

NOXIOUS WEEDS.

15° GEO. V., No. XIX.

No. 19 of 1924.

AN ACT to provide for the Eradication and Prevention of the spread of Noxious Weeds.

[Assented to 18th December, 1924.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Noxious Weeds Act, 1924.* Short title.
2. The Noxious Weeds Act, 1904, is hereby repealed. Repeal.
3. In this Act, subject to the context— Interpretation.
 - “Destroy” in relation to any noxious weeds growing on any land, means to grub up, eradicate, and destroy such weeds thoroughly, and “destruction” has a corresponding meaning:
 - “District” means a municipal or road district:
 - “Government Inspector” means an inspector appointed by the Governor under this Act:
 - “Inspector” includes Government inspector and local inspector:
 - “Local Inspector” means an inspector appointed by any local authority under this Act:
 - “Local Authority” means a municipal council or road board:
 - “Local Government Act” means the Municipal Corporations Act, 1906, or the Road Districts Act, 1919:

“Minister” means the Minister for Agriculture and includes any responsible Minister of the Crown authorised by the Governor to act for the Minister for Agriculture, either generally or for the purposes of this Act:

“Noxious Weed” means any plant which by virtue of any notice issued and in force under section four of this Act is a noxious weed either generally or in the locality or place in which such plant is growing or happens to be:

“Owner” or “Occupier,” as applied to any land in any district, has the same meaning as it has in the local government Act applicable to the district:

“Plant” includes any fruit, seed, or part of a plant:

“Register of Deeds” means the register kept under the Ordinance, 19 Victoriae, No. 14.

Governor may declare plants to be noxious weeds.

4. The Governor may, by notice published in the *Gazette*, declare any plant to be a noxious weed, either generally or in any locality defined in the notice, and may from time to time alter or revoke any such declaration.

Government Inspectors.

5. (1.) The Governor may appoint Government inspectors for the purposes of this Act.

(2.) The Governor may, by regulations made under this Act, confer such powers on Government inspectors as he may deem necessary to enable them to perform their duties effectively.

Appointment of Inspectors by local authority.

6. (1.) The local authority of any district may appoint local inspectors for its district.

(2.) In addition to the powers conferred by this Act, a local inspector shall have such powers as may be conferred on him by any by-law made under this Act by the local authority.

Power to destroy after notice.

7. (1.) Any local authority may give notice in writing to the owner or occupier of any land within its district to destroy any noxious weeds growing or being upon such land.

(2.) Should such notice not be complied with within a time to be specified therein, the local authority may authorise any inspector or other person to enter upon such land and destroy any noxious weeds thereon, and such inspector or person shall have power to do all such things as may be reasonably necessary for the destruction of such weeds.

(3.) The local authority may recover the costs and expenses incurred in such destruction from such owner or occupier, in any court of competent jurisdiction, as a debt due from such owner or occupier to the local authority.

(4.) The amount of such costs and expenses shall be ascertained and fixed by the local authority, and a certificate signed by the mayor or chairman of the local authority shall be conclusive evidence of the amount.

(5.) The amount of such costs and expenses shall be deemed to be rates imposed by the local authority on the said land for the financial year current when such costs and expenses were incurred, and shall be a charge on such land accordingly, and the provisions of the relative Local Government Act dealing with the sale and leasing of land for rates shall apply to and in respect of such costs and expenses, and any charge arising thereunder may be enforced in the manner therein provided.

8. Every local authority shall destroy noxious weeds growing on any road or land under its control.

Local authority to destroy weeds on roads.

9. No person shall be liable to comply with any notice for the destruction of noxious weeds while the local authority giving such notice neglects to carry out the provisions of the last preceding section in respect of such portions of the roads or other land under the control of the local authority as are adjacent to the land of the person to whom such notice has been given.

Notice not to be enforced if local authority in default.

