

No. , 1936.

A BILL

To make further provision with respect to the eradication of noxious plants and the suppression and destruction of noxious animals; to authorise the leasing upon terms and conditions providing for the eradication of noxious plants of certain lands allotted, reserved, or dedicated by the Crown for the purpose of a common or for any other public purpose; to amend the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith.

[MR. SPOONER;—11 *March*, 1936.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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Short title.

1. (1) This Act may be cited as the "Local Government (Noxious Plants) Amendment Act, 1936."

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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(3) The Local Government Act, 1919, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

Amendment of
Act No. 41,
1919, subst.
Part XXII
and new
Part XXII A.

2. The Principal Act is amended by omitting Part XXII and by inserting in lieu thereof the following new Parts :—

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PART XXII.

NOXIOUS PLANTS.

DIVISION 1.—*Interpretation.*

Definitions.

466. (1) In this Part, unless the context or subject-matter otherwise indicates or requires,—

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"Eradicate" includes do or cause to be done such acts or things as may be prescribed generally, or for and with respect to any locality, premises or person, as the case may be, with a view to freeing land from noxious plants or preventing the growth or spread thereof from or on such land; and "eradication" and like expressions have a corresponding meaning.

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"Land under the control of the council" means land vested in or leased by a council, or within any public place, or within any public reserve under the care, control and management of a council or vested in a council as trustee or of which a council has been appointed the trustee.

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"Occupier"

“Occupier” in relation to land includes—

- 5 (a) any person holding any lease, agreement for or promise of a lease of land, or a license or permit to occupy land;
- (b) any person in actual possession or occupation of land or entitled thereto;
- 10 (c) the occupier or caretaker of any public watering place;
- (d) the authorised agent of an occupier; and
- 15 (e) the resident manager or other person in charge of land upon which the occupier does not reside;

but does not include a council.

“Owner” in relation to land includes, in addition to the persons specified in the definition of “owner” in section four of this Act,—

- 20 (a) the trustees in whom is vested any land reserved temporarily or permanently, or permanently dedicated for any public purpose;
- 25 (b) the person in whom is vested any land taken or appropriated under authority of any statute authorising land to be taken or appropriated for the purpose of any private undertaking; and
- 30 (c) the authorised agent of an owner;

but does not include a council.

“Pastures protection board” means a pastures protection board constituted by or under the Pastures Protection Act, 1934.

35 “Private land” means land alienated by the Crown, or land which the holder is in course of purchasing or has the right to purchase from the Crown, or land held under lease or license or permit from the Crown for any period

period, or reserved or dedicated for any public purpose and vested in trustees (other than the council) or in respect of which trustees (other than the council) have been appointed, and includes land which is owned 5 and occupied or held by the Crown or by any statutory body for any of the following purposes, that is to say, sites for Government buildings, police paddocks, experimental farms, aborigines' reserves, and rail- 10 ways and purposes incidental thereto, or which is owned and occupied or held by the Rural Bank of New South Wales, but does not include land under the control of the council except land held under lease from a 15 council.

"Public land" means any land other than private land, but does not include land under the control of the council or land under the control of a pastures protection 20 board.

"Within land" and any like expression means on or below the land.

"Western Lands Commissioner" means the Western Lands Commissioner for the time 25 being holding office under the Western Lands Act of 1901, as amended by subsequent Acts.

(2) Where the provisions of this Act are inconsistent with the provisions of any Act (except 30 the Careless Use of Fire Act, 1912, as amended by subsequent Acts) or of any regulation or other provision made thereunder with regard to any matter to which this Part applies, the provisions of this Part shall prevail. 35

(3) This Part shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this Part, or the application thereof to any 40 person

person or circumstance is held invalid, the remainder of this Part, and the application of such provision to other persons or circumstances shall not be affected.

