

1980 No. 450

PLANT HEALTH

The Tree Pests (Great Britain) Order 1980

<i>Made - - - -</i>	<i>28th March 1980</i>
<i>Laid before Parliament</i>	<i>9th April 1980</i>
<i>Coming into Operation</i>	<i>1st May 1980</i>

The Forestry Commissioners, by virtue and in exercise of the powers vested in them 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 of every other power enabling them in that behalf, hereby make the following Order:—

Citation, commencement and application

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

Interpretation

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

“the Commissioners” means the Forestry Commissioners;

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

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

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

“non-indigenous tree pest” means a tree pest which in the opinion of the Commissioners is not established in Great Britain;

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

(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.

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

“tree pest” means a living organism, other than a vertebrate animal, or a pathogen, which is injurious to any tree or the wood thereof 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, and includes a culture of such organism or pathogen;

“wood” means all wood of trees whether living or not including the bark thereof.

Prohibitions relating to non-indigenous tree pests and genetic manipulation

3.—(1) Except under and in accordance with the terms of a licence granted by the Commissioners, 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 tree pest or any plant or wood carrying or infected with any such pest; or
 - (ii) any tree pest which has been subjected to genetic manipulation or any genetically manipulated material;
- (b) engage in any activity involving genetic manipulation of a tree pest or engage in any activity which involves genetic manipulation which is in the opinion of the Commissioners likely to result in the production of a tree pest.

(2) Nothing in subparagraph 1(a) of this article shall be deemed to prohibit the killing or destruction of any tree pest, plant, wood or genetically manipulated material referred to in that subparagraph.

Examination, sampling and marking

4. An inspector, on production if so required of his authority, may at all reasonable times for the purposes of this Order enter any premises on which he has reasonable grounds for suspecting that there is present—

- (i) any plant or wood carrying or infected with, or likely to be carrying or infected with, any non-indigenous tree pest;
- (ii) a non-indigenous tree pest;
- (iii) a tree 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, wood, tree pest or genetically manipulated material and may also mark the said premises and mark any plant or wood (whether or not carrying or infected with any tree pest), tree pest or genetically manipulated material which may be there and any containers associated therewith.

Powers of inspectors to deal with and prevent the spread of non-indigenous tree pests etc.

5.—(1) Without prejudice to the provisions of article 6 of this Order, if an inspector has reasonable grounds for suspecting that there is present on any premises—

- (a) any plant or wood carrying or infected with, or likely to be carrying or infected with, a non-indigenous tree pest;

- (b) a non-indigenous tree pest;
- (c) a tree pest which has been subjected to genetic manipulation, or any genetically manipulated material,

he may, after giving to the occupier of the premises not less than two days notice of his intention and upon production if so required of his authority, enter such premises and either on those premises or elsewhere take steps—

- (i) to destroy or to treat in some other way any plant or wood referred to in subparagraph (1)(a) of this article and to prevent the spread of any non-indigenous tree pest which such plant or wood is, or is suspected by the inspector to be, carrying or by which such plant or wood is, or is suspected by the inspector to be, infected;
- (ii) to destroy any tree pest or genetically manipulated material referred to in subparagraph (1)(b) or (1)(c) of this article and to prevent the spread of any such tree pest or genetically manipulated material.

(2) If an inspector has reasonable grounds for suspecting that there is present on any premises any plant or wood carrying or infected with a non-indigenous tree pest, he may, after giving to the occupier of any premises which adjoin or are in close proximity to the first-mentioned premises not less than two days notice of his intention and upon production if so required of his authority, enter such adjoining premises at all reasonable times and take such steps as appear to the inspector to be necessary to prevent the spread of that non-indigenous tree pest from within the first-mentioned premises.

6.—(1) Without prejudice to the provisions of article 5 of this Order, if an inspector has reasonable grounds for suspecting that there is present on any premises—

- (a) any plant or wood carrying or infected with, or likely to be carrying or infected with, a non-indigenous tree pest;
- (b) a non-indigenous tree pest;
- (c) a tree 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, at such place, in such manner and within such period as may be specified in the notice, to take such steps—

- (i) to destroy or to treat in some other way any plant or wood referred to in subparagraph (1)(a) of this article and to prevent the spread of any non-indigenous tree pest which such plant or wood is, or is suspected by the inspector to be, carrying or by which such plant or wood is, or is suspected by the inspector to be, infected;
- (ii) to destroy any tree pest or genetically manipulated material referred to in subparagraph (1)(b) or (1)(c) of this article and to prevent the spread of such tree pest or genetically manipulated material,

as may also be specified in the notice.

