

Statutory Instrument 2002 No. 2589

The Plant Health (Forestry) ("Phytophthora ramorum") (Great Britain) (No. 2) Order 2002

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STATUTORY INSTRUMENTS

2002 No. 2589

PLANT HEALTH

The Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) (No. 2) Order 2002

<i>Made</i>	<i>15th October 2002</i>
<i>Laid before Parliament</i>	<i>15th October 2002</i>
<i>Coming into force</i>	<i>5th November 2002</i>

The Forestry Commissioners, in exercise of the powers conferred on them by sections 2, 3(1), (2)(b), (3) 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) (No. 2) Order 2002 and shall come into force on 5th November 2002.

Interpretation

2. 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;

"other susceptible plant material" means plants of:

Arbutus menziesii Pursh.

Arctostaphylos spp. Adans

Heteromeles arbutifolia (Lindley) M. Roemer

Lonicera hispidula (Lindl.) Dougl. ex Torr. & Gray

Rhamnus californica Esch.

Rhododendron spp. L., other than *Rhododendron simsii* Planch.

Umbellularia californica (Hook & Arn) Nutt.

Vaccinium ovatum Pursh.

Viburnum spp. L.

"*Phytophthora ramorum*" refers to the pest *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov;

"the principal Order" means the Plant Health (Forestry) (Great Britain) Order 1993^[2];

"susceptible bark" means isolated bark of *Acer macrophyllum* Pursh., *Aesculus californica* Nutt., *Lithocarpus densiflorus* (H & A) and *Quercus suber*;

"susceptible material" means susceptible bark, susceptible trees and susceptible wood;

"susceptible tree" means a tree described in the first column of the Schedule, but excludes the fruit or seed of such a tree;

"susceptible wood" means the 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

forestry trader

Great Britain

growing medium

isolated bark

land, landed and landing

phytosanitary certificate

plant passport

reforwarding phytosanitary certificate

seed

soil

third country

tree

tree in tissue culture

wood.

Prohibition against the introduction and spread of *Phytophthora ramorum* into and within Great Britain

3. Subject to article 10, no person shall -

- (a) introduce *Phytophthora ramorum* into Great Britain; or
- (b) spread *Phytophthora ramorum* within Great Britain.

Landing susceptible material originating in the United States of America

4. - (1) Subject to article 6, no person shall land^[3] in Great Britain a susceptible tree originating in the United States of America ("USA") unless it is accompanied by a phytosanitary certificate issued in accordance with the relevant requirements of the Schedule, or a certified copy in the case of material for which a reforwarding certificate has also been issued.

(2) Subject to article 6, no person shall land in Great Britain susceptible wood originating in the USA unless it is accompanied by a phytosanitary certificate issued in accordance with the relevant requirements of the Schedule.

(3) No person shall land in Great Britain any susceptible tree or susceptible wood originating in the USA unless he has notified an inspector in writing of his intention to land that relevant material and of the proposed point of entry and means of its introduction at least three days before the intended date of landing.

(4) No person shall land in Great Britain susceptible bark originating in the USA.

Movement of susceptible trees

5. Subject to article 6 below, in respect of a susceptible tree originating in the USA which has been landed in Great Britain, no person shall move that susceptible tree from the premises to which it was consigned -

- (a) to another member State;
- (b) to another part of the United Kingdom;

(c) to the Isle of Man or the Channel Islands; or

(d) within Great Britain

unless it is accompanied by a plant passport.

Exemptions from the requirements of articles 4 and 5

6. The requirements of article 4(1) to (3) and article 5 shall not apply to susceptible trees or susceptible wood originating in the USA which is despatched to the European Community from the USA before 5th November 2002.

Plant passports

7. - (1) The provisions of article 18 and Schedule 8 of the principal Order shall apply in respect of a plant passport required under article 5 of this Order.

