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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**

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**

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*Status: Point in time view as at 15/11/2012.*

*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**

**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**

<sup>F1</sup>**4.** .....

**F1** [Art. 4](#) revoked (15.11.2012) by [The Plant Health \(Scotland\) Amendment Order 2012 \(revoked\) 2012 \(S.S.I. 2012/266\)](#), arts. 1, **14(c)**

**Amendment of Schedule 4**

<sup>F2</sup>**5.** .....

**F2** [Art. 5](#) revoked (15.11.2012) by [The Plant Health \(Scotland\) Amendment Order 2012 \(revoked\) 2012 \(S.S.I. 2012/266\)](#), arts. 1, **14(c)**

St Andrew’s House,  
Edinburgh

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

## 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:**

Point in time view as at 15/11/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the The Plant Health (Scotland) Amendment (No. 2) Order 2010.