

SOIL CONSERVATION.

9° and 10° GEO. VI., No. XV.

No. 15 of 1945.

AN ACT relating to the Conservation of Soil Resources,
and to the mitigation of Erosion.

[Assented to 9th January, 1946.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of Western
Australia, in this present Parliament assembled, and by
the authority of the same, as follows:—

1. This Act may be cited as the *Soil Conservation Act, 1945*, and shall come into operation on a day to be fixed by Proclamation.

Short title.
N.S.W., s. 1.*
Vic., s. 1.
S.A., s. 1.
N.Z., s. 1.

2. This Act is divided into Parts as follows:—

Act divided
into Parts.
N.S.W., s. 2.

PART I, ss. 3 and 4—PRELIMINARY.

PART II, ss. 5 to 12—ADMINISTRATION.

PART III., ss. 13 to 25—SOIL CONSERVATION
SERVICE.

* The abbreviations used in the marginal references to other Acts in the margin of this Act have the following meanings:—N.S.W. = New South Wales No. 10 of 1938; Vic. = Victoria No. 4786 of 1940 as amended by No. 4937 of 1942; S.A. = South Australia No. 25 of 1939; N.Z. = New Zealand No. 12 of 1941.

PART IV., ss. 26 to 30—SOIL CONSERVATION RESERVES.

PART V., ss. 31 to 39—AREAS OF EROSION HAZARD.

PART VI., ss. 40 to 48—MISCELLANEOUS

SCHEDULE—ACTS TO WHICH THIS ACT IS SUPPLEMENTARY.

PART I.—PRELIMINARY.

This Act to be supplementary to other Acts, Schedule.

3. This Act shall be read in conjunction with and as being supplementary to the Acts mentioned in the Schedule to this Act, and the provisions of those Acts shall, so far as may be possible consistently with the objects and intentions thereof, be construed and applied with due regard to the objects and intentions of this Act and so that where effect can be given to the provisions of this Act without substantial interference with the operation of any of the provisions of any other of the said Acts, the provisions of this Act shall be deemed to be paramount and the provisions of such other Act shall be construed, take effect and be applied accordingly.

Interpretation.
N.S.W., s. 2.
Vic., s. 2.
S.A., s. 2.
N.Z., s. 2.

4. In this Act, unless the context or subject matter otherwise indicates or requires—

“Commissioner” means the Commissioner of Soil Conservation appointed under this Act.

“Committee” means the Soil Conservation Advisory Committee appointed by the Governor under this Act.

“Crown Lands” includes any lands vested in or controlled by any public authority.

“Minister” means the Minister of the Crown from time to time holding the portfolio of Minister for Agriculture, and includes any other Minister of the Crown temporarily acting in the place of the Minister for Agriculture.

“Owner” in relation to land, includes every person who jointly or severally whether at law or in equity—

(a) is entitled to the land for an estate of freehold in possession; or

- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Land Act, 1933-1939, or any other Act relating to the alienation of lands of the Crown; or
- (c) is entitled to receive or is in receipt of, or if the land were let to a tenant would be entitled to receive the rents and profits thereof whether as beneficial owner, trustee, or mortgagee; or
- (d) is the holder of any lease granted under the Land Act, 1933-1939, or any other Act relating to the disposition of lands of the Crown.

“Project” means a scheme of operations for the purpose of soil conservation or erosion mitigation or for any other purpose contemplated by this Act which is approved by the Governor under the provisions of this Act.

“Proper Officer” means officer of a Government department or public authority authorised by such department or authority in respect of any acts matters or things in connection with which the expression is used.

“Public Authority” includes—

- (a) The Ministers of the Crown charged respectively with the administration of the Acts mentioned in the Schedule to this Act.
- (b) The Minister for Water Supply Sewerage and Drainage.
- (c) The Minister for Public Works.
- (d) Every board, municipal council or road board established or constituted under any of the Acts mentioned in the Schedule to this Act.
- (e) The Director of Works and Buildings.
- (f) The Conservator of Forests.

- (g) The Commissioner of Main Roads; and
 (h) Any other person or body declared by the Governor by Order in Council to be a public authority for the purposes of this Act.

“Soil Conservation reserve” means a soil conservation reserve created under this Act.

“Soil erosion” means the natural or accelerated removal or deposition of soil which may be detrimental with respect to agricultural, pastoral, or forestry activities, or engineering or other works.

PART II—ADMINISTRATION.

Act to be administered by the Minister.
 Vic., s. 3.

5. (1) The Minister administering this Act shall be the Minister for Agriculture.

(2) The expenses of the administration of this Act (including any grants made thereunder) shall be paid out of moneys provided by Parliament for the purpose.

Creation of new branch of Department of Agriculture.

6. For the better administration of this Act there shall be created and added to the Department of Agriculture a new branch, which shall be known as the “Soil Conservation Service” branch, and which, subject to the directions of the Minister shall have and may exercise such powers, functions and authorities and shall perform and carry out such duties as are or may be prescribed by or under this Act.

Commissioner of Soil Conservation to be appointed.
 N.S.W., s. 4
 (1) and (2).

7. (1) The Governor shall, under and subject to the provisions of the Public Service Act, 1904-1935, appoint an officer, to be designated “The Commissioner of Soil Conservation,”

(2) The Commissioner shall have the immediate control and supervision of the Soil Conservation Service Branch, as the Head thereof but in all matters appertaining thereto shall be directly responsible to the Under Secretary for Agriculture.

(3) The Commissioner shall have and exercise such powers, functions and authorities and shall perform and carry out such duties as are or may be conferred or imposed upon him by or under this Act.

8. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1904-1935, appoint and employ such officers and employees as may be necessary for the execution of this Act.

Officers and
Employees.
N.S.W., s. 5.

(2) For the purposes of this Act the Minister may:—

- (a) With the approval of the Minister of the department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department; and
- (b) with the approval of the public authority concerned and on such terms as may be arranged, make use of the services of any of the officers, employees, or servants of any public authority.

