

2007 No. 2155

PLANT HEALTH, ENGLAND

**The Plant Health (*Phytophthora ramorum*) (England)
(Amendment) Order 2007**

<i>Made</i> - - - -	<i>21st July 2007</i>
<i>Laid before Parliament</i>	<i>25th July 2007</i>
<i>Coming into force</i> - -	<i>15th August 2007</i>

The Secretary of State makes the following Order in exercise of the powers conferred by sections 2 and 3(1), (2), (3) and (4) of the Plant Health Act 1967(a), now vested in him(b):

Title and commencement

1. This Order may be cited as the Plant Health (*Phytophthora ramorum*) (England) (Amendment) Order 2007 and comes into force on 15th August 2007.

Amendments to the Plant Health (*Phytophthora ramorum*) (England) Order 2004

2.—(1) The Plant Health (*Phytophthora ramorum*) (England) Order 2004(c) is amended as follows.

(2) In article 2 (interpretation), in the definition of “plant passport”, insert “of the principal Order” after “Schedule 9”.

(3) In article 6 (movement of susceptible material originating in England and elsewhere in the European Community or Switzerland), in paragraph (2), for “from its place of production” substitute “within the European Community”.

(4) In article 15 (offences)—

(a) for sub-paragraph (a) of paragraph (1) substitute—

“(a) subject to paragraph (1A), he contravenes or fails to comply with article 3, 4, 5(1), 6, 7(1) or (3), 8(1) or 11(1);”;

(a) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48).
(b) Under the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. Under article 2(1) and (2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), the remaining functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were transferred to the Secretary of State.
(c) S.I. 2004/2590.

(b) after paragraph (1), insert—

“(1A) Paragraph (1)(a) shall not apply where an article of any description is landed in Great Britain in contravention of a prohibition in this Order.”(a)

(5) For Schedule 1, substitute—

“SCHEDULE 1

Articles 4(1)(a) and 10(1)

<i>Susceptible material</i>	<i>Requirements to be met in respect of the issuing of any phytosanitary certificate accompanying susceptible material (“the certificate”)</i>
<i>Acer macrophyllum</i> Pursh. <i>Acer pseudoplatanus</i> L. <i>Adiantum aleuticum</i> (Rupr.) Paris <i>Adiantum jordanii</i> C. Muell. <i>Aesculus californica</i> (Spach) Nutt. <i>Aesculus hippocastanum</i> L. <i>Arbutus menziesii</i> Pursch. <i>Arbutus unedo</i> L. <i>Arctostaphylos</i> spp. Adans <i>Calluna vulgaris</i> (L.) Hull <i>Camellia</i> spp. L. <i>Castanea sativa</i> Mill. <i>Fagus sylvatica</i> L. <i>Frangula californica</i> (Eschsch.) Gray <i>Frangula purshiana</i> (DC.) Cooper <i>Fraxinus excelsior</i> L. <i>Griselinia littoralis</i> (Raoul) <i>Hamamelis virginiana</i> L. <i>Heteromeles arbutifolia</i> (Lindley) M. Roemer <i>Kalmia latifolia</i> L. <i>Laurus nobilis</i> L. <i>Leucothoe</i> spp. D. Don <i>Lithocarpus densiflorus</i> (Hook. & Arn.) Rehd. <i>Lonicera hispidula</i> (Lindl.) Dougl. ex Torr. & Gray <i>Magnolia</i> spp. L. <i>Michelia doltsopa</i> Buch.-Ham. ex DC <i>Nothofagus obliqua</i> (Mirbel) Blume <i>Osmanthus heterophyllus</i> (G. Don) P. S. Green <i>Parrotia persica</i> (DC) C.A. Meyer <i>Photinia x fraseri</i> Dress <i>Pieris</i> spp. D. Don <i>Pseudotsuga menziesii</i> (Mirbel) Franco <i>Quercus</i> spp. L. <i>Rhododendron</i> spp. L., other than <i>Rhododendron simsii</i> Planch. <i>Rosa gymnocarpa</i> Nutt. <i>Salix caprea</i> L. <i>Sequoia sempervirens</i> (Lamb. ex D. Don) Endl.	(a) Either— (i) 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”) 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 (ii) the certificate shall be issued only after official verification by the relevant plant health service that 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 any susceptible tree at the place of production; and (b) the certificate shall be issued only after 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> ”.

(a) 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.

Syringa vulgaris L.
Taxus spp. L.
Trientalis latifolia (Hook)
Umbellularia californica (Hook. & Arn.) Nutt.
Vaccinium ovatum Pursh
Viburnum spp. L.

- (6) In the second column of Schedule 2—
- (a) in paragraph (b), for “once” substitute “twice”; and
 - (b) in paragraph (c)—
 - (i) in sub-paragraph (i), after “other susceptible material” insert “, including associated growing media and plant debris,”;
 - (ii) omit “and” immediately after sub-paragraph (ii); and
 - (iii) at the end of paragraph (iii) add—
 - “; and
 - (iv) appropriate phytosanitary measures have been taken within a radius of two metres from where infected plants have been standing”.

21st July 2007

Jeff Rooker
Minister of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (*Phytophthora ramorum*) (England) Order 2004 (S.I. 2004/2590) (“the Order”) so as to implement Commission Decision 2007/201/EC amending Decision 2002/757/EC on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov (O.J. No. L 90, 30.3.2007, p. 83) and to make other minor changes. The principal changes made are—

- (a) amendment of the list of susceptible material to which the Order applies (article 2(5));
- (b) introduction of additional requirements on movement of susceptible material in Schedule 2 to the Order, in particular that appropriate phytosanitary measures be taken within a radius of two metres from where infected plants have been standing.

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

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