STATUTORY INSTRUMENTS

1975 No. 2225

PLANT HEALTH

The Plum Pox (Sharka Disease) Order 1975

Made - - - -	*22nd December* 1975
Laid before Parliament	*7th January* 1976
Coming into Operation	*8th January* 1976

The Minister of Agriculture, Fisheries and Food, by virtue and in exercise of the powers vested in him by sections 3(1), (2) and (4) and 4(1) 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 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 every other power enabling him in that behalf, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Plum Pox (Sharka Disease) Order 1975, and shall come into operation on 7th January 1976.

Interpretation

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

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

"Minister" means the Minister of Agriculture, Fisheries and Food;

"nursery" means any land or premises wholly or partly used for the cultivation of plants of the genus *Prunus* L., or other plants susceptible to plum pox, for the purpose of transplantation;

"pesticide" includes insecticide, herbicide or defoliant;

"plant" includes tree, rootstock, layered plant, stooled plant and parts of plants (including cuttings, scionwood and budwood);

"plum pox" means the disease of plants caused by the plum pox (sharka) virus.

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

(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.

Notice of infection

3. The occupier or other person in charge of any nursery who knows or has reason to suspect that any plant present thereon is infected with plum pox shall forthwith give to the Minister notice in writing of the infection or suspected infection.

Powers of entry, inspection and sampling

4. An inspector upon production if so required of his authority may, for the purposes of this order, enter upon any nursery, may examine and mark any plants thereon and may uproot, cut off or otherwise detach and take away any plant.

Powers to deal with infected plants or plants suspected of being infected

5.—(1) An inspector upon production if so required of his authority may, for the purposes of this order, enter upon any nursery on which plants infected with plum pox or suspected by him of being so infected are present and may treat, remove or destroy or cause to be treated, removed or destroyed any plants which appear to him to be so infected or any plants by means of which, in his opinion, plum pox may spread.

Any person acting under the instructions of an inspector exercising powers vested in him by this paragraph may enter upon any nursery for the purpose of carrying out those instructions.

(2) An inspector may by notice in writing served on the occupier or other person in charge of any nursery on which plants infected with plum pox or suspected by the inspector of being so infected are present require him, within such time or times or during such period or periods as may be specified in the notice, to do one or more of the following things, namely—

(a) to grub up and destroy by fire at the nursery any plants specified in the notice;

(b) to spray with such pesticide or treat in such other manner as may be specified in the notice such plants as may be so specified;

(c) to spray with such pesticide or treat in such other manner such areas of land as may be specified in the notice;

(d) to refrain from removing or permitting to be removed from the nursery any plants except under and in accordance with the conditions of a licence issued by the Minister;

(e) to take such other steps for the prevention of the spread of plum pox as may be prescribed in the notice.

(3) A notice served pursuant to paragraph (2) of this article may at any time be amended, modified or withdrawn by a further notice in writing served upon the occupier or other person in charge of the nursery referred to.

(4) Nothing in this order shall prevent any person upon whom a notice has been served pursuant to paragraph (2) of this article from completely destroying by fire the whole of any plants in respect of which the notice has been served upon him and if he shall so destroy them he shall be deemed to have complied with the notice so far as it relates to those plants.

(a) 1889 c. 63.

(5) If upon an inspection by an inspector it shall appear that any person shall have failed to carry out the requirements of a notice served pursuant to paragraph (2) of this article, being requirements referred to in sub-paragraphs (a), (b), (c) or (e) thereof, within the time or times specified in such notice, then without prejudice to any proceedings under the order consequent upon such failure an inspector or a person acting under his instructions may enter on the nursery and carry out such requirements; and the cost of carrying out such requirements shall be recoverable by the Minister as a debt due from the person on whom the notice was served.

Service of notices

6. For the purposes 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.

Exemption for purpose of research

7. The Minister may, for the purpose of experiment or research, by and subject to any conditions imposed by a licence in writing, exempt any person from any of the provisions of this order.

Offences

8. Any person who fails to comply with or who acts in contravention of this order or of the requirements or conditions of any notice served or licence issued thereunder or who wilfully obstructs any person in the exercise of his powers under this order shall thereby commit an offence against this order and be liable on summary conviction to a fine not exceeding £100 or in respect of a second or subsequent offence to a fine not exceeding £200.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd December 1975.

(L.S.)

Frederick Peart,

Minister of Agriculture,
Fisheries and Food.

EXPLANATORY NOTE

(This Note is not part of the order.)

This order, made under the Plant Health Act 1967, requires occupiers of nurseries to notify the Minister of Agriculture, Fisheries and Food of the presence or suspected presence, of plum pox, a disease of stone fruit and ornamental trees.

An inspector appointed by the Minister may enter a nursery to ascertain if the disease is present and if it is he may treat, remove or destroy infected or suspected trees and plants. An inspector is also given power to serve a notice requiring the occupier to take specified steps to prevent the further spread of the disease and if the occupier fails to comply the inspector may enter and do the work himself.

Failure to comply with the requirements of the order will be an offence for which a fine may be imposed on summary conviction.

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