STATUTORY RULES OF NORTHERN IRELAND

2005 No. 23

PLANT HEALTH

The Plant Health (Phytophthora ramorum) Order (Northern Ireland) 2005

Made - - - -	*31st January 2005*
Coming into operation	*28th February 2005*

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

Citation and commencement

1. This Order may be cited as The Plant Health (*Phytophthora ramorum*) Order (Northern Ireland) 2005 and shall come into operation on 28th February 2005.

Interpretation

2. In this Order –

"the Department" means the Department of Agriculture and Rural Development;

"European Community" has the same meaning as in Article 3(1) of the principal Order;

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

"origin" means, in respect of susceptible material, the place where the material is grown or produced, and "originates", "originated" and "originating" shall be construed accordingly;

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

"phytosanitary certificate" means a certificate duly completed either:

(a) in the form set out in Schedule 11 of the principal Order; or

(**1**) Formerly as the Department of Agriculture for Northern Ireland; *see*S.I.1999/283 (N.I. 1), Art. 3(4)
(**2**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2; 1979 c. 2, s. 177 (1) and Sch. 4 Pt.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.1984/702 (N.I. 2) Art. 15(2)
(**5**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2 and S.I. 1984/702 (N.I. 2) Art. 15(2)
(**6**) 1967 c. 28 (N.I.)

(b) the equivalent in a language other than English;

"place of production" has the same meaning as in the principal Order;

"plant" has the same meaning as in the principal Order;

"plant passport" means either:

(a) a label and, where appropriate, an accompanying document issued in the European Community containing the relevant information listed in Schedule 9 of the principal Order which gives evidence that the provisions of this Order relating to plant health standards and special requirements for plants and plant products moving within the European Community have been complied with, or

(b) except for the purposes of Article 8 (1), a Swiss plant passport;

"plant product" means a product of plant origin, which is unprocessed or has undergone simple preparation insofar as it is not a plant;

"premises" has the same meaning as in the principal Order;

"the principal Order" means the Plant Health Order (Northern Ireland) 1993(**7**);

"reforwarding phytosanitary certificate" means a certificate duly completed either:

(a) in the form set out in Schedule 12 of the principal Order; or

(b) the equivalent in a language other than English;

"susceptible material" means:

(a) in the case of material originating in the United States of America ("USA"), plants, other than fruit or seeds, of the species and genera listed in the first column of Schedule 1;

(b) in all other cases, plants, other than seeds, intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L.; and

(c) susceptible trees;

"susceptible tree" means a tree, excluding fruit of seeds, of the species and genera listed in the first column of Schedule 1;

"Swiss plant passport" means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation which:

(a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for plants and plant products moving into and within Switzerland have been complied with; and

(b) relates to a plant intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch. and *Viburnum* spp. L.;

"third country" has the same meaning as in the principal Order;

"tree" means a living tree or shrub or any living part thereof at any stage of its growth and includes, where the context admits, any growing medium, substance, packing material or container attached thereto or associated therewith, and a living part of a tree shall be deemed to include –

(a) branches with or without foliage,

(b) cut trees retaining foliage,

(c) trees in tissue culture, and

(**7**) S.R. 1993 No. 256 as amended by S.R. 1994 No. 28, S.R. 1995 No. 164, No. 250 and No. 494, S.R. 1996 No. 204 and No. 249, S.R. 1997 No. 110 and No. 397, S.R. 1998 No. 16, No. 146 and No. 315, S.R. 1999 No. 24, S.R. 2000 No. 126, S.R. 2001 No. 188 and No. 437, S.R. 2002 No. 273, S.R. 2003 No. 235 and No. 458, S.R. 2004 No. 415

(d) fruit or seed of a tree.

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

3. Subject to Article 11, 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 Article 11, no person shall import(**8**) into Northern Ireland susceptible material originating in the USA unless:

(a) it is –

(i) accompanied by a phytosanitary certificate issued in accordance with the requirements of Schedule 1 or, in the case of material for which a reforwarding phytosanitary certificate has also been issued, a certified copy of the phytosanitary certificate; and

(ii) found free from *Phytophthora ramorum* upon examination by an inspector; or

(b) in the case of imports from Switzerland of plants, other than seeds, intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L., the material is accompanied by a Swiss plant passport.

Movement of susceptible material originating in third countries

5.—(1) Subject to paragraph (2) and Article 11, where susceptible material originating in the USA or in any other third country has been imported into Northern Ireland, no person shall move that material –

(a) within Northern Ireland;

(b) to another part of the United Kingdom;

(c) to the Isle of Man or the Channel Islands;

(d) to another Member State; or

(e) in the case of plants, other than seeds, intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., or *Viburnum* spp. L., to Switzerland,

unless it is accompanied by a plant passport.

