

1973 No. 1060

PLANT HEALTH

The Wart Disease of Potatoes (Great Britain) Order 1973

<i>Made - - - -</i>	14th June 1973
<i>Laid before Parliament</i>	25th June 1973
<i>Coming into Operation</i>	
<i>Article 8</i>	1st July 1974
<i>Remainder</i>	1st August 1973

The Minister of Agriculture, Fisheries and Food and the Secretary of State, by virtue and in exercise of the powers vested in them respectively 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 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 every other power enabling them in that behalf, hereby make the following order:—

Citation, extent and commencement

1. This order, which may be cited as the Wart Disease of Potatoes (Great Britain) Order 1973, shall apply to England and Wales and Scotland and shall come into operation as respects article 8 on 1st July 1974 and as respects the remainder on 1st August 1973.

Revocation of previous orders

2. The Wart Disease of Potatoes Order 1958(e), the Wart Disease of Potatoes (Scotland) Order of 1941(f) and the Wart Disease of Potatoes (General Licence) (Scotland) Order 1954(g) are hereby revoked.

Interpretation

3.—(1) In this order, unless the context otherwise requires—

“allotment garden” means an allotment not exceeding $\frac{1}{4}$ acre in extent which is wholly or mainly cultivated by the occupier for the production of vegetables and fruit for consumption by himself or his family;

(a) 1967 c. 8.

(b) 1967 c. 80.

(c) 1972 c. 68.

(d) 1972 c. 62.

(e) S.I. 1958/308 (1958 II, p. 1883).

(f) S.R. & O. 1941/1587 (Rev. V, p. 807; 1941 I, p. 223).

(g) S.I. 1954/235 (1954 II, p. 1772).

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

“approved immune variety” means a variety approved for the time being by the appropriate Minister as being immune from wart disease;

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

“potato” means the tuber, or part thereof, or any part of the plant of *Solanum tuberosum* L. or other tuber-forming species or hybrids of *Solanum*;

“potato tuber” includes part thereof;

“wart disease” means either the disease affecting potatoes which is caused by *Synchytrium endobioticum* (Schilb.) Perc. and known as wart disease of potatoes or the organism *Synchytrium endobioticum*, as the context may require.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament and as if this order and the orders hereby revoked were Acts of Parliament.

(3) Any reference in this order to a numbered article shall be construed as a reference to the article bearing that number in this order.

Notification of disease

4.—(1) The occupier or other person in charge of any land on which wart disease is present or appears to be present, and any person having in his possession or under his charge potatoes which are affected with wart disease, shall forthwith give to the appropriate Minister written notification of the fact.

(2) If on land in respect of which such a notification of disease has been given wart disease is present or appears to be present on potatoes in any subsequent year or years, a further notification of disease shall be so given in each of such years.

Declaration of contaminated land or a safety zone

5.—(1) If it appears to the appropriate Minister that wart disease is present on any land, that Minister may serve on the occupier or other person in charge of the land a notice in writing declaring the land to be land on which wart disease is present and thereafter, until the said notice is withdrawn in accordance with paragraph (4) of this article, the land shall be deemed for the purposes of this order to be land on which wart disease is present.

(2) The appropriate Minister may serve on the occupier or other person in charge of land which surrounds, adjoins or is in close proximity to land on which wart disease is present a notice declaring the first mentioned land to be a safety zone.

(3) Any notice served under paragraph (1) or (2) of this article may define by reference to a map or plan or otherwise the extent of the land declared in the notice to be land on which wart disease is present or to be a safety zone, as the case may be.

(4) Any notice served, or having effect as if served, under any order which is revoked by this order, being a notice declaring land to be land on which wart disease is present or a notice applying the provisions of any such order to land, shall continue to have effect as if it were a notice served under paragraph (2) of this article and any such notice or any notice served under paragraph (1) of this article may, if it appears to the appropriate Minister that wart disease is no longer present on the land, or any part of the land, to which the notice relates, be withdrawn as respects that land, or that part of the land, by that Minister by a notice in writing served on the occupier or other person in charge of that land and the last mentioned notice may impose such conditions, if any, as appear to the appropriate Minister expedient to prevent a further occurrence of wart disease and that last mentioned notice may be amended, modified or withdrawn by the appropriate Minister by a further notice in writing served on the occupier or other person in charge of the land to which the further notice relates.

(5) Any notice served under paragraph (2) of this article may, if it appears to the appropriate Minister that wart disease is no longer present on the land surrounded by or adjoining or in close proximity to the land to which the notice relates, be withdrawn by that Minister by a notice in writing served on the occupier or other person in charge of that land.

Restrictions on the planting and disposal of potatoes and plants

6.—(1) No person shall plant or cause or permit to be planted any potatoes in any land in his occupation or under his charge on which wart disease is present.

