

South Australia

Noxious Insects Act 1934

An Act to provide for the destruction and suppression of noxious insects, and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Noxious Insects Act 1934*.

2—Interpretation

In this Act—

area means a municipality or district council district;

council means a municipal or district council;

noxious insect means any species of migratory or gregarious grasshopper.

3—Powers of Governor

- (1) The Governor may by proclamation declare that this Act shall apply to any part of the State.

- (2) The Governor may by proclamation revoke or vary any proclamation made pursuant to this section.
- (3) This Act shall apply within the parts of the State to which any proclamation as aforesaid relates, and shall so apply until such time as the proclamation is revoked.

4—Duties of councils

- (1) Every council to the area of which this Act applies shall take all prescribed steps for the destruction and suppression of noxious insects within the area.
- (2) Any council may expend any portion of its revenue in complying with the provisions of this section.
- (3) In addition to exercising the power conferred by subsection (2) any council may for the purpose of complying with the provisions of this section declare a special rate on the rateable property within its area.
- (4) Any such special rate may be declared without obtaining the consent of the ratepayers and shall be in addition to any special rate authorised to be declared and levied under the *Local Government Act 1934*.
- (5) Except where inconsistent with this Act all the provisions of the *Local Government Act 1934* shall apply to and in respect to the declaring, levying, and recovery of the said special rate.
- (6) All moneys raised by means of the said special rate shall be spent in carrying out the provisions of this Act.

5—Powers of councils to enter land

- (1) For the purpose of carrying out any work for the destruction or suppression of noxious insects a council and any person authorised by the council may enter upon any land (including land of the Crown) within the area and may carry out any prescribed work or operation (including the laying or applying of poisons or the digging of trenches) as may be necessary for the said purpose.
- (2) No person shall be entitled to any compensation or damages for any injury or loss arising directly or indirectly from the exercise of any power conferred by this section unless the injury or loss is occasioned negligently, wilfully, or maliciously.

6—Power of councils to give directions to occupiers of land

- (1) The council may from time to time by notice published in one or more newspapers circulating in the area require all occupiers of land within the area or any part thereof specified in the notice to take within the time specified in the notice all such prescribed measures as are mentioned in the notice for the destruction and suppression of noxious insects.
- (2) The council may by notice in writing to the occupier of the land require the occupier to take within the time specified in the notice such prescribed measures for the destruction and suppression of noxious insects on the land as are set forth in the notice.
- (3) Any occupier who neglects to comply with the requirements of any notice under subsection (1) or (2) shall be guilty of an offence, and liable to a penalty not exceeding forty dollars.

6A—Powers of officers on non-compliance with notice

- (1) If an occupier does not comply with a notice under subsection (1) or subsection (2) of section 6 any authorised officer may with or without assistants—
 - (a) enter upon the land of such occupier;
 - (b) take all such measures and do and perform all such acts and things as to him appear proper or necessary to carry out the measures specified in the notice;
 - (c) remain upon and have free right or ingress, egress and regress into, over and across the said land for such period as is necessary for the purpose mentioned in paragraph (b) of this subsection.
- (2) For the purposes of subsection (1) of this section an occupier who—
 - (a) does not after the service upon him of a notice mentioned in section 6 forthwith commence to comply therewith; or
 - (b) having so commenced does not continue such compliance,shall be deemed not to have complied with the notice.
- (3) The powers conferred by this section may be exercised whether or not proceedings are taken against the occupier under section 6, and without affecting the liability of the occupier under that subsection.
- (4) In this section—

an authorised officer means a person appointed by a council or the Minister as an authorised officer for the purposes of this Act.

6B—Recovery of cost of action taken on default of occupier

- (1) The expense incurred by an authorised officer in acting under section 6A shall be a debt due by the occupier of the land to the appointer of the authorised officer, and shall be payable on demand and recoverable by action in any court of competent jurisdiction.
- (2) A council shall have authority to expend its revenue on taking action under section 6A of this Act.

7—Duty of occupier to give notice of noxious insects

- (1) If any noxious insects appear on any land, the occupier thereof shall, as soon as the fact is brought to his knowledge, immediately give notice of the fact in writing or otherwise to the clerk of the area in which the land is situated, or if the land is not situated in an area, to the nearest member of the police force. In the notice the occupier shall state the locality of the land upon which the insects have appeared, and such other particulars as may be prescribed.
- (2) Any occupier who fails to comply with any of the provisions of this section shall be guilty of an offence, and liable to a penalty not exceeding forty dollars.

8—Government subsidy

The Minister may out of moneys provided by Parliament for the purpose make grants to any council for the purposes of this Act.

9—Failure of councils to enforce Act

- (1) If the Minister has reason to believe that any council has failed, or is failing, to carry out within its area the provisions of this Act, he may give notice in writing to the council requiring the council to carry out the said provisions.
- (2) If the council fails to comply with such a notice within the time specified in the notice, the Minister may himself carry out the provisions of this Act within the area, and may recover from the council by action in any court of competent jurisdiction the costs of so doing, or may deduct the costs from any subsidy or grant which the council is entitled to be paid under any Act.
- (3) For the purpose of enforcing the provisions of this Act as mentioned in this section the Minister may within any area exercise all the powers, functions, authorities, and discretions which the council itself may exercise.

10—Obstructing councils

Any person who obstructs, hinders, or interrupts any person employed by any council or the Minister in the performance of anything that the council or the Minister is by this Act empowered to do shall be guilty of an offence, and liable to a penalty not exceeding forty dollars.

11—Powers of Minister

- (1) The Minister may out of moneys provided by Parliament—
 - (a) take any measures in any part of the State outside an area for the destruction or suppression of noxious insects, and for that purpose shall have all the powers, functions, authorities, and discretions given to a council by this Act;
 - (b) institute any research work.
- (2) If the Minister publishes or gives any notice as mentioned in section 6 of this Act all the provisions of sections 6, 6A, and subsection (1) of section 6B shall apply with the necessary modifications in relation to the land and the occupiers to which the notice applies.

12—Regulations

The Governor may make regulations—

- (a) prescribing methods for the destruction and suppression of noxious insects;
- (b) prescribing the functions and procedure of the committee authorised by section 13 to be appointed by the Minister;
- (c) prescribing any matters necessary or convenient for carrying out or giving effect to this Act.

13—Advisory committee

- (1) The Minister may appoint a committee for the purposes of this Act. Not less than two members of the committee shall be persons actively engaged in any pastoral, agricultural, or horticultural pursuit.
- (2) The committee shall advise the Minister on the making of regulations under this Act, and on any other matter arising out of the administration of this Act.

14—Summary procedure

All proceedings in respect of offences against this Act shall be disposed of summarily.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Repeal of Act

The *Noxious Insects Act 1934* was repealed by Sch 1 cl 5(2) of the *Plant Health Act 2009* on 1.8.2009.

Principal Act and amendments

Year	No	Title	Assent	Commencement
1934	2193	<i>Noxious Insects Act 1934</i>	29.11.1934	29.11.1934
1955	15	<i>Noxious Insects Act Amendment Act 1955</i>	21.10.1955	21.10.1955
1974	84	<i>Statute Law Revision Act (No. 2) 1974</i>	21.11.1974	21.11.1974