

BILL

No. 107

An Act respecting Prohibited, Noxious and Nuisance Weeds and to make a consequential amendment to *The Municipal Board Act*

TABLE OF CONTENTS

	PART I	21	Orders
	Preliminary Matters	22	Agreement or order for noxious weeds and nuisance weeds may extend for three years
1	Short title	23	Orders re destruction of crops
2	Interpretation	24	Rules re orders
3	Municipality deemed owner of roads	25	Permits re removal of screenings
	PART II	26	Machinery
	Administration		
	DIVISION 1		
	Director	27	Bylaw re prohibited area
4	Director's duties	28	Weed inspector's duties in prohibited area
	DIVISION 2	29	Prohibition of movement in prohibited area
	Weed Inspectors	30	Eradication of prohibited weeds
5	Minister may appoint or designate weed superintendents		
6	Appointment of a weed inspector		
7	Notification of appointment		
8	If municipality neglects or refuses to pay remuneration		
9	Concurrent jurisdiction of weed inspectors		
10	When a weed inspector appointed by a rural municipality may act within an urban municipality		
11	Liability of municipality		
12	Reports—to municipality and director		
13	Annual reports—to municipality and director		
	PART III		
	Owners and Occupants	31	Prohibition re removal of material, etc.
14	Duty of owners and occupants to notify and comply		
15	General duty of owners and occupants		
16	Appointment of agent		
17	Failure to appoint agent		
	PART IV		
	Weed Control Measures		
	DIVISION 1		
	General Matters re Weed Control Measures	32	Agreements between municipalities
18	Duty of weed inspectors	33	Tarping bylaw
19	Power to enter land	34	Appeals re orders
20	Consultation	35	Appeal to the Saskatchewan Municipal Board
		36	Fees on appeal
		37	Recovery from owner or occupant
		38	Certificate re costs and statements of work done
		39	Offence and penalties
		40	Disposition of fine revenues
		41	Service
		42	Irrigation companies and drainage associations
		43	Railway companies
		44	Oil drilling platforms, gas platforms, pumping stations and pipeline companies
		45	Regulations
			PART VI
			Repeal, Consequential Amendment and Coming into Force
		46	S.S. 1983-84, c.N-9.1, repealed
		47	S.S. 1988-89, c.M-23.2, new section 18.3
		48	Coming into force

(Assented to _____)

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

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Weed Control Act*.

Interpretation

2(1) In this Act:

- (a) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (b) **“contain”** means to take measures to eradicate at the perimeter of land infested with a noxious weed to prevent further spread of that infestation;
- (c) **“control”** means to prevent the spread of noxious or nuisance weeds and reduce the negative effects of noxious or nuisance weeds where there is an infestation of those weeds;
- (d) **“council”** means the council of a municipality;
- (e) **“crop”** means cereal, forage or other crops;
- (f) **“director”** means the Director of the Crops Branch of the ministry or any other employee of the ministry who may be designated by the minister as the director;
- (g) **“domestic animal”** means a domestic animal as defined in the regulations;
- (h) **“eradicate”** means, with reference to a prohibited weed or any isolated infestations of a noxious weed:
 - (i) to kill all growing parts of the weed; and
 - (ii) to render the reproductive mechanisms of the weed non-viable;
- (i) **“established infestation”** means any infestation of a noxious weed that is greater than five hectares;
- (j) **“grain elevator”** means any facility where crops may be cleaned, processed, marketed or stored;
- (k) **“infestation”** means the presence of at least one prohibited, noxious or nuisance weed;
- (l) **“isolated infestation”** means any infestation of a noxious weed that is five hectares or less;
- (m) **“land”** means land within the boundaries of a municipality;
- (n) **“machine”** means a machine as defined in the regulations;
- (o) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (p) **“ministry”** means the ministry over which the minister presides;
- (q) **“municipality”** means a rural municipality or an urban municipality;

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- (r) **“noxious weed”** means any plant that is designated by order of the minister as a noxious weed, and includes the seeds or any other part of that plant that may grow to produce another plant;
- (s) **“nuisance weed”** means any plant that is designated by order of the minister as a nuisance weed, and includes the seeds or any other part of that plant that may grow to produce another plant;
- (t) **“occupant”** means a person who resides on land or leases or otherwise possesses or enjoys in any way, for any purpose, the use of land;
- (u) **“owner”** means a person who has any right, title, estate or interest in or to land and who is assessed for taxation purposes pursuant to *The Cities Act*, *The Municipalities Act*, or *The Northern Municipalities Act* with respect to that land;
- (v) **“prohibited area”** means an area designated by a bylaw pursuant to section 27;
- (w) **“prohibited weed”** means any plant that is designated by order of the minister as a prohibited weed, and includes the seeds or any other part of that plant that may grow to produce another plant;
- (x) **“roads”** includes streets, lanes, public highways, road allowances, bridges, alleys, squares or thoroughfares intended for or used by the general public for the passage of vehicles or pedestrians;
- (y) **“rural municipality”** means a rural municipality as defined in *The Municipalities Act*;
- (z) **“urban municipality”** means a city as defined in *The Cities Act*, a resort village, town or village as defined in *The Municipalities Act* or a northern municipality as defined in *The Northern Municipalities Act*;
- (aa) **“weed inspector”** means a weed inspector appointed pursuant to section 6.
- (2) The minister shall cause every order designating a plant as a noxious weed, nuisance weed or prohibited weed:
- (a) to be published in the Gazette as soon as possible after the date the order is made; and
 - (b) to be made public in any other manner that the minister considers appropriate.

