
Statutory Instrument 1993 No. 1283

The Plant Health (Forestry) (Great Britain) Order 1993

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STATUTORY INSTRUMENTS

1993 No. 1283

PLANT HEALTH

The Plant Health (Forestry) (Great Britain) Order 1993

<i>Made</i>	<i>17th May 1993</i>
<i>Laid before Parliament</i>	<i>18th May 1993</i>
<i>Coming into force</i>	<i>1st June 1993</i>

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

Title, extent and commencement

1. This Order may be cited as the Plant Health (Forestry) (Great Britain) Order 1993, shall apply to Great Britain, and shall come into force on 1st June 1993.

Interpretation

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

"authorised officer" means in relation to a certificate, translation or copy issued in a place other than Great Britain, a representative of the Plant Protection Service of the country in which the certificate, translation or copy was issued;

"collective warehouse" means any premises used for the storage or aggregation of consignments of relevant material;

"Commissioners" means the Forestry Commissioners;

"Customs Act" means the Customs and Excise Management Act 1979^[3];

"*Dendroctonus micans* protected zone" means the protected zone described in Schedule 6;

"Directive 77/93/EEC" means the Council Directive of 21st December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community^[4], as amended by the instruments listed in Schedule 7;

"dispatching centre" means any premises from which relevant material may be consigned;

"dunnage" means loose wood of any kind used to wedge or

support parts of a cargo to keep them steady;

"Euro-Mediterranean area" means the geographical area comprising Europe, Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Libya, Malta, Morocco, Syria, Tunisia and Turkey;

"Europe" includes the Canary Islands, Belarus, Estonia, Latvia, Lithuania, Moldova, the Ukraine and Russia (except the regions of Buryat, Yakut and Tuva, the Altai, Khabarovsk, Drasnoyarsk and Maritime Krai, and the Amur, Chita, Irkutsk, Kamchatka, Kemerovo, Kurgan, Magadan, Novosibirsk, Omsk, Sakhalin, Tomsk and Tyumen Oblasts), but does not include Cyprus or Turkey;

"European Community" means the European Economic Community, including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

"forestry trader" means an importer of relevant material directly consigned from a third country, a producer, a person in charge of a collective warehouse or a dispatching centre, or a person who in the course of a trade or business divides up or combines consignments of relevant material;

"genetically modified tree pest" means a tree pest, the genetic component of which has been modified, and includes—

(a) organisms and material which contain such a tree pest or parts thereof, and

(b) any other modified organisms likely to be injurious to trees,

other than those organisms which, in the opinion of the Commissioners, have been modified to eliminate all pathogenic sequences;

"Great Britain" does not include the Channel Islands or the Isle of Man;

"growing medium" means material, intended to sustain the life of plants, which consists wholly or partly of soil or peat whether used or unused, parts of plants, bark or other humus, or any other solid substance;

"importer" in relation to any tree pest or relevant material includes—

(a) any person who (whether as owner, consignor or consignee, agent, broker or otherwise) is in possession of or in any way entitled to the custody or control of the tree pest or relevant material which is likely to be or has been landed in Great Britain from a third country; and

(b) any person by whose action the tree pest or relevant material is likely to be or has been landed in Great Britain from a third country;

"industry certificate" means a certificate duly completed by a representative of a manufacturer or supplier of wood for export (including a wood shipping agent), being a manufacturer or supplier authorised by the Plant Protection Service of the exporting country, under arrangements approved by the Commissioners;

"inspector" means any person authorised by the Commissioners to be an inspector for the purposes of this Order;

"isolated bark" means bark which has been removed or become detached from a living, felled or fallen tree or from any part of any such tree;

"landed" means introduced into Great Britain by any means and includes imported by post or introduced through the tunnel system as defined in the Channel Tunnel Act 1987^[5], and "land" and "landing" shall be construed accordingly;

"Member State" means a Member State of the European Community;

"North America" means the geographical area comprising Canada, Mexico and the United States of America (except the state of Hawaii);

"nursery" means premises wholly or partly used for the cultivation or keeping of trees for the purpose of transplantation or removal to other premises;

"official" in relation to any testing or any other procedure required by this Order to be carried out in respect of any relevant material means carried out by or under the supervision of the Plant Protection Service of the country in which the testing or other procedure is carried out and "officially" shall be construed accordingly;

"phytosanitary certificate" means a certificate duly completed either in the form set out in Part A of Schedule 9 or the equivalent written in a language other than English;

"place of production" means any premises, normally worked as a unit, together with any contiguous uncultivated land;

"plant passport" means a label and, where appropriate, an accompanying document containing the information set out in Schedule 8, issued by or with the authority of a Plant Protection Service in the European Community, and includes a replacement plant passport;

"premises" includes any land, building, vehicle, vessel, aircraft, hovercraft or freight container;

"producer" means in relation to relevant material, a person who grows or makes the material in the course of a trade or business;

"protected zone" means a zone in the European Community—

(a) in which one or more of the tree pests referred to in Directive 77/93/EEC, which are established in one or more parts of the European Community, are not endemic or established, despite favourable conditions for them to establish there; or

(b) in which there is a danger that certain plant pests will establish themselves, given propitious ecological conditions, for particular trees, despite the fact that these organisms are not endemic or established in the European Community,

and which has been recognised in accordance with the procedure laid down in Article 16a of Directive 77/93/EEC;

"reforwarding phytosanitary certificate" means a certificate duly

completed either in the form set out in Part B of Schedule 9 or the equivalent written in a language other than English;

"register" means the register of forestry traders established under article 14;

"relevant material" means any tree, wood, isolated bark, used forestry machinery, soil or growing medium;

"relevant organism" means—

(a) any tree pest specified in Schedule 1; or

(b) in relation to relevant material of a description specified in Schedule 2, any tree pest of a description specified in that Schedule opposite the reference to that relevant material;

"seed" means seed in the botanical sense other than seed not intended for planting;

"soil" means material wholly or partly derived from the upper layer of the earth's crust which is capable of sustaining plant life and which contains solid organic substances such as parts of plants, humus, peat or bark, but does not include material composed entirely of unused peat;

"third country" means a country or territory other than one within the European Community;

"tree" means a living tree or shrub or any living part thereof at any stage of its growth and includes, where the context admits, any growing medium, substance, packing material or container attached thereto or associated therewith, and a living part of a tree shall be deemed to include—

(i) branches with or without foliage,

(ii) cut trees retaining foliage,

(iii) trees in tissue culture, and

(iv) fruit or seed of a tree;

"tree in tissue culture" means a tree growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

"tree pest" means a pathogen, or any living organism, other than a vertebrate animal, in any stage of its existence, which is injurious to any tree or the wood thereof and includes a culture of such pathogen or organism and any genetically modified tree pest;

"wood", save where expressly provided otherwise, means any log, sawn wood, and any dunnage, pallet, spacer, container or packing material consisting of wood, which retains some or all of its bark or any part of the natural round surface immediately below the bark and shall also include wood chips, particles, sawdust, wood waste or scrap.

