

2012 No. 400

PLANT HEALTH

**The Plant Health (Wood and Bark) (Amendment) Order
(Northern Ireland) 2012**

Made - - - - - *6th November 2012*

Coming into operation - *6th November 2012*

The Department of Agriculture and Rural Development, makes the following order in exercise of the powers conferred by sections 2, 3(1), 3A, 3B(1) and 4(1) of the Plant Health Act (Northern Ireland) 1967(a), and paragraph 1A of Schedule 2 to the European Communities Act(b).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(c) and it appears to the Department that it is expedient for the references to Commission Directive 2008/61/EC (d) establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work or varietal selections to be construed as references to that instrument as amended from time to time.

Citation and commencement

1.—(1) This Order may be cited as the Plant Health (Wood and Bark) (Amendment) Order (Northern Ireland) 2012.

(2) This Order comes into operation—

- (a) subject to sub-paragraph (b), on 6th November 2012;
- (b) for the purposes of article 2(4), (5) and (6), on 1st December 2012.

Amendments of the Plant Health (Wood and Bark) Order (Northern Ireland) 2006

2.—(1) The Plant Health (Wood and Bark) Order (Northern Ireland) 2006(e) is amended in accordance with paragraphs (2) to (10).

(2) In article 2(1) (general interpretation) after the definition of “IPPC” insert—

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- (a) 1967 c.28(N.I.). Sections 2(1) and 3(1) were amended by S.R. & O. (N.I.) 1972 No.351, art. 3 and Sch. 2. Section 2(2) was amended by 1979 c.2, section 177(1) and Sch. 4, Pt II. Sections 2, 3 and 4(1) were amended by S.I. 1984/702 (N.I. 2), Arts. 15, 24 and Sch. Section 3A was inserted by S.I. 1975/1038 (N.I. 8), Art. 11(2). Section 3B was inserted by S.I. 1984/702 (N.I. 2), Art. 15(2) and amended by 2010 c.10 (N.I.), section 14
 - (b) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
 - (c) Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1), and the European Union (Amendment) Act 2008 (c.7), section 3 and Part 1 of the Schedule
 - (d) OJ No L158, 18.6.2008, p41
 - (e) S.R. 2006 No. 66 as amended by S.R. 2009 No. 340 and S.R. 2010 No. 48

“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 (a);”;

(3) For article 20(1) (exceptions from certain prohibitions and requirements) substitute—

“20. The prohibitions on landing in Article 17(1)(e), (f) and (g) and the requirements in Article 19(1), (2), (5) and (6) for certain relevant material to be accompanied by a plant passport shall not apply to small quantities of any relevant material, other than wood and bark of *Fraxinus* L., not showing any signs of the presence of any pest, which—

- (a) is not intended for use in the course of a trade or business; and
- (b) is intended for household use.”.

(4) For article 35 (licences to carry out prohibited activities) substitute—

“35.—(1) Notwithstanding any of the provisions of this Order, any pest or relevant material may be landed, kept, stored, sold, planted, moved or otherwise disposed of in Northern Ireland and any other thing prohibited by this Order may be done under the authority of a licence, whether general or specific, granted by the Department—

- (a) in exercise of any derogation permitted by the Directive; or
- (b) for trial or scientific purposes, or for work on varietal selections, in relation to a domestic quarantine pest.

(2) A licence granted under article 35(1)(b) shall be in writing and may be granted—

- (a) subject to conditions;
- (b) for an indefinite period or a specified period.

(3) In this article “domestic quarantine pest” means a pest not listed in Annex I or Annex II to the Directive, which is not normally present in Northern Ireland, but is likely to be injurious to trees in Northern Ireland.”.

(5) In the heading of article 36 (licences for trial or scientific purposes and for work on varietal selections), after “varietal selections”, add “permitted by Directive 2008/61/EC”.

(6) In article 36—

- (a) in paragraphs (1), (2) and (6), for “Directive 95/44/EC” substitute “Directive 2008/61/EC” in each place occurring; and
- (b) for paragraph (7)(b) substitute—

“(b) “Directive 2008/61/EC” means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2009/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections, as amended from time to time.”.

