

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2004 No. 488**

**PLANT HEALTH**

**The Plant Health (Phytophthora  
ramorum) (Scotland) Order 2004**

*Made* - - - - *9th November 2004*  
*Laid before the Scottish*  
*Parliament* - - - - *10th November 2004*  
*Coming into force* - - *2nd December 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2, 3(1), (2), (3) and (4) and 4(1) of the Plant Health Act 1967(1), as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(2), and of all other powers enabling them in that behalf hereby make the following Order:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004 and shall come into force on 2nd December 2004.

(2) This Order extends to Scotland only.

**Commencement Information**

II Art. 1 in force at 2.12.2004, see [art. 1\(1\)](#)

**Interpretation**

2.—(1) In this Order—

“European Community” has the same meaning as that given in article 2(1) of the principal Order;

---

(1) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48) and further amended by section 17(1) of the Criminal Justice Act 1991 (c. 53) and the Statute Law (Repeals) Act 1993, section 1(1) and Schedule 1, Part XIV. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) 1972 c. 62.

---

*Status: Point in time view as at 02/12/2004.*

*Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Phytophthora ramorum) (Scotland) Order 2004. (See end of Document for details)*

---

“inspector” means any person authorised by the Scottish Ministers 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;

“*Phytophthora ramorum*” means 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 14 of the principal Order and issued in compliance with the provisions of this Order; or
- (b) the equivalent in a language other than English;

“place of production” has the same meaning as that given in article 2(1) of the principal Order;

“plant” has the same meaning as that given in article 2(1) of the principal Order, save that seed and fruit in the botanical sense are excluded;

“plant passport” means either—

- (a) a label and, where appropriate, an accompanying document issued in the European Community containing the relevant information in Schedule 9 to 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” has the same meaning as that given in article 2(1) of the principal Order, save that “plant” has the meaning given to it in this Order;

“premises” has the same meaning as that given in article 2(1) of the principal Order;

“the principal Order” means the Plant Health (Great Britain) Order 1993(3);

“reforwarding phytosanitary certificate” has the same meaning as that given in article 2(1) of the principal Order;

“susceptible material” means—

- (a) in the case of material originating in the United States of America (“USA”), plants intended for planting, of the species and genera listed in the first column of Schedule 1; and
- (b) in all other cases, plants, intended for planting, of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L.;

“susceptible tree” means a tree, excluding fruit or 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 that 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. or *Viburnum* spp L.;

“third country” has the same meaning as that given in article 2(1) of the principal Order;

---

(3) S.I.1993/1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349, 1121 and 2245S.I. 1999/22 and 129, 2000/201, 201/249, 2002/164 and 2003/224.

“tree” has the same meaning as that given in article 2(1) of the Plant Health (Forestry) (Great Britain) Order 1993(4).

(2) Any reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(5), which has been recorded and is consequently capable of being reproduced.

**Commencement Information**

I2 Art. 2 in force at 2.12.2004, see [art. 1\(1\)](#)

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

3. Subject to article 11, no person shall—

- (a) introduce *Phytophthora ramorum* into Scotland(6); or
- (b) spread *Phytophthora ramorum* within Scotland.

**Commencement Information**

I3 Art. 3 in force at 2.12.2004, see [art. 1\(1\)](#)

**Imports of susceptible material originating in the USA**

4. Subject to article 11, no person shall import into Scotland susceptible material originating in the USA unless—

- (a) it is—
  - (i) accompanied by a phytosanitary certificate issued in accordance with the requirements set out in the second column of Schedule 1, or a certified copy thereof in the case of material for which a reforwarding phytosanitary certificate has also been issued; and
  - (ii) upon examination by an inspector, found to be free from *Phytophthora ramorum*(7);  
or
- (b) in the case of imports from Switzerland of plants 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.

**Commencement Information**

I4 Art. 4 in force at 2.12.2004, see [art. 1\(1\)](#)

(4) S.I. 1993/1283, to which there are amendments not relevant to this Order.

(5) 2000 c. 7.

(6) 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.

(7) Section 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.

