

**2007 No. 2950**

**PLANT HEALTH, ENGLAND**

**The Plant Health (England) (Amendment) (No. 2) Order 2007**

*Made* - - - - *9th October 2007*

*Laid before Parliament* *11th October 2007*

*Coming into force* - - *1st November 2007*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967(a), now vested in him(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 Secretary of State that it is expedient for the references in the following Order to certain Decisions to be construed as references to those instruments as amended from time to time:

**Title, commencement, extent and application**

1. This Order—

- (a) may be cited as the Plant Health (England) (Amendment) (No. 2) Order 2007;
- (b) comes into force on 1st November 2007; and
- (c) extends to England and Wales but only applies in England.

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

2. The Plant Health (England) Order 2005(d) is amended as follows.

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- (a) 1967 c. 8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8.
  - (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. These functions were transferred from the National Assembly for Wales to the Welsh Ministers under section 162 of, and paragraph 30(1) and (2) of Schedule 11 to, the Government of Wales Act 2006 (c. 32). 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) 1972 c. 68. Schedule 2, paragraph 1A, inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28, provides for the inclusion in subordinate legislation of references to European Community instruments as references to those instruments as amended from time to time.
  - (d) S.I. 2005/2530, amended by S.I. 2006/2307 and S.I. 2007/1893.

**Prevention of the introduction into and spread within the European Community of *Rhynchophorus ferrugineus* (Olivier)**

3.—(1) In article 2(1), at the appropriate place insert ““Decision 2007/365/EC” means Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier)(a), as amended from time to time;”.

(2) In Part A of Schedule 1, after item 34 of “Insects, mites and nematodes” add—

“35. *Rhynchophorus ferrugineus* (Olivier)”.

(3) In Part A of Schedule 4, after item 57 insert—

“57a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC originating in any third country	Without prejudice to the requirements in item 57, the plants, including those collected from natural habitats, shall be accompanied by an official statement that the plants meet the requirements of paragraph (a), (b) or (c) of point 1 of the Annex to Decision 2007/365/EC”.
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(4) In Part B of Schedule 4, after item 6 insert—

“6a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC originating in any third country	The plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b), (c) or (d) of point 2 of the Annex to Decision 2007/365/EC”.
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(5) In Part A of Schedule 5, Part A of Schedule 6 and Part A of Schedule 7, after item 1 insert—

“1a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC.”.

**Prevention of the introduction into and spread within the European Community of *Gibberella circinata* Nirenberg & O'Donnell**

4.—(1) In article 2(1), at the appropriate place insert ““Decision 2007/433/EC” means Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell(b), as amended from time to time;”.

(2) In Part A of Schedule 1, after item 17 of “Fungi” add—

“18. *Gibberella circinata* Nirenberg & O'Donnell”.

(3) In Part A of Schedule 4, after item 2 insert—

“2a. Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC, originating in any third country	Without prejudice to the requirements in items 1, 2 and 3, the plants shall be accompanied by an official statement that—  (a) they originate in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and
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(a) OJ No. L 139, 31.5.2007, p. 24.

(b) OJ No. L 161, 22.6.2007, p. 66.

(b) they meet the requirements of paragraph (a), (b) or (c) of point I of Annex I to Decision 2007/433/EC”.

(4) In Part B of Schedule 4, after item 1 insert—

“1a. Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC, originating in any third country

Without prejudice to the requirements in item 7 of Part A of Schedule 6, the plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b) or (c) of point II of Annex I to Decision 2007/433/EC”.

(5) In Part A of Schedule 5, after item 1 insert—

“1b. Seeds and cones, intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.”.

(6) In Part A of Schedule 6 and Part A of Schedule 7, after item 1 insert—

“1b. Plants intended for planting, including seeds and cones intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.”.

#### **Prevention of the introduction and spread of Potato spindle tuber viroid**

**5.**—(1) In article 2(1), at the appropriate place insert ““Decision 2007/410/EC” means Commission Decision 2007/410/EC on measures to prevent the introduction into and spread within the Community of Potato spindle tuber viroid(a), as amended from time to time;”.

(2) In Part A of Schedule 4, after item 37 insert—

“37a. Plants, intended for planting, including seeds, of the genera and species referred to in Article 1 of Decision 2007/410/EC, originating in any third country

The plants shall be accompanied by an official statement that—

(a) they originate in and have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and

(b) they meet the requirements of paragraph (a), (b), (c) or (d) of point 1 of the Annex to Decision 2007/410/EC”.

