

NOXIOUS WEEDS AMENDMENT ACT 1983**No. 29 of 1983****TABLE OF PROVISIONS**

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NOXIOUS WEEDS AMENDMENT ACT 1983

No. 29 of 1983

AN ACT to amend the Noxious Weeds Act 1964 for the purpose of making provision for the fencing in certain cases of land in an area declared under that Act to be an infested area, for the biological control of certain weeds, and for other purposes.

[Royal Assent 19 July 1983]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Noxious Weeds Amendment Act 1983*. Short title.

2—In this Act, the *Noxious Weeds Act 1964** is referred to as the *Principal Act*. Principal Act.

* No. 3 of 1964. For this Act, as amended to 1974, see Appendix E to the Annual Volume of Statutes for 1974. Subsequently amended by No. 28 of 1976 and No. 47 of 1980.

Amendment of
section 3 of
Principal Act
(Interpre-
tation).

3—(1) Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “ article ”:—

“ declared weed ” means a plant declared under section 4 to be a noxious, secondary, or prohibited weed;

(b) by inserting the following definition after the definition of “ enforcement notice ”:—

“ financial year ” means a period of 12 months ending on 30th June;

(c) by inserting the following definition after the definition of “ prohibited weed ”:—

“ region ” means a region referred to in section 5 (1);

(d) by omitting from the definition of “ State inspector ” “ and includes the Chief Weeds Inspector appointed under that subsection ”;

(e) by inserting the following definition after the definition of “ State inspector ”:—

“ unidentified plant ” means any plant which, in the opinion of the Director—

(a) cannot be recognized as belonging to a scientifically described plant species;

or

(b) is incorrectly identified.

(2) Section 3 (3) of the Principal Act is amended by inserting “ propagule,” after “ seed,”.

Amendment of
section 4 of
Principal Act
(Noxious,
secondary, and
prohibited
weeds).

4—Section 4 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) The Governor may, by order, declare a noxious or secondary weed to be a weed suitable for biological control.

Amendment of
section 5 of
Principal Act
(Weeds
consultative
meetings).

5—Section 5 of the Principal Act is amended as follows:—

(a) by omitting from subsection (2) “ may, at least once in each year,” and substituting “ shall, at least once in each financial year,”;

(b) by omitting from subsection (3) “local authorities,” and substituting “the Municipal Association of Tasmania to represent the local authorities in each of the divisions referred to in subsection (1),”;

(c) by omitting subsection (9) and substituting the following subsection:—

(9) The representatives of the Tasmanian Farmers’ and Graziers’ Association, and of local authorities, at a weeds consultative meeting shall be paid any attendance fees and travelling or other allowances that the Governor may approve.

6—Section 8 (1) of the Principal Act is amended by omitting “*Public Service Act 1923*, a Chief Weeds Inspector and” and substituting “*Public Service Act 1973*,”.

Amendment of section 8 of Principal Act (Weeds inspectors).

7—After section 9 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 10.

10—(1) The Governor may, by order, for the purpose of biological control of a weed in respect of which an order has been made under section 4 (1A), approve the release, on such conditions that are specified in the first-mentioned order, of such predators, parasites, or diseases that are so specified.

Biological control of certain weeds.

(2) The Minister may, for the purpose of biological control of a weed, enter into an agreement with the Commonwealth or another State concerning the release of such predators, parasites, or diseases that are specified in that agreement.

8—Section 12 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “to eradicate any noxious or secondary weed from that land” and substituting “to control any noxious or secondary weed growing on that land”;

Amendment of section 12 of Principal Act (Control, &c., by agreement).

(b) by inserting the following subsection after subsection (2):—

(3) An agreement entered into under this section by the Minister or a local authority may be made subject to such terms and conditions as the Minister or the local authority, as the case may be, shall think fit.

Amendment of
section 14 of
Principal Act
(Enforcement
notices).

9—(1) Section 14 (1) of the Principal Act is amended as follows:—

- (a) by inserting “or facilitate” after “to secure”;
- (b) by omitting “prevent or minimize” and substituting “secure or facilitate the prevention or minimization of”.

(2) Section 14 of the Principal Act is further amended by inserting the following subsection after subsection (1):—

(2) A municipal inspector who serves a notice under subsection (1) shall, within 3 days of the service of that notice, forward a copy of that notice to the inspector nominated by the Director for that purpose for the region in which the land in respect of which the notice is served is situated.

(3) Section 14 (3) of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (b) “operation; and” and substituting “operation;”;
- (b) by omitting from paragraph (c) “things,” and substituting “things; and”;
- (c) by inserting the following paragraph after paragraph (c):—

(d) where the land is, or is part of, an infested area, either or both of the following:—

- (i) the erection of a fence complying with the specifications contained in the notice on the land or a specified part of the land;
- (ii) the grazing of the land or a specified part of the land, as specified in the notice,

(4) Section 14 of the Principal Act is further amended by inserting the following subsections after subsection (3):—

(3A) A person on whom there is served an enforcement notice made under subsection (3) (d) shall, if that notice requires the erection of a fence, serve a copy of the notice on the owner of the land adjoining the proposed fence before complying with that notice.

