

No. 39 of 1963.

An Ordinance to provide for the Eradication or Control of Noxious Weeds.

[Reserved 6th March, 1963.]

[Assented to 17th May, 1963.]*

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1961, as follows:—

- 1 This Ordinance may be cited as the *Noxious Weeds Ordinance* 1962. Short title.

- 2 This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.

3. The *Noxious Weeds Ordinance* 1916-1959 is repealed. Repeal.

- 4.—(1.) In this Ordinance, unless the contrary intention appears— Interpretation.
 - “appropriate person” means an owner, lessee, licensee, mortgagee in possession or occupier of land specified in a notice under section seven of this Ordinance or a manager or other person managing or controlling the use of that land;
 - “noxious weed” means a plant declared under this Ordinance, by a notice that is in force, to be a noxious weed;
 - “subject land” means land that is the subject of a notice given under section seven of this Ordinance.

- (2.) Strict compliance with the forms in the Schedule to this Ordinance is not necessary and substantial compliance is sufficient.

- 5.—(1.) Subject to this section, the Administrator in Council may, by notice in the *Gazette*, declare a plant to be a Class A noxious weed, a Class B noxious weed or a Class C noxious weed. Declaration of plants to be noxious weeds.

* Assent notified in the *Government Gazette* of the Northern Territory on 27th May, 1963 (see *Gazette* No. 21A, 1963, p. 110A).

† The date fixed was 8th January, 1964 (see *Government Gazette* No. 52 of 24th December, 1963, p. 239).

(2.) A plant shall not be declared to be a Class A noxious weed under this section unless the Administrator in Council is of the opinion that it is necessary to eradicate the plant.

(3.) A plant shall not be declared to be a Class B noxious weed unless the Administrator in Council is of the opinion that it is desirable to control the growing and spreading of the plant.

(4.) A plant shall not be declared to be a Class C noxious weed unless the Administrator in Council is of the opinion that it is desirable to control the introduction of the plant into the Territory.

(5.) A notice under this section may specify a part of the Territory in relation to which the notice applies; and if it does so, the notice applies only in relation to that part of the Territory.

Appointment
of Inspectors.

6. The Administrator may, by notice in the *Gazette*, appoint such persons as he thinks fit to be Inspectors of Noxious Weeds.

Notice to
eradicate or
control
noxious weeds.

7.—(1.) The Administrator or a person authorized by him in writing to do so may give notice in accordance with Form 1 in the Schedule to an appropriate person requiring that person to eradicate Class A noxious weeds from the land specified in the notice by the means specified in the notice.

(2.) The Administrator or a person authorized by him in writing to do so may give notice in accordance with Form 2 in the Schedule to an appropriate person requiring that person to control Class B noxious weeds on the land specified in the notice by means specified in the notice.

(3.) The Administrator or a person authorized by him in writing to do so may give notice in accordance with Form 3 to a person in whose possession or under whose control there is hay or other animal fodder which contains seeds of Class A, Class B or Class C noxious weeds, requiring that person—

(a) not to sell; and

(b) to destroy,

the hay or animal fodder by the means specified in the notice.

(4.) A person served with a notice under this section shall comply with the requirements set out in the notice.

Penalty: One hundred pounds and in addition Fifty pounds for each month during which the offence continues.

(5.) Where an appropriate person, being for the purpose of managing or controlling subject land a servant or agent of a person who is an owner, a lessee or a mortgagee in possession or, where the land is land held in fee simple, a licensee of the subject land, incurs expense in complying with the requirements

of a notice served on him under sub-section (1.) or (2.) of this section or pays to the Commonwealth an amount recoverable from him as a debt under the next succeeding section he may recover the amount of the expense or the amount paid as a debt to him by the owner, lessee, mortgagee in possession or licensee of whom he is the servant or agent.

(6.) Where an appropriate person, not being such a servant or agent, incurs expense in complying with a notice served on him under sub-section (1.) or (2.) of this section he may bring an action against a person who is an owner, a lessee or a mortgagee in possession or, where the subject land is land held in fee simple, a licensee of the subject land, claiming contribution towards the expense.

