

---

STATUTORY INSTRUMENTS

---

**2016 No. 1167**

**PLANT HEALTH, ENGLAND  
PLANT HEALTH, SCOTLAND**

**The Plant Health (Forestry) (Amendment)  
(England and Scotland) Order 2016**

*Made* - - - - *30th November 2016*  
*Laid before Parliament* *5th December 2016*  
*Coming into force* - - *1st January 2017*

The Forestry Commissioners make this Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967(1) and paragraph 1A of Schedule 2 to the European Communities Act 1972(2).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(3). It appears to the Forestry Commissioners that it is expedient for the references to the European Union instruments mentioned in article 3(1) to be construed as references to those instruments as amended from time to time.

**Citation, commencement and application**

**1. This Order—**

- (a) may be cited as the Plant Health (Forestry) (Amendment) (England and Scotland) Order 2016;
- (b) comes into force on 1st January 2017; and
- (c) applies in relation to England and Scotland only.

---

(1) 1967 c.8. Section 2 was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8(2)(a), the Customs and Excise Management Act 1979 (c.2), Schedule 4, paragraph 12 and S.I. 1990/2371 and 2011/1043. Section 3(1) was amended by the European Communities Act 1972, Schedule 4, paragraph 8(2)(a) and (b) and S.I. 2011/1043. The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2). Section 1(2) provides that the Forestry Commissioners are the competent authority for England and Scotland as regards the protection of forest trees and timber from attack by pests.

(2) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) and S.I. 2007/1388.

(3) Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

## Amendment of the Plant Health (Forestry) Order 2005

2. The Plant Health (Forestry) Order 2005(4) is amended as follows.

### Article 2 (general interpretation)

3.—(1) In article 2(1)(5)—

(a) after the definition of “debarked”, insert—

““Decision 2002/757/EC” means Commission Decision 2002/757/EC on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov., as amended from time to time(6);”;

(b) after the definition of “Decision 2012/138/EU”, insert—

““Decision 2012/535/EU” means Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode), as amended from time to time(7);

“Decision (EU) 2015/789” means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.), as amended from time to time(8);

“Decision (EU) 2015/893” means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky), as amended from time to time(9);

“Decision (EU) 2015/2416” means Commission Implementing Decision (EU) 2015/2416 recognising certain areas of the United States of America as being free from *Agrilus planipennis* Fairmaire, as amended from time to time(10);”;

(c) for the definitions of “ISPM No 4” and “ISPM No. 15” substitute—

““ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest-free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(11);

“ISPM No. 15” means International Standard for Phytosanitary Measures No. 15 of March 2002 on the regulation of wood packaging material in international trade, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(12);”;

(d) after the definition of “seed”, insert—

(4) S.I. 2005/2517; relevant amending instruments are S.I. 2006/2696, 2008/644, 2009/594, 3020, 2011/1043, 2012/2707, 2013/755, 2691, 2014/2420.

(5) The definition of “Decision 2012/138/EU” was inserted by S.I. 2013/2691. The definition of “wood packaging material” was substituted by S.I. 2014/2420. There are other amendments to article 2, but none is relevant.

(6) OJ No L 252, 20.9.2002, p. 37, as last amended by Commission Implementing Decision 2013/782/EU (OJ No L 346, 20.12.2013, p. 69).

(7) OJ No L 266, 2.10.2012, p. 42, as amended by Commission Implementing Decision (EU) 2015/226 (OJ No L 37, 13.2.2015, p. 21).

(8) OJ No L 125, 21.5.2015, p. 36, as last amended by Commission Implementing Decision (EU) 2016/764 (OJ No L 126, 14.5.2016, p. 77).

(9) OJ No L 146, 11.6.2015, p. 16.

(10) OJ No L 333, 19.12.2015, p. 128.

(11) As last amended in June 2015; the latest published version is available at <https://www.ippc.int/en/core-activities/standards-setting/ispms/>.

(12) As last amended in June 2016; the latest published version is available at <https://www.ippc.int/en/core-activities/standards-setting/ispms/>.

“solid fuel wood” means fuel wood in the form of logs, billets, twigs, faggots or other similar forms;”;

(e) after the definition of “wood packaging material”, insert—

“.

