1958 No. 308

The Wart Disease of Potatoes Order, 1958

Made - - - -	*26th February,* 1958
Laid before Parliament	*4th March,* 1958
Coming into Operation	*5th March,* 1958

The Minister of Agriculture, Fisheries and Food by virtue and in exercise of the powers vested in him by Section 2 of the Destructive Insects Act, 1877(**a**) as amended by Section 1 of the Destructive Insects and Pests Act, 1907(**b**) and Section 1 of the Destructive Insects and Pests Act, 1927(**c**) respectively, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and Commencement

1. This Order may be cited as the Wart Disease of Potatoes Order, 1958 and shall come into operation on the 5th day of March, 1958.

Revocation

2.—(1) The Wart Disease of Potatoes Order of 1941(**d**) and the Wart Disease of Potatoes (General Licence) Order, 1953(**e**) are hereby revoked.

(2) Section 38 of the Interpretation Act, 1889(**f**) shall apply as respects such revocation as if the Orders revoked by this Order were enactments repealed by an Act of Parliament.

Interpretation

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

"approved immune variety" means a variety approved for the time being by the Minister as being immune from Wart Disease.

"authorised officer" 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.

"Protected Area" means the area described in the Schedule hereto or any other area in England or Wales which is for the time being certified by the Minister to be a Protected Area for the purposes of this Order.

"Wart Disease" means either the disease affecting potatoes which is caused by *Synchytrium endobioticum* (Shilb.) Perc. and known as Wart Disease of Potatoes or the organism *Synchytrium endobioticum,* as the context may require.

(2) The Interpretation Act, 1889 applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Notification of Disease

4.—(1) The occupier or other person in charge of any land on which Wart Disease is present or appears to be present, and any person having in his possession or under his charge potatoes which are affected with Wart Disease, shall forthwith notify the fact by post or otherwise to the Minister.

(**a**) 40 & 41 Vict. c. 68. (**b**) 7 Edw. 7. c. 4. (**c**) 17 & 18 Geo. 5. c. 32.
(**d**) S.R. & O. 1941/1439 (Rev. V, p. 769: 1941 I, p. 216).
(**e**) S.I. 1953/1365 (1953 II, p. 1567). (**f**) 52 & 53 Vict. c. 63.

(2) If on land in respect of which such a notification of disease has been given Wart Disease is present or appears to be present on potatoes in any subsequent year or years, a further notification of disease shall be so given in each of such years.

Declaration of Land Contaminated with Wart Disease

5.—(1) If it appears to the Minister that Wart Disease is present on any land the Minister may serve on the occupier or other person in charge of the land a notice in writing declaring the land to be land on which Wart Disease is present and thereafter, until the said notice is withdrawn, the land shall be deemed for the purposes of this Order to be land on which Wart Disease is present.

(2) A notice served under paragraph (1) of this Article shall define by reference to a map or plan or otherwise the extent of the area declared to be land on which Wart Disease is present.

(3) A notice served under paragraph (1) of this Article may be withdrawn by the Minister by a notice in writing served on the occupier or other person in charge of the land.

Prohibition of Sale or Planting of Diseased or Suspected Potatoes

6.—(1) No person shall sell or offer for sale for any purpose or plant or cause or permit to be planted any potatoes visibly affected with Wart Disease.

(2) No person shall sell or offer for sale for planting or plant or cause or permit to be planted any potatoes from a crop in any part of which Wart Disease has been found to be present.

Misdescription of Potatoes

7. No person shall sell or offer for sale as potatoes of an approved immune variety any potatoes which are not of an approved immune variety.

Restrictions on Planting Potatoes on Land Contaminated with Wart Disease

8.—(1) No person shall plant or cause or permit to be planted in any land in his occupation or under his charge on which Wart Disease is or has been present at any time

(*a*) any potatoes which are not of an approved immune variety ; or

(*b*) in the case of any land, where the Minister so directs by notice in writing served on the person aforesaid, any potatoes whatsoever except such variety or varieties, if any, as the Minister may authorise in writing to be planted in the said land.

(2) A person shall not be liable to conviction for a contravention of sub-paragraph (*a*) of paragraph (1) of this Article if he proves to the satisfaction of the Court that the potatoes were sold to him as potatoes of an approved immune variety and that he did not know that the potatoes were not of an approved immune variety.

(3) No person shall permit any potatoes to remain in land in his occupation or under his charge if they have been planted in contravention of this Article and their removal is required by notice in writing served on him by the Minister. Any such notice may appoint the time within which the removal shall be completed.

Restriction on Sale or Planting of Potatoes Imported from Abroad

9. No person shall sell or offer for sale for planting in England or Wales or plant or cause or permit to be planted, any potatoes which have been grown in any place outside Great Britain, the Channel Islands, the Isle of Man, Northern Ireland and the Republic of Ireland except under and in accordance with the conditions of a licence granted by the Minister.