(3) In Part B of Schedule 4, after item 20 insert—

“20a. Plants, intended for planting, including seeds, of the genera and species referred to in Article 1 of Decision 2007/410/EC, originating in any third country

The plants shall be accompanied by an official statement that they have been grown throughout their life or since their introduction into the European Community in a place of production which meets the requirements of paragraph (a), (b), (c) or (d) of point 2 of the Annex to Decision 2007/410/EC”.

(4) In Part A of Schedule 6 and Part A of Schedule 7—

(a) after item 3 insert—

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(a) OJ No. L 155, 15.6.2007, p. 71.

“3a. Plants, intended for planting, including seeds, other than those in item 3, of the genera and species referred to in Article 1 of Decision 2007/410/EC.”; and

(b) for item 7(b) substitute—

“(b) plants of *Solanaceae*, other than seeds and other than those in items 3 and 3a, intended for planting;”.

### Measures in respect of certain citrus fruits

6.—(1) In article 2(1), at the appropriate place insert ““Decision 2004/416/EC” means Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil(a), as amended from time to time;”.

(2) In Part A of Schedule 4—

(a) in the second column of items 15 and 17, after third country add “, other than Brazil”;

(b) after item 15 add—

“15a. Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 1 and of point 3 of the Annex to Decision 2004/416/EC”.
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(c) in the third column of item 16, for “15, 17” substitute “15, 15a, 17, 17a”;

(d) after item 17 add—

“17a. Fruits of <i>Citrus</i> L., other than <i>Citrus aurantium</i> L., <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 2 and of point 3 of the Annex to Decision 2004/416/EC”; and
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(e) in the third column of item 18, for “17” substitute “17a”.

### Miscellaneous amendments

7. In—

(a) article 2(1), for the definition of ““Directive 2000/29/EC” substitute ““Directive 2000/29/EC” 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(b);”; and

(b) Part B of Schedule 7, in item 3 for “or *Sorbus* L.” substitute “, *Sorbus* L. or *Vitis* L.”.

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(a) OJ No. L 151, 30.4.2004, p. 76, amended by Commission Decision 2007/347/EC, OJ No. L 130, 22.5.2007, p. 46.

(b) OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Directive 2007/41/EC, OJ No. L 169, 29.6.2007, p. 51.

9th October 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 (England) Order 2005 (S.I. 2005/2530) (“the principal Order”) so as to implement the instruments below—

- (a) Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier) (OJ No. L 139, 31.5.2007, p. 24);
- (b) Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O’Donnell (OJ No. L 161, 22.6.2007, p. 66);
- (c) Commission Decision 2007/410/EC on measures to prevent the introduction into and spread within the Community of Potato spindle tuber viroid (OJ No. L 155, 15.6.2007, p. 71);
- (d) Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil (OJ No. L 151, 30.4.2004, p. 76), as amended by Commission Decision 2007/347/EC (OJ No. L 130, 22.5.2007, p. 46); and
- (e) Commission Directive 2007/41/EC amending certain Annexes 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 169, 29.6.2007, p. 51).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 (c. 68) and references to the Decisions listed in (a), (b) and (c) are to be construed as references to those instruments as amended from time to time.

Articles 3, 4 and 5 make various amendments to Schedules 1, 4, 5, 6 and 7 to the principal Order so as to apply the restrictions on the landing in and movement within England of certain plant material (described in each article) from third countries and other parts of the European Community and the requirements for phytosanitary certificates and plant passports to the plant material listed in order to prevent the introduction into and spread within England of, respectively, the following plant pests: *Rhynchophorus ferrugineus* (Olivier), *Gibberella circinata* Nirenberg & O’Donnell, Potato spindle tuber viroid.

Article 6 amends Schedule 4 to the principal Order so as to apply special requirements in respect of certain citrus fruits originating in Brazil.

Article 7 amends the definition of “Directive 2000/29/EC” so as to incorporate within it Commission Directive 2007/41/EC and adds *Vitis* L. to the list of plants in Part B of Schedule 7 to the principal Order requiring a plant passport if they are to be consigned to a protected zone in another part of the European Community.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. A Transposition Note is available and can be obtained from Plant Health Division, Defra, Foss House, Kings Pool, Peasholme Green, York YO1 7PX.

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**£3.00**

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E1445 10/2007 171445T 19585