

NOXIOUS WEEDS ACT, 1931-1935.

BEING

NOXIOUS WEEDS ACT, 1931, No. 2031 OF 1931 [ASSENTED TO
26TH NOVEMBER, 1931.]

AS AMENDED BY

NOXIOUS WEEDS ACT AMENDMENT ACT, 1935, No. 2236 of 1935
[ASSENTED TO 12TH DECEMBER, 1935.]

AND

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935
[ASSENTED TO 19TH DECEMBER, 1935.]

An Act to make further and better provision for the
destruction of noxious weeds, and for other purposes.

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament
thereof, as follows:

PART I.

PRELIMINARY.

PART I.

1. This Act may be cited as the "Noxious Weeds Act,
1931-1935."

Short title.
Of. U.K.
11 & 12
Geo. 5, c. 48.
Sch.

2. This Act shall come into force on a date to be fixed by
proclamation.

Commence-
ment of Act.

3. The provisions of this Act are arranged as follows:—

Arrangement
of Act.

PART I.—Preliminary.

PART II.—Administration.

PART III.—Destruction of Noxious Weeds—

DIVISION I.—Powers and Duties of Councils:

DIVISION II.—Destruction by Private Owners and
Occupiers:

DIVISION III.—Destruction on Breakwind Reserves in
Pinnaroo Railway District and on
Drainage Lands in the South-East.

Administration: The administration of this Act was by proclamation committed to the
Minister of Agriculture: *Gazette* 7th January, 1932, p. 1.

s. 2. This Act was proclaimed to commence on 17th March, 1932: *Gazette* 17th March, 1932,
p. 511.

PART IV.—Miscellaneous Provisions.

PART V.—Offences.

PART VI.—Evidence and Legal Procedure.

Acts repealed.

4. The Acts mentioned in the first schedule are hereby repealed.

Interpreta-
tion.

5. (1) In this Act, unless some other meaning is clearly intended—

“authorised officer” means any person appointed by the Governor or a council under section 6, and includes any inspector in the Highways and Local Government Department of the public service of the State:

“council” means a municipal or district council:

“Crown lands” means—

(a) any lands dedicated, reserved, or granted to any instrumentality of the Crown or Government department; and

(b) any other lands of the Crown,

except lands comprised in any grant, lease, agreement, or licence to or with any person other than an instrumentality of the Crown or Government department:

“destroy” means grub and burn, and “destruction” has a corresponding meaning:

“district” means municipality or district council district:

“noxious weed” means any plant declared under this Act to be a noxious weed for the purposes of this Act, except any such plant with respect to which a regulation has been made declaring that it shall cease to be a noxious weed for the purposes of this Act:

“owner” or “occupier” includes the authorised agent of any owner or occupier, and every person in receipt of or entitled to rents or profits of any land and every person having the control or management of any land, and also includes a mortgagee in possession.

(2) Any land which is situated within an irrigation area continued by or proclaimed under the Irrigation Act, 1930, but not situate within a district shall, for the purposes of this Act, be deemed to be a district council district, and the Minister of Irrigation shall, for the purposes of this Act, be deemed to be the district council of that district.

Inserted by
2236, 1935,
s. 2.

PART II.

PART II.

ADMINISTRATION.

6. (1) Every inspector in the Highways and Local Government Department of the public service of the State shall, without any further appointment, be an authorised officer for State or for any particular portion of the State.

Authorised
officers.

(2) The Governor may appoint any other person to be an authorised officer for the purposes of this Act for the whole State or for any particular portion of the State.

(3) Any council may appoint any other person to be an authorised officer for the purposes of this Act for the district of the council.

(4) Every person appointed as aforesaid shall throughout the area for which he is so appointed be an authorised officer for the purposes of this Act, and the exercise by every authorised officer appointed otherwise than for the whole State of his powers and duties under this Act shall be limited to the portion of the State or the district for which he was appointed.

7. (1) The Governor may make regulations declaring any plant to be a noxious weed for the purposes of this Act throughout the whole or any portion of the State, and upon the making of any such regulation the plant in respect of which the declaration is made shall for the purposes of this Act be a noxious weed throughout the whole or the portion of the State, as the case may be.

Declaration
of noxious
weeds.

(2) The Governor may make regulations declaring any plant declared under this Act to be a noxious weed for the purposes of this Act shall cease to be a noxious weed for the purposes of this Act either throughout the whole State or throughout any portion thereof, and upon the making of any such regulation the plant in respect of which the declaration is made shall for the purposes of this Act, cease to be a noxious weed throughout the whole or the portion of the State, as the case may be.

