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**NOXIOUS WEEDS ACT 1974**

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## ANALYSIS

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**NOXIOUS WEEDS**

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**No. 64 of 1974**

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**AN ACT to amend the Noxious Weeds Act 1964.**

**[31 October 1974]**

**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—(1)** This Act may be cited as the *Noxious Weeds Act 1974*. Short title and citation.

(2) The *Noxious Weeds Act 1964* is in this Act referred to as the Principal Act.

Interpretation.

**2** Section 3 (1) of the Principal Act is amended—

(a) by omitting the definitions of “ appeal board ”, “ appeal board area ”, “ committee ”, “ dangerous weed ”, “ default area ”, and “ Regional Weeds Inspector ”;

(b) by inserting after the definition of “ plant ” the following definitions:—

“ ‘ prohibited weed ’ means, in respect of any part of the State, any plant that is declared under section 4 to be a prohibited weed in respect of the whole or of that part of the State;

‘ secondary weed ’ means, in respect of any part of the State, any plant that is declared under section 4 to be a secondary weed in respect of the whole or of that part of the State;”;

(c) by adding at the end thereof the following definition:—

“ ‘ weeds consultative meeting ’ has the meaning assigned to that expression by section 5.”.

**3** Sections 4, 5, 6, and 7 of the Principal Act are repealed and the following sections are substituted therefor:—

Noxious,  
secondary, and  
prohibited  
weeds.

“ 4—(1) The Governor may, by order, declare a plant to be a noxious, secondary, or prohibited weed and, by the same or a different order, declare a plant to be more than one of those weeds.

“(2) An order under subsection (1) may be declared in respect of the whole or any part of the State, as shall be specified in the order.

Weeds consul-  
tative  
meetings.

“ 5—(1) For the purpose of this section, the Minister may divide the State into three divisions comprising the northern, the north-western, and the southern parts respectively which shall be called the northern municipal region, the north-western municipal region, and the southern municipal region respectively.

“(2) For the purpose of enabling representatives of persons engaged in primary production in the State and representatives of local authorities to consult with each other and with representatives of State authorities concerned with the control and eradication of weeds, the Minister may, at least once in each year, cause a meeting to be convened (in this section referred to as a ‘ weeds consultative meeting ’).

“(3) A weeds consultative meeting shall be constituted by at least 6 but not more than 8 delegates nominated by the organizations referred to in subsection (4), at least 3 but not more than 4 persons nominated by local authorities, and officers of the Department of Agriculture and such other departments of the Public Service of the State as the Minister may nominate.

“(4) Each delegate at a weeds consultative meeting, being a representative of persons engaged in primary production, shall be a member of—

- (a) the Tasmanian Farmers’ Federation; or
- (b) the Tasmanian Farmers’, Stockowners’, and Orchardists’ Association,

and the respective number of delegates representing each of those organizations shall be determined by the Minister.

“(5) In determining, as required by subsection (4), the respective numbers of delegates at a weeds consultative meeting the Minister shall have regard to—

- (a) the number of members of each organization and the proportion that that number is of the totality of the numbers of the members of the two organizations; and
- (b) the relative importance of each of those organizations within the agricultural industry.

“(6) The delegates at a weeds consultative meeting being representatives of local authorities shall be representative of local authorities from each of the municipal regions.

“(7) If, for the purpose of a weeds consultative meeting, any of the organizations mentioned in subsection (4), or any local authority in any municipal region, fails to nominate a delegate or a sufficient number of delegates, the Minister may nominate a delegate or a number of delegates to represent the organization or the local authority, as the case requires, to enable the meeting to be held.

“(8) The Director of Agriculture or such person as he may appoint in that behalf shall be the chairman of a weeds consultative meeting.

“(9) The representatives at a meeting of a weeds consultative meeting of the organizations referred to in subsection (4), and of local authorities, shall be paid such attendance fees and travelling or other allowances as the Governor may approve.”.

Weeds  
inspectors.

**4** Section 8 of the Principal Act is amended by omitting subsections (2) and (3) and substituting therefor the following subsection:—

“(2) A local authority may appoint municipal inspectors who may, in any area declared as provided by section 9 in relation to that authority, administer this Act.”.

**5** Sections 9, 10, and 11 of the Principal Act are repealed and the following section is substituted therefor:—

State con-  
trolled areas.

“9—(1) Inspectors appointed by the Governor shall administer this Act throughout the State, but the Governor may, by order, declare any metropolitan or urban area specified in the order to be an area where municipal control may be exercised and, as provided by section 8 (2), an inspector appointed by the local authority having jurisdiction in any such area may, in addition to inspectors appointed by the Governor, administer this Act in that area.

“(2) The Governor may rescind an order made under subsection (1).

