STATUTORY RULES OF NORTHERN IRELAND

2005 No. 252

PLANT HEALTH

The Plant Health (Wood and Bark) (Phytophthora ramorum) Order (Northern Ireland) 2005

Made - - - -	*9th May 2005*
Coming into operation	*30th May 2005*

The Department of Agriculture and Rural Development(**1**) in exercise of the powers conferred on it by sections 2(**2**), 3(1)(**3**), 3A(**4**), 3B(1)(**5**) and 4(1)(**6**) of the Plant Health Act (Northern Ireland) 1967(**7**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005 and shall come into operation on 30th May 2005.

Interpretation

2.—(1) In this Order –

"inspector" means any person authorised to be an inspector for the purposes of the principal Order;

"land" means brought into Northern Ireland by any means whatsoever;

"origin" means, in respect of susceptible material, the place where the material is grown or produced;

"*Phytophthora ramorum*" refers to the pest *Phytophthora ramorum* Werres, De Cock & Man in t Veld sp. nov;

(**1**) Formerly the Department of Agriculture for Northern Ireland: *see*S.I.1999/283 (N.I. 1) Article 3(4)
(**2**) As amended by S.R. & O. (N.I.) 1972 No. 351Art. 3 and Sch. 2: 1979 c. 2, S. 177(1) and Sch. 4 Part II; and S.I. 1984/702 (N.I. 2) Art. 15(2)
(**3**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2
(**4**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**5**) Inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**6**) As amended by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**7**) 1967 c. 28 (N.I.)

"the principal Order" means the Plant Health (Wood and Bark) Order (Northern Ireland) 1993(**8**);

"susceptible bark" means isolated bark of *Acer macrophyllum* Pursh., *Aesculus californica* Nutt., *Lithocarpus densiflorus* (H & A) and *Quercus* L;

"susceptible material" means susceptible bark and susceptible wood;

"susceptible wood" means wood described in the first column of the Schedule.

(2) In this Order other expressions have the same meaning as in the principal Order.

Prohibition against the introduction and spread of *Phytophthora ramorum* into and within Northern Ireland

3. Subject to Article 7, no person shall –

(a) introduce *Phytophthora ramorum* into Northern Ireland; or

(b) spread *Phytophthora ramorum* within Northern Ireland.

Imports of susceptible material originating in the USA

4.—(1) Subject to paragraph (3) and to Article 7, no person shall import into Northern Ireland(**9**) susceptible wood originating in the United States of America ("USA") unless it is accompanied by a phytosanitary certificate issued in accordance with the relevant requirements of the Schedule.

(2) Subject to paragraph (3), no person shall import into Northern Ireland any susceptible wood originating in the USA unless he has notified an inspector in writing of his intention to land that material and of the proposed point of entry and means of its introduction at least three days before the intended date of landing.

(3) Paragraphs (1) and (2) shall not apply to wood of *Quercus* L. originating in the USA which is imported from Switzerland.

(4) No person shall import into Northern Ireland susceptible bark originating in the USA.

Phytosanitary certificates

5.—(1) The provisions of Articles 12(1) to (5), (6) and (7) and 13 of the principal Order shall apply to any phytosanitary certificate required under this Order in respect of any susceptible material as if that material were the wood, isolated bark or other object referred to in Article 12 of the principal Order.

(2) Where a consignment of susceptible material for which a phytosanitary certificate is required and has been issued under Article 4 has been consigned to, stored, repacked or split up in a third country other than that in which the certificate was issued, the original phytosanitary certificate or a certified copy of it shall accompany the material together with a reforwarding phytosanitary certificate issued by the official plant health service of that third country.

Phytosanitary certificates issued outside Northern Ireland

6. Any phytosanitary certificate issued for the purposes of this Order by or with the authority of an official plant health service of a third country shall be deemed to have been issued in accordance with the relevant requirements of the Schedule.

(**8**) S.R. 1993 No. 460; amended by S.R. 1996 No. 18 , S.R. 1997 No. 11, S.R. 1999 No. 24, S.R. 1999 No. 389, S.R. 2001 No. 401, S.R. 2002 No. 285, and S.R. 2003 No. 175

(**9**) Section 49 of the Customs and Excise Management Act 1979 (c. 2) provides for forfeiture of goods improperly imported, landed or unloaded. Section 50 makes it an offence to import, land or unload goods with intent to evade the prohibition contained in this article

Licences for scientific or research purposes

7.—(1) Subject to paragraph (2), the provisions of Article 26A of the principal Order shall apply in respect of the importation, movement and keeping of *Phytophthora ramorum*, or any susceptible material on which *Phytophthora ramorum* is present, which would otherwise be prohibited under this Order as if it or the material were a pest the importation, movement, or keeping of which, but for a licence granted under the principal Order, would be prohibited.