(3) Any declaration with respect to any plant made by regulation under this section 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 specified in the regulation, and if so made shall have effect according to the tenor thereof.

PART III.

PART III.

DESTRUCTION OF NOXIOUS WEEDS.

DIVISION I.

DIVISION I.—POWERS AND DUTIES OF COUNCILS.

Duty of
councils to
destroy noxi-
ous weeds.

Amended by
S.L.R. Act,
1935.

8. (1) Subject to Division III. of Part III., every council shall, at its own expense, destroy all noxious weeds upon all lands, not being public roads, which are vested in it or under its control, and also upon the half width of all public roads adjoining those lands, but notwithstanding anything hereinbefore contained, every municipal council shall, at its own expense, destroy all noxious weeds upon all public roads which are vested in it or under its control.

(2) Any council may expend any portion of its revenue in complying with the provisions of this section.

(3) In addition to exercising the power conferred by subsection (2) hereof, any council may, for the purpose of providing funds for the purpose of complying with the provisions of this section, declare a special rate on the ratable property within its district or within any portion of the district which the council declares, for the purposes of this section, to be infested with noxious weeds.

(4) Any such special rate may be declared without obtaining the consent of the ratepayers, and shall be in addition to any special rate authorised to be declared and levied by a council under the Local Government Act, 1934, and the amount of the special rate shall not be taken into consideration in determining whether the limit up to which a council may rate has been reached.

(5) Except where inconsistent with this Act, all the provisions of the Local Government Act, 1934, shall apply to and in respect of the declaring, levying, and recovery of the said special rate.

(6) All moneys raised by means of the said special rate shall be applied to complying with the provisions of this section or to carrying out the provisions of this Act.

Subsidies to
councils.
Inserted by
2236, 1935,
s. 3.

8a. (1) The Minister may out of moneys to be provided by Parliament for the purpose, make subsidies to any council for the purpose of the destruction of noxious weeds on travelling stock reserves within the district of the council, and on roads of a width of three chains or more within the district of the council.

(2) Any such subsidy paid to any council shall be applied for the purposes aforesaid.

PART III.
DIVISION I.

Councils to
enforce
destruction
of noxious
weeds.

9. Every council shall within its district strictly carry out and enforce the provisions of this Act as to the destruction of noxious weeds.

10. (1) If the Minister has reason to believe that any council has failed or is failing strictly to carry out or enforce within its district the provisions of this Act as to the destruction of noxious weeds, he may cause an inspection to be made of the district by an authorised officer.

Failure to
enforce
noxious weeds
destruction.
Of. U.K.
11 & 12
Geo. 5, c. 48,
Sch.

(2) The authorised officer shall, after making an inspection, report to the Minister.

(3) The Minister may, if satisfied that the council has failed or is failing strictly to carry out or enforce the said provisions, give notice to the council strictly to carry out or enforce the said provisions.

(4) If any such council fails to comply with such a notice, the Minister may himself strictly carry out and enforce within its district the provisions of this Act as to the destruction of noxious weeds, and may recover from the council by action in any court of competent jurisdiction the cost of so doing, or may deduct the cost from any subsidy which the council is entitled to be paid under any Act.

(5) Any such council failing to comply with a notice given under subsection (3) hereof shall, in addition to any liability incurred under subsection (4) of this section, be liable to a penalty of not more than twenty pounds for a first offence, and not less than twenty pounds nor more than fifty pounds for any subsequent offence.

(6) For the purpose of enforcing the provisions of this Act as mentioned in subsection (4) of this section, the Minister may within any district exercise all the powers, functions, authorities, and discretions which the council itself might exercise.

(7) If the Minister in enforcing the provisions of this Act as mentioned in subsection (4) of this section, incurs expense in destroying or taking measures to destroy noxious weeds on any land, not being land vested in or under the control of a council, the Minister may, if he thinks fit, recover the amount of the expense from the owner or occupier of the land instead of from the council. In any case when the Minister has recovered any amount as aforesaid from the council, the council may recover from the owner or occupier of the land the amount so paid by the council to the Minister.

DIVISION II.

DIVISION II.—DESTRUCTION BY PRIVATE OWNERS AND OCCUPIERS.

Owners and occupiers to destroy noxious weeds.

Amended by 2236, 1935, s. 4.

11. Every owner and every occupier of any land shall at all times, and at his own cost and expense, destroy all noxious weeds upon the said land, and upon the half width of all public roads (other than public roads within any municipality) adjoining the same.

Exemption of hedges.

12. This Act shall not apply to African boxthorn grown at the commencement of this Act as a hedge and kept trimmed to a width not exceeding in any part four feet six inches and to a height not exceeding in any part seven feet.

