing, movement or keeping of which would, but for a licence granted under article 28A, be prohibited under that Order.

(2) Any licence granted under article 28A by virtue of this article shall be treated as if the licence had been granted under the principal Order, and the provisions of the principal Order (including article 24 (Examination, sampling and marking) and 31(1)(a) and (b) (Offences)) shall apply accordingly.

Powers of an inspector

6. - (1) An inspector may, for the purposes of checking compliance with article 3, exercise the powers conferred by article 24 of the principal Order as if checking compliance with the principal Order.

(2) Any power conferred by article 24 of the principal Order (as read with article 27 of that Order) which is exercised by virtue of this article shall be treated as if that power had been exercised under the principal Order, and the provisions of the principal Order (including article 31(1)(a) and (c) and (5) (Offences)) shall apply accordingly.

Offences

7. - (1) A person shall be guilty of an offence if, without reasonable excuse, proof of

which shall lie on him, he contravenes or fails to comply with article 3(2)(b).

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

In witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed

on 6th June 2002.

L.S.

Frank Strang
Secretary to the Forestry Commissioners

SCHEDULE

Article 3

<i>Susceptible material</i>	<i>Conditions of landing</i>
1. Trees (other than fruit or seeds) with leaves, of^[4]: • <i>Acer macrophyllum</i> • <i>Aesculus californica</i> • <i>Lithocarpus densiflorus</i> 2. Trees (other than trees with leaves) of: • <i>Acer macrophyllum</i> • <i>Aesculus californica</i>	(a) A phytosanitary certificate or re-forwarding phytosanitary certificate ("the certificate") must accompany the susceptible material; (b) the certificate must contain a declaration that the material originates in an area recognised by the official plant health service of the country from which the material originates as being free from <i>Phytophthora ramorum</i>; and (c) the name of the area from where the material originates must be specified on the certificate under the heading "place of origin".

• <i>Lithocarpus densiflorus</i> • <i>Quercus</i> L. (all species) 3. Isolated bark^[5] of: • <i>Acer macrophyllum</i> • <i>Aesculus californica</i> • <i>Lithocarpus densiflorus</i>	
4. Wood including wood which has not kept its natural round surface of^[6]: • <i>Acer macrophyllum</i> • <i>Aesculus californica</i> • <i>Lithocarpus densiflorus</i>	(1) The same conditions as apply for items 1, 2 and 3 in column 1 above must be met; or (2) in the case of wood which does not satisfy those conditions, and without prejudice to article 3(1) of the principal Order and Schedule 2, Part A, Schedule 3, and Schedule 4, Part A of the principal Order, the wood must be • stripped of its bark; • accompanied by a phytosanitary certificate or reforwarding phytosanitary certificate ("the certificate"); and • meet one of the following conditions: (a) the wood shall be squared so as to remove entirely the rounded surface; (b) the certificate shall contain a declaration that the moisture content of the wood does not exceed 20% expressed as a percentage of dry matter; or (c) the certificate shall contain a declaration that the wood has been disinfected by an appropriate hot-air or hot-water treatment; or in the case of sawn wood (whether or not residual bark remains attached to the wood after the bark stripping process) there shall be evidence by a mark "kiln-dried", "K.D." or another internationally recognised mark, put on the wood or its packaging in accordance with current commercial usage, that it has undergone kiln-drying to below 20% moisture content, expressed as a percentage of dry

	matter, at time of manufacture, achieved through an appropriate time/temperature schedule.
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements measures to prevent the introduction and spread into Great Britain of the pest *Phytophthora ramorum*, a fungus which is not established in the United Kingdom. It regulates the landing and movement in and within Great Britain of forest trees and wood and bark from forest trees originating in the United States of America which has been identified as susceptible to the pest, known to cause Sudden Oak Death syndrome in certain species of oak, as well as harm to other plants. There are associated plant health Orders in England, Scotland and Wales also taking measures against *Phytophthora ramorum*.

The species identified as "susceptible material" in various forms (as scheduled) are *Acer macrophyllum*, *Aesculus californica*, *Lithocarpus densiflorus* and the genus *Quercus* L. Certain prohibitions already exist in respect of certain *Quercus* species in specific forms under the principal order (see the footnotes to the Schedule), which is defined in article 2.

This Order requires susceptible material which originates in the USA and is landed in Great Britain to be accompanied by a phytosanitary certificate or reforwarding phytosanitary certificate containing a declaration that the material originates in a location which is officially recognised in the USA as free from the pest (article 3(2)(a)). In the case of certain wood material, items which originate from an area which is not free from the pest may be imported if certain treatment requirements are met (article 3(2)(a), and see the Schedule for the details of the treatment requirements). The landing requirements do not apply to items which enter another member State or elsewhere in the United Kingdom or Channel Islands or Isle of Man before being moved to Great Britain, but they do apply to consignments from other countries outside the EU if the susceptible material the subject of the consignment originates in the USA.

This Order also prohibits the movement and keeping of susceptible material which has been imported in breach of its terms. This prohibition applies only to those doing so in the course of a trade or business (article 3(2)(b)).

For purposes of scientific research, licences may be issued by the Forestry Commissioners under the principal Order to authorise the landing, movement and keeping of susceptible material which would otherwise be prohibited under this Order (article 5).

The landing requirements and provisions relating to licensing in this Order apply whether a person is acting in the course of a trade or business or not.

An inspector acting under this Order may exercise powers to check compliance (by examining, sampling and marking property and/or premises) conferred by article 24 of the principal Order ("article 24 powers"), including powers to inspect documents, including documents and records held on computer (article 6). Any article 24 power exercised under this Order has the same effect as if exercised under the relevant article of the principal Order so that once that power is exercised, the relevant consequential provisions of the principal Order, including provisions as to offences, take effect.

In the absence of a reasonable excuse, it is an offence under this Order to keep or move susceptible material which has been imported in breach of the Order (article 7). (Importation infringements may be prosecuted under the Customs & Excise Management Act 1979.) Failure to observe the conditions of a licence issued by virtue of this Order may constitute an offence under the terms of the principal Order (article 5(2)).

No Regulatory Appraisal has been prepared in respect of the measures contained in this Order.

Notes:

[1] 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8; section 2 was amended by the Customs and Excise Management Act 1979 (c. 2); section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48). Section 1(2) of the Plant Health Act 1967 defines "competent authorities" for the purposes of the Act.[back](#)

[2] S.I. 1993/1283, amended by S.I. 1994/3094, 1995/1989, 1996/751, 1998/2206 and 3109, 2001/2995, 2002/295 and 927.[back](#)

[3] Note that sections 49 and 50 of the Customs and Excise Management Act 1979 (c. 2) provide respectively for forfeiture of goods improperly imported and penalties for improper importation of goods.[back](#)

[4] Note that it is already prohibited to land in Great Britain from any non-European country trees with leaves (excluding fruit and seeds) of the fourth genera of forest tree identified as susceptible to the pest *Phytophthora ramorum*, that is, *Quercus* L. - see article 3(1)(c) of the principal Order, and Schedule 3, item 2.[back](#)

[5] The landing of isolated bark of *Quercus* L. (except the species *Quercus suber*) which originates in North American countries is prohibited under article 3(1)(c) and Schedule 3, item 6 of the principal Order.[back](#)

[6] The landing of wood of this description of the genera *Quercus* L. originating in North American countries is controlled under article 3(2) and Schedule 4, Part A, item 25 of the principal Order.[back](#)

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