



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 24 of 1976

An Act to provide for the control of pest plants within the State; to repeal the Weeds Act, 1956-1969, and for other purposes.

[Assented to 4th March, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

<u>PART I</u>	PART I PRELIMINARY
Short title.	1. This Act may be cited as the "Pest Plants Act, 1975".
Commence- ment.	2. This Act shall come into operation on a day to be fixed by proclamation.
Arrangement of Act.	3. This Act is arranged as follows:—
	PART I—PRELIMINARY
	PART II—ADMINISTRATION
	DIVISION I—PEST PLANTS COMMISSION
	DIVISION II—PEST PLANT CONTROL BOARDS
	DIVISION III—AUTHORIZED OFFICERS
	DIVISION IV—FINANCIAL PROVISIONS
	PART III—CONTROL OF PEST PLANTS
	DIVISION I—DECLARATION AND CLASSIFICATION OF PEST PLANTS
	DIVISION II—PEST PLANT CONTROL BY BOARDS
	DIVISION III—PEST PLANT CONTROL BY OWNERS OF LAND
	DIVISION IV—SPECIAL OFFENCES
	PART IV—MISCELLANEOUS.

4. The following Acts are repealed:—

Weeds Act, 1956

Weeds Act Amendment Act, 1963

Weeds Act Amendment Act, 1969.

5. In this Act, unless the contrary intention appears—

Interpretation.

“agricultural pest plant”, in relation to any part of the State, means any plant of a species that is, for the time being, by virtue of a proclamation under Part III of this Act, a species of agricultural pest plant in that part of the State:

“area”—

(a) in relation to a council—means the area of the council;

and

(b) in relation to a control board—means the control area of that board:

“authorized officer” means a person holding office as a State authorized officer or a local authorized officer pursuant to an appointment under Part II of this Act:

“board year” means a year commencing on the first day of January and ending on the thirty-first day of December:

“the Chairman” means the chairman of the Commission and includes a deputy of the Chairman duly acting in his office:

“the Commission” means the Pest Plants Commission established under Part II of this Act:

“community pest plant”, in relation to any part of the State, means any plant of a species that is, for the time being, by virtue of a proclamation under Part III of this Act, a species of community pest plant in that part of the State:

“to control”, in relation to a pest plant, means—

(a) to carry out measures designed to inhibit propagation of the plant;

(b) to destroy the plant;

or

(c) to carry out any measures prescribed for the control of pest plants of the relevant species:

“control area” means the area of land in relation to which a control board is established:

“control board” or “board” means a pest plant control board established under Part II of this Act:

“council” means a council as defined in the Local Government Act, 1934-1975, and includes a body corporate that is by virtue of any Act deemed to be, or vested with the powers of, a council:

“Crown lands” means lands that are Crown lands for the purposes of the Crown Lands Act, 1929-1975:

“to destroy”, in relation to a pest plant, includes to carry out any measures prescribed for the destruction of pest plants of the relevant species:

“the Fund” means the Pest Plants Commission Fund:

“member”, of the Commission or a control board, includes a deputy of the member duly acting in his place:

“member council”, in relation to a control board, means—

(a) where a council is constituted a control board in relation to the area, or part of the area, of the council—that council;

or

(b) in any other case—any council whose area lies in whole or in part within the area of the board:

“the Minister” means the Minister of the Crown to whom the administration of this Act is committed, and includes any Minister of the Crown for the time being discharging the duties of office of that Minister:

“owner”—

(a) in relation to land alienated from the Crown by grant, means the holder (at law or in equity) of an estate in fee simple in the land;

(b) in relation to land held of the Crown by lease or licence, means the lessee or licensee;

and

(c) in relation to land held of the Crown under an agreement to purchase, means the person upon whom a right of purchase is conferred by the agreement,

and includes an occupier of the land:

“pest plant” means primary pest plant, agricultural pest plant or community pest plant:

“plant” includes any part, and the seed, of a plant:

“primary pest plant”, in relation to any part of the State, means any plant of a species that is, for the time being, by virtue of a proclamation under Part III of this Act, a species of primary pest plant:

“public road” includes any land that lies between the boundary of adjacent land and the edge of the constructed carriageway:

“the repealed Act” means the Weeds Act, 1956-1969, repealed by this Act:

“travelling stock reserve” means any land reserved under the Crown Lands Act, 1929-1975, as a travelling stock reserve.

Transitional
and vesting
provisions.

6. (1) The property, rights, powers, duties and liabilities of the committee known as the “Weeds Advisory Committee” constituted under the repealed Act are, subject to this Act, hereby transferred to and vested in the Commission.

(2) Any proceedings commenced by or against the committee referred to in subsection (1) of this section and not finally disposed of at the commencement of this Act, may be continued by or against the Commission.

