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STATUTORY INSTRUMENTS

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**2010 No. 2962**

**PLANT HEALTH, ENGLAND**

**The Plant Health (England) (Amendment) (No. 2) Order 2010**

*Made* - - - - *9th December 2010*  
*Laid before Parliament* *16th December 2010*  
*Coming into force* - - *10th January 2011*

The Secretary of State<sup>(1)</sup> makes this Order in exercise of the powers conferred by sections 2 and 3 of the Plant Health Act 1967<sup>(2)</sup> and paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(3)</sup>.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Secretary of State that it is expedient for the references inserted by this Order into the Plant Health (England) Order 2005<sup>(4)</sup> to Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster)<sup>(5)</sup> to be construed as references to that Decision as amended from time to time.

**Title and commencement**

1. This Order may be cited as the Plant Health (England) (Amendment) (No. 2) Order 2010 and comes into force on 10th January 2011.

**Amendments to the Plant Health (England) Order 2005**

2.—(1) The Plant Health (England) Order 2005 is amended as follows.

(2) In article 2(1), after the definition of “Decision 2004/416/EC”, insert—

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- (1) The functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 (c.8) were in respect of England transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
- (2) 1967 c.8; sections 2(1) and 3(1), (2) and (5) were amended by section 4 of, and paragraph 8 of Schedule 4 to, the European Communities Act 1972 (c.68). Section 2(2) was amended by section 177(1) of, and paragraph 12 of Schedule 4 to, the Customs and Excise Management Act 1979 (c.2). Section 2(3) was inserted by article 2(1) of, and Schedule 1 to, S.I. 1990/2371. Section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c.48) and amended by section 1(1) of the Statute Law (Repeals) Act 1993 (c.50).
- (3) 1972 c.68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).
- (4) S.I. 2005/2530; relevant amending instruments are S.I. 2007/2950, S.I. 2008/2765.
- (5) OJ No L 300, 11.11.2008, p36; as amended by Commission Decision 2010/380/EU, OJ No L 174, 9.7.2010, p46.

““Decision 2008/840/EC” means Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster), as amended from time to time;”.

(3) In the table in Schedule 3, for the entry in column 3 corresponding to item 10, substitute—  
“Belarus, Moldova, Russia, Turkey, Ukraine and any third country not in mainland Europe, other than Egypt, Israel, Libya, Morocco or Tunisia”.

(4) In the table in Schedule 3, after item 15, insert—

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“16	Plants for planting, other than seeds,	<i>China</i> ”
	of <i>Acer</i> spp. until the end of April 2012	

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(5) In the table in Schedule 4, Part A—

(a) for the entry in column 2 corresponding to item 52, substitute—

“Soil or growing medium that—

(a) is attached to, or accompanies, plants for the purpose of sustaining the vitality of those plants;

(b) consists—

(i) wholly or partly of soil or any solid organic substance such as parts of plants or humus (including peat or bark); or

(ii) partly of any solid inorganic substance; and

(c) originates from—

(i) Belarus, Georgia, Moldova, Russia, Turkey or Ukraine; or

(ii) any country outside Europe, other than Algeria, Egypt, Israel, Libya, Morocco or Tunisia”; and

(b) for item 81, substitute—

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“81	Specified plants within the meaning of Article 1(a) of Decision 2008/840/EC originating in China	Without prejudice to the requirements in items 4, 12 and 14 of Schedule 3 and items 11, 12, 19, 20, 22, 23, 27 to 30, 48, 50 to 52, 55, 60, 61, 64, 65 and 70 of Part A of this Schedule, the plants shall be accompanied by an official statement containing the information in point (1) of Section 1(B) of Annex I to Decision 2008/840/EC(6) and the place of production of those plants shall comply with the requirements set out in Article 2a(1)(c) of Decision 2008/840/EC(7)
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82	Specified plants within the meaning of Article 1(a) of Decision 2008/840/EC originating in any third country where <i>Anoplophora chinensis</i> (Forster) is known to occur, other than China	Without prejudice to the requirements in items 4, 12 and 14 of Schedule 3 and items 11, 12, 19, 20, 22, 23, 27 to 30, 48, 50 to 52, 55, 60, 61, 64, 65 and 70 of Part A of this Schedule, the plants shall be accompanied
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(6) Inserted by article 1(2) of Decision 2010/380/EU.

(7) Inserted by article 1(1) of Decision 2010/380/EU.

by an official statement containing the information in point (1) of Section 1(A) of Annex I to Decision [2008/840/EC](#)(8)

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9th December 2010

*Henley*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

**Status:** This is the original version (as it was originally made).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Plant Health (England) Order 2005 ([S.I. 2005/2530](#)) (“the principal Order”) to transpose Commission Decision 2010/380/EU amending Decision [2008/840/EC](#) as regards emergency measures to prevent the introduction into and spread within the Union of *Anoplophora chinensis* (Forster) (OJ No L 174, 9.7.2010, p46). Relevant provisions of Commission Decision 2010/380/EU are transposed in Article 2(4) and (5)(b).

Article 2(2) provides for the references to Commission Decision [2008/840/EC](#) in the principal Order to be read as amended from time to time. Article 2(3) amends the entry for countries of origin contained in item 10 of Schedule 3 to the principal Order. Article 2(5)(a) amends the description of relevant material contained in item 52 of Part A of Schedule 4 to the principal Order.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.