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WEED CONTROL ACT

Chapter W-5

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

- (a) “control” means, with reference to a noxious weed, to
 - (i) carry out measures designed to inhibit propagation of the weed,
 - (ii) destroy the weed, or

- weed;
- (iii) carry out measures prescribed by an inspector for the control of the weed;
- (b) “Department” means the Department administered by the Minister;
 - (c) “destroy” means, with reference to a restricted weed, to
 - (i) kill all growing parts of the weed, or
 - (ii) render the reproductive mechanisms of the weed non-viable;
 - (d) “growing crop” means any plant growth, other than weeds, having a commercial value;
 - (e) “highway” means a highway as defined in the Traffic Safety Act;
 - (f) “inspector” means a person appointed as an inspector by the Minister under section 4 or by a local authority under section 5;
 - (g) “land” includes the land down to the low water mark of a stream, lake or other body of water that is contiguous to or located on land;
 - (h) “local authority” means
 - (i) the council of a city, town, village, summer village or municipal district,
 - (ii) the Minister responsible for the Municipal Government Act, in the case of an improvement district, or
 - (iii) the Minister responsible for the Special Areas Act, in the case of a special area;
 - (i) “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;
 - (j) “municipal secretary” means
 - (i) in a city, the city clerk or a person designated by the city clerk,
 - (ii) in an improvement district, the Minister responsible for the Municipal Government Act or an officer of that Minister’s Department designated by that Minister,
 - (iii) in a special area, the Minister responsible for the Special Areas Act or an officer of that Minister’s Department designated by that Minister, and
 - (iv) in any other municipality, the person appointed by the council as municipal secretary;
 - (k) “municipality” means a city, town, village, summer village, municipal district, improvement district or special area;
 - (l) “noxious weed” means a plant that is designated under the regulations or a bylaw as a noxious weed and includes noxious weed seeds;

(m) “nuisance weed” means a plant that is designated under the regulations or a bylaw as a nuisance weed and includes nuisance weed seeds;

(n) “occupant” means a person occupying or exercising control or having the right to occupy or exercise control over land;

(o) “owner” means

(i) in the case of land, a person who is registered under the Land Titles Act as the owner, or

(ii) in the case of personal property, a person who is in lawful possession of it or who has the right to exercise control over it;

(p) “restricted weed” means a plant that is designated under the regulations or a bylaw as a restricted weed and includes restricted weed seeds;

(q) “rural municipality” means a municipal district, improvement district or special area;

(r) “screenings” means matter removed in the process of cleaning or grading of cereal, forage or other crop seed;

(s) “subdivided land” means a parcel of land not exceeding 20 acres in area that is described in a certificate of title issued under the Land Titles Act;

(t) “urban municipality” means a city, town, village or summer village;

(u) “weed seed” means the seed of a restricted, noxious or nuisance weed.

(2) A reference in this Act to a bylaw includes, when appropriate, an order of the Minister responsible for the Municipal Government Act or for the Special Areas Act.

RSA 2000 cW-5 s1;RSA 2000 cT-6 s212

Delegation of powers

2 The Minister may in writing delegate to any employee of the Government any power, duty or function conferred or imposed on the Minister by this Act or the regulations, except the power to make regulations.

RSA 1980 cW-6 s2;1989 c17 s29

Exemption of land from Act

3 The Minister may exempt from the operation of this Act or any provision of this Act a tract of land that is, in the Minister’s opinion, waste land or sparsely inhabited land.

RSA 1980 cW-6 s3

Inspectors

4 The Minister may appoint employees of the Government as inspectors for the purposes of this Act and shall supply each inspector with identification in the form prescribed by the regulations.

RSA 1980 cW-6 s4

Municipal inspectors

5 A local authority shall appoint a sufficient number of inspectors to carry out this Act within the municipality and shall supply each inspector with identification in the form prescribed by the regulations.

