

Weed Control Act

R.S.O. 1990, CHAPTER W.5

Consolidation Period: From December 15, 2009 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 1, s. 27.

Definitions

1. In this Act,

“area weed inspector” means an area weed inspector appointed under section 6; (“inspecteur de secteur des mauvaises herbes”)

“chief inspector” means the chief inspector appointed under section 2; (“inspecteur en chef”)

“district weed inspector” means a district weed inspector appointed under section 2; (“inspecteur de district des mauvaises herbes”)

“inspector” means an area weed inspector, district weed inspector or municipal weed inspector; (“inspecteur”)

“local weed” means a plant designated under section 10 as a local weed; (“mauvaise herbe locale”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs; (“ministre”)

“municipal weed inspector” means a municipal weed inspector appointed under section 8; (“inspecteur municipal des mauvaises herbes”)

“noxious weed” means a plant that is deemed to be a noxious weed under subsection 10 (2) or designated as a noxious weed under clause 24 (a); (“mauvaise herbe nuisible”)

“owner” means the person shown as the owner of land on the last revised assessment roll of the municipality in which the land is located; (“propriétaire”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“single-tier municipality” means a single-tier municipality that is not within a territorial district nor within an upper-tier municipality and does not include the City of Brantford; (“municipalité à palier unique”)

“weed seed” means the seed of a noxious weed. (“graine de mauvaise herbe”) R.S.O. 1990, c. W.5, s. 1; 2002, c. 17, Sched. F, Table; 2009, c. 33, Sched. 1, s. 27 (1).

Chief inspector, district weed inspector

2. The Minister may appoint a chief inspector and a district weed inspector for any district designated in the appointment. R.S.O. 1990, c. W.5, s. 2.

Duty to destroy noxious weeds

3. Every person in possession of land shall destroy all noxious weeds on it. R.S.O. 1990, c. W.5, s. 3.

Persons deemed in possession

4. For the purposes of this Act, the owner of land shall be deemed, unless the contrary is proved, to be the person in possession of it. R.S.O. 1990, c. W.5, s. 4.

Road authorities deemed in possession of roads

5. For the purposes of section 3, every road authority within the meaning of the Public Transportation and Highway Improvement Act shall be deemed to be the person in possession of the land under its jurisdiction. R.S.O. 1990, c. W.5, s. 5.

Appointment of inspectors

6. (1) The council of every upper-tier and single-tier municipality shall by by-law appoint one or more persons as area weed inspectors to enforce this Act in the area within the council's jurisdiction and fix their remuneration or other compensation. R.S.O. 1990, c. W.5, s. 6 (1); 2002, c. 17, Sched. F, Table.

Division into areas

(2) The council may divide the upper-tier or single-tier municipality into areas and appoint one or more area weed inspectors for each area. R.S.O. 1990, c. W.5, s. 6 (2); 2002, c. 17, Sched. F, Table.

Failure to appoint inspectors

(3) If a council fails to appoint an area weed inspector, the Minister may appoint the area weed inspector and fix his or her remuneration or other compensation. R.S.O. 1990, c. W.5, s. 6 (3).

Minister to notify council of appointment

(4) The Minister shall notify the council of the appointment in writing and the treasurer of the municipality shall pay the remuneration or other compensation so fixed to the area weed inspector. R.S.O. 1990, c. W.5, s. 6 (4).

Clerk to notify chief inspector of appointment

7. (1) The clerk of each upper-tier and single-tier municipality shall, before the 1st day of April in each year, give the chief inspector a written notice indicating the name and address of every area weed inspector and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 7 (1); 2002, c. 17, Sched. F, Table.

Idem

(2) If the council of an upper-tier or single-tier municipality passes a by-law appointing an area weed inspector on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law give the chief inspector a written notice indicating the name and address of every area weed inspector and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 7 (2); 2002, c. 17, Sched. F, Table.

Idem

(3) If an area weed inspector resigns or the council revokes the appointment, the clerk of the municipality shall within seven days of the resignation or revocation give the chief inspector written notice of it. R.S.O. 1990, c. W.5, s. 7 (3).

Appointment of municipal weed inspectors

8. (1) The council of any municipality not referred to in subsection 6 (1) may by by-law appoint one or more persons as municipal weed inspectors to enforce this Act in the area within the council's jurisdiction and fix their remuneration or other compensation. R.S.O. 1990, c. W.5, s. 8 (1).

Co-operation with area weed inspector

(2) Persons who are appointed as municipal weed inspectors shall carry out their duties in co-operation with the area weed inspector. R.S.O. 1990, c. W.5, s. 8 (2).