“working day”, in relation to the notice requirements in articles 6(3)(b)(ii), 16(3) and 18(4) and the period for which material may be detained under article 14(1), means a period of twenty-four hours which is not a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in England or Scotland;

“working hour” means a period of one hour during a working day”.

(2) After article 2(4), insert—

“(5) The requirements specified in any entry in column 3 of Part A, Part B or Part C of Schedule 4 are without prejudice to any other requirements specified in another entry in column 3 of that Part.”.

### **Article 3 (interpretation of Part 2)**

4. In article 3, omit the definitions of “working day” and “working hour”.

### **Article 6 (advance notification of landing)**

5. For paragraphs (1) and (2) of article 6(13) substitute—

“(1) Subject to article 29(3), the landing in England or Scotland by any person of relevant material to which paragraph (2) applies is prohibited unless notice is given to the Commissioners in accordance with this article.

(2) The prohibition on landing relevant material in paragraph (1) applies to the landing in England or Scotland, where England or Scotland is the point of entry of the material into the European Union, of the following relevant material—

- (a) any relevant material specified in Part A of Schedule 5;
- (b) any relevant material specified in Part B of Schedule 5 and which is—
  - (i) listed in column 1 of Part C of Schedule 4;
  - (ii) listed in the second column of Annex II Part B of the Directive and in the course of its consignment to a protected zone that is recognised as a protected zone for the tree pest listed in the first column of that Annex opposite the reference to the relevant material; or
  - (iii) listed in the first column of Annex IV Part B of the Directive and in the course of its consignment to a protected zone that is recognised as a protected zone for the tree pest specified in the second column of that Annex opposite the reference to the relevant material; or
- (c) any solid fuel wood to which sub-paragraphs (a) and (b) do not apply and whose final destination is in England or Scotland.”.

### **Article 18 (prohibitions and restrictions on landing tree pests and relevant material)**

6. After article 18(2)(14), insert—

---

(13) Article 6(1) and (2) was amended by S.I. 2011/1043, 2013/755 and 2014/2420.

(14) Article 18(2) was amended by S.I. 2013/755.

“(3) No person may bring any solid fuel wood into England or Scotland from another part of the European Union unless the Commissioners are given notice in accordance with the requirements of Schedule 12.

(4) A notice under paragraph (3) shall be given to the Commissioners—

- (a) in the case of any solid fuel wood brought by air, at least four working hours before its expected time of arrival; and
- (b) in any other case, at least three working days before its expected date of arrival.”.

#### **Article 20 (requirements for plant passports)**

7. After article 20(8)(15), insert—

“(9) In the case of any relevant material of a description specified in paragraph 1A of Part A of Schedules 6 and 7, the plant passport shall have been issued by a treatment facility authorised in accordance with Article 13 of [Decision 2012/535/EU](#).”.

#### **Article 21 (exceptions from certain prohibitions and requirements)**

8. In article 21(16)—

- (a) in paragraph (1), after “(g)”, insert “and (3)”;
- (b) after paragraph (2) insert—

“(2A) In the case of trees of host plants within the meaning of Article 1(b) of Decision (EU) 2015/789, the requirements in article 20(1) and (5) which would apply by virtue of paragraph 9 of Part A of Schedules 6 and 7 do not apply where the trees are being moved by a person acting for purposes outside the person’s trade, business or profession and the person is acquiring them for personal use.”.

#### **Article 40 (notification of the presence or suspected presence of certain tree pests)**

9. In article 40(17)—

- (a) in paragraph (1), for “any tree pest to which this article applies” substitute “any notifiable tree pest”;
- (b) after paragraph (1A), insert—

“(1B) If the Commissioners become aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in England or Scotland, the Commissioners shall ensure that any person having under their control trees which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

- (a) its presence or suspected presence;
- (b) the possible consequences arising from its presence or suspected presence; and
- (c) the measures to be taken as a result.”;
- (c) in paragraph (2), for “This article applies to” substitute “In paragraph (1), “notifiable tree pest” means”.