(3) The provisions of the repealed Act shall, notwithstanding any provision of this Act, continue in force in any part of the State that lies within the area of a council until such time as a control board is established in respect of that part of the State.

7. (1) It is the duty of the Minister in whom the control or management of Crown lands is vested to attempt with due diligence to achieve so far as is reasonably practicable—

Duty of the Crown.

(a) the destruction of all primary pest plants on those lands;

and

(b) the control of agricultural and community pest plants on the lands to the extent necessary to prevent their propagation onto neighbouring land.

(2) It is the duty of a Minister or other instrumentality of the Crown in whom the ownership of any land is vested to attempt with due diligence to achieve so far as is reasonably practicable—

(a) the destruction of all primary pest plants on that land;

and

(b) the control of agricultural and community pest plants on that land to the extent necessary to prevent their propagation onto neighbouring land.

PART II

PART II

ADMINISTRATION

DIVISION I—PEST PLANTS COMMISSION

DIVISION I

8. (1) There shall be a commission entitled the "Pest Plants Commission".

The Commission.

(2) The Commission shall—

(a) be a body corporate with a common seal;

(b) in its corporate name be capable of suing and being sued;

(c) be capable of holding, acquiring, dealing with and disposing of real and personal property;

(d) be capable of acquiring or incurring any other rights or liabilities;

(e) have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act;

and

(f) perform its functions and hold its property on behalf of the Crown.

9. (1) The Commission shall be comprised of six members appointed by the Governor, of whom—

Members of the Commission.

(a) one (the Chairman) shall be an officer in the public service of the State who, in the opinion of the Minister, has a wide knowledge of agriculture;

PART II
DIVISION I

(b) two shall be persons who are officers in the public service of the State and who, in the opinion of the Minister, have knowledge of and experience in matters relating to pest plants and their control;

(c) two shall be persons who, in the opinion of the Minister, have extensive experience in local government and in primary production;

and

(d) one shall be a person who, in the opinion of the Minister, is a proper person to represent the interests of primary industry.

(2) A member of the Commission shall be appointed for such term of office, not exceeding three years, as the Governor determines and specifies in the instrument of appointment and upon the expiration of his term of office he shall be eligible for re-appointment.

Deputies.

10. (1) The Governor may appoint a deputy to any member of the Commission and if a member is absent from a meeting of the Commission his deputy may act in his place and, while so acting, shall for all purposes be deemed to be a member of the Commission.

(2) The deputy of the Chairman, while acting in his place, shall for all purposes be deemed to be the Chairman of the Commission.

**Removal from
and vacancies
of office.**

11. (1) The Governor may remove a member of the Commission from office on the grounds of—

(a) mental or physical incapacity;

(b) neglect of duty;

or

(c) dishonourable conduct.

(2) The office of a member of the Commission shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (1) of this section.

(3) Upon the office of a member of the Commission becoming vacant, a person shall be appointed to that office in accordance with this Act.

(4) Where the office of a member of the Commission becomes vacant before the expiration of the term of office for which he was appointed, a person appointed in his place shall be so appointed only for the balance of that term.

**Allowances and
expenses.**

12. The members of the Commission shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

13. An act or proceeding of the Commission shall not be invalid by reason only of a vacancy in its membership or any defect in the appointment of a member.

Validity of
acts of the
Commission.

14. (1) Any four members of the Commission shall constitute a quorum of the Commission and no business shall be transacted at any meeting of the Commission unless a quorum is present.

Quorum, etc.

(2) The Chairman shall preside at all meetings of the Commission at which he is present.

(3) In the absence of the Chairman, the members present at a meeting of the Commission shall elect one of their number to preside at that meeting.

(4) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the Commission.

(5) The person presiding at a meeting of the Commission shall, in the event of an equality of votes, have a second or casting vote, in addition to a deliberative vote.

(6) Subject to this Act, the Commission may conduct its business in such manner as it thinks fit.

15. (1) There shall be an Executive Officer of the Commission who shall be appointed and shall hold office subject to and in accordance with the Public Service Act, 1967-1975.

Executive
Officer of the
Commission
and other
officers.

(2) The Governor may, subject to and in accordance with the Public Service Act, 1967-1975, appoint such other officers as he considers necessary or expedient for the proper administration of this Act, and any such person shall hold office subject to and in accordance with that Act.

(3) The Commission may, with the approval of the Minister, appoint upon terms and conditions from time to time determined by the Governor such officers and employees as it considers necessary or expedient for the proper administration of this Act, and the Public Service Act, 1967-1975, shall not apply to or in relation to persons so appointed.

(4) The office of any person appointed or employed under this section may be held in conjunction with any other office in the public service of the State.

(5) The Commission may, with the approval of the Minister administering any department of the public service of the State, upon terms mutually arranged, make use of the services of any officer, or use any motor vehicles or equipment, of that department.