(2) Any reference in this Order to a particular tree pest shall be construed as a reference to such a pest in any stage of its existence.

(3) Any reference in this Order to a Member State or a third country includes reference to a state, province or region in that Member State or that third country.

(4) Any reference in this Order to a numbered article or a numbered Schedule shall be construed as a reference to the article or Schedule so numbered in this Order.

Prohibitions and restrictions on landing in Great Britain of tree pests and relevant material

3.—(1) No person shall land in Great Britain—

- (a) any tree pest of a description specified in Schedule 1;
- (b) any relevant material of a description specified in column 2 of Part A of Schedule 2 carrying or infected with a tree pest of a description specified in column 3 of that Part opposite the reference to that relevant material;
- (c) any relevant material of a description specified in column 2 of Schedule 3 which originates in a country specified in column 3 of that Part opposite the reference to that relevant material;
- (d) any tree pest which although not specified in Schedule 1 or in column 3 of Part A of Schedule 2 is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain.

(2) No person shall land in Great Britain any relevant material, consigned directly from a third country, which is of a description specified in column 2 of Part A of Schedule 4 unless the conditions specified in column 3 of that Part in relation to that relevant material are complied with.

Prohibitions and restrictions on introduction into protected zones of tree pests and relevant material

4.—(1) No person shall introduce into a protected zone described in column 2 of Part B of Schedule 2 any relevant material of a description specified in column 3 of that Part opposite the reference to that zone, where the relevant material carries or is infected with a tree pest of a description specified in column 4 of that Part opposite the reference to that relevant material.

(2) No person shall land in Great Britain any relevant material, consigned directly from a Member State, which is of a description specified in column 2 of Part B of Schedule 4, unless the conditions specified in column 3 of that Part opposite the reference to that relevant material are complied with.

(3) No person shall introduce into the *Dendroctonus micans* protected zone any relevant material, consigned directly from a Member State, which is of a description specified in column 2 of Part C of Schedule 4 unless the conditions specified in column 3 of that Part opposite the reference to that relevant material are complied with.

Prevention of the spread of tree pests within Great Britain

5.—(1) No person shall, without the authority of the Commissioners or an inspector, knowingly keep, store, sell, plant, move or otherwise dispose of—

- (a) any tree pest of a description specified in Schedule 1;

- (b) any relevant material of a description specified in column 2 of Part A of Schedule 2 carrying or infected with a tree pest of a description specified in column 3 of that Part in relation to that relevant material; or
- (c) any relevant material landed in contravention of article 3(1)(c) or (2).

(2) Nothing in paragraph (1) above shall prohibit the destruction, or the delivery to an inspector, of any tree pest or relevant material referred to in that paragraph.

Prevention of the spread of tree pests within protected zones

6. No person shall, without the authority of the Commissioners or an inspector, knowingly keep, store, sell, plant, move or otherwise dispose of—

- (a) in a protected zone described in column 2 of Part B of Schedule 2, any relevant material of a description specified in column 3 of that Part where the material carries or is infected with a tree pest of a description specified in column 4 of that Part opposite the reference to that relevant material;
- (b) in Great Britain, any relevant material, consigned directly from a Member State, which is of a description specified in column 2 of Part B of Schedule 4 unless the conditions specified in column 3 of that Part opposite the reference to that relevant material have been complied with;
- (c) in the *Dendroctonus micans* protected zone, any relevant material, consigned directly from a Member State, which is of a description specified in column 2 of Part C of Schedule 4 unless the conditions specified in column 3 of that Part opposite the reference to that relevant material have been complied with.

Restrictions on consignments to other Member States

7.—(1) No person shall consign directly from Great Britain to a Member State any relevant material of a description specified in column 2 of Part A of Schedule 5 unless the conditions specified in column 3 of that Part opposite the reference to that relevant material have been complied with.

(2) No person shall consign directly from Great Britain to a protected zone described in column 4 of Part B of Schedule 5 any relevant material of a description specified in column 2 of that Part opposite the reference to that protected zone, unless the conditions specified in column 3 of that Part opposite the reference to that relevant material have been complied with.

Requirements for plant passports

8.—(1) No person shall—

- (a) land in Great Britain any relevant material (other than used forestry machinery), consigned directly from a Member State, of a description specified in column 2 of Part B of Schedule 4; or
- (b) move within Great Britain any relevant material (other than used forestry machinery) of a description specified in column 2 of

Part B of Schedule 4,
unless that relevant material is accompanied by a plant passport valid
for Great Britain.

(2) No person shall—

(a) introduce into the *Dendroctonus micans* protected zone any relevant material (other than wood of conifers in the form of dunnage or used forestry machinery), consigned directly from a Member State, of a description specified in column 2 of Part C of Schedule 4; or

(b) move within the *Dendroctonus micans* protected zone any relevant material (other than wood of conifers in the form of dunnage or used forestry machinery), of a description specified in column 2 of Part C of Schedule 4,

unless that relevant material is accompanied by a plant passport valid for that protected zone.

(3) No person shall consign directly from Great Britain to a Member State any relevant material of a description specified in column 2 of Part A of Schedule 5 unless that relevant material is accompanied by a plant passport.

(4) No person shall consign directly from Great Britain to a protected zone described in column 4 of Part B of Schedule 5 any relevant material (other than used forestry machinery) of a description specified in column 2 of that Part opposite the reference to that protected zone unless that relevant material is accompanied by a plant passport valid for that protected zone.

Requirements for certificates

9.—(1) Subject to the following provisions of this article and to article 10, no person shall land in Great Britain any relevant material of a description specified in column 2 of Part A of Schedule 4 which is directly consigned to Great Britain from a third country, unless that relevant material is accompanied by the certificate, if any, referred to in column 4 of that Part opposite that description, issued in the country in which the relevant material was grown or originated.

(2) Where, after a phytosanitary certificate has been issued, the consignment to which that certificate relates has been stored, repacked or split up in a country other than that in which the certificate was issued, that certificate shall be accompanied by a reforwarding phytosanitary certificate issued in that other country.

