

2006 No. 342

BEE DISEASES, ENGLAND

The Bee Diseases and Pests Control (England) Order 2006

Made - - - - *11th February 2006*

Laid before Parliament *15th February 2006*

Coming into force - - *17th March 2006*

The Secretary of State in exercise of the powers conferred by section 1 of the Bees Act 1980(a) and now vested in her makes the following Order—

Title, commencement and application

1.—(1) This Order may be cited as the Bee Diseases and Pests Control (England) Order 2006 and comes into force on 17th March 2006.

(2) This Order applies in relation to England only.

Interpretation

2.—(1) In this Order—

“appliances” means containers and any other equipment used in connection with keeping or transporting bees;

“bee pest” means any beetle, mite or similar organism that may be injurious to bees and that is in any stage of its life cycle;

“field test kit” means a portable test kit that confirms the presence of a disease without the need to send samples to a laboratory;

“hive” means any thing that contains or has at any time contained a colony of bees;

“notifiable disease” means American foul brood or European foul brood;

“notifiable pest” means the small hive beetle (*Aethina tumida*) or any species of the *Tropilaelaps* mite;

“premises” includes any place with or without buildings; and

“vehicle” includes any vessel, boat, hovercraft or aircraft.

(a) 1980 c.12. The functions of the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales under section 1 were, so far as exercisable in relation to Scotland, transferred to the Scottish Ministers by section 53 of the Scotland Act. The functions of the Secretary of State for Wales under section 1 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The remaining functions of the Secretary of State for Scotland and the Secretary of State for Wales under section 1 were transferred to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). The functions of the Minister of Agriculture, Fisheries and Food under section 1 were transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). The functions of the Secretary of State under section 1 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044).

(2) A notice under this Order—

- (a) shall be in writing;
- (b) may be suspended, amended or revoked by further notice at any time; and
- (c) may be subject to conditions.

(3) Paragraph (2)(c) does not apply to a notice under article 10.

(4) A licence under this Order shall be in writing, may be general or specific, may contain conditions and may be suspended, amended or revoked by notice at any time.

(5) A general licence issued under this Order shall be brought to the attention of those persons whom it is likely to affect by its publication in such newspapers or periodicals or in such other manner as the Secretary of State considers necessary.

Notification of suspicion of a disease or pest

3.—(1) An owner or person in charge of a hive who knows or suspects that—

- (a) any bees from the hive are infected with a notifiable disease;
- (b) a notifiable pest is present in the hive; or
- (c) a notifiable pest is present on or in the same premises or vehicle as the hive,

shall immediately notify that fact to the Secretary of State.

(2) Any other person who—

- (a) has in his possession or charge; or
- (b) discovers in the course of his occupation,

a bee pest that he knows or suspects is a notifiable pest shall immediately notify that fact to the Secretary of State.

Prohibition on removal

4.—(1) Where notification has been given under article 3(1), the owner or person in charge of the hive shall not remove, or permit to be removed, from the premises or vehicle on or in which the hive is situated—

- (a) any hive, bees, combs, bee products, bee pests, hive debris or appliances; or
- (b) any other thing liable to spread the notifiable disease or the notifiable pest.

(2) The owner or person in charge of a hive may, notwithstanding the provisions of paragraph (1), submit to the Secretary of State for laboratory tests samples of—

- (a) any parts of the hive, bees, combs, bee products or hive debris, to establish whether they are infected with a notifiable disease or a notifiable pest;
- (b) any bee pest to establish whether it is a notifiable pest; and
- (c) soil from the area surrounding the hive to establish whether it is infected with a notifiable pest.

(3) If a notice is served under article 6(1) or (2), the prohibition on removal in that notice shall apply in place of the prohibition on removal in paragraph (1).

(4) In the absence of a notice served under article 6(1) or (2), the prohibition on removal in paragraph (1) shall apply until—

- (a) an authorised person has confirmed by notice that he is satisfied that the bees are not infected with the notifiable disease or that the notifiable pest is not present in the hive or on or in the same premises or vehicle as the hive; or
- (b) the owner or person in charge of the hive has been informed that the test results on samples submitted to the Secretary of State under paragraph (2) confirm that the material sampled is free from infection or is not a notifiable pest.

(5) Any person who gives notification under article 3(2) shall not remove, or permit to be removed, any bee pest or any other thing by which the notifiable pest is liable to be spread from the premises or vehicle on or in which it is situated.

