STATUTORY INSTRUMENTS

1965 No. 2121

PESTS

DESTRUCTIVE INSECTS AND PESTS

The Importation of Forest Trees (Prohibition) (Great Britain) Order 1965

Made - - - -	13*th December* 1965
Laid before Parliament	17*th December* 1965
Coming into Operation	22*nd December* 1965

The Forestry Commissioners by virtue and in exercise of the powers vested in them by sections 1 and 2 of the Destructive Insects Act 1877(**a**), as amended by section 1 of the Destructive Insects and Pests Act 1907(**b**), section 1 of the Destructive Insects and Pests Act 1927(**c**), and section 320 of and Schedule 12 to the Customs and Excise Act 1952(**d**), respectively, and by section 3 of the Forestry Act 1919(**e**), as amended by section 10 of the Forestry Act 1945(**f**), and of all other powers enabling them in that behalf, hereby make the following Order:—

Citation, commencement and extent

1. This Order, which may be cited as the Importation of Forest Trees (Prohibition) (Great Britain) Order 1965, shall come into operation on 22nd December 1965 and shall apply to Great Britain.

Interpretation

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

" appropriate Minister " means, in relation to England and Wales, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland, the Secretary of State;

" importer " in relation to any plant includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of or is in any wise entitled to the custody or control of the plant;

" inspector " means an officer authorised by the appropriate Minister for the purposes of this Order;

" landed " includes unloaded from an aircraft and imported by post and " landing " shall be construed accordingly;

" plant " includes tree and shrub and the roots, layers, cuttings and other parts of a plant except the fruit or seeds thereof;

" premises " includes any vehicle, vessel or aircraft.

(2) The Interpretation Act 1889(**g**) 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.

(**a**) 40 & 41 Vict. c. 68. (**b**) 7 Edw. 7. c. 4. (**c**) 17 & 18 Geo. 5. c. 32.
(**d**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 44. (**e**) 9 & 10 Geo. 5. c. 58.
(**f**) 8 & 9 Geo. 6. c. 35. (**g**) 52 & 53 Vict. c. 63.

Prohibition of importation of certain forest trees

3.—(1) The landing in Great Britain of any plant of any of the genera mentioned in Schedule 1 to this Order brought from any country other than Northern Ireland, the Republic of Ireland, the Isle of Man or the Channel Islands is hereby prohibited.

(2) The landing in Great Britain of any plant of the genus mentioned in Schedule 2 to this Order brought from any place outside Europe is hereby prohibited.

Licences

4. Notwithstanding the provisions of this Order any plant of any of the genera mentioned in the Schedules to this Order may be landed in Great Britain under and in accordance with the conditions of a licence granted by the appropriate Minister or by an inspector.

Examination and sampling

5. An inspector, upon production if so required of his appointment or authority, may—

(*a*) enter any premises and examine and take samples of any consignment or part of a consignment of plants and any soil, packing material and containers accompanying the plants, landed or likely to be landed or suspected by him to have been landed or to be likely to be landed in Great Britain,

(*b*) for the purposes of such examination, open, authorise any person to open on his behalf or require the importer or the person in charge of the plants to open any container, bundle or other package in the consignment or part of a consignment and

(*c*) if and so far as is necessary for the purposes of such examination, prohibit entirely, or to the extent indicated by him, the movement of any consignment or part of a consignment of plants which has been landed or is suspected by him to have been landed in Great Britain.

Procedure when plants are landed in contravention of this Order

6.—(1) Without prejudice to the provisions of the customs Acts as defined in the Customs and Excise Act 1952, if any plant is landed in Great Britain in contravention of this Order, it shall be destroyed forthwith by and at the expense of the importer unless it is immediately re-exported or is disposed of in accordance with the terms of a licence granted by the appropriate Minister or an inspector.

(2) Any destruction required by paragraph (1) of this Article shall be carried out by the importer to the satisfaction of an inspector at a place designated by the appropriate Minister or an inspector and, except with the written authority of the appropriate Minister or an inspector, no plant referred to in the said paragraph shall be moved other than to such place.

(3) If the importer shall have failed to destroy any plant in accordance with paragraph (1) of this Article or if he shall have failed to dispose of any plant in accordance with the terms of a licence granted as aforesaid, 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 any premises in which the plant may be and may remove and destroy it and the cost of taking such steps shall be recoverable by the appropriate Minister from the importer as a civil contract debt.

(4) In this Article " plant " includes soil, packing materials and containers.

Information regarding imported plants

7. Every person who has or has had in his possession or under his charge any plant which the appropriate Minister or an inspector knows or suspects to have been landed in Great Britain, and every person who as auctioneer, salesman or otherwise, has sold or offered for sale any such plant shall, if so required by demand in writing by the appropriate Minister or an inspector, give to the said Minister or inspector within the time specified in that 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 plant in their possession or under their custody or control:

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.

Offences

8.—(1) Every person who wilfully obstructs or impedes the appropriate Minister or an inspector in the exercise of his powers under this Order or who does any act in contravention of this Order, of the terms or conditions of any licence granted thereunder or of the requirements of, or of a prohibition imposed by, the appropriate Minister or an inspector, or who fails to do any act which he is required to do by the appropriate Minister or an inspector or by this Order or by any such licence shall be liable on conviction to a penalty not exceeding ten pounds or in respect of a second or subsequent offence to a penalty not exceeding fifty pounds.

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

Revocation

9. The Importation of Forest Trees (Prohibition) Order 1952(a) is hereby revoked.

Licences granted under revoked Orders

10. Any licence granted by the appropriate Minister or by an inspector made, or having effect under, any Order revoked by this Order, if in force immediately before the coming into operation thereof, shall thenceforth have effect under and by virtue of this Article until altered or revoked by the appropriate Minister or an inspector.

In Witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on 13th December 1965.

M. Compton,
Secretary to the Forestry Commissioners.

SCHEDULE 1

Plants of which importation is prohibited except from Northern Ireland, the Republic of Ireland, the Isle of Man and the Channel Islands.

The genus Castanea.

The genus Populus.

The genus Quercus.

The following genera of the Order Pinaceae, viz., Abies, Larix, Picea, Pinus, Pseudotsuga, Sequoia, Thuya and Tsuga.

(a) S.I. 1952/1929 (1952 II, p. 2423).

SCHEDULE 2

Plants of which importation is prohibited except from Europe.

The genus Ulmus.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order prohibits the importation (except under a licence) of certain kinds of forest trees into Great Britain from various countries abroad, with a view to preventing the introduction of diseases and pests injurious to such trees, and it also provides for the disposal of trees illegally landed. Penalties are laid down for breaches of the Order, other than illegal importation which is dealt with under the Customs and Excise Act 1952. The previous Order, made in 1952 with the same object, is superseded by this Order, which gives inspectors power to examine and take samples of imported trees and to destroy, at the expense of the importer, trees kept in contravention of the Order or of a condition of a licence granted under it.