(3) Where any relevant material which is of a description specified in column 2 of Part A of Schedule 4, following its export from Great Britain, is landed in Great Britain having been directly consigned from a third country, it shall be accompanied by a phytosanitary certificate issued in the country from which it was directly consigned to Great Britain.

- (4) A phytosanitary certificate required under Part A of Schedule 4 may be issued in a country other than the country of origin—
- (a) in relation to any wood, if the only condition specified with respect to the wood in Part A of Schedule 4 is a condition that the wood shall be stripped of its bark;
 - (b) in relation to any other relevant material, to the extent that any condition specified in Part A of Schedule 4 can be fulfilled at a place other than in the country of origin.

Exceptions from the requirements for certificates

10. The requirements of articles 3(2) and 9 in respect of the provision of a phytosanitary certificate or an industry certificate shall not apply to any trees or wood not showing any signs of pest damage which are landed in Great Britain in the baggage of a passenger or other traveller and which—

- (a) are not intended for use in the course of trade or business;
- (b) are intended for household use;
- (c) have been grown in the Euro-Mediterranean area; and
- (d) are in one of the following categories, not exceeding the stated quantities—
 - (i) parts of trees including dried cones, leaves and branches for decoration or which together form a single spray, one wreath or one cut coniferous tree less than 3 metres in height,
 - (ii) seeds of *Castanea* (chestnuts), intended for human consumption, not exceeding 2 kilogrammes,
 - (iii) tree seedlings, except in bonsai form, not exceeding 5 in number, or
 - (iv) pieces of wood without bark, not exceeding 5 in number and not exceeding 1 metre in length.

Official statements

11. Any condition specified in column 3 of Part A of Schedule 4 requiring an official statement in respect of any relevant material shall be deemed to have been fulfilled by a phytosanitary certificate accompanying that relevant material in accordance with this Order.

General provisions relating to certificates

12.—(1) Where a phytosanitary certificate, reforwarding phytosanitary certificate or industry certificate is issued in a language other than English it shall incorporate or be accompanied by a translation into the English language, which translation, if it is a document separate from the certificate, shall, except in the case of an industry certificate, be completed and signed by an authorised officer.

(2) Subject to paragraph (3) of this article, where a consignment of relevant material has been consigned between two or more countries before being consigned to Great Britain it may be accompanied in the place of any certificate required by this Order by a copy of such certificate issued in the country from which the consignment has been directly consigned to Great Britain and certified as a true copy of the original or a true copy of a certified copy of the original, as the case may

be, by an authorised officer.

(3) Paragraph (2) of this article shall not apply in the case of a reforwarding phytosanitary certificate issued in the country from which the consignment was directly consigned to Great Britain, in which case the original reforwarding phytosanitary certificate issued in that country shall accompany the consignment.

(4) A certificate issued by or on behalf of a state, provincial or other regional or local government authority of part of a country, or by or on behalf of any department, service or other organ of such authority shall not be deemed to be a valid phytosanitary certificate or a valid reforwarding phytosanitary certificate for the purposes of this Order unless such authority is the only one empowered to issue, in relation to such part of the country, phytosanitary certificates or reforwarding phytosanitary certificates to accord with the requirements of this Order.

(5) Except in the case of consignments imported into Great Britain by post, any phytosanitary certificate, reforwarding phytosanitary certificate or industry certificate shall—

(a) in the case of imports by a forestry trader listed in the register referred to in article 14, be delivered, within three days of landing of the consignment, to an inspector;

(b) in the case of imports by any other person, be delivered, together with the entry relating to the consignment, to the proper officer.

In this paragraph the expression "proper officer" has the like meaning as in the Customs Act and the reference to the entry shall be construed as reference to the entry, delivery of which is to be made in accordance with the provisions of that Act.

(6) In the case of a consignment imported into Great Britain by post, any phytosanitary certificate, reforwarding phytosanitary certificate or industry certificate shall be affixed to the outside of the package comprising the consignment or, if the consignment consists of more than one package, such certificate shall be affixed to the outside of one of the packages and copies thereof affixed to the outside of each of the remaining packages.

(7) All phytosanitary certificates, reforwarding phytosanitary certificates or industry certificates produced when a consignment of relevant material is landed in Great Britain shall be officially stamped showing the date of entry of the consignment.

Period during which inspections are to be made and certificates issued

13.—(1) Except for an official inspection which is required to be carried out for the purposes of making an official statement in accordance with a condition referred to in column 3 of Schedule 4, an inspection carried out for the purposes of issuing a phytosanitary certificate or a reforwarding phytosanitary certificate shall be carried out not more than 14 days before

the date of the despatch of the consignment to which the inspection relates.

(2) A phytosanitary certificate or a reforwarding phytosanitary certificate shall not be valid for the purposes of this Order unless it is completed and signed by an authorised officer not more than 14 days before the date of the despatch of the consignment which it is to accompany and after the carrying out of any inspection referred to in paragraph (1) of this article which relates to that consignment.

Register of forestry traders

14.—(1) The Commissioners shall establish and maintain a register of forestry traders listing the following particulars with respect to each forestry trader who applies for registration under article 15:

- (a) his name;
- (b) the address of any premises at which he carries on his trade or business;
- (c) details of any activities which he undertakes and to which this Order applies;
- (d) such other information as the Commissioners may determine; and
- (e) a registration number unique to the forestry trader.

(2) The register shall be open to inspection by the Commission of the European Communities.

Registration procedure

15.—(1) Subject to paragraph 2, every forestry trader who is engaged in or intends to engage in the activities to which this Order applies shall apply to the Commissioners for listing in the register and the application for registration shall be made in writing and shall be in such form and contain such information as the Commissioners may from time to time require.

(2) Paragraph (1) shall not apply to any forestry trader who does not import relevant material directly from third countries and who—

- (a) has his place of business in the *Dendroctonus micans* protected zone and whose entire production and sale of relevant material is intended for final usage in Great Britain by persons who are not involved in the production or sale of relevant material in the course of a trade or business; or
- (b) has his place of business in that part of Great Britain outside the *Dendroctonus micans* protected zone and whose entire production and sale of relevant material is intended for final usage in that part of Great Britain by persons who are not involved in the production or sale of relevant material in the course of a trade or business.

(3) Every forestry trader, if listed in the register, shall notify the Commissioners immediately in writing of any change in the particulars listed with respect to him.

(4) The Commissioners shall list in the register the particulars of a forestry trader on application under paragraph (1) above only if they are satisfied that he is able and willing to comply with the conditions specified in article 16(1).

