

ACTS AMENDMENT (SOIL CONSERVATION).

No. 42 of 1982.

AN ACT to amend the Soil Conservation Act 1945-1981 and the Pensioners (Rates Rebates and Deferments) Act 1966-1979.

[Assented to 27 May 1982.]

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

PART I--PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Soil Conservation) Act 1982*. Short title.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation. Commence-
ment.

PART II—SOIL CONSERVATION ACT 1945-1981.

Citation.

3. (1) In this Part the Soil Conservation Act 1945-1981 is referred to as the principal Act.

Reprinted as approved 9 September 1975 and amended by Act No. 63 of 1981.

(2) The principal Act as amended by this Act may be cited as the Soil and Land Conservation Act 1945-1982.

Long title amended.

4. The long title of the principal Act is amended—

(a) by inserting after “Soil” the following—

“ and Land ” ; and

(b) by deleting “Erosion.” and substituting the following—

“ the effects of Erosion, Salinity and Flooding. ” .

Section 1 amended.

5. Section 1 of the principal Act is amended by inserting after “Soil” the following—

“ and Land ” .

Section 2 repealed.

6. Section 2 of the principal Act is repealed.

Section 4 amended.

7. Section 4 of the principal Act is amended—

(a) by inserting in their appropriate alphabetical positions the following definitions—

“Auditor General” means the Auditor General appointed under the Audit Act 1904.

“District advisory committee” means a district advisory committee established under section 23 of this Act.

“Financial year” means the period beginning on and including 1 July in any calendar year and ending on and including 30 June in the next following calendar year.

“Land degradation” includes—

(a) soil erosion, salinity and flooding; and

(b) the removal or deterioration of natural or introduced vegetation,

that may be detrimental to the present or future use of land.

“Municipality” means a municipality constituted under the Local Government Act 1960.

“Permanent head” means the permanent head of the Department of Agriculture.

“Salinity” means deterioration in soil quality or water quality resulting from the accumulation of, or a variation in the amount of, any salt in soil or water;

“Soil conservation” means the application to land of cultural, vegetational and land management measures, either singly or in combination, to attain and maintain an appropriate level of land use and stability of that land in perpetuity and includes the use of measures to prevent or mitigate the effects of land degradation.

“Soil conservation district” means a soil conservation district constituted under section 22 of this Act.

“Treasurer” means the Treasurer of the State. ; and

(b) by deleting the definition of “Soil erosion”.

Section 7
amended.

9. Section 7 of the principal Act is amended—

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) There shall be appointed under and subject to the Public Service Act 1978 an officer to be designated “The Commissioner of Soil Conservation”.

(2) The Commissioner shall give effect to such directions as the Minister or the permanent head gives to him from time to time with respect to his functions, powers or duties under this Act, either generally or with respect to a particular matter. ” ; and

- (b) by inserting after subsection (3) the following subsections—

“ (4) The Commissioner may, with the approval of the permanent head, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers or duties under this Act, other than this power of delegation.

(5) For the purposes of this Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the Commissioner.

(6) A delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(7) A delegation under this section may—

- (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;

- (b) be revoked or varied by instrument in writing signed by the Commissioner.

(8) The Commissioner may exercise a power or perform a duty notwithstanding that he has delegated its exercise or performance under this section. ” .

10. Section 7A of the principal Act is amended— Section 7A amended.

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) There shall be appointed under and subject to the Public Service Act 1978 an officer to be designated “The Deputy Commissioner of Soil Conservation”. ” ; and

- (b) in subsection (2) by deleting “has become vacant and has not been filled in accordance with this Act” and substituting the following—

“ is vacant ” .

11. Section 8 of the principal Act is amended by repealing subsection (1) and substituting the following subsection— Section 8 amended.

“ (1) There shall be appointed under and subject to the Public Service Act 1978 such officers and employees as may be necessary for the due administration of this Act. ” .

12. (1) Section 9 of the principal Act is amended— Section 9 amended.

- (a) in subsection (1) by deleting “twelve” and substituting the following—

“ 10 ” ; and

(b) by repealing subsection (2) and substituting the following subsections—

“ (2) Of such members—

- (a) one shall be the Commissioner *ex officio*;
- (b) one shall be a person who is an officer of the Public Service of the State and is employed in the Department of Agriculture;
- (c) 3, not including the member mentioned in paragraph (b) of this subsection, shall be persons each of whom is an officer of the Public Service of the State or an officer of the Commissioner of Main Roads appointed under the Main Roads Act 1930;
- (d) one shall be a person nominated on the recommendation of the body known as the Country Shire Councils' Association of W.A. or, in default of any such recommendation, by the Minister personally as a representative of the interests of local government authorities;
- (e) subject to subsection (2b) (b) of this section, one shall be a person nominated by the Minister from a panel of the names of persons eligible and willing to act as members, submitted to the Minister for the purpose by the body known as the Primary Industry Association of Western Australia in accordance with a request made pursuant to subsection (2a) of this section;

