
 STATUTORY INSTRUMENTS

1980 No. 499

PLANT HEALTH

Plant Pests (Great Britain) Order 1980

<i>Made</i>	- - - -	<i>2nd April 1980</i>
<i>Laid before Parliament</i>		<i>15th April 1980</i>
<i>Coming into Operation</i>		<i>1st May 1980</i>

The Minister of Agriculture, Fisheries and Food acting in relation to England the Secretary of State for Scotland acting in relation to Scotland and the Secretary of State for Wales acting in relation to Wales, in exercise of the powers conferred by section 3(1), (2), (3) and (4) of the Plant Health Act 1967(a) as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(b) and now vested in them (c) and of every other power enabling them in that behalf hereby make the following order:—

Citation, commencement and application

1. This order may be cited as the Plant Pests (Great Britain) Order 1980, shall come into operation on 1st May 1980 and shall apply to Great Britain.

Revocation

2. The orders specified in the Schedule to this order are hereby revoked.

Interpretation

3. In this order unless the context otherwise requires:—

“appropriate Minister” means in the application of this order to England the Minister of Agriculture, Fisheries and Food in its application to Scotland the Secretary of State for Scotland and in its application to Wales the Secretary of State for Wales;

“forest tree” means a tree of a genus or species some or all of the forms or varieties of which are grown in Great Britain for the production of wood;

“genetically manipulated material” means material derived from any activity which has involved genetic manipulation and which is in the opinion of the appropriate Minister likely to result in the production of a plant pest;

“genetic manipulation” means the formation of new combinations of heritable material by the insertion of nucleic acid molecules, produced by whatever means outside the cell, into any virus, bacterial plasmid, or other vector system so as to allow their incorporation into a host organism in

(a) 1967 c. 8; section 3(4) was amended by the Criminal Justice Act, 1967 c. 80; section 92(2) and Schedule 3, Part II; section 3(1) and (2) were amended by the European Communities Act 1972 c. 68, section 4(1) and Schedule 4 paragraph 8.

(b) 1972 c. 62.

(c) In the case of the Secretary of State for Wales by virtue of S.I. 1978/272.

which they do not naturally occur but in which they are capable of continued propagation;

“inspector” means an officer authorised by the appropriate Minister for the purposes of this order;

“non-indigenous plant pest” means a plant pest which in the opinion of the appropriate Minister is not established in Great Britain and includes any culture of *Synchytrium endobioticum* (Schilb.) Perc. the cause of Potato Wart Disease and any culture of any strain of *Verticillium albo-atrum* Reinke and Berth. capable of causing the disease of hop plants known as progressive wilt disease of hops or progressive verticillium wilt of hops;

“plant” includes any tree or bush and any seed or other part of a plant or cultivated fungus and includes where the context so admits, soil or other growing medium, packing material or container associated therewith;

“plant pest” means a living organism other than a vertebrate animal, or a pathogen, including a culture of such organism or pathogen, which is injurious to a plant but does not include any such organism or pathogen which is injurious only to a forest tree;

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, or freight container.

Notification of the presence or suspected presence of non-indigenous plant pests

4. The occupier or other person in charge of any premises who knows or has reason to suspect that Potato Ring Rot (*Corynebacterium michiganense* pv. *sepedonicum* (Spieck. and Kotth.) Dye and Kemp) or San José Scale (*Comstockaspis perniciosus* (Comstock) syn. *Quadraspidiotus perniciosus* (Comstock)) or any other non-indigenous plant pest is present thereon shall forthwith give to the appropriate Minister notice in writing of the presence or suspected presence thereof.

Prohibitions relating to non-indigenous plant pests and genetic manipulation

5.—(1) Except under and in accordance with the terms of a licence granted by the appropriate Minister, no person shall:—

- (a) knowingly keep, or release, deliver or otherwise dispose of, or cause to be kept, or released, delivered or otherwise disposed of:—
 - (i) any non-indigenous plant pest or any plant carrying or infected with any such pest; or
 - (ii) any plant pest which has been subjected to genetic manipulation or any genetically manipulated material;
- (b) engage in any activity involving genetic manipulation of a plant pest or engage in any activity which involves genetic manipulation which is in the opinion of the appropriate Minister likely to result in the production of a plant pest.