Conditions for registration

16.—(1) A forestry trader listed in the register shall comply with the following conditions:

- (a) he shall keep an accurate, updated plan of the premises;
- (b) he shall keep a record of relevant material purchased by him or brought on to the premises for use on those premises, and of relevant material kept on those premises or disposed of from those premises;
- (c) he shall keep all documents, created for his retention or received by him, relating to the records kept under subparagraph (b) above, for at least one year from the date of their creation or receipt;
- (d) he shall designate an individual (whether himself or another) who is technically experienced in relation to the activities carried out on the premises and related plant health matters affecting the premises who shall be available to liaise with the Commissioners in relation to matters arising under this Order;
- (e) he shall ensure that his premises and relevant material there are examined at such times and in a manner specified in guidelines issued from time to time by the Commissioners;
- (f) subject to article 27, he shall allow any inspector to enter his premises in the exercise of his powers under this Order;
- (g) without prejudice to any other provision of this Order, he shall co-operate with the Commissioners and any inspector acting in the exercise of their powers under this Order.

(2) In paragraph (1) above "premises" means, in relation to a forestry trader, any premises the particulars of which are listed in the register with respect to that forestry trader.

(3) Where the Commissioners are satisfied that a forestry trader listed in the register—

- (a) has failed or is failing to comply with any of the conditions specified in paragraph (1), or
- (b) has failed to comply with a requirement duly made by an inspector under article 21,

they may suspend the listing of that forestry trader until they are satisfied that he is able and willing to comply with those conditions or that requirement.

Authority to issue plant passports

17.—(1) A forestry trader may apply to the Commissioners for authority to issue plant passports in relation to any relevant material to be moved from his premises.

(2) An application under paragraph (1) above shall be in writing, shall give sufficient notice to allow the Commissioners to undertake any necessary examination of the forestry trader's premises, and shall contain such particulars as the Commissioners may from time to time determine.

(3) The Commissioners shall give their authority under paragraph (1) only if—

- (a) the applicant is listed in the register, and
- (b) having regard to any examination of the premises of the applicant and any relevant material there, they are satisfied that those premises or relevant material are free from any relevant organisms.

(4) A statement of the Commissioners' authority to issue plant passports shall be given in writing and may be given subject to such conditions as they consider necessary, including a condition limiting the validity of any plant passport to be issued by the forestry trader concerned.

(5) If, having regard to any examination of any premises and any relevant material there, the Commissioners are not satisfied that the premises or material are free from relevant organisms, or they consider that a trader has failed to meet any of the conditions set out in article 16(1), the Commissioners may suspend the operation of that authority entirely or in relation to specified premises or material.

(6) If there is any change in the particulars listed in the register in respect of any forestry trader, any authority to issue plant passports given to that forestry trader shall be suspended until—

- (a) he notifies the Commissioners of that change pursuant to article 15(3), and
- (b) the Commissioners confirm in writing that his authority to use plant passports has been renewed.

(7) Where the Commissioners are satisfied that a forestry trader listed in the register—

- (a) has failed to comply with any of the conditions for registration specified in article 16(1); or
- (b) has failed to comply with a requirement duly made by an inspector under article 21,

they may suspend or vary any authority to use plant passports given to that forestry trader.

General provisions relating to plant passports

18.—(1) A plant passport relating to any relevant material shall, insofar as it comprises an official label, be treated as accompanying any relevant material only if it is affixed to—

- (a) the relevant material,
- (b) the packaging of that material, or
- (c) the vehicle transporting that material.

(2) A plant passport, insofar as it comprises an official label, shall be affixed in such a way that it cannot be re-used.

(3) Any alteration or erasure of a plant passport shall automatically invalidate that plant passport, unless the alteration or erasure is certified by the forestry trader authorised to affix the plant passport.

(4) No person shall affix a plant passport to any relevant material or cause a plant passport to accompany any such material unless he is authorised to do so by the Commissioners and the plant passport complies with the requirements of Schedule 8.

Notification of the presence or suspected presence of certain tree pests

19.—(1) The occupier or other person in charge of premises who knows or suspects that any tree pest to which this article applies is present on the premises, or any other person who, in the course of his duties or business, becomes aware or suspicious of the presence of such tree pest on any premises, shall immediately give notice to the Commissioners or an inspector of the presence or suspected presence of such tree pest and shall as soon as reasonably practicable after giving such notice confirm it in writing.

(2) This article applies to any tree pest—

- (a) which is specified in Schedule 1 or in column 3 of Part A of Schedule 2;
- (b) which is mentioned in column 3 of Parts A and B of Schedule 4; or
- (c) which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain.

Notification of the likely entry into, or presence in, a free zone of tree pests or relevant material

20.—(1) The responsible authority for a free zone who knows or suspects that any of the things to which this article applies is likely to enter, or is present in, such a free zone, shall immediately give notice of that fact to the Commissioners or an inspector and shall as soon as reasonably practicable after giving such notice confirm it in writing.

(2) This article applies to—

- (a) any tree pest specified in Schedule 1;
- (b) any relevant material, other than seeds, of a description specified in Schedule 2, carrying or infested by any tree pest specified in that Schedule opposite the reference to that relevant material; and
- (c) any relevant material, other than seeds, the landing of which in Great Britain is prohibited under article 3(1),

which has been, or is likely to be, landed in Great Britain, and has not been cleared from Customs charge.

(3) In this article "the responsible authority" and "free zone" have the

same meaning as in the Customs Act^[6].

Actions which may be required by an inspector

21.—(1) Without prejudice to article 22, if an inspector has reasonable grounds for suspecting that any tree pest or relevant material is likely to be, or has been, landed in Great Britain in contravention of this Order he may by notice in writing served on a forestry trader or any person in charge of the vehicle, vessel, aircraft, hovercraft or freight container from which any tree pest or relevant material is likely to be or has been landed—

- (a) prohibit the landing;
- (b) specify the manner in which the landing is to be carried out and the precautions which are to be taken during and subsequent to the landing;
- (c) require any tree pest or relevant material to be treated, re-exported, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;
- (d) prohibit the removal of any tree pest or relevant material from premises and for a period specified in the notice;
- (e) require the removal of any tree pest or relevant material from premises specified in the notice in such manner and within such reasonable time as may be so specified;
- (f) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the introduction or spread of any tree pest in such manner and within such reasonable time as may be specified in the notice.