10. Any inspector may at any time enter upon any land whatsoever, with or without assistance, for the purpose of ascertaining whether any noxious weeds are growing or happen to be thereon, or of exercising any power or authority vested in him by or under this Act or any by-law or regulation made thereunder.

Authority of Inspector.

11. (1.) As between the owner and occupier, the expense of clearing land pursuant to any notice, whether the same be done by the owner and occupier or either of them or by an inspector or other person, shall be borne in such proportions as may be prescribed by regulations under this Act; subject however, to the express provision of any agreement made between such owner and occupier.

Apportionment of expense between persons interested in land.

(2.) Either party paying more than his proportion may recover the excess from the other by action in any court of competent jurisdiction.

(3.) Any owner having only a partial interest or a particular estate in the land may apply to a Judge in Chambers for an order declaring what portion of any expense of or incidental to the destruction of noxious weeds on the land paid or to be paid by such owner shall be borne by any other person having a partial interest or an estate in the land, and the judge may, subject to this Act, make any order in the premises which shall be just, and any owner paying, or who has paid, more than his proportion of the excess as determined by the order may recover the excess from any person declared by the order liable therefor, by action in any court of competent jurisdiction.

Provision in case
occupier hinders
owner or vice
versa.

12. (1.) An owner or occupier shall have full power to do all that is necessary to comply with the requisitions of any notice binding on him under this Act.

(2.) If any occupier of any land prevents or obstructs any owner from or in obeying or carrying into effect any such requisition, any justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit and facilitate the doing of anything necessary to be done in order to comply with any such requisition, and such occupier shall comply with such order in all respects.

Daily penalty: Two pounds.

(3.) If in the performance or attempted performance of any duty imposed on him by any such notice the occupier of any land is in any way obstructed or hindered by the owner, such owner shall be guilty of an offence against this Act.

Daily penalty: Two pounds.

Mortgagees.

13. Any mortgagee expending or incurring any costs or expenses under this Act, pursuant to any obligation imposed on him by this Act, may add the amount paid to his mortgage debt.

Powers of
trustees.

14. Any trustee being owner of any land may apply any of the funds under his control in defraying any charges, costs, and expenses necessarily or properly incurred by him under or by virtue of this Act as such owner.

Attorney to repre-
sent principal.

15. (1.) Any attorney or agent of an owner who is absent from the State shall be deemed to represent his principal for

the purposes of this Act, so far as regards any land which such attorney or agent is authorised to manage or of which he is authorised to hold possession or collect the rents and profits on behalf of such owner.

(2.) Service on such a representative of the owner of any land of—

(a) any notice required or authorised to be served on such owner under this Act;

(b) any summons or legal process for the recovery of moneys payable by such owner in respect of the land under this Act,

shall be deemed to be good and sufficient service on the owner.

16. (1.) Service of any notice under this Act may be effected—

Manner in which notices may be served.

(a) by delivering it to the person upon whom the same is to be served personally;

(b) by leaving it for him at his usual or last-known place of abode or business, with some person of the apparent age of not less than fourteen years;

(c) by forwarding it by post in a prepaid letter addressed to him at his last-known place of abode or business;

and such service shall be sufficient whether the notice shall come to the hands or knowledge of the person for whom it is intended or not.

(2.) When any person on whom it is desired to serve any notice relating to any land is not within the State and has no attorney authorised (by power of attorney filed and noted under the Transfer of Land Act, 1893, or deposited under the Powers of Attorney Act, 1896) to represent him for the purposes of this Act in respect of such land, then such notice shall be deemed to have been well and sufficiently served on the owner if—

(a) it has been affixed or displayed on or over a conspicuous part of the land, and left so affixed or displayed for at least fourteen days; and

(b) a copy of the notice has been posted to the person appearing to be the owner on search made in the Office of Titles, the Department of Lands and Surveys, the Department of Mines, or the Register of

Deeds, as the case may be, addressed to him at his place of abode or business as disclosed by such search.

(3.) Any occupier of land who is not the owner thereof on whom any notice is served under this Act, shall inform the owner of the fact as soon as practicable.