*Status: Point in time view as at 02/12/2004.*

*Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Phytophthora ramorum) (Scotland) Order 2004. (See end of Document for details)*

### **Movement of susceptible material originating in the USA or any other third country**

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 Scotland, no person shall move that material—

- (a) within Scotland;
- (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 intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L., to Switzerland,

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

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

#### **Commencement Information**

**I5** Art. 5 in force at 2.12.2004, see [art. 1\(1\)](#)

### **Movement of susceptible material originating in Scotland and elsewhere in the European Community or Switzerland**

6.—(1) Subject to article 11, no person shall move into Scotland susceptible material originating—

- (a) elsewhere in the United Kingdom;
- (b) in the Isle of Man or Channel Islands;
- (c) in another Member State; or
- (d) in the case of plants intended for planting of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., and *Viburnum* spp. L., in Switzerland,

unless it is accompanied by a plant passport and meets the requirements of Schedule 2(8).

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

#### **Commencement Information**

**I6** Art. 6 in force at 2.12.2004, see [art. 1\(1\)](#)

### **Official registration**

7.—(1) Subject to paragraph (4), no person who produces susceptible material may move that material unless that person is registered as a producer pursuant to articles 15 and 16 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 15 and 16 of the principal Order as if the application were provided for by that Order;

(8) See footnote (a) above.

(b) in so applying, shall meet the requirements of those articles as if the application had been made under the principal Order; and

(c) shall be treated by the Scottish Ministers, 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.

#### Commencement Information

I7 Art. 7 in force at 2.12.2004, see [art. 1\(1\)](#)

### 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—

(a) article 11(3), 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 14(1), as if the plant passport were issued in respect of susceptible material; and

(c) article 14(2) to (8).

(2) Subject to paragraph (4), a person who holds the authority of the Scottish Ministers under article 17 of the principal Order to produce, store and issue plant passports on behalf of a business, individual or other organisation is also authorised under this Order to produce, store and issue plant passports required under this Order on behalf of that business, individual or other organisation.

(3) A person not authorised under this Order pursuant to paragraph (2) may be authorised by the Scottish Ministers, subject to any conditions they see 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 pursuant to 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.

*Status: Point in time view as at 02/12/2004.*

*Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Phytophthora ramorum) (Scotland) Order 2004. (See end of Document for details)*

#### Commencement Information

**18** Art. 8 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Phytosanitary certificates

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

- (a) article 12(1);
- (b) article 12(4), as if the references to the principal Order were references to this Order;
- (c) article 12(5) and (6);
- (d) article 12(7), as if susceptible material were a “plant” within the meaning of the principal Order; and
- (e) article 13.

(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 reforwarding phytosanitary certificate issued by the official plant health service of that third country.

#### Commencement Information

**19** Art. 9 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Implications of the issue of phytosanitary certificates or plant passports issued outside Scotland

**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 plant health passport 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 have been issued in accordance with the relevant requirements of Schedule 2.

(3) Any plant passport issued by or with the authority of an official plant health service of Switzerland, shall be deemed to have been issued in accordance with the relevant requirements of Schedule 2.

#### Commencement Information

**110** Art. 10 in force at 2.12.2004, see [art. 1\(1\)](#)

#### 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.

#### Commencement Information

**I11** Art. 11 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Actions which may be required by an inspector

**12.**—(1) If an inspector has reasonable grounds for suspecting that *Phytophthora ramorum* is present or likely to be present on any premises, that inspector may, for the purposes of enforcing article 3(b), by notice in writing served on the occupier or person in charge of the premises or of the susceptible material—

- (a) require any of the susceptible material to be treated, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;
- (b) prohibit the removal of those susceptible material from premises specified in the notice or impose such other prohibitions as appear to the inspector to be necessary to prevent the spread of *Phytophthora ramorum*;
- (c) require the removal of those susceptible material to premises specified in the notice in such manner and within such reasonable time as may be so specified; or
- (d) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the spread of *Phytophthora ramorum* in such manner and within such reasonable time as may be specified in the notice.

(2) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of *Phytophthora ramorum* from the premises mentioned in paragraph (1) of this article, that inspector may by notice in writing served on the occupier or other person in charge of any other premises impose such prohibitions and require the taking of such reasonable steps, specified in the notice, as appear to that inspector to be necessary for that purpose, such steps to be taken in such manner and in such reasonable time as may be specified in the notice.

(3) For the purposes of carrying out an examination of susceptible material upon its entry into Scotland an inspector may, by notice in writing served on the consignee of any susceptible material which has been or is to be imported into Scotland, 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.

