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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 342**

**PLANT HEALTH**

**The Plant Health (Scotland) Amendment (No. 2) Order 2010**

*Made* - - - - *23rd September*  
*2010*  
*Laid before the Scottish*  
*Parliament* - - - - *27th September 2010*  
*Coming into force* - - *5th November 2010*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967(1), as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(2), and all other powers enabling them to do so.

This Order makes provision for preventing the introduction and spread of pests in Scotland and is called for by EU obligations in Decision 2008/840/EC(3) on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster).

**Citation and commencement** **S**

1. This Order may be cited as the Plant Health (Scotland) Amendment (No. 2) Order 2010 and comes into force on 5th November 2010.

**Commencement Information**

**II** [Art. 1](#) in force at 5.11.2010, see [art. 1](#)

**Amendments to the Plant Health (Scotland) Order 2005** **S**

2. The Plant Health (Scotland) Order 2005(4) is amended in accordance with articles 3 to 5.

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- (1) 1967 c.8. Sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 8. Section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c.48) and further amended by section 17(1) of the Criminal Justice Act 1991 (c.53) and the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and Schedule 1, Part XIV. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (2) 1972 c.62.
- (3) O.J. L 300, 11.11.2008, p.36; as amended by Decision 2010/380/EU (O.J. L 174, 9.7.2010, p.46).
- (4) S.S.I. 2005/613, amended by S.S.I. 2006/474, 2007/415 and 498, 2008/300 and 350, 2009/153 and 2010/206.

**Status:** Point in time view as at 05/11/2010.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Scotland) Amendment (No. 2) Order 2010. (See end of Document for details)

#### Commencement Information

**I2** [Art. 2](#) in force at 5.11.2010, see [art. 1](#)

#### Amendment of article 5, 19 and 43 **S**

**3.** In article 5, paragraph (1)(d) (prohibitions and restrictions on landing plant pests and relevant material), article 19, paragraph (1)(d) (prohibitions on landing plant pests and relevant material) and article 43, paragraph (2)(c) (notification of the likely entry into, or presence in, a free zone of plant pests or relevant material), after “the reference to that relevant material” in each place where it occurs insert—

“to the extent (if any) specified in column 3.”.

#### Commencement Information

**I3** [Art. 3](#) in force at 5.11.2010, see [art. 1](#)

#### Amendment of Schedule 3 **S**

**4.** In Schedule 3 (relevant material which may not be landed in Scotland if that material originates in certain third countries), after item 15 insert—

“16	Plants, other than seeds, of <i>Acer</i> spp.	China. This prohibition applies to the landing of relevant material on or before 30th April 2012.”
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#### Commencement Information

**I4** [Art. 4](#) in force at 5.11.2010, see [art. 1](#)

#### Amendment of Schedule 4 **S**

**5.** In Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material), Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied), for item 81(5) substitute—

“81.	Plants, other than seeds, of <i>Acer</i> spp., <i>Aesculus hippocastanum</i> , <i>Alnus</i> spp., <i>Betula</i> spp., <i>Carpinus</i> spp., <i>Citrus</i> spp., <i>Corylus</i> spp., <i>Cotoneaster</i> spp., <i>Fagus</i> spp., <i>Lagerstroemia</i> spp., <i>Malus</i> spp., <i>Platanus</i> spp., <i>Populus</i> spp., <i>Prunus</i> spp., <i>Pyrus</i> spp., <i>Salix</i> spp., and <i>Ulmus</i> spp., intended for planting,	Without prejudice to the requirements in Schedule 3, items 4, 12 and 14 and Schedule 4, Part A, items 11, 12, 19, 20, 22, 23, 27, 28, 29, 30, 48, 50, 51, 52, 55, 60, 61, 64, 65 and 70 the plants shall be accompanied by an official statement— (a) that the plants have been grown throughout
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(5) Item 81 was inserted by [S.S.I. 2008/350](#), article 6(1)(b).

originating in any third country where *Anoplophora chinensis* (Forster) is known to occur.

their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin and situated in a pest-free area established by that organisation in accordance with ISPM No. 4 (the name of the pest-free area to be mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the rubric “Place of origin”); or

- (b) that—
- (i) the plants have been grown during a period of at least two years prior to export in a place of production, which is registered and supervised by the national plant protection organisation in the country of origin, established as free from *Anoplophora chinensis* (Forster) in accordance with ISPM No. 10 and which has been subjected annually to at least two official inspections for any signs of *Anoplophora chinensis* (Forster) carried out at appropriate times and no signs of the organism have been found;
  - (ii) the plants have been grown in a site—



been subjected to an official meticulous inspection for the presence of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants—

(aa) which, in the case of plants originating in any third country other than China, includes targeted destructive sampling, with the size of the sample being such as to enable at least the detection of 1% level of infestation with a level of confidence of 99%; or

(bb) which, in the case of plants originating in China, includes targeted destructive sampling on each lot, with the size of the sample for inspection being such as to enable at least the

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		<p>detection of 1% level of infestation with a level of confidence of 99%; and</p> <p>(c) which, in the case of plants originating in China, states the registration number of the place of production and that place of production complies with the requirements specified in article 2a(1) (c) of Commission Decision <a href="#">2008/840/EC</a> of 7th November 2008 on emergency measures to prevent the introduction into and the spread within the Community of <i>Anoplophora chinensis</i> (Forster)(<a href="#">6</a>), as amended by Commission Decision 2010/380/EU of 7th July 2010(<a href="#">7</a>).”</p>
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#### Commencement Information

**I5** [Art. 5](#) in force at 5.11.2010, see [art. 1](#)

St Andrew's House,  
Edinburgh

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

(6) O.J. L 300, 11.11.2008, p.36.

(7) O.J. L 174, 9.7.2010, p.46.

## EXPLANATORY NOTE

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

This Order amends the Plant Health (Scotland) Order 2005 ([S.S.I. 2005/613](#)) (“the principal Order”) to implement certain import restrictions on plants, other than seeds, of certain species, intended for planting, originating in any third country to prevent the introduction into Scotland of *Anoplophora chinensis* (Forster) (the citrus longhorn beetle).

This Order implements Commission Decision [2008/840/EC](#) of 7th November 2008 on emergency measures to prevent the introduction into and spread within the Community of *Anoplophora chinensis* (Forster) (O.J. L 300, 11.11.2008, p.36) and Commission Decision 2010/380/EU of 7th July 2010 amending Decision [2008/840/EC](#) as regards emergency measures to prevent the introduction into and spread within the Community of *Anoplophora chinensis* (Forster) (O.J. L 174, 9.7.2010, p.46).

In particular Article 4 amends Schedule 3 to the principal Order to prohibit the import on or before 30th April 2012 of plants of *Acer* spp., originating from China.

Article 5 amends Schedule 4 to the principal Order to prohibit imports of certain plant species originating in any third country where *Anoplophora chinensis* (Forster) is known to occur unless certain conditions are met. In the case of those plant species originating in China, certain additional conditions require to be met.

It is an offence under the principal Order to contravene these requirements and Part 6 of the principal Order provides plant health inspectors with general enforcement powers.

A Regulatory Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

**Status:**

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**Changes to legislation:**

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