

**2007 No. 416**

**PLANT HEALTH**

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

<i>Made</i>	- - - -	<i>5th September 2007</i>
<i>Laid before the Scottish Parliament</i>		<i>6th September 2007</i>
<i>Coming into force</i>	- -	<i>30th September 2007</i>

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

**Citation and commencement**

1. This Order may be cited as the Plant Health (*Phytophthora ramorum*) (Scotland) Amendment Order 2007 and comes into force on 30th September 2007.

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

2. The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004(c) is amended in accordance with articles 3 to 6.

**Amendment of article 5 (movement of susceptible material originating in the USA or any other third country)**

3. In article 5(1), in the final line omit the words after “plant passport”.

**Amendment of article 6 (movement of susceptible material originating in Scotland and elsewhere in the European Community or Switzerland)**

4. In article 6(2), for “from its place of production” substitute “within the European Community”.

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(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) 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).

(b) 1972 c.62.

(c) S.S.I. 2004/488.

## Amendment of article 15 (offences)

5. In article 15 (offences)–

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

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

(b) after paragraph (1), insert–

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

## Amendment of Schedules 1 and 2

6.—(1) For Schedule 1, substitute–

### “SCHEDULE 1

Articles 4(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.	(a) Either–
<i>Acer pseudoplatanus</i> L.	
<i>Adiantum aleuticum</i> (Rupr.) Paris	(i) the certificate must 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 must be specified under “place of origin”; or
<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.	(ii) the certificate must 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
<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.	

(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.

<i>Susceptible material</i>	<i>Requirements to be met in respect of the issuing of any phytosanitary certificate accompanying susceptible material (“the certificate”)</i>
Green	susceptible material or any susceptible tree at the place of production; and  (b) the certificate must 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 must 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>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.	
<i>Syringa vulgaris</i> L.	
<i>Taxus</i> spp. L.	
<i>Trientalis latifolia</i> (Hook)	
<i>Umbellularia californica</i> (Hook. & Arn.) Nutt.	
<i>Vaccinium ovatum</i> Pursh	
<i>Viburnum</i> spp. L	

(2) 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 sub-paragraph (iii) add–  
“; and
  - (iv) appropriate phytosanitary measures have been taken within a radius of two metres from where infected plants have been standing”.

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
5th September 2007

## EXPLANATORY NOTE

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

This Order amends the Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004 (S.S.I. 2004/488) (“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 6(1));
- (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 (article 6(2)).

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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