

New Zealand.

NOXIOUS WEEDS.

1908, No. 133.

AN ACT to consolidate certain Enactments of the General Assembly relating to Noxious Weeds and the Trimming of Hedges.

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. (1.) The Short Title of this Act is “The Noxious Weeds Act, 1908.”

Enactments consolidated

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:—

Savings.

(a.) All Orders in Council, regulations, appointments, orders, special orders, notices, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Interpretation.

1900, No. 10, sec. 2

2. In this Act, if not inconsistent with the context,—

“Clear,” and all references thereto, mean cutting down and keeping cut down, or grubbing or pulling up, the stem or root of any noxious weed so as to prevent any part thereof flowering:

“Inspector” means any Inspector appointed under this Act:

“Local authority” means a City or Borough Council, a Town Board, and a Road Board within their respective limits, a County Council within the limits of all parts of the county

not comprised in a town district or a road district, and the Minister within the limits of any county where "The Counties Act, 1908," is suspended or has never been in operation (such last-mentioned limits being, however, exclusive of town districts or road districts); and each such local authority shall, for the purposes of this Act, have jurisdiction within the aforesaid limits accordingly:

"Minister" means the Minister of Agriculture:

"Noxious weeds" means the plants mentioned in the Second Schedule hereto, and includes (but subject in every case to the provisions of section four hereof) the plants mentioned or included in the Third Schedule hereto:

"Noxious seeds" means the seeds or spores of the plants mentioned or included in the Fourth Schedule hereto:

"Occupier" means every person in occupation of land, and includes the owner of any land which is unoccupied or whereof the occupier is unknown or cannot be found.

3. Where land abuts on a road or is intersected by a road, the boundaries of the land on each side of the road shall, for the purposes of this Act relating to the clearing of noxious weeds, be deemed to extend to the centre of the road, and the occupier of the land shall accordingly be deemed to be the occupier of so much of the road as is within such extended boundaries.

Owner of road-frontage to clear half width of road.
1900, No. 10, sec. 3

4. A local authority may at any time declare that all or any one or more of the plants mentioned in the Third Schedule hereto are noxious weeds within its jurisdiction, whereupon all the plants to which the declaration relates shall be deemed to be noxious weeds within the jurisdiction of such local authority accordingly.

Plants in Third Schedule to be noxious weeds only in districts of such local authorities as so declare.

Ibid, sec. 4

5. For the purposes of such declaration the following provisions shall apply:—

Procedure thereon.

Ibid, sec. 5

(a.) With respect to such portions of New Zealand as are within the jurisdiction of the Minister as the local authority thereof, such declaration shall be by notice by the Minister in the *Gazette*, and shall, according to the tenor of the notice, extend to all such portions of New Zealand or to any such one or more of them as are specified in the notice.

(b.) The Minister may gazette such notice from time to time with respect to different portions of New Zealand within his jurisdiction.

(c.) With respect to such portions of New Zealand as are within the jurisdiction of any local authority other than the Minister, such declaration shall be by special order, and shall in every case extend to all portions of New Zealand within the jurisdiction of the local authority making the special order.

6. The Governor may from time to time, by Order in Council gazetted,—

Governor may extend Third and Fourth Schedules.

Ibid, sec. 6

(a.) Extend the Third Schedule hereto by including therein any plants other than those mentioned therein; and

(b.) Extend the Fourth Schedule hereto by including therein any other plants than those mentioned therein, on the recommendation of the Parliamentary Committee known as the Joint Agricultural, Pastoral, and Stock Committee.

No person to sow or sell noxious seeds or undressed seeds or grain.

1900, No. 10, sec. 7

7. (1.) Every person commits an offence who knowingly sows, sells, or offers for sale—

- (a.) Any noxious seeds, except in the case of gorse-seed to be sown for forage or fodder by permission in writing of the local authority, or for the planting of hedges or live fences; or
- (b.) Any grass-seed, or other seed or grain, which has not been thoroughly dressed by means of a seed-cleaning machine or other sufficient process for the purpose of removing all noxious seeds:

Provided that in any legal proceedings under paragraph (b) of this section for knowingly selling or offering for sale it shall be a sufficient defence if the defendant satisfies the Court that the person to whom he sold the seed or grain, or offered the same for sale, knew the same had not been dressed.

Burden of proof.

(2.) In all legal proceedings taken against any person for any breach of this section knowledge on his part shall be presumed until the contrary is proved.

Threshing-machines, &c., to be thoroughly cleansed. Ibid, sec. 8

8. (1.) Every person owning or being in charge of any machine (being a threshing-machine, clover-dresser, or chaff-cutter) which is used on more farms than one commits an offence if he fails to thoroughly clean out such machine immediately after using at each farm, and before removing such machine or any part thereof to another farm.

