



**Isle of Man**

*Ellan Vannin*

## **WEEDS (AMENDMENT) BILL 2013**



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### Explanatory Memorandum

1. This Bill is promoted by the Department of Environment, Food and Agriculture (the “Department”).
2. Clause 1 makes provision about the resulting Act’s short title.
3. Clause 2(1) provides for the resulting Act to expire on the day after its promulgation. At this stage, the amendments will already have been inserted into the Weeds Act 1957 as the resulting 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.
4. Clause 3 introduces the amendments to the Weeds Act 1957.
5. Clause 4 repeals section 1 (penalty for permitting weeds to grow).
6. Clause 5 substitutes section 2 (notice to cut down or destroy weeds). The new section, which essentially rewords the existing provision consequent upon the repeal of section 1, provides that if the Department is satisfied that there are injurious weeds growing upon any land, it may serve a written notice upon the occupier requiring the occupier to cut down or destroy the weeds within a specified time.
7. Clause 6 amends section 3 so as to improve the wording of that section and to clarify that a person is only subject to a daily fine under that section upon subsequent summary conviction.
8. Clause 7 amends section 5 so as to provide that an inspection under that section may only take place at a reasonable hour and upon reasonable notice.
9. Clause 8 amends the marginal note to section 6 to reflect the content of the section.
10. Clause 9 inserts sections 7A and 7B. Section 7A provides a new power for the Department to make a code of practice for the purpose of providing guidance on how to prevent the spread of ragwort (cushag). The Department must consult such persons as it considers appropriate before making the code. The code must be laid before Tynwald, is admissible in evidence and may be taken into account in determining a relevant question in court proceedings. Section 7B provides an order making power for the Department to textually amend the definition of “injurious weeds” to include additional weeds. Such an order is subject to the negative Tynwald procedure.
11. Clause 10(1) amends section 9 by inserting a definition of the “Department” (“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) and by substituting the definition of “injurious weeds”. Giant hogweed is omitted from the substituted definition of “injurious weeds” as it is listed in Schedule 8 to the Wildlife Act 1990. 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 and the order making power to specify additional injurious weeds has been removed from the definition due to proposed new section 7B (see clause 6). Clause 10(2) consequentially repeals some redundant Orders.

12. It is not envisaged that the Bill will have any significant cost implications. The Bill is not expected to increase Government expenditure or to reduce the income of Government.
13. In the opinion of the member moving the Bill, Mrs Beecroft MHK, its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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## WEEDS (AMENDMENT) BILL 2013

1 **A BILL** to amend the Weeds Act 1957.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

2 **1 Short title**

3 The short title of this Act is the Weeds (Amendment) Act 2013.

4 **2 Expiry**

5 (1) This Act expires on the day after its promulgation.

6 (2) The expiry does not —

7 (a) revive the Weeds Act 1957 as it operated before the amendment  
8 commenced;

9 (b) revive anything not in operation or existing when the amendment  
10 took effect; or

11 (c) affect the continuing operation of the amendment.

12 **3 Amendment of the Weeds Act 1957**

13 The Weeds Act 1957 is amended in accordance with sections 4 to 10.

14 **4 Section 1 repealed – penalty for permitting weeds to grow**

15 Section 1 is repealed.

16 **5 Section 2 substituted – notice to cut down or destroy weeds**

17 For section 2 substitute —

18 **“2 Notice to cut down or destroy weeds**

19 | If the Department is satisfied that there are injurious weeds growing  
20 | upon any land, it may at any time serve upon the occupier of the land a

1 | notice in writing requiring the occupier to cut down or destroy the weeds  
2 | within the time specified in the notice.”.

3 | **6 Section 3 amended – penalty and remedies relating to failure to comply**  
4 | **with notice**

5 | In section 3 for the words from “Where a notice” up to “default continues after  
6 | conviction:” substitute –

7 | “If a person unreasonably fails to comply with the requirements of a notice  
8 | under section 2, he or she is guilty of an offence and liable on summary  
9 | conviction in respect of each offence to a fine not exceeding £500 and, for  
10 | continued contravention and upon a subsequent summary conviction of the  
11 | offence, to a further fine not exceeding £5 for every day on which the  
12 | contravention is continued (instead of being liable to a fine not exceeding  
13 | £500):”.

14 | **7 Section 5 amended – right of re-entry and penalty for obstruction**

15 | (1) Section 5 is amended as follows.

16 | (2) In subsection (1) –

17 | (a) after “enter on and inspect” insert “at a reasonable hour”; and

18 | (b) omit the final sentence.

19 | (3) After subsection (1) insert –

20 | “(1A) Reasonable notice of an inspection under subsection (1) must be  
21 | served upon the occupier.”.

22 | **8 Marginal note to section 6 substituted – proceedings**

23 | For the marginal note to section 6 substitute “Proceedings”.

24 | **9 Insertion of new sections 7A and 7B**

25 | After section 7 (service of notices) insert –

26 | **“7A Code of practice: ragwort**

27 | (1) The Department may make a code of practice for the purpose of  
28 | providing guidance on how to prevent the spread of ragwort  
29 | (cushag) (*Senecio jacobaea* L.).

30 | (2) Before making the code the Department must consult such  
31 | persons as it considers appropriate.

32 | (3) The Department must lay a copy of the code before Tynwald.

33 | (4) The Department may revise the code; and subsections (2) and (3)  
34 | apply to the revised code.



1

(5) The code is admissible in evidence.

2

(6) If the code appears to a court to be relevant to any question arising in proceedings it is to be taken into account in determining that question.

3

4

5

**7B Power to amend the definition of “injurious weeds”**

6

(1) The Department may by order amend the definition of “injurious weeds” to include additional weeds.

7

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(2) An order under subsection (1) must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting resolves that it is to be annulled, it ceases to have effect.”.

9

10

11

12

**10 Amendment of section 9 – interpretation**

13

(1) In section 9 —

14

(a) before the definition of “injurious weeds” insert —

15

“**Department**” means the Department of Environment, Food and Agriculture.”; and

16

17

(b) for the definition of “injurious weeds” substitute —

18

“**injurious weeds**” means —

19

Spear Thistle (*Cirsium vulgare*)

20

Creeping or Field Thistle (*Cirsium arvense*)

21

Curled Dock (*Rumex crispus* L.)

22

Broad-leaved Dock (*Rumex obtusifolius* L.)

23

Ragwort (Cushag) (*Senecio jacobaea* L.)

24

Wild oats (*Avena fatua* L. and *Avena ludoviciana durieui*).”.

25

(2) Consequent on subsection (1)(b), the following orders are revoked —

26

(a) the Weeds (Extension of Definition) Order 1984<sup>1</sup>; and

27

(b) the Weeds (Extension of Definition) Order 1993<sup>2</sup>.<sup>1</sup> GC 125/84<sup>2</sup> SD 493/93

IN THE KEYS

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**WEEDS (AMENDMENT) BILL 2013**

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**A BILL** to amend the Weeds  
Act 1957.

Approved by the Council of Ministers  
for introduction in the House of Keys.

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MRS BEECROFT

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MARCH 2013