RSA 1980 cW-6 s5

Failure to appoint municipal inspectors

6(1) If a local authority does not appoint an inspector, or if in the opinion of the Minister an inspector appointed by the local authority is not properly carrying out this Act, the Minister may, after giving notice in writing to the local authority, designate one or more inspectors appointed under section 4 to carry out this Act within the municipality.

(2) If the Minister makes a designation under subsection (1), an appointment of an inspector previously made by the local authority is void and the local authority shall not make any further appointments while the Minister's designation is in effect.

(3) The salary and expenses paid to an inspector designated by the Minister under subsection (1) and the expenses incurred by the inspector shall be paid by the Crown and may be recovered from the municipality.

(4) If a local authority does not pay an amount payable under subsection (3), the Crown may recover that amount from the municipality by action as a debt due to the Crown or by withholding it from any grant payable to the municipality from the Crown.

RSA 1980 cW-6 s6

Bylaws

7(1) A local authority may make bylaws designating plants within the municipality as restricted, noxious or nuisance weeds.

(2) A bylaw under subsection (1) may differ from a regulation under section 40(a) as to whether a plant within a municipality is designated as a restricted, noxious or nuisance weed, but if a regulation designates a plant within the municipality

(a) as a restricted weed, the bylaw, if any, in relation to that plant shall also designate it as a restricted weed,

(b) as a noxious weed, the bylaw, if any, in relation to that plant shall designate it as a noxious or restricted weed, or

(c) as a nuisance weed, the bylaw, if any, in relation to that plant shall designate it as a nuisance, noxious or restricted weed.

RSA 1980 cW-6 s7

Occupancy bylaws

8(1) Subject to subsection (2), a municipality shall be considered to be the occupant of a highway that is under its direction, management and control and on land owned by it.

(2) A local authority may, with respect to a highway that is subject to the direction, management and control of the local authority, by bylaw provide that the occupant or owner of land shall, for the purpose of this Act, be considered to be the occupant of that portion of the highway that lies between the boundary of the occupant's or owner's land and the centre line of the highway.

RSA 1980 cW-6 s8

Approval of bylaw

9 If a local authority passes a bylaw or an amendment to a bylaw under this Act, the municipal secretary shall submit the bylaw or amendment to the Minister and the Minister may approve, vary or reject the bylaw or amendment in whole or in part, and the bylaw or amendment is not effective until it has been so approved or varied and is only effective as approved or varied.

RSA 1980 cW-6 s9

Delegation of powers

10 In the case of special areas and improvement districts, the Minister responsible for the Special Areas Act or for the Municipal Government Act, as the case may be, may in writing delegate to a person or committee appointed by that Minister any of the powers and duties conferred or imposed on that Minister by this Act or the regulations.

RSA 1980 cW-6 s10

Right of entry to inspect

11(1) In this section, "premises" does not include a dwelling house.

(2) Subject to subsections (3) and (4), an inspector may, for the purpose of performing the inspector's duties and exercising the inspector's powers under this Act, the regulations or a bylaw authorized under this Act, enter at any reasonable hour on any land or premises, and inspect the land or premises or any crops, hay, grain, fodder, screenings, machine, grain elevator, crop processing plant or equipment on the land or in the premises.

(3) An inspector acting under subsection (2) shall not enter any building unless the owner or occupant of the land on which the building is located consents to the entry or, if the owner or occupant does not consent, the inspector first gives the owner or occupant a notice under subsection (4).

(4) A notice referred to in subsection (3) must

- (a) be in writing,
- (b) name a reasonable time of entry, and
- (c) be served in the manner required by section 21 at least 24 hours before the time of entry.

(5) Subsection (3) does not apply if the building is, or is part of, a seed cleaning plant, grain elevator or auction market.

(6) When acting under the authority of this Act, an inspector shall carry the identification supplied to the inspector under section 4 or 5 and present it on request to the owner or occupant of the land or premises referred to in subsection (2).

