STATUTORY RULES OF NORTHERN IRELAND

2002 No. 269

PLANT HEALTH

The Plant Health (Phytophthora ramorum) Order (Northern Ireland) 2002

Made - - - -	*15th August 2002*
Coming into operation	*9th September 2002*

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by sections 2, 3(1), (2)(b) and (4), and 4(1)(b) 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) 2002 and shall come into operation on 9th September 2002.

Interpretation

2. In this 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 "originating" shall be construed accordingly;

"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;

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

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

(**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. Ll; and S.I. 1984/702 (N.I. 2) Art. 15(2) and S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**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

"susceptible material" means, in the case of material originating in the United States of America ("USA"), plants of all species of the genera listed in Part 1 of the Schedule, and in all other cases, plants of all species of the genera *Rhododendron* and *Viburnum*.

Imports of susceptible material from the USA

3. Subject to Article 5(1), a person shall not import from the USA into Northern Ireland susceptible material originating in the USA unless it is accompanied by a phytosanitary certificate fulfilling the requirements set out in Part II of the Schedule(**4**).

Notification of movements of susceptible material into and within Northern Ireland

4.—(1) This Article is subject to Articles 5(2) and 6(1).

(2) Any person in occupation of premises in Northern Ireland who takes delivery at those premises of any susceptible material other than that despatched to him from premises elsewhere in Northern Ireland shall, within three days after taking delivery of the material, provide to an inspector written notice, signed by him, stating the following information:

(a) the date and means of delivery of the material to his premises;

(b) whether the material remains on his premises and if so, the address of those premises;

(c) if the susceptible material has been forwarded to another destination, or it is intended so to forward it within two days of the notice being given, the address to which it has been or is to be forwarded, and the name of the intended recipient;

(d) the origin of the susceptible material, if known;

(e) the name and address of the producer, if known;

(f) the species and variety of the susceptible material; and

(g) the quantity of susceptible material.

(3) Any person in occupation of premises in Northern Ireland who despatches from those premises any susceptible material to premises elsewhere in Northern Ireland shall, within one day after the day of despatch, provide to an inspector written notice, signed by him, stating the following information:

(a) the date and means of despatch to the premises of destination;

(b) the address of those premises and the name of the recipient;

(c) the origin of the susceptible material, if known;

(d) the name and address of the producer, if known;

(e) the species and variety of the susceptible material; and

(f) the quantity of susceptible material.

Exemptions

5.—(1) The prohibitions of Article 3 shall not apply to susceptible material which is accompanied by a phytosanitary certificate issued prior to the coming into force of this Order.

(2) The requirements of Article 4 shall not apply to the despatch or taking of delivery of susceptible material by persons not acting in the course of any trade or business.

(**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

Powers of an inspector

6.—(1) An inspector may exempt any person from all or any of the requirements in Article 4 for written notification if –

(a) that person applies for it; and

(b) he believes that any notification otherwise given to him has furnished him with sufficient information about any susceptible material the delivery or despatch of which falls under the provisions of this Order.

(2) Any exemption given under paragraph (1) shall be in writing and shall, as soon as reasonably practicable, be sent to the person obtaining it.

(3) An inspector may, for the purposes of checking compliance with this Order—

(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.

(4) Where documentation or records required to be examined by an inspector pursuant to paragraph (3)(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.

(5) Any power conferred by Article 25 of the principal Order which is exercised by virtue of this Article shall be treated as if that power had been exercised under the principal Order, and the provisions of the principal Order (including Article 47(1)(a) and (e), and (2) (offences)) shall apply accordingly.

Offences

7.—(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 4; or

(b) he intentionally obstructs an inspector in the exercise of his powers given by or under Article 6(3)(b) or (4).

(2) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 15th August 2002.

L.S.

Noel Cornick
Senior Officer of the
Department of Agriculture and Rural
Development