
 STATUTORY INSTRUMENTS

1982 No. 1457

PLANT HEALTH

The Restriction on Movement of Spruce Wood Order 1982

<i>Made</i>	- - -	12th October 1982
<i>Laid before Parliament</i>		19th October 1982
<i>Coming into Operation</i>		20th October 1982

The Forestry Commissioners, in exercise of the powers conferred on them by section 3(1), (2) and (4) of the Plant Health Act 1967(a), as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(b), and of all other powers enabling them in that behalf, hereby make the following Order:—

Title, commencement and extent

1.—(1) This Order may be cited as the Restriction on Movement of Spruce Wood Order 1982 and shall come into operation on 20th October 1982.

(2) This Order extends to Great Britain.

Interpretation

2. In this Order:—

“the Commissioners” means the Forestry Commissioners;

“inspector” means a person authorised by the Commissioners to act on their behalf for the purposes of this Order and in article 3(2)(a) of this Order includes an inspector as defined in the 1980 Order;

“the 1980 Order” means the Tree Pests (Great Britain) Order 1980(c);

“premises” includes land and any vehicle, vessel or freight container;

“spruce wood” means so much of the trunk or of any part of the trunk of any felled or fallen tree of the genus *Picea* as has a diameter at its widest point (including the bark) of not less than 75 millimetres.

Restriction on movement of spruce wood

3.—(1) Except as provided by paragraph (2) of this article, no spruce wood from a tree grown within any area specified in the Schedule to this Order shall be moved—

(a) from any area so specified into or across any area not so specified, or

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

(b) 1972 c.62.

(c) S.I. 1980/450.

(b) within any area so specified along or across a highway or by rail or water, unless the bark has been removed from that spruce wood.

(2) The restriction on movement imposed by paragraph (1) of this article shall not apply to the movement of any spruce wood—

- (a) by or under the instructions of an inspector pursuant to article 4(3) of this Order or article 5 of the 1980 Order,
- (b) in compliance with a notice served pursuant to article 4(2)(a) of this Order or article 6 of the 1980 Order, or
- (c) under and in accordance with the terms of a licence granted by—
 - (i) an inspector under this Order, or
 - (ii) the Commissioners under article 3(1) of the 1980 Order.

(3) A licence granted under paragraph (2)(c)(i) of this article shall be in writing and may contain such terms as the inspector reasonably considers expedient for preventing the spread of the pest *Dendroctonus micans*, also known as the Great Spruce Bark Beetle.

Powers of inspectors

4.—(1) Where an inspector reasonably suspects any person to have or have had in his possession or under his charge or to have purchased, sold or offered for sale any spruce wood which is being or has been moved in contravention of this Order, the inspector may serve notice on that person requiring him within such time as the notice may reasonably specify—

- (a) to produce such records (if any) as he possesses relating to that spruce wood and its movement, purchase and sale, and
- (b) to give such information (if any) as he possesses relating to the identity of any person who has or has had that spruce wood in his possession or under his charge.

(2)(a) An inspector, on being satisfied on reasonable grounds that any spruce wood is being or has been moved in contravention of this Order, may serve upon the owner or person in charge of that spruce wood a notice requiring him to treat or destroy it to the satisfaction of the inspector in such manner, within such time and at such place as may be reasonably specified in the notice.

(b) If a notice is served under subparagraph (a) of this paragraph requiring treatment, the requirements of the notice shall be deemed to have been carried out if the spruce wood specified in the notice is destroyed to the satisfaction of the inspector within the time and at the place specified in the notice.

(c) An inspector shall act reasonably in deciding whether spruce wood has been treated or destroyed, as the case may be, to his satisfaction.

(3) If any person shall have failed to carry out any requirements of a notice served pursuant to paragraph (2)(a) of this article an inspector may carry out those requirements (though not as permitted by paragraph (2)(b) of this article) and the expenses incurred in connection with the carrying out of those requirements shall be recoverable by the Commissioners as a civil debt due from the person on whom the notice was served.

(4) An inspector may, on production if so required of his authority, enter and remain on any premises upon which he reasonably believes spruce wood to be situated, at all reasonable hours for any purpose connected with the execution of this Order, and may be accompanied by such other persons acting under his instructions (which, if relating to action under paragraph (3) of this article, shall be written and precise) and by such equipment as reasonably appear to him to be necessary for that purpose, and those other persons, whether or not accompanied by the inspector, upon production if so required of their authority in that behalf given by the inspector, may remain on the premises, and from time to time re-enter with that equipment, and carry out such work for that purpose in such manner as the inspector may direct.