RSA 1980 cW-6 s11

Notice to remedy weed problem

12(1) An inspector who finds any restricted weeds or noxious weeds in or on any land, premises, vehicle, standing crop, hay, grain, fodder, machine, grain elevator, crop processing plant or equipment shall, in the case of restricted weeds, and may, in the case of noxious weeds, give a notice in writing

(a) in the case of land, to the occupant or, if the land is unoccupied, to the owner, and

(b) in the case of personal property, to the owner

to destroy the restricted weeds or control the noxious weeds.

(2) A notice under subsection (1) may include a direction to destroy crops containing restricted or noxious weeds if the destruction of crops is necessary, in the inspector's opinion, in order to destroy the restricted weeds or control the noxious weeds.

(3) Except in the case of restricted weeds, no notice shall require the destruction of more than 20 acres of growing crop without the written consent of the local authority of the municipality in which the land is located.

(4) An inspector may give a notice requiring the destruction of restricted weeds or the control of noxious weeds in the next following year and that notice shall have the same effect as if it were a notice given under subsection (1) in the year in which the work is to be done.

RSA 1980 cW-6 s12;1990 c3 s3

General notice

13(1) A local authority may on or before July 31 in any year give a general notice to the owners or occupants of subdivided land within the municipality to destroy restricted weeds and noxious weeds that are located on their land.

(2) A notice given under subsection (1) may contain directions setting out the methods by which and the time period within which the weeds are to be destroyed.

(3) Nothing in this section shall be construed so as to limit the giving of a notice under section 12 to a person who was given a general notice under this section.

1990 c3 s3

Unoccupied lands

14(1) An inspector who finds restricted weeds or noxious weeds on land that is unoccupied or on land the occupant of which the inspector is not reasonably able to discover, and after inquiry determines that it is not practicable to give a notice under section 12(1) within 5 days, may cause the restricted weeds to be destroyed or the noxious weeds to be controlled or the crops to be destroyed immediately by any means that is consistent with good agricultural practice.

(2) An inspector shall as soon as possible after acting under subsection (1) notify the owner of the land in accordance with section 21 of the action taken.

RSA 1980 cW-6 s13

Contents of notice

15 Subject to section 13, a notice under this Act shall set out the methods by which and the time period within which the weeds or crops are to be destroyed or controlled.

RSA 1980 cW-6 s14;1990 c3 s3

Methods of control

16 The methods by which weeds or crops are to be destroyed or controlled may include systems of tillage, chemical control or other management practice that the inspector considers to be good agricultural practice for the land and district concerned.

RSA 1980 cW-6 s15;1990 c3 s3

Duty to comply

17(1) An owner or occupant of land who receives a notice under this Act shall, subject to any right of appeal given by this Act, carry out the actions required under the notice.

(2) Subject to section 28, if a person fails to comply with a notice given by an inspector under section 12 or 13, the inspector or a person designated by the inspector may carry out, by any means that is consistent with good agricultural practice, the action that is required to be carried out under the notice.

RSA 1980 cW-6 s16;1990 c3 s3

Prohibition

18(1) If an inspector finds restricted or noxious weeds on any land the inspector may give notice to the occupant or owner of the land prohibiting the occupant or owner from growing a crop of any kind on the land, limiting the kind of crop that may be grown or imposing any conditions and restrictions in respect of grazing, haying or any other use of the land that the inspector considers necessary to prevent the spread of the weeds.

(2) A notice given under subsection (1) shall cease to have effect one year following the date on which it is served.

(3) An inspector may, without the requirement of any further notice and notwithstanding section 16, destroy any crop sown or allowed to grow on the land in contravention of a notice under subsection (1).

RSA 1980 cW-6 s17

Concurrent jurisdiction of inspectors

19 Notwithstanding anything in this Act, an inspector for a rural municipality has concurrent jurisdiction under this Act with an inspector for an urban municipality in respect of a seed cleaning plant, grain elevator, farm produce processing plant, auction market, farm implement storage lot or feed or fertilizer plant that is located in the urban municipality if the urban municipality is completely bounded by the rural municipality.