#### Commencement Information

**I12** Art. 12 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Actions which may be taken by an inspector

**13.**—(1) Without prejudice to the provisions in article 12, and subject to article 28 of the principal Order, if an inspector has reasonable grounds for suspecting that *Phytophthora ramorum* is present or likely to be present on any premises, that inspector may after giving the occupier or other person in charge of the premises reasonable notice and upon production if so required of the authority of that inspector, enter such premises and either on those premises or elsewhere take steps—

- (a) to destroy or treat in some other way any susceptible material found on those premises;

---

**Status:** Point in time view as at 02/12/2004.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004. (See end of Document for details)

---

(b) to destroy and to prevent the spread of *Phytophthora ramorum* found on those premises.

(2) Subject to article 28 of the principal Order, an inspector may on production if so required of the authority of that inspector at all reasonable times for the purpose of ascertaining whether *Phytophthora ramorum* exists on any premises, or for any other purpose of this Order, including checking compliance with it, enter any premises to—

- (a) examine, photograph or mark any part of the premises or any susceptible material or object on the premises;
- (b) take samples of any susceptible material or other object and anything which has been or may have been in contact with *Phytophthora ramorum*; or
- (c) require production of any documents 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 documents or records.

(3) An inspector may, for the purpose of the examinations referred to in paragraph (2), open, authorise any person to open on behalf of that inspector or require the owner or any person in charge of any container, bundle or other package to open, in such manner as the inspector may specify, the container or other package.

(4) An inspector may, so far as it is necessary for the purposes of the examinations referred to in paragraph (2), prohibit entirely or to such extent as that inspector may indicate the movement of any susceptible material, container, bundle, other package or object by means of which in the opinion of that inspector the pest may spread.

(5) For the purposes of the examinations referred to in paragraph (2), an inspector may require the occupier or other person in charge of the premises in which the examination is taking place to provide adequate lighting and, where appropriate, suitable areas for inspection.

(6) Where any such document or record as is mentioned in paragraph (2)(c) is kept by means of a computer, an inspector may—

- (a) require access to, and inspect and check the operation of, 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 that inspector such assistance as that inspector may reasonably require.

(7) An inspector on entering any premises under paragraphs (1) or (2) may take with that inspector such other persons including, but not limited to, representatives of the European Commission, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of the powers of that inspector under those paragraphs, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

---

#### **Commencement Information**

**I13** Art. 13 in force at 2.12.2004, see [art. 1\(1\)](#)

#### **Miscellaneous provisions as to notices**

**14.** The following provisions of the principal Order shall apply to a notice issued under article 12, as appropriate—



- (a) article 24, as if references to article 22 of the principal Order were to article 12 of this Order and other references to the principal Order were to this Order;
- (b) article 26, as if references to the principal Order were to this Order;
- (c) article 27, as if references to the principal Order were to this Order;
- (d) article 28, as if references to articles 23, 25 and 27 of the principal Order were to articles 12 and 13 of this Order.

#### Commencement Information

**I14** Art. 14 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Offences

**15.**—(1) A person shall be guilty of an offence if that person, without reasonable excuse, proof of which shall lie on that person—

- (a) contravenes or fails to comply with articles 3(b), 5, 6(2), 7(1) or 7(3); or
- (b) contravenes or fails to comply with a provision or condition of a notice served, or licence granted, under this Order; or
- (c) intentionally obstructs an inspector or any person authorised by an inspector in the exercise of the powers conferred on that inspector by or under this Order.

(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, that person—

- (a) makes a statement which that person 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 that person knowingly issues a false plant passport under this Order.

(4) A person shall be guilty of an offence if that person knowingly 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.

#### Commencement Information

**I15** Art. 15 in force at 2.12.2004, see [art. 1\(1\)](#)

#### Revocation

- (a) (a) Article 3 of the Plant Health (*Phytophthora ramorum*) (Scotland) Order 2002(9); and
  - (b) The Plant Health (*Phytophthora ramorum*) (Scotland) (No. 2) Order 2002(10),
- are hereby revoked.

(9) S.S.I. 2002/223.

(10) S.S.I. 2002/483.

---

**Status:** Point in time view as at 02/12/2004.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Phytophthora ramorum) (Scotland) Order 2004. (See end of Document for details)

---

.....

