
STATUTORY INSTRUMENTS

1993 No. 1282

PLANT HEALTH

The Treatment of Spruce Bark Order 1993

Made - - - - *17th May 1993*
Laid before Parliament *18th May 1993*
Coming into force - - *1st June 1993*

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

Title, extent and commencement

1. This Order may be cited as the Treatment of Spruce Bark Order 1993, shall apply to England and Wales, and shall come into force on 1st June 1993.

Interpretation

2. In this Order, unless the context otherwise requires—

“the Commissioners” means the Forestry Commissioners;

“designated place” means a place designated by the Commissioners for the treatment or destruction of spruce bark;

“inspector” means any person authorised by the Commissioners to be an inspector for the purposes of this Order;

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

“spruce bark” means the bark of a tree of the genus *Picea*;

“tree” includes a felled or fallen tree;

“treatment” means fumigation or other appropriate treatment against the tree pest *Dendroctonus micans* Kugelann (the Great Spruce Bark Beetle), approved by the Commissioners or an inspector, and “treated” shall be construed accordingly.

(1) 1967 c. 8; sections 2(1), 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48). The powers conferred by sections 2 and 3 of the Plant Health Act 1967 are conferred on “a competent authority”, which expression is defined in section 1(2), as regards the protection of forest trees and timber from attack by pests, as the Forestry Commissioners.

(2) 1972 c. 62.

Treatment of spruce bark

3.—(1) Subject to paragraph (2) below, no person shall move within any area specified in the Schedule to this Order any spruce bark from a tree grown in any area so specified unless the spruce bark has been treated.

(2) The restriction on movement imposed by paragraph (1) above shall not apply to the movement of any spruce bark to a designated place for the purposes of treatment or destruction—

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

Licences

4.—(1) Any person who intends to move spruce bark to a designated place for the purposes of treatment or destruction shall apply to the Commissioners for a licence and the application shall be made in writing in such form as the Commissioners may from time to time determine.

(2) A licence for the movement of spruce bark shall be in writing and shall contain such conditions as the Commissioners consider appropriate to prevent the spread of the tree pest *Dendroctonus micans*.

Powers of entry, examination and sampling

5.—(1) Where an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any spruce bark which is being or has been moved in contravention of this Order, he may, after giving the occupier or other person in charge of the premises reasonable notice of his intention, and upon production if so required of his authority—

- (a) enter such premises; and
- (b) examine, photograph or mark any part of the premises and any object on the premises; and
- (c) open, or authorise any person to open on his behalf, any container or package, or require the owner or person in charge of any container or package to open it; and
- (d) take samples of any spruce bark found on the premises.

(2) An inspector on entering any premises under paragraph (1) of this article may take with him such equipment and vehicles and such other persons acting under his instructions as he considers necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by the Commissioners or an inspector, may remain on the premises and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

Actions which may be required or taken by an inspector

6.—(1) Where an inspector has reasonable grounds for suspecting that any person has or has had in his possession or under his charge or has purchased, sold or offered for sale any spruce bark which is being or has been moved in contravention of this Order, the inspector may serve a notice in writing on that person requiring him within such time as the notice may specify—

- (a) to produce such records (if any) as he possesses relating to that spruce bark and its movement, purchase or 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 bark in his possession or under his charge.

(2) Where an inspector is satisfied that any spruce bark is being or has been moved in contravention of this Order, he may serve upon the owner or person in charge of the spruce bark or any premises a notice in writing requiring him to treat or destroy it to the satisfaction of the inspector within such time and at such place as may be reasonably specified in the notice.

(3) Where any person has failed to carry out the requirements of a notice served pursuant to paragraph (2) above, an inspector may carry out those requirements or authorise another to do so on his behalf, and the expenses incurred in connection with the carrying out of those requirements shall be recoverable by the Commissioners as a debt due from the person on whom the notice was served.

Service of notices

7.—(1) A notice under this Order may be served on any person—

- (a) by delivering it to him personally;
- (b) by leaving it for him at his last known place of abode or business; or
- (c) by sending it through the post addressed to him at his last known place of abode or business.

(2) A notice under this Order 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; or
- (b) in the case of a partnership, be served on a partner or person having the control or management of the partnership business.

Offences

8.—(1) A person shall be guilty of an offence if without reasonable excuse, proof of which shall lie with him—

- (a) he contravenes or fails to comply with a provision of this Order;
- (b) he contravenes or fails to comply with a provision or condition of a notice served, or licence granted, under this Order;
- (c) he intentionally obstructs an inspector or any person authorised by an inspector in the exercise of his powers given by or under this Order.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocation

9. The Restriction on Movement of Spruce Wood Order 1982(3) is hereby revoked.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 17th May 1993.

L.S.

P. J. Clarke
Secretary to the Forestry Commissioners

SCHEDULE

Article 3(1)

AREAS WITHIN WHICH SPRUCE BARK MAY
NOT BE MOVED UNLESS IT HAS BEEN TREATED

County	
Avon	That part of the county which lies to the north of the southern boundary of the M4
Cheshire	The whole county
Clwyd	The whole county
Derbyshire	The districts of Amber Valley, Derby, Erewash, High Peak, South Derbyshire and West Derbyshire
Dyfed	The whole county
Gloucestershire	The whole county
Greater Manchester	The whole county
Gwent	The whole county
Gwynedd	The whole county
Hereford and Worcester	The whole county
Lancashire	The whole county
Leicestershire	The districts of Hinckley and Bosworth and North West Leicestershire
Merseyside	The whole county
Mid Glamorgan	The whole county
North Yorkshire	The district of Craven
Powys	The whole county
Shropshire	The whole county
South Glamorgan	The whole county
Staffordshire	The whole county
Warwickshire	The whole county
West Glamorgan	The whole county
West Midlands	The whole county

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which revokes the Restriction on Movement of Spruce Wood Order 1982, controls the movement of spruce bark from trees grown in the areas described in the Schedule by prohibiting its movement within those areas unless it has been treated against the tree pest *Dendroctonus micans* Kugelann (the Great Spruce Bark Beetle) (article 3(1)).

Dendroctonus micans is a non-indigenous pest which attacks spruce trees and its spread is also controlled by the Plant Health (Forestry) (Great Britain) Order 1993⁽⁴⁾.

The Order also—

- (a) permits movement of spruce bark in accordance with a licence granted by the Forestry Commissioners or pursuant to a notice served by an inspector or instructions issued by an inspector (article 3(2));
- (b) empowers an inspector to enter premises, to carry out examinations and take samples (article 5);
- (c) empowers an inspector to serve a notice requiring the production of records and information by any person reasonably suspected of being involved in the movement of spruce bark in contravention of the Order (article 6(1)), to serve a notice requiring the treatment or destruction of spruce bark (article 6(2)) and to carry out treatment or destruction in default of compliance (article 6(3));
- (d) provides that contravention of, or failure to comply with, a provision of the Order or a notice or licence issued under it, shall be an offence punishable by a fine not exceeding £5,000 (article 8).

⁽⁴⁾ S.I. 1993/1283.