Municipality deemed owner of roads

3 For the purposes of this Act, a municipality is deemed to be the owner of the roads within its boundaries.

PART II
Administration

DIVISION 1

Director

Director's duties

4 The director shall:

- (a) provide information to the public on matters relating to the eradication, containment or control of prohibited, noxious or nuisance weeds;
- (b) prepare and supervise the publication of bulletins for public information with respect to prohibited, noxious or nuisance weeds;
- (c) conduct any investigations that the director considers necessary for the proper administration of this Act;
- (d) answer inquiries relating to prohibited, noxious or nuisance weeds and their identification;
- (e) assist in the administration of this Act; and
- (f) perform any other duties that the minister may direct.

DIVISION 2

Weed Inspectors

Minister may appoint or designate weed superintendents

5(1) In circumstances that the minister considers to be an emergency, the minister may appoint any person as a weed superintendent or may designate any employee of the ministry as a weed superintendent.

(2) Every weed superintendent appointed or designated pursuant to subsection (1) may exercise the powers given to, and shall perform the duties imposed on, weed inspectors pursuant to this Act.

Appointment of a weed inspector

6(1) In this section, "**voter**" means:

- (a) in the case of a city, an elector as defined in *The Cities Act*;
- (b) in the case of an urban municipality other than a city or of a rural municipality, a voter as defined in *The Municipalities Act*; and
- (c) in the case of a northern municipality, an elector as defined in *The Northern Municipalities Act*.

(2) A municipality may appoint any person whom the municipality considers to be qualified as a weed inspector to enforce this Act and the regulations within the municipality.

(3) If a municipality receives a petition signed by at least 10 persons who are voters in the municipality requesting that a weed inspector be appointed, the municipality shall appoint a weed inspector at the next council meeting following receipt of the petition.

- (4) The clerk or administrator of a municipality that receives a petition pursuant to subsection (3) shall provide a copy of the petition to the director immediately after it is received.
- (5) For a period of 24 months after the date a petition mentioned in subsection (3) is received, the municipality shall have a weed inspector during those periods when weeds are likely to grow or reproduce.
- (6) A weed inspector appointed by a municipality is to be paid any remuneration that the municipality may set.
- (7) A weed inspector holds office until December 31 of the year in which the appointment is made, unless the appointment is terminated at an earlier date by notice in writing.
- (8) The minister may act pursuant to subsection (9) if:
- (a) a municipality that receives a petition in accordance with subsection (3) has not appointed a weed inspector as required by that subsection;
 - (b) the minister has given written notice to the municipality requiring the municipality to appoint a weed inspector; and
 - (c) the municipality has failed to comply with the written notice mentioned in clause (b) within 10 business days after receiving the written notice.
- (9) In the circumstances mentioned in subsection (8), the minister may:
- (a) appoint one or more persons as weed inspectors for the municipality; and
 - (b) determine the duration of each appointment and the remuneration to be paid to the weed inspectors by the municipality.
- (10) A weed inspector appointed pursuant to clause (9)(a) is deemed to be a weed inspector appointed by that municipality.

Notification of appointment

- 7(1) The clerk or administrator of a municipality shall notify the director immediately of an appointment of a weed inspector made by the municipality pursuant to subsection 6(2) or (3), giving the following information with respect to the weed inspector:
- (a) his or her mailing address;
 - (b) his or her residential address;
 - (c) any other contact information respecting the weed inspector; and
 - (d) the territory in the municipality assigned to the weed inspector.
- (2) If notice required by subsection (1) of the appointment of a weed inspector for an urban municipality is not received by the director within 10 business days after the date of the weed inspector's appointment, the urban municipality is deemed not to have appointed a weed inspector.
- (3) If the municipality terminates the appointment of a weed inspector, the clerk or administrator of the municipality shall notify the director immediately of the termination.

If municipality neglects or refuses to pay remuneration

8(1) If a municipality neglects or refuses to pay to a weed inspector the remuneration determined by the minister pursuant to clause 6(9)(b), the Minister of Finance, on recommendation of the minister, may pay that remuneration to the weed inspector.

