

**2009 No. 594**

**PLANT HEALTH**

**The Plant Health (Forestry) (Amendment) Order 2009**

*Made* - - - - *11th March 2009*

*Laid before Parliament* *11th March 2009*

*Coming into force* - - *1st April 2009*

The Forestry Commissioners make this Order in exercise of the powers conferred by sections 2(1) and 3(1) of the Plant Health Act 1967(a) and paragraph 1A of Schedule 2 to the European Communities Act 1972(b).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(c) and it appears to the Commissioners that it is expedient for the references in the following Order to Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster)(d) to be construed as references to that instrument as amended from time to time.

**Title and commencement**

1. This Order may be cited as the Plant Health (Forestry) (Amendment) Order 2009 and comes into force on 1st April 2009.

**Amendments to the Plant Health (Forestry) Order 2005**

2.—(1) The Plant Health (Forestry) Order 2005(e) is amended as follows.

(2) In article 2(1)

(a) for the definition of “the Directive” substitute—

““the Directive” means Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;”(f); and

(b) after the definition of “Decision 2007/433/EC”(g) insert—

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(a) 1967 c. 8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8. The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2), as regards the protection of forest trees and timber from attack by pests, as the Forestry Commissioners.

(b) 1972 c. 68.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(d) OJ No L 300, 11.11.2008, p 36.

(e) S.I. 2005/2517, amended by S.I. 2006/2696 and 2008/644.

(f) OJ No L 169, 10.7.2000, p 1, as last amended by Commission Directive 2009/7/EC, OJ No L 40, 11.2.2009, p 12.

(g) The definition of “Decision 2007/433/EC” was inserted by S.I. 2008/644, article 2(2).

“Decision 2008/840/EC” means Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster), as amended from time to time;”.

(3) In Schedule 1, in the section “Insects, mites and nematodes”—

- (a) after item 1 insert “1a *Anoplophora chinensis* (Forster), the Citrus Longhorn Beetle”; and
- (b) after item 4 insert “4za *Dendrolimus sibiricus* Tschetverikov, the Siberian Coniferous Silk Moth”.

(4) In Part A of Schedule 2—

(a) after item 2 insert—

“2a. Trees intended for planting, other than trees in tissue culture and seeds, of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and the USA *Agrilus planipennis* Fairmaire, the Emerald Ash Borer”;

(b) after item 12 insert—

“13 Trees of *Ulmus* L. and *Zelkova* L., intended for planting, other than seeds *Stegophora ulmea* (Schweinitz: Fries) Sydow & Sydow, Elm Black Spot”.

(5) In Part A of Schedule 4—

(a) for the text in column (3) of item 8 substitute—

“The wood packaging material shall:

- (a) from 1st July 2009, be free from bark with the exception of any number of individual pieces of bark if they are either less than 3 cm in width (regardless of the length) or, if greater than 3 centimetres in width, of not more than 50 square centimetres in area;
- (b) be subject to one of the approved treatments as specified in Annex I to ISPM No. 15; and
- (c) display a mark as specified in Annex II to ISPM No. 15, indicating that the wood packaging material has been subjected to an approved phytosanitary treatment”;

(b) after item 10 insert—

“10a Wood of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., other than in the form of

- (i) chips, obtained in whole or part from these trees,
- (ii) wood packaging material, in the form of packing cases, boxes, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, actually in use in the transport of objects of all kinds,
- (ii) wood used to wedge or support non-wood cargo, but including wood which has not kept its natural round surface, originating in Canada, China, Japan, Mongolia, Republic of

The wood shall be accompanied by an official statement that the wood:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire; or
- (b) is squared so as to remove entirely the rounded surface”;

Korea, Russia, Taiwan or the USA

(c) after item 14 insert—

“14a Isolated bark of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and the USA

The bark shall be accompanied by an official statement that the consignment:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire; or
- (b) has been processed into pieces of not more than 2.5 cm thickness and width”;

(d) after item 16 insert—

“16a Wood in the form of chips obtained in whole or part from *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA

The wood shall be accompanied by an official statement that it:

- (a) originates in an area established by the national plant protection organisation in the country of export as being free from *Agrilus planipennis* Fairmaire; or
- (b) has been processed into pieces of not more than 2.5 cm thickness and width”;

(e) for the text in column (3) of item 17 substitute—

“The dunnage shall:

- (a) from 1st July 2009, be free from bark with the exception of any number of individual pieces of bark if they are either less than 3 cm in width (regardless of the length) or, if greater than 3 centimetres in width, of not more than 50 square centimetres in area;
- (b) be subject to one of the approved treatments as specified in Annex I to ISPM No. 15; and
- (c) display a mark as specified in Annex II to ISPM No. 15, indicating that the wood has been subjected to an approved phytosanitary treatment”;

