

## New Zealand.



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## 1934, No. 35.

### Title.

AN ACT to amend the Noxious Weeds Act, 1928.

[13th November, 1934.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

### Short Title.

1. This Act may be cited as the Noxious Weeds Amendment Act, 1934, and shall be read together with and deemed part of the Noxious Weeds Act, 1928 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. I, p. 124

Section 2 of principal Act amended.

2. Section two of the principal Act is hereby amended by repealing the definition of the term "clear", and substituting the following definition:—

" 'Clear' in relation to any noxious weeds means the doing of any act or acts which destroy or effectively control the spread of noxious weeds."

3. Section eleven of the principal Act is hereby amended as follows:—

Section 11 of principal Act amended.

(a) By inserting, after subsection four, the following subsection:—

“(4A) Every occupier of land on which ragwort is growing shall, except in any district or in any specified portion of a district where ragwort is declared pursuant to section six hereof not to be a noxious weed, clear such land of ragwort and keep such land so cleared.”

(b) By adding the following subsection:—

“(6) Every occupier who fails or neglects to duly comply with any of the provisions of this section commits an offence against this Act.”

4. Section thirteen of the principal Act is hereby amended by adding the following subsections:—

Judgments obtained under principal Act may be enforced as judgments for rates.

“(5) Any judgment obtained under the last preceding subsection may be enforced by the judgment creditor in the manner in which a judgment for rates may be enforced, and the provisions of sections seventy-eight to eighty-four and Part II of the Rating Act, 1925, and any other enactment relating to the enforcement of judgments for rates shall, with the necessary modifications, apply accordingly.

See Reprint of Statutes, Vol. VII, p. 1007

“(6) Where the mortgagee of any land pays any expenses incurred by the Inspector in respect of that land pursuant to subsection three hereof, or satisfies any judgment obtained against the occupier of that land pursuant to the provisions of subsection four hereof, the amount so paid by the mortgagee shall, at his option, either be recoverable by him from the mortgagor or be added to and deemed, as from the date of payment, to form part of the principal moneys secured by the mortgage and to be chargeable with interest accordingly.”

Cf. 1925, No. 30, s. 70 (3)

5. Section fourteen of the principal Act is hereby amended by omitting all words down to and including the words “clearing such weeds”, and substituting the words “A person convicted of any offence under section eleven or section thirteen hereof shall not thereby be relieved from the obligation to comply with the provisions of those sections”.

Section 14 of principal Act amended.

Section 26 of principal Act amended.

*Cf.* 1928, No. 8, s. 26 (*d*), see Reprint of Statutes, Vol. I, p. 252

County Council may assume responsibility for administration of principal Act within county.

6. Section twenty-six of the principal Act is hereby amended by adding the words "or, if the whereabouts or last known place of abode in New Zealand of the person to whom such notice is addressed is not known to the person issuing the notice, by publishing the same at least twice in a newspaper circulating in the locality in which the lands affected by such notice are situate".

7. (1) The Council of any county may at any time by resolution decide to assume responsibility for the administration of the principal Act within the county from a date to be specified in that behalf in such resolution.

(2) A copy of such resolution shall forthwith be forwarded to the Minister, who shall cause the same to be published in the *Gazette*.

(3) The Council, having assumed responsibility for administration as aforesaid, may from time to time appoint an Inspector or Inspectors under the principal Act.

(4) An Inspector so appointed shall within the limits of the county have all the powers of an Inspector appointed under section twenty-seven of the principal Act:

Provided that no such Inspector shall have power to enforce within his district the provisions of sections nine and ten of the principal Act.

(5) For the purposes of the enforcement of section eleven of the principal Act within a county, the Council of which has appointed an Inspector as aforesaid, the provisions of subsections three and four of the said section eleven shall be read as if the references to the Minister were references to the County Council and as if the reference to the *Gazette* in subsection three were a reference to a newspaper circulating in the county.

(6) Nothing in this section shall abridge or affect the powers of an Inspector appointed under section twenty-seven of the principal Act, but no such Inspector shall exercise any powers or functions within a county the Council of which has appointed an Inspector or Inspectors in accordance with the provisions of this section, except by direction of the Minister and after written notice has been given to the County Council.

(7) Nothing in this section shall confer any powers or functions on any County Council, or on any Inspector appointed by the Council, in respect of any lands within the county to which section sixteen or section nineteen of the principal Act relates, except in such cases and upon such terms and conditions as may be determined by the Minister.

8. (1) The Council of any county that has assumed responsibility for the administration of the principal Act within its district may, in addition to its other rating-powers, make and levy a rate on all rateable property within the county which is not exempt from such rate by virtue of subsection six hereof for the purpose of providing funds for the eradication of noxious weeds within its district, or otherwise for the purposes of the administration of that Act.

Council may  
levy rates for  
clearing noxious  
weeds in county.

(2) Such rate may be levied on the basis of the rateable value of the land occupied by the ratepayer or on the basis of the acreage of rateable land occupied by the ratepayer.