Service of notices

5.—(1) For the purposes of article 4(1) and 4(2)(a) of this Order—

- (a) a notice shall be deemed to be duly served on any person if it is 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;
- (b) a notice may—
 - (i) 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;
 - (ii) 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.

(2) If the name or address of the occupier of any premises on whom a notice is authorised by article 4(1) or 4(2)(a) of this Order to be served cannot after reasonable enquiry be ascertained, the notice may be served—

- (a) by addressing it to the person on whom it is to be served by the description of “occupier” of the premises (describing them) at which any spruce wood to which the notice relates is located, and
- (b) by leaving it in the hands of a person who is, or appears to be, resident or employed on the premises or by affixing it or a copy of it to some building on, or to some conspicuous part of, the premises or to some object on the premises.

Offences

6.—(1) Any person who—

- (a) contravenes article 3(1) of this Order, or
- (b) fails without reasonable excuse to carry out a requirement of a notice served in accordance with article 5(1) of this Order, or
- (c) wilfully obstructs or impedes
 - (i) an inspector, or
 - (ii) a person acting under an inspector’s instructions or directions, in the exercise of his powers under this Order,

shall be guilty of an offence and liable on summary conviction to a penalty not exceeding £100 or, in respect of a second or subsequent offence, to a penalty not exceeding £200.

(2) Information given following a notice served pursuant to article 4(1)(b) of this Order shall not be available in any prosecution as evidence against the person giving it, except in respect of an alleged failure to carry out a requirement of that notice.

(3) The powers of an inspector under article 4(3) of this Order shall be exercisable without prejudice to any proceedings under paragraph (1) of this article.

Amendment of the 1980 Order

7. Article 3 of the 1980 Order shall be amended by the addition of the following paragraph:—

“(3) Nothing in paragraph (1)(a)(i) of this article shall be deemed to prohibit the movement of any spruce wood in accordance with article 3(2) of the Restriction on Movement of Spruce Wood Order 1982.”.

In Witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 12th October 1982.

(L.S.)

P. J. Clarke,
Secretary to the Forestry Commissioners.

SCHEDULE

Article 3

Areas in respect of which the movement of spruce wood is restricted

The Counties of Clwyd, Gloucestershire, Gwent, Hereford and Worcester, Mid Glamorgan, Powys, Shropshire and South Glamorgan, and the Districts of Meirionnydd in the County of Gwynedd and South Staffordshire in the County of Staffordshire.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order controls the movement of spruce wood with a diameter of 75 millimetres or more grown within the counties of Clwyd, Gloucestershire, Gwent, Hereford and Worcester, Mid Glamorgan, Powys, Shropshire and South Glamorgan and the Districts of Meirionnydd and South Staffordshire (article 3 and Schedule) by prohibiting its movement from and restricting its movement within those areas unless—

- (a) the bark has been removed, or
- (b) a licence allowing such movement has been issued by an inspector authorised by the Forestry Commissioners subject to terms considered expedient for preventing the spread of the beetle *Dendroctonus micans*.

The beetle *Dendroctonus micans* is a non-indigenous pest which attacks spruce trees and its spread is controlled additionally by the Tree Pests (Great Britain) Order 1980. Articles 3(2) and 7 provide that movement of spruce wood specifically authorised by the 1980 Order shall not be prohibited under this Order, and vice versa.

This Order also empowers an inspector to serve notice requiring anyone reasonably suspected of being involved in the movement of any spruce wood in contravention of this Order to provide records and information relating to it (article 4(1)), to serve notice requiring treatment or destruction of any spruce wood so moved (article 4(2)), and to carry out treatment or destruction in default of compliance with a notice issued in accordance with article 4(2), costs of doing so being recoverable from the person on whom the notice was served (article 4(3)).

An inspector may enter and remain on premises at reasonable times in order to exercise his powers under the Order in company with such persons acting under his instructions and such equipment as he reasonably thinks necessary (article 4(4)).

First offences under this Order are punishable by fines of up to £100 and second and subsequent offences by fines of up to £200.

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