

Noxious Weeds Ordinance 1961

LAWS OF WESTERN SAMOA

NOXIOUS WEEDS

ANALYSIS

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THE NOXIOUS WEEDS ORDINANCE 1961

1961, No. 3

AN ORDINANCE to consolidate and amend certain enactments relating to the control of weeds.

[31 August 1961]

1. Short title - This Ordinance may be cited as the Noxious Weeds Ordinance 1961.

2. Interpretation - (1) In this Ordinance, unless inconsistent with the context:

"Clear", in relation to any noxious weed, means to do any act which destroys that weed and prevents any part thereof from seeding or otherwise propagating.

"Director" means the Director of Agriculture, Forests, and Fisheries, and, in respect of any powers conferred on the Director under this Ordinance, includes any person to whom the Director lawfully makes a delegation pursuant to the power and authority conferred on him by section 10 of the Agriculture, Forests, and Fisheries Ordinance 1959 of the powers exercisable by him under this Ordinance, but to the extent only of such delegation.

"Government land" means any land the property of the Government of Western Samoa which is not alienated from the Government and of which no person other than a Department of the Government of Western Samoa is lawfully in occupation.

"Minister" means the Minister of Agriculture, Forests, and Fisheries.

"Noxious weeds" means the plants mentioned in the First Schedule to this Ordinance, and includes any plants which may be included therein pursuant to section 3 of this Ordinance.

"Occupier", in relation to any land means any person in actual occupation of the land or entitled to occupy the land, and includes the owner of the land and any other person in receipt of or entitled to the receipt of the rents and profits thereof, and any agent or trustee of an occupier of the land; but does not include the Government of Western Samoa as trustee for the beneficial owners.

(2) If any person is in actual occupation of any land (whether or not he has any right, title, or interest in or to such land) at the time of the service of a notice under this Ordinance, he shall be deemed to remain an occupier of such land for the purposes of this Ordinance until the requirements of that notice have been complied with, but without affecting the liability of any other person under this Ordinance.

3. Minister may extend First Schedule - The Minister may, from time to time by notice published in the *Western Samoa Gazette* and in the *Savali*, extend the First Schedule to this Ordinance by including therein any plants other than those mentioned therein.

4. Occupier to keep land clear of weeds - Every occupier of land shall do all things necessary within his power and means to effectually clear such land of noxious weeds to the satisfaction of the Director.

5. Director may enter to inspect - The Director may at all reasonable times enter on any land, whether enclosed or not, for the purpose of ascertaining if the requirements of the last preceding section have been complied with by the occupier.

6. Notice to occupier - In any case where default is made by the occupier in complying with any of the requirements of section 4 of this Ordinance, the Director may, by notice to the occupier in the form in the Second Schedule to this Ordinance or to the like effect, specify the requirements as to which default has been made and require him to comply with such requirements within the time specified in the notice; and it shall be the duty of the occupier to do so.

7. Director may do work on occupier's default - (1) If any occupier of land fails or neglects to duly comply with any such notice in respect of any land the Director or any servants or workmen authorised by him may enter upon the said land and do the work at the expense in all things of the occupier, but nothing in this section shall relieve the occupier of any liability for any offence committed by such failure or neglect or any penalty in respect thereof.

(2) All money reasonably by or on behalf of the Director under this section as a consequence of the failure or neglect of the occupier to comply with the requirements of this Ordinance shall be recoverable from any occupier at the suit of the Director in any Court of competent jurisdiction.

8. Government land - (1) The Director or any servants or workmen authorised by him may enter upon any land of the Government and do all things necessary to clear such land of noxious weeds.

(2) When the work is done under this section on any Government land, the costs and expenses

reasonably incurred in respect of such work shall be defrayed out of money from time to time appropriated for the purpose by the Legislative Assembly and charged against the maintenance vote of the Department in actual occupation of the land, or, if no Department is in actual occupation of the land, against the maintenance vote of the Department of Lands, Surveys and Environment.

9. Notices and other documents - (1) Any notice or other document served on any person for the purposes of this Ordinance may be served by delivering it to that person or by posting it by registered letter to that person at his last known place of abode or business in Western Samoa. A notice or document so posted shall be deemed to have been served at the time when the registered letter could in ordinary course of post reasonably be expected to be delivered to him.

(2) If it appears that any person would be more likely to learn of the contents of any notice or document if it were left on any land of which he is the occupier or were served on the Public Trustee, or some agent of the occupier or if such person is absent from Western Samoa or is deceased, the notice or document may be served by affixing it on some conspicuous part of land of which he is occupier or on which he resides, or may be served on the Public Trustee or such agent.