Restrictions on Sale for Planting or Planting of Potatoes in a Protected Area

10.—(1) No person shall sell or offer for sale for planting, or plant or cause or permit to be planted, within a Protected Area, or move or cause to be moved into a Protected Area for planting therein, any potatoes other than

(*a*) potatoes grown in England and Wales, the Isle of Man, Scotland, Northern Ireland or the Republic of Ireland which are the subject of a certificate issued by the Ministry of Agriculture, Fisheries and Food, the Board of Agriculture for the Isle of Man, the Department of Agriculture for Scotland, the Ministry of Agriculture for Northern Ireland or the Department of Agriculture for the Republic of Ireland, as the case may be, not earlier than the preceding first day of August to the effect that Wart Disease has not been known to the certifying Department to have occurred on the land on which the potatoes were grown, or

(*b*) potatoes grown as aforesaid which have been certified under a Scheme of one of the aforesaid Departments for the inspection and certification of growing crops of potatoes, or

(*c*) potatoes grown within the Protected Area in the preceding year which are of the class "Uncertified (English once-grown)" as defined in the Seeds (Amendment) Regulations, 1944(a); that is to say, seed potatoes obtained from crops grown in that Protected Area, which crops were not certified under the scheme for the inspection of growing crops of potatoes authorised by the Ministry of Agriculture, Fisheries and Food but were grown from seed potatoes of one or other of the classes "Certified (Scotch)", "Certified (Northern Ireland)", "Certified (Eire)", "Certified (English)", "Certified (Welsh)" and "Certified (Isle of Man)" defined in paragraph 2 (1) (*a*) of the said Seeds (Amendment) Regulations, 1944, produced in the previous year.

(2) An inspection for the purposes of a certificate under this Article may be an inspection by an officer of the certifying Department or by a competent person previously approved for that purpose by the certifying Department.

(3) A certificate under this Article if withdrawn by the Department by which it was issued shall cease to have effect as a valid certificate from the date on which the withdrawal is notified by the Department to the person to whom the certificate was issued.

(4) Nothing in this Article shall prevent the planting on any farm, field, garden or allotment of potatoes which were saved from the crop grown on that farm, field, garden or allotment in the previous year.

Powers of Entry and Inspection

11. An authorised officer upon production if so required of his authority may, for the purposes of this Order, enter any land and any premises and examine and take samples of any potatoes thereon.

(a) S.R. & O. 1944/926 (Rev. XX, p. 648: 1944 I, p. 907).

Power to deal with Diseased or Suspected Potatoes and Potato Plants

12.—(1) An authorised officer may at any time, by notice served on the occupier or other person in charge of land on which Wart Disease is present, or on any person having in his possession or under his charge potatoes which are affected with Wart Disease, or which are in a clamp, pit, bag or other receptacle with potatoes so affected, or which the authorised officer has reason to believe to have been in a clamp, pit, bag or other receptacle with potatoes so affected, or otherwise exposed to infection with Wart Disease:—

(*a*) require the aforesaid occupier or person to destroy in the presence of an authorised officer potato plants grown on the land on which Wart Disease is present and such potatoes as may be specified in the notice in such manner and within such time as may be prescribed in the notice, and

(*b*) prohibit the removal of the potatoes from the premises on which they are when the notice is served, except under such conditions, prescribed in the notice, as the authorised officer may consider necessary to prevent the spread of Wart Disease.

(2) If any person shall fail to carry out the destruction of any potato plants or potatoes in accordance with the requirements of a notice served in pursuance of paragraph (1) of this Article, then, without prejudice to any proceedings under this Order consequent upon such failure, an authorised officer may enter any premises on which the potato plants or potatoes or any of them may be and, at his discretion, either destroy such potato plants or potatoes on the said premises or remove and destroy them elsewhere.

Service of Notices

13. For the purpose of this Order a notice shall be deemed to be served on or 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.

Information to be given

14.—(1) The occupier or other person in charge of land on which Wart Disease is present or is suspected by an authorised officer to be present shall, if so required in writing by an authorised officer, give him any information he may possess as to the crops grown on the land at any time, including the names of the varieties of any potatoes grown thereon, and as to the persons in whose possession or under whose charge any potatoes grown on the land are or have been and shall produce for inspection by the authorised officer any licences, declarations, certificates, records or invoices relating to the planting, sale or purchase of potatoes grown on the land.

(2) Every person who has or has had in his possesion or under his charge any potatoes whether affected with Wart Disease or not and every person who as auctioneer, salesman or otherwise has sold or offered for sale any potatoes shall, if so required in writing by an authorised officer, give any information he may possess as to the persons in whose possession or under whose charge they are or have been and shall produce for inspection by the authorised officer any licences, declarations, certificates, records or invoices relating to the planting, sale or purchase of potatoes.

(3) 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.

Licences

15. Notwithstanding the provisions of this Order, any potatoes may be planted, moved, consigned, sold, offered for sale or kept for scientific purposes under and in accordance with the conditions of a licence issued by the Minister.

Offences

16. Any person who fails to comply with or who acts in contravention of this Order or of the terms or conditions of a notice or licence served or issued thereunder or who wilfully obstructs an authorised officer in the exercise of his powers under this Order 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.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this twenty-sixth day of February, nineteen hundred and fifty eight.

(L.S.) *John Hare,*
Minister of Agriculture, Fisheries and Food.

SCHEDULE

The administrative county of Lincoln (Parts of Holland), the borough of Boston; the petty sessional division of Bourne in the administrative county of Lincoln (Parts of Kesteven), the borough of Stamford; the administrative county of the Soke of Peterborough, the city of Peterborough; the administrative county of the Isle of Ely, the borough of Wisbech; the petty sessional divisions of Clackclose, Freebridge Marshland, Freebridge Lynn and Smithdon and Brothercross in the administrative county of Norfolk, the borough of King's Lynn.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport)

This Order which applies to England and Wales consolidates with amendments the Wart Disease of Potatoes Order of 1941 and a General Licence Order modifying its terms. The principal changes are that the Minister of Agriculture, Fisheries and Food may by notice declare and define land infected with wart disease; and that the destruction of infected potatoes must be carried out in accordance with the terms of a notice served by an authorised officer.

The provisions in the earlier Orders which prohibit the sale of infected potatoes and the planting on infected land of susceptible varieties of potatoes, and which restrict the sale or planting of imported potatoes are repeated in this Order.