STATUTORY RULES OF NORTHERN IRELAND

2003 No. 193

PLANT HEALTH

The Plant Health (Phytophthora ramorum) Order (Northern Ireland) 2003

Made - - - -	*25th March 2003*
Coming into operation	*16th April 2003*

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

Citation and commencement

1. This Order may be cited as The Plant Health (*Phytophthora ramorum*) Order (Northern Ireland) 2003 and shall come into operation on 16th April 2003.

Interpretation

2. In this Order –

"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;

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

"origin" means, in respect of susceptible material, the place where the material is grown or produced, and "originate", "originates" 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 in the form set out in Schedule 11 to the principal Order and issued in compliance with Articles 13(4) to (7) and 14 thereof;

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

(**1**) Formerly the Department of Agriculture: *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. L1; and S.I. 1984/702 (N.I. 2) Art. 15(2) and S.I. 1975/1038 (N.I. 8) Art. 11(2)

"plant" has the same meaning as in Article 3(1) of the principal Order, save that fruit in the botanical sense and seeds are excluded;

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

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

"the principal Order" means The Plant Health Order (Northern Ireland) 1993(**3**);

"re-forwarding phytosanitary certificate" has the same meaning as in Article 3(1) of the principal Order;

"susceptible forest material" means *Quercus* spp. L. and *Lithocarpus densiflorus* (H & A); and

"susceptible material" means, in the case of material originating in the United States of America ("USA"), plants of the species and genera listed in the first column of Schedule 1, and in all other cases, plants of *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L.

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

3. Subject to Article 12, a person shall not –

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

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

Landing susceptible material from the USA

4.—(1) Subject to Article 6, a person shall not land in Northern Ireland susceptible material originating in the USA unless:

(a) it is accompanied by a phytosanitary certificate issued in accordance with the requirements of Schedule 1, or a certified copy thereof in the case of material for which a re-forwarding phytosanitary certificate has also been issued; and

(b) upon examination by an inspector, it is found free from *Phytophthora ramorum*.

(2) Susceptible material landed in breach of this Article shall be prohibited within the meaning of the Customs and Excise Management Act 1979(**4**).

Movement of susceptible material originating in third countries

5. Subject to Article 6, where susceptible material originating in the USA or in any other third country has been landed in Northern Ireland, a person shall not 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; or

(d) to another Member State

unless (subject to Article 9(3) in the case of movement within Northern Ireland) it is accompanied by a plant passport.

(**3**) 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

(**4**) Note that 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

Exemptions from the requirements of Articles 4 and 5

6. The prohibitions of Articles 4 and 5 shall not apply to susceptible material originating in the USA which was despatched to the European Community from the USA before 16th April 2003.

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

7.—(1) A person shall not move into Northern Ireland susceptible material originating elsewhere in the United Kingdom or another Member State, or in the Isle of Man or Channel Islands, unless it is accompanied by a plant passport and meets the requirements of Schedule 2.

(2) A person acting in the course of a trade, business or other undertaking shall not 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.

Official registration

8.—(1) Subject to paragraph (3), a person who produces susceptible material may not move that material unless he is registered as a producer pursuant to Articles 17 and 18 of the principal Order or to paragraph (2).

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

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

(b) shall meet the requirements of those Articles as if his application had been made under the principal Order; and

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

(3) 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

9.—(1) The following Articles of the principal Order shall apply in respect of a plant passport required under Articles 5 or 7, as appropriate, that is to say –

(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 (8).

(2) 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 landed in 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.

(3) Movement of susceptible material in compliance with a notice served under paragraph (2) shall not constitute movement requiring a plant passport pursuant to Article 5(a).

(4) Subject to paragraph (6), a person authorised under Article 15 of the principal Order to issue plant passports on behalf of a business is also authorised under this Order to issue plant passports required under this Order on behalf of that business.

(5) A person not authorised pursuant to paragraph (4) may be authorised by the Department, subject to any conditions it sees fit, to 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 pursuant to Article 8; 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.

(6) Authority conferred upon a person under paragraphs (4) or (5) to 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

10.—(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) as if susceptible material were a "consignment" within the meaning of that Article; 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 thereof shall accompany the material together with a re-forwarding phytosanitary certificate issued by the official plant health service of that third country.

Phytosanitary certificates or plant passports issued outside Northern Ireland

11. Any phytosanitary certificate or plant health passport issued for the purposes of this Order by or with the authority of an official plant health service of a third country, Member State or another part of the United Kingdom, or the Channel Islands or Isle of Man, shall be deemed to have been issued in accordance with the relevant requirements of Schedules 1 and 2.

Licences for scientific or research purposes

12. The provisions of Article 30A of the principal Order (Licences for trial or scientific purposes and for work on varietal selections) shall apply in respect of the landing, movement and keeping of *Phytophthora ramorum* which would otherwise be prohibited under this Order as if the pest were a plant pest the landing, movement or keeping of which, but for a licence granted under the principal Order, would be prohibited, save that nothing in this paragraph shall affect the application of Article 30A(2)(d) of the principal Order in respect of a licence granted by virtue of this Article.

Powers of an inspector

13.—(1) An inspector may, for the purposes of checking compliance with this Order or with the terms of a licence issued under Article 12 –

(a) exercise the powers conferred by Article 25(a) and (b) of the principal Order as if checking compliance with the principal Order; and

(b) having entered premises by virtue of sub-paragraph (a), require production of documentation 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 documentation or records.

(2) Where documentation or records required to be examined by an inspector pursuant to paragraph (1)(b) are kept by means of a computer, an inspector may –

(a) require access to 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.

Offences

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

(a) he contravenes Articles 3, 5, 7, 8(1); or

(b) he intentionally obstructs an inspector in the exercise of his powers given by or under Article 13(1)(b) or (2).

(2) A person shall be guilty of an offence if, for the purpose of procuring the authority to issue a plant passport under this Order, he:

(a) makes a statement which he knows to be false in a material particular;

(b) recklessly makes a statement which is false in a material particular; or

(c) intentionally fails to disclose any material information.

(3) A person shall be guilty of an offence if he dishonestly issues a false plant passport under this Order.

(4) A person shall be guilty of an offence if he dishonestly alters a plant passport affixed to susceptible material or re-uses a plant passport for susceptible material which is not the material for which the plant passport was issued.

(5) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocation and saving

15.—(1) Subject to paragraph (2), the Plant Health (*Phytophthora ramorum*) Order (Northern Ireland) 2002(**5**) ("the first *Phytophthora ramorum* Order") is revoked.

(2) Article 3 of the first *Phytophthora ramorum* Order shall continue to apply in respect of susceptible material (as defined in Article 2 of the first *Phytophthora ramorum* Order) which was despatched from the USA before 16th April 2003 and which entered Northern Ireland on or after 16th April 2003.

(**5**) S.R. 2002 No. 269