16. (1) The functions of the Commission shall include the following:—

Functions of
the Commis-
sion.

- (a) to ensure that the provisions of this Act are carried out and enforced;
- (b) to promote research into the control of pest plants;
- (c) to collate and maintain a record of pest plants and their incidence within the State;

PART II
DIVISION I

(d) to develop, implement and advise on a co-ordinated programme for the control of pest plants;

and

(e) to perform such other functions as may be necessary or incidental to the foregoing.

(2) The Commission may delegate to any person any of its duties, functions or powers under this Act, except this power of delegation.

(3) A delegation under subsection (2) of this section shall be revocable at will and shall not derogate from the power of the Commission to act in any matter.

Powers of Commission in relation to lands outside control areas.

17. The Commission shall have, and may exercise or discharge, in respect of any part of the State that does not lie within a control area, all the powers, duties and functions conferred or imposed upon a control board by this Act.

DIVISION II

DIVISION II—PEST PLANT CONTROL BOARDS

Creation of boards and control areas.

18. (1) The Governor, upon the recommendation of the Commission, may by proclamation establish a pest plant control board and define its area.

(2) Before making a recommendation under subsection (1) of this section, the Commission shall consider the representations of any council that may become a member council of the proposed control board.

(3) Where a control area is created that is comprised of the area, or part of the area, of only one council—

(a) the proclamation shall provide that the council shall constitute the control board for that control area;

and

(b) the provisions of sections 20, 21, 22, 23 and 24 of this Act shall not apply to or in relation to that board.

(4) Where a control area is created that is comprised of the area, or part of the area, of more than one council, the proclamation shall—

(a) designate the board by a distinctive name;

(b) provide for the appointment, by member councils, of members of the board;

(c) fix the quorum of the board;

and

(d) fix the terms and conditions upon which members of the board shall hold office.

(5) The Governor may, upon the recommendation of the Commission, by further proclamation amend, vary or repeal any proclamation made under this section.

19. A board shall—

- (a) be a body corporate with a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) be capable of holding, acquiring, dealing with and disposing of real and personal property;
- (d) be capable of acquiring or incurring any other rights or liabilities;
- and
- (e) have the powers, rights, duties and functions conferred, imposed or prescribed by or under this or any other Act.

20. (1) Upon the establishment of a board under this Part, the member councils of that board shall appoint the members of the board in accordance with the proclamation. Appointment of members to a board.

(2) A member of a board must be a member of the council appointing him to that office.

(3) A member of a board shall be entitled to such allowances and expenses as the council that appointed him may from time to time determine.

(4) Where a member council of a control board fails to appoint a member, or members, of that board in accordance with a proclamation, the Commission may appoint to the office of any such member a person who is a member of that council or who resides in the portion of the area of that council that lies within the control area.

(5) An act or proceeding of a board shall not be invalid by reason only of a vacancy in its membership or any defect in the appointment of a member.

21. (1) At the first meeting of a board, the members present shall elect one of their number to be the chairman of the board for the period expiring on the thirty-first day of December next following, and a chairman shall be elected from time to time for each ensuing board year. Chairman.

(2) The chairman shall preside at all meetings of the board at which he is present.

(3) In the absence of the chairman, the members present at a meeting shall elect one of their number to preside at that meeting.

(4) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the board.

(5) The person presiding at a meeting of the board shall, in the event of an equality of votes, have a casting vote, in addition to a deliberative vote.

22. (1) A council may appoint a person to be a deputy of a member of a board appointed by that council and if a member is absent from a meeting of the board, his deputy may act in his place, and while so acting, shall for all purposes be deemed to be a member of the board. Deputies of members.

(2) The deputy of a chairman of a board, while acting in his place, shall for all purposes be deemed to be the chairman of that board.

PART II
DIVISION II
 Removal from
 and vacancies
 of office.

23. (1) A member of a board may be removed from office by the council that appointed him, or by the Commission, on the grounds of—

(a) mental or physical incapacity;

(b) neglect of duty;

or

(c) dishonourable conduct.

(2) The office of a member of a board shall become vacant if—

(a) he dies;

(b) his term of office as a member of the council by which he was appointed expires;

(c) his term of office under this Act expires;

(d) he resigns by written notice addressed to the council that appointed him;

or

(e) he is removed from office under subsection (1) of this section.

(3) Subject to subsection (4) of this section, upon the office of a member of a board becoming vacant, the council that appointed him shall appoint a person to that office in accordance with this Part.

(4) Where, by virtue of subsection (1) of this section, the Commission removes a member of a board from office, the Commission shall appoint to that office a person who is a member of the council of which his predecessor in office was a member, or a person who resides in the portion of the area of that council that lies within the control area.