(2) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises—

- (a) a tree pest of a description specified in Schedule 1;
- (b) any tree pest which is not normally present in Great Britain or elsewhere in the European Community and in respect of which there is, in the opinion of the inspector, an imminent danger of its spreading or being spread in Great Britain or elsewhere in the European Community;
- (c) any relevant material which is carrying or infected with, or which may be carrying or infected with, a tree pest mentioned in sub-paragraph (a) or (b) of this paragraph;
- (d) any relevant material the landing of which in Great Britain is prohibited under article 3(1) or the movement of which in Great Britain is restricted under article 5(1);
- (e) in any protected zone described in column 2 of Part B of Schedule 2, any relevant material the introduction of which into that zone is prohibited under article 4(1) or the movement of which within that zone is restricted under article 6,

he may by notice in writing served on the occupier or other person in charge of the premises or of any of the things mentioned in sub-paragraphs (a) to (e) above—

- (i) require any of the things so mentioned to be treated, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;

- (ii) prohibit the removal of those things from premises specified in the notice or impose such other prohibitions as appear to the inspector to be necessary to prevent the spread of any tree pest;
- (iii) require the removal of those things to premises specified in the notice in such manner and within such reasonable time as may be so specified;
- (iv) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the spread of any tree pest in such manner and within such reasonable time as may be specified in the notice.

(3) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of any tree pest from the premises mentioned in paragraph (2) of this article, he may by notice in writing served on the occupier or other person in charge of any other premises impose such prohibitions and require the taking of such reasonable steps, specified in the notice, as appear to him to be necessary for that purpose, such steps to be taken in such manner and in such reasonable time as may be specified in the notice.

(4) Any notice served under paragraphs (1) to (3) of this article may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

Actions which may be taken by an inspector

22.—(1) Without prejudice to article 21, and subject to article 27, if an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises anything of a description specified in sub-paragraphs (a) to (e) of article 21(2), he may after giving the occupier or other person in charge of the premises reasonable notice of his intention and upon production if so required of his authority—

- (a) at all reasonable times, enter such premises, and
- (b) either on those premises or elsewhere take steps to destroy or treat in some other way any such thing found on the premises.

(2) An inspector on entering any premises under paragraph (1) of this article may take with him such other persons, including representatives of the Commission of the European Communities, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by the Commissioners or an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

Miscellaneous provisions as to notices

23.—(1) A notice served under paragraph (1) or (2) of article 21 may specify one or more requirements or alternative requirements.

(2) A notice served under paragraph (1)(c) or (2)(i) of article 21 (requiring any tree pest or relevant material to be treated, re-exported, destroyed or otherwise disposed of) may contain provisions deferring the treatment, re-exportation, destruction or disposal for such period and subject to such conditions, if any, as may be specified in the notice.

(3) Where the treatment, re-exportation, destruction or disposal of any tree pest or relevant material has been deferred under paragraph (2) of this article, the person on whom the notice is served shall be permitted, within the period specified in the notice, to treat, re-export, destroy or otherwise dispose of the tree pest or relevant material. If the person on whom the notice is served fails to treat, re-export, destroy or dispose of the tree pest or relevant material within the period specified in the notice to the satisfaction of an inspector, the treatment, re-exportation, destruction or disposal required by the notice shall be carried out by that person within two days following the expiry of the period specified in the notice or within such shorter or longer period as may be specified in writing by an inspector.

(4) Any treatment, re-exportation, destruction or disposal required by a notice served under article 21 shall be carried out by the person on whom the notice is served to the satisfaction of an inspector from or at a place designated by an inspector and, except with the written authority of an inspector or any other officer of the Commissioners, no tree pest or relevant material shall be moved otherwise than directly from or to such a place.

(5) An inspector may amend or withdraw a notice served by an inspector under this Order, or having effect as if so served, by a further notice served on the person on whom the original notice was served or on the person who is the occupier or in charge of the premises in respect of which the further notice is intended to be served. The amendment or withdrawal of a notice may be subject to such conditions, if any, as the inspector considers expedient to impose for the purpose of preventing the introduction or spread of any tree pest or re-infection with or re-infestation by the tree pest to which the original notice relates.

(6) A notice under this Order may be served on any person—

(a) by delivering it to him personally;

(b) by leaving it for him at his last known place of abode or business; or

(c) by sending it through the post addressed to him at his last known place of abode or business,

and such notice may—

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

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

Examination, sampling and marking

24.—(1) For the purposes of enforcing the provisions of this Order and in particular—

(a) ascertaining whether there is or has been any contravention of those provisions, or

(b) carrying out an examination of a forestry trader's premises or of relevant material on such premises in connection with the granting, withdrawing or suspending of any authority to issue a plant passport under article 17,

an inspector shall have a right on producing, if so requested, his authority, and subject to article 27, at all reasonable times to enter any premises.

(2) An inspector entering premises by virtue of paragraph (1) above or of a warrant granted under article 27 may—

(a) examine, photograph or mark any part of the premises or any object on the premises;

(b) take samples of or from any tree pest or relevant material or from any container or package, or any material which has been or may have been in contact therewith; and

(c) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of or trade in any relevant material.

(3) An inspector entering premises by virtue of paragraph (1) above, or of a warrant granted under article 27, may take with him such other persons, including representatives of the Commission of the European Communities, and such equipment or vehicles as he considers necessary, and any such other persons may, whether or not accompanied by the inspector and on production, if so requested, of their authority given in that behalf by the Commissioners or an inspector, remain on and from time to time re-enter the premises with such equipment or vehicles as aforesaid, and carry out such work as the inspector may direct in the exercise of his functions under this Order.

(4) An inspector may, for the purpose of exercising any of his functions under paragraph (2) above, open, or authorise any person to open on his behalf, any container or package, or require the owner or person in charge of any container or package to open it.

(5) Where any such record as is mentioned in paragraph (2)(c) is kept by means of a computer, an inspector may—

(a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record, and

(b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require.

(6) An inspector may, so far as necessary to enable him to exercise

any of the powers conferred by paragraph (2) above, prohibit entirely or to such extent as he may specify the movement of any tree pest or relevant material, container or package, or any material which may have been in contact therewith.

Information as to compliance with notices

25.—(1) The person on whom a notice has been served under this Order or under an Order revoked by this Order shall, if so required by an inspector, immediately inform the inspector whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.

(2) Any information given under this article shall not be used as evidence against the person giving the information in any prosecution, except in respect of an alleged failure to comply with this article.