(2) No person shall plant or cause or permit to be planted in any land in his occupation or under his charge—

(a) to which a notice served under article 5(2), or deemed by virtue of article 5(4) to have been so served, relates, or

(b) as respects land in England or Wales, in respect of which a notification of the presence or apparent presence of wart disease was given before the commencement of the Wart Disease of Potatoes Order 1958 by the occupier or other person then in charge of the land or by the appropriate Minister

any potatoes which are not of an approved immune variety, or, in the case of any land which surrounds, adjoins or is in close proximity to land on which wart disease of any race other than the common European race is present and in respect of which the appropriate Minister so directs by notice in writing served on the person aforesaid, any potatoes whatsoever except such variety or varieties, if any, as the appropriate Minister may authorise in writing to be planted in the said land:

Provided that the provisions of this paragraph shall not apply as respects any land of a kind described in sub-paragraph (b) hereof if the appropriate Minister has served on the occupier or other person in charge of that land a notice in writing declaring that the provisions of this paragraph shall not apply as respects that land.

(3) No person shall remove for transplanting elsewhere from any land on which wart disease is present any plants which have been grown or stored in or on that land.

(4) No person shall sell or offer or expose for sale or deliver or cause or permit to be delivered or otherwise pass from his possession for any purpose or

plant or cause or permit to be planted any potatoes visibly affected with wart disease:

Provided that nothing in this paragraph shall be deemed to prohibit the delivery, or giving of possession, of any such potatoes to the appropriate Minister or to an inspector.

(5) No person shall sell or offer or expose for sale for planting or deliver or cause to be delivered for planting or cause or permit to be planted any potatoes from a crop in any part of which wart disease has been found to be present.

7.—(1) No person shall permit potatoes to remain in or on land in his occupation or under his charge if they have been planted in contravention of this order and their removal or destruction is required by notice in writing served on him by the appropriate Minister. Any such notice may state the time within which and the manner in which the removal or destruction shall be completed.

(2) If any person shall fail to remove or destroy any potatoes in compliance with a notice served on that person under paragraph (1) of this article, without prejudice to any proceedings under this order consequent upon such failure, an inspector or a person authorised by him for the purpose may remove or destroy them and the cost of so doing shall be recoverable by the appropriate Minister as a debt due from the person on whom the notice was served.

Restrictions on the planting of potatoes in gardens or allotments

8. No person shall plant or cause or permit to be planted in any private garden or in any allotment garden any potatoes which are not of an approved immune variety.

Misdescription of potatoes

9.—(1) No person shall sell or offer or expose for sale as potatoes of an approved immune variety any potatoes which are not of an approved immune variety.

(2) A person shall not be liable to conviction for a contravention of article 6(2) or 8 if he proves to the satisfaction of the court that the potatoes were sold to him as potatoes of an approved immune variety and that he did not know that the potatoes were not of an approved immune variety.

Power to require the fencing off and treatment of land contaminated by wart disease

10.—(1) Where the appropriate Minister or an inspector becomes aware of or has reasonable cause to suspect the presence in or on land of a race of wart disease other than the common European race, he may serve on the occupier or other person in charge of that land a notice in writing requiring him to erect and at all times thereafter to maintain on that land such fences, and to treat that land, in such manner and within such time as may be specified in the notice.

(2) A notice served under this article may at any time be amended, modified or withdrawn by the appropriate Minister or by an inspector by a further notice in writing served on the occupier or other person in charge of the land to which the further notice relates.

Restriction on the removal of soil from land contaminated by wart disease

11. No person shall remove, or cause or permit to be removed, any soil from land on which wart disease is present, or from any premises on such land, so that it may be used or disposed of where wart disease is not present, except in accordance with the conditions of a licence granted by the appropriate Minister.

Powers of entry, examination and sampling

12.—(1) An inspector upon production if so required of his authority may, for the purposes of this order, enter any land and any premises and examine and take samples of any potatoes and of any soil on that land or those premises.

(2) In this article and in article 13 the expression “premises” includes any vehicle, vessel, aircraft, hovercraft or freight container.

Power to deal with diseased or suspected potatoes, potato plants and certain plant and equipment

13.—(1) An inspector may at any time serve on the occupier or other person in charge of land on which wart disease is present a notice in writing requiring him to destroy to the satisfaction of an inspector potato plants grown on the land on which wart disease is present.