- (f) subject to subsection (2b) (b) of this section, one shall be a person nominated by the Minister from a panel of names of persons eligible and willing to act as members, submitted to the Minister for the purpose by the body known as the Pastoralists and Graziers Association of Western Australia in accordance with a request made pursuant to subsection (2a) of this section;
- (g) 2 shall be persons actively engaged in agricultural, horticultural or pastoral pursuits.

(2a) Not earlier than 56 days before the expiration of the term of office of a member referred to in paragraph (e) or (f) of subsection (2) of this section the Minister shall, in writing, request the body referred to in the appropriate paragraph to submit to him, in writing, a panel containing the names of not fewer than 3 persons willing to act as members of the Committee.

(2b) Where a body has been requested, pursuant to subsection (2a) of this section, to submit a panel of not fewer than 3 names to the Minister, the Minister—

- (a) shall, if such a panel is submitted to him within 30 days of the body receiving the request, nominate one of the persons whose names appear on the panel for appointment to the office of member; and
- (b) may, if default is made within that time in submitting such a panel to him, nominate for

appointment to the office of member such person as he thinks fit, and any person so nominated may be appointed as if he had been nominated in accordance with paragraph (a) of this subsection. ” .

(2) Every person, other than the Commissioner, who holds office as a member of the Soil Conservation Advisory Committee immediately before the coming into operation of this section shall, upon the coming into operation of this section, vacate that office but, subject to the principal Act as amended by this Act, shall be eligible for reappointment as a member of that Committee.

Section 11
amended.

13. Section 11 of the principal Act is amended—

(a) in subsection (2) by deleting “seven” and substituting the following—

“ 6 ” ; and

(b) by inserting after subsection (3) the following subsection—

“ (4) The Committee may invite any member of a district advisory committee or any other person to attend at any meeting of the Committee and take part in any discussion on any matter being dealt with by the Committee. ” .

Section 12
repealed and
substituted.

14. Section 12 of the principal Act is repealed and the following section is substituted—

Secretary
to the
Committee.

“ 12. The permanent head shall arrange for the Committee to be provided with such secretarial personnel, facilities and services as may be needed in order for it to carry out its functions. ” .

15. The heading to Part III of the principal Act is deleted and the following heading is substituted—

Heading to
Part III
substituted.

“ PART III.—FUNCTIONS AND POWERS. ” .

16. Section 13 of the principal Act is repealed and the following section substituted—

Section 13
repealed and
substituted.

“ 13. The general functions of the Commissioner shall include—

Functions of
Commis-
sioner.

- (a) the prevention and mitigation of land degradation;
- (b) the promotion of soil conservation;
- (c) the encouragement of landholders and the public generally to utilise land in such a manner as will tend towards the prevention and mitigation of land degradation and the promotion of soil conservation; and
- (d) the education of landholders and the public generally in the objects and practice of soil conservation. ” .

17. Section 14 of the principal Act is amended—

Section 14
amended.

(a) by deleting “The general functions of the Commissioner shall be—” and substituting the following—

“ The duties of the Commissioner shall include— ” ;

(b) in paragraph (g) by inserting before “assistance” the following—

“ advising and ” ;

(c) in paragraph (i) by deleting “this Act;” and substituting the following—

“ this Act. ” ; and

(d) by deleting paragraph (j).

Section 17
amended.

18. Section 17 of the principal Act is amended—

(a) in subsection (2) by deleting “So far as practicable the Commissioner shall carry out his functions through the Government departments represented on the Committee, and” and substituting the following—

“ The Commissioner ” ; and

(b) by repealing subsection (3).

Section 18
amended.

19. Section 18 of the principal Act is amended by deleting “represented on the Committee”.

Section 19
amended.

20. Section 19 of the principal Act is amended—

(a) in subsection (1), by deleting “soil erosion or” and substituting the following—

“ land degradation or soil ” ;

(b) in subsection (2), by deleting “each Government department represented on the Committee” and substituting the following—

“ any Government department which the Commissioner considers should be informed of such advice ” ; and

(c) by repealing subsection (3) and substituting the following subsection—

“ (3) Any Government department or public authority may refer to the Commissioner for investigation and report any question as to the appropriate use of any Crown land having regard to considerations of land degradation and soil conservation. ” .

Section 19A
inserted.