Joint jurisdiction

(3) Even though a municipal weed inspector has been appointed by a municipality, the area weed inspector may, when he or she considers it necessary, exercise his or her powers under this Act in the municipality. R.S.O. 1990, c. W.5, s. 8 (3).

Clerk to notify chief inspector of appointment

9. (1) The clerk of each municipality not referred to in subsection 6 (1) shall, before the 1st day of April in each year, give the chief inspector a written notice indicating the name and address of every municipal weed inspector for the area within its jurisdiction and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 9 (1).

Idem

(2) If the council of any municipality not referred to in subsection 6 (1) passes a by-law appointing a municipal weed inspector on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law give the chief inspector a written notice indicating the name and address of every municipal weed inspector and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 9 (2).

Idem

(3) If a municipal weed inspector resigns or the council revokes the appointment, the clerk of the municipality shall within seven days of the resignation or revocation give the chief inspector written notice of it. R.S.O. 1990, c. W.5, s. 9 (3).

Designation of weeds

10. (1) A council of an upper-tier or single-tier municipality that has appointed an area weed inspector or a council of a local municipality that has appointed a municipal weed inspector may by by-law designate as a local weed any plant that is not a noxious weed. 2002, c. 17, Sched. F, Table.

Effect of designation

(2) The by-law may apply in respect of the whole or any part of the municipality and, for the purposes of this Act, the plant that is designated shall be deemed to be a noxious weed within the area to which the by-law applies. R.S.O. 1990, c. W.5, s. 10 (2).

Approval of by-laws

(3) The by-law does not take effect until it is approved by the Minister. R.S.O. 1990, c. W.5, s. 10 (3).

Inspectors in territory without municipal organization

11. (1) Road commissioners appointed under the Statute Labour Act in territory without municipal organization shall have the powers of an inspector. R.S.O. 1990, c. W.5, s. 11 (1).

Expenses for enforcement collectable

(2) This Act applies in the case of territory without municipal organization in the same manner as in the case of a municipality, except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act are collectable in the manner provided in the Statute Labour Act with respect to the enforcement of the payment of charges for statute labour or its commutation. R.S.O. 1990, c. W.5, s. 11 (2).

Powers of inspectors

12. (1) For the purpose of searching for noxious weeds or weed seeds, an inspector may at any time between sunrise and sunset enter upon any land and buildings, except a dwelling house, in the area within his or her jurisdiction and inspect the land, buildings and any implements, machinery, vehicles and crops or other plants. R.S.O. 1990, c. W.5, s. 12 (1).

Identification to be provided

(2) An inspector shall, upon request, show proper identification to the owner or occupier of the land or building being inspected. R.S.O. 1990, c. W.5, s. 12 (2).

Application for warrant

(3) If an inspector is denied entry or access to buildings or land or is obstructed while carrying out an inspection, the inspector may apply to a justice of the peace for a warrant. R.S.O. 1990, c. W.5, s. 12 (3).

Issuing of warrant

(4) If a justice of the peace is satisfied on evidence upon oath that it is necessary for an inspector to enter any buildings or land for the purpose of this Act, the justice of the peace may issue a warrant authorizing an inspector to enter the buildings or land specified in the warrant, together with such police officers as the inspector calls upon to assist him or her. R.S.O. 1990, c. W.5, s. 12 (4).

Application without notice

(5) A justice of the peace may receive and consider an application for a warrant without notice to the owner or occupier of the buildings or land. R.S.O. 1990, c. W.5, s. 12 (5).

Order for destruction of weeds

13. (1) An inspector who finds noxious weeds or weed seeds on land in the area within his or her jurisdiction may order the person in possession of the land to destroy the noxious weeds or weed seeds. R.S.O. 1990, c. W.5, s. 13 (1).

Time for destruction of weeds

(2) The order shall be in the prescribed form and shall specify a time of at least seven days, excluding Saturdays and holidays, from the date of the service of the order within which the noxious weeds or weed seeds shall be destroyed. R.S.O. 1990, c. W.5, s. 13 (2).

Service of order

(3) The order shall be served upon every person named in it,

(a) by personal service; or

(b) by sending a copy of the order by mail, by registered mail, by certified mail or by courier service to the last address for service provided by the person or, if no such address has been provided, to the person's address last noted on the tax assessment roll or, if none, to the person's last known address. R.S.O. 1990, c. W.5, s. 13 (3); 2009, c. 33, Sched. 1, s. 27 (2).