(2.) It shall be sufficient compliance with the provisions of this section if the machine is thoroughly swept down, the second-dressing riddles removed and cleaned, the screen opened, the slide below the grain-elevator taken out and the grain and rubbish removed, and the machine run until empty.

Work required in trimming hedges and clearing weeds Ibid, sec. 9

9. Every occupier of land shall in every year commence and continuously thereafter do all things necessary to effectually clear the same, and for that purpose shall carry out the following works on his land to the satisfaction of the Inspector:—

- (a.) In respect of hedges or live fences consisting of gorse, broom, or hakea,—

Where the hedge or fence abuts on a watercourse (but not otherwise), he shall trim or cut the same, and remove and destroy the refuse resulting from the work, whether the same are noxious weeds or not.

- (b.) In respect of hedges or live fences consisting of noxious weeds, being sweetbriar or blackberry,—

He shall trim or cut the same at the proper season of the year, and remove and destroy all refuse resulting from the work.

- (c.) In respect of noxious weeds, being sweetbriar or blackberry, and also gorse, broom, or hakea, wherever the same are declared to be noxious weeds by any local authority under section four hereof, and not forming portion of a hedge or live fence,—

(i.) Where such weeds are in small patches, he shall clear the same at the proper season of the year:

(ii.) In all other cases he shall clear the same at the proper season of the year along the entire length of every boundary-fence or boundary-line, and on each side of every internal fence, water-race, or watercourse to the width of at least one-quarter of a chain each year until the whole is cleared :

Provided that where it is shown that this provision would press unduly on any occupier the Inspector in his discretion may reduce the width to be cleared in any year, but so nevertheless that in no case shall the width to be cleared be less than one-eighth of a chain ; but any occupier may obtain from the Inspector a certificate in writing that such occupier cannot comply with this proviso, whereupon the Minister may reduce the area to be cleared in any one year :

Provided also that the local authority may, by certificate in writing given to the occupier and notified to the Inspector, grant permission to any occupier to grow gorse for forage or fodder on any given area in its district, if and so long as it is satisfied that the growing thereof will not become a nuisance to other occupiers within the district.

Permission to grow gorse.

(d.) In respect of other noxious weeds,—

He shall clear the same at the proper season of the year.

10. (1.) An Inspector may at all reasonable times enter upon any land, whether enclosed or not, for the purpose of ascertaining if the requirements of the last preceding section have been duly complied with by the occupier.

Inspector may enter upon land to ascertain if weeds exist.

1900, No. 10, sec. 10

(2.) In any case where default is made by the occupier in complying with any of the requirements of that section the Inspector may, by notice to the occupier in the form in the Fifth Schedule hereto or to the like effect, specify the requirements as to which default has been made, and request him to comply with them by doing the necessary work within the period specified in the notice ; and it shall be the duty of the occupier so to do.

Notice to be served on occupier of infected land.

Ibid, sec. 11

(3.) If the occupier fails or neglects to duly comply with such notice the Inspector may enter upon the said land and do the work at the expense in all things of the occupier ; but nothing herein shall relieve the occupier from any fine he may have incurred by reason of his default, failure, or neglect.

Inspector may do work at occupier's expense, and recover cost.

Ibid, sec. 12

(4.) The amount of all such expenses shall be recoverable by the Inspector, or such other person as the Minister authorises in that behalf, from the occupier, with costs, by action in any Court of competent jurisdiction.

11. Subject to the provisions of his lease, the reasonable expenses incurred by an occupier under either of the two last preceding sections, including reasonable compensation for his own labour or superintendence, may be recovered by him as a debt from the owner to the extent following, that is to say:—

Proportion of cost of clearing to be borne by owner.

Ibid, sec. 13

(a.) One-fourth of the total amount of such expenses where the unexpired term of the lease is not less than four years at the date when the expenses are incurred ; or

- (b.) Where such unexpired term is then less than four years, such proportion of the aforesaid total amount as, in the absence of agreement between the parties, is fixed by a Magistrate on summons in that behalf issued and proceeded upon summarily under "The Justices of the Peace Act, 1908."

As to Maori lands
not individualised.
1900, No. 10, sec. 14

12. (1.) In the case of Maori land the title to which has not been individualised and partitioned, the Minister shall cause the land to be cleared as required by section nine hereof, if the Maori occupants fail or neglect so to do to the satisfaction of the Inspector; and the cost thereby incurred by the Minister shall be paid by the Native Minister out of any moneys available for Native purposes.