Failure to comply with a notice

26.—(1) Subject to article 27, if any person fails to comply with the requirements of a notice served or having effect as if served under this Order then, without prejudice to any proceedings consequent upon such failure, an inspector may, on production if so required of his authority, at all reasonable times for the purposes of this Order enter any premises in which any tree pests or relevant material to which the notice relates may be present and take or cause to be taken such steps as appear to him to be necessary either to ensure compliance with the requirements of the notice or to remedy the consequences of the failure to carry them out and all reasonable costs of taking such steps shall be recoverable by the Commissioners as a debt from the person on whom the notice was served.

(2) An inspector entering any premises under paragraph (1) above may take with him such persons, including representatives of the Commission of the European Communities, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by the Commissioners or an inspector, may remain on the premises and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

Power to enter premises used wholly or mainly as a dwelling

27.—(1) The power to enter premises conferred by articles 22, 24 and 26 of this Order may be exercised by an inspector to enter premises used wholly or mainly as a dwelling only if he has been granted a warrant by—

- (a) in England and Wales, a justice of the peace; or
- (b) in Scotland, a sheriff or a justice of the peace.

(2) A justice of the peace or sheriff may grant a warrant under paragraph (1) of this article only if he is satisfied—

- (a) that admission to any premises has been refused, or is likely to be refused, or that the case is one of urgency, or that a request for admission might prejudice the purpose of the entry; and
- (b) that there are reasonable grounds for entry under article 22, 24 or 26, as the case may be.

(3) A warrant granted under paragraph (1) of this article shall remain in force—

- (a) for one month; or
- (b) until the purpose for which the warrant is granted has been fulfilled,

whichever period is the shorter.

Licences

28. Notwithstanding the provisions of this Order, any tree pest or relevant material may be landed, kept, stored, sold, planted, moved or otherwise disposed of in Great Britain and any other thing prohibited by this Order may be done under the authority of a licence, whether general or specific, granted by the Commissioners in exercise of any derogation whether specific or general permitted by Directive 77/93/EEC.

Powers of an officer of Customs and Excise

29.—(1) An inspector may request an officer of Customs and Excise (either orally or in writing) to prohibit the removal of any tree pest or relevant material which has not been cleared from Customs charge until it has been examined by an inspector and such request may identify the tree pest or relevant material in any way. A request made orally under this paragraph shall be confirmed in writing.

(2) Where a request has been made under paragraph (1) above, the officer of Customs and Excise shall, by notice in writing served upon the importer, require that, until the tree pest or relevant material has been examined by an inspector, it shall not be removed from the place specified in the notice and he shall at the same time inform an inspector of the contents of the notice.

(3) An inspector shall, without undue delay, examine any tree pest or relevant material in respect of which a notice has been served by an officer of Customs and Excise under this article and shall advise that officer in writing of the terms of any notice issued and of any other action taken by the inspector in accordance with this Order.

(4) Where an officer of Customs and Excise has served a notice under paragraph (2) above prohibiting removal of any tree pest or relevant material, nothing to which the notice relates shall be removed by any person except with the written authority of either the said officer or an inspector.

Information to be given

30.—(1) Any person who—

- (a) is the owner or occupier or other person in charge of premises

in respect of which a notice has been served under this Order;
(b) has or has had or is reasonably suspected by an inspector or any other officer of the Commissioners to have or have had in his possession or under his charge—

(i) any tree pest which is specified in Schedule 1, column 3 of Part A of Schedule 2, or column 4 of Part B of Schedule 2;

(ii) any tree pest which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;

(iii) any relevant material carrying or infected with a tree pest mentioned in paragraph (1)(b)(i) or (ii) of this article;
or

(iv) any relevant material which an inspector or any other officer of the Commissioners knows to have been landed or suspects has been landed in, or exported from, Great Britain; or

(c) as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of any of the things mentioned in sub-paragraph (b) of this article,

shall, if so required by an inspector or any other officer of the Commissioners by notice in writing, give to the said inspector or officer within such reasonable time as may be specified in that notice, any information he may possess as to trees grown or products stored at any time on the premises mentioned in sub-paragraph (a) of this article, as to any of the things mentioned in sub-paragraph (b) of this article and as to the persons who have or have had or are likely to have or have had any of the last mentioned things in their possession or under their charge, and shall produce for examination by an inspector or other officer, any licences, declarations, certificates, plant passports, records, invoices or other documents relating to such things.

(2) Any information given under this article shall not be used as evidence against the person giving the information in any prosecution, except in respect of an alleged failure to comply with this article.

Offences

31.—(1) A person shall be guilty of an offence if without reasonable excuse, proof of which shall lie with him—

(a) subject to paragraph (2) below, he contravenes or fails to comply with a provision of this Order;

(b) he contravenes or fails to comply with a provision or condition of a notice served, or licence granted, under this Order;

(c) he intentionally obstructs an inspector or any person authorised by an inspector in the exercise of his powers given by or under this Order.

(2) Paragraph (1)(a) above shall not apply where an article of any description is landed in Great Britain in contravention of a prohibition in this Order.

(3) A person shall be guilty of an offence if, for the purpose of procuring the issue of a plant passport or a replacement plant passport, a phytosanitary certificate, a reforwarding phytosanitary certificate or a licence under this Order, he—

- (a) knowingly or recklessly makes a statement which is false in a material particular, or
- (b) intentionally fails to disclose any material information.

(4) A person shall be guilty of an offence if he—

- (a) dishonestly issues a plant passport, or
- (b) dishonestly alters a plant passport affixed to any relevant material, or re-uses a plant passport.

(5) A person guilty of an offence under paragraph (1), (3) or (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

The Customs Act

32. The provisions of this Order shall apply without prejudice to the Customs Act.

Revocation and saving

33.—(1) The Orders specified in Schedule 10 are hereby revoked.

(2) Subject to paragraph (3), any notice served or other thing done under an Order revoked by paragraph (1) shall have effect as if served, granted or done under the corresponding provision of this Order.

(3) Any licence issued by the Commissioners under the Plant Health (Forestry) (Great Britain) Order 1989^[1] is hereby revoked.

In witness whereof the Official Seal of the Forestry Commissioners is hereunto affixed on
17th May 1993.

