



Republic of Namibia
Annotated Statutes

Weeds Ordinance 19 of 1957

(OG 2087)

came into force on date of publication: 18 June 1957

ORDINANCE

To provide for the eradication of certain weeds.

(Assented to 7th June, 1957)

(Afrikaans text signed by the Administrator)

ARRANGEMENT OF SECTIONS

[The provisions in this Ordinance have no headings.]

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General, in so far as such consent is necessary previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925, as amended by section *sixteen* of the South West Africa Affairs Amendment Act, 1949, of the Parliament of the Union of South Africa as follows:-

1. The Administrator may by proclamation in the *Official Gazette* and in so far as land mentioned in subsection (1) of section *four* of Act 56 of 1954 is concerned, after consultation with the Minister of Native Affairs, declare any plant to be a weed for the purposes of this Ordinance, either throughout the Territory or in one or more areas therein, and may repeal or amend any such proclamation.

[Act 56 of 1954 is the South West Africa Native Affairs Administration Act, which was repealed by the Communal Land Reform Act 5 of 2002.]

2. (1) Every occupier or, where there is no occupier, every owner of land shall eradicate any weed growing on such land.

(2) Any officer may by notice in writing require the occupier, or where there is no occupier, the owner of land upon which any weed is growing to eradicate such weed within a

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period specified in the notice, and if the occupier or owner to whom such notice has been given fails to eradicate such weed within that period or within such further period as the Administrator may allow, he shall be guilty of an offence.

3. (1) The Administrator may take such steps as he deems necessary in order to obtain information as to the presence of any weed on any land and as to the area on which such weed is growing.

(2) Any officer may enter upon any land and do thereon any act which he considers necessary for the purpose of obtaining such information as is referred to in sub-section (1).

(3) The person in occupation of such land shall render such officer such assistance as such officer may reasonably require of him for the said purpose.

4. (1) If any occupier or owner who has been required under sub-section (2) of section *two* to eradicate any weed within a specified period falls to eradicate such weed within that period or within such further period as the Administrator may allow in terms of the said sub-section, the Administrator may cause such weed to be eradicated by any officer, and such officer may for the purpose of such eradication take with him upon the land the labourers, animals, vehicles, instruments, appliances, chemicals or other things which in his opinion are necessary for the said purpose.

(2) The Administrator may recover the costs incurred under sub-section (1) from the occupier or owner concerned.

5. (1) If the Administrator is satisfied that the occupier, or where there is no occupier, the owner of land is unable to eradicate any weed growing on such land, the Administrator may -

- (a) cause such weed to be eradicated by any officer at the public expense and if he deems fit recover from the occupier or owner concerned such portion of the expense incurred for the purpose of eradicating such weed as he may determine; or
- (b) render, upon such conditions as he may determine, such financial or other assistance in connection with the eradication of such weed by the occupier or owner concerned as is, in his opinion, required by such occupier or owner.

(2) An officer referred to in sub-section (1) shall have the same powers as an officer referred to in sub-section (1) of section *four*.

6. A magistrate's court shall have jurisdiction to determine any action for the recovery from an occupier or owner of land within the area of its jurisdiction, of any costs incurred in respect of such land under sub-section (1) of section *four* or paragraph (a) of sub-section (1) of section *five* or of any advance made to such occupier or owner under paragraph (b) of the lastmentioned sub-section or any amount to be paid by such occupier or owner in consideration of assistance rendered under that paragraph, in connection with the eradication of any weed upon such land, notwithstanding anything contained in section *twenty-seven* of the Magistrate's Courts Proclamation, 1935, (Proclamation 31 of 1935), and whether or not such costs, advance or amount exceeds the amount ordinarily within the jurisdiction of a magistrate's court.

[Section 27 of the Magistrate's Courts Proclamation of 1935 was repealed by the Magistrates' Courts Ordinance 29 of 1963, which was replaced by the Magistrates' Courts Act 32 of 1944.]