(2) If an inspector has reasonable grounds for suspecting that there is present on any premises any plant or wood carrying or infected with a non-indigenous tree 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 tree pest from within the first-mentioned premises.

(3) Where treatment other than destruction is required by a notice served under paragraph (1) or (2) of this article, the person upon whom the notice was served shall be permitted within the period specified in the notice to destroy any plant or wood to which the notice relates, and if he shall so destroy any such plant or wood to the satisfaction of an inspector he shall be deemed to have complied with the notice so far as it relates to such plant or wood.

(4) Any destruction or other treatment required by a notice served under paragraph (1), or any steps required by a notice served under paragraph (2), of this article shall be carried out by the person upon whom the notice is served to the satisfaction of an inspector at a place designated by an inspector and, except with the written authority of the Commissioners or an inspector, no plant, wood, tree pest or genetically manipulated material to which any such notice refers shall be moved otherwise than to such a place.

(5) 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.

(6) If the occupier or other person in charge of the premises to which the notice relates shall fail to comply with the requirements or conditions of a notice served under paragraph (1) or (2) of this article (including where relevant a notice which has been amended under paragraph (5) 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, after giving to the said occupier not less than two days notice of his intention and upon production if so required of his authority, may for the purposes of this Order enter those premises and may take such steps as appear to the inspector to be necessary either to ensure compliance with the requirements or conditions of the said notice or to remedy the consequences of failure to carry them out, and the cost of taking such steps shall be recoverable by the Commissioners as a civil debt from the person upon whom the notice was served.

Persons accompanying or authorised by an inspector

7.—(1) An inspector entering any premises for any of the purposes of this Order may be accompanied by such other persons acting under his instructions and by such equipment as appear to him to be necessary, and such other persons, whether or not accompanied by the inspector, upon production if so required of their authority in that behalf given by the Commissioners or the inspector on the Commissioners' behalf, may remain on the land, and from time to time re-enter with such equipment as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

(2) An inspector who authorises a person to act in accordance with the provisions of article 6(6) of this Order 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 Commissioners or by an inspector to have or to have had in his possession or under his charge any non-indigenous tree pest, any plant or wood carrying or infected with any such pest, any tree pest which has been subjected to genetic manipulation 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 Commissioners or by an inspector to have sold or offered for sale any such tree pest, plant, wood or genetically manipulated material as aforesaid shall, if so required by demand in writing by the Commissioners or an inspector, give to the Commissioners or inspector, as the case may be, within the time specified in that demand, all such information as he possesses as to the persons who have or have had or are likely to have or to have had any tree pest, plant, wood 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 except in respect of an alleged failure to comply with this article.

Service of Notices

9.—(1) For the purposes of this Order, a notice shall be deemed to be duly 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.

(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.

(3) If the name or address of the occupier of any premises on or to whom a notice is required or authorised by this Order to be served or given cannot after reasonable enquiry be ascertained, the notice may be served or given by addressing it to the person on or to whom it is to be served or given by the description of “occupier” of the premises (describing them) to which, or to any tree pest, plant, wood or genetically manipulated material on which, the notice relates and 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

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

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

(2) Subparagraph (1)(b) of this article shall not have effect in relation to failure by any person to comply with any requirement of a notice mentioned in that subparagraph where the notice was served in accordance with article 9(3) of this Order.

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

(4) A person guilty of an offence under paragraph (1) or (3) 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 Forestry Commissioners is hereunto affixed on 28th March 1980.

(L.S.)

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

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to Great Britain, is made by the Forestry Commissioners under the Plant Health Act 1967. The main provisions of the Order—

- (a) prohibit, except under licence, the keeping or disposal of non-indigenous tree pests, plants or wood carrying or infected with such pests, tree pests subjected to genetic manipulation, or genetically manipulated material, or engaging in work involving genetic manipulation in connection with a tree pest (article 3);
- (b) provide powers of entry, examination, sampling and marking (article 4) and powers for the destruction or treatment of plants or wood carrying or reasonably suspected of carrying non-indigenous tree pests, and for the destruction of such pests or of tree pests subjected to genetic manipulation or of genetically manipulated material, and for preventing the spread of infection to adjoining premises (articles 5, 6 and 7);
- (c) provide that persons having in their possession information regarding any non-indigenous tree pest, any plant or wood carrying or infected with any pest, any tree pest which has been subjected to genetic manipulation or any genetically manipulated material may be required to disclose that information (article 8);
- (d) provide for offences in connection with the Order and lay down penalties which may be imposed in respect of contraventions of the Order (article 10).