STATUTORY INSTRUMENTS

1984 No. 686

PLANT HEALTH

The Dutch Elm Disease (Restriction on Movement of Elms) Order 1984

Made - - - -	*8th May* 1984
Laid before Parliament	*22nd May* 1984
Coming into Operation	*11th June* 1984

The Forestry Commissioners, in exercise of the powers conferred on them by section 3(1), (2) and (4) of the Plant Health Act 1967 (**a**), as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972 (**b**), and of all other powers enabling them in that behalf, hereby make the following Order:—

Citation and commencement

1. This Order may be cited as the Dutch Elm Disease (Restriction on Movement of Elms) Order 1984 and shall come into operation on 11th June 1984.

Interpretation

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

"the disease" means the disease in elms caused by the fungus *Ceratocystis ulmi* and commonly known as Dutch elm disease;

"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;

"the Order of 1984" means the Dutch Elm Disease (Local Authorities) Order 1984 (**c**);

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

(2) Except where the context otherwise requires, any references in this Order to a numbered article or to the Schedule are references to the article so numbered in, or to the Schedule to, this Order.

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 an area not specified in column 2 of the Schedule

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

(**b**) 1972 c.62.

(**c**) S.I. 1984/687.

shall be moved into or across an area which is specified in column 2 of the Schedule, and

(b) no elm which is in an area specified in column 2 of the Schedule 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 of the Order of 1984) 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 any area which is not specified in column 2 of the Schedule into any area which is specified in column 2 of the Schedule.

Examination and sampling

4.—(1) An inspector, upon production if so required of a duly authenticated document showing his authority, may at all reasonable times enter upon any premises for any purpose connected with the execution of this Order where he has reasonable grounds for suspecting that elm is present and has been moved, or is likely to be moved, in contravention 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 any 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 reasonable 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 the Forestry Commissioners' 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 any 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 have, or an inspector has, reasonable grounds for suspecting is being or has been so moved—

(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, etc.

7.—(1) For the purposes of this Order, a notice shall be deemed to be duly served on, and a written authority 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.

(2) Any notice or written authority may—

(a) in the case of a body corporate, be served on or given to the secretary or clerk of that body at the address of the registered or principal office of that body;

(b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business or, in Scotland, the firm at the principal office of the partnership.

(3) If the name or address of the owner or person in charge of any elm on whom a notice is authorised by this Order to be served cannot after reasonable inquiry be ascertained, the notice may be served by addressing it to the person on whom it is to be served by the description of "owner or person in charge" of the elm to which the notice relates and by leaving it in the hands of a person who is, or appears to be, resident or employed on the

premises on which the elm is situated, or by affixing it or a copy of it to some building on, or to some conspicuous part of, or to some object on, the premises on which the elm is situated.

Offences

8.—(1) 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(1), 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 fine not exceeding £1,000.

(2) Sub-paragraph *(b)* of paragraph (1) of this article shall not have effect in relation to failure by any person to comply with any requirement of a notice mentioned in that sub-paragraph where the notice was served in accordance with article 7(3).

Revocations

9. The Dutch Elm Disease (Restriction on Movement of Elms) Order 1977 (**a**) and the Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1979 (**b**) are hereby revoked.

In Witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 8th May 1984.

P. J. Clarke,
Secretary to the Forestry Commissioners.

(**a**) S.I. 1977/1075. (**b**) S.I. 1979/639.

Article 3

SCHEDULE

AREAS INTO AND WITHIN WHICH THE MOVEMENT OF ELM WITH BARK IS RESTRICTED

Column 1	Column 2
Local Government areas	Those parts of the Local Government areas within which restrictions apply
Counties	
Cheshire	That part of the county which comprises the districts of Halton, Macclesfield and Warrington, the parishes of Congleton, Goostrey, Hulme Walfield, Moreton cum Alcumlow, Newbold Astbury, Somerford, Somerford Booths, Swettenham, Twemlow, those parts of the parishes of Frodsham, Helsby and Sutton which lie west of the eastern boundary of the road from Chester to Warrington (A56), those parts of the parishes of Allostock, Arclid, Brereton, Church Lawton, Cranage, Holmes Chapel, Odd Rode and Smallwood which lie east of the western boundary of the road from Kidsgrove to Knutsford (A50) and that part of the parish of Alsager which lies east of the western boundary of the road from Alsager to Newcastle-under-Lyme (A5011).
Clwyd	That part of the county which comprises the district of Colwyn.
Cumbria	That part of the county which comprises the districts of Allerdale, Barrow-in-Furness and Copeland, and those parts of the district of South Lakeland which comprise the parishes of Aldingham, Angerton, Blawith and Subberthwaite, Broughton West, Coniston, Dunnerdale-with-Seathwaite, Egton-with-Newland, Kirkby Ireleth, Lowick, Mansriggs and Osmotherley, Pennington, Torver, Ulverston and Urswick.
Derbyshire	That part of the county which comprises the district of High Peak.
East Sussex	That part of the county which comprises the districts of Brighton, Eastbourne and Hove, those parts of the parishes of Chailey and Newick which lie south of the southern boundary of the road from Haywards Heath to Maresfield (A272), the parishes of Alciston, Alfriston, Arlington, Barcombe, Beddingham, Berwick, Chalvington, Chiddingly, Ditchling, East Chiltington, East Dean, Falmer, Firle, Folkington, Friston, Glynde, Hailsham, Hamsey, Hellingly, Iford, Isfield, Jevington, Kingston near Lewes, Laughton, Lewes, Litlington, Little Horsted, Lullington, Newhaven, Peacehaven, Pevensey, Piddinghoe, Plumpton, Polegate, Ringmer, Ripe, Rodmell, Selmeston, South Heighton, South Malling (Without), Southease, St Ann (Without), St John (Without), Streat, Tarring Neville, Telscombe, Westdean,