Effective date of service

(4) Service under clause (3) (b) is effective on the seventh day after the order is mailed. R.S.O. 1990, c. W.5, s. 13 (4).

Service on owner and person in possession

(5) If there is evidence that the person in possession of land is not its owner, the order shall be served on both the owner and the person in possession. R.S.O. 1990, c. W.5, s. 13 (5).

Appeal to chief inspector

(6) A person who is served with an order under subsection (5) may, within seven days after service, appeal the order or any requirement contained in it to the chief inspector, giving reasons for the appeal. R.S.O. 1990, c. W.5, s. 13 (6).

Written appeal

(7) The appeal and reasons shall be in writing. R.S.O. 1990, c. W.5, s. 13 (7).

Parties

(8) The appellant, the inspector who made the order and such other persons as the chief inspector may specify are parties to the appeal. R.S.O. 1990, c. W.5, s. 13 (8).

Examination of land

(9) The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine land in relation to which the order appealed from is made and may base his or her decision upon the evidence adduced by the parties and on the view and examination. R.S.O. 1990, c. W.5, s. 13 (9).

Decision of chief inspector

(10) After hearing an appeal under this section, the chief inspector may confirm or revoke the order or may make a new order in its place. R.S.O. 1990, c. W.5, s. 13 (10).

Service of order

(11) The chief inspector's order shall be served in accordance with subsections (3), (4) and (5). R.S.O. 1990, c. W.5, s. 13 (11).

Appeal

(12) The chief inspector's order may be appealed to the Divisional Court within thirty days of its making under subsection (10). R.S.O. 1990, c. W.5, s. 13 (12).

Obstruction of inspectors

14. No person shall hinder or obstruct an inspector in the course of his or her duties, refuse to furnish the inspector with information or furnish him or her with false information. R.S.O. 1990, c. W.5, s. 14.

Failure to comply with order

15. (1) If an order served under section 13 is not complied with, the inspector may cause the noxious weeds or weed seeds to be destroyed in the prescribed manner. R.S.O. 1990, c. W.5, s. 15 (1).

Expenses of inspectors

(2) Inspectors shall keep a record of the expenses incurred under subsection (1) with respect to each parcel of land. R.S.O. 1990, c. W.5, s. 15 (2).

Statement of expenses to be served on owner and person in possession of land

(3) The expenses shall be submitted to the clerk of the municipality who shall have a statement of the expenses and a notice requesting payment served on the person in possession of the land and on its owner. R.S.O. 1990, c. W.5, s. 15 (3).

Service of statement and notice

(4) The statement and notice shall be served in the same manner as an order under section 13. R.S.O. 1990, c. W.5, s. 15 (4).

Failure to pay

(5) If the person upon whom a statement and notice were served fails to pay the amount set out in the statement within fifteen days after the service of the notice, the clerk shall present the statement to the council of the municipality in which the land is located, and the council shall order the amount to be paid out of the general funds of the municipality. R.S.O. 1990, c. W.5, s. 15 (5).

Collection

(6) The amount paid by the municipality has priority lien status, as described in section 1 of the Municipal Act, 2001 or section 3 of the City of Toronto Act, 2006, as the case may be, and shall be added to the tax roll against the respective parcels concerned. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 70 (1).

Destruction of weeds

16. (1) Despite section 13, the council of any local municipality may direct any of its municipal weed inspectors or, if there are none, the area weed inspectors to cause noxious weeds or weed seeds to be destroyed in the prescribed manner on all or part of any lot shown on a registered plan of subdivision and on lots not exceeding 10 acres that are not shown on such a plan. R.S.O. 1990, c. W.5, s. 16 (1); 2002, c. 17, Sched. F, Table.

Notice requirement

(2) Before noxious weeds or weed seeds are destroyed, the council shall publish notice of its intent to have the noxious weeds or weed seeds destroyed in a newspaper having general circulation in the municipality. R.S.O. 1990, c. W.5, s. 16 (2).

Report of inspector

(3) The inspector shall report to the clerk of the municipality the amount of the expenses incurred under this section with respect to each parcel of land. R.S.O. 1990, c. W.5, s. 16 (3).

Statement of expenses to be served on owner and person in possession of land

(4) The clerk of the municipality shall have a statement of the expenses and a notice requesting payment served on the person in possession of the land and on its owner. R.S.O. 1990, c. W.5, s. 16 (4).

Service of statement and notice

(5) The statement and notice shall be served in the same manner as an order under section 13. R.S.O. 1990, c. W.5, s. 16 (5).