RSA 1980 cW-6 s18;1990 c3 s3

Stop order

20(1) Notwithstanding anything in this Act, if the Minister is satisfied that any person

- (a) has contravened or is contravening a provision of this Act or the regulations,
- (b) owns or operates anything that causes the spread of weeds, or
- (c) has contravened a term or condition of a licence to operate a seed cleaning plant,

the Minister may issue an order, called in this section a “stop order”, to that person in accordance with subsection (2).

(2) In a stop order, the Minister may order the person to whom it is directed to

- (a) cease the contravention specified in the order, and
- (b) stop any operations or shut down or stop the operation of any plant, equipment, structure or thing specified in the order, either permanently or for a specified period,

and the stop order shall contain the reasons for making it.

(3) The Minister shall cause a copy of the stop order to be served on the person to whom it is directed, and on receipt of the copy, the person to whom the stop order is directed shall comply with the order forthwith.

(4) A person to whom a stop order is directed and who fails to comply with the order forthwith on service of a copy of it on the person or subsequently, is guilty of an offence and liable to a fine of not more than \$1000 for each day that the offence continues.

(5) If the person to whom a stop order is directed fails to comply with the stop order forthwith on service of a copy of it on the person or subsequently, the Minister may apply to the Court of Queen’s Bench by way of originating notice for an order of the Court directing that person to comply with the stop order.

(6) If the person to whom the stop order is directed fails to comply with the stop order forthwith on service of a copy of the order of the Court of Queen’s Bench under subsection (5) on the person or subsequently,

- (a) the failure to comply with the stop order may be dealt with by the Court as in the case of a civil contempt of the Court,

(b) an inspector authorized by the Minister for the purpose and any other persons assisting that inspector may, without notice and without incurring liability, enter on any land and do any acts that are necessary to carry out the stop order,

(c) a civil enforcement bailiff may assist the inspector and the inspector's assistants in enforcing their powers and duties under clause (b), and

(d) the Minister may recover by action any expenses incurred by the Government in carrying out the stop order pursuant to clause (b) from the person to whom the stop order was directed.

(7) The Minister may

(a) amend a stop order if the Minister considers it advisable in the circumstances to do so, or

(b) revoke a stop order,

and shall notify accordingly the person to whom the stop order was directed.

(8) Service of the order required under subsections (3) and (6) and the notification under subsection (7) shall be effected in the same manner as service of a notice is effected under section 21.

RSA 1980 cW-6 s20;1990 c3 s3;1994 cC-10.5 s161

Service of notices

21(1) A notice given by an inspector under this Act shall be in the form prescribed by the regulations.

(2) A notice referred to in subsection (1) shall be served on the person to whom it is addressed

(a) by being delivered personally to the person who is intended to be served,

(b) by being left with a person apparently over the age of 18 years at the dwelling place or place of business of the person who is intended to be served, or

(c) by being sent by double registered mail or certified mail to the last known address of the person who is intended to be served as shown on the assessment roll of the municipality within which the land or property to which it relates is situated.

(3) If, in the opinion of the inspector, service under subsection (1) cannot reasonably be effected, the inspector may post the notice or a copy of the notice in a conspicuous place on the land or property to which the notice relates, or on the private dwelling place of the person who is intended to be served.

(4) Notwithstanding subsection (2), a notice given under section 13 may be served on the owner or occupant of subdivided land by forwarding the notice by regular post to the owner or occupant of the subdivided land to which the notice relates at, as the case may be, the owner's or occupant's last known address as shown on the assessment roll of the municipality in which the subdivided land is situated.

RSA 1980 cW-6 s21;1990 c3 s3

Time filing or service effected

22 When this Act provides for filing or service of anything by double registered mail or certified mail, the filing or service is deemed to be effected at the time the thing is delivered by an official of the post office to the person with whom it is to be filed or on whom it is to be served or to any person receiving it on that person's behalf.

RSA 1980 cW-6 s22

Service of notice on owner

23 When this Act permits service of a notice on a person other than the owner and the notice is served on that person, a copy of it shall, as soon as possible, also be served on the owner and the provisions of this Act that govern the method of service on the other person apply to service on the owner.