“(3) In any area that is the subject of an order under subsection (1), in the event of a conflict between an enforcement notice served by an inspector appointed by the Governor and a similar notice served by a municipal inspector, the notice of the inspector appointed by the Governor shall prevail to the exclusion of that of the municipal inspector.

“(4) For the purpose of subsection (3), where an enforcement notice has been served by an inspector appointed by the Governor and another has been served by a municipal inspector, both notices relating to the same land and compliance with one order without disregarding the other in any respect is practicable, it shall not be held that there is conflict between the two notices.”.

Eradication,  
&c., by agree-  
ment.

**6** Section 12 (1) of the Principal Act is amended by inserting, after the word “noxious” (wherever occurring), the words “or secondary” in each case.

Prescribed  
measures for  
eradication, &c.

**7** Section 13 of the Principal Act is amended—

(a) by inserting in subsection (1), after the word “noxious”, the words “or secondary”;

(b) by omitting from subsection (3) the words “for the eradication of any noxious” and substituting therefor the words “in the whole or any part of the State for the eradication of any noxious or secondary”; and

- (c) by omitting from the end of subsection (5) (b) the word “services” and substituting therefor the word “purposes”.

**8** Section 14 of the Principal Act is amended—

Enforcement notices.

- (a) by inserting in subsection (1), after the word “noxious” (twice occurring), in each case the words “or secondary”;
- (b) by omitting subsection (2);
- (c) by inserting in subsection (3) (a), after the word “noxious” the words “or secondary”;
- (d) by omitting from that subsection the word “dangerous” and substituting therefor the word “noxious”;
- (e) by inserting in subsection (4) (a), after the word “noxious” the words “or secondary”; and
- (f) by omitting from subsection (7) the words “A Regional Weeds Inspector” and substituting therefor the words “An inspector”.

**9** Section 15 of the Principal Act is repealed and the following section is substituted therefor:—

“15—(1) A person who is aggrieved by the service on him of an enforcement notice may appeal to a magistrate. Appeals against enforcement orders.

“(2) On an appeal under this section the magistrate may (unless he dismisses the appeal) order that the notice appealed against be of no effect whatever whereupon the notice shall be of no effect and shall be deemed never to have been of any effect.

“(3) An appeal under this section shall be instituted within 7 days of the day of the service of the notice appealed against by lodging a notice, in the prescribed form and accompanied by the prescribed fee, with a clerk of petty sessions and by serving a copy thereof on the inspector who served the notice appealed against or the Chief Weeds Inspector.

“(4) On receipt of a notice of appeal under this section a clerk of petty sessions shall, on the direction of a magistrate, notify the appellant and the Chief Weeds Inspector of a day and time for the hearing and determination of the appeal.

“(5) A magistrate hearing an appeal under this section shall make a full and thorough investigation of the matters giving rise to the appeal or relevant to its determination and shall direct himself by the best evidence that he can procure or is laid before him, whether or not that evidence would be admissible in a court.

“(6) The magistrate hearing an appeal under this section shall regulate the proceedings in the manner that he considers most suitable in order that he may come to a proper determination.

“(7) The inspector who is served with the notice of appeal as well as the person instituting the appeal shall be parties to it and each may be represented at the hearing of the appeal by some other person (whether a barrister or a solicitor or not).

“(8) The magistrate determining an appeal under this section shall make an order thereon in writing and shall cause copies of the order to be made available to the parties to the appeal.

“(9) A determination on an appeal under this section is final and conclusive for all purposes whatever.”.

Works, &c.,  
in default of  
compliance  
with enforce-  
ment notices.

**10** Section 16 of the Principal Act is amended—

(a) by omitting from subsection (4) the words “Subject to subsection (5) of this section, the” and substituting therefore the word “The”;

(b) by omitting subsection (5); and

(c) by omitting from the end of subsection (6) the words “and any sum paid by the local authority to the Minister under subsection (5) of this section in relation to that notice.” and substituting therefor the words “in any case where those powers were exercised with the consent of the Minister.”.

Government  
assistance to  
local authorities  
in respect of  
irrecoverable  
sums.

**11** Section 17 of the Principal Act is repealed.

Infested areas.

**12** Section 19 of the Principal Act is amended by omitting from subsections (1) and (4) the word “dangerous” and substituting therefor, in each case, the word “noxious”.

Prohibition on  
removal of  
prohibited  
weeds.

**13** Section 20 of the Principal Act is amended by omitting from subsections (1), (2), and (3) the word “noxious” (wherever occurring), and substituting therefor, in each case, the word “prohibited”.

Movement of  
agricultural  
implements,  
vehicles, and  
animals.

**14** Section 21 of the Principal Act is amended by omitting from subsection (1) the word “noxious” and substituting therefor the word “prohibited”.



**15** Section 22 of the Principal Act is amended by omitting from subsections (1) and (2) the word “noxious” (wherever occurring), and substituting therefor, in each case, the word “prohibited”.