(5) Where the office of a member of a board becomes vacant before the expiration of the term for which he was appointed under this Act, a person shall be appointed in his place only for the balance of that term.

Secretary.

24. A board may appoint a person, other than a member of the board, to be secretary of that board.

Accounts.

25. A board shall—

(a) keep accounts of its revenue and expenditure;

(b) appoint an auditor for the purpose of auditing those accounts;

and

(c) as soon as practicable after the end of each board year, send a copy of those audited accounts to the Commission.

**Meetings and
 procedure.**

26. (1) Subject to this Act, a board shall conduct its business in such manner as it may determine.

(2) A board shall—

(a) hold its first meeting within the period of two months next following the date on which the board was established;

- (b) hold at least four meetings for the transaction of business in each board year;
and
- (c) admit to any of its meetings an officer of the Department authorized by the Commission to attend meetings of control boards.

DIVISION III—AUTHORIZED OFFICERS

DIVISION III

27. (1) The Minister may appoint a person to be a State authorized officer.

State
authorized
officers.

(2) The powers conferred on a State authorized officer by this Act may be exercised in the whole of the State or such part or parts thereof as may be designated in the instrument of appointment.

(3) The Minister shall furnish a State authorized officer with a certificate of his appointment.

28. (1) A board shall appoint at least one person to be a local authorized officer.

Local
authorized
officers.

(2) The powers conferred on a local authorized officer by this Act may be exercised only within the area of the board by which he is appointed.

(3) A local authorized officer must have such qualifications gained through the Department of Further Education, or experience, in the field of pest plant control or any other field related thereto, as may be prescribed.

(4) A board shall furnish a local authorized officer with a certificate of his appointment.

29. (1) Subject to this Act, an authorized officer may, for the purposes of this Act, at any reasonable time—

Powers of
authorized
officers.

- (a) enter upon any land or premises;
- (b) search that land or those premises for the presence of any pest plant;
- (c) question any person as to any matter relating to the control of pest plants;
- (d) require the production by any person of any book or document relating to the control of any pest plant and inspect and take copies of, or extracts from, that book or document;
- (e) take a specimen, or specimens, of any plant found upon any land or premises;
- (f) advise any person on the measures that must be taken by him for the control of pest plants in accordance with this Act;
and
- (g) search, and if he considers it necessary to do so, take possession of any animal, plant, vehicle or farming implement, or any other thing, that he believes on reasonable grounds may be carrying any pest plant, and take such measures as he thinks necessary to remove and destroy any pest plant found thereon.

PART II
DIVISION III

(2) An authorized officer may be accompanied by such persons as he considers necessary to assist him in the exercise of the powers conferred upon him by this section.

(3) A person shall not hinder or obstruct an authorized officer, or a person assisting an authorized officer, in the exercise of the powers conferred upon the authorized officer by this section.

Penalty: Not less than twenty dollars nor more than two hundred dollars.

(4) An authorized officer shall, upon the request of any person in relation to whom the authorized officer intends to exercise any of the powers conferred upon him by this section, produce for the inspection of that person the certificate of appointment furnished him under this Part.

Penalty: Not less than five dollars nor more than fifty dollars.

DIVISION IV

DIVISION IV—FINANCIAL PROVISIONS

Moneys
provided by
Parliament.

30. Subject to this Act, the moneys required for the purposes of this Act shall be paid out of moneys appropriated by Parliament for those purposes.

Pest Plants
Commission
Fund.

31. (1) The Commission shall establish, maintain and administer a fund to be called the "Pest Plants Commission Fund".

(2) The Fund shall consist of—

- (a) the moneys provided by Parliament under this Division;
- (b) income from investment of any moneys belonging to the Fund;
- (c) penalties paid to the Commission under this Act;
- and
- (d) all other moneys paid to or received by the Commission that should properly be paid into the Fund.

(3) The Fund shall be kept in a separate account at the Treasury.

(4) Any moneys in the Fund that are not for the time being required for the purposes of this Act may, with the consent of the Treasurer, be invested by the Commission in a manner approved by the Treasurer.

(5) The Commission may apply any part of the Fund—

- (a) in defraying the expenses incurred by the Commission in the administration of this Act;
- and
- (b) in paying subsidies or making grants to control boards under the provisions of this Act.

Board funds

32. (1) A board shall establish, maintain and administer a fund to be called by a distinctive name.

(2) A board fund shall consist of—

- (a) contributions received from member councils;
- (b) subsidies and grants paid by the Commission under this Act;

- (c) income from investment of any moneys belonging to the board fund;
 - (d) penalties paid to the board under this Act;
 - (e) any moneys borrowed by the board;
- and
- (f) all other moneys paid to or received by the board that should properly be paid into the board fund.

(3) Any moneys in a board fund that are not for the time being required for the purposes of this Act may, with the consent of the Commission, be invested by the board in any investments authorized by law for the investment of trust funds.