RSA 1980 cW-6 s23

Copy of notice to municipal secretary

24 An inspector shall keep a copy of every notice the inspector gives and shall, within 5 days after the inspector gives a notice, provide a copy of it to the municipal secretary.

RSA 1980 cW-6 s24

Copy of notice to mortgagee or purchaser

25 A municipal secretary shall, on the request of a mortgagee or purchaser of land, provide the mortgagee or purchaser with copies of all notices given under this Act that relate to land on which the mortgagee holds a mortgage or of which the purchaser is the purchaser.

RSA 1980 cW-6 s25

Subsequent owner

26(1) If a notice under this Act is served on the owner of the land to which the notice relates, a change of ownership of that land subsequent to the service does not invalidate the notice and the notice is effective against the subsequent owner as if it had been served on the subsequent owner on the date that it was served on the previous owner and as if the subsequent owner had been the owner on that date.

(2) An owner of land in respect of which a notice under section 12, 15 or 18(1) has been given who leases, sells or otherwise disposes of the land shall, before or at the time the agreement is entered into, provide to the purchaser or lessee a copy of the notice.

RSA 1980 cW-6 s26

Recovery of inspector's expenses

27(1) If expenses are incurred by an inspector appointed under section 5 in the carrying out of any work under section 14(1), 17 or 18(3), the municipal secretary shall serve a statement of the expenses and a demand for payment of them on the owner of the land in respect of which the work was carried out.

(2) The statement and demand under subsection (1) shall be served in the same manner as a notice is served under section 21.

(3) The expenses incurred in issuing and enforcing a notice under this Act may, at the direction of the inspector, be included in determining the amount of the expenses referred to in subsection (1).

(4) If,

(a) in the case of work carried out under section 14(1), the owner fails to file a notice of dispute with the municipal secretary under subsection (5), or

(b) in the case of work carried out under section 17 or 18(3), the owner fails to pay the amount set out in the statement

within 30 days after receiving the statement, the municipal secretary shall immediately cause the amount owing to be placed on the tax roll as an additional tax against the land concerned and it shall be collected in the same manner as taxes.

(5) If a statement and demand for payment is served for work carried out under the authority of section 14(1), the owner may file with the municipal secretary, within the 30-day period referred to in subsection (4), a notice of dispute denying the owner's liability for the expenses or disputing the amount owing, and the local authority may subsequently proceed against the owner only by action for the amount owing and the cost of collecting the amount owing.

RSA 1980 cW-6 s27;1990 c3 s3

Appeal to local authority

28(1) A person who

(a) has an interest in land as an owner or occupant, and

(b) considers himself or herself aggrieved by a notice that relates to the land and that is given by an inspector under section 12, 13 or 18(1),

may appeal to the local authority of the municipality in which that land is located by filing a notice of appeal under this section.

(2) A notice of appeal shall be in writing and shall set out

(a) the name and address of the appellant,

(b) a copy of the notice in respect of which the appeal is being taken,

(c) the legal description of the land affected, and

(d) the grounds for appeal.

(3) A notice of appeal shall be delivered personally or sent by double registered mail or certified mail to the municipal secretary, within the time specified in the notice for doing the thing required by the notice or 10 days, whichever is less.

(4) A notice of appeal shall be accompanied with a deposit in an amount prescribed by the regulations.

(5) The deposit made under subsection (4) shall be refunded if the appellant is successful in the appellant's appeal under this section or in a review under section 29.

(6) A local authority shall at least once a year appoint an independent committee to hear and determine appeals under this section and on receipt of a notice of appeal a local authority shall refer the appeal to that committee.

(7) Within 15 days from the day of receipt of a notice of appeal, the committee shall hear and determine the appeal and the committee may confirm, rescind or vary the notice that was issued.

(8) The municipal secretary shall, on determination of the appeal, send a copy of the decision together with the written reasons, if any, to the appellant by double registered mail or certified mail.

