



# **WEEDS (AMENDMENT) BILL**

## **EXPLANATORY NOTES**

*These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mrs K J Beecroft, MHK*

### **1. Introduction**

- 1.1 These explanatory notes relate to the Weeds (Amendment) Bill 2013. They have been prepared by the Department of Environment, Food and Agriculture ("the Department") in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
- 1.2 The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

### **2. Background**

- 2.1 This Bill is promoted by the Department.
- 2.2 The resulting Act will amend the Weeds Act 1957 (the "1957 Act") in order to address issues identified in relation to dealing with injurious weeds.

### **3. Overview of clauses**

- 3.1 Clause 1 gives the resulting Act its short title.
- 3.2 Clause 2(1) provides for the resulting Act to expire on the day after its promulgation. At this stage the amendments to the 1957 Act will have taken effect as the Act comes into operation on the date on which it is passed by virtue of the announcement of its Royal Assent to Tynwald. Clause 2(2) consists of a "non-revival" provision to avoid arguments about revival of the previous law after the resulting Act has expired.
- 3.3 Clause 3 provides that the 1957 Act is amended in accordance with sections 4 to 7 of the resulting Act.

- 3.4 Clause 4 repeals section 1 of the 1957 Act, as it is no longer relevant to practices in relation to weed management and its enforcement is not practical. Section 1 provides that if an occupier of land allows injurious weeds to remain uncut or not destroyed by 1 August in each year, or before this date if the injurious weeds are developing flowers, the occupier shall be liable on summary conviction to a fine not exceeding £500 and to a further fine not exceeding £5 for every day during which the default continues after conviction. If followed to the letter, this provision would result in the complete extermination of the listed injurious weeds, which would be contrary to sound environmental practice and convention.
- 3.5 Clause 5 substitutes section 2 of the 1957 Act. It rewords the provision consequent upon the repeal of section 1 of the 1957 Act. The effect of the substituted section 2 is the same as the existing provision in that if the Department is satisfied that there are injurious weeds growing upon any land, it may serve a written notice upon the occupier of the land requiring the occupier to cut down or destroy the injurious weeds within the time specified in the notice. If an occupier unreasonably fails to comply with the requirements of a notice issued under section 2 of the 1957 Act, he or she is liable on summary conviction to a fine not exceeding £500 and to a further fine not exceeding £5 for every day during which the default continues after conviction (see existing section 3 of the 1957 Act). Provision exists under section 3 of the 1957 Act for the Department to undertake the work where a notice is breached. The issue of a notice to the occupier of land is a more practical way forward than enforcing existing section 1 of the 1957 Act and will only be carried out in cases of severe infestation that may potentially affect agricultural land. Focusing on issuing notices under section 2 of the 1957 Act is expected to achieve the required reduction in the risk of poisoning animals on agricultural land.
- 3.6 Clause 6 amends section 3 of the 1957 Act with a view to improving the wording of that particular section. The amendment clarifies that a person is only subject to a daily fine under section 3 where they have been summarily convicted.
- 3.7 Clause 7 makes an amendment to section 5 of the 1957 Act to provide that where an inspection is carried out by an officer of the Department or a police officer that it must be undertaken at a reasonable hour and with reasonable notice.
- 3.8 Clause 8 makes a minor amendment to the marginal note of section 6 the Act to reflect the actual content of section which relates to proceedings rather than recovery of penalties.

- 3.9 Clause 9 inserts proposed new sections 7A and 7B into the 1957 Act:
- 3.9.1 Proposed new section 7A enables the Department, after consulting such persons as it considers appropriate, to produce a code of practice providing guidance on how to prevent the spread of ragwort. Ragwort poisoning is known to have a devastating effect on horses, in addition to being damaging to cattle and other animals. In the correct place, however, where there is no risk to animal welfare, ragwort contributes to the biodiversity, flora and fauna of the countryside. It is considered that a code of practice on ragwort will educate individuals to understand the need to "manage" its growth rather than eradicate it completely (which existing section 1 of the 1957 Act requires). A code prepared under proposed new section 7A must be laid before Tynwald. It is proposed that the code will be admissible in evidence and may be taken into account in determining a relevant question in court proceedings.
- 3.9.2 Proposed new section 7B provides an order making power for the Department to amend the definition of "injurious weeds" to include additional weeds. This is a useful power, which would enable the Department to act quickly, in the event that other injurious weeds are identified in the future. It is based on the existing power in the definition of "injurious weeds" in section 9 of the 1957 Act, but this is a power to textually amend the definition in the Act. An order under proposed new section 7B must be laid before Tynwald and may be annulled by Tynwald at the sitting at which it is laid or at the next following sitting.
- 3.10 Clause 10(1) amends section 9 of the 1957 Act. A definition of the Department is inserted ("the Department" is currently defined in existing section 2 of the 1957 Act but has been removed from the substituted section 2 in clause 5 so that all of the definitions are located in the interpretation provision). The definition of "injurious weeds" is also substituted. The reference to "giant hogweed" is removed from that definition since it is listed as an injurious weed in Schedule 8 to the Wildlife Act 1990 which makes it an offence if a person "plants" giant hogweed or otherwise causes it to grow in the wild. Some of the botanical names of the injurious weeds have been amended to reflect those currently used by the Botanical Society of the British Isles. The order making power to specify additional injurious weeds which is currently located in the definition of "injurious weeds" is no longer required due to proposed new section 7B (see clause 6).
- 3.11 Clause 10(2) revokes 2 redundant orders made under section 9 of the 1957 Act. One of those orders extended the definition of "injurious weeds" to include wild oats (which has been incorporated into the substituted definition of "injurious weeds" in clause 7(1)) and the other extended that definition to include giant hogweed (which is no longer specified as an "injurious weed" in the substituted definition).