21. After section 19 of the principal Act the following section is inserted—

Alteration
of covenants
etc. of
certain
leases etc.

“ 19A. (1) Where the Commissioner is satisfied that compliance with any covenant, condition, term or provision of any lease granted under the Land Act 1933 or any

mining tenement granted under the Mining Act 1978 would tend to cause land degradation on any land he may so advise the Minister responsible for the particular Act.

(2) Where the responsible Minister has been so advised he may, notwithstanding anything to the contrary contained in the Land Act 1933 or the Mining Act 1978, as the case requires, vary, modify, revoke or add to the covenants, conditions, terms or provisions of the lease or mining tenement as the circumstances require. ” .

22. Section 21 of the principal Act is amended— Section 21
amended.

(a) in subsection (1) by deleting “reasonable notice” and substituting the following—

“ at least 7 days’ notice in writing ” ;

(b) by inserting after subsection (1) the following subsection—

“ (1a) Notwithstanding subsection (1) of this section the notice referred to in that subsection—

(a) may be of less than 7 days; or

(b) may be given otherwise than in writing,

or both, so long as the notice given is reasonable in the circumstances. ” ;

and

(c) at the foot of subsection (5) by deleting “Penalty—Twenty dollars” and substituting the following—

“ Penalty—\$500. ” .

23. Before section 22 of the principal Act the following headings are inserted— Heading to
part IIIA
added.

“ PART IIIA.—SOIL CONSERVATION DISTRICTS.

*Division 1.—Constitution of Districts and
Appointment and Functions of Committees. ” .*

Section 22
amended.

24. Section 22 of the principal Act is amended—

- (a) in subsection (1) by deleting “by Proclamation” and substituting the following—

“ by Order in Council made on the recommendation of the Minister ” ;

- (b) in paragraph (a) of subsection (1) by deleting “Proclamation” and substituting the following—

“ Order ” ;

- (c) by inserting after subsection (1) the following subsection—

“ (1a) Before recommending that an Order be made under subsection (1) of this section the Minister shall consult with the council of each municipality whose district is wholly or in part comprised within the proposed soil conservation district. ” ;

- (d) in paragraph (b) of subsection (2) by inserting after “prohibiting the” the following—

“ clearing or ” ;

- (e) at the foot of subsection (4) by deleting “Penalty—One hundred dollars.” and substituting the following—

“ Penalty—\$1 000. ” ; and

- (f) by repealing subsection (5).

Section 23
amended.

25. Section 23 of the principal Act is amended—

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) In this section “the producer organizations” means the bodies known, respectively, as the Primary Industry Association of Western Australia and the Pastoralists and Graziers Association of Western Australia.

(2) On or after the constitution of a soil conservation district the Governor may by Order in Council, establish a district advisory committee for that soil conservation district.

(2a) In an Order establishing a district advisory committee the Governor shall—

- (a) in accordance with subsection (2b) of this section; and
- (b) on the recommendation of the Minister made after consultation by the Minister with the council of each municipality whose district is wholly or in part comprised within the soil conservation district and with the producer organizations,

determine—

- (c) the number of members who shall constitute the committee being not less than 5; and
- (d) the manner in which the committee shall be constituted.

(2b) The constitution of a district advisory committee shall be determined under subsection (2a) (d) of this section so as to provide for the following persons to be members of the committee—

- (a) the Commissioner, *ex officio*, or his nominee;
- (b) one or more persons appointed by the Governor on the nomination of the council of each municipality whose district is wholly or in part comprised within the soil conservation district;

- (c) if, in the opinion of the Governor, agricultural or pastoral activities, or both, are a major land use within the soil conservation district, 3 persons appointed by the Governor on the nomination of the Minister to represent one of the producer organizations or 2 persons to represent one of the producer organizations and one person representing the other producer organization; and
- (d) such number of other persons appointed by the Governor on the nomination of the Minister as is necessary to complete the membership of the committee as determined under subsection (2a) (c) of this section, being persons actively engaged in land use, or representing organizations or Government departments, instrumentalities or agencies actively engaged in land use, in the soil conservation district.

(2c) Where an Order made under this section provides for a person or persons to be appointed as a member or members of a district advisory committee to represent one of the producer organizations the Order shall make provision for the producer organization to submit to the Minister a panel containing the names of persons willing to be so appointed and shall provide that where such a panel is submitted in accordance with the Order one or more, as the case requires, of the persons whose names appear on the panel shall be nominated for appointment.

(2d) The Governor may make an Order in Council amending, varying or revoking, or in substitution for, any previous Order made under this section. ” ;

(b) in subsection (3)—

(i) by deleting “regional” and substituting the following—

“ district ” ; and

(ii) by deleting “ex officio member” and substituting the following—

“ Commissioner or his nominee ” ; and

(c) in subsection (4) by inserting after “number” the following—

“ (other than the Commissioner or his nominee) ” .

26. Section 24 of the principal Act is repealed and the following section is substituted—

Section 24
repealed and
substituted.

“ 24. The functions of every district advisory committee shall be—

Functions
of district
advisory
committee.

(a) to advise the Commissioner on matters relating to the efficient carrying into effect of the provisions of this Act within and in relation to its soil conservation district;

(b) to consider and report upon methods of land management and land utilization within its soil conservation district;

(c) to advise on the development and promotion of land use programmes within its soil conservation district;

(d) to consider and report upon any matters relating to land use or land degradation or soil conservation referred to it by the Minister or the Commissioner;

- (e) to make recommendations to, and consult with, the Commissioner as to any works, research, experimental or educational programmes which may be necessary or desirable in its soil conservation district;
- (f) to make recommendations to the Minister as to whether or not a rate should be imposed under section 25A (1) of this Act in respect of land within its soil conservation district and, where the imposition of such a rate is recommended, as to the rate that should be imposed;
- (g) to make recommendations to the Minister or the Commissioner as to the application of moneys standing to the credit of the account maintained in respect of its soil conservation district under section 25C (2) of this Act; and
- (h) to carry out any such functions of an advisory nature relating to land degradation and soil conservation as may be prescribed. ”

Section 25
amended.

27. Section 25 of the principal Act is amended—

- (a) by deleting “regional” and substituting the following—
“ district ” ; and
- (b) by deleting “appointed under this Act”.

Division 2 of
Part IIIA
inserted.

28. After section 25 of the principal Act the following Division is inserted—

“ *Division 2.—Rating and Finance.*

Imposition
of rate.

25A. (1) Subject to subsections (6) and (7) of this section the Minister acting on the recommendation of the district advisory committee for a soil conservation district may,

by notice published in the *Gazette*, impose a rate in respect of that district or such part of that district as is specified in the notice, and where a rate is so imposed rates shall be assessed, collected and paid on land in accordance with this Division at the rate so imposed.

(2) Different rates may be imposed under subsection (1) of this section in respect of different parts of a district.

(3) Subject to subsection (5) a rate imposed under subsection (1) of this section applies to all land within the soil conservation district or part of a soil conservation district, as the case may be, that is at the time of the imposition of the rate rateable property in the district of a municipality for the purposes of Part XXV of the Local Government Act 1960 and the amount payable by way of rates on any land—

- (a) shall be assessed on the gross rental value of that land or unimproved value of that land, as the case may be, shown at that time in the rate book of the municipality; and
- (b) is payable by the owner of that land as shown at that time in the rate book of the municipality.

(4) Subject to subsection (7) of this section the Minister acting on the recommendation of the district advisory committee for a soil conservation district may, by notice published in the *Gazette*, classify land within the district or a part of the district for the purposes of this Division and may, by notice so published, alter, vary, revoke or substitute any such notice.

(5) Subject to subsection (7) of this section where a classification has been made under subsection (4) of this section the Minister acting on the recommendation of the

district advisory committee may, in the exercise of his powers under subsection (1) of this section—

- (a) impose different rates in respect of different classes of land;
- (b) exempt a class of land from the application of a rate.

(6) A rate imposed in respect of land under subsection (1) of this section shall not itself exceed and shall not when aggregated with any other rate or rates imposed under that subsection in respect of the same land in the same financial year exceed—

- (a) 6 cents in the dollar of the value of the land as referred to in subsection (3) (a) of this section where that value is the gross rental value of the land;
- (b) 2 cents in the dollar of the value of the land as referred to in subsection (3) (a) of this section where that value is the unimproved value of the land.

(7) Before exercising any power conferred on him by this section the Minister shall consult with the council of each municipality whose district is wholly or in part comprised within the soil conservation district, or part of a soil conservation district, in respect of which the power is proposed to be exercised.

Assessment,
collection
and payment
of rate.

25B. (1) Where a rate imposed under section 25A (1) applies to any land the Minister shall cause the amount payable by way of rates under that section on and in relation to that land (in this section called "soil conservation rates") to be assessed and shall—

- (a) cause a notice of assessment of the soil conservation rates to be served on the person liable to pay the rates;
- or

- (b) make arrangements with the municipality in whose district the land is situated for a notice of assessment of the soil conservation rates to be served by the municipality.
- (2) Soil conservation rates shall, subject to the Pensioners (Rates Rebates and Deferments) Act 1966, be due and payable 30 days after the notice of assessment thereof is served.
- (3) When soil conservation rates are due and payable—
- (a) they are a debt due to Her Majesty payable—
 - (i) to the Minister; or
 - (ii) where pursuant to arrangements made under this section notice of assessment thereof is served by a municipality, to the municipality;
 - (b) sections 41 to 51 (both inclusive) of the Land Tax Assessment Act 1976, apply to them as if—
 - (i) they were land tax imposed under any Act and assessed under the Land Tax Assessment Act 1976; and
 - (ii) references in those sections to the Commissioner of State Taxation were references to the Minister.
- (4) The Minister shall, as the case may require—
- (a) cause soil conservation rates to be reassessed;
 - (b) cause an amended notice of assessment of soil conservation rates to be served or make arrangements with the municipality in whose district the land is situated for an amended

notice of assessment of soil conservation rates to be served by the municipality;

(c) refund, wholly or in part, any amount paid by way of soil conservation rates, when, in consequence of the allowance, wholly or in part, of an objection or an appeal under the Local Government Act 1960 or the Valuation of Land Act 1978, such action is appropriate.

(5) In this section "notice of assessment" includes an amended notice of assessment.

(6) A municipality is hereby authorized to enter into arrangements with the Minister under this section and, where such an arrangement has been entered into—

(a) notices of assessment of soil conservation rates may be served by the municipality; and

(b) the municipality, on behalf of the Minister, may receive moneys paid by way of soil conservation rates and moneys so received shall be held in a trust fund under section 526 of the Local Government Act 1960 until such time as they are remitted to or to the order of the Minister.

(7) Where the district of a municipality is wholly or partly comprised in a soil conservation district—

(a) the Minister and any person authorized by him in writing; and

(b) any member of the district advisory committee for that district,

may, for the purposes of this section or section 25A of this Act, inspect the rate book prepared by the council of the municipality pursuant to Part XXV of the Local Government Act 1960.

25C. (1) There shall be established and maintained at the Treasury an account to be called the "Soil Conservation Districts Fund".

Soil Con-
servation
Districts
Fund.

(2) The permanent head shall cause a separate account to be maintained within the Soil Conservation Districts Fund in respect of each soil conservation district.

(3) The following moneys shall be paid to and placed to the credit of the account maintained in respect of a soil conservation district under subsection (2) of this section—

- (a) any moneys appropriated by Parliament for the purposes of a soil conservation programme in the district;
- (b) any rates collected under section 25B of this Act in respect of land in the district;
- (c) any moneys advanced by the Treasurer under section 25D to meet expenditure in the district; and
- (d) any other moneys received pursuant to this Act in respect of land or works in the district.

(4) Moneys standing to the credit of the account maintained in respect of a soil conservation district under subsection (2) of this section may be applied by the Minister or the Commissioner, on the recommendation of the district advisory committee for the district, towards—

- (a) the construction of soil conservation works to benefit the district;
- (b) the payment to an owner or occupier of land in the district of a proportion of the cost of soil conservation works constructed by the owner or occupier on the land, having regard to the extent to which those works benefit the district generally rather than the land on which they are constructed;

- (c) the promotion of soil conservation in the district;
- (d) research into soil conservation measures and practices relevant to the district;
- (e) the demonstration in the district of soil conservation techniques;
- (f) the payment of interest on moneys advanced by the Treasurer under section 25D of this Act to meet expenditure in the district.

(5) The permanent head shall cause to be kept proper accounts and records of the transactions and affairs of the Soil Conservation Districts Fund and the accounts maintained thereunder and shall do all things necessary to ensure that all payments out of the moneys standing to the credit of the Soil Conservation Districts Fund are correctly made and properly authorized and that adequate control is maintained over the assets purchased from the Soil Conservation Districts Fund and over the incurring of liabilities against the Soil Conservation Districts Fund.

Advances by
Treasurer.

25D. (1) Where at any time the moneys standing to the credit of the account maintained under section 25C (2) of this Act are not sufficient to meet expenditure incurred or to be incurred under section 25C (4) of this Act the Treasurer may make an advance out of moneys appropriated by Parliament for that purpose to enable that expenditure to be met.

(2) Interest in respect of moneys advanced under subsection (1) of this section shall be paid at such rate and at such times as the Treasurer determines.

(3) Moneys advanced under subsection (1) of this section and interest payable in respect thereof are charges upon the Soil Conservation Districts Fund.

25E. The permanent head shall in respect of each financial year— Accounts.

- (a) cause to be prepared a true and full statement of the financial transactions of the Soil Conservation Districts Fund, together with such other statements as the Treasurer may from time to time direct, in such forms as the Treasurer approves; and
- (b) submit the statements prepared pursuant to paragraph (a) of this section to the Auditor General for audit.

25F. (1) The Auditor General shall inspect and audit the accounts and records of financial transactions of the Soil Conservation Districts Fund and he shall forthwith draw the attention of the Minister to any irregularity disclosed by the audit that is in the opinion of the Auditor General of sufficient importance to justify him so doing. Audit.

(2) The Auditor General shall examine the statements submitted to him pursuant to section 25E (b) of this Act and shall furnish copies thereof to the Minister together with a report as to—

- (a) whether in the opinion of the Auditor General the statements are based on proper accounts and records;
- (b) whether in the opinion of the Auditor General the accounts and records are properly drawn up in accordance with generally accepted accounting standards so as to present a true and fair view of the transactions for the period under review;
- (c) whether in the opinion of the Auditor General the controls exercised by the permanent head are adequate to provide reasonable

assurance that the receipt and expenditure of moneys have been in accordance with this Act; and

- (d) such other matters arising out of the statements as the Auditor General considers should be reported to the Minister.

(3) The Auditor General has for the purposes of this Act all the powers conferred on him by the Audit Act 1904 or any other Act relating to the audit of the Public Account.

Statements
to be tabled.

25G. The Minister shall cause—

- (a) copies of the statements prepared pursuant to section 25E (a) of this Act in respect of each financial year; and

- (b) a copy of the report of the Auditor General on those statements,

to be laid before each House of Parliament within 12 sitting days of that House after their receipt by the Minister. ” .

Section 27
amended.

29. Section 27 of the principal Act is amended by inserting after “conserve the soil” the following—
“ and land ” .

Section 28
amended.

30. Section 28 of the principal Act is amended at the foot of subsection (1) by deleting “Penalty—One hundred dollars.” and substituting the following—

“ Penalty—\$1 000. ” .

Section 29A
inserted.

31. After section 29 of the principal Act the following section is inserted—

Vesting
of works
in a public
authority.

“ 29A. (1) On the completion of any work carried out in pursuance of this Act within a soil conservation reserve, 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 land degradation mitigation.

(2) The care, control and maintenance of such work shall then 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 which is the property of the Crown and is required for the purposes of the work so vested in the public authority. ” .

32. The heading to Part V of the principal Act is amended by deleting “ORDERS” and substituting the following—

Heading
to Part V
amended.

“ NOTICES ” .

33. Sections 31, 32, 33 and 34 of the principal Act are repealed and the following sections are substituted—

Sections 31,
32, 33 and
34 repealed
and
substituted.

“ 31. In this Part “soil conservation notice” means a notice served in accordance with section 32 (1) of this Act and in sections 35 and 39 includes a notice so served as varied by the Minister under this Part.

Soil con-
servation
notices.

32. (1) Whenever the Commissioner is of the opinion that as a result of—

Service of
notices.

- (a) any agricultural or pastoral practices or methods, which have been or are likely to be adopted;
- (b) clearing or intended clearing;
- (c) failure on the part of any person to take adequate precautions to prevent or control soil erosion, salinity or flooding; or
- (d) the destruction, cutting down or injuring of any tree, shrub, grass or any other plant,

on any land, land degradation is occurring or is liable or likely to become liable to occur on that land or elsewhere the Commissioner may—

- (e) by notice in writing served on the owner or the occupier, or on both the owner and the occupier, of that land direct that any or all of the things mentioned in subsection (2) of this section be done on or in relation to that land;
- (f) by notice in writing served on the owner or the occupier, or on both the owner and the occupier, of any land on which that land degradation is so occurring or is liable or likely to become liable to so occur direct that any or all of the things mentioned in subsection (2) of this section be done on or in relation to such land.

(2) A soil conservation notice may—

- (a) direct the person or persons upon whom the notice is served to do all or any of the following things—
 - (i) adopt or refrain from adopting any agricultural or pastoral methods specified in the notice;
 - (ii) refrain from clearing any land specified in the notice;
 - (iii) refrain from destroying, cutting down or injuring any tree, shrub, grass or other plant on any land specified in the notice;
 - (iv) take such action as is specified in the notice for preventing the erosion, drift or movement of sand, soil, dust or water on or from any land specified in the notice;

- (v) any other matter incidental to the foregoing; and
- (b) specify a period within which or for the duration of which such things shall be done.
- (3) A soil conservation notice is, subject to the decision of the Minister on any appeal under section 34 of this Act, binding upon persons on whom it is served.
- (4) As soon as practicable after serving a soil conservation notice the Commissioner shall notify each of the other members of the Committee, in writing, of the service of the notice and of the directions contained therein.

33. The Minister may vary or quash a soil conservation notice.

Minister may vary or quash notice.

34. (1) An owner or occupier of land who objects to a soil conservation notice served upon him may, within 30 days of service of the notice, appeal against the notice to the Minister by causing written grounds of his objection to be served on the Minister.

Appeal to Minister against service of notice.

(2) Where an appeal is made under subsection (1) of this section the Minister, after referring the appeal to a committee pursuant to section 39A of this Act and receiving the advice of the committee thereon, shall consider the appeal and notify the applicant of his decision confirming, varying or quashing the soil conservation notice.

(3) The decision of the Minister is final.

(4) Where a person is required by a soil conservation notice to refrain from doing anything upon land, the lodging of an appeal by that person under subsection (1) of this section shall not suspend the obligation of that person to comply with that requirement pending the determination of the appeal; but in every other case the lodging of an appeal under subsection (1) of this section

shall suspend the obligation of the applicant to comply with the requirements of the notice to which the appeal relates. ” .

Section 35
amended.

34. Section 35 of the principal Act is amended—

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) A reference in this section to the clearing of land includes a reference to the destruction, cutting down or injuring of any tree, shrub, grass or other plant on the land. ” ;

- (b) by repealing subsection (2) and the penalty at the foot thereof and substituting the following subsections—

“ (2) If a person bound by a soil conservation notice contravenes or fails to comply with the notice he commits an offence.

(2a) A person who commits an offence against subsection (2) of this section is liable to a penalty not exceeding \$2 000; and if the offence of which he is convicted is continued after the conviction he commits a further offence against that subsection.

(2b) Where, in proceedings for an offence against subsection (2) of this section, it is proved that land has been cleared, the person who was, at the time the land was cleared—

- (a) the occupier of the land is, in the absence of evidence to the contrary, deemed to have so cleared the land; and
- (b) the owner of the land is, unless the contrary is proved, deemed to have permitted the land to be so cleared. ” ;

- (c) in subsections (3), (4) and (6) by deleting “an order” wherever it occurs and substituting, in each case, the following—
“ a soil conservation notice ” ;
- (d) in subsections (3), (5) and (6) by deleting “the order” wherever it occurs and substituting in each case, the following—
“ the notice ” ;
- (e) in subsection (4) by deleting “(2)” and substituting the following—
“ (3) ” ;
- (f) at the foot of subsection (4) by deleting “Penalty: Forty dollars.” and substituting the following—
“ Penalty—\$500. ” ; and
- (g) by inserting after subsection (6) the following subsections—
“ (7) In any proceedings in which a question arises as to whether or not a person has contravened or failed to comply with a soil conservation notice, a document purporting to be—
 - (a) a true copy of an aerial photograph marked so as to identify, and show the boundaries of, land according to official survey; and
 - (b) signed and certified by the Surveyor General as being a true copy of a photograph taken under the authority of the Surveyor General on the date specified in the certificate and as correctly identifying, and showing the boundaries of, the land according to official survey,

is, without proof of the signature of the Surveyor General, admissible as evidence of the matters so certified and

of the condition, on the date so specified, of the land and the vegetation on the land so identified.

(8) A document shall not be admitted pursuant to subsection (7) of this section as evidence that the land has been cleared contrary to a soil conservation notice unless the court is satisfied that the Commissioner or a person acting with his authority has entered upon and inspected the land for the purpose of ascertaining whether the land has been so cleared. ” .

Section 37
amended.

35. Section 37 of the principal Act is amended in subsection (2) by deleting “order” and substituting the following—

“ notice ” .

Section 38
repealed and
sections 38
and 39 sub-
stituted.

36. Section 38 of the principal Act is repealed and the following sections are substituted—

Discharge
of notices.

“ 38. (1) A notice discharging a soil conservation notice may be served by the Commissioner under this section if the soil conservation notice has been fully complied with or is no longer necessary, or any other just cause exists for discharging it.

(2) An owner or occupier of land who is bound by a soil conservation notice may from time to time apply in writing to the Commissioner to have the notice discharged pursuant to subsection (1) of this section.

(3) The Commissioner shall consider an application made under subsection (2) of this section and notify the applicant of his decision.

39. (1) An owner or occupier of land who is aggrieved by the refusal of the Commissioner to discharge a soil conservation notice pursuant to section 38 of this Act may appeal against the refusal to the Minister by causing written grounds of his appeal to be served on the Minister.

Appeal to Minister against refusal to discharge notices.

(2) Where an appeal is made under subsection (1) of this section the Minister, after referring the appeal to a committee pursuant to section 39A of this Act and receiving the advice of the committee thereon, shall consider the appeal and notify the applicant of his decision confirming the refusal of the Commission or discharging the soil conservation notice.

(3) The decision of the Minister is final.

39A. (1) The Minister shall refer an appeal made to him under section 34 (1) or 39 (1) to a committee appointed by him consisting of—

Advisory committee on appeals.

- (a) an officer of the Public Service of the State employed in the Department of Conservation and Environment;
- (b) a person actively engaged in agricultural, horticultural or pastoral pursuits; and
- (c) an officer of the Public Service of the State employed in the Department of Agriculture other than in the Division of Resource Management in that Department,

for examination and advice and may, in considering the appeal, take into account any advice so given.

(2) A member of the Committee is not eligible to be a member of a committee appointed under this section. ” .

Sections 40
and 41
repealed.

37. Sections 40 and 41 of the principal Act are repealed.

Section 42
amended.

38. Section 42 of the principal Act is amended at the foot of paragraph (a) by deleting "Penalty—Forty dollars." and substituting the following—

" Penalty—\$500. " .

Section 43
repealed.

39. Section 43 of the principal Act is repealed.

Section 44
amended.

40. Section 44 of the principal Act is amended by deleting "forty dollars" and substituting the following—

" \$500 " .

Section 48
amended.

41. Section 48 of the principal Act is amended—

(a) in subsection (2)—

(i) in paragraph (f), by inserting after "erosion" the following—

" , salinity or flooding " ;

(ii) in paragraph (o), by deleting "prescribed; and" and substituting the following—

" prescribed; " ;

(iii) in paragraph (p), by deleting "hazard." and substituting the following—

" hazard; " ;

and

(iv) by inserting after paragraph (p) the following paragraph—

" (q) requiring the owner or occupier of land to give prior notification to the Commissioner of his intent to cut down, clear, destroy or otherwise damage trees, shrubs, grass or any other plants on any land; " ;

(b) in subsection (3) by deleting “forty dollars” and substituting the following—

“ \$500 ” ; and

(c) by inserting after subsection (3) the following subsections—

“ (4) Regulations may be made under this section—

(a) so as to apply—

(i) generally or in a particular class of case or in particular classes of cases;

(ii) at all times or at a specified time or at specified times; and

(iii) throughout the State or in a specified part or specified parts of the State; and

(b) so as to provide for the exemption of persons or things from the provisions of the regulations, or any of them, and for the imposition of conditions on any such exemption.

(5) In subsection (4) (a) “specified” means specified in the regulations. ” .

42. The principal Act is amended by deleting—

Miscellaneous
amendments.

(a) “soil erosion” wherever it occurs in the provisions referred to in Schedule 1 to this section; and

(b) “erosion” wherever it occurs in the provisions referred to in Schedule 2 to this section,

and substituting in each case the following—

“ land degradation ” .

SCHEDULE 1.

Section 14 (a)	Section 20
Section 14 (b)	Section 20A
Section 14 (e)	Section 22 (2) (e)
Section 16 (c)	Section 29 (1)
Section 17 (2)	Section 48 (2) (b)
Section 17 (4)	Section 48 (2) (d)
Section 19 (4)	

SCHEDULE 2.

Section 14 (g)	Section 48 (2) (o)
Section 16 (a)	Section 48 (2) (p)

Schedule
deleted and
substituted.

43. The Schedule to the principal Act is deleted and the following Schedule is substituted—

Sec. 3.

“

SCHEDULE.

ACTS TO WHICH THIS ACT IS SUPPLEMENTARY.

Bush Fires Act 1954
 Closer Settlement Act 1927
 Country Areas Water Supply Act 1947
 Environmental Protection Act 1971
 Forests Act 1918
 Land Act 1933
 Land Drainage Act 1925
 Local Government Act 1960
 Main Roads Act 1930
 Mining Act 1978
 Petroleum Act 1967
 Rights in Water and Irrigation Act 1914
 Sandalwood Act 1929
 Stock (Brands and Movement) Act 1970
 Town Planning and Development Act 1928. ” .

1982.]

*Acts Amendment (Soil
Conservation).*

[No. 42.

PART III—PENSIONERS (RATES REBATES AND
DEFERMENTS) ACT 1966-1979.

44. (1) In this Part the Pensioners (Rates Rebates and Deferments) Act 1966-1979 is referred to as the principal Act.

Citation.
Reprint
approved 22
October 1980.

(2) The principal Act as amended by this Act may be cited as the Pensioners (Rates Rebates and Deferments) Act 1966-1982.

45. The Second Schedule to the principal Act is amended by adding below "Local Government Act 1960." the following—

Second
Schedule
amended.

“ Soil and Land Conservation Act 1945. ” .
