WELSH STATUTORY INSTRUMENTS

2007 No. 2715 (W.228)

PLANT HEALTH, WALES

The Plant Health (Phytophthora ramorum) (Wales) (Amendment) Order 2007

Made - - - -	*14 September 2007*
Laid before the National Assembly for Wales - -	*17 September 2007*
Coming into force - -	*12 October 2007*

The Welsh Ministers make 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(**1**), now vested in them(**2**):

Title and commencement

1. The title of this Order is the Plant Health (Phytophthora ramorum) (Wales) (Amendment) Order 2007 and it comes into force on 12 October 2007.

Amendments to the Plant Health (Phytophthora ramorum) (Wales) Order 2006

2.—(1) The Plant Health (Phytophthora ramorum) (Wales) Order 2006 (**3**) is amended as follows:

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

(3) In article 15 (offences)—

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

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

(**1**) 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).

(**2**) Section 1(2)(b) of the Plant Health Act 1967 provides that the competent authority in England and Wales for the purposes of that Act is the Minister for Agriculture, Fisheries and Food. By virtue of 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 for Wales. These functions of the Secretary of State for Wales were then transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions transferred to the National Assembly for Wales by SI1999/672 are now exercisable by the Welsh Ministers by virtue of s162 and para 30 of Schedule 11 of the Government of Wales Act 2006 c. 32.

(**3**) 2006/1344 (W.134)

(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."(**4**).

(4) For Schedule 1, substitute—

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

Susceptible material	Requirements to be met in respect of the issuing of any phytosanitary certificate accompanying susceptible material (*"the certificate"*)
Acer macrophyllum Pursh. *Acer pseudoplatanus* L. *Adiantum aleuticum* (Rupr.) Paris *Adiantum jordanii* C. Muell. *Aesculus californica* (Spach) Nutt. *Aesculus hippocastanum* L. *Arbutus menziesii* Pursch. *Arbutus unedo* L. *Arctostaphylos* spp. Adans *Calluna vulgaris* (L.) Hull *Camellia* spp. L. *Castanea sativa* Mill. *Fagus sylvatica* L. *Frangula californica* (Eschsch.) Gray *Frangula purshiana* (DC.) Cooper *Fraxinus excelsior* L. *Griselinia littoralis* (Raoul) *Hamamelis virginiana* L. *Heteromeles arbutifolia* (Lindley) M. Roemer *Kalmia latifolia* L.	(a) Either— (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 Phytophthora ramorum, in which case the name of the area from where the material originates must be specified under "place of origin"; or (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 Phytophthora ramorum, no signs of non-European isolates of Phytophthora ramorum have been found on 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 Phytophthora ramorum 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

(**4**) 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.