P. J. Clarke

Secretary to the Forestry Commissioners

Notes:

[1] 1967 c. 8; sections 2(1), 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48). The powers conferred by sections 2 and 3 of the Plant Health Act 1967 are

conferred on "a competent authority", which expression is defined in section 1(2), as regards the protection of forest trees and timber from attack by pests, as the Forestry Commissioners. [back](#)

[2] 1972 c. 62. [back](#)

[3] 1979 c. 2. [back](#)

[4] OJ No. L26, 31.1.77, p.20. [back](#)

[5] 1987 c. 53. [back](#)

[6] See section 100A of the Customs Act which was inserted by the Finance Act 1984 (c. 43), section 8 and Schedule 4, Part I [back](#)

[7] S.I. 1989/823, amended by S.I. 1989/1951, 1990/2398 and 1992/3235 [back](#)

SCHEDULE 1

Articles 3(1), 5(1), 19(2), 20(2), 21(2) and 30(1)

TREE PESTS WHOSE LANDING IN AND SPREAD WITHIN GREAT BRITAIN IS PROHIBITED

Insects, mites and nematodes

1. *Acleris* spp. (non-European), for example, the Blackheaded Budworm
2. *Arrhenodes minutus* (Drury), the Oak Timber worm
3. *Choristoneura* spp. (non-European), for example, the Western Spruce Budworm
4. *Monochamus* spp. (non-European), Sawyer Beetles
5. *Pseudopityophthorus minutissimus* (Zimmermann), the Oak Bark Beetle
6. *Pseudopityophthorus pruinus* (Eichhoff), the Oak Bark Beetle
7. *Scaphoideus luteolus* (Van Duzee), the White-banded Elm Leaf Hopper
8. *Xiphinema americanum* Cobb *sensu lato* (non-European populations)
9. *Xiphinema californicum* Lamberti et Bleve-Zacheo

Fungi

1. *Ceratocystis fagacearum* (Bretz) Hunt, the cause of Oak Wilt
2. *Chrysomyxa arctostaphyli* Dietel, the cause of Spruce Witches Broom Rust
3. *Cronartium* spp. (non-European), a cause of Conifer Rust
4. *Endocronartium* spp. (non-European), a cause of Conifer Rust
5. *Guignardia laricina* (Saw.) Yamamoto et Ito, the cause of Shoot Blight of larch
6. *Inonotus weirii* (Murrill) Kotlaba et Pouzar, the cause of Poria Root Rot
7. *Melampsora farlowii* (Arthur) Davis, the cause of Hemlock Rust
8. *Melampsora medusae* Thümen, the cause of Poplar Rust
9. *Mycosphaerella larici-leptolepis* Ito et al, the cause of Needle Cast of larch
10. *Mycosphaerella populorum* G E Thompson, a cause of Poplar Canker

Viruses and virus-like organisms

Elm phloem necrosis mycoplasma

Parasitic plants

Arceuthobium spp. (non-European), the dwarf mistletoe

(Schedules 2 to 5 omitted)

SCHEDULE 6

Article 2(1)

DESCRIPTION OF THE *DENDROCTONUS MICANS* PROTECTED ZONE

The *Dendroctonus micans* protected zone comprises—

1. Scotland;

2. The Isle of Man;

3. The following counties of England:

Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cleveland, Cornwall, Cumbria, Devon, Dorset, Durham, East Sussex, Essex, Hampshire, Hertfordshire, Humberside, Kent, Lincolnshire, Norfolk, Northamptonshire, Northumberland, Nottinghamshire, Oxfordshire, Somerset, South Yorkshire, Suffolk, Surrey, Tyne and Wear, West Sussex, West Yorkshire, Wiltshire, the Isle of Wight, the Isles of Scilly; and

4. The following parts of English counties:

Avon:	that part of the county which lies to the south of the southern boundary of the M4;
Derbyshire:	the districts of North-east Derbyshire, Chesterfield and Bolsover;
Leicestershire:	the districts of Charnwood, Melton, Rutland, Harborough, Oadby and Wigston, Leicester and Blaby;
North Yorkshire:	the districts of Scarborough, Ryedale, Hambleton, Richmondshire, Harrogate, York and Selby.

SCHEDULE 7

Article 2(1)

MEANING OF "DIRECTIVE 77/93/EEC" INSTRUMENTS AMENDING COUNCIL DIRECTIVE 77/93/EEC

<i>Instrument</i>	<i>Reference</i>
Act concerning the conditions of accession of the Hellenic Republic and the adjustment of the Treaties	OJ No. L291, 19.11.79, p. 17.
Council Directive 80/392/EEC	OJ No. L100, 17.4.80, p.32.

Council Directive 80/393/EEC	OJ No. L100, 17.4.80, p.35.
Council Directive 81/7/EEC	OJ No. L14, 16.1.81, p.23.
Council Directive 84/378/EEC	OJ No. L207, 2.8.84, p.1.
Council Directive 85/173/EEC	OJ No. L65, 6.3.85, p.23.
Council Regulation (EEC) No. 3768/85	OJ No. L362, 31.12.85, p.8.
Council Directive 85/574/EEC	OJ No. L372, 31.12.85, p.25.
Commission Directive 86/545/EEC	OJ No. L323, 18.11.86, p.14.
Commission Directive 86/546/EEC	OJ No. L323, 18.11.86, p.16.
Commission Directive 86/547/EEC	OJ No. L323, 18.11.86, p.21.
Council Directive 86/651/EEC	OJ No. L382, 31.12.86, p.13.
Council Directive 87/298/EEC	OJ No. L151, 11.6.87, p.1.
Commission Directive 88/271/EEC	OJ No. L116, 4.5.88, p.13.
Commission Directive 88/272/EEC	OJ No. L116, 4.5.88, p.19.
Commission Directive 88/430/EEC	OJ No. L208, 2.8.88, p.36.
Council Directive 88/572/EEC	OJ No. L313, 19.11.88, p.39.
Council Directive 89/359/EEC	OJ No. L153, 6.6.89, p.28.
Council Directive 89/439/EEC	OJ No. L212, 22.7.89, p.106.
Commission Directive 90/80/EEC	OJ No. L51, 27.2.90, p.34.
Council Directive 90/168/EEC	OJ No. L92, 7.4.90, p.49.
Council Directive 90/490/EEC	OJ No. L271, 3.10.90, p.28.
Commission Directive 90/506/EEC	OJ No. L282, 13.10.90, p.67.
Council Directive 91/27/EEC	OJ No. L16, 22.1.91, p.29.
Council Directive 91/683/EEC	OJ No. L376, 31.12.91, p.29.
Commission Directive 92/10/EEC	OJ No. L70, 17.3.92, p.27.
Commission Directive 92/98/EEC	OJ No. L352, 2.12.92, p.1.
Commission Directive 92/103/EEC	OJ No. L363, 11.12.92, p.1.
Council Directive 93/19/EEC	OJ No. L96, 22.4.93, p.3.

SCHEDULE 8

Articles 2(1) and 18

PART A REQUIREMENTS FOR PLANT PASSPORTS

1. A plant passport shall comprise either an official label or an official label together with a document of a kind normally used for trade purposes, containing the information specified in paragraph 4 or (as the case may be) 5 below.

