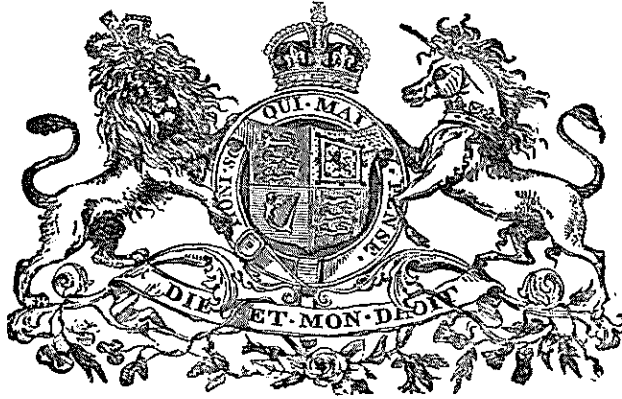


WESTERN AUSTRALIA.



ANNO QUARTO
EDWARDI SEPTIMI REGIS,
XX.

No. 45 of 1904.

AN ACT to prevent the spread of Noxious Weeds.

[Assented to 24th December, 1904.]

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*, 1904, and shall come into force on the first day of January, one thousand nine hundred and five. Short title and commencement
2. The Noxious Weeds Act, 1900, is hereby repealed. Repeal.
3. In this Act, save so far as the context otherwise requires—
“Clear,” in relation to land, means to cut down and keep cut down, or to grub or pull up the stems or roots of noxious weeds, or to burn or plough under noxious weeds so as in every case to prevent any part of them from flowering:
“Inspector” means an inspector appointed under this Act, and includes any person authorised by the Minister to perform the duties of an inspector: Interpretation.
See N.Z., 1900, No. 10, s. 2.

“Local Authority” means a municipal council or road board:

“Locality” means any area of country described as such by the Minister and published in the *Government Gazette*:

“Minister” means the Minister for Lands, and includes the responsible Minister of the Crown acting for the time being as Minister for Lands:

“Noxious Weeds” means such plants as the Minister, by notice in the *Government Gazette*, may declare to be noxious weeds, either generally or in any particular locality:

“Occupier” means every person in occupation of or found working upon land, and includes the owner of any land which is apparently unoccupied:

“Owner” means the person for the time being registered in the office of Land Titles or the Registry of Deeds, or in the Department of Lands or of Mines, as the proprietor, owner, lessee, or licensee of land, and includes any person for the time being entitled to the rent of land, or who would be entitled to the rent if the land were let at a rent.

Minister may
declare plants to be
noxious weeds.

4. The Minister may, at any time, on the recommendation of the advisory board of the Department of Agriculture, by notice in the *Government Gazette*, declare any plants to be noxious weeds, either generally or in any particular locality, and may, from time to time, alter or revoke any such declaration.

Inspectors.

5. The Governor may from time to time appoint inspectors, with such powers and functions as he deems necessary to carry out the provisions of this Act.

Inspector may enter
upon land.

N.Z., 1900, No. 10,
s. 10.

6. An inspector may, at all reasonable times, enter upon any land, whether enclosed or not, for the purpose of ascertaining if any noxious weeds are growing thereon.

Notice to be served
on occupier of
infested land.

See *ibid.*, s. 11.

7. If an inspector finds any noxious weed growing upon any land he may, by notice to the occupier in the form or to the effect of the Schedule hereto, require him to clear the land within the time specified in the notice, and it shall be the duty of the occupier to do so.

Such notice shall indicate, as nearly as practicable, the portion or portions of the land on which the noxious weed is growing.

Penalty for neglect
to clear after notice.

8. Any occupier who fails or neglects to clear the land in accordance with such notice shall be liable, on the information of an inspector, to a penalty not exceeding fifty pounds.

But the justices may suspend any proceedings for the recovery of such penalty for such time not exceeding three months as they may think fit, on being satisfied that the defendant is using reasonable exertions to clear the land.

Provided that, if the land is cleared within the time fixed by the justices no penalty shall be inflicted.

9. If the occupier fails or neglects to clear the land in accordance with such notice as aforesaid, an inspector may enter upon the land, with or without assistants, and do the work at the expense in all things of the occupier; but nothing herein contained shall relieve the occupier from any penalty he may have incurred by reason of his default, failure, or neglect.

Inspector may clear at occupier's expense.

N.Z., 1900, No. 10, s. 12.