(3B) A person who erects a fence as required by an enforcement notice referred to in subsection (3A) may, in a court of competent jurisdiction, recover from the owner of the land adjoining that fence one-half of the cost of erecting a fence of the minimum standard necessary to comply with that notice.

(3C) Where under section 16 the Minister or a local authority recovers the cost of erecting a fence from a person on whom there is served an enforcement notice requiring the erection of a fence referred to in subsection (3) (d) (i), that person may, in a court of competent jurisdiction, recover from the owner of the adjoining land one-half of the cost of erecting a fence of the minimum standard necessary to comply with that notice.

(3D) For the purposes of subsections (3A), (3B), and (3C) “fence” and “owner” have the meanings assigned to those terms in section 4 of the *Boundary Fences Act* 1908.

(3E) The *Boundary Fences Act* 1908 does not apply to the erection of a fence as required by an enforcement notice referred to in subsection (3A).

10—Section 15 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) “under section 14 (1) or a copy of an enforcement notice under section 14 (3A),” after “enforcement notice”;
- (b) by omitting from subsections (3) and (4) “Chief Weeds Inspector” and substituting “Director”.

Amendment of section 15 of Principal Act (Appeals against enforcement notices).

11—(1) Section 19 (1) of the Principal Act is amended as follows:—

- (a) by inserting “in respect of that noxious weed” after “infested area”, where first occurring;
- (b) by inserting “in respect of a noxious weed” after “infested area”, where secondly occurring.

Amendment of section 19 of Principal Act (Infested areas).

(2) Section 19 (2) of the Principal Act is amended by inserting “, or authorize an inspector to issue an order prohibiting or controlling,” after “control”.

(3) Section 19 (3) of the Principal Act is amended by inserting “, or orders made under those regulations,” after “for the purposes of this section”.

Amendment of section 20 of Principal Act (Prohibition on removal of noxious weeds).

12—Section 20 (2) of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (b) “consumption; or” and substituting “consumption;”;
- (b) by omitting from paragraph (c) “destroyed,” and substituting “destroyed; or”;
- (c) by inserting the following paragraph after paragraph (c):—
 - (d) its being used, with the approval of the Director, for research or educational purposes or both,

Amendment of section 22 of Principal Act (Importation of prohibited weeds and other plants, and animals).

13—(1) Section 22 (1) of the Principal Act is amended as follows:—

- (a) by omitting “No person shall” and substituting “Subject to subsection (1A), a person shall not”;
- (b) by inserting “or unidentified plant” after “prohibited weed”, where twice occurring.

(2) Section 22 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) Subsection (1) does not apply to a person who brings or allows to be brought into the State weed seeds in feed grains, if the tolerance level requirements contained in regulations made under section 34 (3A) are complied with.

(3) Section 22 (2) of the Principal Act is amended as follows:—

- (a) by inserting “or unidentified plants” after “prohibited weeds”, where twice occurring;
- (b) by omitting from paragraph (c) “regulations; and” and substituting “regulations;”;
- (c) by omitting from paragraph (d) “weeds.” and substituting “weeds; and”;
- (d) by inserting the following paragraph after paragraph (d):—
 - (e) require or regulate the shearing of sheep or goats before those animals are brought into the State, and exempt persons prescribed in the regulations from compliance with the regulations in circumstances, or upon conditions, so prescribed.

14—Section 25 of the Principal Act is amended by inserting the following subsection after subsection (2):—

Amendment of section 25 of Principal Act (Entry on land).

(3) A person authorized by or under this section to enter any land may take with him on to that land and use there any vehicle, equipment, or chemical that he considers appropriate to achieve the purpose for which he is authorized to enter the land.

15—Section 27 of the Principal Act is amended by omitting “\$400” and substituting “\$1 000”.

Amendment of section 27 of Principal Act (Penalties).

16—Section 32 of the Principal Act is amended by inserting “or an order or orders” after “regulations”.

Amendment of section 32 of Principal Act (Compensation and reimbursement of owners and occupiers).

17—Section 34 of the Principal Act is amended as follows:—

Amendment of section 34 of Principal Act (Regulations).

(a) by inserting the following subsection after subsection (3):—

(3A) Regulations made under this Act may—

(a) make provision for or with respect to the determination and enforcement of tolerance levels of weed seeds in feed grain brought into the State; and

(b) provide for sampling or other methods of testing to ensure that the tolerance levels prescribed by those regulations are not exceeded.

(b) by omitting subsection (6) and substituting the following subsections:—

(6) Regulations made under this Act may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, those regulations or a direction or order made under those regulations and may provide in respect of any such offence:—

(a) in the case of regulations made under subsection (1) (b), for the imposition of a penalty not exceeding \$250;

(b) in the case of regulations made under section 19 or 22 (2) (e), for the imposition of a penalty not exceeding \$1 000 together with a special penalty—

(i) not exceeding \$20 in relation to each ovine or caprine animal;
and

(ii) not exceeding \$200 in relation to each bovine or equine animal,
to which the offence relates; and

(c) in any other case, for the imposition of a penalty not exceeding \$1 000.

(6A) Regulations made under this Act may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in those regulations.

(6B) Regulations made under this Act may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in those regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

Amendment of
section 35 of
Principal Act
(Continuation
of existing
appointments).

18—Section 35 of the Principal Act is amended by omitting subsection (1).