**Commencement Information**

**I16** Art. 16 in force at 2.12.2004, see [art. 1\(1\)](#)

St Andrew's House, Edinburgh

*ROSS FINNIE*  
A member of the Scottish Executive

## SCHEDULE 1

Article 4(a) and 10(1)

**Commencement Information**I17 Sch. 1 in force at 2.12.2004, see [art. 1\(1\)](#)

<i>Susceptible Material</i>	<i>Requirements to be met in respect of the issuing of any phytosanitary certificate accompanying susceptible material (“the certificate”)</i>
<p><i>Acer macrophyllum</i> Pursh.</p> <p><i>Aesculus californica</i> Nutt.,</p> <p><i>Aesculus hippocastanum</i> L.</p> <p><i>Arbutus menziesii</i> Pursch.</p> <p><i>Arbutus unedo</i> L.</p> <p><i>Arctostaphylos</i> spp. Adans</p> <p><i>Camellia</i> spp.</p> <p><i>Castanea Sativa</i> Mill.</p> <p><i>Fagus Sylvatica</i> L.</p> <p><i>Hamamelis virginiana</i> L.</p> <p><i>Heteromeles arbutifolia</i> (Lindley) M. Roemer</p> <p><i>Kalmia latifolia</i> L.</p> <p><i>Leucothoe fontanesiana</i> (Steudel) Sleumer</p> <p><i>Lithocarpus densiflorus</i> (H &amp; A)</p> <p><i>Lonicera hispidula</i> (Dougl.)</p> <p><i>Pieris</i> spp.</p> <p><i>Pseudotsuga menziesii</i> (Mirbel) Franco</p> <p><i>Quercus</i> spp. L.</p> <p><i>Rhamnus californica</i> (Esch)</p>	<p>Either:</p> <p>(a) The certificate shall contain an additional declaration that the material originates in an area recognised by the official plant health service of the country from which the material originates (“the relevant plant health service”) as being free from non-European isolates of <i>Phytophthora ramorum</i>, in which case the name of the area from where the material originates shall be specified under “place of origin”;</p> <p>or</p> <p>(b) the certificate shall be issued only after official verification by the relevant plant health service that:</p> <p>(i) upon official inspections carried out during the last complete cycle of vegetation of the susceptible material the subject of the certificate, or upon laboratory testing of apparent symptoms of non-European isolates of <i>Phytophthora ramorum</i>, no signs of non-European isolates of <i>Phytophthora ramorum</i> have been found on susceptible material or any susceptible tree at the place of production; and</p> <p>(ii) representative samples of the plants have been taken before shipment, and have been tested and found free from non-European isolates of <i>Phytophthora ramorum</i> in these tests, in which case the certificate shall be endorsed by the relevant plant health service under the heading “additional declaration” with</p>

**Status:** Point in time view as at 02/12/2004.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004. (See end of Document for details)

<i>Susceptible Material</i>	<i>Requirements to be met in respect of the issuing of any phytosanitary certificate accompanying susceptible material (“the certificate”)</i>
<i>Rhododendron</i> spp. L., other than <i>Rhododendron simsii</i> Planch.	the statement “tested and found free from non-European isolates of <i>Phytophthora ramorum</i> ”.
<i>Sequoia sempervirens</i> (D.Don) Endl.	
<i>Syringa vulgaris</i> L.	
<i>Taxus</i> spp.	
<i>Trientalis latifolia</i> (Hook)	
<i>Umbellularia californica</i> (Pursch.).	
<i>Vaccinium vitis-idaea</i> Britt.	
<i>Vaccinium ovatum</i> (Hook & Arn) Nutt.	
<i>Viburnum</i> spp. L.	

## SCHEDULE 2

Article 6, 10(2) and (3)

**Commencement Information**

**I18** Sch. 2 in force at 2.12.2004, see [art. 1\(1\)](#)

<i>Susceptible Material</i>	<i>Requirements to be met in respect of susceptible material produced in Scotland or moved into Scotland from elsewhere in the United Kingdom, from the Channel Islands or Isle of Man, from another Member State or from Switzerland</i>
<i>Camellia</i> spp.	Either: (a) they originate in areas in which <i>Phytophthora ramorum</i> is known not to occur; (b) upon official inspection at the place of production, carried out at least once at an appropriate time when the susceptible material is in active growth, or upon laboratory testing of apparent symptoms of <i>Phytophthora ramorum</i> , no signs of <i>Phytophthora ramorum</i> have been found on the susceptible material during the last complete cycle of vegetation; or
<i>Rhododendron</i> spp. L., other than <i>Rhododendron simsii</i> Planch.	
<i>Viburnum</i> spp. L.	