#### **Schedule 1 (tree pests which shall not be landed in or spread within Great Britain)**

10. In Schedule 1(18)—

---

(15) Article 20(8) was originally inserted by [S.I. 2013/2691](#) and amended by [S.I. 2014/2420](#).

(16) Article 21 was amended by [S.I. 2013/2691](#) and [2014/2420](#).

(17) Article 40 was amended by [S.I. 2006/2696](#) and [2014/2420](#).

(18) There are amendments to Schedule 1, but none is relevant.

- (a) after item 10 under the heading “Insects, mites and nematodes”, insert—

**“Bacteria**

---

1. *Xylella fastidiosa* (Wells et al.);

---

- (b) after item 10 under the heading “Fungi”, insert—

---

“11. *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov.”

---

**Schedule 3 (relevant material which may not be landed in Great Britain if that material originates in certain third countries)**

11. In Schedule 3(19)—

- (a) in the entry in the third column of item 5, after “North America”, insert “, other than the USA”;
- (b) after item 8, insert—

---

“9. Susceptible bark within the meaning of Article 1(4) the USA”.  
of [Decision 2002/757/EC](#)

---

**Schedule 4 (restrictions on the landing in and movement within Great Britain of relevant material)**

- 12.—(1) In Part A (relevant material, from third countries, which may only be landed in Great Britain if special requirements are satisfied) of Schedule 4(20)—

- (a) for item 10A substitute—

---

|  |  |
|--|--|
| <p>“10A. Wood of <i>Fraxinus</i> L., <i>Juglans ailantifolia</i> Carr., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch. or <i>Pterocarya rhoifolia</i> Siebold &amp; Zucc., other than in the form of:</p> <p>—chips, particles, sawdust, shavings, wood waste or scrap, obtained in whole or part from these trees, or</p> <p>—wood packaging material, except associated controlled dunnage,</p> <p>but including wood which has not kept its natural round surface, furniture or other objects made of untreated wood, originating in Canada, China, Democratic People’s Republic of Korea,</p> | <p>The wood shall be accompanied by an official statement that:</p> <p>(a) its bark and at least 2.5cm of the outer sapwood have been removed in a facility authorised and supervised by the national plant protection organisation;</p> <p>(b) the wood has undergone ionizing irradiation to achieve a minimum absorbed dose of 1 kGy throughout the wood; or</p> <p>(c) the wood originates in an area recognised as being free from <i>Agrilus planipennis</i> Fairmaire, as referred to in Article 1 of Decision (EU) 2015/2416, and which is mentioned on the phytosanitary certificate or</p> |
|--|--|

---

(19) Item 8 was amended by [S.I. 2009/3020](#).

(20) Item 10A was originally inserted as item 10a by [S.I. 2009/594](#) and amended by [S.I. 2014/2420](#). Item 11 was amended by [S.I. 2014/2420](#). Item 13 was amended by [S.I. 2014/2420](#). Item 16A was inserted by [S.I. 2014/2420](#). Item 19b was inserted by [S.I. 2012/2707](#). Item 24B was originally inserted as item 24a by [S.I. 2006/2696](#) and re-numbered by [S.I. 2013/2691](#). Item 34 was inserted by [S.I. 2013/2691](#). There are other amendments to Part A of Schedule 4, but none is relevant.

