STATUTORY INSTRUMENTS

1981 No. 1170

PLANT HEALTH

The Progressive Wilt Disease of Hops (Amendment) Order 1981

Made - - - -	*5th August* 1981
Laid before Parliament	*14th August* 1981
Coming into Operation	*4th September* 1981

The Minister of Agriculture, Fisheries and Food acting in relation to England and the Secretary of State acting in relation to Wales, in exercise of the powers conferred 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 now vested in them(**c**), and of every other power enabling them in that behalf, hereby make the following order—

Citation, commencement and application

1. This order may be cited as the Progressive Wilt Disease of Hops (Amendment) Order 1981, shall come into operation on 4th September 1981 and shall apply in England and Wales.

Interpretation

2. In this order, "the principal order" means the Progressive Wilt Disease of Hops Order 1978(**d**).

Amendment of the Principal Order

3. The principal order shall be amended as follows—

(1) The definition of "inspector" and "Minister" in paragraph (1) of article 3 shall cease to have effect, and the following definitions shall be substituted respectively therefor—

(a) "inspector" means an officer of the Minister of Agriculture, Fisheries and Food or of the Secretary of State authorised by the Minister for the purposes of this order.

(b) "Minister" means, in the application of this order to England, the Minister of Agriculture, Fisheries and Food and, in its application to Wales, the Secretary of State.

(2) The following articles shall be inserted immediately after article 7—

(**a**) 1967 c. 8; section 3(4) was amended by the Criminal Justice Act 1967 (c. 80), section 92(2) and schedule 3, Part II; section 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), section 4(1) and schedule 4, paragraph 8.
(**b**) 1972 c. 62.
(**c**) In the case of the Secretary of State for Wales by virtue of S.I. 1978/272.
(**d**) S.I. 1978/505.

radius of that farm a notice requiring him to take, from time to time or within such time as may be specified in the notice, such steps, also specified in the notice, in relation to those premises as in the opinion of the Minister or of the inspector, as the case may be, are necessary or desirable to prevent the spread or recurrence of the said disease, including, but without prejudice to the generality of the power aforesaid, any or all of the steps listed in subparagraphs (a) to (h) of paragraph (1) of this article".

(4) In paragraph (2) of article 8—

(a) the words "or (1A)" shall be inserted immediately after the words "paragraph (1)" in the first line thereof,

(b) the words "or premises" shall be inserted immediately after the word "farm" in the fourth line thereof and

(c) the words "or premises" shall be inserted immediately after the word "farm" in the first line of subparagraph (b) thereof.

(5) In the third line of paragraph (5) of article 8 the words "or premises" shall be inserted immediately after the word "farm".

(6) Articles 8 to 12 shall be renumbered articles 10 to 14 respectively.

(7) The schedule to this order shall be scheduled thereto.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd August 1981.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

Michael Roberts,
5th August 1981. Parliamentary Under Secretary of State for Wales.

Article 3(7) SCHEDULE

"SCHEDULE Article 8

Hop varieties which may be planted or sold for planting elsewhere than in the specified area without a licence granted under Article 8.

Brewers Gold	Northern Brewer	Wye Northdown
Bullion	True Golding varieties	Wye Viking
Fuggle	Wye Challenger	Zenith
Male 12/97/91	Male 24/68/103	Silks B
Male 24/68/8	Male 1/63/45	Silks C"

"Restriction on the planting or sale for planting of certain hop plants

8. No person shall, except under and in accordance with the conditions of a licence in writing granted by the Minister or an inspector—

(a) plant or cause or permit to be planted elsewhere than in the specified area, or

(b) sell, in the knowledge that such plant is intended for planting elsewhere than in the specified area,

any hop plant of a variety not specified in the schedule to this order.