(3) The description of any land to be inserted in any notice under this Ordinance need not define the land to which it refers, but shall be sufficient if it makes such reference to the land, whether by name, by number of section or allotment, by boundaries or otherwise as allows of no reasonable doubt as to the land to which it refers.

10. Offences and penalties - (1) Without prejudice to any other liability under this Ordinance, any person who fails or neglects to comply with the requirements of any notice lawfully served on him pursuant to the provisions of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20.

(2) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding 6 months who, by violence or otherwise, obstructs or hinders or endeavours to obstruct or hinder the Director or any person authorised by him in making any inspection of any land or in carrying out any work authorised by this Ordinance.

11. Regulations - (1) The Head of State, acting by and with the advice of Cabinet, may from time to time make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Ordinance and for the due administration thereof.

(2) Without limiting the generality of the power conferred by this section, the power to make regulations shall include the power to make regulations:

- (a) Regulating or prohibiting the moving of animals from any area infested with noxious weeds to or over any area not so infested;
- (b) Prescribing means to be adopted for the eradication and control of noxious weeds or plant diseases spread by such weeds.

(3) Regulations made under this Ordinance may be made to apply generally throughout

Western Samoa, or to any specified part or parts thereof and to any specified class or classes of noxious weeds.

(4) It shall be the responsibility of the Minister to lay all such regulations before the Legislative Assembly within 28 days after the making thereof if the Assembly is then in session, and, if not, to lay them before the Assembly within 28 days after the commencement of the next ensuing session.

12. Repeals and savings - (1) The enactments specified in the Third Schedule to this Ordinance are hereby repealed.

(2) The notices (which were published in the *Western Samoa Gazette* pursuant to section 4 of the Noxious Weeds Ordinance 1927) specified in the Fourth Schedule to this Ordinance are hereby revoked.

(3) All notices, and generally all acts of authority which originated under any of the enactments hereby repealed and are subsisting or in force at the commencement of this Ordinance shall enure for the purposes of this Ordinance as fully and effectually as if they had originated under the corresponding provisions of this Ordinance.

(4) All matters and proceedings commenced under any such enactment- and pending or in progress at the commencement of this Ordinance may be continued, completed and enforced under this Ordinance.

SCHEDULES

Section 2(1)

**FIRST SCHEDULE
NOXIOUS WEEDS**

COMMON NAME	SCIENTIFIC NAME
Elephant’s foot	Pseudelephantopus Spicatus (Juss) Rohr.
Giant Sedge	Cyperus aromaticus (Ridl) Matt. and
Kukenth	
Giant sensitive plant	Mimosa invisa Mart
Honolulu Rose	Clerodendum fragans (Vent.) R.Br. Var.
plentiflorum Schau	
Lantana	Lantana camara Linn
Milk weed (Red flower)	Asclepias curassavica Linn
Prickly pear	Opuntia vulgaris Mill

Section 6

SECOND SCHEDULE

**NOTICE TO OCCUPIER TO CLEAR
LAND OF NOXIOUS WEEDS**

The Noxious Weeds Ordinance 1960

TO:

.....

Take notice that in respect of the land occupied by you and hereunder described default has been made in duly complying with the requirements of the said Ordinance as mentioned below: and I hereby call upon you to commence the necessary work within days from the date of this notice and thereafter continue the same until the said requirements are effectively complied with, not being later than the day of 19

Land

Description of Weeds to be cleared

Dated thisday of19.....

THIRD SCHEDULE

(Schedule 12(1))

ENACTMENTS REPEALED

- | | |
|-------------|--|
| 1926. No 2 | The Noxious Weeds Ordinance 1926 |
| 1950. No. 7 | The Road Clearing Ordinance 1950 - that portion of the Schedule relating to the Noxious Weeds Ordinance 1926 |
| 1956. No. 4 | The Ordinances Amendment Ordinance 1956, sections 4 and 5 |

(Section 12(2))

FOURTH SCHEDULE

NOTICES REVOKED

Notices under section 4 of the Noxious Weeds Ordinance 1927, published in the *Western Samoa Gazette*, as follows -

No. 130, 1 October 1942, at page 866
No. 142, 27 June 1946 at page 970
No. 147, 28 February 1948, at page 1007
Statutory Regulations 1954, Serial No. [10]

The figure "10" in square brackets has been substituted for the figure "9" pursuant to section 3(f) of the Reprint of Statutes Act 1972.

The Noxious Weeds Ordinance 1961 is administered in the Department of Agriculture,
Forests, and Fisheries