
 STATUTORY INSTRUMENTS

1976 No. 734

PLANT HEALTH

**The Dutch Elm Disease (Restriction on Movement of Elms)
(Amendment) Order 1976**

<i>Made</i>	- - -	13th May 1976
<i>Laid before Parliament</i>		20th May 1976
<i>Coming into Operation</i>		11th June 1976

The Forestry Commissioners, by virtue and in exercise of the powers vested in them by section 3(1), (2) and (4) of the Plant Health Act 1967(a), as amended by section 92(2) of, and Part II of Schedule 3 to, the Criminal Justice Act 1967(b) and by section 4(1) of, and paragraph 8(1) and (3) of Schedule 4 to, the European Communities Act 1972(c), and as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(d), and of all other powers enabling them in that behalf, hereby make the following Order:—

Citation and commencement

1. This Order, which may be cited as the Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1976, shall come into operation on 11th June 1976 and shall apply to Great Britain.

Interpretation

2.—(1) In this Order “the principal Order” means the Dutch Elm Disease (Restriction on Movement of Elms) Order 1975(e).

(2) The Interpretation Act 1889(f) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Amendment of the principal Order

3. The principal Order shall be amended as follows:—

(1) In Article 2(1)—

(a) for the definition of “non-scheduled area” there shall be substituted the following definition:—

““non-scheduled area” means any non-metropolitan county in England and Wales not specified in the section headed “3. Non-Metropolitan Counties” in the Schedule to this Order except the parts of the non-metropolitan counties of Cheshire, East Sussex and Leicestershire which are respectively specified in the section headed “5. Parts of Counties” in the said Schedule, any metropolitan district in England and Wales not specified in the section headed “4. Metropolitan Districts” in the said Schedule, and any region and any islands area in Scotland;” and

(a) 1967 c. 8.
(d) 1972 c. 62.

(b) 1967 c. 80.
(e) SI 1975/1904 (1975 III, p. 7106).

(c) 1972 c. 68.
(f) 1889 c. 63.

(b) at the end there shall be added the following definition:—

““the Order of 1974” means the Dutch Elm Disease (Local Authorities) Order 1974(a), as amended (b).”.

(2) In Article 3(2), at the end of sub-paragraph (b) there shall be added the word “or” and the following sub-paragraphs:—

“(c) in accordance with an authority in writing given by the Forestry Commissioners or an inspector on their behalf subject to such conditions as may be imposed for the purpose of preventing the spread of the disease; or

(d) by an appointed officer (as defined in Article 2(1) of the Order of 1974) in exercise of his powers under Article 4(3)(c) or 5(4) of that Order, or by any person acting under his instructions in that behalf, provided that the movement of the elm shall be to a place situated within a radius of five miles from the location of the elm before it fell or was felled, as the case may be, or being a part severed from a standing tree, from that tree.”.

(3) In Article 5(4), for the words from “as he may direct” to the end there shall be substituted the words “, and in such manner, as he may direct and may, upon production if so required of their authority in that behalf given by the Forestry Commissioners or the inspector on their behalf, from time to time re-enter on the premises with such equipment as aforesaid for the purpose of carrying out the said work in such manner as aforesaid.”.

(4) In Article 8, at the end of sub-paragraph (d) there shall be added the word “or” and the following sub-paragraph:—

“(e) being a person moving or causing to be moved any elm under an authority given by an inspector under Article 3(2)(c), fails to comply with any condition imposed by the authority.”.

(5) In the Schedule,—

(a) in the section headed “3. Non-metropolitan Counties” there shall be added “Cornwall” and “Devon”;

(b) for the section headed “5. Part of a County” there shall be substituted the section set out in the Schedule hereto under the heading “5. Parts of Counties.”.

IN WITNESS whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 13th May 1976.

[L.S.]

P. J. Clarke,

Secretary to the Forestry Commissioners.

(a) SI 1974/830 (1974 II, p. 3230).

(b) The relevant amending instruments are SI 1974/1816, 1975/55, 1163, 1905 (1974 III, p. 6366; 1975 I, p. 165; II, p. 4026; III, p. 7112).