9. (1) There shall be a Committee to be known as the "Soil Conservation Advisory Committee" consisting of eight members appointed by the Governor on the nomination of the Minister.

Soil Conser-
vation
Advisory
Committee
established.
N.S.W., s. 23.
Vic., s. 4.
S.A., s. 4.
N.Z., s. 3.

(2) Of such members—

- (a) one shall be the Commissioner ex officio;
- (b) one shall be an officer on the staff of the Department of Agriculture;
- (c) one shall be an officer on the staff of the Department of Lands and Surveys;
- (d) one shall be an officer on the staff of the Department of Public Works;
- (e) one shall be an officer on the staff of the Forests Department;
- (f) one shall be a person as the representative of persons engaged in Agricultural pursuits in the State where the average annual rainfall as recorded at the time of the proclamation of this Act is not more than twenty inches per annum, and one shall be another such representative from those areas of the State where the average annual rainfall so recorded is more than twenty inches; and
- (g) one shall be a person as the representative of persons engaged in pastoral pursuits in the State.

(3) As far as may be practicable the persons nominated for appointment shall be persons who have a general or special knowledge of soil conservation problems.

(4) The Governor shall appoint one of the members of the Committee (other than the Commissioner) to be the Chairman thereof.

(5) Subject to this Act, every member of the Committee (other than the ex officio member) shall hold office for a term not exceeding five years, and subject to the terms and conditions determined by the Governor at the time of the appointment of such member.

(6) Every member of the Committee at the expiration of his term of office shall be eligible for re-appointment.

(7) The Governor may dismiss any member of the Committee from his office if he has been guilty of any act or conduct which in the opinion of the Governor renders him unfit to be a member of the Committee.

(8) The office of a member of the Committee shall become vacant if—

(a) he dies;

(b) he resigns by writing addressed to the Minister;

(c) he is dismissed from office by the Governor.

(9) In the case of a vacancy arising in the office of any member of the Committee the Governor may, on the nomination of the Minister, appoint some eligible person to fill such vacancy, and the person so appointed shall subject to this Act hold office for the remainder of the term of office of the member in whose place he is appointed.

Remuneration
of Committee.
Vic., s. 6.
S.A., s. 5.
N.Z., s. 8.

10. The Chairman and every other member of the Committee shall receive such remuneration (if any) and such travelling allowances as may be prescribed by regulations.

Proceedings
of Committee.
Vic., s. 4 (6).
N.Z., s. 6.

11. (1) Meetings of the Committee shall be held at such times and places as the Committee or the Chairman from time to time appoints.

(2) At any meeting of the Committee five shall be a quorum.

(3) Subject to this Act and the regulations the Committee may regulate its own proceedings.

12. The Governor may appoint any person to be the Secretary to the Committee.

Secretary
to the
Committee.
Vic., s. 7.

PART III—SOIL CONSERVATION SERVICE.

13. The objects of the Soil Conservation Service created under this Act are—

Objects.
Vic., s. 8 (1)
N.Z., s. 10.

- (a) the prevention and mitigation of soil erosion;
- (b) the promotion of soil conservation;
- (c) the utilisation of lands in such a manner as will tend towards the attainment of the objects aforesaid;
- (d) the education of landholders and the public generally in the objects and practice of soil conservation.

14. The general functions of the Commissioner shall be—

General
functions of
Commis-
sioner.
N.S.W., ss. 6,
7, 8, 9.
Vic., s. 8 (2).
N.Z., s. 11.

- (a) the carrying out of surveys and investigations to ascertain the nature and extent of soil erosion throughout the State;
- (b) the investigation and design of preventive and remedial measures in respect of soil erosion;
- (c) the carrying out of experiments and demonstrations in soil conservation and reclamation;
- (d) the recording and publishing of the results of such surveys, investigations, designs, experiments and demonstrations;
- (e) the dissemination of information with regard to soil erosion and soil conservation and reclamation;
- (f) the instruction and supervision of landholders in matters pertaining to soil conservation and reclamation;
- (g) the assistance of landholders whose land has been affected by erosion;
- (h) the co-ordination, having regard to the purposes of this Act, of the policies and activities of Government departments and public authorities in relation to any of the foregoing matters, and in regard to the alienation, occupation and utilisation of Crown lands or other lands vested in public authorities;

- (i) the carrying out of works authorised by this Act;
- (j) such other matters as may be authorised by the Governor by order in council.

Special powers of Commissioner.

Vic., s. 8 (3).

15. With the approval of the Minister, the Commissioner may—

- (a) by agreement with the appropriate authorities, bodies or owners conduct experiments and demonstrations pertaining to soil conservation and reclamation on any lands.
- (b) Employ such workmen and other persons as he may require from time to time for the conduct of such experiments and demonstrations.
- (c) Supervise the use and application by any authority, body or person of grants of money made to such authority, body or person for the carrying out of specific projects in furtherance of the objects of this Act.

Functions of Committee. N.S.W., s. 23 (4).

16. The functions of the Committee shall be—

- (a) to consider the general aspects of soil conservation and erosion mitigation as they affect the State;
- (b) to make recommendations for the consideration of the Commissioner, who if he does not adopt them and is requested by the Committee, shall refer such recommendations to the Minister with a report stating his reasons why he considers they should not be adopted so as to enable the Minister to decide and direct what action (if any) shall be taken;
- (c) to conduct such investigations relative to any special aspect of soil erosion as may be required by the Minister;
- (d) to assist the Commissioner in such matters as he may refer to the Committee for advice or information.

17. (1) The Minister may arrange with the Minister of any other Government department or with any public authority for the carrying out by such department or public authority of any work required or authorised by or under this Act to be carried out by the Minister or the Commissioner.

Co-ordination of works of Government Departments in respect of soil erosion and soil conservation and reclamation. N.S.W., s. 13. Vic., s. 9. N.Z., s. 11 (2).

(2) So far as practicable the Commissioner shall carry out his functions through the Government departments represented on the Committee, and shall endeavour to co-ordinate the services available in Government departments and public authorities for the carrying out of works relating to soil conservation or reclamation or mitigation of soil erosion.