(2) A forestry trader:

(a) who holds the authority of the Commissioners to issue plant passports pursuant to article 17 of the principal Order may issue a plant passport required under this Order; or

(b) who does not hold the authority referred to in sub-paragraph (a) may apply to the Commissioners for such authority as if -

(i) he were applying under article 17 of the principal Order; and

(ii) *Phytophthora ramorum* were a relevant organism within the meaning of the principal Order.

(3) A forestry trader seeking authority to issue plant passports pursuant to paragraph 2(b) who is not listed in the register of forestry traders pursuant to articles 14 to 16 of the principal Order shall apply to the Commissioners for listing in the register as if applying under the principal Order, and the Commissioners shall treat the application as if the controls in this Order were controls of the principal Order.

Phytosanitary certificates

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

Phytosanitary certificates or plant passports issued outside of Great Britain

9. Any phytosanitary certificate or plant passport issued for the purposes of this Order by or with the authority of an official plant health service of a third country, member State or another part of the United Kingdom, the Channel Islands or Isle of Man shall be deemed to have been issued in accordance with the relevant requirements of the Schedule.

Licences for scientific or research purposes

10. The provisions of 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 *Phytophthora ramorum* which would otherwise be prohibited under this Order as if the pest were a tree pest which, but for a licence granted under the principal Order, would be prohibited.

Powers of an inspector

11. An inspector may, for the purposes of checking compliance with this Order or with the terms of a licence granted under article 10, exercise the powers conferred by article 24 of the principal Order (subject to article 27 of that Order) as if checking compliance with the principal Order.

Offences

12. - (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 articles 3(b) and 5.

(2) A person shall be guilty of an offence if, for the purpose of procuring the authority to issue a plant passport under this Order, he:

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material information.

(3) A person shall be guilty of an offence if he dishonestly issues a false plant passport under this Order.

(4) A person shall be guilty of an offence if he dishonestly alters a plant passport affixed to susceptible material or re-uses a plant passport for susceptible material not the material for which the plant passport was issued.

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

Revocation and saving

13. - (1) Subject to paragraph 2 below, the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2002^[4] ("the first *Phytophthora ramorum* Order") is revoked.

(2) Article 3 of the first *Phytophthora ramorum* Order shall apply in respect of susceptible material (as defined in article 2 of and in the Schedule to the first *Phytophthora ramorum* Order) which is despatched from the USA before 5th November 2002 and which enters Great Britain on or after 5th November 2002.

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

15th October 2002.

L.S.

Frank Strang
Secretary to the Forestry Commissioners

SCHEDULE

article 4

<i>Susceptible material</i>	<i>Requirements in respect of the issue of a phytosanitary certificate ("the certificate") referred to in article 4</i>
<i>Susceptible trees</i> 1. Trees of[5]: - <i>Acer macrophyllum</i> Pursh. - <i>Aesculus californica</i> Nutt. - <i>Lithocarpus densiflorus</i> (H & A) 2. Trees (other than trees with leaves) of: - <i>Acer macrophyllum</i> Pursh. - <i>Aesculus californica</i> Nutt. - <i>Lithocarpus densiflorus</i> (H & A) - <i>Quercus</i>, L. (all species)	Either: (a) The certificate shall contain an additional declaration that the material originates in an area recognised by the official plant health service of the country from which the material originates ("the relevant plant health service" in this Schedule) as being free from non-European isolates of <i>Phytophthora ramorum</i>, in which case the name of the area from where the material originates shall be specified under "place of origin"; or (b) the certificate shall be issued only after official verification by the relevant plant health service that: (i) upon official inspections carried out during the last complete cycle of vegetation of the susceptible material the subject of the certificate, or upon laboratory testing of apparent symptoms of non-European isolates of <i>Phytophthora ramorum</i>, no signs of non-European isolates of <i>Phytophthora ramorum</i> have been found on susceptible material or other susceptible plant material at the place of production; and (ii) representative samples of the plants have been taken before shipment, and have been tested and found free from non-European isolates of <i>Phytophthora ramorum</i> in these tests, in which case the certificate shall be endorsed by the relevant plant health service under the heading "additional declaration" with the statement "tested and found free from non-European isolates of <i>Phytophthora ramorum</i>".
<i>Susceptible wood</i> 3. Wood of: - <i>Acer macrophyllum</i> Pursh. - <i>Aesculus californica</i> Nutt.	One of the following alternatives is satisfied: (a) The certificate shall contain an additional declaration that the material originates in an area recognised by the relevant plant health service as being free from non-European isolates of <i>Phytophthora ramorum</i>, in which case the name of the area from where the material originates shall be specified under "place of origin"; (b) the certificate shall be issued only after official verification by the relevant plant health service that the wood has been stripped of its bark, and that at least one of the following applies:

