
STATUTORY INSTRUMENTS

1993 No. 1282

The Treatment of Spruce Bark Order 1993

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.

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(1) is hereby revoked.

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