(2) Nothing in paragraph (1) shall affect the application of Article 26A(2)(d) of the principal Order in respect of a licence granted by virtue of this article.

Actions which may be required by an inspector

8.—(1) If an inspector has reasonable grounds for suspecting that *Phytophthora ramorum* is present or likely to be present on any premises, he may, for the purposes of enforcing Article 3(b), by notice in writing served on the occupier or person in charge of those premises or of any susceptible material present on those premises –

(a) require any of the susceptible material to be treated, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;

(b) prohibit the removal of such susceptible material from premises specified in the notice or impose such other prohibitions as appear to the inspector to be necessary to prevent the spread of *Phytophthora ramorum*;

(c) require the removal of such susceptible material to premises specified in the notice in such manner and within such reasonable time as may be so specified; or

(d) require the taking of such other steps, specified in the notice, in such manner and within such reasonable time as may be specified in the notice, as appear to the inspector to be necessary to prevent the spread of *Phytophthora ramorum*.

(2) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of *Phytophthora ramorum* from any premises, he may by notice in writing served on the occupier or other person in charge of any other premises impose such prohibitions and require the taking of such reasonable steps, specified in the notice, as appear to him to be necessary for that purpose, such steps to be taken in such manner and in such reasonable time as may be specified in the notice.

(3) For the purposes of carrying out an examination of susceptible material upon its entry to Northern Ireland an inspector may, by notice in writing served on the consignee of any susceptible material which has been or is to be imported into Northern Ireland, specify premises and require the removal of that material to those premises in such manner and within such period as may be specified in the notice.

Actions which may be taken by an inspector

9.—(1) Without prejudice to the provisions in Article 8, if an inspector has reasonable grounds for suspecting that *Phytophthora ramorum* is present or likely to be present on any premises he may, after giving the occupier or other person in charge of the premises reasonable notice of his intention and upon production if so required of his authority, enter such premises and either on those premises or elsewhere take steps –

(a) to destroy or treat in some other way any susceptible material found on those premises; or

(b) to destroy and to prevent the spread of *Phytophthora ramorum* found on those premises.

(2) An inspector may, on production if so required of his authority, at all reasonable times for the purpose of ascertaining whether *Phytophthora ramorum* exists on any premises, or for any other purpose of this Order, including checking compliance with it, enter any premises to –

(a) examine, photograph or mark any part of the premises or any susceptible material or other object on the premises;

(b) take samples of any susceptible material or other object and anything which has been or may have been in contact with *Phytophthora ramorum*; or

(c) require production of any documents or records (in whatever form they may be held) relating to the production of or trade in any susceptible material and may examine and copy such documents or records.

(3) For the purposes of the examinations referred to in paragraph (2), an inspector may open any container, bundle or other package, authorise any person to open on his behalf any container, bundle or other package or require the owner or any person in charge of any container, bundle or other package to open it in such manner as the inspector may specify.

(4) An inspector may, so far as it is necessary for the purposes of the examinations referred to in paragraph (2), prohibit entirely or to such extent as he may indicate the movement of any susceptible material, container, bundle, other package or object by means of which in his opinion *Phytophthora ramorum* may spread.

(5) For the purposes of the examinations referred to in paragraph (2), an inspector may require the occupier or other person in charge of the premises in which the examination is taking place to provide adequate lighting and, where appropriate, suitable areas for inspection.

(6) Where any such document or record as is mentioned in paragraph (2)(c) is kept by means of a computer, an inspector may –

(a) require access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documentation or records; and

(b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, to afford him such assistance as he may reasonably require.

(7) An inspector on entering any premises under paragraphs (1) or (2) may take with him such other persons including, but not limited to, representatives of the European Commission, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under those paragraphs, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

Miscellaneous provisions as to notices and failure to comply with notices

10. The following provisions of the principal Order shall apply to a notice issued under Article 8 of this Order –

(a) Article 22, as if references to Article 20 of the principal Order were to Article 8 of this Order and other references to the principal Order were to this Order;

(b) Article 24, as if references to the principal Order were to this Order;

(c) Article 25, as if references to the principal Order were to this Order.

Offences

11.—(1) A person shall be guilty of an offence if, without reasonable excuse, proof of which shall lie on him –

(a) he contravenes or fails to comply with Article 3; or