(2) If the Minister of Finance pays remuneration to a weed inspector pursuant to subsection (1), the amount of remuneration paid by the Minister of Finance is a debt due and owing to the Government of Saskatchewan from the municipality that neglected or refused to pay the remuneration and may be recovered by the Minister of Finance in any manner authorized by *The Financial Administration Act, 1993* or by any other means authorized by law.

Concurrent jurisdiction of weed inspectors

9(1) In this section, “**facilities**” includes grain elevators, auction marts, farm implement storage lots, rail lines, fertilizer plants, machine sales or storage lots, industrial sites and any other place or class of places that is prescribed in the regulations.

(2) A weed inspector for a rural municipality has concurrent jurisdiction with a weed inspector acting in the urban municipality that is bordered by the rural municipality for facilities located in that urban municipality.

When a weed inspector appointed by a rural municipality may act within an urban municipality

10(1) If an urban municipality has not appointed a weed inspector, the weed inspector appointed by the rural municipality that borders the urban municipality may exercise in that urban municipality all the powers conferred by this Act on weed inspectors.

(2) If an urban municipality is bordered by more than one rural municipality, the weed inspector from the rural municipality that may exercise the powers mentioned in subsection (1) is the weed inspector from the rural municipality that:

- (a) has appointed a weed inspector; and
- (b) has the largest common boundary with the urban municipality.

Liability of municipality

11 Every municipality is responsible for any negligence of its weed inspectors in the performance of their duties, whether appointed by the municipality or by the minister.

Reports—to municipality and director

12(1) Every weed inspector shall report on a form approved by the minister to the clerk or administrator of the municipality for which the weed inspector is appointed.

(2) Reports for the purposes of subsection (1) must be made at those times determined by the municipality.

(3) Every weed superintendent appointed or designated pursuant to section 5 shall report:

- (a) to the director; and
- (b) to the clerk or administrator of any municipality in which the weed superintendent carried out any duties or exercised any powers given by this Act.

(4) The report required by this section must set out clearly and fully all details of inspections made and all orders served by the weed inspector or the weed superintendent.

Annual reports—to municipality and director

13(1) Every weed inspector shall prepare and deliver two copies of an annual report, in a form approved by the minister, to the clerk or administrator of the municipality for which the weed inspector is appointed stating:

- (a) the general conditions that the weed inspector observed regarding prohibited, noxious or nuisance weeds;
 - (b) the measures that the weed inspector took to eradicate any prohibited weeds, eradicate any isolated infestations of noxious weeds, contain and control any established infestations of noxious weeds or control any nuisance weeds; and
 - (c) the results obtained from taking the measures mentioned in clause (b).
- (2) The annual report required by subsection (1) must be delivered on or before November 1 of the year to which the annual report relates.
- (3) The annual report mentioned in subsection (1) must be accompanied by two copies of all agreements made and orders issued by the weed inspector during the year.
- (4) The clerk or administrator of the municipality shall:
- (a) forward one copy of the annual report mentioned in subsection (1) and all documents accompanying the annual report to the director not later than December 31 of the year to which the annual report relates; and
 - (b) promptly provide to the director any other records relating to weed inspection that may be requested by the director for examination.

PART III

Owners and Occupants

Duty of owners and occupants to notify and comply

14(1) Every owner of land shall:

- (a) notify any occupants, within five business days after their detection, of the presence of any prohibited, noxious or nuisance weeds;
 - (b) notify the municipality or the weed inspector for the municipality in which the land is located, within five business days after their detection, of the presence of any prohibited weeds or any isolated infestations of noxious weeds;
 - (c) comply with any order of a weed inspector respecting the owner's land.
- (2) Every occupant of land shall:
- (a) notify the owner, within five business days after their detection, of the presence of any prohibited, noxious or nuisance weeds;
 - (b) notify the municipality or the weed inspector for the municipality in which the land is located, within five business days after their detection, of the presence of any prohibited weeds or any isolated infestations of noxious weeds;
 - (c) comply with any order of a weed inspector respecting the land on which the person is an occupant.

General duty of owners and occupants

15(1) Every owner or occupant of land shall:

- (a) under the supervision of the weed inspector, eradicate any prohibited weeds located on the land;
 - (b) under the supervision of the weed inspector, eradicate any isolated infestations of noxious weeds located on the land;
 - (c) contain and control any established infestations of noxious weeds located on the land; and
 - (d) take measures to control any nuisance weeds located on the land.
- (2) An owner or occupant is deemed to have complied with clauses (1)(c) and (d) if he or she has performed on the land concerned, in due season and in a diligent manner, those acts that are commonly regarded in Saskatchewan as effective.

Appointment of agent

16(1) An owner or occupant of land may appoint a resident of Saskatchewan as his or her agent for the purposes of notification pursuant to this Act.