|   |  |
|---|--|
| Japan, Mongolia, Republic of Korea,<br>Russia, Taiwan or the USA  | phytosanitary certificate for re-export”;  |
| (b) in the entry in the second column of item 11, after “other than”, insert “wood which complies with the requirements in paragraph (b) in the third column of item 13A or wood”;            |  |
| (c) after item 13, insert—  |  |
| “13A. Susceptible wood within the meaning of Article 1(3) of <a href="#">Decision 2002/757/EC</a> originating in the USA  | <p>The wood shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export that:</p> <ul style="list-style-type: none"> <li>(a) it originates in an area in which non-European isolates of <i>Phytophthora ramorum</i> Werres, De Cock &amp; Man in ‘t Veld sp. nov. is known not to occur and which is mentioned under the heading “place of origin”;</li> <li>(b) it meets the requirements specified in point 2(b) of Annex 1 to <a href="#">Decision 2002/757/EC</a>; or</li> <li>(c) in the case of sawn wood with or without residual bark attached, it has undergone kiln-drying in the manner specified in point 2(c) of Annex 1 to that Decision, and there shall be evidence by a mark “Kiln-dried” or “KD” or another internationally recognised mark put on the wood or its packaging in accordance with current commercial usage</li> </ul>                           |
| 13B. Specified wood within the meaning of Article 1(b) of Decision (EU) 2015/893, originating in any third country where <i>Anoplophora glabripennis</i> (Motschulsky) is known to be present | <p>The wood shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which—</p> <ul style="list-style-type: none"> <li>(a) in the case of wood in the form of chips, particles, shavings, wood waste or scrap, includes: <ul style="list-style-type: none"> <li>(i) an official statement under the heading “Additional declaration” that it meets the requirements specified in point (2)(a), (b) or (c) of Section 1(B) of Annex II to Decision (EU) 2015/893; and</li> <li>(ii) where point (1)(a) of that Section applies, the name of the pest-free area under the heading “place of origin”;</li> </ul> </li> <li>(b) in any other case, includes: <ul style="list-style-type: none"> <li>(i) an official statement under the heading “Additional declaration” that it meets the requirements specified in point (1)(a) of that Section and the</li> </ul> </li> </ul> |

- (ii) name of the pest-free area under the heading “place of origin”; or an official statement under the heading “Additional declaration” that it is debarked and has undergone heat treatment in the manner specified in point (1)(b) of that Section, and there shall be evidence of that heat treatment by a mark “HT” put on the wood or on any wrapping in accordance with current usage”;

(d) after item 16A, insert—

- |      |  |   |
|------|--|---|
| “17. | Wood in the form of chips, particles, sawdust, shavings, wood waste or scrap obtained in whole or in part from <i>Fraxinus</i> L., <i>Juglans ailantifolia</i> Carr., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch. or <i>Pterocarya rhoifolia</i> Siebold & Zucc., originating in Canada, China, Democratic People’s Republic of Korea, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA | The wood shall be accompanied by an official statement that the wood originates in an area recognised as being free from <i>Agrilus planipennis</i> Fairmaire, as referred to in Article 1 of Decision (EU) 2015/2416, and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export   |
| 17A. | Isolated bark or objects made out of bark of <i>Fraxinus</i> L., <i>Juglans ailantifolia</i> Carr., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch. or <i>Pterocarya rhoifolia</i> Siebold & Zucc., originating in Canada, China, Democratic People’s Republic of Korea, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA   | The bark shall be accompanied by an official statement that the bark originates in an area recognised as being free from <i>Agrilus planipennis</i> Fairmaire, as referred to in Article 1 of Decision (EU) 2015/2416, and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export”; |

(e) in the entry in the third column of item 19b, for “No 4”, substitute “No. 4”;

(f) after item 19b, insert—

- |       |  |  |
|-------|--|--|
| “19C. | Trees, other than fruit or seeds, but including cut branches with or without foliage, of <i>Fraxinus</i> L., <i>Juglans ailantifolia</i> Carr., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch. or <i>Pterocarya rhoifolia</i> Siebold & Zucc., originating in Canada, China, Democratic People’s Republic of Korea, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA | The trees shall be accompanied by an official statement that they originate in an area recognised as being free from <i>Agrilus planipennis</i> Fairmaire for the purposes of point 11.4 of Annex IV Part A Section I of the Directive, and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export”; |
|-------|--|--|

(g) omit item 24B;