5 (4) This Part shall not apply to or in respect of the plant known by the botanical name of *Opuntia* or to or in respect of any varieties of the cactus tribe, which, before the commencement of the Local Government (Noxious Plants) Amendment Act, 1936, have been declared by the Governor to be
10 prickly-pear for the purposes of the Prickly-pear Acts, 1924-1934, or of any Act repealed by that Act, or which after such commencement shall be so declared to be prickly-pear for the purposes of the Prickly-pear Acts, 1924-1934.

15 DIVISION 2.—*Declaration of noxious plants.*

467. (1) The Governor may, on the recommendation of the Minister and the Minister of Agriculture jointly, by proclamation declare any plant
20 to be a noxious plant throughout the whole or any specified portion of the State, and upon the publication of any such proclamation the plant in respect of which the declaration is made shall, for the purposes of this Part, be a noxious plant throughout the whole or the specified portion of the State, as the
25 case may be.

(2) Any such declaration may be made so as to apply to the plant only in particular circumstances, or so as not to apply to the plant in particular circumstances, such circumstances being
30 specified in the proclamation, and if so made shall have effect according to the tenor thereof.

(3) The Minister shall cause a copy of any proclamation published under this section to be served by post on every council, on every pastures protection board, and on the Western Lands Commissioner.
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DIVISION

Obligation
of council
as to land
under its
control.
cf. Act No.
31, 1924,
s. 23.

DIVISION 3.—Land under the control of the council.

468. (1) Every council shall keep and maintain entirely free from noxious plants any land under the control of the council which at the commencement of the Local Government (Noxious Plants) Amendment Act, 1936, is free from noxious plants. **5**

(2) Every council shall, within the time specified in a notice in that behalf served on it by the Minister on the recommendation of the Minister of Agriculture, or within such further time as the Minister on a like recommendation may allow, eradicate noxious plants from any land under the control of the council which is not free from noxious plants and keep such land free from noxious plants. **10**

(3) Notwithstanding anything in subsection two of this section the council of any shire may resolve and may notify by advertisement that the duty which is laid by this Part upon any owner or occupier to eradicate noxious plants from private lands shall extend and apply not only to private lands owned or occupied as such, but also to— **15**

- (a) any road which intersects such lands;
- (b) any road which bounds such lands and is fenced on one side only, in which case the duty shall extend and apply to the person whose unfenced lands are bounded by the road; **25**
- (c) that one-half of the width of any road bounding such lands which abuts upon those lands; **30**

and thereupon such duty shall extend and apply accordingly.

This subsection shall not apply to public roads which are fenced on both sides.

469. (1) The provisions of this Act, relating to the limits of rates which a council may make and levy, shall not extend to the making and levying of a rate by the council for the purpose of defraying the expenses incurred by it in connection with the eradication of noxious plants. **35**

(2) **40**

Rates for
the pur-
poses of
this Part
not affec-
ted by pre-
scribed
limits of
borrowing.

5 (2) Any rate which may be made and levied by the council for such purpose shall not be taken into account for the purpose of ascertaining the limit of rates which may be made and levied by the council under this Act.

(3) The council may defray any expense incurred by it in connection with the eradication of noxious plants out of the general fund of the council.

10 DIVISION 4.—*Land under the control of a pastures protection board.*

15 470. (1) Every pastures protection board shall keep and maintain entirely free from noxious plants any land included in a travelling stock reserve, camping reserve, or public watering place under its control, which land is, at the commencement of the Local Government (Noxious Plants) Amendment Act, 1936, free from noxious plants.

Obligation of pastures protection boards as to reserves, etc.
cf. Act No. 31, 1924, s. 24.

20 (2) Every pastures protection board shall within the time specified in a notice in that behalf served on it by the Minister of Agriculture, or within such further time as such Minister may allow, eradicate noxious plants from any land included in a travelling stock reserve, camping reserve or public watering place under its control, which land is not
25 free from noxious plants.

(3) If any pastures protection board fails to comply with a notice under subsection two of this section the Minister of Agriculture may cause to be done such works as may be necessary to eradicate noxious plants, and may recover from the board as
30 a debt the cost of such works.