- <i>Lithocarpus densiflorus</i> (H & A)	(i) that it has been squared so as to remove entirely the rounded surface; (ii) that the moisture content of the wood does not exceed 20% (expressed as a percentage of the dry matter); or (iii) that the wood has been disinfected by an appropriate hot-air or hot-water treatment; or (c) in addition to the issue of a certificate, in the case of sawn wood with or without residual bark attached, there is evidence by a mark "Kiln-dried", "KD" or another internationally recognised mark put on the wood or on its packaging in accordance with current commercial usage, and it has undergone kiln-drying to below 20% moisture content (expressed as a percentage of dry matter) at the time of manufacture, achieved through an appropriate time/temperature schedule.
4. Wood of all species of <i>Quercus</i> L.	Without prejudice to the requirements of item 25, Schedule 4, Part A, of the principal Order, if the material originates in an area recognised by the relevant plant health service as being free from non-European isolates of <i>Phytophthora ramorum</i>, the certificate shall contain an additional declaration to that effect and the name of the area from where the material originates shall be specified under "place of origin".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements Commission Decision 2002/757/EC of 19th September 2002 (OJ L. 252, 20.9.2002, p. 37) in Great Britain insofar as it relates to forest trees, wood and bark. It revokes the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2002 (SI 2002/1478) (article 13).

The Order prohibits the introduction and spread of the plant pest, *Phytophthora ramorum*, a fungus identified as causing Sudden Oak Death syndrome in species of oak in the USA and harm to other species of plants (article 3).

It imposes landing controls on plants and wood of four species of forest tree, *Acer macrophyllum* Pursh., *Aesculus californica* Nutt., *Lithocarpus densiflorus* (H & A) and *Quercus* L. Plant material and wood of this description which originates in the USA and is despatched to the EC after 5th November 2002 must be accompanied by a phytosanitary certificate issued in compliance with the various requirements of the Schedule (article 4 and the Schedule). Imports of such material must be notified to an inspector at least three days before landing. The Order extends the ban in the principal Order on imports of isolated bark of *Quercus* to the other susceptible species.

The Order also imposes a requirement for imports from the USA of such susceptible trees to be accompanied by a plant passport when moving within Great Britain or to another part of

the UK, or elsewhere in the EC, including the Channel Islands and Isle of Man.

Such material despatched from the USA before 5th November 2002 is not subject to this Order (article 6), but the controls of the revoked Forestry *Phytophthora ramorum* Order will continue to apply to such material despatched from the USA before 5th November 2002 and which enters Great Britain after 5th November 2002 (article 13).

There is provision (article 10) for licensed importation, movement and keeping of the prohibited pest for research purposes.

Inspectors' enforcement powers are provided for in article 11, and offences similar to those created in the principal Order are created in respect of the production of plant passports pursuant to this Order. Offences are also created in respect of the spread of the pest and compliance with the key provisions of the Order (article 12).

No regulatory impact assessment has been undertaken in respect of the measures 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] 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] SI 2002/1478[back](#)

[5] By article 3(1)(c) of the principal Order, and Schedule 3, item 2, it is prohibited to land in Great Britain from any non-European country trees with leaves (excluding fruit and seeds) of *Quercus* L.[back](#)

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