(h) after item 34, insert—

- |  |  |
|--|--|
| <p>“35. Trees of susceptible plants within the meaning of Article 1(2) of <a href="#">Decision 2002/757/EC</a>, other than trees of <i>Camellia</i> spp. L., <i>Rhododendron</i> spp. L. or <i>Viburnum</i> spp. L., originating in the USA</p>  | <p>The trees shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes:</p> <p>(a) an official statement under the heading “Additional Declaration” that they:</p> <p>(i) meet the requirements specified in point 1a(a) or 1a(b) of Annex I to <a href="#">Decision 2002/757/EC</a>; and</p> <p>(ii) have been inspected in accordance with point 1a of that Annex and found free from non-European isolates of <i>Phytophthora ramorum</i> Werres, De Cock &amp; Man in ‘t Veld sp. nov.; and</p> <p>(b) where point 1a(a) of that Annex applies, the name of the area in which they originate under the heading “place of origin”</p> |
| <p>36. Trees of specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 originating in any third country, other than a third country where <i>Xylella fastidiosa</i> (Wells et al.) is known to be present</p>   | <p>The trees shall:</p> <p>(a) originate in a third country which has been notified to the European Commission by the relevant national plant protection organisation in accordance with Article 16(a) of Decision (EU) 2015/789; and</p> <p>(b) be accompanied by a phytosanitary certificate which includes an official statement under the heading “Additional declaration” in accordance with Article 16(b) of that Decision</p>   |
| <p>37. Trees of specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 originating in any third country where <i>Xylella fastidiosa</i> (Wells et al.) is known to be present, other than those which have been grown for their entire production cycle <i>in vitro</i></p> | <p>The trees shall be accompanied by a phytosanitary certificate which includes:</p> <p>(a) in the case of trees originating in an area which has been established as free from <i>Xylella fastidiosa</i> (Wells et al.) in accordance with ISPM No. 4 and has been notified to the European Commission by the relevant national plant protection organisation in accordance with Article 17(2)(a) of Decision (EU) 2015/789, the name of the area under the heading “place of origin”; or</p> <p>(b) in the case of trees which originate in an area where <i>Xylella fastidiosa</i> (Wells et al.) is known to be present:</p>   |



- (i) an official statement under the heading “Additional declaration” in accordance with Article 17(3) of that Decision; and
    - (ii) the name of the site from which they originate under the heading “place of origin”
- 38. Trees of specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 originating in any third country where *Anoplophora glabripennis* (Motschulsky) is known to be present  
The trees shall be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes—
  - (a) an official statement under the heading “Additional Declaration” that they meet the requirements specified in point (1)(a), (b) or (c) of Section 1(A) of Annex II of Decision (EU) 2015/893; and
  - (b) where point (1)(a) of that Section applies, the name of the pest-free area under the heading “place of origin”.

(2) In Part B (relevant material, from another part of the European Union, which may only be landed in or moved within Great Britain if special requirements are satisfied) of Schedule 4(21)—

(a) after item 1, insert—

- “1A. Susceptible wood within the meaning of Article 1(b) of [Decision 2012/535/EU](#) which originates in an area established in accordance with Article 5 of that Decision  
The wood shall:
  - (a) in the case of wood in the form of wood packaging material, meet the requirements specified in point 3 of Section 1 of Annex III to [Decision 2012/535/EU](#);
  - (b) in the case of wood in the form of beehives or bird nesting boxes—
    - (i) meet the requirements specified in point 2(a) of that Section and either be accompanied by an official statement that it meets those requirements or be marked in accordance with Annex II to ISPM No. 15; and
    - (ii) if it is not free from bark, meet the requirements specified in point 2(c) of that Section; or
  - (c) in the case of any other wood which is not in the form of wood packaging material:
    - (i) be accompanied by an official statement that it meets the

(21) Item 1 was amended by [S.I. 2014/2420](#). Item 5B was originally inserted as item 5a by [S.I. 2006/2696](#) and re-numbered by [S.I. 2013/2691](#). Item 9 was inserted by [S.I. 2012/2707](#). There are other amendments to Part B of Schedule 4, but none is relevant.