(2) Nothing in sub-paragraph (1)(a) of this article shall be deemed to prohibit the killing or destruction, or the delivery to the appropriate Minister or to his officer of any such plant, plant pest or genetically manipulated material referred to in that sub-paragraph.

Examination, sampling and marking

6. An inspector, on production, if so required, of his authority, may enter at all reasonable times for the purpose of examination or enquiry or for any other purpose of this order any premises:—

- (a) in which he has reasonable grounds for suspecting that there is present:—

- (i) a plant carrying or infected with, or likely to be carrying or infected with, any non-indigenous plant pest;
- (ii) a non-indigenous plant pest;
- (iii) a plant pest which has been subjected to genetic manipulation or any genetically manipulated material,

and may examine the said premises and examine and take samples of any plant, plant pest, soil or genetically manipulated material and may also mark the said premises and mark any plant (whether or not carrying or infected with any plant pest), plant pest or genetically manipulated material which may be there and any containers associated therewith;

- (b) to ascertain the distribution of a particular non-indigenous plant pest.

Remedial and precautionary measures

7.—(1) If an inspector has reasonable grounds for suspecting that there is present on any premises:—

- (a) a plant carrying or infected with, or likely to be carrying or infected with, a non-indigenous plant pest;
- (b) a non-indigenous plant pest;
- (c) a plant pest which has been subjected to genetic manipulation, or any genetically manipulated material;

he may serve upon the occupier or other person in charge of the premises a notice requiring him, within such time or during such period at such place and in such manner as may be specified in the notice, to take such steps:—

- (i) to destroy any such plant which is referred to in sub-paragraph (1)(a) of this article or any non-indigenous plant pest which it is, or is suspected by the inspector to be, carrying or infected with or to prevent the spread of any such plant pest; or
- (ii) to destroy any such plant pest or genetically manipulated material which is referred to in sub-paragraph (1)(b) or (c) of this article or to prevent the spread of any such plant pest or genetically manipulated material

as may be specified in the notice.

(2) If an inspector has reasonable grounds for suspecting that there is present on any premises a plant carrying or infected with a non-indigenous plant pest he may serve upon the occupier or other person in charge of any premises which adjoin or are in close proximity to the first-mentioned premises a notice in writing requiring him to take such steps as appear to the inspector to be necessary to prevent the spread of that non-indigenous plant pest from within those first-mentioned premises.

(3) A notice served under paragraph (1) or (2) of this article may at any time be amended or withdrawn by an inspector by a further notice in writing served upon the person on whom the first-mentioned notice was served.

(4) If the occupier or other person in charge of the premises to which a notice served under paragraph (1) or (2) of this article relates shall have failed to comply with the requirements of such a notice (including where relevant a notice which has been amended under paragraph (3) of this article) then, without prejudice to any proceedings under this order consequent upon such failure, an inspector or a person authorised by him for the purpose, upon production, if so required, of his authority, may, for the purposes of this order, enter those premises and take such steps as appear to the inspector to be

necessary either to ensure compliance with the requirements of the said notice or to remedy the consequences of the failure to carry them out and the cost of taking such steps shall be recoverable by the appropriate Minister as a civil debt from the person upon whom the notice was served.

(5) An inspector who authorises a person to act in accordance with the provisions of paragraph (4) of this article shall give to that person precise instructions in writing as to the steps which appear to the inspector to be necessary.

Information to be given

8.—(1) Every person who has or has had or is reasonably suspected by the appropriate Minister or by an inspector to have or to have had in his possession or under his charge a non-indigenous plant pest or any plant carrying or infected with any such non-indigenous plant pest or any genetically manipulated material and every person who as auctioneer, salesman or otherwise has sold or offered for sale or is reasonably suspected by the appropriate Minister or by an inspector to have sold or offered for sale any such non-indigenous plant pest or plant or genetically manipulated material shall, if so required by a demand in writing by the appropriate Minister or an inspector, give to the appropriate Minister or inspector, as the case may be, within the time specified in the demand, all such information as he possesses as to the persons who have or have had or are likely to have or have had any plant pest, plant or genetically manipulated material to which the said demand relates, in their possession or in their custody or control.