(2.) In every case where the number of Maori owners of any block of Maori land exceeds ten the following special provisions shall apply:—

- (a.) The Minister may, by notice published in the *Gazette* and *Kahiti*, require the Maori owners to appoint a committee of not less than three nor more than seven persons.
- (b.) In addition to publishing such notice as aforesaid, the Minister shall also cause a copy of the published notice to be served on one or more of the Maori owners.
- (c.) The committee may be appointed in such manner as the Minister directs.
- (d.) If within one month after the publication of such notice the Maori owners have not duly appointed a committee, the Minister shall appoint one in such manner as he thinks fit.
- (e.) The publication by the Minister of the names of the members of the committee in the *Gazette* and *Kahiti* shall be conclusive evidence of their due appointment.
- (f.) Subject to the provision of the next succeeding paragraph, it shall be the duty of the committee to clear the block, or cause the same to be cleared, as required by section nine hereof; and if the committee fails or neglects so to do, then the Minister shall cause the block to be cleared in the same manner and with the same consequences as if such failure or neglect had been by the Maori occupants.
- (g.) In any case where the Minister is of opinion that the work of clearing the land cannot advantageously be undertaken by the Maori occupants, the committee, or himself, then the Governor in Council may authorise the land or any part thereof to be leased for such term, at such rental, and on such conditions as to clearing and otherwise (including a condition that the work of clearing may be accepted in or towards satisfaction of rent) as the Governor in Council thinks fit.
- (h.) The lease shall be in such form and shall be executed by such person or lessor on behalf of the Maori owners as the Governor in Council directs, and every such lease shall according to its tenor be deemed to be a valid and effectual lease of the land comprised therein, any restriction or provision in any Act to the contrary notwithstanding.

13. (1.) The Native Minister may register in the Native Land Court a memorandum under his hand, in the form in the Sixth Schedule hereto, setting forth the amount paid by him under the last preceding section. Cost of clearing a charge against Maori land. 1900, No. 10, sec. 15
- (2.) Such memorandum shall operate as a charge against the said land, and thereafter no alienation thereof, whether by way of sale, lease, mortgage, or otherwise, shall have any validity, unless and until such charge is satisfied.
14. At the request of the Maori owners the Governor in Council may extend the provisions of paragraphs (g) and (h) of subsection two of section twelve hereof to any Maori land, whatever its tenure or title or the number of its Maori owners. Certain parts of section 12 may be extended to Maori lands. Ibid, sec. 16
15. All lands being public reserves not vested in any trustees or local authority, and all unoccupied Crown lands, shall from time to time be cleared as required by section nine hereof by the Minister or under his authority. Clearing of public reserves and Crown lands. Ibid, sec. 17
16. Every local authority other than the Minister shall, out of its general revenues, from time to time clear, as required by section nine hereof, all lands under its control, and if it fails or neglects so to do the Minister may cause the same to be done at its expense. Local authority to clear lands under its control. Ibid, sec. 18
17. (1.) Every person commits an offence who obstructs or hinders any Inspector, or any person duly employed or authorised, in the exercise of any power or function conferred on him by or under this Act. Hindering or obstructing an Inspector Ibid, sec. 19
- (2.) No proceedings for the recovery of any fine in respect of any such offence shall be a bar to an action at law by any such Inspector or person in respect of any such act as aforesaid, but every such action may be commenced and proceeded with as if no such proceedings had been taken under this Act.
18. Every person who commits an offence against any of the provisions of this Act or of the regulations thereunder is liable to a fine not exceeding twenty pounds and not less than ten shillings. Fine for offences. Ibid, sec. 20
19. Proceedings for the recovery of any fine under this Act shall be commenced only on the information or complaint of an Inspector, or of such other person as the Minister authorises in that behalf, and all such proceedings shall be heard and determined before a Magistrate alone. Inspector to commence proceedings Ibid, sec. 21
20. All fines recovered under this Act in respect of any offence shall be paid into the Public Account and form part of the Consolidated Fund. Fines to be paid into Public Account. Ibid, sec. 22
21. All sums expended by the Minister or under his direction in the administration of this Act shall be payable out of moneys appropriated by Parliament. Expenses of Act. Ibid, sec. 23
22. Any notice under this Act may be served either by delivering the same personally to the person upon whom the same is to be served, or by leaving the same or by posting the same addressed to him at his usual or last known place of abode in New Zealand, or by affixing the same in some conspicuous place on the land to which the notice relates. Manner in which notices may be served. Ibid, sec. 24
23. The Governor may from time to time, as he thinks fit, appoint Inspectors under this Act, and define their powers and functions, and also make such regulations as he deems necessary in order to give full effect to the provisions of this Act. Inspectors and regulations. Ibid, sec. 25

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

1900, No. 10.—“The Noxious Weeds Act, 1900.”

Section 2.
1900, No. 10, First
Schedule.

SECOND SCHEDULE.

