



New South Wales

Noxious Weeds Amendment Act 1997 No 70

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Noxious Weeds Amendment Act 1997 No 70

Act No 70, 1997

An Act to amend the *Noxious Weeds Act 1993* to make further provision for the control and suppression of noxious weeds. [Assented to 10 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Noxious Weeds Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Noxious Weeds Act 1993 No 11

The *Noxious Weeds Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 31

Omit the section. Insert instead:

31 Agricultural machines—spread of noxious weeds into NSW

- (1) The purpose of this section is to prevent the spread into New South Wales of notifiable weeds that are prevalent in Queensland.

Note. The principal notifiable weed concerned is parthenium weed.

- (2) This section applies to agricultural machines:

(a) that are of a kind declared, by order of the Minister published in the Gazette, to be agricultural machines to which this section applies, and

(b) that have already been used for the purpose for which the machines were manufactured,

being agricultural machines that are brought into New South Wales from Queensland.

- (3) The following provisions apply to any agricultural machine to which this section applies:

(a) The Minister is to make arrangements for inspectors to set up places at or near the border of New South Wales and Queensland at which machines may be produced for inspection (being places set up on a regular basis or by special arrangement with a person bringing a machine into New South Wales). The machine is to be brought into New South Wales at that place and produced to an inspector without delay.

- (b) A declaration in duplicate must be lodged with an inspector at that place certifying that the machine has been inspected and cleaned as required by the regulations (being a declaration signed by the person who inspected and cleaned the machine).
 - (c) An inspector at that place must inspect the machine.
 - (d) Following that inspection, the inspector is to sign a copy of the declaration and return it to the person in charge of the machine, unless the inspector is not satisfied that the machine has been cleaned as required by the regulations.
 - (e) If the inspector is not satisfied that the machine has been cleaned as required by the regulations, the machine is not to be moved anywhere in New South Wales, without the approval of an inspector, until the inspector is so satisfied and has signed a copy of a declaration (referred to in paragraph (b)) lodged with the inspector. Until the inspector is so satisfied, the inspector may only approve of the movement of the machine to an appropriate place to be cleaned or for its return to Queensland.
 - (f) A copy of the declaration signed by the inspector must accompany the machine while it is in New South Wales (but only for the period of 12 months after the machine was last brought into New South Wales).
- (4) A person who moves, or permits the movement of, an agricultural machine within New South Wales, knowing that subsection (3) has been contravened in relation to the machine, is guilty of an offence.

Maximum penalty: 50 penalty units.

- (5) A person who, for the purposes of this section, lodges a declaration with an inspector that the person knows, or ought reasonably to know, is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 50 penalty units.

- (6) An inspector may:
- (a) stop and inspect an agricultural machine that the inspector reasonably suspects to have been moved in New South Wales in contravention of subsection (3), and
 - (b) require any such agricultural machine to be cleaned as required by the regulations under subsection (3) if the inspector reasonably suspects that it contains notifiable weed material.
- (7) The person in charge of an agricultural machine that is required under subsection (3) to be accompanied by a copy of a declaration must, on demand by an inspector, produce for inspection the copy of the declaration.
- Maximum penalty: 20 penalty units.
- (8) In this section, *inspector* includes a border inspector or an authorised officer.

[2] Section 34 Minister may permit growing etc of noxious weeds

Insert after section 34 (4):

- (5) In this section, *noxious weed* includes noxious weed material.

[3] Sections 34A and 34B

Insert after section 34:

34A Minister may declare quarantine area

- (1) The Minister may, by order, declare land described in the order to be a quarantine area for the purpose of controlling, or preventing the spread of, any specified kind of W1 or W2 noxious weeds that are present on the land.

- (2) Before making an order under this section, the Minister must consult with the Ministers responsible for any public authorities having functions that are exercisable on or in respect of the land that is to be subject to the order.
- (3) Land can be declared to be a quarantine area for a kind of W1 or W2 noxious weed even though it is already a quarantine area for another kind of W1 or W2 noxious weed.
- (4) An order must state the purpose of the quarantine and may:
 - (a) prohibit or restrict the movement of people, animals and things (such as vehicles and machinery) into, out of and within the quarantine area, and
 - (b) specify conditions subject to which people may move and animals and things may be moved into, out of or within that area, and
 - (c) without limiting paragraph (a) or (b), require movements of people, animals or things into or out of that area to be made only at specified entry or exit points, and
 - (d) authorise the erection of fencing and gates across roads within that area for the purpose of regulating the movement of vehicles or animals, and
 - (e) close any road within that area in order to regulate or prevent the passage of vehicles or animals, and
 - (f) specify other steps to be taken for the purpose of promoting the control, or preventing the spread, of the weed concerned.
- (5) An order declaring land to be a quarantine area has effect only on and from the date specified in an advertisement published in a newspaper circulating in the area where the land is located or, if no such date is specified, on and from the day after the date on which the newspaper is published.

