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STATUTORY INSTRUMENTS

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**2008 No. 644**

**PLANT HEALTH**

**The Plant Health (Forestry) (Amendment) Order 2008**

*Made* - - - - *7th March 2008*  
*Laid before Parliament* *10th March 2008*  
*Coming into force* - - *31st March 2008*

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972<sup>(1)</sup> and it appears to the Forestry Commissioners that it is expedient for the references to Commission Decision [2007/433/EC](#) on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell<sup>(2)</sup> to be construed as references to that instrument as amended from time to time.

The Forestry Commissioners make this Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967<sup>(3)</sup> and paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(4)</sup>.

**Title and commencement**

1. This Order may be cited as the Plant Health (Forestry) (Amendment) Order 2008 and comes into force on 31st March 2008.

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

2.—(1) The Plant Health (Forestry) Order 2005<sup>(5)</sup> is amended as follows.

(2) In article 2(1), after the definition of “debarked” insert—

““Decision [2007/433/EC](#)” means Commission Decision [2007/433/EC](#) on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell, as amended from time to time;”.

(3) In Schedule 1—

(a) after item 8 of “Insects, mites and nematodes” insert—

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(1) [1972 c. 68](#).

(2) OJ No. L 161, 22.6.2007, p. 66.

(3) [1967 c. 8](#); sections 2(1) and 3(1) were amended by the European Communities Act [1972 \(c. 68\)](#), section 4(1) and Schedule 4, paragraph 8. The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2), as regards the protection of forest trees and timber from attack by pests, as the Forestry Commissioners.

(4) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#).

(5) [S.I. 2005/2517](#), amended by [S.I. 2006/2696](#).

“8A. *Thaumetopoea processionea* (L.), the Oak Processionary Moth”; and

(b) after item 4 of “Fungi” insert—

“4A. *Gibberella circinata* Nirenberg & O’Donnell, the cause of Pitch Canker”.

(4) In Part A of Schedule 4, after item 21 insert—

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“21a. Trees intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision <a href="#">2007/433/EC</a> , originating in any third country	Without prejudice to the requirements in items 18 to 21, 29 and 31 the trees shall be accompanied by an official statement that—
	(a) they originate in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and
	(b) they meet the requirements of paragraph (a), (b) or (c) of point I of Annex I to Decision <a href="#">2007/433/EC</a> ”.

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(5) In Part B of Schedule 4—

(a) after item 3 insert—

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“3a. Trees intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision <a href="#">2007/433/EC</a> , originating in any third country	Without prejudice to the requirements in items 2, 3 and 7, the trees shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b) or (c) of point II of Annex I to Decision <a href="#">2007/433/EC</a> ”; and
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(b) after item 5a insert—

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“5b. Trees, other than seeds, of <i>Quercus</i> L., intended for planting	Without prejudice to the requirements in items 5 and 7, the trees shall be accompanied by an official statement that they have been grown in a nursery and that no symptoms of <i>Thaumetopoea processionea</i> (L.) have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation”.
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(6) In Part A of Schedule 5, after item 1 insert—

“1a. Seeds and cones, intended for propagating, of the genera and species referred to in Article 1(2) of Decision [2007/433/EC](#).”.

(7) In Part A of Schedule 6 and Part A of Schedule 7—

(a) in item 2, omit “, *Quercus* L.”; and

(b) after item 3 insert—

“4. Trees intended for planting, including seeds and cones intended for propagating, other than those in item 2, of the genera and species referred to in Article 1(2) of Decision [2007/433/EC](#).

5. Trees, other than seeds, whether or not prepared and ready for sale to the final consumer, of *Quercus* L., intended for planting.”.

The Official Seal of the Forestry Commissioners

7th March 2008

*Wilma Harper*  
Secretary to the Forestry Commissioners

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## 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”) so as to implement Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O’Donnell (OJNo. L 161, 22.6.2007, p. 66) (“the Decision”), as amended from time to time. This Order also introduces emergency measures to prevent the introduction and spread of *Thaumetopoea processionea* (L.).

Article 2 amends Schedules 1, 4, 5, 6 and 7 to the principal Order so as to apply restrictions on the landing in and movement within Great Britain of—

- (a) the tree material described in Article 1(2) of the Decision from third countries and other parts of the European Community in order to prevent the introduction into and spread within Great Britain of *Gibberella circinata* Nirenberg & O’Donnell (“Pitch canker”); and
- (b) trees, other than seeds, intended for planting of *Quercus* L. so as to prevent the introduction into and spread within Great Britain of *Thaumetopoea processionea* (L.) (the “Oak Processionary Moth”).

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