(4) A board may apply any part of its fund—

- (a) in defraying the expenses incurred by the board in the administration of this Act;
- and
- (b) in the purchase or hire of any land, buildings, plant or equipment required by the board for the purposes of this Act.

(5) A board may, with the consent of the Commission, borrow money from such sources and upon such terms as the Commission may approve.

33. (1) A control board shall lodge with the Commission, not later than the thirty-first day of October in each year, a written estimate of the expenditure to be incurred by the board in the discharge of its duties and the performance of its functions under this Act during the board year next ensuing.

Contributions
by member
councils to
board funds.

(2) The Commission shall, upon the basis of an estimate received from a board under subsection (1) of this section, determine in respect of each member council of that board the sum of money to be contributed by the council to the board fund in respect of the board year next ensuing.

(3) Before making a determination under subsection (2) of this section, the Commission shall have regard to any representations made by the control board, or any member council of that board, in the matter.

(4) The contribution to be paid by a member council under this section shall be—

- (a) in respect of such portion of the council area as lies within the control area and is comprised of rural land, such percentage, not exceeding three per cent, of the general rate revenue to be derived by the council during the current financial year in respect of that rural land, as the Commission determines;

and

- (b) in respect of such portion of the council area as lies within the control area and is comprised of urban land, such sum of money as the Commission determines.

PART II
DIVISION IV

(5) The Commission shall, not later than the thirty-first day of December in each year, give a notice in writing to a control board and each member council of that board of the determination made by the Commission as to the contributions to be paid by the member councils, and shall cause that determination to be published in the *Gazette*.

(6) A member council shall pay the contribution determined by the Commission under this section into the board fund not later than the twenty-eighth day of February next following the making of the determination and shall, upon payment of the contribution, notify the Commission in writing thereof.

(7) If a member council fails to pay its contribution into the board fund in accordance with subsection (6) of this section, the Minister may deduct the whole, or part, of the sum due by the council from any moneys payable to the council by way of subsidy or Government grant, and may pay the amount so deducted into the board fund in full, or part, satisfaction of the liability of the member council.

(8) In this section—

(a) “rural land” means any ratable property that does not lie within a municipality or township: “urban land” means any ratable property that lies within a municipality or township;

and

(b) the expressions “municipality”, “ratable property” and “township” have the meanings assigned to those expressions in the Local Government Act, 1934-1975.

Commission
to pay
subsidies.

34. (1) Subject to this section, the Commission shall, on or after the first day of March in each year, pay a subsidy to a control board at the rate of fifty cents for every dollar of the total contribution paid by member councils under section 33 of this Act in respect of that board year.

(2) The Commission may, in such circumstances as it thinks fit, make a special grant to a control board for any of the purposes of this Act.

PART III

PART III

CONTROL OF PEST PLANTS

DIVISION I

DIVISION I—DECLARATION AND CLASSIFICATION OF PEST PLANTS

The Governor
may proclaim
and classify
pest plants.

35. (1) The Governor may, upon the recommendation of the Commission, declare by proclamation any plant to be a pest plant for the purposes of this Act.

(2) A proclamation under this section may classify the plant—

(a) if, in the opinion of the Commission, it is a plant that ought to be destroyed, as a primary pest plant;

- (b) if, in the opinion of the Commission, it is a plant that is detrimental to any primary industry, as an agricultural pest plant;
- or
- (c) if, in the opinion of the Commission, it is a plant that is detrimental to the community or the environment, as a community pest plant.

(3) A proclamation under this section—

- (a) shall declare a primary pest plant to be a primary pest plant throughout the whole of the State;
- or
- (b) may declare an agricultural pest plant or a community pest plant to be such a pest plant throughout the whole of the State or such part or parts of the State as may be described or delineated in the proclamation.

(4) The Governor may, by subsequent proclamation, upon the recommendation of the Commission, vary or revoke any proclamation under this section.

36. (1) The owner of any land who finds on his land, or becomes aware of the existence on his land, of—

- (a) a primary pest plant;
- or

(b) an agricultural pest plant declared to be notifiable under this section, shall, not later than fourteen days after finding or becoming aware of the existence of that plant, give notice in writing personally or by post to the control board in whose area his land lies of the species and position of the plant.

Penalty: Not less than fifty dollars nor more than five hundred dollars.

(2) A control board may, with the approval of the Commission, declare by notice published in the *Gazette* and in a newspaper, or newspapers, circulating throughout its control area, that a specified agricultural pest plant is notifiable under this section until a specified date or until further notice is given by the board.

(3) A control board that becomes aware of the existence of a primary pest plant on any land that lies within its control area shall, not later than seven days after becoming so aware, give notice in writing to the Commission of the species and position of the plant.