10. The amount of such expense shall be ascertained and fixed by a certificate in writing signed by the Minister, and shall be recoverable by him from the occupier or, at the option of the Minister, from the owner of the land, with costs, in any court of competent jurisdiction.

Minister may recover expense.

11. (1.) As between the owner and occupier, the expense of clearing the land, under section seven or nine hereof, shall be borne as follows:—

Proportion of expense to be borne by owner and occupier.

If the occupier, at the time of service of the notice as aforesaid, has a right of occupation for six years or more, he shall bear the whole of the expense;

See *ibid.*, s. 13.

If for four years but less than six years, the occupier shall bear two-thirds of the expense;

If for two years but less than four years, the occupier shall bear one-third of the expense;

But if for less than two years, the owner shall bear the whole of the expense.

(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, paying a sum beyond what is proportional to such interest, may recover such excess from any other owner or owners, and shall be entitled to a charge on the interest in the land of such other owner or owners for such excess.

12. Any person being a mortgagee in possession of land shall be liable as owner, and may add to his mortgage debt any sum expended or contributed by or recovered from him under this Act.

Expenditure by mortgagee.

13. Every local authority shall, out of its general revenue, from time to time clear all lands under its control, and if it fails or neglects to do so, the Minister may cause the same to be done, and may recover the expense from the local authority in any court of competent jurisdiction.

Local authority to clear lands under its control.

Ibid., s. 18.

Clearing of Crown land.

14. On a report being made to the Minister by any municipal council or road board, or the advisory board of the Department of Agriculture, 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.

Manner in which notices may be served.

N.Z., 1900, No. 10, s. 24.

15. Any notice under this Act may be served—

- (1.) By delivering it to the person upon whom the same is to be served personally;
- (2.) By leaving it for him at his usual or last known place of abode or business;
- (3.) By forwarding it by post in a prepaid letter addressed to him at his last known place of abode or business;
- (4.) By affixing it in some conspicuous place on the land to which it relates.

If owner absent, agent liable.

16. If any person appearing to be the owner of any land is, or is reasonably believed to be, absent from Western Australia, or cannot after reasonable inquiries be found, any notice or legal process served on the agent of the owner shall be deemed to have been duly served on the owner.

Proof of service.

17. (1.) The service of any notice under this Act may be proved by an indorsement on a duplicate thereof, signed by the inspector 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 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 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.

Inspector to produce certificate of appointment.

18. Every inspector shall be furnished in writing under the hand of the Minister with a certificate of his appointment, and upon his entering upon any premises for the purposes of this Act he shall, if required, produce such certificate to the owner or occupier.

Penalty for obstructing inspector.

Ibid., s. 19.

19. 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.

20. All penalties under this Act shall be recoverable summarily before any two justices of the peace in petty sessions, and shall be paid to the Colonial Treasurer for the public use of the State.

Recovery and appropriation of penalties.
Ibid., s. 20.

21. In any legal proceedings under this Act—

Proof of ownership.

- (a.) A certificate purporting to be signed by the Registrar of Titles, or his deputy, that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as the proprietor or lessee of any land; and
- (b.) A certificate purporting to be signed by the Under Secretary for Lands or for Mines that any person is registered as the lessee or licensee of any land; or
- (c.) A certificate purporting to be signed by an officer of a municipal council, or road board, that any person is rated as an owner or occupier in respect of any land to any general rate for the municipality or road district within which such land is situated,

shall be *prima facie* evidence that such person is the proprietor, lessee, licensee, owner, or occupier, as the case may be, of such land.

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

Simplification of proof in certain cases.

- (1.) Of any authority to prosecute; or
- (2.) Of the appointment of any inspector; or
- (3.) Of the authority of any person to exercise the powers and functions of an inspector; or
- (4.) Of the signature of the Minister or of any inspector.

23. All expenses incurred in the administration of this Act shall be paid out of the moneys to be appropriated by Parliament for the purpose.

Provisions for expenses.
Ibid., s. 22.

24. The Governor may make regulations for carrying this Act into effect.

Regulations.

Section 7.

THE SCHEDULE.

The Noxious Weeds Act, 1904.

To A.B.

(Address.)

(Occupation.)

TAKE NOTICE, that the undermentioned noxious weeds are growing upon the land occupied by you, as hereunder indicated, and you are required to clear the said land within _____ from this date.

Land.	Description of Weeds to be cleared.

Dated the _____ day of _____ 19 .

Inspector.