The fact that any such works were carried out and the amount of such costs may be evidenced by a certificate under the hand of the Minister of Agriculture.
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(4) If any pastures protection board fails to comply with a notice given under this section it shall be liable to a penalty not exceeding *twenty* pounds for a first offence and not exceeding *fifty* pounds for any subsequent offence:
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Provided

Provided that a pastures protection board shall not be so liable if, during the period of twelve months next preceding the date upon which the notice was given the pastures protection board had incurred liability for an expenditure of not less than two hundred and fifty pounds in the eradication of noxious plants. 5

(5) For the purpose of defraying the expenses incurred by it in connection with the eradication of noxious plants, a pastures protection board may make and levy in any year a special rate on each owner or occupier of ratable land within the district of such board in respect of the large stock or sheep for which he is liable to pay rates under Part III of the Pastures Protection Act, 1934. 10 15

Such special rate shall not exceed one penny per head in the case of large stock and one-eighth of a penny per head in the case of sheep.

The provisions of the Pastures Protection Act, 1934 (other than subsections two and three of section twenty-seven of that Act) shall apply to the making, calculation, notification, collection, payment and recovery of such special rate. 20

(6) Where land is withdrawn from any travelling stock reserve or camping reserve under the control of a pastures protection board, the Minister may, if the Minister of Agriculture so recommends, out of funds provided by Parliament pay to the pastures protection board an amount not exceeding the sum actually expended by the pastures protection board, in the eradication of noxious plants from the land withdrawn. 25 30

DIVISION 5.—*Public lands.*

Powers of
council as
to noxious
plants on
public
lands.

471. (1) A council may eradicate noxious plants from any public lands within its area. 35

(2) (a) The Minister may, upon the recommendation of the Minister of Agriculture, arrange with a council to eradicate noxious plants from public lands within its area.

(b)

(b) The expenses incurred by the council, acting in accordance with such arrangement, shall be defrayed by the Minister from moneys provided by Parliament.

DIVISION 6.—*Private lands.*

472. (1) Within one month after service upon the council of a copy of any proclamation published under section four hundred and sixty-seven of this Act the council shall, if the proclamation relates to land within its area, give the prescribed notice thereof in a newspaper.

Notice of proclamation to be published—duty of owners and occupiers of private land.

If the proclamation relates to land within the areas of more than one council, any two or more of such councils may unite to give such notice.

(2) Where the prescribed notice has been given in pursuance of subsection one of this section—

(a) every occupier of private land which is free from noxious plants shall keep and maintain the same entirely free from noxious plants;

(b) every occupier of private land which is not entirely free from noxious plants shall take reasonable and effective measures to eradicate noxious plants from the said land.

(3) Every occupier who fails, without reasonable excuse, to comply with the requirements of subsection two of this section shall be liable to a penalty not exceeding *twenty* pounds for the first offence and not exceeding *fifty* pounds for any subsequent offence.

473. (1) The council may arrange with the owner or occupier to eradicate any noxious plant from private land at the expense of the council.

Infested land.

(2) Where it is found by the council that noxious plants are growing upon any private land and the council is satisfied that the occupier of such land is not taking reasonable and effective measures to eradicate noxious plants from such land it may give notice to the owner or occupier to eradicate noxious plants from such land.

(3)

(3) The notice shall be in or to the effect of the form prescribed, and may specify different periods of time within which noxious plants shall be eradicated to the satisfaction of the council from particular parts of the land described in the notice 5 or indicated in a sketch accompanying the notice, and may also specify which of the prescribed means, measures, methods or acts for or with respect to the eradication of noxious plants shall be taken, adopted or done by such owner or occupier or, if no such 10 means, measures, methods or acts have been prescribed, may require the owner or occupier to take, adopt or do such means, measures, methods or acts for or with respect to the eradication of noxious plants as in the opinion of the council are necessary 15 in the circumstances.

(4) An owner or occupier upon whom such notice is served and every successor in title of such owner or occupier shall comply with the requirements of the notice. 20

(5) If any owner or occupier fails to comply in any particular with the requirements of a notice given to him under this section he shall be liable to a penalty not exceeding *twenty* pounds for the first offence and not exceeding *fifty* pounds for any subse- 25 quent offence.