(7.) The action may be brought in a court having jurisdiction to hear and determine an action for debt for the recovery of an amount of money not exceeding the amount claimed as contribution.

(8.) The court in which the action is brought shall take into consideration the relative benefit to the plaintiff and the defendant of what has been done in incurring the expense and shall make such order as to payment of an amount as contribution and as to costs as it thinks just.

8. Notice shall not be given to any person under the last preceding section where there are on Crown lands adjoining the land specified in the notice weeds of the type specified in the notice, unless the Commonwealth is taking reasonable action to control those weeds.

Notice not to be given in certain circumstances.

9. Where the Administrator or a person authorized by him in writing has given notice to a person in accordance with section seven of this Ordinance, the Administrator may—

Administrator may provide assistance in controlling weeds.

- (a) provide without expense to that person any materials or equipment which may be necessary to carry out the measures for eradication or control specified in the notice; and
- (b) provide such other assistance, by way of labour or otherwise, as he considers necessary or desirable.

10.—(1.) Where a person on whom a notice has been served under sub-section (1.) or (2.) of section seven of this Ordinance fails to comply with the requirements of the notice, the Administrator may authorize a person, whether by himself or his employees, agents, licensees, servants or contractors, with or without horses, vehicles, machinery and assistants, to enter

Administrator may eradicate or control noxious weeds and recover cost of doing so.

upon the subject land and do such things as are necessary to carry out the work specified in the notice and may sue for and recover as a debt due by the first mentioned person to the Commonwealth, the cost to the Commonwealth arising from the entry and the carrying out of the work.

(2.) Where a person on whom a notice has been served under sub-section (3.) of section seven of this Ordinance fails to comply with the requirements of the notice, the Administrator may authorize a person, whether by himself or his employees, agents, licensees, servants or contractors, with or without horses, vehicles, machinery and assistants, to enter upon any land and do such things as are necessary to carry out the work specified in the notice and may sue for and recover as a debt due by the owner of the hay or fodder, to the Commonwealth, the cost to the Commonwealth arising from the entry (if any) and the carrying out of the work.

Person not to obstruct authorized person.

11. A person shall not obstruct or hinder a person authorized under the last preceding section, or an employee, agent, licensee, servant or contractor of a person so authorized, in the course of doing or preparing to do any of the things he is so authorized to do.

Penalty: One hundred pounds.

Caveat.

12.—(1.) Where in an action under sub-section (1.) of section eight of this Ordinance judgment has been entered for an amount to be paid to the Administrator the subject land is charged with payment of the amount and the Administrator or a person authorized by him to do so may, while the amount remains unpaid, lodge a caveat with the Registrar-General forbidding the registration of any dealing with the subject land.

(2.) The provisions of Part XVI. of The Real Property Act, 1886 of the State of South Australia shall apply to and in relation to a caveat lodged in accordance with the last preceding sub-section.

Notice of intention to sell land.

13. Where an amount in respect of which judgment has been entered under the last preceding section remains unpaid for more than one year after the date on which the judgment is entered, the Administrator may serve notice on an owner, a lessee or a mortgagee in possession of the subject land or, where the subject land is land held in fee simple, on a licensee of the subject land, that he intends to sell the subject land, or the interest in the subject land of the lessee, the mortgagee in possession or the licensee, as the case may be.

14.—(1.) If the amount remains unpaid for more than one year after the date on which a notice under the last preceding section is served, the Administrator may give notice in the *Gazette* of his intention to sell the subject land or the interest in the subject land of the lessee, the mortgagee in possession or the licensee and if the amount is unpaid one month after the date of publication of the notice, the Administrator may sell the subject land or the interest in the subject land of the lessee, the mortgagee in possession or the licensee, according to the tenor of the notice, and may execute a conveyance thereof to the purchaser.

Power to sell land.

(2.) Every such conveyance shall operate to vest absolutely in the purchaser, the land, or interest in land, described therein, as the case may be.