(2) If an agent is appointed pursuant to subsection (1), the owner or occupant shall serve notice of the appointment by registered mail on the clerk or administrator of the municipality in which the land is located.

(3) If notice pursuant to subsection (2) has been served on the clerk or administrator of the municipality in which the land is located, any order or document that is served on the agent is deemed to have been served on the owner or occupant who appointed the agent.

(4) Immediately after receipt of a notice of the appointment of an agent pursuant to subsection (1), the clerk or administrator of the municipality in which the land is located shall notify the weed inspector of the municipality, in writing, of the appointment giving the following information with respect to the agent:

- (a) his or her name;
- (b) his or her mailing address;
- (c) his or her residential address; and
- (d) a description of the land for which he or she is agent.

Failure to appoint agent

17 If a notice pursuant to subsection 16(2) has not been served on the clerk or administrator of the municipality in which the land is located, and the municipality has made a reasonable attempt to contact the owner or occupant with respect to any actions required pursuant to this Act, the municipality may authorize a weed inspector to:

- (a) enter on the land, without previous notice to the owner or occupant; and
- (b) take any measures that the weed inspector considers necessary and appropriate to eradicate any prohibited weeds, eradicate any isolated infestations of noxious weeds, contain and control any established infestations of noxious weeds or control any nuisance weeds.

PART IV
Weed Control Measures

DIVISION 1

General Matters re Weed Control Measures

Duty of weed inspectors

18 A weed inspector shall investigate and take any measures that the weed inspector considers necessary and appropriate respecting:

- (a) all infestations of prohibited or noxious weeds whether reported to the weed inspector or discovered during monitoring conducted within the municipality for which the weed inspector is appointed; and
- (b) all complaints with respect to prohibited, noxious or nuisance weeds made to the weed inspector or to the municipality for which the weed inspector is appointed.

Power to enter land

19(1) A weed inspector may enter on land and enter premises, other than a private dwelling, for the purposes of performing the duties and exercising the powers contained in this Act.

(2) The owner or occupant shall provide the weed inspector who enters on any land or enters premises pursuant to subsection (1) with a reasonable opportunity for a thorough inspection.

Consultation

20(1) If a weed inspector determines prohibited or noxious weeds are present in all or any part of any land, or receives a complaint pursuant to clause 18(b), and the owner or occupant of the land resides in the municipality in which the land is located, the weed inspector:

- (a) shall consult with the owner or occupant with respect to measures to eradicate any prohibited weeds, eradicate any isolated infestations of noxious weeds, contain and control any established infestations of noxious weeds or control any nuisance weeds brought to the owner's or occupant's attention by the weed inspector; and
- (b) may enter into an agreement with the owner or occupant to eradicate any prohibited weeds, eradicate any isolated infestations of noxious weeds, contain and control any established infestations of noxious weeds or control any nuisance weeds using any measures that:
 - (i) are satisfactory to the owner or occupant; and
 - (ii) the weed inspector considers necessary and appropriate.

(2) If an agreement has been entered into pursuant to subsection (1), the weed inspector may take any steps that the weed inspector considers necessary and appropriate to perform the work required if:

- (a) the work has not been completed within five business days after the date on which the agreement was entered into or within the time mentioned in the agreement, whichever is greater; or
- (b) the work has not been carried out to the satisfaction of the weed inspector.

Orders

21(1) A weed inspector may issue an order to the owner or occupant of land requiring that any measures the weed inspector considers necessary and appropriate be taken to eradicate any prohibited weeds, eradicate any isolated infestations of noxious weeds, contain and control any established infestations of noxious weeds or control any nuisance weeds if:

- (a) the weed inspector determines that prohibited, noxious or nuisance weeds are present in all or any part of any land; and
- (b) any of the following apply:
 - (i) no agreement is entered into pursuant to section 20;
 - (ii) the owner or occupant of the land does not reside in the municipality in which the land is located;
 - (iii) the weed inspector fails to locate the owner or occupant of land at his or her usual place of residence:
 - (A) in the case of land situated in an urban municipality, after a reasonable effort has been made; or
 - (B) in the case of land situated in a rural municipality, after two visits on two different days.

(2) If an order has been issued pursuant to subsection (1), the weed inspector may immediately take any steps that the weed inspector considers necessary to perform the work required in the order if:

- (a) the work has not been completed within five business days after the date on which the owner or occupant was served with the order or within the time mentioned in the order, whichever is greater; or
- (b) the work has not been carried out to the satisfaction of the weed inspector.

(3) In an order respecting prohibited weeds, the weed inspector may direct the owner or occupant of land to do either or both of the following:

- (a) to eradicate the prohibited weeds using any measures that the weed inspector considers necessary and appropriate;
- (b) to take immediate measures directed by the weed inspector in the order to prevent the movement of prohibited weeds out of any prohibited area.