Power of council to enter and eradicate noxious plants.

474. (1) If the council is satisfied that an owner or an occupier to whom a notice has been given under section four hundred and seventy-three of this Act, or any successor in title of such owner or occupier is not 30 reasonably and effectively complying with the requirements of the notice the council may, after notice in that behalf given as prescribed, enter upon the land, and may take, adopt or do or cause to be taken, adopted or done the prescribed means, measures, 35 methods or acts for or with respect to the eradication of noxious plants, or if no such means, measures, methods or acts have been prescribed, may take, adopt or do or cause to be taken, adopted or done

such

such means, measures, methods or acts for or with respect to the eradication of noxious plants as seem right and proper in the circumstances.

5 (2) Any costs and expenses reasonably incurred by the council in the exercise of its powers under subsection one of this section shall on demand be repaid to the council by the person to whom the notice referred to in subsection one of this section was given, and may be recovered from such person
10 by the council as a debt.

(3) The provisions of this Act with respect to—

(a) the charge of a rate under this Act on the land in respect of which it is levied; and
15 (b) the time within which proceedings for the recovery of the rate may be taken,

shall, *mutatis mutandis*, apply to and in respect of any judgment recovered under this section against the owner by the council and recorded in the books thereof, as if the amount of the judgment and of
20 any costs awarded to the council in respect of its claim were a rate levied under this Act in respect of the land concerned.

25 475. Notwithstanding anything in this Part, if private lands adjoin public lands within which there are noxious plants the owner or occupier of such private lands shall not be required to eradicate noxious plants from so much of such private lands as are within a distance of forty chains from
30 the common boundary of such private lands and such public lands until he is notified by the council that the necessary works have been commenced to eradicate noxious plants from the public lands.

35 475A. (1) Where private lands are situated on opposite sides of any watercourse, river, or inland water, tidal or non-tidal, and are owned or occupied by the same person, the land between those lands shall for the purposes of this Part be deemed to be owned or occupied by him.

Private lands adjoining infested public lands.

Provision for ascertaining persons liable to eradicate, in certain circumstances.

(2)

(2) Where private lands are situated on opposite sides of any watercourse, river, or inland water, tidal or non-tidal, and are owned or occupied by different persons—

- (a) where what is known as a “give-and-take” fence is erected to define a convenient boundary between such lands such fence shall for the purposes of this Part be deemed to mark the line of ownership or occupation respectively, whether such lands immediately adjoin or not; and **5**
- (b) where there is no fence, or where there is any fence other than a “give-and-take” fence, erected on or between such lands, the middle line of the watercourse, river, or inland water shall for the purposes of this Part be deemed to mark the line of ownership or occupation respectively whether such lands immediately adjoin or not. **15**

(3) Where the depth or width of such watercourse, river, or inland water (taken in conjunction with all the surrounding circumstances) is such that in the council's opinion the application of subsections one and two of this section would be unreasonable, the council may exempt any watercourse, river, or inland water or part thereof from the application of those subsections, and may undertake the eradication of noxious plants therein. **20**

Assistance
in eradi-
cating
noxious
plants.

cf. Act No.
31, 1924,
s. 13.

475B. (1) A council may enter into an agreement with any owner or occupier of private land for the supply of materials, poison, appliances or services for or in connection with the eradication of noxious plants on his land subject to such conditions as may be prescribed, and either free of cost or on such terms as may be prescribed, or, if no terms are prescribed, as may be agreed upon. **30**

(2) The council may extend or vary any agreement made under this section subject to such limitations as may be prescribed. **35**

475c.

475c. (1) Where noxious plants are growing within land which is a common, or which has been reserved (temporarily or otherwise) or dedicated by the Crown for a public purpose; and—

Leasing of
commons
and
reserves.