(3) Where in the opinion of the Minister it is expedient so to do, the Commissioner may exercise his functions under this Act independently of any government department or public authority.

(4) The Commissioner shall consult with any government department or public authority undertaking any work likely to cause soil erosion or to prejudice any project being undertaken under the authority of this Act, and where agreement cannot be reached between the Commissioner and a Government department or a public authority, the Commissioner shall submit to the Minister a full report of the circumstances.

18. Every Government department represented on the Committee and every public authority is hereby authorised—

Powers to Government Departments and Public Authorities. Vic., s. 9 (2).

(a) upon receipt of a request in writing from the Commissioner to carry out or take part in any survey, experiment or demonstration and to do all such acts and things as are directed or otherwise by or under this Act in all respects; and

(b) generally to co-operate with the Commissioner to carry out the purposes of this Act.

19. (1) The Commissioner may by writing addressed to the proper officer advise any Government department or public authority as to the alienation, disposal, occupation, care or use of any Crown lands in any case where

Commissioner may advise as to alienation of Crown Land. Vic., s. 9 (3)

the Commissioner considers that the matter of soil erosion or conservation is relevant in respect of such alienation, disposal, occupation, care or use.

(2) Copies of such advice shall be forwarded to the proper officer of each Government department represented on the Committee and may be published by the Commissioner.

(3) Where any Government department represented on the Committee cannot reach agreement as to the appropriate use having regard to questions of soil erosion or conservation of any Crown land the matter shall be referred to the Commissioner for investigation and report.

(4) Every Government department shall upon a request by the Commissioner in writing addressed to the proper officer make available to the Commissioner any records of measures or operations for the prevention or mitigation of soil erosion or any reports as to soil erosion, soil conservation or the utilisation of land whether undertaken, made or received before or after the commencement of this Act.

Carrying out
of works by
Minister or
Commis-
sioner.
N.S.W., s. 14.

20. (1) The Minister may carry out or authorise the Commissioner to carry out any work in connection with soil conservation or mitigation of soil erosion or in connection with any other purpose contemplated by this Act whether or not such work is for the purpose of giving effect to a project.

(2) The Minister shall be deemed to have authorised the carrying out of any such work required or authorised to be done by an owner, occupier or mortgagee of any land under any agreement made pursuant to this Act.

Power of
Entry.
N.S.W., s. 15.
Vic., s. 12.
S.A., s. 7.
N.Z., s. 21.

21. (1) The Commissioner or any officer or employee may, in the exercise or performance of any power, authority, duty or function conferred or imposed upon him by or under this Act, enter any land and make such surveys, place such marks and carry out such investigations thereon (including the taking of specimens of soil) as he may deem necessary. It shall be the duty of the Commissioner or officer or employee to make such survey, place such marks, or carry out such investigations only after reasonable notice has been given to the owner of

such land or the actual occupier of the land at the time and with the minimum of interference with the lawful activities upon the land which are being carried on by such owner or occupier.

(2) Where the exercise or performance of any power, authority, duty or function, conferred or imposed upon the Commissioner or any officer or employee by or under this Act requires the making of an entry upon any land by the Commissioner or by any officer or employee, the Commissioner or such officer or employee shall be furnished with an authority card in the prescribed form.

(3) Any such authority card may be general or may be limited to specified land or to land in any specified part of the State.

(4) Production of any such authority card shall be evidence of the authority of the bearer thereof to enter any land to which such authority card relates, and to make surveys, place marks and carry out investigations thereon.

(5) Any person who—

- (a) obstructs or hinders the Commissioner or any officer or employee from making any survey, placing any mark, or carrying out any investigation authorised by this section; or
- (b) removes or interferes with any mark placed on land under the authority of this section—

shall be guilty of an offence.

Penalty—Ten pounds.

22. (1) The Governor may by Proclamation—

- (a) Constitute any portion of the State defined in the Proclamation a soil conservation district for the purposes of this Act;
- (b) assign a name to any such district;
- (c) alter the boundaries of any such district;
- (d) abolish any such district.

Soil conservation districts.
N.Z., s. 13
(1).

(2) In respect of any districts constituted under this section the Governor may make regulations for all or any of the following purposes:—

- (a) Prohibiting the lighting of fires except under such circumstances, and subject to such limitations, conditions and restrictions as may be

prescribed by the regulations or pursuant thereto;

- (b) regulating or prohibiting the destruction of, or interference with trees, shrubs, plants or grasses;
- (c) prohibiting or regulating any change in the use of any land;
- (d) restricting or regulating the use of any land for agricultural or pastoral purposes;
- (e) generally for requiring the doing on or in respect of any land of any act or thing which may be likely to prevent or mitigate soil erosion or promote soil conservation and for prohibiting the doing on or in respect of any such land of any act or thing which may be likely to facilitate soil erosion.

(3) Any regulation made under subsection (2) of this section—

- (a) may be made to apply to all soil conservation districts, whether constituted before or after the regulations come into force or to any specified soil conservation district;
- (b) may be made to apply to any class or classes of land, or to all land, or to all land other than land of any specified class or classes within the area to which the regulation applies;
- (c) may authorise any matter or thing to be determined, applied or regulated from time to time by the Minister or the Commissioner.

(4) Every person who without lawful excuse acts in contravention of or fails to comply in any respect with any regulations made under subsection (2) of this section or any direction, requirement, prohibition, condition, limitation or restriction given or imposed under any such regulations shall be guilty of an offence against this Act.

Penalty—Fifty pounds.

(5) It shall be deemed to be a lawful excuse within the meaning of subsection (4) of this section if the defendant proves to the satisfaction of the Court hearing the complaint that he committed the act alleged in such complaint in the belief that such act was not unlawful, or for the reason that he did not possess and was

unable to obtain the money necessary to enable him to carry out his obligations as required by or under the said regulations.

23. (1) The Governor may on the recommendation of the Minister appoint a regional advisory committee for any soil conservation district constituted under this Act.

Regional
Advisory
Committees.
Vic., s. 14.

(2) Such committee shall consist of five persons, one of whom shall be the Commissioner, and one of whom shall be a representative of any road board or road boards whose district or districts are wholly or in part comprised within the soil conservation district.

(3) Members of a regional advisory committee (other than the ex officio member) shall hold office for a period not exceeding three years, and shall be eligible for re-appointment.

(4) The members of the committee shall elect one of their number to be the chairman thereof.

24. The functions of every regional advisory committee shall include—

Functions of
regional
advisory
committee.
Vic., s. 14
(3).

- (a) the consideration of and reporting upon methods of land utilisation within its district;
- (b) the consideration of and reporting upon any matters relating to land utilisation or soil erosion or soil conservation referred to it by the Minister or the Commissioner; and
- (c) the carrying out of such functions of an advisory nature relating to soil erosion and soil conservation as may be prescribed by regulations.

25. The Minister may, whenever he deems it necessary or expedient, invite any member of a regional advisory committee appointed under this Act or any officer in any Government department or any other person to attend at any meeting of the Committee and take part in any discussion on any particular matter before the committee.

Power to
co-opt certain
persons.
Vic., s. 18.

PART IV.—SOIL CONSERVATION RESERVES.

26. (1) The Commissioner may from time to time recommend to the Minister what lands (whether Crown or private), in the opinion of the Commissioner should be reserved as soil conservation reserves.

Soil conserva-
tion reserves.
S.A., s. 9.
N.Z., ss. 16
and 20 (4).

(2) Where the land so recommended to be reserved is Crown land, the Governor may by Proclamation declare the same to be a soil conservation reserve under this Act.

(3) Where the land is private land it may be taken or otherwise acquired as for a public work under the Public Works Act, 1902-1933, and the provisions of that Act shall apply accordingly, and the land so taken or otherwise acquired shall be a soil conservation reserve under this Act.

(4) The Governor may, on the recommendation of the Minister, by a subsequent Proclamation revoke any prior Proclamation whereby any land has been declared to be a soil conservation reserve, and thereupon such soil conservation reserve shall be abolished.

(5) Where a soil conservation reserve is abolished as provided for in subsection (4) of this section the lands comprised therein shall forthwith become Crown land within the meaning and for the purposes of the Land Act, 1933-1939, and may be dealt with under that Act accordingly.

(6) The expression "Crown land" as used in subsection (2) of this section has the same meaning as in the Public Works Act, 1902-1933, and the expression "Private land" as used in subsection (3) of this section means any land other than Crown land.

Minister to
manage soil
conservation
reserves.
S.A., s. 9 (2).
N.Z., s. 16
(4).

27. Every soil conservation reserve shall be under the control and management of the Minister, and the Minister shall manage and control the reserve in such manner as in his opinion will best conserve the soil of the reserve and prevent injury to other land.

Offences in
relation to
soil conserva-
tion reserves.
S.A., s. 9 (3).
N.Z., s. 17.

28. (1) Any person who, without the consent of the Minister—

- (a) lights any fire within a soil conservation reserve; or
- (b) removes from any soil conservation reserve the whole or any part of any tree, shrub, grass or other plant whatever; or
- (c) injures or destroys any tree, shrub, grass or other plant on any soil conservation reserve; or

(d) places any cattle, horses or other animals or causes or permits any cattle, horses or other animals to be on any soil conservation reserve, or permits any cattle, horses or other animals to trespass upon any soil conservation reserve; or

(e) In any way injuriously interferes with the land in any soil conservation reserve—

shall be guilty of an offence against this Act.

Penalty—Fifty pounds.

(2) In addition to any penalty imposed under the last preceding subsection, there may be imposed a further penalty equal to the value of all damage done together with twice the full market value of any timber unlawfully cut and removed; and every such further penalty shall be recoverable as a fine.

29. (1) The Minister may, on the recommendation of the Commissioner on any land comprised in a soil conservation reserve cause to be constructed or executed any fences, contour banks, channels or other works or any act or thing to be done which the Minister is satisfied it is necessary or expedient to construct, execute or do for the purpose of conserving the soil of such land or for the purpose of conducting research into the causes and modes of prevention of soil erosion.

(2) All works undertaken or proposed to be undertaken under this section shall be deemed to be public works within the meaning of the Public Works Act, 1902-1933, and the provisions of that Act shall apply thereto accordingly.

Execution of works for soil erosion. S.A., s. 10.

30. (1) The Minister may grant leases of or licenses to occupy any land comprised in any soil conservation reserve to any persons for such terms, at such rents and subject to such covenants, conditions and agreements as the Minister may determine.

(2) All revenue derived under any such leases or licenses shall be paid to the Treasury as public moneys of the State.

Leasing of land in soil conservation reserves. N.Z., s. 20 (3).

PART V.—AREAS OF EROSION HAZARD.

Areas of
erosion
hazard.
N.S.W., s. 17.

31. (1) Where the Minister is of opinion that any tract of land is subject to erosion or is liable or likely to become liable to erosion and that such tract of land should be notified as an area of erosion hazard he may by notice published in the *Government Gazette* and in a newspaper circulating in the locality in which such tract of land is situated give notice of a proposal that such tract of land should be notified as an area of erosion hazard.

Provided that no Crown land within the meaning of the Land Act, 1933-1939, and no State forest or timber reserve within the meaning of the Forests Act, 1918-1931, shall be included in any area of erosion hazard except with the concurrence of the Minister for Lands or the Minister charged with the administration of the Forests Act, 1918-1931, as the case may require.

(2) Every notification under subsection (1) of this section shall—

- (a) define by reference to a map or plan the tract of land to which the proposal relates;
- (b) appoint a date, not being earlier than thirty days after the publication of the notice in the *Government Gazette* on or before which objections may be lodged against the proposal;
- (c) contain such other particulars as may be prescribed.

(3) A copy of or a reference to the map or plan and of the notification shall be served upon every owner and occupier of land which is wholly or partly within the boundaries of the tract of land to which the proposal relates, and, where such land is subject to a mortgage, upon the mortgagee.

(4) (a) Any owner, occupier or mortgagee of land which is wholly or partly within the boundaries of the tract of land to which the proposal relates may, not later than the date appointed therefor, lodge an objection in writing to the proposal;

(b) Any such objection shall state the ground upon which the same is based and shall be lodged in the manner prescribed.

(5) (a) The Minister shall give consideration to all objections against the proposal which are lodged within the time appointed therefor, and may, in order to meet any such objection, make such alteration of the proposal as he may think fit.

(b) The Minister shall notify his decision in respect of each such objection to the owner, occupier, or mortgagee who lodged the same, and such notification shall be accompanied by a copy of the provisions of subsections (6) and (7) of this section.

(6) Any owner, occupier, or mortgagee, who is dissatisfied with the decision in respect of the objection lodged by him may within thirty days after such decision has been notified to him appeal to the local court held nearest to the tract of land to which the proposal so objected to relates in accordance with the regulations.

(7) (a) The local court to which an appeal is made under subsection (6) of this section shall have jurisdiction to hear and determine such appeal. Any such appeal shall be in the nature of a rehearing and the court may take into consideration whether or not the tract of land to which the proposal relates is subject to erosion or is liable or likely to become liable to erosion and whether or not any and if so what part of the land of which the appellant is owner, occupier or mortgagee should be included in such tract of land.

(b) No order shall be made against the appellant in respect of costs unless the Court is satisfied that the appeal is either frivolous or vexatious.

(c) The decision of the local court on the appeal shall be final and not subject to any further appeal.

(8) (a) If no objection against the proposal is lodged within the time appointed therefor the Minister may, upon the expiration of that time, submit the proposal to the Governor.

(b) If any objection against the proposal is lodged within the time appointed therefor the Minister may, when all such objections have been disposed of, submit the proposal to the Governor with such alterations (if any) as may be necessary to give effect to his decisions or to the determinations of the local court.

(c) The Governor may notify in the *Government Gazette* as an area of erosion hazard the tract of land defined in the proposal or in the altered proposal (as the case may be) submitted to him.

Projects.
N.S.W., s. 10.

32. (1) The Commissioner shall prepare and forward to the Minister for submission to the Governor for approval as a project a scheme or schemes of operations for the purpose of soil conservation or erosion mitigation or for any other purpose contemplated by this Act in respect of every area of erosion hazard notified under this Act.

(2) The Commissioner may prepare and forward to the Minister for submission to the Governor for approval as a project a scheme of operations for the purpose of soil conservation or erosion mitigation or for any other purpose contemplated by this Act in respect of any soil conservation reserve.

(3) Each scheme of operations shall—

- (a) indicate the lands proposed to be dealt with under the scheme;
- (b) indicate generally the nature and class of operations to be carried out on those lands.

(4) The Minister may submit the scheme of operations to the Governor, and the Governor may approve of the same as a project.

Agreements
relative to
projects.
N.S.W., s. 11.

33. (1) Where a project has been instituted in respect of an area of erosion hazard, the Minister may, on behalf of His Majesty enter into such agreements with all or any of the respective owners, occupiers or mortgagees of the lands proposed to be dealt with under the project as may be necessary to ensure the carrying into effect of the project.

(2) The instrument evidencing any such agreement may be executed by the Commissioner for the Minister.

(3) Where an owner who has entered into an agreement under this section is the holder of land of any tenure under any Act relating to the disposition of lands of the Crown no act, matter or thing which such owner under or in conformity with such agreement does or abstains from doing upon or in relation to his land, shall render such land liable to forfeiture under any such Act merely by reason of the fact that the doing or abstaining from the doing of such act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to such land under any such Act.

(4) Where any owner or occupier has entered into an agreement under this section no act, matter or thing which such owner or occupier under or in conformity with such agreement does or abstains from doing upon or in relation to the land shall render such owner or occupier liable in respect of the breach of any covenant, condition or agreement expressed or implied in any mortgage, charge or other security or in any lease or agreement.

34. The Minister may, out of moneys provided by Parliament—

*Advances and
payments.
N.S.W., s. 12.
Vic., s. 8 (3)
(c).*

(a) make any advance upon such security and at such rate of interest and subject to such covenants, conditions and provisions as he may think fit to any owner or occupier of land proposed to be dealt with under a project who has, pursuant to this Act, entered into an agreement for the purpose of enabling such owner or occupier to carry out his obligations under such agreement;

(b) pay any costs or expenses incurred—

(i) in carrying any project into effect; or

(ii) under any arrangement made with any Government department or public authority for the carrying out of works authorised by it under this Act.

Minister may
institute
project by
arrangement
with owner
of land.

35. (1) Any owner of land may make application in writing in the prescribed form to the Minister for the institution of a project in relation to the land of such owner notwithstanding that such land is not included in any notified area of erosion hazard.

(2) On receipt of an application made under subsection (1) of this section, the Minister shall refer the application to the Commissioner for consideration, investigation and report.

(3) When an application is referred to the Commissioner in accordance with subsection (2) of this section, the Commissioner shall consider the application and make such investigations as may be necessary to enable him to determine whether or not the institution of a project in relation to the land of the applicant is justified.

(4) If the Commissioner is satisfied that the institution of a project as aforesaid is not justified he shall report accordingly to the Minister who shall then refuse the application.

(5) If the Commissioner is satisfied that the institution of a project in relation to the land of the applicant is justified, he shall prepare and forward to the Minister for submission to the applicant such scheme of operations as he considers will be sufficient as a project in relation to the said land.

(6) When the Commissioner in accordance with subsection (5) of this section forwards to the Minister a scheme of operations to be instituted as a project in relation to the land of the applicant, the Minister shall submit a copy thereof together with a statement of the estimated cost of carrying out the same to the applicant for his concurrence within a time to be specified by the Minister.

(7) If within the time specified by the Minister or within such further time as the Minister may allow the applicant by notice in writing in the prescribed form served on the Minister concurs with the scheme of operations submitted to him by the Minister in accordance with subsection (6) of this section, such scheme of operations shall, for all the purposes of this Act and without any prior submission to the Governor, have the

same force and effect as a project instituted under section thirty-two of this Act, and the provisions of sections thirty-three and thirty-four and the other provisions of this Act relating to the carrying out of works to give effect to a project shall, with such adaptations as may be necessary, apply in respect of the carrying out of the project in relation to the land of the said applicant.

36. Notwithstanding anything to the contrary contained elsewhere in this Act, where any works proposed to be carried out under the authority of this Act, whether to give effect to a project or otherwise, are likely to affect, whether injuriously or otherwise, any State forest or timber reserve, such works shall be carried out only by or with the concurrence of the Minister charged with the administration of the Forests Act, 1918-1931.

Saving provision in relation to State forests and Timber Reserves.

37. (1) The Commissioner may with the consent or at the direction of the Minister, enter upon any specified land within an area of erosion hazard and carry out such works thereon as may be necessary for the purpose of giving effect to the project instituted in respect of that area in so far as such project relates to that land.

Execution of certain works by the Commissioner.
N.S.W., s. 18.

(2) The Minister shall not give any such consent or direction unless—

(a) he is satisfied that the carrying out of such works is necessary to avoid damage to some other land within such area; and

(b) the owner, occupier or mortgagee of the land specified for the carrying out of the said works has neglected or refused to enter into an agreement under this Act to ensure the carrying into effect of the project; and

(c) The Minister has given notice to the owner, occupier or mortgagee concerned that he intends to give the consent or the direction and has in such notice appointed a day not being earlier than thirty days after the giving of such notice within which an objection may be lodged.

(3) (a) Any owner, occupier, or mortgagee to whom notice has been given pursuant to paragraph (c) of subsection (2) of this section may, within the time

appointed therefor, lodge an objection in writing in respect of the extent or nature of, or necessity for the work proposed to be carried out. Every such objection shall state the grounds upon which it is based and shall be lodged in the manner prescribed.

(b) The Minister shall refer every such objection to the Committee for inquiry and report.

(c) The Committee shall make such inquiries as it may deem necessary to enable it to determine whether or not the objection should be allowed or refused and shall forward to the Minister a report in writing stating the nature and result of its inquiries, and its decision in respect of the objection.

(d) The Minister shall, as soon as reasonably may be after receiving the report of the Committee, send a copy thereof to the objector. Such copy shall be accompanied by a copy of subsections (4) and (5) of this section.

(4) (a) Any owner, occupier or mortgagee who has lodged an objection under the provisions of this section, and who is aggrieved by the decision of the Committee in respect of his objection may, within thirty days after the receipt by him of a copy of the Committee's report sent to him by the Minister in accordance with paragraph (d) of subsection (3) of this section, appeal in the manner prescribed by the regulations against such decision to the Local Court held nearest to the land of such owner, occupier or mortgagee, upon which it is proposed to carry out the works aforesaid.

(b) Such Local Court shall have jurisdiction to hear and determine such appeal. Any such appeal shall be in the nature of a rehearing and the Court may take into consideration all matters which in its opinion are relevant to the objection of the appellant and the decision of the Committee in respect to such objection.

(c) No order shall be made against the appellant in respect of costs unless the Court is satisfied that the appeal is either frivolous or vexatious;

(d) The Court may allow or dismiss the appeal; its decision shall be final and shall not be subject to any further appeal; and shall have and be given effect to according to the tenor thereof.

(5) (a) If no objection is lodged under paragraph (a) of subsection (3) of this section within the time appointed therefor, the Minister may upon the expiration of that time give his consent or direction for the carrying out of the said works upon the land specified as aforesaid.

(b) If any objection aforesaid has been lodged within the time appointed therefor, and the decision of the Committee in respect thereof is that such objection should be allowed, the Minister shall abstain from giving his consent or direction to the carrying out of the said works upon the land specified as aforesaid.

(c) If any objection aforesaid has been lodged within the time appointed therefor and the decision of the Committee in respect thereof is that such objection should be refused, and the person who lodged the objection fails to appeal against such decision within the time prescribed by paragraph (a) of subsection (4) of this section, the Minister may, after the expiration of that time, give his consent or direction for the carrying out of the said works upon the land specified as aforesaid.

38. (1) Before any work authorised under this Act is commenced notice in the prescribed form of intention to carry out such work shall in the prescribed manner be served on the owner, occupier or mortgagee of the land upon which the work is to be carried out.

Notice to owners before commencement of work.
N.S.W., s. 18 (3) and (4).

(2) If any owner, occupier or mortgagee upon whom a notice under subsection (1) of this section has been served obstructs or hinders the Commissioner or any other authority or person in the exercise of his or its power to carry out such work, he shall be guilty of an offence.

Penalty—Twenty pounds.

39. (1) Where the Minister is of opinion that, having regard to all the circumstances, it is just and equitable that the owner of any land upon which any work has been carried out under section thirty-seven of this Act or that such owner and the other owners of any other land within the area of erosion hazard should pay or contribute towards the cost of such work, the Minister may notify the owner or each of such owners accordingly, and

Contribution by landowners to cost of works.
N.S.W., s. 18 (5).
N.Z., s. 25.

shall in such notification specify the amount of the payment or contribution to be made by such owner or by each of such owners and the manner in which and the time within which the same is to be made.

(2) The notification shall also indicate the land of the owner which shall be subject to the charge hereinafter created by this section, and shall be accompanied by a copy of the provisions of this section.

(3) A copy of the notification given to any owner shall be served upon the mortgagee (if any) of any land of the owner which is indicated in the notification.

(4) Any such owner or mortgagee may within thirty days after the receipt by him of a notification under this section and in the manner prescribed by the regulations, appeal to the Local Court held nearest to the land of such owner on which the work has been carried out against the amount specified in the notification.

(5) Such Local Court shall have jurisdiction to hear and determine the appeal, and in making a determination shall have regard to—

- (a) the cost of the work and the area affected by the work;
- (b) the present and prospective amounts by which the value of the land of which the appellant is the owner or mortgagee, and of any other land within the area of erosion hazard will be enhanced by reason of the work;
- (c) the extent to which the value of the land of which the appellant is the owner or mortgagee will be maintained by the work;
- (d) the depreciation which would be likely to occur in the present value of the land of which the appellant is the owner or mortgagee had the work not been carried out; and
- (e) whether the productive capacity of the land will be affected by reason of the work.

For the purposes of this subsection the word "present" is used in respect of the value of the land as at the time of the hearing of the appeal.

(6) In any appeal under this section no order shall be made against the appellant in respect of costs unless the Court decides that the appeal is either frivolous or vexatious.

(7) The decision of the Court in any appeal shall be final and conclusive and shall not be subject to any further appeal.

(8) The amount specified in the notification or determined by the Local Court on appeal, as the case may be, as the amount of the payment or contribution to be made by any owner shall be paid in the manner and within the time mentioned in the notification by such owner to the Minister and if not so paid may be recovered from such owner as a debt due to the Crown.

(9) The notification shall—

(a) confer on the owner a right to elect, within a period of three months from the date thereof, to make the payment or contribution—

(i) in any case where the amount of the payment or contribution does not exceed fifty pounds—by equal annual instalments over such period not being less than ten years as may be specified in the notification together with interest at a rate to be determined by the Minister; and

(ii) in any case where the amount of the payment or contribution exceeds fifty pounds—by equal annual instalments, over such period not being less than fifteen years as may be specified in the notification together with interest at a rate to be determined by the Minister; and

(b) specify the date upon which the amount or the first and subsequent instalments, as the case may be, shall be paid.

PART VI—MISCELLANEOUS.

40. (1) On the completion of any work carried out in pursuance of this Act within a soil conservation reserve or an area of erosion hazard, the Governor on the recommendation of the Minister may by Order in

Council vest in a public authority any work constructed for the purpose of soil conservation or erosion mitigation.

(2) The care, control and maintenance of such work shall thereupon devolve on the public authority.

(3) The Governor may by the same or a subsequent Order in Council vest in the public authority the whole or any part of any land comprised in the soil conservation reserve or in the area of erosion hazard, as the case may be, which is the property of the Crown and is required for the purposes of the work so vested in the public authority.

Protection of
trees.
S.A., s. 13.

41. (1) If the Minister is of opinion that for the purpose of soil conservation or erosion mitigation it is desirable that the trees upon any land should not be cut down or otherwise destroyed or injured he may serve a notice upon the owner of that land, and if the owner is not the occupier, upon the occupier also—

(a) setting out his said opinion; and

(b) inviting the person upon whom the notice is served to make representations to him, not later than a day specified in the notice, for the purpose of showing cause why an order should not be made forbidding the cutting down or other destruction or injury of trees on land specified in the notice, without the consent of the Minister.

(2) A person on whom a notice is served under subsection (1) of this section, shall not, during the period between the service of the notice and the service upon him of an order or notice under subsection (4) of this section, cut down, destroy or injure any trees upon the land specified in the first mentioned notice, and if he does so he shall be guilty of an offence.

Penalty—One hundred pounds.

(3) After service of a notice or notices as mentioned in subsection (1) of this section in relation to any land and after hearing and considering any representations

made pursuant to the notice or notices the Minister may make an order that trees upon the said land shall not be cut down or otherwise destroyed or injured during the period specified in the order except in such circumstances or with such consents (if any) as may be specified in the order.

(4) The order shall be served upon the owner of the land to which it relates, and, if the owner is not the occupier, upon the occupier also. If the Minister decides not to make an order he shall forthwith after making that decision serve notice thereof on the owner of the land to which the decision relates, and if the owner is not the occupier, upon the occupier also.

(5) If any person upon whom an order is served under this section contravenes the order in any way, he shall be guilty of an offence.

Penalty—One hundred pounds.

(6) (a) The Minister may give his consent to the cutting down or other destruction of or injury to any trees upon condition that the person to whom the consent is given will within a time specified by the Minister plant other trees to the number and of the kind required by the Minister in replacement of any trees cut, destroyed, or injured pursuant to the consent.

(b) If any person who has cut down, destroyed or injured any tree pursuant to a consent given upon condition as mentioned in this subsection, fails to comply with that condition, he shall be guilty of an offence.

Penalty—One hundred pounds.

(7) The Minister may give notices and make orders under this section in relation to shrubs, plants or grasses or any class of any of them either in substitution for or in addition to trees, and in any such case this section shall apply to such shrubs, plants and grasses, and the term "trees" as used in this section shall be deemed to include such shrubs, plants and grasses.

Interferences
with or
damage to
works, etc.
N.S.W., s. 27.
N.Z., ss. 153,
154.

42. (a) Any person who except under the authority of the Commissioner, interferes with or does any act which damages or tends to damage any structure, plantation, breakwind or vegetable cover placed or planted on any land as part of or in connection with any work which is being or has been carried out in pursuance of this Act shall be guilty of an offence.

Penalty—Twenty pounds.

(b) In addition the offender shall be liable for any loss or damage caused by the offence.

(c) Such loss or damage may be awarded by the Court imposing the penalty and may be recovered in the same manner as the penalty.

Alteration of
covenants,
etc., of certain
leases.
N.S.W., s. 28.

43. (1) Where the Commissioner is satisfied that compliance with any covenant, condition or provision of any lease granted under the Land Act, 1933-1939, would tend to cause erosion on any land, he may so advise the Minister for Lands.

(2) Where the Minister for Lands has been so advised he may, notwithstanding anything to the contrary contained in the Land Act, 1933-1939, vary, modify, revoke or add to the covenants, conditions or provisions of the lease according as the circumstances require.

Penalties.
N.S.W., s. 29.
S.A., s. 15.
N.Z., s. 156.

44. (1) Any person who contravenes or fails to comply with any provision of this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding twenty pounds.

(2) Proceedings for offences against this Act or the regulations may be taken and disposed of summarily before justices in petty sessions.

Complaints.
N.S.W., s. 30.

45. (1) Any complaint, information or other proceeding under this Act or the regulations may be made, laid and taken either by the Minister or by the Commissioner, or by any officer under the Commissioner duly authorised by the Minister in that behalf either generally or in any particular case.

(2) The production of a certificate that the person named therein is an officer authorised by the Minister under this section, either generally or specially, shall be prima facie evidence that the person named therein is an officer and of the extent of the authorisation under which he acts.

46. No act, matter or thing done by the Minister or the Commissioner or by any officer, employee or person acting under the direction or authority of the Minister or the Commissioner, and no decision, determination, recommendation or report of the Committee shall, if the act, matter or thing was done, or the decision, determination, recommendation or report was made bona fide for the purpose of carrying out or giving effect to this Act, subject them or any of them personally to any action liability, claim or demand whatsoever.

Protection of
Minister,
Commis-
sioner and
officers, etc.
N.S.W., s. 31.
N.Z., s. 5.

47. (1) As soon as may be after the thirtieth day of June in each year the Commissioner shall prepare and forward to the Under Secretary for Agriculture a report—

Annual report
by Commis-
sioner, etc.
Vic., s. 10.

- (a) setting forth the activities of the Commissioner under this Act and the results thereof during the period of twelve months ended on such day; and
- (b) containing estimates for the financial year then ensuing of the work proposed to be undertaken by or under the Commissioner and of the moneys likely to be required for carrying into effect the purposes of this Act.

(2) Every such report shall be laid before both Houses of Parliament.

48. (1) The Governor may, in addition to the regulations provided for in section twenty-two of this Act, make regulations for or with respect to any matters or things which are by this Act authorised or permitted to be prescribed or which are necessary or expedient to be prescribed in order to carry the objects and purposes of this Act into effect.

Regulations.
N.S.W., s. 88.
Vic., s. 15.
S.A., s. 18.

(2) Without in any way affecting or limiting the generality of subsection (1) of this section the Governor may make regulations particularly in relation to any of the following matters:—

- (a) The qualifications and duties of officers appointed under or for the purposes of this Act;
- (b) the carrying out of surveys and investigations to ascertain the nature and extent of soil erosion;
- (c) the carrying out of experiments and demonstrations in soil conservation and reclamation, and for the recording and publication of information resulting therefrom;
- (d) the measures to be taken for preventing and mitigating soil erosion;
- (e) the instruction and supervision of land holders in matters pertaining to soil conservation and reclamation;
- (f) the procedure for obtaining assistance by persons whose land has been affected by erosion, and the terms and conditions under which such assistance shall be given;
- (g) the terms and conditions which may be contained in agreements with owners, occupiers or mortgagees of land for the carrying into effect of any project; and the terms and conditions upon which advances may be made to any such owners, occupiers or mortgagees for the purpose of enabling them to carry out their obligations under such agreements;
- (h) the form of notices, orders, certificates, authorities and other documents;
- (i) the declaration of areas of erosion hazard, and the procedure for notifying persons affected by any such declarations;
- (j) practice and procedure in respect of objections and appeals;
- (k) appointing times and places for the doing of acts, matters and things;
- (l) the management and control of soil conservation reserves;

- (m) the leasing of land vested in His Majesty under this Act, and the rents or fees, the terms, and covenants and conditions to be reserved by or fixed and included in any such leases;
 - (n) subject to the provisions of the Forests Act, 1918-1931, the regulation or prohibition of the destruction of or interference with timber or scrub on land held under any form of lease or license from the Crown;
 - (o) the prohibition of the lighting of fires in the open air in any area of erosion hazard except under such circumstances and subject to such limitations, conditions and restrictions as may be prescribed; and
 - (p) the prohibition or regulation of depasturing of livestock on a soil conservation reserve or on an area of erosion hazard or on any specified portion of such reserve or hazard.
- (3) Any regulation made under this section may—
- (a) authorise any matter or thing to be from time to time determined, applied or regulated by the Minister or the Commissioner;
 - (b) impose a penalty not exceeding twenty pounds for a breach of any regulation.
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Sec. 3.

SCHEDULE.

Title of Act.	Number of Act.	Reference.
Bush Fires Act, 1937-1943 ...	65 of 1937	Vol. 2 of the Reprinted Acts of the Parliament of Western Australia.
Closer Settlement Act, 1927 ...	21 of 1927	1927 Statutes.
Droving Act, 1902-1935 ...	30 of 1902	Appendix to 1935 Statutes.
Forests Act, 1918-1931 ...	8 of 1919	1919 and subsequent Statutes.
Land Act, 1933-1939 ...	37 of 1933	1933 and subsequent Statutes.
Land Drainage Act, 1925-1941 ...	43 of 1925	1925 and subsequent Statutes.
Mining Act, 1904-1937 ...	15 of 1904	Reprinted with amendments under the Amendments Incorporation Act, 1938.
Municipal Corporations Act, 1906-1943	32 of 1906	Vol. 1 of the Reprinted Acts of the Parliament of Western Australia and subsequent Statutes.
Petroleum Act, 1936-1940 ...	36 of 1936	1936 and subsequent Statutes.
Rights in Water and Irrigation Act, 1914-1941	19 of 1914	Vol. 2 of the Reprinted Acts of the Parliament of Western Australia.
Road Districts Act, 1919-1943	38 of 1919	Vol. 2 of the Reprinted Acts of the Parliament of Western Australia.
Sand Drift Act, 1919 ...	51 of 1919	1919 Statutes.
Sluicing and Dredging for Gold Act, 1899	63 Vict., 43	1899 Statutes.
Town Planning and Development Act, 1928-1943	39 of 1928	1928 and subsequent Statutes.