7. (1) The Administrator may make regulations:-

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- (a) as to the particulars to be furnished by occupiers or owners of land in any particular area in connection with the presence of weeds upon that land;
 - (b) prescribing the times at which and the methods by which any particular weed shall be eradicated and destroyed;
 - (c) prescribing the facilities and assistance to be provided by any occupier or owner of land to any officer who is eradicating any weed upon such land;
 - (d) prescribing the powers of any officer who is engaged in the eradication of any weed;
 - (e) restricting the movement of any livestock to which specified weeds or portions thereof are adhering, or the movement of livestock into or out of any area in which specified weeds are growing;
 - (f) prohibiting or restricting the importation, distribution, conveyance or sale of any seeds with which the seed of any particular weed has become mixed, and prescribing the powers and duties of officers in connection with the inspection of seeds;
 - (g) prescribing after consultation with the Minister of Native Affairs, the person or persons who shall be the occupier or occupiers for the purposes of this Ordinance in respect of a native reserve, or of land occupied solely by natives and prescribing in respect of a commonage which is not under the control of any person, the person or persons who shall be the occupier or occupiers for the purposes of this Ordinance and prescribing the manner in which any moneys referred to in section *six* shall be recovered from such person or persons;
 - (h) prescribing the form of any notice which is required to be given under this Ordinance, and the method of service thereof;
 - (i) generally for preventing the introduction into the Territory or any part thereof, or the spread of any weed.
- (2) Different regulations may be made in respect of different weeds and for different areas.

8. (1) Any person who -

- (a) contravenes the provisions of sub-section (3) of section *three* or of any regulations made under this Ordinance; or
- (b) obstructs or hinders the Administrator or any officer in the exercise of his powers under this Ordinance or the regulations made thereunder; or
- (c) places or causes or permits to be placed any portion of a weed in any river, water course or water furrow or on any public road, shall be guilty of an offence.

[The phrase "shall be guilty of an offence" appears to be misplaced in the *Official Gazette*. It should probably be on a separate line, flush with the left-hand margin, to apply to paragraphs (a)-(c).]

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(2) Any person who commits an offence under this Ordinance or the regulations made thereunder shall be liable on conviction to a fine not exceeding one hundred pounds, or in default to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

[A fine not exceeding one hundred pounds is equivalent to a fine not exceeding N\$200.]

(3) A conviction or acquittal of a person who has been tried under a charge of having upon a particular date or during any particular period committed an offence under this Ordinance or the regulations made thereunder in respect of any weed, shall not be a bar to a trial and conviction of that person upon a charge of having upon any other date or during any other period committed such an offence in respect of the same weed.

9. (1) The Administrator may delegate all or any of the powers conferred upon him by this Ordinance, other than the power referred to in section *seven*, to an officer of the Agricultural Branch of the Administration or in so far as land referred to in sub-section (1) of section *four* of Act 56 of 1954 is concerned to an officer of the Native Affairs Department and withdraw any such delegation.

[Act 56 of 1954 is the South West Africa Native Affairs Administration Act, which was repealed by the Communal Land Reform Act 5 of 2002.]

(2) An officer to whom any power has been delegated under sub-section (1), shall exercise that power subject to the instructions of the Administrator.

10. A local authority may incur such expenditure as may be necessary for the purpose of eradicating any weed which such local authority, as the occupier or owner of the land upon which it is growing, is required by or under this Ordinance to eradicate.

11. in this Ordinance, unless inconsistent with the context -

“eradicate” in relation to any weed means to destroy such weed in such a manner that neither the weed nor any seed nor other portion thereof remains in a viable condition;

“occupier” in relation to land, means any person who is a fiduciary, usufructuary, lessee or sub-lessee under a contract which has at least five years to run, or a purchaser who has not yet taken transfer, or in the case of a native reserve, or of land occupied solely by natives or of a commonage which is not under the control of any person, such person or persons as may be prescribed by regulation or in respect of such portion of any land as is under cultivation, the person who cultivates that portion, and of such portion of any land as has been under cultivation, the person who is entitled to cultivate that portion;

“officer” means any policeman and any officer of the Agricultural Branch of the Administration and includes any other person acting under the general or special authority of the Administrator;

“owner” in relation to land, means the person in whose name the land is registered, and if there is no such person, then the person who has the control of the land or who is entitled to the use thereof;

“local authority” means any municipality or village management board;

“policeman” means any member of a police force established under any law;

“weed” means any plant which is, in terms of a proclamation of the Administrator under section *one*, a weed for the purposes of this Ordinance.

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12. This Ordinance shall be called the Weeds Ordinance, 1957.