5 (a) a notice has been given by the council within whose area such land is situated to the trustees of such land requiring them to eradicate noxious plants, and—

10 (i) the noxious plants have not been eradicated within a period of three months after the date upon which such notice was given or within such further period as the council may allow; or

15 (ii) within a period of three months after the date upon which the notice was given the trustees inform the council that they are unable to eradicate noxious plants; or

20 (b) there are no trustees of such land; the Minister for Lands, in this section referred to as "the Minister," may, at the request of the council and on the recommendation of the local land board, lease such land by auction or tender, or upon application made as prescribed by regulations made under the Crown Lands Consolidation Act, 1913, for any term not exceeding fifty years, in such areas, at such rent, nominal or otherwise, as he may determine.

25 (2) Any rent received in respect of any such lease shall be paid into the Consolidated Revenue Fund.

30 (3) During the currency of any such lease—

35 (a) the land comprised in the lease shall be free from all trusts and all rights of common;

(b) any reservation or dedication affecting the land comprised in the lease shall be deemed to be suspended.

(4)

(4) A notification shall be published in the Gazette and in a local newspaper giving particulars of the area available for lease, the rent, and the conditions which apply to the lease.

Any notification under this section may be corrected, amended, modified, or revoked by notice in the Gazette. 5

(5) A lease granted under this section shall contain such conditions and provisions relating to the eradication of noxious plants, and to keeping the land free therefrom, as may be recommended by the Minister of Agriculture and approved by the Minister, and such other conditions and provisions as may be prescribed. 10

(6) It shall be a condition of every such lease that the Minister may, by notification published in the Gazette, without paying any compensation other than for improvements effected in compliance with the conditions and provisions of the lease or effected with the approval of the Minister, withdraw from the lease any land required for any public purpose. Upon such withdrawal the rent for the succeeding years of the lease shall be reduced in proportion to the value of the area withdrawn. 20

(7) A lease granted under this section shall not be transferred or assigned or sub-let (except by way of mortgage or discharge of mortgage) without the consent of the Minister. Application for such consent shall be made in the manner prescribed by regulations made under the Crown Lands Consolidation Act, 1913. 25 30

(8) A transfer of a lease granted under this section shall be made in the form and manner prescribed by regulations made under the Crown Lands Consolidation Act, 1913; and registration thereof shall be subject to payment of such fee as is prescribed by regulations made under the Crown Lands Consolidation Act, 1913. 35

(9)

(9) The boundaries of a lease granted under this section shall be defined where necessary by metes and bounds. A survey fee in accordance with the scale prescribed by regulations made under the Crown Lands Consolidation Act, 1913, shall be paid by the lessee, and may be paid in instalments extending over a period determined by the Minister and with interest at the rate of four per centum per annum.

(10) The Minister may extend the term of a lease granted under this section, either as to the whole or part of the lease, on such conditions as may be determined by him, but so that in no case shall the period of any such extension, when added to the term of the lease, and the period of all earlier extensions exceed fifty years.

(11) The Minister may accept a surrender of any lease granted under this section as to the whole or any part of the land leased.

(12) The Minister, by notice in the Gazette, may forfeit any lease granted under this section if the conditions and provisions of such lease are not complied with by the lessee, and all improvements thereon shall become the property of the Crown.

(13) Any such forfeiture shall take effect on the publication in the Gazette of the notice, and thereafter the land comprised in the lease shall again become subject to any trusts or rights of common affecting the same and the suspension of the reservation or dedication of such land shall cease.

(14) The Minister may by notice published in the Gazette reverse any such forfeiture upon such conditions as he may deem desirable. Such reversal shall relate back to the date when the forfeiture was notified, and the forfeiture so reversed shall for all purposes be deemed never to have been notified.

475D. The description of any land in a notice under this Division of this Part need not particularly define the land, but shall be sufficient if it allows no reasonable doubt as to the land to which the notice refers.

Description of
lands in notice.
cf. Act No. 31,
1924, s. 33 (8).

475E.

Application
to private
lands in
Western
Division.

475E. (1) This Division of this Part shall *mutatis mutandis* extend to private land in the Western Division which is not within the boundaries of a municipality.