(2) An inspector may at any time serve on—

- (a) any person having in his possession or under his charge potato tubers which are affected with wart disease, or which are on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected, or which the inspector has reason to believe to have been on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected or otherwise exposed to infection with wart disease;
- (b) the occupier or other person in charge of land on which the inspector has reason to believe there have been potato tubers which are or have been affected with wart disease or potato tubers which have been on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected or otherwise exposed to infection with wart disease;

a notice in writing—

- (i) requiring the aforesaid occupier or person to treat in such manner and within such time as may be specified in the notice the premises on which the potato tubers are or are reasonably believed to have been in any of the aforesaid circumstances and such plant or equipment as may be so specified, being plant or equipment which has been used in connection with the potato tubers, and
- (ii) requiring the aforesaid occupier or person to treat or destroy such of the potato tubers and such packing materials and receptacles used for the storage or conveyance of the potato tubers in such manner and within such time as may be specified in the notice, and
- (iii) prohibiting the removal of the potato tubers, the soil and debris riddled from the potato tubers and any packing materials, plant, equipment or receptacles used for the storage, conveyance or handling of the potato tubers or otherwise used in connection with the potato tubers from the premises on which they are when the notice is

served and prohibiting the moving of any vehicle or freight container from the place where it is when the notice is served except, in each case, under such conditions, prescribed in the notice, as the inspector may consider necessary to prevent the spread of wart disease.

(3) If any person shall fail to carry out the destruction of any potato plants or to treat any premises, plant or equipment or to treat or destroy any potato tubers, packing materials or receptacles used for the storage or conveyance of potato tubers in accordance with the requirements of a notice served in pursuance of paragraph (1) or (2) 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 may enter the premises and treat the premises, plant or equipment and may enter any premises on which the potato plants, potato tubers, packing materials or receptacles or any of them may be and, at his discretion, either destroy such potato plants or treat or destroy such potato tubers, packing materials or receptacles on the said premises or remove them and take such action elsewhere, and the cost of taking such steps shall be recoverable by the appropriate Minister as a debt due from the aforesaid person.

Service of notices

14. For the purpose of this order a notice shall be deemed to be served on or given to 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.

Information to be given

15.—(1) The owner or occupier or other person in charge of land in respect of which there has been served a notice under article 5(1) or (2) or a notice which is deemed, by virtue of article 5(4), to have been served under article 5(2) shall, if so required in writing by an inspector, give him any information he may possess as to the crops grown on the land at any time, including the names of the varieties of any potatoes grown thereon, and as to the persons in whose possession or under whose charge any potatoes grown on the land are or have been and shall produce for inspection by the inspector any licences, declarations, certificates, records or invoices relating to the planting, sale or purchase of potatoes grown on the land.

(2) Every person who has or has had in his possession or under his charge any potatoes whether affected with wart disease or not and every person who as auctioneer, salesman or otherwise has sold or offered for sale any potatoes shall, if so required in writing by an inspector, give any information he may possess as to the persons in whose possession or under whose charge they are or have been and shall produce for inspection by an inspector any licences, declarations, certificates, records or invoices relating to the planting, sale or purchase of potatoes.

(3) 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 an alleged failure to comply with this article.

Licences

16. Notwithstanding any provisions of this order, any potatoes may be planted, moved, consigned, sold, offered for sale or kept for scientific purposes under and in accordance with the conditions of a licence granted by the appropriate Minister.

Offences

17. Any person who fails to comply with, or acts in contravention of, this order or the terms or conditions of a notice or licence served or granted thereunder or who wilfully obstructs an inspector in the exercise of his powers under this order shall be 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.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th June 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

12th June 1973.

Gordon Campbell,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies throughout Great Britain, supersedes the Wart Disease of Potatoes Order 1958 (which applied to England and Wales only) and the Wart Disease of Potatoes (Scotland) Order of 1941, as amended. It implements Directive 69/464/EEC of the Council (O.J. No. L. 323, 24.12.69, p. 1 (O.J./S.E. 1969 (11), p. 561)) on the control of potato wart disease.

This Order prohibits the planting of potatoes in, and the removal of plants for transplanting from, any land which is declared by a notice served under this Order to be land on which wart disease is present (articles 5(1), 6(1) and (3)). It also prohibits the planting of potatoes which are not of an approved immune variety in land which is declared by a notice served under this Order to be a safety zone surrounding land on which wart disease is present or in land on which wart disease has previously occurred (article 6(2)). Provision is no longer made for "protected areas", first established in 1929, within which the planting, and the sale for planting, of potatoes was controlled.

The requirement that only potatoes of an approved immune variety may be planted in private gardens and allotments, already in force in Scotland, is extended to England and Wales (article 8). Power is given, in certain cases, to require the fencing off and treatment of land contaminated by wart disease (article 10).

This Order re-enacts the prohibition against selling diseased or suspected potatoes (article 6(4) and (5)) and, with amendments, the power of an inspector to deal with diseased or suspected potatoes (article 13).

SI 1973/1060
ISBN 0-11-031060-8