- requirements specified in point 2(a) of that Section; and
- (ii) if it is not free from bark, meet the requirements specified in point 2(c) of that Section
- 1B. Specified wood within the meaning of Article 1(b) of Decision (EU) 2015/893 which originates in an area established in accordance with Article 7 of that Decision or specified wood within the meaning of that Article which retains all or part of its round surface and which does not originate in, but has been introduced into, such an area
- The wood shall:
- (a) in the case of wood in the form of chips, particles, shavings, wood waste or scrap, be accompanied by an official statement that it meets the requirements in point (2)(a) or (b) of Section 2(B) of Annex II to Decision (EU) 2015/893;
- (b) in any other case, be accompanied by an official statement that it meets the requirements in points (1)(a) and (b) of that Section, and there shall be evidence of the appropriate heat treatment by a mark “HT” put on the wood or on any wrapping in accordance with current usage
- 1C. Specified wood packaging material within the meaning of Article 1(c) of Decision (EU) 2015/893 which originates in an area demarcated in accordance with Article 7 of that Decision
- The wood packaging material shall meet the requirements specified in points (a) and (b) of Section 2(C) of Annex II to Decision (EU) 2015/893
- 1D. Susceptible bark within the meaning of Article 1(c) of [Decision 2012/535/EU](#) which originates in an area established in accordance with Article 5 of that Decision
- The bark shall be accompanied by an official statement that it meets the requirements specified in point 2(a) of Section 1 of Annex III to [Decision 2012/535/EU](#)
- 1E. Trees of susceptible plants within the meaning of Article 1(a) of [Decision 2012/535/EU](#) which originate in an area established in accordance with Article 5 of that Decision
- The trees shall be accompanied by an official statement that they meet the requirements specified in points 1(a) to (c) of Section 1 of Annex III to [Decision 2012/535/EU](#) and shall meet the requirements specified in point 1(e) of that Section”;

---

(b) omit item 5B;

(c) in the entry in the third column of item 9, for “No 4”, substitute “No. 4”;

(d) after item 9, insert—

- 
- “10. Trees of specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision, other than those
- The trees shall:
- (a) be accompanied by an official statement that they meet the requirements specified in Article 9(2) to (4) and (5) of Decision (EU) 2015/789; and

- which have been grown for their entire production cycle *in vitro* (b) be transported in the manner specified in Article 9(6) of that Decision
11. Trees of specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision
- The trees shall be accompanied by an official statement that:
- (a) in the case of trees which originate in an area established in accordance with Article 7 of Decision (EU) 2015/893, they have been grown during a period of at least two years prior to their movement, or in the case of trees which are younger than two years, throughout their life, in a place of production which meets the requirements specified in points (1)(a) and (b) of Section 2(A) of Annex II to that Decision; and
- (b) they meet the requirements specified in point (1)(c) of that Section”.

#### **Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required)**

13. In Part A (relevant material which may only be landed in Great Britain if accompanied by a phytosanitary certificate) of Schedule 5(22)—

- (a) after paragraph 1, insert—

“1A. Trees of susceptible plants within the meaning of Article 1(2) of [Decision 2002/757/EC](#), other than trees of *Camellia* spp. L., *Rhododendron* spp. L. or *Viburnum* spp. L., originating in the USA.”;

- (b) re-number paragraphs 1a, 1b and 1c as paragraphs 1B, 1C and 1D respectively;

- (c) after paragraph 4, insert—

“4A. Specified wood within the meaning of Article 1(3) of [Decision 2002/757/EC](#), other than wood of *Quercus* L., originating in the USA.

4B. Specified wood within the meaning of Article 1(b) of Decision (EU) 2015/893 originating in any third country in which *Anoplophora glabripennis* (Motschulsky) is known to be present.”.

#### **Schedule 6 (prohibitions on the landing in and movement within Great Britain of relevant material without a plant passport)**

14. In Part A (relevant material, from another part of the European Union, which may only be landed or moved in Great Britain if accompanied by a plant passport) of Schedule 6(23)—

- (a) after paragraph 1, insert—

“1A. Susceptible wood or susceptible bark within the meaning of Article 1 of [Decision 2012/535/EU](#), other than susceptible wood in the form of wood packaging material or susceptible wood in the form of beehives or bird nesting boxes which has been marked

(22) Paragraph 1a was inserted by [S.I. 2008/644](#). Paragraphs 1b and 1c were inserted by [S.I. 2012/2707](#). Paragraph 4 was amended by [S.I. 2009/594](#), [2013/2691](#) and [2014/2420](#). There are other amendments to Part A of Schedule 5, but none is relevant.