37. (1) A control board shall, no later than the thirty-first day of March in each year, cause to be published in a newspaper, or newspapers, circulating throughout its control area, a list of all species of plants that are pest plants within that control area and of the classifications of those pest plants.

Boards to
publish
annual lists
of pest plants

(2) A control board shall cause to be published in the same manner as provided in subsection (1) of this section a copy of each proclamation made under this Division by virtue of which a plant becomes, or ceases to be, a pest plant within the area of the board, as soon after the making of that proclamation as is practicable.

PART III

DIVISION II

DIVISION II—PEST PLANT CONTROL BY BOARDS

General
functions of
boards.

38. The functions of a control board shall be—

- (a) to ensure that the provisions of this Act are implemented and enforced within the control area of the board;
 - (b) to co-operate with the Commission and other control boards in the development or implementation of co-ordinated programmes for the control of pest plants;
 - (c) to discharge the duties and obligations imposed upon the board by or under this or any other Act;
- and
- (d) to perform such other functions as may be necessary or incidental to the foregoing.

Duties of
control boards
with respect to
certain lands.

39. (1) A control board shall, to the extent allowed by its resources, destroy all primary pest plants and control all agricultural pest plants and community pest plants on—

- (a) all lands owned by the board;
 - (b) all public roads within the control area;
- and
- (c) all travelling stock reserves within the control area.

(2) Where the Commission is satisfied that a control board has not complied with its duty under this section, the Commission may, by notice in writing to that control board, require it to take such measures for the control of pest plants, within a specified period of time, as are specified in the notice.

Recovery of
costs of
controlling
pest plants
on roads from
adjoining
owners.

40. (1) Subject to this Act, where a board incurs expense in controlling pest plants upon a public road, the owner of land adjoining the road shall be liable to pay to the board such portion of the expenses as was incurred in destroying primary pest plants or controlling agricultural pest plants upon the section of the road that adjoins his property, up to the middle of the road.

(2) For the purposes of this section, a board may from time to time fix a minimum charge (not exceeding a limit fixed by the Commission) for the controlling of pest plants upon a section of a public road.

(3) A board shall give notice in writing to an owner of land within three months of the board carrying out measures to control pest plants on a public road that adjoins his land, requiring him to pay an amount specified in the notice (being either the amount that he is required to defray under subsection (1) of this section or a minimum charge fixed under this section).

(4) Any amount due by an owner of land by virtue of this section shall be recoverable by the board as a debt in a court of competent jurisdiction.

(5) A board may, if it is satisfied that just and proper grounds exist for it to do so, exempt any owner of land from payment of the whole, or part, of any sum due to the board under this section.

**PART III
DIVISION II**

(6) Where an owner of land, with the prior approval of the board, controls pest plants upon the section of a public road that adjoins his land, up to the middle of the road, at his own expense, or where a board receives payment of any moneys from an owner of land under this section, and the board subsequently receives a grant from the Commission that covers the whole, or part, of that expense or payment, the board shall reimburse the owner accordingly.

41. (1) The Commission may, at its discretion, grant moneys to a control board reimbursing it for expenses incurred by it, with the prior approval of the Commission, in the controlling of pest plants—

Commission to reimburse boards for controlling pest plants on certain lands and roads.

- (a) upon unoccupied Crown lands;
- (b) upon travelling stock reserves;
- (c) upon any public road that adjoins lands vested in or occupied by a Minister of the Crown or a Government instrumentality;
- (d) upon that portion of a public road to which a proclamation under subsection (2) of this section applies;
- and
- (e) in the case of community pest plants, upon any public road.

(2) The Governor may, by proclamation, declare that the Commission will assume the expense of controlling pest plants on public roads referred to in the proclamation or upon such portions of those roads as may be described or delineated in the proclamation.

42. A board shall permit a State authorized officer or the Executive Officer of the Commission to assist and advise the board in the discharge of its duties and obligations under this Part and shall carry out any instructions that those persons may, with the approval of the Commission, give to the board.

Boards to co-operate with State authorized officer, etc.

DIVISION III—PEST PLANT CONTROL BY OWNERS OF LAND**DIVISION III**

43. It shall be the duty of the owner of any land, at his own cost and expense, to destroy all primary pest plants and control all agricultural pest plants and community pest plants upon that land.

Duty of owner to control pest plants on his land.

44. (1) Where a control board is satisfied that an owner of land has not complied with his duty under this Division, it may, by notice in writing, require him to take such measures for the control of pest plants upon his land, within such period of time, as may be specified in the notice.

Powers of board to require certain measures to be taken by owners.

(2) A board, for the purpose of implementing a co-ordinated programme of pest plant control in its area, or any part of its area, may, by notice in writing to the owner of any land in its area, require him to take such measures for the control of pest plants upon his land, within such period of time, as may be specified in the notice.