(2) In the application of this Division to any such lands or to the owners or occupiers thereof a reference to a council shall be read as a reference to the Western Lands Commissioner. 5

DIVISION 7.—*Financial.*

Grants and
advances.

475F. (1) The Minister may, on the recommendation of the Minister of Agriculture, make advances from moneys provided by Parliament to assist councils, pastures protection boards, or trustees of land reserved or dedicated for any public purpose in carrying out their obligations under this Part. 10 15

(2) In any case where the Minister so requires—

(a) security shall be given to ensure that the amount of any such advance is expended for the purposes and within the time specified by the Minister; 20

(b) an agreement shall be entered into conditioned to secure the repayment of the advance by yearly or half-yearly instalments, together with interest at such rate as the Minister may determine. 25

(3) If any such instalment be not paid on the due date there shall be added thereto a sum equal to ten per centum thereof; and such instalment, together with such additional sum, may be recovered by the Minister. 30

The Minister may, on cause shown, remit part or the whole of any such additional sum.

DIVISION 8.—*General.*

475G. (1) (a) In this section “Minister” means the Minister of Agriculture. 35

(b) The Minister may cause an inspection to be made of any land by a person authorised by him for the purpose.

(c)

Power of
Minister of
Agriculture
to enforce
Part.
cf. Act No.
2031 (S.A.)
(1931),
s. 10.

(c) The person so authorised shall, after making an inspection, report thereon to the Minister.

5 (d) Any person who obstructs a person so authorised in the execution of his duty shall be liable to a penalty not exceeding *fifty* pounds.

10 (2) The Minister may, if satisfied that a council has failed, or is failing adequately to carry out or enforce within its area the provisions of this Part as to the eradication of noxious plants, give notice as prescribed to the council requiring it to do any of the things which might lawfully be done by the council under this Part, and strictly to carry out or enforce the said provisions, and may in such
15 notice specify the time within which and the manner in which the requirements of the notice shall be complied with.

Any such notice may be given to two or more councils in terms requiring them to act together and specifying the proportion in which the expenses shall be borne by each such council.
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(3) If any council fails to comply with such notice, the Minister may himself carry out and enforce within the area of the council the provisions of this Part as to the eradication of noxious plants, and for such purpose and to the extent necessary therefor shall have and may exercise and enjoy within the area of the council the powers, functions, authorities, discretions and immunities conferred by or under this Act upon the council, except the power to borrow or to make a rate, and may recover from the council as a debt the cost of so doing.
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(4) Any council failing to comply with a notice given under subsection two of this section shall be liable to a penalty not exceeding *twenty* pounds for a first offence, and not exceeding *fifty* pounds for any subsequent offence:
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Provided that a council shall not be so liable if, during the period of twelve months next preceding the date upon which the notice was given, the council
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had incurred liability for an expenditure of not less than two hundred and fifty pounds in the eradication of noxious plants.

(5) If the Minister in the exercise of the powers conferred by subsection three of this section incurs expense in connection with the eradication of noxious plants on private land, he may recover the amount of the expense as a debt from the owner or occupier instead of from the council. 5

In any case where the Minister has recovered any amount as aforesaid from the council, the council may recover from the owner or occupier as a debt the amount so paid by the council to the Minister in like manner as if such amount had been costs and expenses incurred by the council under section four hundred and seventy-four of this Act, and the provisions of that section shall apply accordingly. 15

Protection
of Crown,
etc.

cf. Act No.
34, 1927,
s. 22.