(f) after item 19 insert—

“19a Trees of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., intended for planting, other than seeds and plants in tissue culture originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA

The trees shall be accompanied by an official statement that they:

- (a) have been grown throughout their life in an area free from *Agrilus planipennis* Fairmaire, established by the national plant protection organisation in accordance with ISPM No. 4; or
- (b) have, for a period of at least two years prior to export, been grown in a place of production where no signs of *Agrilus planipennis* Fairmaire have been observed during two official inspections per year carried out at appropriate times, including immediately prior to export”;

(g) after item 32 add—

“33 Trees of specified plants listed in Decision 2008/840/EC intended for planting, originating in any third country where *Anoplophora chinensis* (Forster) is known to occur

Without prejudice to the requirements in Schedule 4, Part A, items 22 to 29, 31 and 32, the trees shall be accompanied by an official statement certifying that the requirements of paragraph (a) or (b) of point 1 of Part I of the Annex I to Decision 2008/840/EC have been met”.

(6) In Part B of Schedule 4—

(a) in item 5b,(a) for the text in column (2) substitute—

“Trees, other than seeds, of *Quercus* L., intended for planting, over 2 metres in height”;

(b) after item 5b insert—

“5c. Trees, other than seeds, of *Quercus* L., intended for planting, not more than 2 metres in height

Without prejudice to the requirements in items 5 and 7, the trees shall be accompanied by an official statement that—

(a) they have been grown in a nursery; and

(b) they have been inspected, at appropriate times, and no symptoms of *Thaumetopoea processionea* (L.) have been observed on the trees at the place of production since the beginning of the last complete cycle of vegetation”;

(c) after item 7 add—

“8. Trees of specified plants listed in Decision 2008/840/EC intended for planting, originating in an area from time to time demarcated under Article 5 of Decision 2008/840/EC

The trees shall be accompanied by an official statement certifying that the requirements of paragraphs (i), (ii) and, as the case may be, (iii) (b) of point 1 of Part II of the Annex I to Decision 2008/840/EC have been met”.

(7) In Part A of Schedule 5—

(a) for item 3 substitute—

“3. Isolated bark of—

- (a) conifers (Coniferales), originating in any country outside Europe;
- (b) *Acer saccharum* Marsh., *Populus* L. or *Quercus* L. other than *Quercus suber* L.; or
- (c) *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA.”;

(b) for items 4(a)(iv) and (v) substitute—

- “(iv) *Acer saccharum* Marsh., including wood which has not kept its natural round surface, originating in the USA or Canada;
- (v) Conifers (Coniferales), including wood which has not kept its natural round surface, originating in any country outside Europe, Kazakhstan, Russia or Turkey; or
- (vi) *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., including wood which has not kept its natural round surface, originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA; and”.

(8) In Part A of Schedule 6 and Part A of Schedule 7, after item 4(b) insert—

“4a. Trees of specified plants listed in Decision 2008/840/EC intended for planting, originating in any third country where *Anoplophora chinensis* (Forster) is known to occur or in an area from time to time demarcated under Article 5 of Decision 2008/840/EC”.

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(a) Item 5b was inserted by S.I. 2008/644, art. 2(5)(b).

(b) Item 4 was inserted by S.I. 2008/644, art. 2(7)(b).

11th March 2009

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) (“the principal Order”) so as to implement

—Commission Directive 2009/7/EC amending Annexes I, II, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ No L 40, 11.2.2009, p 12);

—Commission Directive 2008/109/EC amending Annex IV to Council Directive 2000/29/EC (OJ No L 319, 29.11.2008, p 68);

—Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster) (OJ No L 300, 11.11.2008, p 36); and

—amendments to emergency measures to prevent the introduction and spread of *Thaumetopoea processionea* (L.), introduced by S.I. 2008/644.

The Order amends Schedules 1, 2, 4, 5, 6 and 7 to the principal Order so as to apply new restrictions on the introduction into Great Britain of certain forest products (trees, wood, wood packaging material and bark) and tree pests so as to prevent the introduction into and spread within Great Britain of, in particular, the following tree pests: *Anoplophora chinensis* (Forster) (Citrus Longhorn Beetle), *Dendrolimus sibiricus* Tschetverikov (the Siberian Coniferous Silk Moth), *Agrilus planipennis* Fairmaire (the Emerald Ash Borer) and *Stegophora ulmea* (Schweinitz: Fries) Sydow & Sydow (Elm Black Spot) and *Thaumetopoea processionea* (L.) (the Oak Processionary Moth).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£4.00