STATUTORY INSTRUMENTS

1975 No. 1904

PLANT HEALTH

The Dutch Elm Disease (Restriction on Movement of Elms) Order 1975

Made - - - -	*24th November* 1975
Laid before Parliament	*2nd December* 1975
Coming into Operation	*1st January* 1976

The Forestry Commissioners, by virtue and in exercise of the powers vested in them 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(1) and (3) 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 all other powers enabling them in that behalf, hereby make the following Order:—

Citation and commencement

1. This Order, which may be cited as the Dutch Elm Disease (Restriction on Movement of Elms) Order 1975, shall come into operation on 1st January 1976 and shall apply to Great Britain.

Interpretation

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

"City of London" includes the Inner Temple and the Middle Temple;

"elm" means the trunk or any branch of a felled or fallen tree of the genus Ulmus or any part thereof, or any part severed from a standing tree of that genus;

"highway" means a way over which the public have a right of way for the passage of vehicles;

"inspector" means any person authorised by the Forestry Commissioners for the purposes of this Order;

"non-scheduled area" means any non-metropolitan county except East Sussex, and any metropolitan district, not specified in the Schedule to this Order and the non-metropolitan county of East Sussex except the part thereof specified in the said Schedule under the heading "5. Part of a County";

"premises" includes land and any vehicle, vessel or freight container;

"scheduled area" means any area specified in the Schedule to this Order;

"the disease" means the disease in elms caused by the fungus *Ceratocystis ulmi* and commonly known as Dutch elm disease, and "diseased" shall be construed accordingly.

(**a**) 1967 c. 8.
(**b**) 1967 c. 80.
(**c**) 1972 c. 68.
(**d**) 1972 c. 62.

(2) Any references in this Order to a numbered article or the Schedule are references to the article so numbered or to the Schedule in this Order.

(3) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if this Order and the Orders hereby revoked were Acts of Parliament.

Restriction on the movement of elms

3.—(1) Except as provided by paragraph (2) of this Article—

(a) no elm which is in a scheduled area shall be moved out of that area into or across a non-scheduled area, and

(b) no elm which is in a non-scheduled area shall be moved along or across a highway or by rail or water,

unless the bark of the elm has been removed.

(2) The restriction on the movement of elm imposed by paragraph (1) of this Article shall not apply to the movement of any elm—

(a) by an inspector in the exercise of his powers under Articles 4(2) or 5(3), or by any person acting under his instructions for any purpose connected with the execution of this Order, or

(b) which is required or authorised under Article 5(2).

Examination and sampling

4.—(1) An inspector, upon production if so required of his authority, may enter upon any premises for any purpose connected with the execution of this Order.

(2) An inspector who has entered upon any premises as aforesaid may examine, by removing bark, cutting into the wood or otherwise, any elm on the premises, and may cut off or otherwise detach and take away for further examination any part of such elm.

Procedure when elms are moved in contravention of this Order

5.—(1) The Forestry Commissioners or an inspector, on being satisfied that an elm is being or has been moved in contravention of this Order, may serve upon the owner or person in charge of the elm a notice requiring him to remove the bark of the elm or destroy the elm in such manner and within such time as may be specified in the notice.

(2) The removal of any bark or the destruction of any elm required by paragraph (1) of this Article shall be carried out to the satisfaction of an inspector at a place designated by him and, except with the written authority of the Forestry Commissioners or an inspector, no elm in respect of which a notice has been served under the said paragraph (1) shall be moved other than to such place.

(3) If any person shall have failed to carry out the requirements of a notice served pursuant to paragraph (1) of this Article then, without prejudice to any proceedings under this Order consequent upon such failure, an inspector may enter on any premises in which the elm the subject of the said notice is, and may remove and destroy it, and the expenses incurred in connection with such removal and destruction shall be recoverable by the Forestry Commissioners as a debt due from the person on whom the notice was served.

(a) 1889 c. 63.

(4) An inspector entering upon any premises for any purpose connected with the execution of this Order may be accompanied by such other persons acting under his instructions and such equipment as appear to him to be necessary, and such other persons, whether or not accompanied by the inspector, may remain on the premises and carry out such work for the purpose aforesaid as he may direct and may from time to time re-enter on the premises with such equipment as aforesaid for the purpose of carrying out the said work.