(23) Paragraph 2 was amended by [S.I. 2006/2696](#) and [2008/644](#). Paragraph 3 was inserted by [S.I. 2006/2696](#). Paragraph 6 was inserted by [S.I. 2012/2707](#). There are other amendments to Part A of Schedule 6, but none is relevant.

in accordance with Annex II to ISPM No. 15 by a person who has been authorised, in accordance with Article 14 of that Decision, to apply the mark to the material.

**1B.** Specified wood within the meaning of Article 1(b) of Decision (EU) 2015/893 which originates in an area established in accordance with Article 7 of that Decision, or specified wood within the meaning of that Article which retains all or part of its round surface and which does not originate in, but has been introduced into, such an area.”;

- (b) in paragraph 2, after “*Abies* Mill.,” insert “*Castanea* Mill.”;
- (c) omit paragraph 3;
- (d) after paragraph 6, insert—

“7. Trees of susceptible plants within the meaning of Article 1(2) of [Decision 2002/757/EC](#), other than trees of *Camellia* spp. L., *Rhododendron* spp. L. or *Viburnum* spp. L., originating in the USA.

**8.** Trees of susceptible plants within the meaning of Article 1(a) of [Decision 2012/535/EU](#) which originate in an area established in accordance with Article 5 of that Decision.

**9.** Trees of specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision or trees of host plants within the meaning of Article 1(b) of that Decision which have never been grown in such an area.

**10.** Trees of specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893, which originate in a third country in which *Anoplophora glabripennis* (Motschulsky) is known to be present or which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision.”.

#### **Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport)**

**15.** In Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport) of Schedule 7(**24**)—

- (a) after paragraph 1, insert—

“**1A.** Susceptible wood or susceptible bark within the meaning of Article 1 of [Decision 2012/535/EU](#), other than susceptible wood in the form of wood packaging material or susceptible wood in the form of beehives or bird nesting boxes which has been marked in accordance with Annex II to ISPM No. 15 by a person who has been authorised, in accordance with Article 14 of that Decision, to apply the mark to the material.

**1B.** Specified wood within the meaning of Article 1(b) of Decision (EU) 2015/893 which originates in an area established in accordance with Article 7 of that Decision, or specified wood within the meaning of that Article which retains all or part of its round surface and which does not originate in, but has been introduced into, such an area.”;

- (b) in paragraph 2, after “*Abies* Mill.,” insert “*Castanea* Mill.”;
- (c) omit paragraph 3;
- (d) after paragraph 6, insert—

(24) Schedule 7 was amended by [S.I. 2011/1043](#). Paragraph 2 was amended by [S.I. 2006/2696](#) and [2008/644](#). Paragraph 3 was inserted by [S.I. 2006/2696](#). Paragraph 6 was inserted by [S.I. 2012/2707](#). There are other amendments to Part A of Schedule 7, but none is relevant.

“7. Trees of susceptible plants within the meaning of Article 1(2) of [Decision 2002/757/EC](#), other than trees of *Camellia* spp. L., *Rhododendron* spp. L. or *Viburnum* spp. L., originating in the USA.

8. Trees of susceptible plants within the meaning of Article 1(a) of [Decision 2012/535/EU](#) which originate in an area established in accordance with Article 5 of that Decision.

9. Trees of specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision or trees of host plants within the meaning of Article 1(b) of that Decision which have never been grown in such an area.

10. Trees of specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893, which originate in a third country in which *Anoplophora glabripennis* (Motschulsky) is known to be present or which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision.”.

### **Schedule 12 (notice of landing)**

16. In Schedule 12—

(a) for Part A substitute—

#### **“PART A**

1. The notice of landing required under article 6(1) in relation to relevant material, other than solid fuel wood, shall be in the form set out in Part B or in a document containing at least the information referred to in that form.

2. The notice of landing required under article 6(1) or article 18(3) in relation to solid fuel wood shall be in the form set out in Part C or in a document containing at least the information referred to in that form.