Power to enter and search for noxious weeds.

13. Every authorised officer may, with or without assistants—

- (a) enter at any time upon any lands;
- (b) search to ascertain whether any noxious weeds are to be found upon the land; and
- (c) remain upon the land for such time as is reasonably necessary for the purposes of the search.

Notice to owner or occupier to destroy noxious weeds.
Cf. U.K.
11 & 12
Geo. 5, c. 48,
Sch.

Amended by 2236, 1935, s. 5.

14. (1) Where an authorised officer finds any noxious weeds upon any land or upon any public road adjoining the same he may, by notice in writing, require the owner or occupier of the land to destroy forthwith all noxious weeds upon the land, and upon the half width of all public roads adjoining the same. A notice may be given requiring the destruction of noxious weeds upon any land or road without giving notice requiring the destruction of noxious weeds on the adjoining road or land, as the case may be.

(2) The notice may be in the form No. 1 in the second schedule.

Penalty for not destroying noxious weeds after notice.

Amended by 2236, 1935, s. 6.

15. The owner or occupier of any land who does not within the prescribed time after the service upon him of a notice under section 14, destroy all noxious weeds upon the said land, and upon the half width of all public roads adjoining the same, or who does not during the continuance of the six months next after the expiration of the prescribed time after service of notice aforesaid, destroy all noxious weeds upon the said land and upon the half width of all public roads adjoining the same, shall be liable to a penalty for a first offence not exceeding five pounds, and for every subsequent offence not exceeding twenty pounds. If any owner or occupier is convicted by a court of any offence under this section, and the court is satisfied that such owner or occupier

has at all material times used all reasonable exertions to destroy all noxious weeds upon the said land, the court may enter a conviction without any penalty.

16. Where an owner or occupier neglects or fails to comply with a notice under section 14, any authorised officer, whether or not any proceedings are taken under section 15, may, with or without assistants—

Powers of officers on failure or neglect of owner or occupier.

Amended by 2236, 1935, s. 7.

- (a) enter upon the land of the owner or occupier;
- (b) use all such means, and take all such measures, and do and perform all and every such acts or things, as to him appear proper or necessary to be done to ensure the destruction of noxious weeds upon the land and roads, or parts of roads, mentioned in the notice; and
- (c) remain upon, and shall have free right of ingress, egress, and regress into, over, and across the said land for such period as may be necessary for destroying the said noxious weeds.

17. For the purposes of section 16 an owner or occupier who—

Owner or occupier not commencing and continuing to comply to be in default.

- (a) does not forthwith after the service upon him of the notice mentioned in that section commence to comply therewith; or
- (b) having so commenced, does not continue such compliance, shall be deemed to have neglected or failed to comply with the said notice.

18. (1) The cost and expense incurred by an authorised officer in acting under section 16 shall be a debt due by the owner or occupier of the land to the appointers of the authorised officer and payable on demand, and shall be recoverable by action in any court of competent jurisdiction or in any manner provided by this Act, but no amount shall be recoverable which is in excess of the amount which would be derived from the sale of the piece of land of which the land in respect of which the cost and expense was incurred is the whole or any part thereof.

Cost and expenses recoverable from owner or occupier.

Amended by 2236, 1935, s. 8.

(2) Until the said cost and expense is paid by the owner or occupier liable to pay the same, the amount thereof shall be paid—

- (a) where the land in respect of which the cost and expense is incurred is situated within a district, by

the council of that district, out of the general revenue thereof:

- (b) in all other cases, by the Treasurer out of the general revenue of the State, without any other appropriation than this section.

Notice may be given when cost of destruction unpaid for three months.

19. (1) Where the amount due and payable to a council or to the Minister for the cost and expense of destroying noxious weeds on any land is unpaid for three months, the council or the Minister may give to the registered owner of the land a notice in the form in the third schedule, or in a form to the like effect.

(2) The notice shall also be published three times in the *Government Gazette*.

Notice, how sent.

20. The notice under section 19 may be given to the registered owner of the land, or to his agent or attorney in case there is any such attorney or agent resident in the State known to the council or the Minister (as the case may be).

Land may be let for payment of cost of destruction.