---

*Susceptible Material*

*Requirements to be met in respect of susceptible material produced in Scotland or moved into Scotland from elsewhere in the United Kingdom, from the Channel Islands or Isle of Man, from another Member State or from Switzerland*

---

- (c) where signs of *Phytophthora ramorum* have been found on susceptible material at the place of production, appropriate procedures aimed at eradicating *Phytophthora ramorum* have been implemented which include at least the following measures:
- (i) the destruction of susceptible material found to be infected by *Phytophthora ramorum* (“infected material”) and any other susceptible material within a radius of two metres of the infected material;
  - (ii) susceptible material within a radius of ten metres of the infected material and all other susceptible material from the same lot as the infected material have been retained at the place of production and, in the three months following the finding of infection referred to in sub-paragraph (i), have not been subject to any treatments that may suppress symptoms of *Phytophthora ramorum* and have been found free from *Phytophthora ramorum* after additional inspections carried out at least twice; and
  - (iii) all other susceptible material at the place of production has been inspected frequently following the finding of infection referred to in sub-paragraph (i) and found on such inspection to be free from *Phytophthora ramorum*.
-

**Status:** Point in time view as at 02/12/2004.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004. (See end of Document for details)

## EXPLANATORY NOTE

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

This Order, which comes into force on 2nd December 2004, implements in Scotland—

- (a) Commission Decisions [2002/757/EC](#) of 19th September 2002 (O.J. No. L 252, 20.9.2002, p.37) and [2004/426/EC](#) of 29th April 2004 (O.J. No. L 189, 27.5.2004, p.1) on provisional emergency phytosanitary measures to prevent the introduction into and the spread of within the Community of *Phytophthora ramorum* insofar as they relate to plants other than forest trees; and
- (b) Commission Decision [2004/278/EC](#) (O.J. No. L 87, 25.3.2004, p.31) on the Community position on the amendment of the Appendices to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade and agricultural products insofar as it relates to *Camellia*, *Rhododendron* and *Viburnum*.

The Order prohibits the introduction and spread of the plant pest, *Phytophthora ramorum*, a fungus identified as causing Sudden Oak Death syndrome in certain species of oak in the USA and harm to other plant species, including *Camellia*, *Rhododendron* and *Viburnum* (article 3).

It controls the importation of plants of a number of susceptible species from the USA, requiring such material to be accompanied by phytosanitary certificates which may be issued only after specific checks have been carried out during production and before consignment; or alternatively, where the material originates in a part of the USA recognised by plant health authorities as free from the pest, confirming that fact (article 4 and Schedule 1).

Susceptible material imported from third countries, including the USA must have a plant passport when it is moved within Scotland or elsewhere in the European Community (EC) or Switzerland (article 5).

Plants of *Camellia*, *Rhododendron* and *Viburnum* produced in Scotland or originating anywhere else in the EC (which includes for these purposes, the Channel Islands and Isle of Man) or Switzerland, must be accompanied by a plant passport when they are moved, and are subject to further controls on their movement (article 6 and Schedule 2).

The Order requires producers of *Camellia*, *Rhododendron* and *Viburnum* in Scotland wishing to move such material to be registered if they are not already registered under the principal Plant Health Order (the Plant Health (Great Britain) Order 1993, as amended) (“the principal Order”) (article 7). There are some exceptions to the movement restrictions in the case of persons not acting in the course of a trade, business or undertaking (article 7(4)).

Provisions similar to those in the principal Order apply to authorisations to registered traders to enable them to issue plant passports under the supervision of SEERAD, as the official plant health service in Scotland (article 8) and to the issue of phytosanitary certificates in Scotland and the treatment of phytosanitary certificates or plant passports issued outside Scotland (articles 9 and 10).

There is provision for licensed importation, movement and keeping of the prohibited pest for research purposes (article 11).

Provisions similar to those in the principal Order apply to actions which may be required or which may be taken by Plant Health Inspectors (articles 12 to 14).

Offences similar to those created in the principal Order are created in respect of the production of plant passports pursuant to this Order and in respect of the introduction, spread and movement of the

**Status:** Point in time view as at 02/12/2004.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004. (See end of Document for details)

pest and compliance with notices served under this Order and the obstruction of inspectors exercising their powers under this Order (article 15).

Article 3 of the Plant Health (*Phytophthora ramorum*) (Scotland) Order 2002 ([S.S.I. 2002/223](#)) and the Plant Health (*Phytophthora ramorum*) (No. 2) (Scotland) Order 2002 ([S.S.I. 2002/483](#)) are revoked (article 16).

No Regulatory Impact Assessment has been carried out in relation to this Order.

**Status:**

Point in time view as at 02/12/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the The Plant Health (Phytophthora ramorum) (Scotland) Order 2004.