
STATUTORY INSTRUMENTS

2008 No. 2765

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) (No. 2) Order 2008

Made - - - - *19th October 2008*
Laid before Parliament *20th October 2008*
Coming into force - - *10th November 2008*

The Secretary of State, in whom the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967(1) are now vested(2), makes the following Order in exercise of those powers.

Title and commencement

1. This Order—
 - (a) may be cited as the Plant Health (England) (Amendment) (No. 2) Order 2008; and
 - (b) comes into force on 10th November 2008.

Amendments to the Plant Health (England) Order 2005

- 2.—(1) The Plant Health (England) Order 2005(3) is amended as follows.
- (2) In Part A of Schedule 1, in the section “Insects, mites and nematodes”—
 - (a) for item 4 substitute “*Anoplophora chinensis* (Forster)”; and
 - (b) omit item 6.
- (3) In Part A of Schedule 4, after item 80 insert—

“81. Plants, other than seeds, Without prejudice to the requirements in Schedule 3, Part of *Acer* spp., *Aesculus* A, items 4, 12 and 14 and Schedule 4, Part A, items 11,

(1) 1967 c. 8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8.
(2) Under the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. These functions were transferred from the National Assembly for Wales to the Welsh Ministers under section 162 of, and paragraph 30(1) and (2) of Schedule 11 to, the Government of Wales Act 2006 (c. 32). Under article 2(1) and (2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), the remaining functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were transferred to the Secretary of State.
(3) S.I. 2005/2530; relevant amending instruments are S.I. 2006/2307, 2007/2950 and 2008/2411.

- hippocastanum*, *Alnus* spp., 12, 19, 20, 22, 23, 27, 28, 29, 30, 48, 50, 51, 52, 55, 60, *Betula* spp., *Carpinus* spp., 61, 64, 65 and 70 the plants shall be accompanied by an official statement—
- Citrus* spp., *Corylus* spp., *Cotoneaster* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Platanus* spp., *Populus* spp., *Prunus* spp., *Pyrus* spp., *Salix* spp., and *Ulmus* spp., intended for planting, originating in any third country where *Anoplophora chinensis* (Forster) is known to occur
- (a) that the plants have been grown throughout their life in a place of production situated in a pest-free area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 (the name of the pest-free area to be mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the rubric “Place of origin”); or
- (b) that—
- (i) the plants have been grown during a period of at least two years prior to export in a place of production, which is registered and supervised by the national plant protection organisation in the country of origin, established as free from *Anoplophora chinensis* (Forster) in accordance with ISPM No. 10 and which has been subjected annually to two official inspections for any signs of *Anoplophora chinensis* (Forster) carried out at appropriate times and no signs of the organism have been found;
- (ii) the plants have been grown in a site—
- (aa) with complete physical protection against the introduction of *Anoplophora chinensis* (Forster); or
- (bb) with the application of appropriate preventive treatments and surrounded by a buffer zone with a radius of at least two km where official surveys for the presence or signs of *Anoplophora chinensis* (Forster) are carried out annually at appropriate times and, where signs of *Anoplophora chinensis* (Forster) are found, eradication measures are immediately taken to restore the pest freedom of the buffer zone; and
- (iii) immediately prior to export, consignments of the plants have been officially subjected to a meticulous inspection for the presence of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants and where appropriate including destructive sampling”.

(4) In Part B of Schedule 4, after item 36 insert—

- “37. Plants, other than seeds, of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Corylus* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Platanus* spp., *Populus* spp., *Prunus* spp., *Pyrus* spp., *Salix* spp., and *Ulmus* spp., intended for planting, originating in any third country where *Anoplophora chinensis* (Forster) is known to occur shall be accompanied by an official statement—
- (a) that the plants have been grown during a period of at least two years prior to movement in a place of

spp., *Citrus* spp., *Corylus* spp., *Cotoneaster* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Platanus* spp., *Populus* spp., *Prunus* spp., *Pyrus* spp., *Salix* spp., and *Ulmus* spp., intended for planting, originating in an area from time to time demarcated under a legislative or administrative procedure in a member State for the purpose of eradicating and monitoring an infestation of *Anoplophora chinensis* (Forster)

production which is registered in accordance with Commission Directive 92/90/EEC (establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration)⁽⁴⁾ and which has been subjected annually to two official meticulous inspections for any signs of *Anoplophora chinensis* (Forster), carried out at appropriate times and where appropriate including destructive sampling, and no signs of the organism have been found; and

that the plants were placed in a site—

- (i) with complete physical protection against the introduction of *Anoplophora chinensis* (Forster); or
- (ii) with the application of appropriate preventive treatments and surrounded by a buffer zone with a radius of at least two km beyond the boundary of the infested zone where official surveys for the presence or signs of *Anoplophora chinensis* (Forster) are carried out annually at appropriate times and where signs of *Anoplophora chinensis* (Forster) are found, eradication measures are immediately taken to restore the pest freedom of the buffer zone”.

(5) In Part A of Schedule 6 and Part A of Schedule 7, after item 7 insert—

“8. Without prejudice to paragraphs 1 and 7, plants, other than seeds, of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Citrus* spp., *Corylus* spp., *Cotoneaster* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Platanus* spp., *Populus* spp., *Prunus* spp., *Pyrus* spp., *Salix* spp., and *Ulmus* spp., intended for planting, originating in any third country where *Anoplophora chinensis* (Forster) is known to occur or in an area demarcated under a legislative or administrative procedure in a member State for the purpose of eradicating and monitoring an infestation of *Anoplophora chinensis* (Forster)”.

19th October 2008

Jane Kennedy
Minister of State
Department for Environment, Food and Rural
Affairs

(4) OJ No L 344, 26.11.1992, p 38.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (England) Order 2005 ([S.I. 2005/2530](#)) so as—

- to clarify the scientific name for citrus longhorn beetle as *Anoplophora chinensis* (Forster);
- to prohibit imports of certain plant species originating in any third country where *Anoplophora chinensis* (Forster) is known to be present unless certain conditions are met (article 2(3)); and
- to require such plant species originating in such third countries or in the European Community to have a plant passport before being moved within the Community (article 2(4) and (5)).

It is an offence under the Plant Health (England) Order 2005 to contravene these requirements.

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