21. If after one month from the third publication as required by section 19 of the notice the amount mentioned therein as being due and payable by an owner or occupier, or any portion thereof, remains unpaid, the council or the Minister (as the case may be)—

(a) may let the land mentioned in the notice, or any part thereof, for a year, and so on from year to year, until the amount or portion and all other amounts made payable under this Act are paid and discharged; and

(b) may receive and retain the rents and apply the same in payment—

i. in the first place, of all costs of and attending the notice, the publication thereof, and the letting; and

ii. in the next place, in and towards the payment of the cost and expense of the destruction of noxious weeds on the land mentioned in the notice, including—

(i.) the cost and expense incurred at the time of the first publication of the notice;

(ii.) any cost and expense incurred either in the destruction of noxious weeds on the said land up to the time of the letting, or in any way whatsoever connected with non-payment of the amount at any time recoverable by the council or the Minister (as the case may be); and

(iii.) any cost and expense incurred for any act done or performed under the provisions hereof,

until the owner or occupier has paid and discharged the same; and

(c) shall hold any surplus of rent for the owner of the land.

22. (1) Instead of letting the land under section 21 the council or the Minister (as the case may be) may apply by petition to the Supreme Court for a sale of all or any part of the land.

Land may be sold for payment of cost of destruction.

(2) The petition shall not, where the registered owner is unknown, be presented until after one month from the third publication of the notice as required by section 19.

(3) The petition shall not, where the registered owner is known, be presented until after the expiration of six months from the third publication as aforesaid of the notice and service of a copy thereof or a notice to the like effect upon the registered owner or his attorney or agent as provided by section 20.

(4) The Court, on being satisfied by affidavit or otherwise that the moneys mentioned in the notice are lawfully due, and were owing at the time of the first publication of the notice, and that all things required by this Act to be done have been done, may make an absolute order in the first instance, or may grant a rule, calling upon the owner, if known, or all whom it may concern, if the owner is unknown, to show cause why an order should not be made for the sale by public auction of the land comprised in the petition, or so much thereof as may be sufficient to pay—

(a) the cost and expense incurred at the time of the first publication of the notice:

(b) the cost and expense incurred in the destruction of noxious weeds on the land up to the time of the application for sale:

- (c) all costs and expenses of and attending the notice, the application, and the sale:
 - (d) all other costs, charges, and expenses for any act done or performed by the petitioners, or by their authority, for carrying out the provisions of this Part.
- (5) Unless good cause is shown to the contrary within the time fixed by the rule, the Court shall order—
- (a) the sale of the land in manner aforesaid;
 - (b) payment out of the proceeds of the sale of the said costs, charges, and expenses in preference to any mortgage or other security on such land; and
 - (c) that a conveyance, or if the property is under the provisions of The Real Property Act, 1886, a memorandum of transfer (which the Registrar-General is hereby directed to register) be executed by the Master of the Court in a form to be approved by a Judge.
- (6) Notwithstanding the provisions of The Real Property Act, 1886, such a conveyance, or the registration of such a memorandum of transfer (as the case may be), shall vest an indefeasible estate in fee simple in the said land in the purchaser, his heirs, and assigns, free from all encumbrances.
- (7) The balance arising from the proceeds of such sale shall remain and be subject to any future or other order of the Court for the behoof of the persons interested therein.
- (8) Where lands belonging to different owners are included in any notice under section 19, the same may be included in one petition for sale, and the Court may make such orders as to the apportionment of the costs and expenses of and incidental to the sale of such lands, or any part thereof, as are deemed just.

Distress may
be levied.

23. (1) Where any money payable under this Act by any owner or occupier to a council or to the Minister (as the case may be) remains due and unpaid for the space of one month after notice in writing to pay the same has been given to the owner or occupier, any person thereunto authorised by the council or the Minister (as the case may be) may, at any time thereafter so long as any money remains so unpaid, without any warrant, enter upon any land of the owner or occupier, and distrain the money, goods, chattels, and effects of the owner or occupier, as the case may be, found thereon for the amount remaining due and unpaid.

(2) If the amount for which the distress is levied, together with all reasonable costs of such notice, entry, and distraint, is not paid within five days after the levy, then the said distress, or so much thereof as is sufficient to pay the amount remaining unpaid and costs, may be sold.

(3) Any surplus remaining after payment of the said amount and costs, and the costs of and incidental to the sale, shall be returned to the owner of the money, goods, chattels, and effects distrained.

24. Nothing in this Act contained shall be construed to render it the duty of an owner or occupier to destroy noxious weeds upon a dedicated travelling stock reserve or Crown lands used as a travelling stock road which is within the boundaries of, or adjoining, the land of that owner or occupier.

Owner or occupier not bound to clear travelling stock reserve.

25. No authorised officer shall be deemed a trespasser, or be liable for any damage occasioned by him in the exercise of the powers, discretions, and authorities, or any of them, by this Act conferred upon him, unless the damage is occasioned by or under the authority of the officer wilfully and without necessity.

No person acting *bona fide* liable for damage.