(6) Any person who gives notification under article 3(2) may, notwithstanding the provisions of paragraph (5), submit to the Secretary of State for laboratory tests samples of—

- (a) any bee pest to see if it is a notifiable pest; and
- (b) any other thing, including soil, to see if it is infected with a notifiable pest.

(7) If a notice is served under article 6(1) or (2), the prohibition on removal in that notice shall apply in place of the prohibition on removal in paragraph (5).

(8) In the absence of a notice served under article 6(1) or (2), the prohibition on removal in paragraph (5) shall apply until—

- (a) an authorised person has confirmed by notice that he is satisfied that the notifiable pest is not present; or
- (b) the person who gave notification under article 3(2) has been informed that the test results on samples submitted to the Secretary of State under paragraph (6) confirm that the material sampled is not a notifiable pest or is not infected with a notifiable pest.

(9) Any sample submitted under paragraph (2) or (6) shall be packed so as to prevent as far as possible the risk of the spread of infection during transit.

Marking of hives and appliances

5.—(1) An authorised person may mark any hive or appliance for identification purposes.

(2) No person shall in any way interfere with any identifying mark made under paragraph (1) or permit such a mark to be interfered with.

Notices prohibiting removal

6.—(1) Where an authorised person has reasonable grounds for suspecting that a notifiable disease or a notifiable pest is present on or in any premises or vehicle, he shall serve on the owner or person in charge of—

- (a) any hive, bees, combs, bee products, bee pests, hive debris or appliances situated on or in the premises or vehicle; or
- (b) any other thing liable to spread the notifiable disease or the notifiable pest situated on or in the premises or vehicle,

a notice prohibiting their removal and the removal of any bee pests contained in or affecting them, except under the authority of a licence issued by the Secretary of State.

(2) Where an authorised person is obstructed in the exercise of his power of entry under section 2 of the Act, he may serve on the person appearing to him to be the owner or occupier of the premises or the owner or person in charge of the vehicle a notice prohibiting the removal from the premises or vehicle of—

- (a) any hive, bees, combs, bee products, bee pests, hive debris or appliances; or
- (b) any other thing liable to spread a notifiable disease or a notifiable pest.

(3) A notice served pursuant to paragraph (2) shall be revoked if an authorised person is subsequently able to act without obstruction in the exercise of his power of entry under section 2 of the Act on or in the premises or vehicle.

(4) In this article “the Act” means the Bees Act 1980.

Disease control measures

7.—(1) The presence of a notifiable disease may be confirmed by an authorised person on the basis of a laboratory test result or a field test kit result.

(2) Where the presence of American foul brood has been confirmed in a hive, an authorised person—

- (a) shall serve on the owner or person in charge of the hive a notice requiring the destruction in accordance with the notice of any bees, combs or bee products from the hive;
- (b) may serve on the owner or person in charge of the hive a notice requiring the destruction or treatment in accordance with the notice of the hive, debris from the hive and any appliances or other things liable to spread the disease;
- (c) may serve on any other person who is the owner or person in charge of any appliances or other things liable to spread the disease a notice requiring their destruction or treatment in accordance with the notice.

(3) Where the presence of European foul brood has been confirmed in a hive, an authorised person—

- (a) shall serve on the owner or person in charge of the hive a notice requiring the destruction or treatment in accordance with the notice of any bees, combs or bee products from the hive;
- (b) may serve on the owner or person in charge of the hive a notice requiring the destruction or treatment in accordance with the notice of the hive, debris from the hive and any appliances or other things liable to spread the disease;
- (c) may serve on any other person who is the owner or person in charge of any appliances or other things liable to spread the disease a notice requiring their destruction or treatment in accordance with the notice.

(4) If, once any treatment required by a notice served under this article has been carried out, an authorised person confirms by way of a laboratory test result or a field test kit result that the notifiable disease remains, an authorised person may serve further notices under this article.

Pest control measures

8.—(1) The presence of a notifiable pest may be confirmed by an authorised person on the basis of a laboratory test result or an examination.

(2) Where the presence of a notifiable pest has been confirmed in a hive or on or in the same premises or vehicle as a hive, an authorised person—

- (a) shall serve on the owner or person in charge of the hive a notice requiring the destruction or treatment in accordance with the notice of the hive, any bees, combs, bee products, bee pests or debris from the hive, and any appliances or other things by which the notifiable pest is liable to be spread;
- (b) may serve on the owner or occupier of the premises on which the hive is situated a notice requiring the treatment in accordance with the notice of the soil surrounding the hive;
- (c) may serve on any other person who is the owner or person in charge of any appliances or other things by which the notifiable pest is liable to be spread a notice requiring their destruction or treatment in accordance with the notice.

