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NOXIOUS WEEDS

ARRANGEMENT OF SECTIONS

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An Act to make Provision for the eradication of Noxious Weeds

[31ST OCTOBER, 1936]

Short title

1. This Act may be cited as the Noxious Weeds Act.

Interpretation

2. In this Act, except where the context otherwise requires -

“clear” means to dig up or pull up and burn noxious weeds, or to employ other means of destruction authorized by the Minister;

“noxious weed” means any plant which the Minister may by notice published in the Gazette declare to be a noxious weed, either throughout the whole of Malawi or in one or more Districts or portions of Districts thereof;

“owner”, in relation to unoccupied land, includes –

1. in the case of a company or an association, the manager or, if his name be not known, any director of the company or association;
2. in the case of a partnership, the manager or, if his name be not known, any member of the partnership;

“person responsible”, in relation to land, means –

1. the occupier of land, or in the case of unoccupied land the registered owner thereof;
2. in the case of a mining location, the holder of such location;
3. in the case of public land or customary land over which grazing or other rights have been granted, the holder of such rights;
4. in the case of land in customary land, the occupier or person who has the use of such land, or the Chief who has jurisdiction thereover, or all or any of the inhabitants of the nearest village;
5. in the case of commonage or town lands or roads or other areas, the Municipal Council or Town Council under whose control or within whose jurisdiction such land, road or other area is situate;

“weed inspector” means any person authorized by the Minister to perform the duties of an inspector under this Act. Magistrates, District Commissioners, Assistant District Commissioners, and all members of the police force shall be ex officio weed inspectors for the purposes of this Act.

Duty of persons responsible to clear

3. It shall be the duty of every person responsible under this Act to clear or cause to be cleared any noxious weeds growing or occurring on the land in respect of which he is responsible. It shall further be the duty of any person to report forthwith to the nearest known weed inspector the occurrences of any noxious weeds on any land in respect of which such person is responsible. Any person contravening this section shall be liable to a fine of 10pounds or in default of payment to imprisonment for one month.

Power to enter upon land

4. A weed inspector may at all reasonable times enter upon any land, whether enclosed or not, for the purpose of ascertaining if any noxious weeds are growing thereon.

Notice to be served on person responsible for infected land

5. If a weed inspector finds any noxious weed growing or occurring upon land, he may by notice in writing to the person responsible require him to clear such land within a reasonable time to be specified in the notice, and it shall thereupon be the duty of the person responsible to do so. Such notice shall indicate the particular noxious weed occurring upon the land and as nearly as practicable the portion or portions of the land on which the said noxious weed occurs.

Manner in which notices may be served

6. Any notice under this Act shall be in writing, signed by the person giving such notice. Such notice shall be deemed to be duly served –

1. if served personally upon the person responsible; or
2. if left addressed to the person responsible at his usual or last known place of abode; or
3. if posted in a prepaid registered letter addressed to the person responsible at his last known place of abode or business.

Penalty for failure to comply with notice

7. Any person responsible who fails to comply with any such notice shall be liable to a fine of 25pounds, or in default of payment to imprisonment for three months.

Inspector may clear at expense of person responsible

8. if the person responsible fails to clear the land as aforesaid, or if such notice cannot be served in the manner prescribed by section 6, a weed inspector may, upon receiving written authority from the Permanent Secretary, enter upon the land with or without assistance and eradicate any noxious weed found thereon; but nothing herein contained shall relieve the person responsible from any penalty he may have incurred under this Act, and the Permanent Secretary may recover the cost, charges and expenses of clearing the land aforesaid by action in any competent court.

Penalty for obstruction of weed inspector in exercise of his duty

9. Any person who obstructs or hinders a weed inspector in the exercise of his duty under this Act shall be guilty of an offence and shall be liable to the penalty prescribed in section 7.

Noxious weed not to be disposed of in certain ways

10. No person shall throw any noxious weed or the seed of such noxious weed into any river or stream, or on to any road or land.

Any person disobeying this section shall be liable to the penalty prescribed in section 7.

Power to take samples of seed and treatment of plant, seed or grain offered for sale

11. Any weed inspector may at all reasonable times enter any premises where any plant, seed or grain is offered for sale and may take samples thereof, and should such weed inspector find any plant, seed or grain which is likely to propagate or spread the growth of noxious weeds, such plant, seed or grain shall, when deemed necessary by the inspector, be treated by or at the expense of the consignee or vendor, or in the manner prescribed by or to the satisfaction of the inspector, and if not so treated, or if such treatment be deemed ineffectual, the Permanent Secretary may cause such plant, seed or grain to be destroyed.

Penalty for offering for sale infected seed, etc

12. Any person who knowingly sells or offers or exposes for sale any plant, seed or grain which is likely to propagate or spread the growth of noxious weeds shall be liable to the penalty prescribed in section 7.

Local Authorities authorized to make By-laws ad hoc

13. Every Municipal Council and Town Council shall have power to make By-laws or Regulations compelling occupiers of land within the Municipality or Township to keep their land free from noxious weed.

Contravention of such By-laws or Regulations shall be punishable in the same way as in the case of Municipality or Township By-laws or Regulations.

Responsible person in any district may petition Government to have plant declared noxious weed

14. Any responsible person or persons in any District or portion of a District of Malawi may petition the Minister to declare any plant to be a noxious weed for the purpose of this Act in such District or portion of a District. On receipt of such petition the Minister shall cause notice to be given in the *Gazette* setting forth the nature of the petition and calling upon any responsible persons in the said District or portion of a District to lodge, in writing, within a reasonable time to be fixed by such notice, objections (if any) to the said petition being acceded to. Thereupon, on the expiration of the period fixed for receiving objections, the Minister shall take the same into consideration and may grant or refuse the petition.

Minister may declare plant to be noxious weed or remove any plant from list of noxious weed

15. Notwithstanding the last preceding section, the Minister may at any time, by notice published in the *Gazette*, declare any plant to be a noxious weed, either throughout the whole of Malawi or in one or more Districts or portions of Districts thereof, and may by like notice remove any plant from the list of plants declared noxious weeds:

Provided that at least thirty days before exercising his powers under this section the Minister shall, by publication in the *Gazette* and in the local press, signify his intention of declaring a plant to be a

noxious weed.

Regulations

16. The Minister may make, alter and amend Regulations, not inconsistent with this Act, prescribing the measures to be taken to prevent the introduction and spread of noxious weeds, the authority and duties of weed inspectors and generally for the better carrying out of the objects and purposes of this Act. The penalty for contravention of any such regulation shall be that prescribed in section 7.

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UBSIDIARY LEGISLATION

DECLARATION OF NOXIOUS WEEDS

under s. 15

The following plants have been declared to be noxious weeds throughout the whole of Malawi in terms of section 15 of the Act –

Indian hemp	G.N.167/1953
Eichhornia crassipes (water hyacinth)	G.N.97/1956
Acanthospermum hispidum DC (upright Starbur)	G.N.20/1957
Lantana Camara	G.N.122/1961