(3) Any person may, within fourteen days of receiving a notice under this section, appeal to the Commission in the prescribed manner against any direction given by the board in that notice.

PART III
DIVISION III

- (4) Upon any appeal under subsection (3) of this section, the Commission—
 (a) shall allow any party to make representations to the Commission and to call evidence;
 and
 (b) may confirm, vary or revoke any or all of the directions contained in the notice.

(5) A person shall not refuse or fail to comply with a notice, or any direction contained in a notice, that is given to him under this section.

Penalty: Not less than fifty dollars nor more than five hundred dollars.

Power of board to cause work to be done on land of owner.

45. (1) A board may, upon being satisfied that an owner of land has refused or failed to comply with a notice, or any direction, given to him in pursuance of this Act, authorize any person or persons to enter the land and carry out such measures for the control of pest plants on that land as the board considers necessary.

(2) Any person to whom an authorization is granted under subsection (1) of this section may enter the land and carry out measures for the control of pest plants in accordance with the authorization.

(3) A person shall not hinder a person acting in the exercise of powers conferred by subsection (2) of this section.

Penalty: Not less than twenty dollars nor more than two hundred dollars.

(4) A board shall, within three months of causing measures for the control of pest plants to be carried out under this section, give notice in writing to the owner of the land, requiring him to pay the costs and expenses incurred by the board thereby, within such period of time as the notice may specify.

(5) The costs and expenses incurred by a board under this section shall be recoverable by the board from the owner of the land as a debt in a court of competent jurisdiction.

Exemption by Minister.

46. (1) The Minister may, upon the recommendation of the Commission, by instrument in writing, or notice published in the *Gazette* exempt any person, or persons of any specified class, from any obligation or liability under this Division that is specified in the instrument or notice.

(2) Any exemption under this section may be given upon such conditions as are specified in the instrument or notice.

(3) If a person fails to comply with, or contravenes, a condition attached to an exemption under this section, the exemption shall not apply in his favour.

DIVISION IV

DIVISION IV—SPECIAL OFFENCES

Prohibition against transporting animals, etc., from certain parts of the State.

47. (1) For the purpose of preventing the spread of any pest plant, the Commission may, by notice published in the *Gazette* and in a newspaper, or newspapers, circulating throughout the State, prohibit as from a day specified in the notice the transportation or movement of any animals, plants or soil, or any other specified thing, from any part of the State specified in the notice to any other part of the State.

(2) A notice under this section shall be published not later than seven days before the day specified in the notice as the day as from which the prohibition is to apply.

(3) The Commission may, by subsequent notice, vary or revoke any notice under this section.

(4) A person shall not contravene or fail to comply with any notice under this section.

Penalty: Not less than fifty dollars nor more than five hundred dollars.

(5) It shall be a defence to a charge of an offence under this section that the defendant—

(a) prior to transporting or moving anything in contravention of a notice under this section, obtained the written approval of an authorized officer for that transportation or movement;

and

(b) carried out that transportation or movement in accordance with that approval.

48. (1) A person shall not sell or offer for sale, any animals, plants, soil, vehicles or farming implements, or any other produce or goods, that are carrying any pest plant.

Prohibition against selling infested produce or goods.

Penalty: Not less than fifty dollars nor more than five hundred dollars.

(2) It shall be a defence to a charge of an offence under this section that the defendant—

(a) prior to offering the goods for sale, took all reasonable precautions to ensure that the goods were not carrying any pest plant;

(b) believed on reasonable grounds that the goods were not carrying any pest plant;

or

(c) acted in pursuance of the written authorization of a State authorized officer or a local authorized officer.

(3) The regulations may provide that this section shall not apply in circumstances, or circumstances of a kind, specified in the regulations and the operation of this section shall be modified accordingly.

49. (1) A person shall not transport or move, or cause to be transported or moved, from any land onto a public road, or along any public road, any animals, plants, soil, vehicles or farming implements, or any other produce or goods, that are carrying any pest plant.

Prohibition against moving infested produce or goods from property.

Penalty: Not less than fifty dollars nor more than five hundred dollars.

(2) It shall be a defence to a charge of an offence under this section that the defendant—

(a) prior to the transportation or movement of the goods, took all reasonable precautions to ensure that the goods were not carrying any pest plant;

or

(b) believed on reasonable grounds that the goods were not carrying any pest plant.

50. A person shall take reasonable steps to ensure that, in the course of controlling pest plants upon a public road, any trees or shrubs thereon are not destroyed or unduly damaged.

Prohibition against destroying native vegetation on roads.

Penalty: Not less than twenty dollars nor more than two hundred dollars.

PART IV

PART IV

MISCELLANEOUS

Surveys, etc.