Remedial measures

9.—(1) Where the Minister or an inspector knows or has reasonable grounds for believing that—

(a) a hop plant has been brought into the specified area in contravention of article 6(a) of this order,

(b) a hop plant, used hop pole or used hop picking machine has been moved in contravention of article 6(b) or (c) of this order,

(c) a hop plant has been planted or moved for planting in contravention of article 7 of this order, or

(d) a hop plant has been planted in contravention of article 8(a) of this order,

he may serve on the owner or person in charge of the plant, pole or machine a notice in writing requiring that person:—

(i) in the case of a plant, to destroy that plant within such time and in such manner as may be specified in the notice, or

(ii) in the case of a pole or machine, to take such steps as appear to the Minister or inspector to be necessary to prevent the spread of progressive wilt disease from the movement of that pole or machine.

(2) If any person shall have failed to comply with the requirements of a notice served under this article, then, without prejudice to any proceedings under this order consequent upon such failure, an inspector or a person authorised by him for the purpose, upon production if so required of his authority, may enter any land or premises and take such steps as shall appear to the inspector to be necessary as far as possible either to ensure compliance with the aforesaid requirements or to remedy the consequences of any breach thereof, and the cost of taking any such steps shall be recoverable by the Minister from the person in default as a civil debt.

(3) An inspector who authorises any person to act in accordance with paragraph (2) of this article shall give to that person precise instructions in writing as to the steps which appear to the inspector to be necessary.

(4) A notice served under paragraph (1) of this article may at any time be amended, modified or withdrawn by the Minister or by an inspector by a further notice in writing served upon the owner or other person in charge of the plant, pole or machine."

(3) In article 8, immediately after paragraph (1), there shall be inserted the following paragraph—

"(1A) Where the Minister or an inspector knows or suspects that progressive wilt disease exists on any part of a farm he may serve on the occupier or other person in charge of any premises within a one mile

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Progressive Wilt Disease of Hops Order 1978. The amendments are as follows:—

1. The definitions of "inspector" and "Minister" have been amended to take account of the transfer to the Secretary of State for Wales of functions under the Plant Health Act 1967 so far as they relate to Wales.

2. By a new Article 8, the planting or causing or permitting to be planted elsewhere than in the specified area (which is defined in the 1978 Order) of any hop plant of a variety not specified in the schedule to the order is prohibited except under a licence in writing granted by the Minister of Agriculture, Fisheries and Food, the Secretary of State or an inspector. The schedule which is added to the 1978 Order by this amending order lists the varieties of hops which may be planted outside the specified area without such a licence. The sale of hops not listed in the schedule for planting elsewhere than in the specified area is also made subject to a licence by this article.

3. A new Article 9 is added to the 1978 Order to the effect that if any hop plant is brought into the specified area or if any hop plant, used hop pole or used hop machine is moved, or any hop plant planted or moved for planting in contravention of the Order, the Minister of Agriculture, Fisheries and Food, the Secretary of State or an inspector may require remedial measures to be taken by the owner of or other person in charge of the plant, pole or machine. Such measures may consist of the destruction of the plant wrongly moved or planted or, in the case of the movement of a pole or machine, the taking of such steps as appear to the Minister, Secretary of State or inspector to be necessary to prevent the spread of progressive wilt disease. A notice requiring such remedial measures must be in writing and may be amended, modified or withdrawn by a further notice in writing.

In the event of a failure to comply with a notice served in accordance with Article 9(1) an inspector or a person authorised by an inspector has the power, by virtue of Article 9(2), to enter land or premises and take such steps as appear necessary to the inspector to ensure compliance with the notice or to remedy the failure. The cost of taking such steps is recoverable from the person in default.

4. The power of the Minister or an inspector to require measures to be taken to control progressive wilt disease has been extended by a new paragraph (1A) of Article 8 of the 1978 Order (now Article 10). This paragraph enables the Minister or an inspector to require an occupier or other person in charge of any premises within a one mile radius of a part of a farm on which the Minister or inspector knows or suspects the disease to be present to take such steps as are considered to be necessary or desirable to prevent its spread or recurrence.

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

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