(2) Paragraph (1) shall not apply in the case of movement of susceptible material within Northern Ireland where such movement is in compliance with a notice served under Article 12.

Movement of susceptible material originating in Northern Ireland and elsewhere in the European Community or Switzerland

6.—(1) Subject to Article 11, no person shall move into Northern Ireland susceptible material originating –

(a) elsewhere in the United Kingdom;

(**8**) 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

(b) in another Member State;

(c) in the Isle of Man or Channel Islands; or

(d) in the case of plants intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch, or *Viburnum* spp. L., in Switzerland,

unless it is accompanied by a plant passport and meets the requirements of Schedule 2.

(2) No person acting in the course of a trade, business or other undertaking shall move susceptible material produced in Northern Ireland from its place of production unless the material is accompanied by a plant passport and meets the requirements of Schedule 2.

Registered producers

7.—(1) Subject to paragraph (4), no person who produces susceptible material may move that material unless he is registered as a producer pursuant to Articles 16, 17 and 18 of the principal Order or paragraph (2) of this Article.

(2) A producer of susceptible material who is not registered as a producer under the principal Order –

(a) may apply for registration under Articles 16, 17 and 18 of the principal Order as if his application were provided for by that Order;

(b) shall meet the requirements of Articles 16, 17 and 18 of the principal Order as if his application had been made under that Order; and

(c) shall be treated by the Department, in respect of such an application and any consequent registration, as if the application were provided for by the principal Order.

(3) Any person who is registered as a producer in accordance with paragraph (1) shall notify any suspected occurrence or confirmed presence of *Phytophthora ramorum* at the place of production to which their registration relates.

(4) This Article shall not apply to persons who produce susceptible material or who move susceptible material which they have produced if they do so other than in the course of a trade, business or other undertaking.

Plant passports

8.—(1) The following Articles of the principal Order shall apply in respect of a plant passport required under Articles 5 or 6, as appropriate, of this Order:

(a) Article 12(4), as if –

(i) a phytosanitary certificate had been issued in respect of susceptible material which complied with this Order; and

(ii) reference to "Part A of Schedule 5" of the principal Order were to Article 5 of this Order;

(b) Article 15(1), as if the plant passport were issued in respect of susceptible material; and

(c) Article 15(2) to (4), (7) and (8).

(2) Subject to paragraph (4), a person who holds the Department's authority under Article 15 of the principal Order to produce, store and issue plant passports on behalf of a business is also authorised under this Order to produce, store and issue plant passports required under this Order on behalf of that business.

(3) A person not authorised under paragraph (2) may be authorised by the Department, subject to any conditions it sees fit, to produce, store and issue plant passports required under this Order on behalf of any business, individual or other organisation, if –

(a) the person seeking authority is registered as a producer of susceptible material under Article 7; and

(b) a satisfactory inspection has been carried out by an inspector of the place of production of susceptible material in respect of which authority is sought, any part thereof or any other premises handling any susceptible material, for the purposes of ascertaining the plant health status of the susceptible material at that place or those premises in relation to *Phytophthora ramorum* and any plants or plant products there.

(4) Authority conferred upon a person under paragraphs (2) or (3) to produce, store and issue plant passports required under this Order may be withdrawn by an inspector where the inspector is satisfied that the provisions of this Order in respect of plant passports are not being met by that person.

Phytosanitary certificates

9.—(1) The following provisions of the principal Order shall apply to a phytosanitary certificate required under this Order:

(a) Article 13 (1);

(b) Article 13 (4) as if references to the principal Order were to this Order;

(c) Article 13 (5) and (6);

(d) Article 13 (7); and

(e) Article 14.

(2) Where a consignment of susceptible material for which a phytosanitary certificate is required and has been issued pursuant to 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 or plant passports issued outside Northern Ireland

10.—(1) 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 Schedule 1.

(2) Any susceptible material for which a plant health passport has been issued for the purposes of this Order or equivalent legislation in the country of issue by or with the authority of an official plant health service of a Member State or another part of the United Kingdom, or the Channel Islands or Isle of Man, shall be deemed to meet the requirements of Schedule 2.

(3) Any susceptible material for which a Swiss plant passport has been issued by or with the authority of an official plant health service of Switzerland, shall be deemed to meet the requirements of Schedule 2.

Licences for scientific or research purposes

11.—(1) Subject to paragraph (2), the provisions of Article 30A 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 plant 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 30A(2)(d) of the principal Order in respect of a licence granted by virtue of this Article.