DIVISION III.—DESTRUCTION ON BREAKWIND RESERVES IN PINNAROO RAILWAY DISTRICT AND ON DRAINAGE LANDS IN THE SOUTH-EAST.

DIVISION III.

26. In this Division of this Act—

Interpretation of terms.

“breakwind reserve” means any land within the area enclosed by the outer edge of the blue line shown on the plan in the second schedule to the Pinnaroo Railway Act reserved by the Surveyor-General as a breakwind (whether the land so reserved is or is not within any of the hundreds mentioned in section 13 of the said Act):

“drainage lands” means any land reserved under the Crown Lands Act, 1929, for drainage purposes, or any land vested in His Majesty, or in the South-Eastern Drainage Board, on which is situated any drain, petition or scheme drain, or drainage works within the meaning of the South-Eastern Drainage Act, 1931.

Amended by S.L.R. Act, 1935.

27. (1) Every owner and every occupier of any land adjoining any breakwind reserve or any drainage lands shall, at all times and at his own expense, destroy all noxious weeds

Destruction of noxious weeds on drainage lands.

upon the breakwind reserve or drainage lands and on the half width of any public road adjoining the breakwind reserve or drainage lands.

(2) When any land is separated from any such breakwind reserve or drainage lands by a public road only, the owner or occupier of the land shall, at all times, and at his own expense, destroy all noxious weeds upon the full width of the said road, and upon the breakwind reserve or drainage lands, and upon the half width of any other public road adjoining the breakwind reserve or drainage lands.

(3) The obligation imposed by this section on the owner or occupier of land shall not apply in any case where the land adjoining the breakwind reserve or drainage lands on the side thereof remote from the first-mentioned land, or separated therefrom by a public road only, is Crown lands.

(4) The obligation imposed by this section shall apply with respect to the whole width of the breakwind reserve or drainage lands, and with respect to so much of the length thereof as adjoins the land of the owner or occupier bound by this section, or as is separated therefrom by a public road only.

(5) When the owners or occupiers of lands on different sides of any breakwind reserve or drainage lands, or separated therefrom by a public road or roads only, are bound by this section to destroy noxious weeds on the breakwind reserve or drainage lands, or on the breakwind reserve or drainage lands and public road or roads, and the owner or occupier of the land on one of the sides destroys the noxious weeds, he may, by action in any court of competent jurisdiction, or summarily, recover a portion of the costs and expenses of the destruction thereof from the owner or occupier of the land on the other of the sides.

The portion so recoverable shall be determined according to the respective liabilities of the owners or occupiers under this section in respect of the breakwind reserve or drainage lands, or breakwind reserve or drainage lands and public road or roads, or the part or parts thereof whereon the noxious weeds have been destroyed.

Notice to
owner or
occupier to
destroy noxi-
ous weeds.

28. (1) When an authorised officer finds noxious weeds upon any breakwind reserve, drainage lands, or public road mentioned in section 27, he may, by notice in writing, require any person bound by that section to destroy the noxious weeds to forthwith destroy all noxious weeds thereon, or on

the part or parts thereof in respect of which he is so bound (as the case may be).

(2) The notice may be in the form No. 2 in the second schedule.

29. The owner or occupier of any land who, being bound by section 27 to destroy the noxious weeds on any breakwind reserve or drainage lands, or on the breakwind reserve or drainage lands and any public road or roads, does not within the prescribed time after the service upon him of a notice under section 28, or who does not during the continuance of the six months next after the expiration of the prescribed time after service of notice aforesaid, destroy all noxious weeds on the breakwind reserve or drainage lands, or on the breakwind reserve or drainage lands and public road or roads, or on the part or parts thereof in respect of which he is so bound (as the case may be), shall be liable to a penalty for a first offence not exceeding five pounds, and for every subsequent offence not exceeding twenty pounds.

Penalty for not destroying noxious weeds after notice.

Amended by 2236, 1935, s. 9.

30. The provisions of sections 16 to 25 (both inclusive) shall, *mutatis mutandis*, apply to and in respect of noxious weeds and the destruction of noxious weeds on any breakwind reserve or drainage lands and the public road or roads adjoining the breakwind reserve or drainage lands in the same manner and to the same extent as if the noxious weeds were in fact upon the land adjoining the breakwind reserve or drainage lands, or separated therefrom by a public road only, which is owned or occupied or held by the person charged under section 27 with the duty of destroying the noxious weeds and as if the noxious weeds were not in fact upon the breakwind reserve or drainage lands.

Application of provisions for enforcement of Act to breakwind reserves and drainage lands.

PART IV.

PART IV.

MISCELLANEOUS PROVISIONS.