3. The information contained in the notice shall be—

- (a) in English; and
- (b) in typescript or block capitals.”;

(b) after Part B, insert—

“PART C

**Notice of landing required under article 6(1) or article 18(3) of the Plant Health (Forestry) Order 2005 in relation to solid fuel wood**

|    |   |                         |
|----|---|-------------------------|
| 1. | Genus and species of solid fuel wood                            | .....                   |
| 2. | Quantity (volume or weight of solid fuel wood)                  | .....                   |
| 3. | Expected date of arrival  | .....                   |
| 4. | Expected first destination after landing                        | .....                   |
| 5. | Country of origin   | .....                   |
| 6. | Consignor country, if different                                 | .....                   |
| 7. | Details of any phytosanitary treatments which have been applied | .....<br>.....<br>..... |
| 8. | Address of the consignor  | .....<br>.....<br>..... |
|    | Signature of the importer                                       | Date .....              |
|    | .....   |                         |
|    | .....   |                         |

### **Revocation and transitional provision**

17.—(1) The following Orders are revoked—

- (a) the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2004<sup>(25)</sup>; and
- (b) the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) (Amendment) Order 2007<sup>(26)</sup>.

(2) Any notice issued or licence, authorisation or other approval granted under or for the purposes of the Plant Health (Forestry) (*Phytophthora ramorum*) (Great Britain) Order 2004 and which has effect at the coming into force of this Order remains in force as if it were issued or granted under or for the purpose of the Plant Health (Forestry) Order 2005.

The Official Seal of the Forestry Commissioners

30th November 2016

*Stephen Bennett*  
Secretary to the Forestry Commissioners

---

<sup>(25)</sup> S.I. 2004/3213.

<sup>(26)</sup> S.I. 2007/3450.

---

## EXPLANATORY NOTE

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

This Order amends the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) (“the principal Order”) in relation to England and Scotland to implement—

- (a) Commission Decision 2002/757/EC on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov. (OJ No L 252, 20.9.2002, p. 37), as last amended by Commission Implementing Decision 2013/782/EU (OJ No L 346, 20.12.2013, p. 69) (articles 10(b), 11, 12(1)(b), (c) and (g), 13(a) and (c), 14(d) and 15(d) of the Order);
- (b) Commission Implementing Decision 2014/690/EU repealing Commission Decision 2006/464/EC on provisional measures to prevent the introduction into and the spread within the Community of *Dryocosmus kuriphilus* Yasumatsu (OJ No L 288, 2.10.2014, p. 5) (articles 12(1)(f), 12(2)(b), 14(b) and (c) and 15(b) and (c) of the Order);
- (c) Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ No L 125, 21.5.2015, p. 36), as last amended by Commission Implementing Decision (EU) 2016/746 (OJ No L 126, 14.5.2016, p. 77) (articles 8(b), 9, 12(1)(g), 12(2)(c), 14(d) and 15(d) of the Order);
- (d) Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky) (OJ No L 146, 11.6.2015, p. 16) (articles 12(1)(c) and (g), 12(2)(a) and (c), 13(c), 14(a) and (d) and 15(a) and (d) of the Order);
- (e) Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode) (OJ No L 266, 2.10.2012, p. 42), as amended by Commission Implementing Decision (EU) 2015/226 (OJ No L 37, 13.2.2015, p. 21) (articles 7, 12(2)(a), 14(a) and (d) and 15(a) and (d) of the Order); and
- (f) Commission Implementing Decision (EU) 2015/2416 recognising certain areas of the United States of America as being free from *Agrius planipennis* Fairmaire (OJ No L 333, 19.12.2015, p. 128) (article 12(1)(a) and (d) of the Order).

Article 3(1) provides for references to five EU instruments to be read as references to those instruments as amended from time to time.

Articles 5, 6, 8(a) and 16 make provision to prohibit a person from landing in England or Scotland certain solid fuel wood from third countries and the European Union, unless prior written notification has been given to the Forestry Commissioners.

The Order also revokes the Orders referred to in article 17(1).

A full impact assessment of the effect that articles 5, 6, 8(a) and 16 will have on the costs of business, the voluntary sector and the public sector is available from the Forestry Commission, Plant Health Service, 231 Corstorphine Road, Edinburgh EH12 7AT and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk). An impact assessment has not been produced for the other provisions of this instrument as no impact on business or the private or voluntary sector is foreseen.