Penalty: Ten pounds.

(4.) Any notice by this Act required to be given to the owner or occupier of any land may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the land (describing it) in respect of which the notice is given, without further name or description.

Proof of service.

17. (1.) The service of any notice under this Act may be proved by an indorsement on a copy thereof, signed by the inspector or other person by whom it was served, setting forth the day, place, and mode of service; or such person may, in any proceedings, depose to the service on oath or affirmation.

(2.) The signature appearing to be made to an indorsement of service shall be *prima facie* evidence that the indorsement was signed by the person whose signature it purports to be.

(3.) Any false statement, wilfully made, in an indorsement of service shall render the person making the same liable, on summary conviction, to imprisonment, with or without hard labour, not exceeding six months.

Penalty for obstructing inspector.

18. Any person who obstructs or hinders an inspector in the exercise of his duty under this Act shall be liable to a penalty not exceeding fifty pounds.

Occupier to furnish name and address of owner of land.

19. Any occupier of land shall, on being asked by any inspector what the name or address of the owner of the land is, shall answer the question truthfully to the best of his knowledge, information, and belief.

Penalty: Ten pounds.

Noxious weeds not to be brought into State or from one part of the State to another.

20. No person shall bring into the State from any place outside the State, or bring into any part of the State from some other part of the State, any noxious weed or portion of

any noxious weed or the seed of any noxious weed, either for propagation or as packing material or for any other purpose whatsoever.

Penalty: Ten pounds.

21. (1.) All stock brought into the State from elsewhere shall, immediately on being landed at the port of disembarkation or crossing the border, or if consigned for carriage by the Trans-Australian line to Kalgoorlie, on arrival at Kalgoorlie, be received into the custody of a Government inspector and by him kept in strict quarantine until he is satisfied that they are entirely free from the seeds of noxious weeds.

Quarantine and inspection of imported stock to prevent introduction of noxious weeds. 55

(2.) In the case of sheep the inspector shall keep them in quarantine until shorn or slaughtered unless the Minister, exempts them from the provisions of this subsection.

(3.) The wool or skins from such sheep shall be immediately baled, and shall be kept securely baled, and shall not be sold or dealt with otherwise than for export from the State unless it has been previously certified by a Government inspector to be entirely free from the seeds of plants which are noxious weeds either generally or in any locality.

(4.) Any expenses of or connected with any such quarantine as aforesaid, or incurred in the exercise or attempted exercise of any power by any Government inspector under this section shall be payable to the Minister by the owner and consignee of the sheep or other stock, and the amount thereof may be recovered from such owner and consignee (who shall be jointly and severally liable for the same) in any court of competent jurisdiction by the Minister suing in his official name.

(5.) The amount of any such expenses as aforesaid may be certified by the Minister, and his certificate shall be conclusive for all purposes.

(6.) No person shall by act or omission contravene any provision of this section, or obstruct or hinder or attempt to obstruct or hinder any inspector in the discharge of his duty or in the exercise of any power under this section.

Penalty: One hundred pounds.

22. (1.) Any inspector who shall discover in any place any packet, parcel, or collection of seeds which contains or has mixed therewith any seeds of any plant which is either generally or in any locality a noxious weed may seize such packet,

Destruction of seeds of noxious weeds.

parcel, or collection of seeds and may destroy the same or may otherwise deal therewith as the Minister may direct.

(2.) Any inspector who shall discover in any place any plant or part of a plant which is either generally or in any locality a noxious weed may forthwith destroy the same.

(3.) Any seed of any plant or any plant or part of a plant discovered in any place shall be liable to be dealt with under this section, even although the plant may not be a noxious weed in the place where the discovery is made, if such plant is a noxious weed in any part of the State.

Revenue of local authority may be expended.

23. Any local authority may apply its ordinary revenue to the purposes of this Act.

Proof of ownership or occupancy.