31. It shall be sufficient in any notice required under this Act if the notice clearly and reasonably states the purpose thereof.

Notice sufficient if purpose clearly stated.

32. The following provisions shall apply as to every notice required by this Act to be given to any person:—

Service of notices.

- i. The notice shall be addressed to the person to whom the notice is given:

PART IV.

II. The notice shall be deemed duly served if the same has been—

(a) given to the said person personally;

(b) left at his usual or last known place of abode;
or

(c) sent by post:

III. Where there is more than one owner or occupier of the same land, service upon any one of them in manner aforesaid shall be deemed service upon all.

Regulations.

33. (1) In addition to any power by any other section of this Act conferred on the Governor to make regulations (which power shall in every case be implied for the purpose of any section in which the word “prescribed” is used) the Governor may make regulations—

(a) prescribing, either generally or with respect to land situated in any particular district or area or with respect to any noxious weed, the time for compliance with any notice under section 14 or section 28:

(b) prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which appear to him to be necessary or convenient to be prescribed, for the purpose of more effectually carrying out any of the provisions of this Act or for better effecting the objects of this Act.

(2) Any regulation may fix penalties not exceeding in any case the sum of ten pounds for the breach of the same or any other regulation.

PART V.

PART V.

OFFENCES.

34. Every person who—

(a) wilfully publishes in the *Government Gazette* any false notice or other document in any matter in which a notice or other document is by this Act required or authorised to be published in the *Government Gazette*; or

Persons publishing false statements in *Government Gazette* liable to fine.

- (b) wilfully posts any false notice in any matter of which notice is by this Act required to be given,

shall be liable to a penalty not exceeding ten pounds.

35. Any person who falsely represents himself to be an authorised officer, either by giving a notice to an owner or occupier purporting to be a notice under Part III., or in any other manner howsoever personating an authorised officer, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any period not exceeding twelve months, or to a penalty not exceeding one hundred pounds.

Penalty for personating authorised officers.

36. (1) Any person who—

Obstructing officers.

- (a) obstructs, hinders, or interrupts any authorised officer or any other person in the exercise of anything which the officer or person is by this Act empowered to do;

- (b) obstructs, hinders, or interrupts any person employed by any council or the Minister in the performance of anything which the council or the Minister is by this Act empowered to do; or

- (c) threatens or assaults an authorised officer whilst in the performance of his duty under this Act,

shall be liable to a penalty not exceeding twenty pounds.

(2) No proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to an action at law by the authorised officer or person for or in respect of any such assault.

37. Where any matter or thing is by or under this Act, or by any notice published under the authority of this Act, directed or forbidden to be done, and the act so directed to be done remains undone, or the act so forbidden to be done is done, in every such case every person offending against the direction or prohibition shall be deemed to be guilty of an offence against this Act.

Non-observance of any direction or prohibition of or under the Act.

38. Every person who is guilty of an offence against this Act for which no other penalty is expressly provided shall be liable to a penalty not exceeding twenty pounds.

General penalty.

PART VI.

PART VI.

EVIDENCE AND LEGAL PROCEDURE.

*Government
Gazette
evidence of
appointment.*

39. A copy of the *Government Gazette* containing a notice of the appointment of any person to be an authorised officer for the purposes of this Act for the whole State or for any specified portion of the State, or for any specified district shall be conclusive evidence of the appointment.

*Certificate
prima facie
evidence of
cost of
destruction.*

40. In any proceedings for the recovery of the cost and expense of destroying noxious weeds under this Act, a certificate purporting to be under the seal of the council or purporting to be under the hand of the Minister (as the case may require), and specifying the amount of the cost and expense of the destruction, shall be received as *prima facie* evidence of the amount of the said cost and expense.

*Complaint
for offences.*

41. A complaint for any offence under section 15 or section 29—

- (a) shall not be laid except by an authorised officer;
- (b) shall be laid within six months from the date of the service of the notice.

*Onus of
proof.*

42. In any proceedings for an offence against this Act or for the recovery of the cost and expense of destroying noxious weeds under this Act—

- (a) the averment that at a specified time a specified person was the owner or occupier of any specified land shall be deemed proved in the absence of proof to the contrary;
- (b) the averment that any specified land was within a specified portion of the State or within a specified district, shall be deemed proved in the absence of proof to the contrary;
- (c) the averment that any road was a public road shall be deemed proved in the absence of proof to the contrary.

*Summary
proceedings
for offences.*

43. All proceedings in respect of any offence against any provision of this Act (other than section 35) shall be disposed of summarily.

S. 43. BESLEY v. MCKINNON (1872) 6 S.A.L.R. 19; 1 Austn. Digest 75. Held that under the Thistle and Bur Act of 1862 one complaint only should be laid against the same person though in respect of different sections.