SCHEDULE**5. Parts of Counties**

(a) The part of the non-metropolitan county of Cheshire which comprises the districts of Chester and Crewe, the parishes of Acton, Alvanley, Anderton, Antrobus, Aston, Barnton, Betchton, Bostock, Bradwall, Byley, Comberbach, Crowton, Cuddington, Darnhall, Davenham, Delamere, Dutton, Great Budworth, Hartford, Hassall, Kingsley, Lach Dennis, Little Budworth, Little Leigh, Lostock Gralam, Manley, Marbury, Marston, Marton, Middlewich, Moston, Moulton, Nether Peover, Norley, Northwich, Oakmere, Rudheath, Rushton, Sandbach, Sproston, Stanthorne, Sutton, Tarporley, Utkinton, Weaverham cum Milton, Whatcroft, Whitley, Wimboldsley, Wincham, Winsford, those parts of the parishes of Frodsham and Helsby which lie east of the eastern boundary of the road from Chester to Warrington (A56), those parts of the parishes of Allostock, Arclid, Brereton, Church Hulme, Church Lawton, Cranage, Odd Rode and Smallwood which lie west of the western boundary of the road from Kidsgrove to Knutsford (A50) and that part of the parish of Alsager which lies west of the western boundary of the road from Alsager to Newcastle (A5011).

(b) The part of the non-metropolitan county of East Sussex which comprises the districts of Hastings and Rother, those parts of the parishes of Chailey and Newick which lie north of the southern boundary of the road from Haywards Heath to Maresfield (A272), the parishes of Buxted, Crowborough, Danehill, Fletching, Forest Row, Frant, Hadlow Down, Hartfield, Heathfield, Herstmonceux, Hooe, Horam, Maresfield, Mayfield, Ninsfield, Rotherfield, Uckfield, Wadhurst, Waldron, Warbleton, Wartling, Withyham and those parts of the parishes of East Hoathly and Framfield which lie to the north of the southern boundary of the road from Newick to Cross-in-Hand (B2102).

(c) The part of the non-metropolitan county of Leicestershire which comprises the districts of Blaby, Hinckley and Bosworth, North West Leicestershire and Oadby and Wigston and the parishes of Anstey, Arnesby, Ashby Magna, Ashby Parva, Barkby, Barkby Thorpe, Barrow-upon-Soar, Beeby, Birstall, Bittesby, Bitteswell, Broughton Astley, Bruntingthorpe, Burton-on-the-Wolds, Burton Overy, Catthorpe, Claybrooke Magna, Claybrooke Parva, Cossington, Cotes, Cotesbach, Dunton Bassett, East Goscote, Fleckney, Foxton, Frolesworth, Gilmorton, Great Glen, Gumley, Hoton, Husbands Bosworth, Kibworth Beauchamp, Kibworth Harcourt, Kimcote and Walton, Knaptoft, Laughton, Leire, Loughborough, Lubenham, Lutterworth, Market Harborough, Misterton, Mountsorrel, Mowsley, Newton Linford, North Kilworth, Peatling Magna, Peatling Parva, Prestwold, Queniborough, Quorndon, Ratcliffe-on-the-Wreake, Rearsby, Rothley, Saddington, Seagrave, Shawell, Shearsby, Shepshed, Sileby, Smeeton Westerby, South Kilworth, Swinford, Swithland, Syston, Theddingworth, Thrussington, Thurcaston, Thurmaston, Ullesthorpe, Ulverscroft, Walton-on-the-Wolds, Wanlip, Westrill and Starmore, Willoughby Waterleys, Wistow, Woodhouse and Wymeswold.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Dutch Elm Disease (Restriction on Movement of Elms) Order 1975 by substituting a new definition of "non-scheduled area" which includes any region and islands area in Scotland and by adding two further exemptions from the restrictions imposed by that Order on the movement of elms, namely, (1) where the movement is authorised in writing by the Forestry Commissioners or an inspector on their behalf and (2) where the movement is carried out within a restricted area by an appointed officer (as defined in the Dutch Elm Disease (Local Authorities) Order 1974, namely, an officer appointed by a local authority pursuant to and for the purposes of that Order) or persons acting under his instructions. It also amends the Order of 1975 by requiring persons accompanying an inspector on entry upon premises for any purpose in connection with the execution of the Order to carry out any work directed by him in the manner directed by him and upon re-entry to produce their authority, if so required; by making it an offence for a person moving, or causing to be moved, an elm under a written authority to fail to comply with any condition imposed by the authority; and by adding certain non-metropolitan counties and specified parts of certain counties to the list of areas, set out in the Schedule to that Order, from which the movement of elm is restricted.

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