24. (1.) In any legal proceedings under this Act, in addition to any other method of proof available—

(i) Evidence that the person proceeded against is rated as owner or occupier of any land; or

(ii) Evidence by the certificate, in writing, of—

(a) the Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as proprietor of any land; or

(b) the Registrar of Deeds and Transfers or his substitute, or any assistant Registrar of Deeds and Transfers, that any person appears from a search made in the register of deeds to be the owner of any land; or

(c) the Under Secretary for Lands or the Secretary for Mines that any person is registered in his Department as the owner, occupier, or lessee of any land,

shall, until the contrary is proved, be evidence that such person is the owner or occupier, as the case may be, of such land.

(2.) The averment in any claim, complaint, or other document in any proceeding instituted for the purposes of this Act by any local authority or any officer thereof that any person is or was at any time the owner or occupier of any land shall be deemed to be proved, in the absence of proof to the contrary.

25. In any legal proceeding under this Act, no proof shall be required—

Simplification of proof in certain cases.

- (1) of the appointment of any inspector; or
- (2) of the authority of any person to exercise the powers and functions of an inspector.

26. The local authority may make by-laws for requiring and compelling owners and occupiers of land to take such measures and do such acts as may be specified in any such by-law to destroy or prevent the spread or propagation of noxious weeds.

By-laws.

The local authority may also make by-laws to prevent the spread of seeds of noxious weeds by the wheels of aeroplanes.

The local authority may also make by-laws prescribing any matters which it may be necessary or convenient to prescribe for the purpose of carrying this Act into effect:

The local authority may, also, by by-law, impose a penalty not exceeding five pounds for the breach of any by-law: Provided that in so far as any by-law made by a local authority is in conflict with any regulation made by the Governor, it shall be invalid.

27. The provisions of its local government Act shall apply to and in respect of every by-law made by a local authority, and the making thereof and all the powers exercisable by the authority under such Act in respect of by-laws made thereunder shall be exercisable in respect of by-laws made under this Act.

Local Government Acts to apply to by-laws.

28. (1.) When, in the opinion of the Minister, any local authority is not carrying out or exercising its powers or duties under this Act efficiently, the Minister may appoint a Commissioner to exercise the powers of the local authority under this Act.

Powers of Minister in case local authority makes default in carrying out this Act.

(2.) Every such Commissioner shall be paid such salary out of the ordinary revenue of the local authority as the Minister may determine, and shall be removable at the will of the Minister; who may appoint another person in his place.

(3.) Every Commissioner so appointed shall be deemed to be the local authority for the purposes of this Act, and shall have and may exercise all the powers (including the power to make by-laws), and be subject to all the duties of the local authority.

(4.) Instead of appointing a Commissioner the Minister may by order authorise any Government inspector to do any particular act or acts or take any measures which the local authority ought, in the opinion of the Minister, to have taken or carried out, and such inspector shall have and may exercise the powers and authorities of the local authority so far as necessary to carry out the said order.

(5.) Any expenses incurred by any Commissioner or Government inspector in the exercise of any powers conferred by him pursuant to this section shall be payable out of the ordinary revenue of the local authority, and may be recovered from such authority by action, by the Minister in his official name, in any court of competent jurisdiction.

(6.) The Minister may at any time, by order under his hand, restore the authority of the local authority under this Act, and thereupon the powers of any Commissioner or Government inspector who has been acting under this section shall come to an end.

**Clearing of Crown
land.**

29. On a report being made to the Minister by any local authority that any noxious weed is growing upon any Government railway reserve, stock route, or camping ground, or unoccupied Crown lands within one mile of cultivated land, all such reserves, routes, grounds or lands shall from time to time be cleared by the Minister for Lands and the Commissioner of Railways respectively.

Regulations.

30. (1.) The Governor may make such regulations as it may be necessary or convenient to make, for the purpose of carrying this Act into effect.

(2.) Every regulation made by the Governor under this Act may impose a penalty not exceeding five pounds for a breach thereof.