15 The proceeds of the sale shall be applied—

- (a) firstly, in redemption of any mortgage of the land where the mortgagee is not in possession;
- (b) secondly, in payment of the expenses in connexion with the sale and conveyance of the land sold;
- (c) thirdly, in payment of the amount of the judgment and interest on the judgment; and
- (d) fourthly, in holding the balance, if any, in trust for the owner, the lessee or the licensee, as the case requires.

Application of proceeds of sale.

16 Where a person on whom a notice is served under subsection (3.) of section seven of this Ordinance, not being the owner of the hay or other animal fodder referred to in that notice, complies with that notice by carrying out the work of destroying the hay or animal fodder—

- (a) he may sue for and recover as a debt due to him by the owner the cost to him of carrying out the work; and
- (b) he shall not be liable to the owner of the hay or animal fodder for the value of that hay or animal fodder.

Owner to be liable for cost of destroying infested hay, &c.

17 A notice under this Ordinance may be served on a person—

- (a) by handing it or tendering it to that person;
- (b) by posting it to that person at his last known or usual place of abode or business;

Service of notice.

- (c) by leaving it with some person apparently over the age of sixteen years at the last known or usual place of abode or business of that person; or
- (d) if the address of the person is not known, by publishing the notice in four consecutive numbers of the *Gazette*.

Regulations

18. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.

THE SCHEDULE.

Form 1.

Section 7.

THE NORTHERN TERRITORY OF AUSTRALIA.

Noxious Weeds Ordinance 1962.

NOTICE TO ERADICATE NOXIOUS WEEDS.

You are hereby notified that the plants included in the classes of plants named in the table set out hereunder have been declared to be Class A Noxious Weeds in relation to the land described hereunder and you are hereby required as *owner/lessee/licensee/mortgagee in possession/occupier/manager of that land to eradicate each plant so included from that land within _____ days from the date of service of this notice by the means indicated in that table opposite the name of the class of plants in which the plant is included.

Dated this _____ day of _____, 19 _____.

*Administrator.

*Person authorized to give this notice.

* Cross out whatever is inapplicable.

TABLE.

Classes of Plants declared to be Class A noxious weeds.	Means of Eradication.

DESCRIPTION OF LAND—

THE SCHEDULE—*continued.*

Form 2.

Section 7.

THE NORTHERN TERRITORY OF AUSTRALIA.

Noxious Weeds Ordinance 1962.

NOTICE TO CONTROL NOXIOUS WEEDS.

You are hereby notified that the plants included in the classes of plants named in the table set out hereunder have been declared to be Class B Noxious Weeds in relation to the land described hereunder and you are hereby required as *owner/lessee/licensee/mortgagee in possession/occupier/manager of that land to control the growing and spreading on that land of each plant so included within days from the date of service of this notice by means indicated on that table opposite the name of the class of plants in which the plant is included.

Dated this _____ day of _____, 19 .

*Administrator.

*Person authorized to give this notice.

* Cross out whatever is inapplicable.

TABLE.

Class of Plants that are declared to be Class B Noxious Weeds.	Means of Control.

DESCRIPTION OF LAND—

Form 3.

Section 7.

THE NORTHERN TERRITORY OF AUSTRALIA.

NOTICE TO DESTROY HAY OR ANIMAL FODDER CONTAINING SEEDS OF NOXIOUS WEEDS.

You are hereby notified that the hay or animal fodder described hereunder contains seeds of noxious weeds of the *class/classes listed in that table and you are hereby required as *owner/person in possession/person having control of that hay or animal fodder—

- (a) not to sell that hay or animal fodder; and
- (b) to destroy that hay or animal fodder within _____ days from the date of service of this notice by the means described hereunder.

Dated this _____ day of _____, 19 .

*Administrator.

*Person authorized to give this notice.

* Cross out whatever is inapplicable.

TABLE.

Description of Hay or Animal Fodder.	Class of Noxious Weeds.	Means of Destruction.