



New South Wales

Noxious Weeds Amendment Act 2012 No 25

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Noxious Weeds Amendment Act 2012 No 25

Act No 25, 2012

An Act to amend the *Noxious Weeds Act 1993* to make further provision with respect to the control of noxious weeds; and for other purposes. [Assented to 8 May 2012]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Noxious Weeds Amendment Act 2012*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Noxious Weeds Act 1993 No 11

[1] Section 3 Objects of this Act

Omit section 3 (a) (ii) and (iii). Insert instead:

- (ii) prevent, eliminate or restrict the spread in this State of particular significant weeds, and
- (iii) effectively manage widespread significant weeds in this State,

[2] Section 7 Weed control orders

Omit section 7 (3). Insert instead:

- (2A) The Minister may, in a weed control order, grant an exemption referred to in section 32A.
- (2B) An exemption has effect for the period specified in the order and is subject to such conditions, if any, as may be specified in the order.
- (2C) The Minister may amend or revoke an exemption or a condition of an exemption.
- (3) For the purposes of this Act, a plant that is the subject of a weed control order is a noxious weed in relation to the land to which the order applies.

[3] Section 11

Insert after section 10:

11 Power to regulate or prohibit bringing into NSW noxious weed material or things likely to introduce such material

- (1) The Minister may, by order published in accordance with subsection (2), regulate or prohibit the bringing into the State (or into any specified part of the State) of noxious weed material or any other thing that the Minister considers is likely to introduce any noxious weed material into the State (or into any specified part of the State).
- (2) An order made by the Minister under this section is to be published in the Gazette. However, if the Minister considers the order is required urgently, the order may be published:
 - (a) in a newspaper circulating, or by radio or television broadcast, in the area to which the land subject to the order

is located, or, if appropriate, in a newspaper circulating throughout the whole State, or

- (b) on the internet website of a newspaper referred to in paragraph (a) or on the Department's internet website.
- (3) If an order is published in accordance with subsection (2) other than in the Gazette, the Minister is to publish the order as soon as practicable in the Gazette.
- (4) An order commences on the day it is first published in accordance with this section or on such later day as may be specified in the order.
- (5) A person who fails to comply with an order made under this section is guilty of an offence.
Maximum penalty: 100 penalty units.

[4] Section 12 Private occupiers of land must control noxious weeds on land

Insert at the end of the section (after the note):

- (2) A local control authority may, by written notice, require the owner of land (other than a public authority or a local control authority) to which a weed control order applies to provide the following information in relation to the land:
 - (a) the name and contact details of the occupier of the land or any part of the land,
 - (b) a description of the land occupied by the occupier.
- (3) The notice must specify the manner in which, and may specify a reasonable time by which, the information must be provided.
- (4) A person who, without reasonable excuse, fails to comply with a requirement of a notice under this section is guilty of an offence.
Maximum penalty: 20 penalty units.

[5] Section 13 Public authorities' obligations to control noxious weeds on own land

Insert “, and a description of the land occupied,” after “the public authority” in section 13 (2).

[6] Sections 28 (3) and 30 (2)

Omit “the weed material of a weed” wherever occurring.

Insert instead “a plant, or any seed or other part of a plant,”.

[7] Sections 29 and 32

Omit “a weed” wherever occurring. Insert instead “a plant”.

[8] Section 31 Machinery and equipment—spread of noxious weeds into NSW

Omit “in Queensland” from section 31 (1).

Insert instead “elsewhere in Australia”.

[9] Section 31 (2)

Omit the subsection. Insert instead:

(2) This section applies to machinery or equipment:

(a) that is of a kind declared, by order of the Minister published in the Gazette, to be machinery or equipment to which this section applies, and

(b) that has already been used for the purpose for which it was manufactured,

being machinery or equipment that is brought into New South Wales from another State or a Territory.

[10] Section 31 (3) and (6) (b)

Omit “agricultural machine” wherever occurring.