(2) Any information given under this article shall not be available as evidence against the person giving the same in any prosecution under this order except in respect of any alleged failure to comply with this article.

Service of notices

9.—(1) For the purposes of this order a notice shall be deemed to have been served on any person if it has been delivered to him personally or left for him at his last known place of abode or business or sent through the post in a letter addressed to him there.

(2) A notice may:—

- (a) in the case of a body corporate, be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, the firm at the principal office of the partnership.

Offences

10.—(1) A person shall be guilty of an offence if he contravenes or fails to comply:—

- (a) with a provision of this order; or
- (b) with a term or condition of any notice served or licence granted in accordance with provisions of this order.

(2) A person shall be guilty of an offence if he wilfully obstructs or impedes an inspector, or any person authorised by any such inspector, in the exercise of his powers under this order.

(3) A person found guilty of an offence under paragraph (1) or (2) of this article shall be liable on summary conviction to a fine not exceeding £100, or in respect of a second or subsequent offence, shall be liable on summary conviction to a fine not exceeding £200.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 26th March 1980.

(L.S.)

Peter Walker
Minister of Agriculture,
Fisheries and Food.

31st March 1980.

George Younger,
Secretary of State for Scotland.

2nd April 1980.

Nicholas Edwards,
Secretary of State for Wales.

SCHEDULE

Orders Revoked

- The Sale of Diseased Plants Order 1927 (SR and O 1927 No 350)
- The Sale of Diseased Plants (Amendment) Order 1936 (SR and O 1936 No 163)
- The Sale of Diseased Plants (Scotland) Order 1936 (SR and O 1936 No 341)
- The Sale of Diseased Plants (Scotland) (Amendment) Order 1937 (SR and O 1937 No 110)
- The Sale of Diseased Plants (Amendment) Order 1941 (SR and O 1941 No 1726)
- The Sale of Diseased Plants (Scotland) (Amendment) Order 1941 (SR and O 1941 No 1881)
- The Sale of Diseased Plants (Amendment) Order 1943 (SR and O 1943 No 1686)
- The Sale of Diseased Plants (Scotland) (Amendment) Order 1944 (SR and O 1944 No 1336)
- The Sale of Diseased Plants (Amendment) Order 1952 (SR and O 1952 No 1596)
- The Sale of Diseased Plants (Scotland) (Amendment) Order 1953 (SI 1953 No 148)
- The Destructive Pests and Diseases of Plants Order 1965 (SI 1965 No 216)
- The Destructive Pests and Diseases of Plants (Scotland) Order 1966 (SI 1966 No 1533)

EXPLANATORY NOTE

(This Note is not part of the Order)

This order, made under the Plant Health Act 1967, applies to Great Britain and revokes the Sale of Diseased Plants Order 1927, the Sale of Diseased Plants (Scotland) Order 1936, the Destructive Pests and Diseases of Plants Order 1965 and the Destructive Pests and Diseases of Plants (Scotland) Order 1966. It supersedes the orders of 1965 and 1966 in relation to non-indigenous plant pests other than those which are injurious only to forest trees which are provided for by a parallel order made by the Forestry Commissioners.

The order:—

- (a) requires notification of the presence of a non-indigenous plant pest (Article 4);
- (b) prohibits, except under licence
the keeping or disposal of non-indigenous plant pests,
plant pests which have been subjected to genetic
manipulation and any work involving the genetic
manipulation of a plant pest (Article 5);
- (c) provides powers
 - (i) of entry for the purposes of examination and sampling and of ascertaining the distribution of a non-indigenous plant pest (Article 6);
 - (ii) to enable remedial and precautionary action to be taken (Article 7);
- (d) prescribes that information regarding a non-indigenous plant pest or genetically manipulated material may be required to be divulged (Article 8);
- (e) provides for offences in connection with the order and lays down the penalties which may be imposed in respect of contraventions of the order (Article 10).