(4) In an order respecting noxious weeds, the weed inspector may direct the owner or occupant of land to do either or both of the following:

- (a) to eradicate any isolated infestations of noxious weeds using any measures that the weed inspector considers necessary and appropriate and that are set out in the order;
- (b) to contain and control any established infestations of noxious weeds using any measures that the weed inspector considers necessary and appropriate and that are set out in the order.

(5) If the weed inspector considers it necessary and appropriate for the purpose of containing and controlling any established infestations of noxious weeds, an order pursuant to clause (4)(b) may include an area of land that does not extend more than 20 metres beyond the area in which the noxious weeds are present.

(6) In an order dealing with nuisance weeds, the weed inspector may direct the owner or occupant of land to control the nuisance weeds using any measures that the weed inspector considers necessary and appropriate and that are set out in the order.

Agreement or order for noxious weeds and nuisance weeds may extend for three years

22(1) An agreement entered into pursuant to section 20 may cover the year in which the agreement is made and the following two years.

(2) An order issued pursuant to section 21 may cover the year in which the order is made and the following two years.

Orders re destruction of crops

23 A weed inspector shall not issue an order requiring the destruction of a crop unless:

- (a) there is an infestation of a prohibited weed on the land in which the crop is growing; or
- (b) in the case of a noxious weed:
 - (i) the noxious weeds are present in a total area equal to or less than five hectares per quarter section; and
 - (ii) the reeve and the councillor for the division of the rural municipality in which the land concerned is located have consented to the order for the destruction of the crop.

Rules re orders

24(1) All orders:

- (a) must be in writing; and
 - (b) must be in any form prescribed in the regulations.
- (2) A weed inspector shall serve a copy of every order on the owner or occupant of land to which the order relates.

Permits re removal of screenings

25(1) In this section and section 39, “**screenings**” means matter removed in the process of cleaning or grading crops.

(2) Before removing screenings from a grain elevator, a purchaser of the screenings shall obtain a permit from a weed inspector for the municipality into which it is proposed to transport the screenings.

(3) The transport of screenings is subject to the conditions that may be specified in the permit mentioned in subsection (2).

(4) Notwithstanding subsections (2) and (3), a farmer may, without a permit, receive and return to the farmer’s own premises the screenings from a crop produced on his or her farm if measures satisfactory to the weed inspector are taken to prevent distribution of the screenings.

(5) A legible notice including the conditions specified in a permit issued pursuant to subsection (2) is to be conspicuously posted on the mobile crop cleaning or grading equipment or grain elevator.

Machinery

26(1) The owner or person in charge of a machine that any prohibited or noxious weeds may be present in or adhering to shall cause the machine to be thoroughly cleaned, inside and out, to ensure the removal or destruction of any prohibited or noxious weeds before that machine is moved.

(2) If the weed inspector reasonably believes that any prohibited or noxious weeds may be present in or adhering to a machine, the weed inspector may:

(a) issue an order to the person in possession, or in charge, of that machine to have the machine thoroughly cleaned, inside and out, to ensure the removal or destruction of any prohibited or noxious weeds before that machine is moved; and

(b) if an order issued pursuant to clause (a) is not promptly complied with, take any measures that are specified in subsection (3).

(3) In the circumstances mentioned in clause (2)(b), a weed inspector may require the removal or destruction of the prohibited or noxious weeds in a manner satisfactory to the weed inspector before that machine is moved.

(4) If a machine mentioned in subsection (1) is delivering material, the owner and any occupant of land to which the material is delivered shall provide a reasonable opportunity to the owner or person in charge of the machine to thoroughly clean any material that may include prohibited or noxious weeds from that machine.

DIVISION 2

Prohibited Weeds

Bylaw re prohibited area

27(1) A municipality may, by bylaw, designate an area where prohibited weeds are found to occur as a prohibited area.

(2) A bylaw mentioned in subsection (1) may specify any boundary for the area mentioned in subsection (1) that the weed inspector or the council considers necessary and appropriate.

(3) The designation of the prohibited area remains in force for five years from the last occurrence of the prohibited weed for which the prohibited area was established.

(4) A municipality shall immediately notify the director of the presence of prohibited weeds and the designation of a prohibited area.

(5) If a bylaw mentioned in subsection (1) has been passed, the clerk or administrator of the municipality shall immediately serve a written copy of the bylaw on each owner and occupant affected by it.

Weed inspector's duties in prohibited area

28(1) A weed inspector for a municipality that has passed a bylaw designating a prohibited area shall monitor the prohibited area monthly from May 1 to October 31 in each year that the bylaw is in force for the presence of the prohibited weed.

(2) The weed inspector shall post the boundary of the prohibited area with signs that the weed inspector considers necessary and appropriate to clearly mark the prohibited area.