Failure to pay

(6) If the person upon whom a statement and notice were served fails to pay the amount set out in the statement within fifteen days after the service of the notice, the clerk shall present the statement to the council of the municipality in which the land is located, and the council shall order the amount to be paid out of the general funds of the municipality. R.S.O. 1990, c. W.5, s. 16 (6).

Collection

(7) The amount paid by the municipality has priority lien status, as described in section 1 of the Municipal Act, 2001 or section 3 of the City of Toronto Act, 2006, as the case may be, and shall be added to the tax roll against the respective parcels concerned. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 70 (2).

Application for refund, etc.

17. A person may apply to the council for the cancellation, reduction or refund of an amount levied in the year with respect to orders for weed control and is entitled to make an appeal to the Assessment Review Board in the same manner as for taxes under section 357 of the Municipal Act, 2001 or section 323 of the City of Toronto Act, 2006, as the case may be. R.S.O. 1990, c. W.5, s. 17; 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 70 (3).

Notice requiring noxious weeds and weed seeds to be destroyed

18. (1) A district weed inspector who finds noxious weeds or weed seeds on any land owned by or under the control of a municipality within his or her district may deliver or send by mail, by registered mail, by certified mail or by courier service to the clerk of the municipality a notice requiring the noxious weeds or weed seeds to be destroyed before a date specified in the notice. R.S.O. 1990, c. W.5, s. 18 (1); 2009, c. 33, Sched. 1, s. 27 (3).

Failure to comply with notice

(2) If the notice is not complied with, the district weed inspector may cause the noxious weeds or weed seeds to be destroyed in the prescribed manner. R.S.O. 1990, c. W.5, s. 18 (2).

Recovery of expenses

(3) The expenses incurred by the district weed inspector under subsection (2) shall be paid by the municipality concerned and are recoverable in any court of competent jurisdiction by the Minister in the name of Her Majesty as a debt owed to the Crown. R.S.O. 1990, c. W.5, s. 18 (3).

Certificate proof of authority

(4) In any court action, the certificate purporting to be signed by the Minister as to the amount of the expenses is conclusive proof of the amount without proof of the Minister's authority or signature. R.S.O. 1990, c. W.5, s. 18 (4).

Prohibition

19. No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where they might grow or spread. R.S.O. 1990, c. W.5, s. 19.

Agricultural machines

20. If the moving of a machine used for agricultural purposes is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move the machine or cause it to be moved without first removing from it all seeds and other residue. R.S.O. 1990, c. W.5, s. 20.

Grain elevators, etc.

21. A person in charge of a grain elevator, seed-cleaning plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in a manner that will prevent them from growing or spreading. R.S.O. 1990, c. W.5, s. 21.

Exception

22. Sections 3, 13, 16 and 18 do not apply to noxious weeds or weed seeds that are far enough away from any land used for agricultural or horticultural purposes that they do not interfere with that use. R.S.O. 1990, c. W.5, s. 22.

Offence

23. (1) A person who contravenes this Act or the regulations, or an order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$500 and not more than \$2,000 and for each subsequent offence to a fine of not less than \$1,000 and not more than \$5,000. R.S.O. 1990, c. W.5, s. 23 (1).

Idem, particular circumstances

(2) Subsection (1) applies to a person who is in contravention of section 3 or of an order made under subsection 13 (1) even though an inspector has caused or may cause the noxious weeds and weed seeds to be destroyed. R.S.O. 1990, c. W.5, s. 23 (2).

Regulations

24. (1) The Lieutenant Governor in Council may make regulations,

(a) designating plants as noxious weeds;

(b) prescribing the procedures for destroying noxious weeds and weed seeds;

(c) prescribing the conditions under which noxious weeds and weed seeds may be destroyed under sections 15, 16 and 18;

(d) respecting the transportation of farm produce, gravel or any other substance that is infested with noxious weeds or weed seeds;

(e) prescribing measures that shall be taken to prevent the establishment of any noxious weed in any locality;

(f) providing for the reimbursement of upper-tier municipalities, single-tier municipalities and municipalities in territorial districts by the Province of Ontario for any part of the money spent under this Act and prescribing limits on the amounts reimbursed;

(g) prescribing measures that shall be taken to prevent the use of bird feed that is infested with weed seeds;

(h) prescribing forms and providing for their use. R.S.O. 1990, c. W.5, s. 24 (1); 2002, c. 17, Sched. F, Table.

Idem

(2) A regulation may be general or specific in its application. R.S.O. 1990, c. W.5, s. 24 (2).