Insert instead “machinery or equipment”.

[11] Section 31 (3) (a)

Omit “border of New South Wales and Queensland”.

Insert instead “borders of New South Wales”.

[12] Section 31 (3) (a)

Omit “machines” and “a machine” wherever occurring.

Insert instead “machinery or equipment”.

[13] Sections 31 (3) and (4) and 40

Omit “The machine” and “the machine” wherever occurring.

Insert instead “The machinery or equipment” and “the machinery or equipment”, respectively.

[14] Section 31 (3) (a)

Omit “at that place”. Insert instead “at such a place”.

[15] Section 31 (3) (e)

Omit “Queensland”. Insert instead “the State or Territory concerned”.

[16] Sections 31 (4), (6) (a) and (7) and 40

Omit “an agricultural machine” wherever occurring.

Insert instead “machinery or equipment”.

[17] Section 32 Use of machinery or equipment

Omit “an agricultural machine”. Insert instead “machinery or equipment”.

[18] Section 32A

Insert after section 32:

32A Exemptions relating to weeds notifiable only on Lord Howe Island

- (1) The Minister may, by order published in the Gazette, exempt:
 - (a) a person or class of persons, or
 - (b) premises, machinery or equipment,from the operation in any part of the State other than Lord Howe Island of section 28 (1), 29, 32 or 40 in relation to a plant, or any seed or other part of a plant, that is a Class 2 noxious weed only on Lord Howe Island (and not elsewhere in the State).
- (2) An exemption is subject to such conditions, if any, as may be specified in the order.
- (3) An order commences on the day it is published in the Gazette or on such later day as may be specified in the order.

[19] Section 40 Further powers in relation to notifiable weed material

Omit “notifiable weed material of a weed”.

Insert instead “a plant, or any seed or other part of a plant”.

[20] Section 40

Omit “such weed material”.

Insert instead “such plant, or seed or other part of a plant”.

[21] Section 44 Inspections and investigations

Omit section 44 (c). Insert instead:

- (c) examine, take samples, photographs or video recordings of, seize, detain or remove any thing in or about those premises that the inspector or authorised officer

reasonably suspects to be noxious weed material or to be vegetable matter, or any other thing, containing noxious weed material,

[22] Section 44 (h)

Omit the paragraph. Insert instead:

- (h) remove or destroy or cause to be removed or destroyed any thing in or about those premises that the inspector or authorised officer reasonably suspects to be noxious weed material or to be vegetable matter, or any other thing, containing noxious weed material,

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

Omit section 47A (1). Insert instead:

- (1) An inspector or authorised officer who reasonably believes that a person has information that may assist in tracing or determining the source or destination of any matter that the inspector or authorised officer reasonably suspects to be noxious weed material may require the person to answer questions for that purpose.

[24] Section 68 Delegation by local control authorities

Omit “other than this power of delegation”.

Insert instead “(other than this power of delegation) but only under this power of delegation”.

[25] Section 68, note

Insert at the end of the section:

Note. Accordingly, a council may not delegate any of its functions as a local control authority under this Act under the council’s power of delegation under the *Local Government Act 1993*.

[26] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

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[27] Schedule 2, clause 9

Insert after clause 8:

9 Existing orders and declarations under section 31

- (1) In this clause:
amending Act means the *Noxious Weeds Amendment Act 2012*.
- (2) An order made in relation to agricultural machines under section 31 (2) and in force immediately before the substitution of that subsection by the amending Act is taken to be an order made in relation to machinery or equipment under section 31 (2) as so substituted.
- (3) Any declaration lodged or other thing done under and in accordance with section 31 (3) before its amendment by the amending Act is taken to have been lodged or done under and in accordance with that subsection as so amended.

[28] Dictionary

Omit “a weed” from the definition of *noxious weed*. Insert instead “a plant”.

[Second reading speech made in—
Legislative Assembly on 23 February 2012
Legislative Council on 1 May 2012]