44. All moneys received for or on account of penalties imposed on the complaint of an officer of a council for offences against this Act committed within the limits of the district of the said council shall be paid over to, and for the use of the said council: all other moneys received for or on account of penalties imposed for offences against this Act shall be paid into general revenue.

Appropriation of penalties.

45. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Financial provision.

SCHEDULES.

THE FIRST SCHEDULE.

Section 4.

ACTS REPEALED.

Reference to Acts.	Short Title of Acts.
No. 26 of 1862	The Thistle and Bur Act of 1862.
No. 409 of 1887	The Thistle and Bur Act, 1887.
No. 517 of 1891	Noxious Weeds Destruction Act, 1891.
No. 1697 of 1925	Noxious Weeds (African Boxthorn) Act, 1925.

THE SECOND SCHEDULE.

Section 14.

Form No. 1.

[Noxious Weeds Act, 1931.]

NOTICE TO DESTROY NOXIOUS WEEDS.

To Mr. [name of owner or occupier], of [his address and occupation].

Take notice that I, the undersigned, being an authorised officer under the above Act, do hereby, pursuant to the provisions of the said Act, require you forthwith to destroy all noxious weeds upon the land occupied by you in [hundred or other locality of land], being [numbers of sections or other description of land], containing [area in acres or square miles], [if necessary, add and also upon the half width of all roads adjoining the said land or any part thereof].

Dated this day of 19 .

Signature].....

Every notice under this Act is deemed to have been duly served upon the owner or occupier if left at his usual or last known place of abode in the State.

On neglect or failure to comply with this notice, the destruction of the noxious weeds upon the land and roads (if any) therein referred to will be effected by the [District Council, or Minister of.....(as the case may be)], at the expense of the owner or occupier.

Form No. 2.

Section 28.

[Noxious Weeds Act, 1931.]

NOTICE TO DESTROY NOXIOUS WEEDS ON BREAKWIND RESERVE [or DRAINAGE LANDS].

To Mr. [name of owner or occupier], of [his address and occupation].

Take notice that I, the undersigned, being an authorised officer under the above Act, do hereby, pursuant to the provisions of the said Act, require you forthwith to destroy all noxious weeds upon the breakwind reserve (or drainage lands) situated in the [hundred or other locality of land], being [numbers of sections or other description of land] containing [area in acres or square miles], [if necessary, add and also upon the half width of all roads adjoining the said breakwind reserve (or drainage lands)]. The said breakwind reserve (or drainage lands) adjoins the land occupied by you. [or The said breakwind reserve (or drainage lands) is separated from the land occupied by you by a road, and I hereby further require you, pursuant to the provisions of the said Act, forthwith to destroy all noxious weeds upon the full width of the said road (in addition to destroying all noxious weeds upon the other lands hereinbefore mentioned).]

Dated this day of , 19 .

[Signature]

Every notice under this Act is deemed to have been duly served upon the owner or occupier if left at his usual or last known place of abode in the State.

On neglect or failure to comply with this notice, the destruction of the noxious weeds upon the land and roads (if any) therein referred to will be effected by the [District Council or Minister of.....(as the case may be)], at the expense of the owner or occupier.

Section 19.

THE THIRD SCHEDULE.

[Noxious Weeds Act, 1931.]

NOTICES OF MONEYS PAYABLE FOR DESTRUCTION OF NOXIOUS WEEDS.

Notice is hereby given that there is now due and payable in respect of the cost and expense of the destruction of noxious weeds upon the land (or lands, as the case may be) mentioned in the schedule hereto, the sum set opposite to the description of the said land (or lands), and the owner or owners of the said land (or lands), are required to take notice that unless the amount (or amounts) so due, together with the cost of and attending this notice, are paid to the [set out name of council or Minister (as the case may require)] on or before the day of , 19 [one month from the third publication of this notice], the said [council or Minister (as the case may be)] will let such of the said land (or lands) in respect of which any money shall be then unpaid from year to year, in manner provided by the Noxious Weeds Act, 1931, or apply to the Supreme Court for an order for the sale of the said land (or lands) or so much thereof as may be necessary to produce the amount or amounts remaining unpaid, and also the costs of and attending the application and sale.

Dated this day of , 19 .
.....*

The Schedule referred to.

Description of Land.	Name of Owner or Occupier (if unknown, state so).	Amount due.
		£ s. d.

*Signature of mayor or chairman of council or Minister (as the case may require).

Regulations.