Prohibition of movement in prohibited area

29(1) No person, machine or domestic animal shall enter a prohibited area, except under the direction of the weed inspector to conduct eradication measures.

(2) No machine or domestic animal may be removed from the prohibited area, until it is cleaned or treated in a manner that removes or destroys prohibited weeds.

(3) A safe and temporary barrier may be erected by or under the supervision of the weed inspector to prevent the entry of any person, machine or domestic animal into the prohibited area, except under the direction of the weed inspector to conduct eradication measures.

(4) A weed inspector may, by order, prohibit the owner or occupant of any land designated as a prohibited area from sowing a crop or grazing any livestock within the prohibited area.

(5) If the area of land on which the sowing of a crop is to be prohibited by an order mentioned in subsection (4) exceeds five hectares, the weed inspector shall obtain the prior consent of the reeve and the councillor for the division of the rural municipality in which the land concerned is located before issuing the order.

Eradication of prohibited weeds

30(1) The weed inspector shall eradicate or, by notice, require the owner or occupant to eradicate prohibited weeds using measures that the weed inspector considers to be the most effective measures available.

(2) A municipality may authorize the expenditure of any moneys that it considers necessary for the eradication of prohibited weeds within the prohibited area.

DIVISION 3

Noxious Weeds**Prohibition re removal of material, etc.**

31(1) A weed inspector may prohibit, by order, the movement of any material, machine, or domestic animal that may contain noxious weeds, or to which noxious weeds may be adhering, except under any conditions that the weed inspector may permit and specify in that order.

(2) Notwithstanding subsection (1), the movement of any material, machine or domestic animal that may contain noxious weeds, or to which noxious weeds may be adhering, is allowed between parcels of land infested with the same noxious weed.

(3) A municipality may, by bylaw, require the owner or person in charge of any material, machine or domestic animal mentioned in subsection (1):

(a) to notify the weed inspector or clerk or administrator of the municipality before any material, machine or domestic animal is moved; and

(b) to provide the weed inspector with a reasonable opportunity for inspection before moving any material, machine or domestic animal.

(4) Subsection (3) does not apply to pedigreed seed in sealed sacks bearing the seal of the Canadian Seed Growers' Association, or seed that is correctly graded and labelled in accordance with the *Seeds Act* (Canada).

PART V
General

Agreements between municipalities

32(1) A municipality may enter into an agreement with any other municipality for joint action to eradicate prohibited weeds, eradicate any isolated infestations of noxious weeds or contain and control any established infestations of noxious weeds.

(2) An agreement entered into pursuant to subsection (1) may contain provisions dealing with the following:

- (a) the appointment of a joint committee to supervise and manage the eradication of prohibited weeds, the eradication of isolated infestations of noxious weeds or the containment and control of established infestations of noxious weeds undertaken pursuant to the agreement;
- (b) the purchase of equipment and supplies; and
- (c) the hiring of equipment operators.

(3) If an agreement is entered into pursuant to subsection (1), a municipality may:

- (a) appoint one or more persons to represent the municipality on any joint committee; and
- (b) by bylaw, authorize the expenditure of moneys required for:
 - (i) the purpose of implementing the agreement; and
 - (ii) meeting the expenses incurred as a result of the agreement.

Tarping bylaw

33(1) A municipality may, by bylaw, require that any material that may be infested with noxious or nuisance weeds, while being moved within the municipality, be enclosed in a manner that will prevent the spread of noxious or nuisance weeds during its movement.

(2) A municipality may, by bylaw, specify the manner in which any machine used to transport any material that may be infested with noxious or nuisance weeds within the municipality must be enclosed in order to prevent the spread of noxious or nuisance weeds.

(3) A bylaw passed pursuant to subsection (1) or (2) may require that a legible notice including the provisions of the bylaw be conspicuously posted in all locations relevant to the bylaw within the municipality.

(4) A bylaw passed pursuant to subsection (1) or (2) may provide for a fine of not more than \$5,000 for a contravention of any of its provisions.

Appeals re orders

34(1) In accordance with this section, the following persons may appeal an order issued by a weed inspector to the municipality that appointed the weed inspector:

- (a) the owner or occupant of land affected by the order;
- (b) any other person who is aggrieved by the order.

(2) Within five business days after being served with an order of a weed inspector, a person mentioned in subsection (1) may appeal that order by serving a written notice of appeal on the clerk or administrator of the municipality that appointed the weed inspector.