Importation  
of prohibited  
weeds and  
other plants  
and animals.

**16** Section 24 of the Principal Act is amended—

Powers of  
inspection, &c.

- (a) by inserting in subsections (1) and (3), after the word “noxious” (wherever occurring), in each case, the words “or secondary”;
- (b) by omitting from subsection (4) the word “dangerous” and substituting therefor the words “noxious or secondary”; and
- (c) by omitting subsections (5), (6), and (7), and substituting therefor the following subsections:—

“(5) An inspector may—

- (a) remove from any premises any plant or any part of a plant for the purpose of determining whether that plant is a noxious or secondary weed;
- (b) seize a noxious or secondary weed and destroy it or cause it to be destroyed; and
- (c) take such measures as he considers necessary to destroy a noxious or secondary weed found at any place or to prevent or minimize its dissemination.

“(6) When on an inspection and examination of a vehicle or implement as provided by subsection (3) an inspector finds or has reason to believe that any noxious or secondary weed is present on or in that vehicle or implement or any plant, animal, agricultural produce, or agricultural implement that is being conveyed in or on that vehicle, he may order the driver or person in charge of that vehicle or implement to immediately drive or take it or cause it to be driven or taken to some place specified by the inspector, and left there for the purpose of further inspection and examination and the destruction of any noxious or secondary weed or any plant or agricultural produce containing any noxious or secondary weed.”.

**17** Section 27 of the Principal Act is amended by omitting the words “two hundred dollars” and substituting therefor the symbol and figures “\$400”.

Penalties.

Additional  
municipal  
inspectors.

Regulations.

**18** Section 33 of the Principal Act is repealed.

**19** Section 34 of the Principal Act is amended—

- (a) by omitting from subsection (6) the words “ forty dollars ” and substituting therefor the symbol and figures “ \$80 ”; and
- (b) by omitting from that subsection the words “ two hundred dollars ” and substituting therefor the symbol and figures “ \$400 ”.

Schedule of  
amendments.

**20** The sections of the Principal Act that are specified in the first column of the Schedule are amended as respectively specified in the second column of that Schedule.

## THE SCHEDULE

(Section 20)

FIRST COLUMN Section amended	SECOND COLUMN How amended
Section 3 (1)	<p>By omitting from the definition of “ enforcement notice ” the word “ fourteen ” and substituting therefor the figures “ 14 ”.</p> <p>By omitting from the definition of “ infested area ” the word “ nineteen ” and substituting therefor the figures “ 19 ”.</p> <p>By omitting from the definition of “ municipal inspector ” the words “ subsection (3) of section eight ” and substituting therefor the word and figures “ section 8 (2) ”.</p> <p>By omitting from the definition of “ noxious weed ” the word “ four ” and substituting therefor the figure “ 4 ”.</p> <p>By omitting from the definition of “ State inspector ” the words “ subsection (1) of section eight ” and substituting therefor the word and figures “ section 8 (1) ”.</p>
Section 13	By omitting from the end of subsection (4) the words “ of this section ”.
Section 14	By omitting from subsections (3) and (4) the words “ of this section ”.
Section 16	By omitting from subsections (2), (3), and (4) the words “ of this section ”.
Section 18	<p>By omitting from subsection (1) the word “ thirteen ” and substituting therefor the figures “ 13 ”.</p> <p>By omitting from subsection (2) the word “ sixteen ” and substituting therefor the figures “ 16 ”.</p>

FIRST COLUMN Section amended	SECOND COLUMN How amended
	By omitting from subsection (4) the word "four" (twice occurring), and substituting therefor, in each case, the figure "4".
	By omitting from subsection (5) the words "of this section".
Section 19	By omitting from subsection (3) the words "of this section".
Section 32	By omitting from subsection (1) the word "nineteen" and substituting therefor the figures "19".
Section 34	By omitting from subsection (5) the words "of this section".
	By omitting from that subsection the word "thirteen" and substituting therefor the figures "13".
	By omitting from subsection (6) the words and figure "paragraph (b) of subsection (1) of this section" and substituting therefor the word and figure "subsection (1) (b)".
Section 35	By omitting from subsection (1) the words and figure "subsection (1) of section seven" and substituting therefor the word and figures "section 7 (1)" and by omitting the words and figure "subsection (1) of section eight" and substituting therefor the word and figures "section 8 (1)".
	By omitting from subsection (2) the words and figures "subsection (1) of section seven" and substituting therefor the word and figures "section 7 (1)", by omitting the words and figure "subsection (1) of section eight" and substituting therefor the word and figures "section 8 (1)", by omitting the words and figure "subsection (2) of section seven" and substituting therefor the word and figures "section 7 (2)", and by omitting the words and figure "subsection (3) of section eight" and substituting therefor the word and figures "section 8 (3)".