(3) Where the presence of a notifiable pest is confirmed on or in any other premises or vehicle, an authorised person may serve a notice requiring the destruction or treatment in accordance with the notice of any bee pests and of any other things by which the notifiable pest is liable to be spread on—

- (a) any person who has a bee pest in his possession or charge;
- (b) the owner or occupier of the premises, or the owner or person in charge of the vehicle.

(4) If, once any treatment required by a notice served under this article has been carried out, an authorised person confirms on the basis of a laboratory test result or an examination that the notifiable pest remains, an authorised person may serve further notices under this article.

Notices served under article 7 or 8

9. A notice served under article 7 or 8 shall specify—

- (a) the method of destruction or treatment, which may, in the case of treatment, include the use of a particular substance or any other action intended to control the disease or pest; and
- (b) the date by which destruction or treatment must take place, or the period during which treatment must take place,

and may specify that the destruction or treatment is to be carried out by an authorised person, in the presence of an authorised person or under the supervision of an authorised person.

Declaration of infected area

10.—(1) The Secretary of State may by notice declare an area in which she is satisfied that a notifiable pest is present to be an infected area.

(2) The notice may provide that all or any of the provisions specified in the Schedule apply in all or part of the infected area, and that different provisions apply in different parts of the infected area, as the Secretary of State considers necessary to prevent the spread of the pest.

(3) The Secretary of State shall publish any notice issued under paragraph (1) and any notice amending or revoking such a notice in such manner as she considers appropriate to bring it to the attention of persons likely to be affected by it.

Imported bees

11.—(1) This article applies where bees are imported into England in accordance with Article 1(1) of Commission Decision 2003/881/EC concerning the animal health and certification conditions for imports of bees (*Apis mellifera* and *Bombus* spp.) from certain third countries and repealing Decision 2000/462/EC(a).

(2) When the bees arrive at the apiary of destination (as indicated on the health certificate accompanying the bees), the consignee (as indicated on the health certificate accompanying the bees) shall—

- (a) transfer the queen bees to new cages before they are introduced to any local colonies of bees; and
- (b) send the cages in which the bees were transported from the country of origin, the attendant bees and other material that accompanied the queen bees from their country of origin to the Secretary of State for a laboratory examination for the presence of a notifiable pest.

(3) Following the examination referred to in paragraph (2)(b), the Secretary of State shall arrange for the cages, attendant bees and other material referred to in that paragraph to be destroyed as soon as reasonably practicable.

(4) Where bees of the species *Bombus* are imported into England in accordance with Article 2 of Commission Decision 2003/881/EC, the owner or person in charge of the bees shall ensure that the container in which they are transported from the country of origin and all material that accompanies the bees from the country of origin are destroyed either during or immediately at the end of the lifespan of the imported colony.

Provision of facilities and other obligations

12.—(1) The owner or person in charge of any hive, bees, combs, bee products or appliances and the owner or occupier of any premises and the owner or person in charge of any vehicle on or in which there is suspected to be a notifiable pest shall—

(a) OJ No. L328, 17.12.2003, p. 26, as amended by Commission Decision 2005/60/EC (OJ L25, 28.1.2005, p. 64).

- (a) make available all such facilities, and
- (b) give such information (including information concerning the number, location and any movements of hives, bees, combs, bee products or appliances that are or have been in his possession or charge and information concerning the location of any bee pests on the premises or vehicle),

to an authorised person as that authorised person shall reasonably require for the purposes of this Order.

(2) No person may treat bees with a substance which may have the effect of disguising the presence of, or rendering difficult the detection of, a notifiable disease unless he is carrying out the treatment of bees in accordance with a notice served under article 7.

(3) The Secretary of State may by licence exempt any person from the prohibition contained in paragraph (2).

(4) Any person upon whom a notice is served under this Order or who is subject to the provisions of a notice declaring an area to be an infected area within the meaning of article 10 shall comply with the provisions of that notice.

Action in default

13.—(1) Where any person has not complied with a notice served upon him under this Order, an authorised person may arrange for it to be complied with.

(2) The person upon whom the notice is served shall be liable for any costs incurred under paragraph (1).

(3) Any action taken by an authorised person under paragraph (1) and any recovery of costs under paragraph (2) shall be without prejudice to any proceedings for an offence arising out of contravention of a notice served under this Order.

Service of notices

14.—(1) Any notice served under this Order shall be properly served on any person if—

- (a) delivered to him personally;
- (b) left at or posted to his home or place of business last known to the Secretary of State; or
- (c) where the conditions in paragraph (2) are fulfilled, sent to him by e-mail.