475H. No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or any Minister of the Crown or any council or pastures protection board, or the Western Lands Commissioner, or any person acting in the execution of this Act for or in respect of any damage or loss or injury sustained or alleged to be sustained by any owner or person in possession of live stock poisoned by eating or licking or drinking as the case may be any plant, or grass, or herbage, or water, or thing which has been poisoned in consequence of the taking, adoption or doing of any of the prescribed means, measures, methods or acts for or with respect to the eradication of noxious plants if— 20

- (a) in any case where the means, measures, methods or acts are being taken, adopted or done on any land under the control of a council or of a pastures protection board or on any land abutting on or having a frontage thereto, notice of the proposed use of any poisonous matter or thing has been given in a newspaper and a copy of such notice has been affixed in a conspicuous manner 35 40

manner in all places on such land where the work is being carried out and has been served on each resident occupier of land abutting on or having a frontage to such places; and

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(b) in any case where the means, measures, methods or acts are being taken, adopted or done on any other land a like notice has, at least twenty-four hours before the work has been commenced, been served on each resident occupier of land abutting on or having a frontage to such land.

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Such notice shall be given by the Minister or the council, or the pastures protection board, or the Western Lands Commissioner, or the owner or occupier as the case may be who is carrying out the work.

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475i. Any person who scatters or causes to be scattered any noxious plant or the seed or any part of any noxious plant upon any land, or who throws or places or causes to be thrown or placed any such noxious plant or seed or part into any ocean, harbour, estuary, lake, lagoon, river, stream, creek, or watercourse whether containing water or not, or who cuts and leaves any such noxious plant or seed or part in such a position on the foreshores of any ocean, harbour, estuary, lake or lagoon, or the banks of any river, stream, creek, or watercourse, that by reason of floods or otherwise it is liable to be swept or floated into such ocean, harbour, estuary, lake, lagoon, river, stream, creek or watercourse, shall be liable to a penalty not exceeding *fifty* pounds.

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Penalty for scattering seed, etc. cf. Act No. 31, 1924, s. 28.

DIVISION 9.—Ordinances.

475j. (1) Ordinances may be made prescribing all matters which by this Part are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying this Part into

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Ordinances.

into

into effect and, in particular without prejudice to the generality of the foregoing power, may be made for and with respect to—

- (a) (i) the means, measures or methods, whether mechanical, biological, chemical or otherwise to be taken or adopted and the acts to be done for or with respect to the eradication of noxious plants; 5
- (ii) the dissemination of information and the giving of directions relating to the purposes and the use of such means, measures and methods and the doing of such acts; 10
- (iii) the time at which or the period when or within which such means, measures and methods or directions shall be taken or adopted or such acts done; and 15
- (iv) the enforcement of the taking or adoption of such means, measures and methods or directions or the doing of such acts; 20
- (b) the use of appliances or materials, or the manner of mixing materials;
- (c) the disposal and burning of noxious plants; 25
- (d) the disposal or sale of hay, chaff, fodder or grain made or produced from any crop grown on land within which there are noxious plants;
- (e) the branding or labelling of packages containing hay, chaff, fodder or grain made or produced from any crop grown on land within which there are noxious plants; 30
- (f) the agistment of stock on land within which there are noxious plants; 35
- (g) the movement of stock from land within which there are noxious plants;
- (h) the keeping of stock on land within which there are noxious plants;

(i)

- (i) the fencing of land within which there are noxious plants;
- (j) the use of land within which there are noxious plants;
- 5 (k) the time or period of keeping stock on land within which there are noxious plants;
- (l) the time, period or method of cultivating land within which there are noxious plants;
- 10 (m) the use, storage, or carriage in any area of any vehicle (including an aeroplane), machine or thing which harbours or is likely to harbour the seeds of any noxious plant;
- 15 (n) the inspection of stock, hay, chaff, fodder or grain and the granting of certificates as to the freedom thereof from the seeds of noxious plants;
- 20 (o) the inspection of any thing with a view to eradicating or preventing or lessening the risk of the growth of noxious plants;
- (p) the branding of stock moved from or through land within which there are noxious plants.
- 25 (2) (a) An ordinance relating to any of the matters referred to in this Part shall, before being made, be submitted to the Minister of Agriculture, and the ordinance shall not be made unless the Minister of Agriculture approves. cf. Act No. 7, 1915, s. 4.
- 30 (b) The Minister of Agriculture may make recommendations to the Minister as to any alterations or additions to any ordinance which may be considered to be desirable.

PART XXIIA.