(7) In Schedule 1 (pests which shall not be landed in or spread within Northern Ireland), after item 1 under the heading “Fungi” insert—

“1a. *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*, a cause of Ash dieback”.

(8) In Part A of Schedule 2 (relevant material which may not be landed in or moved within Northern Ireland if that material is carrying or infected with pests), after item 7, insert—

(a) Available from IPPC Secretariat, AGPP-FAO. Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

“8.	Wood of <i>Fraxinus</i> L., including wood which has not kept its natural round surface	<i>Chalara fraxinea</i> T. Kowlaski, including its teleomorph <i>Hymenoscyphus pseudoalbidus</i> , a cause of Ash dieback”.
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(9) In Part A of Schedule 4 (relevant material, from third countries, which may only be landed in Northern Ireland if special requirements are satisfied), after item 17, insert—

“18.	Wood of <i>Fraxinus</i> L., including wood which has not kept its natural round surface, originating in a third country	The wood shall: (a) be accompanied by an official statement that it originates in an area or areas known to be free from <i>Chalara fraxinea</i> T. Kowalski, including its teleomorph <i>Hymenoscyphus pseudoalbidus</i> in accordance with ISPM No. 4; or (b) be squared so as to remove entirely the rounded surface; or (c) be bark-free and the water content is less than 20% expressed as a percentage of the dry matter; or (d) if sawn, with or without residual bark attached, have undergone kiln-drying, to below 20% moisture content, expressed as a percentage of dry matter, achieved through an appropriate time / temperature schedule, and there shall be evidence of that kiln-drying by a mark “Kiln-dried” or “KD” or another internationally recognised mark, put on the wood or on any wrapping in accordance with current usage”
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(10) In Part B of Schedule 4 (relevant material, from another part of the European Community, which may only be landed in or moved within Northern Ireland if special requirements are satisfied), after item 1, insert—

“2.	Wood of <i>Fraxinus</i> L., including wood which has not kept its natural round surface	The wood shall: (a) be accompanied by an official statement that it originates in an area or areas known to be free from <i>Chalara fraxinea</i> T. Kowalski, including its teleomorph <i>Hymenoscyphus</i>
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pseudoalbidus in accordance with ISPM No.4; or
(b) be squared so as to remove entirely the rounded surface; or
(c) be bark-free and the water content is less than 20% expressed as a percentage of the dry matter; or
(d) if sawn, with or without residual bark attached, have undergone kiln-drying, to below 20% moisture content, expressed as a percentage of dry matter, achieved through an appropriate time / temperature schedule, and there shall be evidence of that kiln-drying by a mark “Kiln-dried” or “KD” or another internationally recognised mark, put on the wood or on any wrapping in accordance with current usage”

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 6th November 2012.



Malcolm Beatty
A senior officer of the Department of Agriculture and Rural Development

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends The Plant Health (Wood and Bark) Order (Northern Ireland) 2006 (S.R. 2006 No 66) ('the principal Order') to introduce emergency measures to prevent the introduction and spread of *Chalara fraxinea* T.Kowlaski, including its teleomorph *Hymenoscyphus pseudoalbidus*, a cause of Ash dieback. In particular, the amendments which this Order makes to the principal Order are to:

- (a) prohibit the landing in and the movement within Northern Ireland of *Chalara fraxinea* T. Kowlaski (article 2(7));
- (b) prohibit the landing in and the movement within Northern Ireland of wood infected with *Chalara fraxinea* T. Kowlaski (article 2(8)); and
- (c) impose additional requirements on the landing in Northern Ireland of wood of *Fraxinus* L. (articles 2(9), and 2(10).

This Order also:

- (a) implements Commission Directive 2008/61/EC (establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections) (OJ No L 158, 18.6.2008, p41), which replaced Commission Directive 95/44/EC (OJ No L 184, 3.8.1995, p34)(article 2(6)); and
- (b) confers powers on the Department to grant licences for trial or scientific purposes or for work on varietal selections in relation to certain plant pests (article 2(4)).

Article 2(6) makes the references to Commission Directive 2008/61/EC in the principal Order ambulatory.

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