(2) A notice served on any person by e-mail shall only be properly served on him if he—

- (a) has indicated in writing to the Secretary of State (and has not withdrawn the indication) that he is willing to accept service of notices under this Order by e-mail; and
- (b) has provided in writing to the Secretary of State an e-mail address for this purpose.

Exemptions

15. The Secretary of State may by licence exempt any person who is involved in research into, or in any course of training relating to, pests or diseases affecting bees from any of the provisions of this Order, apart from the provisions of article 11.

Revocations

16. The Bee Diseases Control Order 1982(a) and the Importation of Bees Order 1997(b) are revoked in so far as they apply in relation to England.

(a) S.I. 1982/107.
(b) S.I. 1997/310.

11th February 2006

Bach
Parliamentary Under Secretary of State
Department for Environment Food and Rural Affairs

SCHEDULE

Article 10

Provisions that may apply in an infected area

1. An authorised person may serve on the owner or person in charge of any hive, bees, combs, bee products, hive debris or appliances found to have been exposed to infection with the notifiable pest a notice complying with article 9 requiring their destruction or treatment in accordance with the notice.
2. An authorised person may serve on the owner or occupier of any premises on which a hive found to have been exposed to infection is situated a notice complying with article 9 requiring the treatment in accordance with the notice of the soil surrounding the hive.
3. No person shall move, or permit to be moved, any hive, bees, bee pests, combs, bee products, hive debris, appliances or other things by which the notifiable pest is liable to be spread into or out of the infected area, except under the authority of a licence granted by the Secretary of State.
4. No person shall remove, or permit to be removed, any hive, bees, bee pests, combs, bee products, hive debris, appliances or other things by which the notifiable pest is liable to be spread from the premises or vehicle on or in which they are situated, except under the authority of a licence granted by the Secretary of State.
5. The owner or person in charge of any hive, bees, combs, bee products or appliances shall notify the Secretary of State as soon as is reasonably practicable of his name and address and the location of any hive, bees, combs, bee products or appliances in his possession or charge.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Bee Diseases Control Order 1982 (S.I. 1982/107). It also revokes the Importation of Bees Order 1997 (S.I. 1997/310).

Article 3 of the Order makes provision for the notification of the presence or suspected presence of a notifiable disease or a notifiable pest to the Secretary of State. The giving of such notification triggers a prohibition on the movement of things that might spread the disease or pest (article 4). Under the Order American foul brood and European foul brood are notifiable diseases, and small hive beetle and any species of the *Tropilaelaps* mite are notifiable pests.

Where an authorised person has reasonable grounds for suspecting the presence of a notifiable disease or a notifiable pest, he must serve a notice prohibiting the movement of certain items (article 6(1)). If an authorised person is obstructed in the exercise of his power of entry he may serve a notice prohibiting movement of certain items (article 6(2)).

Article 7 sets out the measures that apply on confirmation of the presence of a notifiable disease. Article 8 sets out the measures that apply on confirmation of the presence of a notifiable pest.

The Secretary of State may declare by notice an area to be an infected area if she is satisfied that a notifiable pest is present in that area (article 10). The Secretary of State may specify in the notice that all or any of the provisions in the Schedule apply in some or all of the infected area.

Article 11 implements for England the provisions of Commission Decision 2003/881/EC (OJ No. L328, 17.12.2003, p. 26) as amended by Commission Decision 2005/60/EC (OJ No. L25, 28.1.2005, p. 64) that apply to bees after they have been imported into England from a third country. The Animals and Animal Products (Import and Export) (England) Regulations 2005 (S.I. 2005/2002) implement for England the import conditions contained in Commission Decision 2003/881/EC.

Article 12 requires the provision of facilities and the giving of information to authorised persons in certain circumstances. Article 12 also prohibits the use of substances that may disguise the presence of or render difficult the detection of a notifiable disease other than in accordance with a notice requiring treatment under article 7.

Article 13 provides that where any person has not complied with a notice served under the Order, an authorised person may arrange for it to be complied with at the expense of the person upon whom the notice is served.

In accordance with section 1(7) of the Bees Act 1980 (c. 12), breach of any provision of the Order or of any condition imposed by any licence issued under the Order constitutes an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale (currently £5000).

A regulatory impact assessment has been prepared for this Order and has been placed in the Library of each House of Parliament. Copies may be obtained from the Plant Health Division of the Department for Environment, Food and Rural Affairs, Room 354, Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX.

£3.00

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