(3) Where the rate is to be levied on the basis of the rateable value of the land, the maximum rate that may be levied in any year shall not exceed one-halfpenny in the pound on the capital value of that land; but the total amount payable by any ratepayer shall not in any case exceed sixpence per acre of his holding.

(4) Where the rate is to be levied on the basis of the acreage of land occupied by the ratepayer, the maximum rate that may be levied in any year shall not exceed sixpence per acre of such land.

(5) The Council may, if it thinks fit, from time to time divide the county, for the purposes of such rate, into any number of subdivisions, and may make and levy the rate separately in each subdivision and in such manner that the rate made and levied in any one or more of such subdivisions may vary from that in another or others:

Provided that the maximum rate to be made and levied in any one year in any one subdivision shall not exceed the rate prescribed by subsections three and four hereof.

(6) Before making any rate under this section the Council shall, by resolution, classify all the lands in

the county, or in the several subdivisions, as the case may be, into one or more of the following classes, namely:—

Class A lands, being lands for the immediate and direct benefit of which the Council proposes to expend the proceeds of the rate;

Class B lands, being lands for the less direct benefit of which the Council proposes to expend the proceeds of the rate; and

Class C lands, being all other lands.

The rate shall be made and levied only on Class A and Class B lands and in such proportions as the Council in each case appoints:

Provided that before the appointment of such proportions the Council shall cause public notice to be given of the respective proportions it proposes to appoint; and shall, at a meeting of the Council to be held after the expiration of a period of twenty-eight days after the first publication of such notice, consider all objections in writing (if any) received by the Council to such proposed proportions.

(7) Every classification so made shall be set forth in a list to be sealed with the common seal of the county, and the Council shall immediately cause public notice of such classification to be given, and of the place where the classification list may be inspected for a period of twenty-one days.

(8) Any person aggrieved by such classification may appeal against the same on the ground that the land of the appellant, or any other land in the rating-area, has not been fairly classified in accordance with the benefit received or likely to be received from the expenditure aforesaid, or has not been classified.

(9) A notice of appeal setting out the grounds thereof shall, within seven days next after the expiration of the twenty-one days appointed for the inspection of the classification list, be given to the Clerk of the Magistrate's Court nearest to the public office of the Council, and a copy thereof shall within the same seven days be lodged at that office.

(10) The appeal shall be heard by the Magistrate at such convenient time and place as he appoints, of which not less than three days' notice shall be given to the County Clerk and to the appellant.

(11) On the hearing of any such appeal the Magistrate may cause the classification list to be amended in such manner as he thinks reasonable, and he shall sign the list so amended, and the determination of the Magistrate shall be final and conclusive.

(12) Every classification list sealed with the seal of the county, or signed by a Magistrate in the case of any such appeal as aforesaid, shall, for the purpose of any proceedings for the recovery of rates, be sufficient evidence of a classification duly made by the Council in accordance with the requirements of this section.

(13) The classification list may from time to time be amended by the Council:

Provided that no such amendment shall have effect until the expiration of two months after the service of notice of the amendment on all ratepayers affected thereby.

(14) The provisions of this section relating to appeals and to the authentication of the classification list shall apply to every such amendment of the list.

(15) Except as otherwise provided herein, the provisions of the Rating Act, 1925, shall apply to all rates made under this section.

See Reprint  
of Statutes,  
Vol. VII, p. 977

Description of  
land in notices  
under principal  
Act.

9. The description of any land required to be inserted in any notice served under the principal Act need not define the land referred to therein, but shall be sufficient if it makes such reference to the land whether by name, by number of section or allotment, by boundaries, or otherwise, as allows of no reasonable doubt as to the land referred to.

Inspector, &c.,  
not deemed a  
trespasser.

Cf. 1928, No. 8,  
s. 21,  
see Reprint  
of Statutes,  
Vol. I, p. 250

Penalty for  
personating  
Inspector.  
Cf. *ibid.*, s. 24

10. An Inspector, or any person authorized in writing in that behalf by an Inspector, shall not be deemed a trespasser, or be liable for any damage occasioned by him in the exercise of the powers conferred on the Inspector by the principal Act, unless such damage is occasioned otherwise than in the reasonable exercise of such powers.

11. Every person is liable to imprisonment with or without hard labour for any period not exceeding one year, and in addition thereto to a fine of not less than twenty pounds and not more than one hundred pounds, who personates or falsely represents himself to be an Inspector under the principal Act, or falsely represents himself to be a person authorized by any such Inspector.

Jurisdiction of Court not ousted by question of title.

*Cf.* 1928, No. 8, s. 28

Schedules to principal Act amended.

**12.** In any proceedings for the recovery of money under section thirteen of the principal Act, or of any fine thereunder, the jurisdiction of the Court before which the proceedings are brought shall not be ousted on the ground that any question of title to land is involved.

**13.** The First and Third Schedules to the principal Act are hereby respectively amended by omitting the words "Sweetbrier (*Rosa rubiginosa*)", and substituting in each case the words "Sweetbrier (*Rosa rubiginosa*, including *Rosa eglantheria*, *Rosa mirantha*, and *Rosa agrestis*)".