- (3) A notice of appeal must:
 - (a) set out the name and address of the appellant;
 - (b) be accompanied by a copy of the order with respect to which the appeal is being taken;
 - (c) set out the legal description of the land affected; and
 - (d) set out the grounds for appeal.
- (4) A notice of appeal must be accompanied by a deposit in an amount prescribed in the regulations.
- (5) The deposit made pursuant to subsection (4) must be refunded if the appellant's appeal is successful.
- (6) A council may establish an independent committee, composed of those persons the council considers appropriate, to hear and determine appeals pursuant to this section.
- (7) If a council appoints an independent committee pursuant to subsection (6), any decision of the independent committee is deemed to be a decision of the council.
- (8) In hearing and determining an appeal pursuant to this section, a council or independent committee, as the case may be, is not bound by the rules of evidence and may hear and determine all questions of law or fact.
- (9) Within 30 days after receiving a notice of appeal, the appeal shall be heard and determined by:
 - (a) the council at their next council meeting; or
 - (b) if the council has appointed an independent committee pursuant to subsection (6), the independent committee.
- (10) Within 10 business days after the conclusion of the hearing, the council or independent committee, as the case may be, shall render its decision in writing, setting out the reasons for its decision.
- (11) The clerk or administrator of the municipality shall serve a copy of the council's or independent committee's written decision pursuant to subsection (10) on the appellant.
- (12) An appeal of an order pursuant to this section does not stay the order unless the council or independent committee, as the case may be, decides otherwise.

Appeal to the Saskatchewan Municipal Board

- 35(1)** In this section, "**appellant**" means a person who files an appeal pursuant to this section.
- (2) A person who is aggrieved by a decision of the council or independent committee, as the case may be, pursuant to section 34, may within 15 business days after being served with the decision, appeal the decision to the Saskatchewan Municipal Board.
- (3) An appellant shall:
 - (a) file a notice of appeal with the Saskatchewan Municipal Board, in the form specified by the Saskatchewan Municipal Board; and
 - (b) serve a copy of the notice of appeal on the municipality that appointed the weed inspector.

(4) On request of the secretary of the Saskatchewan Municipal Board, the clerk or administrator of the municipality whose council or independent committee made the decision being appealed from shall, with respect to an appeal, send to the Saskatchewan Municipal Board:

- (a) the notice of appeal to the municipality;
- (b) materials filed with the council or independent committee before the hearing;
- (c) any exhibits entered at the council or independent committee hearing;
- (d) the minutes of the council or independent committee;
- (e) the written decision of the council or the independent committee; and
- (f) the transcript, if any, of the proceedings before the council or independent committee.

(5) Subject to subsections (7) and (8) and to subsection 36(3), on receipt of an appeal pursuant to this section, the Saskatchewan Municipal Board shall consider the appeal and may confirm, modify or revoke the decision appealed from or substitute its own decision for the decision being appealed from.

(6) The Saskatchewan Municipal Board shall serve a copy of its decision on the municipality, the appellant and any other person that the Saskatchewan Municipal Board considers may be interested in the decision.

(7) Subject to subsection (8), if an appellant does not comply with this section in filing an appeal, the appeal is deemed to be dismissed.

(8) If, in the opinion of the Saskatchewan Municipal Board, the appellant's failure to perfect an appeal in accordance with this section is due to a procedural defect that does not affect the substance of the appeal, the Saskatchewan Municipal Board may allow the appeal to proceed on any terms and conditions that it considers just.

(9) An appeal taken pursuant to this section does not operate as a stay of the decision being appealed from unless the Saskatchewan Municipal Board, on an application of the appellant, decides otherwise.

Fees on appeal

36(1) When filing a notice of appeal pursuant to section 35, the appellant shall pay any fee that may be prescribed by the Municipal Board pursuant to *The Municipal Board Act*.

(2) For the purposes of subsection (1), the fees must be paid within the 15-business-day period mentioned in subsection 35(2).

(3) If an appellant fails to pay the fee as required pursuant to subsection (1), the appeal is deemed to be dismissed.

(4) If the appellant is successful on an appeal, the Saskatchewan Municipal Board shall refund to the appellant the fee paid pursuant to this section.

Recovery from owner or occupant

37(1) In this section, “**amount expended**” means the amount expended by a weed inspector or a municipality for work performed in:

- (a) eradicating any prohibited weeds;
- (b) eradicating any isolated infestations of noxious weeds;
- (c) containing and controlling any established infestations of noxious weeds; or
- (d) controlling any nuisance weeds.

(2) Subject to subsection (3), any amount expended may be recovered by the municipality from the owner or occupant of the land in the same manner as rates and taxes pursuant to *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act*, as the case may be, and those Acts apply with any necessary modification for the purposes of this section.

(3) The maximum amount that may be recovered by a municipality pursuant to subsection (2) is the amount prescribed in the regulations.

(4) Every amount expended is to be added to and forms part of the taxes on the parcel of land on which the work was done.

(5) The clerk or administrator of each municipality shall, on or before November 30 in each year, notify every owner of land with respect to any amount expended respecting the land.