Information and production of records

6.—(1) The Forestry Commissioners or an inspector may require any person who has or has had an elm in his possession or under his charge which is being or has been moved in contravention of this Order, or which the Forestry Commissioners or an inspector have reasonable grounds to suspect is diseased—

(a) to produce such books, accounts, invoices or records (if any) as he possesses relating to the said elm, its movement, purchase and sale, and

(b) to give such information (if any) as he possesses relating to its purchase or sale, and as to the identity of any person who has or has had the said elm in his possession or under his charge.

(2) Any information given under sub-paragraph (b) of paragraph (1) above 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 that sub-paragraph.

Service of notices

7. For the purposes of this Order a notice shall be deemed to be duly served on, and a written notification shall be deemed to be 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.

Offences

8. Any person who—

(a) does any act in contravention of this Order, or

(b) fails to comply with the requirements of a notice served under Article 5(1) of this Order, or

(c) fails to comply with the requirements of the Forestry Commissioners or an inspector under Article 6 of this Order, or

(d) wilfully obstructs or impedes an inspector in the exercise of his powers under this Order or a person acting under his instructions for any purpose connected with the execution of this Order,

shall be guilty of an offence against this Order and 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.

Revocation

9. The Dutch Elm Disease (Restriction on Movement of Diseased Elms) Order 1974(**a**), as amended (**b**), is hereby revoked.

(**a**) S.I. 1974/767 (1974 II, p.2291). (**b**) S.I. 1975/1618 (1975 III, p.5615).

IN WITNESS whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 24th November 1975.

L.S.

J. M. Hunter,

Secretary to the
Forestry Commissioners.

Article 2(1)

SCHEDULE

AREAS FROM WHICH THE MOVEMENT OF ELM IS RESTRICTED

1. The City of London

2. London Boroughs

Barking	Hammersmith	Merton
Barnet	Haringey	Newham
Bexley	Harrow	Redbridge
Brent	Havering	Richmond-on-Thames
Bromley	Hillingdon	Southwark
Camden	Hounslow	Sutton
Croydon	Islington	Tower Hamlets
Ealing	Kensington and Chelsea	Waltham Forest
Enfield	Kingston-on-Thames	Wandsworth
Greenwich	Lambeth	Westminster
Hackney	Lewisham	

3. Non-Metropolitan Counties

Avon	Gwent	Salop
Bedfordshire	Hampshire	Somerset
Berkshire	Hereford and Worcester	Staffordshire
Buckingshamshire	Hertfordshire	Suffolk
Cambridgeshire	Isle of Wight	Surrey
Dorset	Kent	Warwickshire
Essex	Norfolk	West Sussex
Gloucestershire	Northamptonshire	Wiltshire
	Oxfordshire	

4. Metropolitan Districts

Birmingham	Solihull
Coventry	Walsall
Dudley	Wolverhampton
Sandwell	

5. Part of a County

The part of the non-metropolitan county of East Sussex which comprises the districts of Hastings and Rother, those parts of the parishes of Chailey and Newick which lie north of the southern boundary of the road from Haywards Heath to Maresfield (A272), the parishes of Buxted, Crowborough, Danehill, Fletching, Forest Row, Frant, Hadlow Down, Hartfield, Herstmonceux, Hooe, Horam, Maresfield, Mayfield, Rotherfield, Uckfield, Wadhurst, Waldron, Warbleton, Wartling, Withyham and those parts of the parishes of East Hoathly and Framfield which lie to the north of the southern boundary of the road from Newick to Cross-in-Hand (B2102).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and re-enacts with modifications the provisions of the Dutch Elm Disease (Restriction on Movement of Diseased Elms) Order 1974, (as amended).

The Order now restricts the movement in Great Britain of all elm by providing that no elm shall be moved—

(a) out of the areas listed in the Schedule to this Order, or

(b) from any place within any area not listed in that Schedule to any other place by a highway, by rail or water,

unless the bark of the elm has been removed.

The Order empowers the Forestry Commissioners or an inspector, if satisfied that any elm is or has been moved in contravention of this Order, to serve a notice on the owner or person in charge of it requiring the removal of bark from the elm or the destruction of the elm. If the requirements of such a notice are not fulfilled, the necessary work may be carried out by an inspector and the expenses incurred recovered from the person in default.

In addition, the Order gives certain powers of entry and examination to inspectors, prescribes penalties for its contravention, and provides for the furnishing of information and the production of records relating to diseased elms or elms in respect of which a contravention of the Order has taken place.

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