- (6) An order remains in force for 6 months or such shorter period as is specified in the order. However, in the case of land that is already the subject of an order, the Minister may make a further order that is to have effect as soon as the existing order ceases to have effect.
- (7) Any person who, without reasonable excuse, contravenes a requirement imposed on the person by an order, or a direction given to the person under the authority of an order, is guilty of an offence.

Maximum penalty (subsection (7)): 100 penalty units.

34B Powers to stop and search vehicles in respect of quarantine areas

- (1) At any place on or near the boundary of a quarantine area, an inspector may display a traffic sign directing drivers of approaching vehicles to stop their vehicles. A sign must be of a kind prescribed by the regulations and be displayed so as to be clearly visible to the drivers of approaching vehicles.
- (2) The driver of a vehicle approaching a traffic sign displayed in accordance with subsection (1) must:
 - (a) ensure that the vehicle stops within a reasonable distance of the sign, and
 - (b) ensure that the vehicle remains stationary so as to enable the inspector to exercise the inspector's powers with respect to the vehicle.

Maximum penalty: 20 penalty units.

- (3) An inspector may, for the purpose of ascertaining whether a vehicle referred to in subsection (2) is contaminated with a relevant kind of noxious weed:
 - (a) inspect, enter and search the vehicle and any of its accessories, and
 - (b) open any door or opening of, or remove any covering from, the vehicle or require the driver of the vehicle to do any of those things, and

- (c) take from the vehicle for analysis or further examination samples of any vegetable matter that the inspector reasonably suspects to be a noxious weed of that kind.
- (4) In this section:

driver of a vehicle includes the person in charge of the vehicle if that person is not the driver and also includes the rider of the vehicle in the case of a vehicle such as a motor cycle.

inspector includes an authorised officer.

place includes a road (whether public or private).

relevant kind of noxious weed means a noxious weed of the kind the presence of which gave rise to the declaration of the quarantine area concerned.

vehicle means any device that is designed to be driven or ridden by a person and is propelled by human or animal power or by an engine, and includes a boat.

[4] Section 36A

Insert after section 36:

36A Temporary restrictions during noxious weed control

- (1) The purpose of this section is to enable a local control authority to impose temporary restrictions:
- (a) to enable control measures for noxious weeds to be undertaken in accordance with this Act, or
 - (b) to protect people and animals from risks to their health and safety arising from measures taken to control noxious weeds in accordance with this Act.

- (2) A local control authority may require the occupier of land to remove any animals from any part of the land and to prevent animals from entering any part of the land for a specified period. This subsection applies only if the authority is acting under section 20 because a weed control notice has not been complied with.
- (3) A local control authority may temporarily close or obstruct public or private roads (other than any State highway, freeway, tollway or State work within the meaning of the *Roads Act 1993*) while measures to control noxious weeds are being taken on land adjacent to those roads.
- (4) A local control authority may temporarily close to navigation, or obstruct navigation in, any waters while measures to control noxious weeds are being taken in those waters.
- (5) A local control authority may erect notices to warn people not to enter on, or remain on, any land on which measures are being taken to control noxious weeds.
- (6) An inspector appointed by a local control authority may give such directions, or take such steps, as are necessary in order to enable the local authority to exercise its functions under this section.

[5] Section 38 Powers related to aquatic weeds

Omit subsection (1).

[6] Section 47A

Insert after section 47:

47A Inspectors and others may inquire as to source or destination of noxious weed material

- (1) An inspector or authorised officer who reasonably believes that a person has information that may enable the source or destination of noxious weed material to be traced or determined may require the person to answer questions for that purpose.

- (2) A person referred to in subsection (1) is not excused from answering a question put to the person under that subsection only on the ground that the answer might tend to incriminate the person. However, if the person claims, before answering the question that the answer might tend to incriminate the person, neither the question nor the answer is admissible in evidence against the person in criminal proceedings other than proceedings under section 54.
- (3) An inspector or authorised officer may, for the purposes of this Act, divulge information given to the inspector or officer under this section.

[7] Dictionary of words and expressions

Omit the definition of *agricultural machine*.

[8] Dictionary of words and expressions

Insert after the definition of *irrigation area*:

land includes watercourse, river or inland water, whether tidal or non-tidal.

[Minister's second reading speech made in—
Legislative Assembly on 29 May 1996
Legislative Council on 11 September 1996]