The following regulations were in force under this Act on 27th May, 1937:—

Gazette—17th March, 1932, p. 512.
 14th April, 1932, p. 664.
 16th June, 1932, p. 1068.
 30th June, 1932, p. 1164.
 16th February, 1933, p. 241.
 8th February, 1934, p. 254.
 19th April, 1934, p. 1057.
 25th April, 1935, p. 1195.
 6th June, 1935, p. 1479.
 13th June, 1935, p. 1512.
 17th October, 1935, p. 791.
 9th April, 1936, p. 814.
 7th May, 1936, p. 968.
 2nd July, 1936, p. 2.
 24th December, 1936, p. 1344.
 15th April, 1937, p. 790.
 27th May, 1937, p. 1206.

Of the above regulations all, except the ones first and second mentioned, provide only for the declaration of noxious weeds. The said regulations, in addition to providing for the declaration of certain noxious weeds, also prescribe the time for compliance with notices under sections 14 and 28 of this Act.

Table of Plants Declared to be Noxious Weeds.

The following table shows the plants which, at 27th May, 1937, were declared by regulation to be noxious weeds for the purposes of this Act:—

1. Plants declared as noxious weeds throughout the whole of the State—

Botanical Name.	Common Name.
<i>Asclepias fruticosa</i>	Cotton Bush
<i>Asclepias rotundifolia</i>	
<i>Asphodelus fistulosus</i>	Wild Onion
<i>Carthamus lanatus</i>	Saffron Thistle
<i>Cenchrus tribuloides</i>	Innocent Weed
<i>Centaurea calcitrapa</i>	Purple Star Thistle
<i>Centaurea solstitialis</i>	Yellow Cockspur
<i>Chondrilla juncea</i>	Skeleton Weed
<i>Cirsium arvense</i>	Canada Thistle
<i>Citrullus colocynthus</i>	Colocynth

Table of Plants Declared to be Noxious Weeds—
continued.

Botanical Name.	Common Name.
<i>Conium maculatum</i>	Hemlock
<i>Cuscuta</i> spp.	Dodder
<i>Datura stramonium</i>	Thorn Apple
<i>Datura tatula</i>	Horny Thorn Apple
<i>Euphorbia terracina</i>	False Caper
<i>Homeria collina</i>	Cape Tulip
<i>Homeria miniata</i>	
<i>Hypericum perforatum</i>	St. John's Wort
<i>Marrubium vulgare</i>	Horehound
<i>Opuntia monacantha</i>	Prickly Pear
<i>Ornithogalum thyrsoides</i>	Black-eyed Susan
<i>Reseda luteola</i>	Dyer's Weed (Weld)
<i>Solanum rostratum</i>	Buffalo Burr
<i>Solanum sodomaeum</i>	Apple of Sodom
<i>Xanthium californicum</i>	Californian Burr
<i>Xanthium spinosum</i>	Bathurst Burr

2. Plants declared to be noxious weeds within the City of Adelaide, the Waikerie Irrigation Area, and the municipality of Glenelg—

Botanical Name.	Common Name.
<i>Chenopodium album</i>	White Goosefoot ("Fat Hen")

3. Plants declared to be noxious weeds within the municipality of Mount Gambier and the district council district of Mount Gambier—

Botanical Name.	Common Name.
<i>Foeniculum vulgare</i>	Fennel

4. Plants declared to be noxious weeds within the district council district of Port Elliot—

Botanical Name.	Common Name.
<i>Lavendula stoechas</i>	Wild Lavender

5. Plants declared to be noxious weeds within the district council district of Tatiara—

Botanical Name.	Common Name.
<i>Lepidium draba</i>	Hoary Cress
<i>Silene cucubalus</i>	Bladder Champion

Table of Plants Declared to be Noxious Weeds—
continued.

6. Plants declared to be noxious weeds within the municipality of Mount Gambier—

Botanical Name.	Common Name.
<i>Silybum marianum</i>	Variegated Thistle

7. Plants declared to be noxious weeds within the municipality of Murray Bridge—

Botanical Name.	Common Name.
<i>Tribulus terrestris</i>	Caltrop

8. Plant declared to be a noxious weed within the municipalities of Moonta, Kadina, and Wallaroo, and within the district council district of Kadina—

Botanical Name.	Common Name.
<i>Statice thouninii</i>	Winged Sea Lavender

9. Plant declared to be a noxious weed throughout the whole of the State except where grown as a hedge on 17th March, 1932, and kept trimmed to a width not exceeding in any part 4ft. 6in. and to a height not exceeding 7ft.—

Botanical Name.	Common Name.
<i>Lycium ferocissimum</i>	African Box Thorn

NULLITY OF MARRIAGE

see Matrimonial Causes.