RSA 1980 cW-6 s28;1990 c3 s3

Review by Minister

29(1) An appellant who is dissatisfied with the decision of a committee under section 28 may, within 3 days after the appellant receives a copy of the decision, request a review of the decision or any part of it by the Minister.

(2) The Minister may confirm, rescind or vary the decision of the committee.

RSA 1980 cW-6 s29;1990 c3 s3

Notice stayed pending appeal

30 If a notice of appeal is filed under section 28(3), the notice referred to in that section is stayed until

(a) the appeal under that section is disposed of, or

(b) a review under section 29 is conducted or the time for requesting the review under section 29 has expired without a review being requested.

RSA 1980 cW-6 s30

Duties re weeds

31 An occupant of land, or if the land is unoccupied, the owner of the land, shall as often as is necessary

(a) destroy all restricted weeds located on the land to prevent the spread, growth, ripening or scattering of the restricted weeds,

(b) control in accordance with this Act and the regulations all noxious weeds located on the land to prevent the spread, growth, ripening or scattering of the noxious weeds, and

(c) prevent the spread or scattering of nuisance weeds.

RSA 1980 cW-6 s31;1990 c3 s3

Compliance with notice

32 An owner or occupant of land who receives a notice under this Act shall, subject to any right of appeal given by this Act, carry out the directions contained in the notice.

RSA 1980 cW-6 s32

Disposal of screenings

33 A person who has in the person's possession screenings or other refuse containing weed seeds shall

(a) dispose of the screenings or refuse as directed by an inspector, or

(b) store the screenings or refuse in a container so that the weed seeds will not be scattered.

RSA 1980 cW-6 s33

Offence to deposit weed seeds

34 No person shall deposit or permit to be deposited weed seeds or material containing weed seeds in a place where they might grow or spread.

RSA 1980 cW-6 s34

Movement of machines

35 No person shall move a machine or vehicle if the movement is likely to cause the spread of a restricted, noxious or nuisance weed.

RSA 1980 cW-6 s35

Seed cleaning licence

36 No person, other than a farmer processing seed to be used on the farmer's own farm, shall operate a seed cleaning plant for the cleaning of grain or seeds for seed purposes unless the person holds a licence to operate a seed cleaning plant issued under the regulations.

RSA 1980 cW-6 s36

Obstruction of inspector

37 No person shall wilfully obstruct or delay an inspector carrying out the inspector's duties under this Act or the regulations.

RSA 1980 cW-6 s37

Offences

38 A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$5000 and in default of payment to a term of imprisonment of not more than 60 days.

RSA 1980 cW-6 s38;1990 c3 s3

Disposition of fines

39 A fine that is imposed for an offence under this Act that is committed within a city, town, village, summer village or municipal district enures to the benefit of the city, town, village, summer village or municipal district.

RSA 1980 cW-6 s39;1994 cM-26.1 s642(73);1995 c24 s99(36)

Regulations

40 The Minister may make regulations

- (a) designating plants as restricted, noxious or nuisance weeds, generally or in respect of any part of Alberta;
- (b) respecting qualifications of inspectors;
- (c) respecting the content and use of forms;
- (d) prescribing the amount of a deposit to be made under section 28;
- (e) respecting seed and labelling of seed sold or used in Alberta;
- (f) respecting the manner of and procedures for destroying restricted weeds and controlling noxious weeds;
- (g) respecting the sale, purchase, storage, processing or transportation of any material or substance infested with restricted, noxious or nuisance weeds;
- (h) respecting the issue, renewal, suspension or revocation of or refusal to issue or renew licences for seed cleaning plants, and prescribing fees payable for licences or the renewal of licences;
- (i) respecting the transportation, use and handling of screenings containing weed seeds;
- (j) respecting the use and manner of application of selective herbicides for the purposes of section 16.

RSA 1980 cW-6 s40;1989 c17 s29;1990 c3 s3

Act binds Crown

41 The Crown is bound by this Act.

RSA 1980 cW-6 s41