Column 1 Local Government areas	Column 2 Those parts of the Local Government areas within which restrictions apply
	Westham, Westmeston, Willingdon, Wilmington, Wivelsfield, the part of the parish of Framfield which lies to the south-west of the south-western boundary of the A22, and that part of the district of Lewes which lies east of the parish of Newhaven, south of the parish of South Heighton and south-west of the district of Wealden.
Gwynedd	That part of the county which comprises the districts of Aberconwy, Arfon, Dwyfor and Ynys Môn (Isle of Anglesey).
Humberside	The whole county.
Lancashire	That part of the county which comprises the districts of Blackburn, Blackpool, Burnley, Chorley, Fylde, Pendle, Rossendale and West Lancashire.
Lincolnshire	That part of the county which comprises the City of Lincoln.
North Yorkshire	That part of the county which comprises the districts of Craven, Harrogate, Ryedale, Scarborough and Selby, and the City of York.
West Sussex	That part of the county which comprises that part of the district of Adur south of the southern boundary of the district of Horsham and east of the eastern boundaries of the parishes of Coombes and Lancing.
Districts	
Barnsley	The whole district in each case.
Bolton	
Bradford	
Bury	
Calderdale	
Doncaster	
Gateshead	
Kirklees	
Knowsley	
Leeds	
Liverpool	
Manchester	
Newcastle-upon-Tyne	
North Tyneside	
Oldham	

Column 1	Column 2
Local Government areas	Those parts of the Local Government areas within which restrictions apply
Rochdale	
Rotherham	
Salford	
Sefton	
Sheffield	
South Tyneside	
St Helens	
Stockport	
Sunderland	
Tameside	
Trafford	
Wakefield	
Wigan	
Regions	
Central	The whole region.
Dumfries and Galloway	That part of the region which comprises the districts of Nithsdale, Stewartry and Wigtown.
Fife	
Grampian	
Highland	The whole region in each case.
Lothian	
Strathclyde	
Tayside	

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and re-enacts with amendments the provisions of the Dutch Elm Disease (Restriction on Movement of Elms) Order 1977, as amended by the Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1979.

The Order restricts the movement in Great Britain of elms with bark attached by providing that, except as permitted by article 3(2) and (3), no elm shall be moved into, or along or across highways or by rail or water within, the areas listed in the Schedule to this Order (article 3).

The principal change is in respect of the Schedule to the Order. The Schedule to the 1977 Order, as amended, listed areas from which movement of elm with bark was prohibited. The new Schedule lists the areas (which are less extensive than those under the 1977 Order) into and within which movement of elms is restricted and is the same as the Schedule to the Dutch Elm Disease (Local Authorities) Order 1984, which lists areas in which local authorities have powers to deal with the disease.

The Order gives general powers of entry and examination to Forestry Commission inspectors where they have reasonable grounds for suspecting that elm is present and has been moved, or is likely to be moved, in contravention of the Order (article 4). It empowers the Forestry Commissioners or an inspector, if satisfied that any elm is being or has been moved in contravention of the Order, to serve a notice on the owner or person in charge of the elm requiring the removal of its bark 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 (article 5). The Order also provides for the furnishing of information and production of records relating to elm moved in contravention of the Order or which the Forestry Commissioners have, or an inspector has, reasonable grounds for suspecting is being or has been so moved (article 6).

Contravention of the Order and wilful obstruction of an inspector or a person acting under his instructions are offences, as are failure to furnish information or records and failure to comply with the terms of a notice under article 5(1) or an authority under article 3(2)*(c)*. The maximum fine on summary conviction for such an offence is £1,000 (an increase in accordance with the provisions of the Criminal Justice Act 1982 from the previous maximum fine of £100 for a first offence and £200 for a subsequent offence) (article 8).

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