
 STATUTORY INSTRUMENTS

1985 No. 637 (S. 62)

PLANT HEALTH

The Fire Blight Disease (Scotland) Order 1985

<i>Made</i> - - - - -	16th April 1985
<i>Laid before Parliament</i>	1st May 1985
<i>Coming into Operation</i>	22nd May 1985

In exercise of the powers conferred on me by section 3 of the Plant Health Act 1967(a) as read with section 20 of the Agricultural (Miscellaneous Provisions) Act 1972(b) and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation, extent and commencement

1. This order, which may be cited as the Fire Blight Disease (Scotland) Order 1985, shall apply to Scotland only and shall come into operation on 22nd May 1985.

Interpretation

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

“authorised officer” means an officer authorised by the Secretary of State for the purposes of this order;

“fire blight disease” means the disease of plants of the family Rosaceae caused by the bacterium *Erwinia amylovora* (Burrill) Winslow. *et al.*;

“plants” includes trees, bushes and canes.

Notice of infection

3. The occupier or other person in charge of land who knows or has reason to suspect that any plant present on such land is infected with fire blight disease shall forthwith give the Secretary of State notice in writing of the infection or suspected infection.

Powers of entry, inspection and sampling

4. An authorised officer upon production if so required of his authority may,

(a) 1967 c. 8; sections 3(1) and (2) were amended by the European Communities Act 1972 (c.68), section 4(1) and Schedule 4, paragraph 8; and section 3(4) was substituted by the Criminal Justice Act 1982 (c. 48), section 42.

(b) 1972 c. 62.

for the purposes of this order, enter upon any land or premises and, in particular, may examine and mark any plants thereon which appear to him to be infected with fire blight disease, may take away any plant and may cut off or detach and take away any part of any plant.

Powers to deal with infected plants or plants suspected of being infected

- 5.— (1) (a) An authorised officer, upon production if so required of his authority, may enter upon any land or premises on which plants infected with fire blight disease or suspected by the authorised officer of being so infected are present and may treat, remove or destroy or cause to be treated, removed or destroyed any plants or any parts of such plants which appear to him to be so infected;
- (b) Any person acting under the instructions of an authorised officer exercising powers vested in him by this paragraph may enter upon any land or premises for the purpose of carrying out those instructions.
- (2) An authorised officer may by notice in writing served on the occupier or other person in charge of any land on which plants infected with fire blight disease or suspected by the authorised officer of being so infected are present, require him, within such time or times or during such period or periods as may be specified in the notice, to do one or more of the following things namely:—
- (a) to grub up and destroy by fire at the premises or other specified site the whole of any plants specified in the notice;
- (b) to cut off or detach and destroy by fire at the premises or other specified site such parts of such plants as may be specified in the notice;
- (c) to treat in such manner as may be specified in the notice such plants or parts thereof as may be specified in the notice;
- (d) to destroy by fire at the premises or other specified site such fruit taken from plants growing on the said land as may be specified in the notice;
- (e) not to remove or permit to be removed from the premises any plants, pollen, budwood, scions or other parts of any plants except under and in accordance with the conditions of a licence for that purpose issued by the Secretary of State;
- (f) to take such other steps for the prevention of spread of fire blight disease as may be prescribed in the notice.
- (3) A notice served pursuant to paragraph (2) of this article may at any time be amended, modified or withdrawn by a further notice in writing served upon the occupier or other person in charge of the land referred to.
- (4) Nothing in this order shall prevent any person, upon whom a notice has been served pursuant to paragraph (2) of this article, from completely destroying by fire at the premises or other specified site the whole of any plants in respect of which the notice has been served upon him and if he shall so destroy them he shall be deemed to have complied with the notice so far as it relates to those plants.
- (5) If upon an inspection by an authorised officer it shall appear that any person shall have failed to carry out the requirements of a notice, served pursuant to paragraph (2) of this article, being requirements referred to in sub-

paragraphs (a), (b), (c), (d) or (f) thereof, within the time or times specified in such notice, then without prejudice to any proceedings under the order consequent upon such failure, an authorised officer or a person acting under his instructions may enter on the premises and carry out such requirements; and the cost of carrying out such requirements shall be recoverable by the Secretary of State from the person on whom the notice was served.

(6) In this article “premises” means the whole or any part of the land or buildings occupied by or in the charge of the person upon whom a notice has been served pursuant to paragraph (2) of this article and upon any part of which there are or have been present the plants referred to in the said paragraph.

Service of notices

6.—(1) For the purposes 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.

(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 partnership, be served on a partner or a person having the control or management of the partnership business or the firm at the principal office of the partnership.

Exemption for purposes of research

7. The Secretary of State may by a licence in writing exempt from any of the provisions of this order, in accordance with the conditions of such licence, the occupier or other person in charge of any land on which plants are grown for the purpose of experiment or research.

Offences

8. Any person who fails to comply with or who acts in contravention of this order or of the terms or conditions of any notice served or licence issued thereunder or who intentionally obstructs any person 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 pounds.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
16th April 1985.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order, which applies to Scotland only, controls the spread of fire blight disease and requires growers in Scotland of plants infected with fire blight disease to notify the Secretary of State for Scotland of the fact (article 3).

Authorised officers may—

- (a) inspect and take samples of plants suspected of being infected with fire blight disease (article 4);
- (b) treat, remove or destroy infected plants (article 5(1));
- (c) by notice require occupiers of land on which infected plants are present to grub up and burn any plants or parts of plants and to take other steps to prevent the spread of the disease (article 5(2), (3) and (4));
- (d) carry out such measures if the occupier fails to do so (article 5(5)).

The requirements of the order may be relaxed for scientific or research purposes under licence from the Secretary of State (article 7).

Article 8 makes it an offence to act in contravention of the Order or any notice or licence issued under the Order or for wilful obstruction, punishable on summary conviction with a fine not exceeding £100.

Fire Blight is controlled in England and Wales by the Fire Blight Disease Orders 1958 to 1966 (S.I. 1958/1814, 1960/1557 and 1966/162).

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