Certificate re costs and statements of work done

38(1) A certificate purporting to be signed by the clerk or administrator of a municipality to the effect that an amount named in the certificate has been expended by a weed inspector or the municipality during any year for the eradication of any prohibited weeds, the eradication of any isolated infestations of noxious weeds, the containment and control of any established infestations of noxious weeds or the control of any nuisance weeds on an area of land described in the certificate is admissible in evidence as proof, in the absence of evidence to the contrary, that the amount set out in the certificate has been so expended.

(2) If a municipality expends moneys during any year and the amount expended exceeds \$500 per quarter section, the owner of the land is entitled to receive from the municipality:

- (a) a statement of the work done; and
- (b) a further statement, signed by a person authorized by the municipality, to the effect that he or she has personally inspected the property after completion of the work and he or she finds that:
 - (i) the work has been satisfactorily done; and
 - (ii) the charge made is necessary and appropriate.

(3) A mortgagee is entitled, on application to the municipality, to receive copies of the statements to which an owner is entitled pursuant to subsection (2).

Offence and penalties

39(1) No person shall:

- (a) wilfully obstruct or delay the work of a weed inspector;
- (b) leave screenings or any other matter that includes prohibited or noxious weeds exposed or unprotected, except in a securely constructed building or other closed container, without having first destroyed the weed's ability to reproduce;
- (c) take or cause to be taken across a cultivated field any machine that is infested with noxious weeds, or to which noxious weeds are adhering, without having first obtained the permission of the owner or occupant of the land;
- (d) enter a prohibited area or remove anything from a prohibited area except under the direction of a weed inspector;
- (e) deposit or permit to be deposited prohibited or noxious weeds or material infested with prohibited or noxious weeds in a place where the prohibited or noxious weeds might grow or spread;
- (f) fail to carry out the terms of an agreement made pursuant to section 20 to which the person is a party and for which he or she is responsible;
- (g) fail to comply with an order of a weed inspector;
- (h) fail to comply with a condition attached to a permit issued to him or her by a weed inspector or a clerk or an administrator of a municipality pursuant to section 25; or
- (i) contravene any other provision of this Act or the regulations.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.

Disposition of fine revenues

40 Every fine imposed as a result of a conviction for an offence against this Act within a municipality is payable to the municipality.

Service

41(1) Subject to the regulations, any document required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail or by any other means prescribed in the regulations to the last known address of the person being served.

(2) A document served by ordinary mail or registered mail is deemed to have been received on the fifth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, he or she did not receive the document or that he or she received it at a later date.

(3) Irregularity in the service of a document does not affect the validity of an otherwise valid document.

Irrigation companies and drainage associations

42 Any order, notice or decision with respect to land owned by an irrigation company or drainage association is deemed to be properly served if sent by registered mail to the appropriate secretary, superintendent, manager or ditch rider.

Railway companies

43(1) Any order, notice or decision with respect to land owned or occupied by a railway company is deemed to be properly served if sent by registered mail to the appropriate section foreman.

(2) Immediately after serving the order, notice or decision, the weed inspector shall advise the clerk or administrator of the municipality of the service of the order, notice or decision, and the clerk or administrator of the municipality shall immediately give written notice of the service to the superintendent of the railway division in which the land owned or occupied by the railway company is situated.

Oil drilling platforms, gas platforms, pumping stations and pipeline companies

44 Any order, notice or decision with respect to land owned or occupied by a person operating an oil drilling platform, a gas platform or a pumping station or a pipeline company is deemed to be properly served if sent by registered mail to the person who the municipality is satisfied is in charge of the oil drilling platform, the gas platform, or the pumping station or pipeline.

Regulations

45 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing a form for orders to be issued by weed inspectors;
- (c) for the purposes of section 9, prescribing places or classes of places;
- (d) for the purposes of section 34, prescribing an amount;
- (e) prescribing a maximum amount that may be recovered by a municipality pursuant to section 37;
- (f) for the purposes of subsection 41(1), prescribing matters respecting service;
- (g) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (h) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART VI

**Repeal, Consequential Amendment
and Coming into Force**

S.S. 1983-84, c.N-9.1, repealed

46 *The Noxious Weeds Act, 1984* is repealed.

S.S. 1988-89, c.M-23.2, new section 18.3

47 The following section is added after section 18.2 of *The Municipal Board Act*:

“Appeals re weed control decision

18.3 The board has jurisdiction to hear and determine appeals respecting decisions that:

- (a) are made pursuant to *The Weed Control Act* by the council of a municipality or an independent committee appointed by a municipality; and
- (b) can be appealed to the board pursuant to that Act”.

Coming into force

48 This Act comes into force on proclamation.

THIRD SESSION

Twenty-sixth Legislature

SASKATCHEWAN

B I L L

No. 107

An Act respecting Prohibited, Noxious and Nuisance
Weeds and to make a consequential amendment
to *The Municipal Board Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Bob Bjornerud
