1965 No. 216

PESTS

DESTRUCTIVE INSECTS AND PESTS

The Destructive Pests and Diseases of Plants Order 1965

Made - - - -	11*th February* 1965
Laid before Parliament	18*th February* 1965
Coming into Operation	1*st March* 1965

The Minister of Agriculture, Fisheries and Food, by virtue and in exercise of the powers vested in him by sections 1 and 2 of the Destructive Insects Act 1877(**a**), as extended by section 1 of the Destructive Insects and Pests Act 1907(**b**) and amended by section 1 of the Destructive Insects and Pests Act 1927(**c**), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Destructive Pests and Diseases of Plants Order 1965 and shall come into operation on 1st March 1965.

Revocation

2. The Destructive Insects and Pests Order of 1933(**d**) is hereby revoked.

Interpretation

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

" destructive pest or disease organism " means—

(*a*) any bacterium, fungus, virus, or invertebrate animal destructive to agricultural or horticultural plants which is not native to Great Britain and is not known to be established in Great Britain at the date of the commencement of this Order, including any culture thereof,

(*b*) any culture of Fire Blight bacteria (*Erwinia amylovora* (Burrill) Winslow *et al.*), or

(*c*) any culture of Wart Disease fungus (*Synchytrium endobioticum* (Schilb.) Perç.);

" inspector " means an officer of the Ministry of Agriculture, Fisheries and Food authorised by the Minister for the purposes of this Order;

(a) 40 & 41 Vict. c. 68.
(b) 7 Edw. 7. c. 4.
(c) 17 & 18 Geo. 5. c. 32.
(d) S.R. & O. 1933/557 (Rev. V, p. 739: 1933, p. 733).

" Minister " means the Minister of Agriculture, Fisheries and Food;
" plant " includes tree and bush and any seed or other part of a plant;
" premises " includes any vehicle, vessel or aircraft.

(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 Order hereby revoked were Acts of Parliament.

Prohibition of unauthorised importation, keeping and release or disposal of destructive pests and disease organisms

4.—(1) No person shall land, unload from an aircraft or import by post in or into England and Wales, any living or active destructive pest or disease organism except under and in accordance with the terms of a licence granted by the Minister.

(2) No person shall keep, or release, deliver or otherwise dispose of, or cause to be kept, or released, delivered or otherwise disposed of, any such pest or organism as aforesaid except under and in accordance with the terms of a licence as aforesaid:

Provided that nothing in this Article shall be deemed to prohibit the killing or destruction or the delivery to the Minister or to an officer of the Ministry of Agriculture, Fisheries and Food of any such pest or organism.

Examination, sampling and marking

5. An inspector, upon production if so required of his authority, may enter upon any land or premises on which he knows or suspects that there is present a destructive pest or disease organism or a plant carrying or affected with any such pest or organism and may examine and take samples of any such pest or organism or any such plant and the soil, packing material or container associated therewith and may also mark any plants (whether or not carrying or affected with any such pest or organism) which may be present there and the containers of such plants.

Remedial and precautionary measures

6.—(1) If an inspector knows or suspects that there is present on any land or premises a destructive pest or disease organism, he may by notice in writing served on the occupier or other person in charge of the said land or premises require him, within such time or during such period as may be specified in the notice, to take such steps to destroy any such pest or organism or to prevent its spread as may also be specified in the notice.

(2) If any person fails to carry out the requirements of a notice served on him in accordance with paragraph (1) of this Article within the time or during the period specified in the said notice 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 land or premises and take such steps as appear to the inspector to be necessary either to ensure compliance with the aforesaid requirements or to remedy the consequences of the failure to carry them out, and the cost of taking such steps shall be recoverable by the Minister as a civil debt from the person on whom the notice was served.

Information to be given

7. Every person who has or has had or is suspected by the Minister or by an inspector to have or to have had in his possession or under his charge any

(a) 52 & 53 Vict. c. 63.

destructive pest or disease organism or any plant carrying or affected with any such pest or organism and every person who as auctioneer, salesman or otherwise has sold or offered for sale or is suspected by the Minister or by an inspector to have sold or offered for sale any such pest, organism or plant shall, if so required by demand in writing by the Minister or an inspector, give to the Minister or inspector, as the case may be, within the time specified in the demand, all such information as he possesses as to the persons who have or have had or are likely to have or have had the said pest, organism or plant in their possession or under their charge: provided that 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.

Service of notices

8. For the purpose of this Order a notice shall be deemed to be served on 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: and a notice purporting to be signed by an inspector shall be *prima facie* evidence that it was signed by him.

Offences

9.—(1) Every person who wilfully obstructs or impedes an inspector in the exercise of his powers under this Order or who does any act in contravention of this Order or of the terms or conditions of any notice served or licence granted thereunder or who fails to do any act which he is required to do by or under this Order or by any such notice or licence shall be liable on conviction to a penalty not exceeding £10 or in respect of a second or subsequent offence to a penalty not exceeding £50.

(2) In order that the penalty for the landing, unloading or importing of any destructive pest or disease organism in contravention of this Order shall be such as may be imposed under the Customs and Excise Act 1952(a), paragraph (1) of this Article shall not apply in respect of any such landing.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 11th February 1965.

(L.S.) *Frederick Peart,*

Minister of Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order supersedes the Destructive Insects and Pests Order of 1933. The importation, keeping or parting with the possession of any non-indigenous pest, bacterium, fungus or virus which is destructive to agricultural or horticultural plants, or any culture of Fire Blight or Wart Disease, is prohibited

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 44.

unless carried out under the terms of a licence from the Minister of Agriculture, Fisheries and Food.

Inspectors of the Ministry of Agriculture, Fisheries and Food are given powers of examination and sampling and they may require the taking of remedial and precautionary measures. If any such requirements are not complied with, an inspector may himself do what is required at the expense of the person in default. Provision is made for the demanding of information as regards the custody of pests or disease organisms or of affected produce and penalties are prescribed for breaches of the terms of the Order.