NOXIOUS ANIMALS.

- 35 475K. This Part shall not apply to animals which are for the time being noxious animals within the meaning of the Pastures Protection Act, 1934. Part not to apply to certain animals.

475L.

Declaration
of noxious
animals.

475L. The council may, by notification in the Gazette, declare any animal to be a noxious animal within the area or any part thereof, and may in like manner revoke any such declaration.

Occupier to
suppress
and destroy
noxious
animals.

475M. (1) Subject to this section, every occupier of land in any area or part thereof in which an animal has been declared to be a noxious animal shall forthwith continuously suppress and destroy by any lawful method and in accordance with any requirement of the council any such noxious animal which is within such land or upon any road bounding or intersecting the same or any part thereof. 5

(2) Any such requirement of the council shall be stated in a notice published in a newspaper.

(3) The council shall continuously suppress and destroy any such noxious animal upon any public road which is fenced on both sides, except a public road leased under section 276A of this Act. 15

Definition
of occupier.

475N. In this Part "occupier" means a person (including the Rural Bank of New South Wales) for the time being entitled to the possession of any land, and where the person so entitled does not reside on the land includes his resident manager or other person in charge of the land. 20

Further
amendment
of Act
No. 41, 1919.
Sec. 3.
(Division into
Parts.)

3. The Principal Act is further amended by omitting from section three the words and figures "Part XXII.—Noxious Plants and Animals—ss. 466-475" and by inserting in lieu thereof the words and figures— 25

PART XXII.—NOXIOUS PLANTS—ss. 466-475J. 30

PART ., XXIIA.—NOXIOUS ANIMALS—ss. 475K-475N.

Savings.

4. (1) Any action or proceeding, and any cause of action or proceeding, pending or existing, immediately before the commencement of this Act, in relation to any 35
of

of the matters referred to in Part XXII of the Principal Act, by or against the council, may be continued by or against the council.

(2) Any ordinance made under the Principal Act
5 in relation to any of the matters referred to in Part XXII
of the Principal Act and in force immediately before the
commencement of this Act shall, unless inconsistent with
Part XXII or Part XXIIA of the Principal Act as
amended by this Act, continue in force, but may be
10 amended or repealed by an ordinance made under the
Principal Act as so amended.

(3) Any proclamation, notification, or notice made
or given under the Principal Act in relation to any of the
matters provided for in Part XXII of the Principal Act
15 and in force immediately before the commencement of
this Act shall continue in force, but may be rescinded,
revoked, varied or replaced by a proclamation, notifica-
tion, or notice made or given under the Principal Act as
amended by this Act.

20 5. (1) The Governor may, on the recommendation
of the Minister and the Minister of Agriculture
jointly, make regulations not inconsistent with Part
XXII of the Principal Act as amended by this
Act, prescribing all matters which by that Part
25 are required or permitted to be prescribed or
which are necessary or convenient to be prescribed for
carrying that Part into effect in so far as that Part
relates to land in the Western Division which is outside
the area of the council, and in particular and without
30 prejudice to the generality of the foregoing power, may
make regulations for or with respect to any of the matters
referred to in subsection one of section 475J of the
Principal Act as amended by this Act. Regulations.

(2) A regulation made under this section may—
35 (a) be made to apply to all lands outside the area
of any council or any specified part of such
lands;

(b)

- (b) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof, but no such penalty shall exceed *fifty* pounds;
 - (c) impose also a daily penalty for any continuing breach thereof not exceeding *five* pounds per day; 5
 - (d) fix a minimum as well as a maximum penalty;
 - (e) authorise any matter or thing to be from time to time determined, applied or regulated by the Minister of Agriculture or by the Western Lands Commissioner or by a pastures protection board by resolution, or by the chairman of a pastures protection board, either generally or for any class of cases or in any particular case. 15
- (3) A regulation made under this section shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the regulation;
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session. 20
- (4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulation has been laid before such House disallowing the regulation or any part thereof, such regulation or part shall thereupon cease to have effect. 25 30