51. (1) For the purposes of conducting any survey of, or research into, the control of pest plants, or investigating any matter relating to the administration of this Act, any of the following persons may enter upon and inspect any land and erect a peg or place a mark upon that land:—

- (a) a member of the Commission;
- (b) a member of a control board;
- (c) an authorized officer;
- (d) any officer of the Department;
- and
- (e) any other person authorized in writing by the Commission so to do.

(2) No person shall hinder or obstruct any of the persons referred to in subsection (1) of this section in the exercise of the powers conferred upon those persons by this section.

Penalty: Not less than twenty dollars nor more than two hundred dollars.

Appeals by control boards.

52. (1) A control board may appeal to the Minister against any direction, decision or order given by the Commission in respect of that board.

(2) An appeal under this section must be instituted in the prescribed manner no later than fourteen days after the direction, decision or order was given.

(3) The Minister may, upon any appeal under this section, affirm, vary or quash any direction, decision or order given by the Commission.

Statutory charge.

53. Where, by virtue of this Act, any pecuniary liability attaches to the owner of any land, that liability—

- (a) shall be, until discharged, a charge upon the land;
- and
- (b) shall be enforceable against, as a debt due jointly and severally from, the owner of the land, and any subsequent owners of the land, in a court of competent jurisdiction.

Annual report by the Commission to the Minister.

54. (1) As soon as practicable after the thirty-first day of December in each year the Chairman of the Commission shall present a report to the Minister on the activities of the Commission during that year.

(2) The Minister shall cause every report presented to him under this section to be laid before each House of Parliament within fourteen days of his receipt thereof, but if Parliament is not at that time in session, then within fourteen days of the commencement of the next session of Parliament.

Annual report by boards to the Commission.

55. The chairman of a control board shall, as soon as practicable after the thirty-first day of December in each year, present a report to the Commission on the activities of the board during that year.

PART IV

56. No liability shall attach to—

- (a) the Commission, or any member of the Commission;
- (b) a control board, or any member of a board;
- (c) an authorized officer;
- (d) an officer or employee of the Commission or a control board;

or

- (e) any person acting at the direction of the Commission or a control board,

for any act or omission on its part, or on his part, in good faith for the purpose or purported purpose of exercising or performing any power, function or duty conferred or imposed upon it or him by this Act.

57. (1) Subject to this Act, a document is duly executed by a corporate body established under this Act if it is sealed with the common seal of that body and signed by the chairman thereof.

Immunity of Commission, control boards, members, etc.
Execution of documents by Commission and boards.

(2) An apparently genuine document purporting to have been executed in accordance with subsection (1) of this section shall, in the absence of proof to the contrary, be presumed in any legal proceedings to have been duly executed.

58. For the purposes of this Act or any proceedings thereunder, an allegation in a complaint that, at any specified time—

- (a) a plant was a pest plant of a specified classification;
- (b) a person was a State authorized officer;
- (c) a person was a local authorized officer;
- (d) a person was the owner of any land;

or

- (e) any land was within a specified control area,

shall, in the absence of proof to the contrary, be proof of the matter so alleged.

59. (1) Any notice required or authorized by this Act to be given by a board to any person—

- (a) shall be in the prescribed form;
- and
- (b) shall be issued in such manner as the board may direct.

(2) Any notice required or authorized to be given under this Act to the owner of any land shall be deemed to have been duly given when—

- (a) it is served personally on—
 - (i) the owner, or one of any joint owners;
- or
- (ii) the agent of the owner;

Evidentiary.

Notices.

(b) where the notice is posted in an envelope addressed to the last known place of business or residence of any of the persons referred to in paragraph (a) of this section, it would be delivered in the ordinary course of post;

or

(c) where the land appears to be unoccupied, it is affixed to some conspicuous part of that land.

Summary proceedings.

60. Proceedings in respect of offences against this Act—

(a) shall be disposed of summarily;

and

(b) shall be brought within twelve months of the alleged commission of the offence.

Appropriation of penalties.

61. (1) A penalty for an offence against this Act that is recovered upon the complaint of a control board, or an officer or employee of a control board, shall be paid into the funds of that board.

(2) A penalty for an offence against this Act that is recovered otherwise than in accordance with subsection (1) of this section shall be paid into the funds of the Commission.

Regulations.

62. (1) The Governor may make such regulations as are contemplated by this Act or as he considers necessary or expedient for the purpose of giving effect to the objects and provisions of this Act.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

(a) prescribing the methods that may, or shall, be employed in the destruction or control of any pest plant;

(b) prohibiting either absolutely or conditionally, the use of any substance, or the employment of any method, in the destruction or control of any pest plant;

(c) providing for the keeping of registers or records of pest plants by any body or person, and for the making of any such register or record available for inspection by the public;

and

(d) prescribing penalties not exceeding two hundred dollars for breach of, or non-compliance with, any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor