



ANNO QUINTO

ELIZABETHAE II REGINAE

A.D. 1956.

No. 47 of 1956.

An Act to make provision for the destruction of certain weeds, to repeal the Noxious Weeds Act, 1931-1939, and for other purposes.

[Assented to 22nd November, 1956.]

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Weeds Act, 1956".

Short title.

2. This Act shall come into force on a day to be fixed by proclamation.

Commencement of Act.

3. The provisions of this Act are arranged as follows :—

Arrangement of Act.

PART I.—Preliminary.

PART II.—Administration.

DIVISION I.—The Weeds Advisory Committee :

DIVISION II.—Authorized officers :

DIVISION III.—Powers of the Minister.

PART III.—Destruction and control of weeds.

DIVISION I.—Declaration of dangerous and noxious weeds :

DIVISION II.—Powers and duties of councils :

DIVISION III.—Destruction by owners and occupiers :

DIVISION IV.—General.

Part IV.—Miscellaneous.

**Repealing
provision.**

4. The following Acts are repealed, namely :—

Noxious Weeds Act, 1931.

Noxious Weeds Act Amendment Act, 1935.

Noxious Weeds Act Amendment Act, 1938.

Noxious Weeds Act Amendment Act, 1939.

Interpretation.

5. In this Act, unless the context otherwise requires—

“area” means a municipality or a district council district :

“authorized officer” means a person who pursuant to this Act is appointed as an authorized officer :

“committee” means the Weeds Advisory Committee constituted under this Act :

“control”, when applied to any weed, means to apply such measures to the weed as will prevent the propagation and spread of the weed :

“council” means a municipal council or a district council :

“dangerous weed” means any plant declared by regulation to be a dangerous weed :

“destroy”, when applied to any weed, means to apply such measures as will render the weed completely and permanently innocuous, and “destruction” has a corresponding meaning :

“Government department” means a department within the meaning of the Public Service Act, 1936-1954 :

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :

“noxious weed” means any plant declared by regulation to be a noxious weed, either with respect to the whole or any portion of the State :

“owner” or “occupier” includes the authorized agent of any owner or occupier, and every person in receipt of or entitled to rents or profits of any land and every person having the control or management of any land, and also includes a mortgagee in possession :

“proclaimed weed” means any dangerous weed or noxious weed :

“public road” means—

- (a) any public street, public road, or public place within the meaning of the Local Government Act, 1934-1954 ;
- (b) any road declared under the Highways Act, 1926-1955, to be a main road.

PART II.

ADMINISTRATION.

DIVISION I.—THE WEEDS ADVISORY COMMITTEE.

6. (1) There shall be a committee to be called the “Weeds Advisory Committee”.

Constitution
of committee.

(2) The committee shall consist of such number of members, not exceeding seven, as the Minister from time to time determines.

(3) The members of the committee shall be appointed by the Minister.

(4) The members of the committee shall hold office for such time as the Minister from time to time determines.

(5) Meetings of the committee shall be conducted in accordance with such procedure as the committee determines.

(6) Such number of members as the Minister from time to time determines shall be a quorum of the committee.

(7) The Minister shall appoint one of the members of the committee to be the chairman of the committee.

(8) The Minister may, out of moneys voted by Parliament for the purpose, pay to any member of the committee any travelling or other expenses incurred by the member in the exercise of his office and such fees as are from time to time fixed by the Minister.

7. The committee shall—

Duties of
committee.

- (a) advise the Minister on matters relating to the control and destruction of proclaimed weeds ;

- (b) make recommendations to the Minister as to what plants should be declared dangerous or noxious weeds ;
- (c) make recommendations to the Minister as to what action should be taken to prevent the introduction into the State of any weeds ;
- (d) make recommendations to the Minister as to what action should be taken to prevent the spread of any weeds ;
- (e) generally advise the Minister upon the administration of this Act ;
- (f) carry out such duties and exercise such powers as are provided by this Act to be carried out or exercised by the committee.

DIVISION II.—AUTHORIZED OFFICERS.

Appointment of authorized officer by Minister.

8. (1) The Minister may appoint any person to be an authorized officer who shall for the purposes of this Act be known as a Government authorized officer.

(2) The Minister may appoint any such authorized officer to be an authorized officer for the whole of the State or for any part of the State specified by the Minister.

Appointment of authorized officer by council.

9. (1) The council may appoint any person to be an authorized officer who shall for the purposes of this Act be known as a local authorized officer.

(2) Any person so appointed shall be an authorized officer for the purposes of this Act with respect to the area of the council by which he is appointed.

Power of entry.

10. Every authorized officer may, with or without assistants—

- (a) enter at any time upon any lands ;
- (b) search to ascertain whether any proclaimed weeds are to be found upon the land ; and
- (c) remain upon the land for such time as is reasonably necessary for the purposes of the search.

Duties of authorized officer.

11. Every authorized officer shall inform the council of any failure to observe the provisions of this Act within the area of the council which is within the knowledge of the authorized officer.

DIVISION III.—POWERS OF THE MINISTER.

12. The Minister shall, in respect of any part of the State which is not situated within an area, have in respect of that part all the powers of a council under this Act. Powers of Minister.

13. If—

(a) any land is vested in or occupied by a Minister of the Crown or a Government department; and

(b) the Minister of the Crown or, as the case may be, the Minister of the Crown by whom the Government department is administered is satisfied that the land adjoining the land of the Crown is free from proclaimed weeds or that the owner or occupier of the adjoining land has taken reasonable action to destroy or, as the case may be, control the proclaimed weeds on the adjoining land,

Weeds on land of the Crown.

the said Minister of the Crown may take such action as he deems necessary to destroy or, as the case may be, control any proclaimed weeds which may be on such land of the Crown.

PART III.

DESTRUCTION AND CONTROL OF WEEDS.

DIVISION I.—DECLARATION OF DANGEROUS AND NOXIOUS WEEDS.

14. (1) The Governor may make regulations declaring any weed to be a dangerous weed.

Declaration of dangerous weeds.

(2) Any weed declared a dangerous weed shall be deemed to be a dangerous weed throughout the whole of the State.

15. (1) The Governor may make regulations declaring any weed to be a noxious weed.

Declaration of noxious weeds.

(2) Any weed may be so declared a noxious weed throughout the whole of the State, and, if so declared, shall be deemed to be a noxious weed throughout the whole of the State.

(3) Any weed may be so declared a noxious weed in any specified part of the State and, if so declared, shall be deemed to be a noxious weed in that part of the State.

DIVISION II.—POWERS AND DUTIES OF COUNCILS.

16. Every council shall, within its area, strictly carry out and enforce the provisions of this Act to destroy all dangerous weeds and to destroy or control all noxious weeds.

General duty of councils.

Duty of council to destroy weeds.

17. (1) Every council shall destroy all dangerous weeds and shall destroy or control all noxious weeds upon all lands which are vested in it or under its care, control, or management and upon all public roads and travelling stock reserves within its area.

(2) The council shall destroy all dangerous weeds and shall destroy or control all noxious weeds upon all lands of the Crown within its area which are not granted or leased to or agreed to be sold to or occupied by any person or which are not dedicated, reserved or granted to, or occupied by any Minister of the Crown, Government department or any instrumentality of the Crown.

(3) Any council may expend any portion of its revenue in complying with the provisions of this section.

(4) In addition to exercising the power conferred by subsection (3) hereof, any council may, for the purpose of providing funds for the purpose of complying with the provisions of this section declare a special rate on the ratable property within its area or within such defined portion of the area as the council declares, for the purpose of this section, to be infested with proclaimed weeds.

(5) Any such special rate may be declared without obtaining the consent of the ratepayers, and shall be in addition to any special rate authorized to be declared and levied by a council under the Local Government Act, 1934-1954, and the amount of the special rate shall not be taken into consideration in determining whether the limit up to which a council may rate has been reached.

(6) Except where inconsistent with this Act, all the provisions of the Local Government Act, 1934-1954, shall apply to and in respect of the declaring, levying, and recovery of the said special rate.

Subsidy to councils.

18. If the Minister is satisfied that, during any financial year, a council has pursuant to subsection (2) of section 17 expended money in a manner approved by the Minister for the purpose of destroying or controlling proclaimed weeds upon lands of the Crown within the area of the council, the Minister may, out of money to be provided by Parliament for the purpose, pay to the council the amount expended by the council.

Contributions by owners and occupiers towards cost of destroying weeds on roads.

19. (1) If a district council, pursuant to subsection (1) of section 17, incurs any expense in destroying or controlling any proclaimed weeds upon any public road, the expense shall be borne as follows :—

- I. The expense shall be borne by the owners and occupiers of land abutting the part of the road upon which the weeds were growing so that one-half thereof shall be borne by the owners and occupiers of land on one side of the public road and one-half by the owners and occupiers of land on the other side of the public road, ratably according to the frontage of their land abutting the public road :
- II. If the council is satisfied that that half of the public road which abuts one side thereof was free from weeds at the time the expense was incurred, then the expense shall be borne by the owners and occupiers of land abutting the other side of the public road :
- III. If any of the land abutting the public road is land vested in or under the care, control, or management of the council or is land of the Crown such as is referred to in section 13 or is land in respect of which the council is under liability pursuant to subsection (2) of section 17, the council shall bear that portion of the expense which would otherwise be contributed by the owners or occupiers of the land.

(2) The council shall, within one month of incurring the expense, give notice in writing to the owners or occupiers specifying the amount required to be paid to the council and requiring payment.

(3) Any amount payable pursuant to this section may be recovered by the council by action in a court of competent jurisdiction.

(4) In any proceedings for the recovery of any amount under this section, a document purporting to be a certificate under the hand of the chairman or the district clerk of the council stating—

- (a) that the work of destroying or controlling proclaimed weeds on any specified public road was carried out ;
- (b) the cost of carrying out such work ;
- (c) the time or times of the completion thereof,

shall be *prima facie* evidence of the matters set out in the document.

Proceedings on
default by
council.

20. (1) If the Minister has reason to believe that any council has failed or is failing strictly to carry out or enforce within its area the provisions of this Act as to the destruction or control of proclaimed weeds, he may cause an inspection to be made of the area by an authorized officer.

(2) The authorized officer shall, after making an inspection, report to the Minister.

(3) The Minister may, if satisfied that the council has failed or is failing strictly to carry out or enforce the said provisions, give notice to the council strictly to carry out or enforce the said provisions. Any such notice may be given to two or more councils in terms requiring the councils to act together and specifying the proportion in which the expense shall be borne by each council.

(4) If any such council fails to comply with such a notice the Minister may himself strictly carry out and enforce within its area the provisions of this Act as to the destruction or control of proclaimed weeds, and may recover from the council by action in any court of competent jurisdiction the cost of so doing, and, without limiting the right to recover as aforesaid, may withhold Government grants of any description or any subsidy which the council is entitled to be paid under any Act.

(5) For the purpose of enforcing the provisions of this Act as mentioned in subsection (4) of this section, the Minister may, within any area, exercise all the powers, functions, authorities and discretions which the council itself might exercise.

(6) If the Minister in enforcing the provisions of this Act as mentioned in subsection (4) of this section, incurs expense in destroying or controlling or in taking measures to destroy or control proclaimed weeds on any land, not being land vested in or under the care, control, or management of a council, or on any public road, the Minister may, if he thinks fit, recover the amount of the expense or, as the case may be, the appropriate part thereof from the owner or occupier of the land or, as the case may be, of the land abutting the public road instead of from the council. In any case where the Minister has recovered any amount as aforesaid from the council, the council may recover from the owner or occupier of the land the amount, or as the case may be, the appropriate part thereof, so paid by the council to the Minister.

DIVISION III.—DESTRUCTION BY OWNERS AND OCCUPIERS.

Duty of
owners and
occupiers to
destroy weeds.

21. (1) Every owner and every occupier of any land shall, at all times, and at his own cost and expense—

- (a) destroy all dangerous weeds upon that land; and
- (b) destroy or control all noxious weeds upon that land.

(2) Every owner and every occupier of land may destroy dangerous weeds and may destroy or control noxious weeds upon any public road abutting the land owned or occupied by him.

22. (1) A council may, by notice in writing given to any owner or occupier of land, require the owner or occupier to take, within the time specified in the notice, such action as is specified in the notice to destroy or control proclaimed weeds upon the land or any part thereof.

Notice to destroy.

(2) The person to whom any such notice is given may appeal therefrom to the committee.

(3) Every such appeal shall be commenced by notice in writing given to the committee and the council within fourteen days of the giving of the notice under subsection (1).

(4) The committee may affirm or amend any direction given by the council in its notice or may quash the notice.

23. (1) The council may, by notice published in the *Government Gazette* and in a newspaper circulating in the area of the council, from time to time declare any period during which action (of a kind to be specified in the notice) for the destruction or control of proclaimed weeds shall be simultaneously proceeded with by all owners and occupiers of land within the area of the council or within any part of the area.

Simultaneous destruction of weeds.

(2) Compliance with a notice under this section shall not affect the duty of any person to comply with any other notice given to him under this Act.

(3) If an owner or occupier does not comply with a notice issued under this section such non-compliance shall be grounds for the issue of a notice under section 22.

24. If a person does not comply with any provision of this Act or of any notice under this Act requiring him to destroy or control proclaimed weeds or to take any action for that purpose he shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

Liability of owner or occupier for non-compliance.

25. If an owner or occupier of land defaults in complying with any provision of this Act or of any notice under this Act requiring him to destroy or control proclaimed weeds or take action for that purpose, any authorized officer may, with or without assistants—

Powers of authorized officer.

(a) enter upon the land of the owner or occupier ;

- (b) use all such means, and take all such measures, and do and perform all such acts or things, as appear to him proper or necessary to be done to carry out the operations or work required to be carried out ; and
- (c) remain upon, and exercise free right of ingress, egress, and regress into, over, and across the said land for such period as may be necessary to carry out the said operations or work.

Recovery of costs of authorized officer.

26. The amount of the cost and expense incurred by an authorized officer in acting under section 25—

- (a) shall if the authorized officer is a Government authorized officer be a debt due to the Minister and if the authorized officer is a local authorized officer be a debt due to the council by which the officer was appointed, and shall be payable on demand by the owner of the land, and if the owner is not the occupier, by the owner and the occupier severally ; and
- (b) may be recovered by the Minister or, as the case may be, council by action in any court of competent jurisdiction.

Powers of Minister as to exemption.

27. (1) The Minister on the recommendation of the committee may, by notice in writing, exempt any person from the duty of complying with all or some of the obligations placed on that person by this Act or any notice given under this Act.

(2) An exemption under this section may be granted on any conditions agreed on between the Minister and the person to whom the exemption is granted.

(3) If a person contravenes or fails to observe any condition of an exemption granted to him under this section he shall be guilty of an offence.

DIVISION IV.—GENERAL.

Control of movement of animals, etc.

28. (1) For the purpose of preventing the spread of proclaimed weeds the Minister may from time to time by notice published in the *Government Gazette* and advertised in a newspaper circulating throughout the State, prohibit the movement of any animals, substance, or matter of any kind from any part of the State specified in the notice to any other part of the State so specified.

(2) Every such notice shall state the day on which it comes into operation, being a day not earlier than seven days from the publication of the notice in the *Government Gazette* or the advertisement of the notice (whichever is later) and the period or periods for which the prohibition will remain in operation, and shall have effect accordingly.

(3) If any person moves or causes to be moved any animal, material or substance in contravention of any such notice he shall be guilty of an offence.

29. (1) If the Minister is of opinion that for the purpose of preventing the spread of proclaimed weeds it is desirable that the trees upon any land should not be cut down or otherwise destroyed or injured, he may serve a notice upon the owner of that land, and if the owner is not the occupier, upon the occupier also—

Power of
Minister as to
trees.

(a) setting out his said opinion ; and

(b) inviting the person upon whom the notice is served to make representations to him, not later than a day specified in the notice, for the purpose of showing cause why an order should not be made forbidding the cutting down or other destruction or injury of trees specified in the notice, without the consent of the Minister.

(2) A person on whom a notice is served under subsection (1) shall not, during the period between the service of the notice and the service upon him of an order under subsection (4) of this section, cut down, destroy, or injure any trees upon the land specified in the first mentioned notice, and if he does so he shall be guilty of an offence.

(3) When a notice or notices as mentioned in subsection (1) of this section have been served, the Minister after hearing and considering any representations made pursuant to the notice or notices may, if he thinks fit, make an order that trees upon the land mentioned in the notice shall not be cut down or otherwise destroyed or injured during the period specified in the order except in such circumstances or with such consents (if any) as are specified in the order.

(4) The order shall be served upon the owner of the land to which it relates, and if the owner is not the occupier, upon the occupier also.

(5) If a person upon whom such an order is served contravenes the order in any way, or permits any such contravention, he shall be guilty of an offence.

(6) Notwithstanding the serving of an order pursuant to subsections (3) and (4) of this section, the Minister may give his consent to the cutting down or other destruction of or injury to any trees upon condition that the person to whom the consent is given shall within a time specified by the Minister plant other trees to the number and of the kind required by the Minister, in replacement of any trees cut, destroyed, or injured pursuant to the consent.

If any person who has cut down, destroyed, or injured any tree pursuant to a consent given upon condition as mentioned in this subsection, fails to comply with that condition, he shall be guilty of an offence.

(7) The Minister may if he thinks fit give notices and make orders under this section in relation to shrubs, plants, or grasses or any class of any of them, either in substitution for, or in addition to trees, and in any such case this section shall apply to such shrubs, plants, and grasses, and the term "trees" as used in this section, shall be deemed to include such shrubs, plants, or grasses.

Weeds on vehicles.

30. A person who removes any vehicle, machine, implement or equipment from a farm on to any road without having taken reasonable precautions to ensure that the vehicle, machine, implement or equipment is free from any seeds or viable portions of any proclaimed weed shall (without affecting any other liability to which he may be subject) be guilty of an offence.

Bringing weeds into State.

31. Any person who brings into the State from any place outside the State, or brings into any part of the State from some other part of the State, any proclaimed weed or portion of any proclaimed weed or the seed of any proclaimed weed, either for propagation or as packing material or for any other purpose whatsoever shall be guilty of an offence.

Power of authorized officer to seize seeds.

32. (1) Any authorized officer who discovers in any place any packet, parcel, or collection of seeds which contains or has mixed therewith any seeds of any plant which is a dangerous weed shall seize such packet, parcel or collection of seeds and may destroy the same or may otherwise deal therewith as the Minister may direct. -

(2) Any authorized officer who discovers in any place any plant or part of a plant which is either generally or in any locality a proclaimed weed may forthwith destroy the same.

PART IV.

MISCELLANEOUS.

Duty of Minister to provide technical advice.

33. The Minister may provide all necessary technical advice concerning the destruction or control of proclaimed weeds for the purpose of enabling councils to carry out the provisions of this Act.

34. The Minister, any member of the committee, any member of a council, any officer of the Department of Agriculture, and any authorized officer may, for the purpose of or in connection with the administration of this Act—

Power of entry on land.

- (a) enter upon any land ;
- (b) make any survey, inspection, or investigation of or upon any land ;
- (c) upon any land place or erect any peg or make any mark.

35. A notice given under this Act shall not be invalid solely because of any defects in form but shall be sufficient if it clearly and reasonably states its purpose.

Validity of notice.

36. The following provisions shall apply to every notice or order required by this Act to be given or issued :—

Service of notice or order.

- I. The notice or order shall be addressed to the person to whom it is given ;
- II. The notice or order shall be duly served if it has been—
 - (a) given to that person personally ; or
 - (b) left at or sent by post to his usual or last known place of abode.
- III. Where there is more than one owner or occupier of the same land, service upon any one of them in manner aforesaid shall be deemed service upon all.

37. (1) Any person who—

Hindering.

- (a) obstructs, hinders, interrupts, threatens, or assaults any person in the exercise or performance of any duty, power, or function imposed or conferred by this Act ;
- (b) removes or interferes with any peg or mark placed on land pursuant to this Act,

shall be guilty of an offence.

(2) No proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to an action for or in respect of any such assault.

38. Any person who falsely represents himself to be an authorized officer shall be guilty of an offence and shall be liable to be imprisoned for any period not exceeding twelve months, or to a fine not exceeding one hundred pounds.

Falsely pretending to be authorized officer.

Evidentiary provision.

39. In any proceedings for an offence against this Act the allegation in the complaint—

- (a) that at a specified time a specified person was the owner or occupier of any specified land ;
- (b) that any specified land was within a specified portion of the State or within a specified area ;
- (c) that any street, road or place is a public street, public road or public place,

shall be *prima facie* evidence of the fact or matter so alleged.

Summary proceedings for offences.

40. (1) Proceedings for offences against this Act shall be disposed of summarily.

(2) A complaint for an offence against this Act shall be laid within twelve months of the commission of the offence.

Penalty.

41. The penalty for an offence against this Act for which no other penalty is prescribed shall be a fine not exceeding one hundred pounds.

Regulations.

42. In addition to any power to make regulations conferred on the Governor by any other provision of this Act the Governor may make regulations prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed or which appear to him to be necessary or convenient to be prescribed, for the purpose of more effectually carrying out any of the provisions of this Act or for better effecting the objects of this Act.

Financial provision.

43. The moneys required for the purpose of the administration of this Act by the Minister shall be paid out of moneys provided by Parliament for the purpose.

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

J. M. NAPIER, Governor's Deputy.