NOXIOUS WEEDS.

BLACKBERRY (*Rubus fruticosus*).
Canadian or Californian Thistle (*Cnicus arvensis*).
Sweetbriar (*Rosa rubiginosa*).

Sections 2, 4, 6.
Ibid, Second
Schedule.
Gazette, 1901,
p. 1312; 1902,
pp. 731, 912; 1903,
p. 2121; 1904,
p. 1393; 1905,
pp. 700, 2400, 2954;
1906, p. 1840.

THIRD SCHEDULE.

NOXIOUS WEEDS WHEN SO DECLARED BY LOCAL AUTHORITY.

BATHURST BURR (*Xanthium spinosum*).
Broom (*Cytisus scoparius*).
Burdock (*Arctium*, any species).
Dock (*Rumex*, any species).
Elderberry (*Sambucus niger*).
Fennel (*Fœniculum vulgare*).
Foxglove (*Digitalis purpurea*).
Giant burdock (*Arctium majus*).
Gorse (*Ulex europæus*).
Hakea (*Hakea acicularis*).
Hemlock (*Conium maculatum*).
Kangaroo acacia (*Acacia armata*).
Lupin (*Lupinus luteus*).
Ox-eye daisy (*Chrysanthemum leucanthemum*).
Pennyroyal (*Mentha pulegium*).
Periwinkle (*Vinca major*).
Ragwort, or ragweed (*Senecio jacobæa*).
St. John's wort (*Hypericum perforatum* or *H. humifusum*).
Tauhinu, or New Zealand cotton-wood (*Cassinia leptophylla*).
Thistles: Any species of *Carlina* (stemless thistle), *Carduus* (common plume or Scotch thistle), *Cnicus* (woolly-headed thistle), *Centaurea* (star thistle), *Silybum* (milk thistle).
Tutsan (*Hypericum androsæmum*).
Viper's bugloss (*Echium vulgare*).
Wild borage (*Echium violaceum*).
Wild turnip (*Brassica campestris*).
Winged thistle (*Carduus pycnocephalus*).

Sections 2, 6.
1900, No. 10, Third
Schedule.
Gazette, 1904,
p. 2696.

FOURTH SCHEDULE.

NOXIOUS SEEDS.

BATHURST BURR (*Xanthium spinosum*).
Blackberry (*Rubus fruticosus*).
Broom (*Cytisus scoparius*).
Burdock (*Arctium*, any species).
Burr clovers (*Medicago denticulata* and *M. maculata*).
Clover dodder (*Cuscuta trifolii*).
Dock (*Rumex*, any species).
Fat-hen, or white goosefoot (*Chenopodium album*).
Fennel (*Fœniculum vulgare*).
Gorse (*Ulex europæus*).

Hemlock (*Conium maculatum*).
 Ox-eye daisy (*Chrysanthemum leucanthemum*).
 Pennyroyal (*Mentha pulegium*).
 Ragwort, or ragweed (*Senecio jacobæa*).
 St. John's wort (*Hypericum perforatum* or *H. humifusum*).
 Sweetbriar (*Rosa rubiginosa*).
 Thistles: Any species of *Carlina* (stemless thistle), *Carduus* (common plume or Scotch thistle), *Cnicus* (Californian thistle and woolly-headed thistle), *Centaurea* (star thistle), *Silybum* (milk thistle).
 Tutsan (*Hypericum androsæmum*).
 Wild turnip (*Brassica campestris*). .

FIFTH SCHEDULE.

NOTICE TO OCCUPIER TO CLEAR LANDS OF NOXIOUS WEEDS.

Section 10.
 1900, No. 10, Fourth
 Schedule.

“The Noxious Weeds Act, 1908.”

To A. B. [*Address and occupation*].

TAKE notice that in respect of the land occupied by you, and hereunder described, default has been made in duly complying with the requirements of the said Act as mentioned below; and I hereby call upon you to commence the necessary work within _____ days from the date of this notice, and thereafter to continue the same until the said requirements are effectively complied with.

Land.	Description of Weeds to be cleared, or of Cutting or Trimming or other Work to be done.

Dated this _____ day of _____, 19 _____.

C. D.,
 Inspector.

SIXTH SCHEDULE.

MEMORANDUM OF CHARGE AGAINST MAORI LAND.

Section 13.
 Ibid, Fifth
 Schedule.

“The Noxious Weeds Act, 1908.”

THE undermentioned Maori land stands charged with £ _____, being the amount paid by the Native Minister on the _____ day of _____, 19 _____, in respect of the cost of clearing noxious weeds on the said land under the provisions of section 12 of the above-mentioned Act.

[*Describe land.*]

Dated this _____ day of _____, 19 _____.

E. F.,
 Native Minister.