2.—(1) An official label shall not have been previously used and shall be made of material suitable to its purposes under this Order.

(2) The Commissioners may approve a form of adhesive label for use as an official label.

3.—(1) The information contained in a plant passport shall be—

- (a) given in at least one of the official languages of the European Communities, and
- (b) printed, except where it would not be reasonably practicable to do so.

(2) Where the information is printed, it shall be printed in block capitals.

(3) Where the information is not printed, it shall be given in typescript or written in block capitals.

(4) Where a plant passport refers to the botanical name of a tree or tree product, the name shall include its Latin name.

4. Where a plant passport comprises only an official label, it shall contain the information specified in paragraph 6 below.

5. Where the plant passport comprises an official label and an additional document—

- (a) the official label shall contain at least the information specified in sub-paragraphs (a)-(e) of paragraph 6 below, and
- (b) the documents taken together shall contain all the information specified in that paragraph, and may also contain, clearly separated from that information, any other information relevant for the purpose of labelling the material to which the plant passport relates.

6. The information referred to in paragraphs 4 and 5 above shall be—

- (a) the title "EEC-plant passport";
- (b) the code for Great Britain ("UK");
- (c) the code for the Forestry Commission ("FC");
- (d) the registration number issued to the forestry trader by the Commissioners, indicating that he is authorised to attach the plant passport;
- (e) the week number of the date when the plant passport is attached to the material in question, or a serial or batch number identifying that material;
- (f) the botanical name of the material in question;
- (g) the quantity of the material in question (number of trees, volume or weight of wood or isolated bark, etc.);
- (h) if the plant passport is valid for a protected zone, the marking "ZP" and the code for the protected zone;
- (i) in the case of a replacement plant passport, the marking "RP", and the information at sub-paragraphs (b), (c) and (d) above, identifying the forestry trader who attached the original plant passport;
- (j) in the case of imported material, the name of the country of origin of the material or (if different) the country from which the material was consigned to Great Britain.

(schedule 9 omitted)

SCHEDULE 10

Article 33

REVOCATION OF ORDERS

<i>Order</i>	<i>Reference</i>
The Dutch Elm Disease (Restriction on Movement of Elms) Order 1984	S.I. 1984/686
The Dutch Elm Disease (Restriction on Movement of Elms) (Amendment) Order 1988	S.I. 1988/605
The Plant Health (Forestry) (Great Britain) Order 1989	S.I. 1989/823
The Plant Health (Forestry) (Great Britain) (Amendment) Order 1989	S.I. 1989/1951
The Plant Health (Forestry) (Great Britain) (Amendment) Order 1990	S.I. <u>1990/2398</u>
The Plant Health (Forestry) (Great Britain) (Amendment) Order 1992	S.I. <u>1992/3235</u>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies to Great Britain, revokes and supersedes the Plant Health (Forestry) (Great Britain) Order 1989 and implements the following Community legislation—

(1) Council Directive 77/93/EEC (as amended by the instruments listed in Schedule 7) on protective measures against the introduction into the Member States of the European Community of organisms harmful to plants or plant products and against their spread within the Community;

(2) Commission Directive 92/76/EEC (OJ No. L305, 21.10.92, p.12) recognising protected zones exposed to particular health risks in the Community;

(3) Commission Directive 92/90/EEC (OJ No. L344, 26.11.92, p.38) establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration; and

(4) Commission Directive 92/105/EEC (OJ No. L4, 8.1.93, p.22) establishing a degree of standardisation for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement.

The Order—

(a) prohibits the landing of specified tree pests and relevant material (defined in article 2(1) to mean any tree, wood, isolated bark, used forestry machinery, soil or growing medium) and lays down the conditions under which the landing of other relevant material may be permitted (article 3);

(b) prohibits the introduction into protected zones of specified tree pests and relevant material and lays down the conditions under which the introduction of other relevant material may be permitted (article 4);

(c) prohibits the keeping, storage, sale, planting, movement or other disposal of specified tree pests and relevant material within Great Britain (article 5);

(d) prohibits the keeping, storage, sale, planting, movement or other disposal of specified relevant material in protected zones and lays down the conditions under which other relevant material may be kept, stored, sold, planted, moved or otherwise disposed of in protected zones (article 6);

(e) lays down the conditions under which specified relevant material may be consigned to another Member State or to a protected zone outside Great Britain (article 7);

(f) requires that specified relevant material is to be accompanied by a plant passport when landed in or moved within Great Britain following consignment from a Member State, introduced into or moved within the *Dendroctonus micans* protected zone, or consigned from Great Britain to another Member State or to a protected zone outside Great Britain (article 8);

(g) requires that specified relevant material, when landed in Great Britain following direct consignment from a country not in the European Community, is to be accompanied by a phytosanitary certificate or industry certificate (article 9);

(h) lays down certain exceptions from the requirements for phytosanitary certificates or industry certificates (article 10);

(i) lays down various general provisions relating to certificates and related inspections (articles 12 and 13);

(j) provides for the establishment of a register of forestry traders and lays down the procedure and conditions for registration (articles 14, 15 and 16);

(k) lays down various general provisions relating to plant passports (articles 17 and 18);

(l) requires the notification of the presence of specified tree pests and relevant material (articles 19 and 20);

(m) enables an inspector to take precautionary or remedial action where tree pests or relevant material are or are likely to be landed in contravention of the Order or are likely to be present on premises (article 21);

(n) enables an inspector to enter premises, to carry out examinations and take samples, and to take remedial action where the requirements of a notice served under the Order have not been complied with (articles 22, 24 and 26);

(o) requires an inspector to obtain a warrant from a justice of the peace or sheriff before entering a dwelling house (article 27);

(p) provides that anything that is otherwise prohibited under the Order may be done under authority of a licence granted in exercise of any derogation permitted by Directive 77/93/EEC (article 28);

(q) provides that officers of Customs and Excise may detain tree pests or relevant material for examination by an inspector (article 29);

(r) enables an inspector or other officer to require information in respect of specified tree pests and relevant material (article 30);

(s) provides that the contravention of, or failure to comply with, any provisions of the Order (other than those relating to landing) shall be an offence punishable by a fine not exceeding £5,000 (article 31). (Any person who lands articles in contravention of a prohibition imposed by this Order with intent to evade such prohibition is guilty of an offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) and may be arrested. A person guilty of such an offence is liable, on summary conviction, to a penalty of £5,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; and, on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.)