STATUTORY INSTRUMENTS

1977 No. 1075

PLANT HEALTH

The Dutch Elm Disease (Restriction on Movement of Elms) Order 1977

Made - - - -	*27th June* 1977
Laid before Parliament	*12th July* 1977
Coming into Operation	*2nd August* 1977

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 1977, shall come into operation on 2nd August 1977 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 in England and any county in Wales not specified in the section headed "3. Counties" in the Schedule to this Order except the parts of the non-metropolitan counties of Cheshire, East Sussex, Leicestershire and West Sussex and of the county of Clwyd which are respectively specified in the section headed "5. Parts of Counties" in the said Schedule, any metropolitan district in England not specified in the section headed "4. Metropolitan Districts" in the said Schedule, and any region and any islands area in Scotland;

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

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

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

"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;

"the Order of 1977" means the Dutch Elm Disease (Local Authorities) Order 1977(**a**).

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

(3) The Interpretation Act 1889(**b**) 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 paragraphs (2) and (3) 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 Article 4(2) or Article 5(3), or by any person acting under his instructions for any purpose connected with the execution of this Order;

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

(*c*) in accordance with an authority in writing given by the Forestry Commissioners or an inspector on their behalf subject to such conditions as may be imposed for the purpose of preventing the spread of the disease.

(3) The restriction on the movement of elm imposed by paragraph (1)(*b*) above shall not apply to the movement of any elm by an appointed officer (as defined in Article 2(1) of the Order of 1977) in exercise of his powers under Article 4(4)(*b*) or Article 5(4) of that Order, or by any person acting under his instructions in that behalf, provided that the movement of the elm shall be to a place situated within a radius of five miles from the location of the elm before it fell or was felled, as the case may be, or being a part severed from a standing tree, from that tree and that in the course of such movement the elm shall not be moved from a scheduled area into a non-scheduled area.

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.

(**a**) S.I. 1977/1074 (1977 III, p. 3040). (**b**) 1889 c. 63.

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.

(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 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 Forestry Commissioners or the inspector on their behalf, may remain on the premises, and from time to time re-enter with such equipment as aforesaid, and carry out such work for the purpose aforesaid and in such manner as he may direct.

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), or

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

(*e*) being a person moving or causing to be moved any elm under an authority given by an inspector under Article 3(2)(*c*), fails to comply with any condition imposed by the authority,

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 Elms) Order 1975(**a**) and the Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1976(**b**) are hereby revoked.

IN WITNESS whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 27th June 1977.

(L.S.)

P. J. Clarke,

Secretary to the
Forestry Commissioners.

(**a**) S.I. 1975/1904 (1975 III, p. 7106). (**b**) S.I. 1976/734 (1976 II, p. 1951).

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. Counties

Avon	Gwent	Salop
Bedfordshire	Hampshire	Somerset
Berkshire	Hereford and Worcester	South Glamorgan
Buckinghamshire	Hertfordshire	Staffordshire
Cambridgeshire	Isle of Wight	Suffolk
Cornwall	Kent	Surrey
Devon	Mid Glamorgan	Warwickshire
Dorset	Norfolk	Wiltshire
Essex	Northamptonshire	
Gloucestershire	Oxfordshire	

4. Metropolitan Districts

Birmingham	Solihull
Coventry	Walsall
Dudley	Wolverhampton
Sandwell	

5. Parts of Counties

(*a*) The part of the non-metropolitan county of Cheshire which comprises the districts of Chester and Crewe, the parishes of Acton, Alvanley, Anderton, Antrobus, Aston, Barnton, Betchton, Bostock, Bradwall, Byley, Comberbach, Crowton, Cuddington, Darnhall, Davenham, Delamere, Dutton, Great Budworth, Hartford, Hassall, Kingsley, Lach Dennis, Little Budworth, Little Leigh, Lostock Gralam, Manley, Marbury, Marston, Marton, Middlewich, Moston, Moulton, Nether Peover, Norley, Northwich, Oakmere, Rudheath, Rushton, Sandbach, Sproston, Stanthorne, Sutton, Tarporley, Utkinton, Weaverham cum Milton, Whatcroft, Whitley, Wimboldsley, Wincham, Winsford, those parts of the parishes of Frodsham and Helsby which lie east of the eastern boundary of the road from Chester to Warrington (A56), those parts of the parishes of Allostock, Arclid, Brereton, Church Hulme, Church Lawton, Cranage, Odd Rode and Smallwood which lie west of the western boundary of the road from Kidsgrove to Knutsford (A50) and that part of the parish of Alsager which lies west of the western boundary of the road from Alsager to Newcastle (A5011).

(*b*) 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, Heathfield, Herstmonceux, Hooe, Horam, Maresfield, Mayfield,

Ninsfield, 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).

(*c*) The part of the non-metropolitan county of Leicestershire which comprises the districts of Blaby, Hinckley and Bosworth, North West Leicestershire and Oadby and Wigston and the parishes of Anstey, Arnesby, Ashby Magna, Ashby Parva, Barkby, Barkby Thorpe, Barrow-upon-Soar, Beeby, Birstall, Bittesby, Bitteswell, Broughton Astley, Bruntingthorpe, Burton-on-the-Wolds, Burton Overy, Catthorpe, Claybrooke Magna, Claybrooke Parva, Cossington, Cotes, Cotesbach, Dunton Bassett, East Goscote, Fleckney, Foxton, Frolesworth, Gilmorton, Great Glen, Gumley, Hoton, Husbands Bosworth, Kibworth Beauchamp, Kibworth Harcourt, Kimcote and Walton, Knaptoft, Laughton, Leire, Loughborough, Lubenham, Lutterworth, Market Harborough, Misterton, Mountsorrel, Mowsley, Newton Linford, North Kilworth, Peatling Magna, Peatling Parva, Prestwold, Queniborough, Quorndon, Ratcliffe-on-the-Wreake, Rearsby, Rothley, Saddington, Seagrave, Shawell, Shearsby, Shepshed, Sileby, Smeeton Westerby, South Kilworth, Swinford, Swithland, Syston, Theddingworth, Thrussington, Thurcaston, Thurmaston, Ullesthorpe, Ulverscroft, Walton-on-the-Wolds, Wanlip, Westrill and Starmore, Willoughby Waterleys, Wistow, Woodhouse and Wymeswold.

(*d*) The part of the non-metropolitan county of West Sussex which comprises the boroughs of Crawley and Worthing, the districts of Arun, Chichester, Horsham and Mid Sussex and the parishes of Coombes, Lancing and Sompting.

(*e*) The part of the County of Clwyd which comprises the districts of Alyn and Deeside, Delyn, Rhuddlan and Wrexham Maelor.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and re-enacts the provisions of the Dutch Elm Disease (Restriction on Movement of Elms) Order 1975, as amended by the Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1976, with the addition of the counties of Mid Glamorgan and South Glamorgan and part of the county of Clwyd to, and the omission of part of the area of the non-metropolitan county of West Sussex from, the areas listed in the Schedule to that Order and the substitution of references to the Dutch Elm Disease (Local Authorities) Order 1977 for references to the 1974 Order of the same title which it replaces.

The Order restricts the movement of elms in Great Britain by providing that, except as provided by Article 3(2) and (3), 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. An inspector entering any premises in connection with the execution of this Order may be accompanied by persons acting under his instructions and by equipment, and those persons, upon production of their authority if so required, may remain on the premises, and may also re-enter, for the purpose of carrying out the work as directed by the inspector.

The Order gives certain other 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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