

WESTERN AUSTRALIA.

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SOIL AND LAND  
CONSERVATION ACT  
1945—1982.

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ARRANGEMENT.

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WESTERN AUSTRALIA.

# SOIL AND LAND CONSERVATION.

9° and 10° Geo. VI., No. XV.

No. 15 of 1945.<sup>1</sup>

(Affected by Act No. 113 of 1965.)

[As amended by Acts—

No. 32 of 1955, assented to 24 November 1955;  
No. 67 of 1967,<sup>2</sup> assented to 5 December 1967;  
No. 94 of 1972<sup>3</sup> (as amended by No. 19 of 1973);  
No. 40 of 1974,<sup>4</sup> assented to 15 November 1974;  
No. 63 of 1981, assented to 13 October 1981;  
No. 42 of 1982<sup>5</sup> assented to 14 May 1982,

and reprinted pursuant to the Amendments Incorporation Act 1938.]

**AN ACT relating to the Conservation of Soil and Land Resources, and to the mitigation of the effects of Erosion, Salinity and Flooding.**

Long title.  
Amended by  
No. 42 of  
1982, s. 4.

[Assented to 9 January 1946.]

**BE** it enacted—

1. This Act may be cited as the *Soil and Land Conservation Act 1945-1982*, and shall come into operation on a day to be fixed by Proclamation.<sup>1</sup>

Short title.  
Amended by  
No. 42 of  
1982, s. 5.  
N.S.W., s. 1.<sup>6</sup>  
Vic., s. 1.  
S.A., s. 1.  
N.Z., s. 1.

<sup>1</sup> Came into operation on 1 July 1946, see *Gazette* 28/6/46, p. 789.

<sup>2</sup> Came into operation on 17 November 1972, see *Gazette* 17/11/72, pp. 4382-3.

<sup>3</sup> Metric Conversion Act 1972-1973. The relevant amendments included in this reprint effective from 1 January 1974, see *Gazette* 26/10/73, p. 4087.

<sup>4</sup> Came into operation on 28 February 1975, see *Gazette* 28/2/75, p. 721.

<sup>5</sup> Came into operation on 1 October 1982, see *Gazette* 1/10/82 p. 3886.

<sup>6</sup> 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.

[2. *Repealed by No. 42 of 1982, s. 6.*]

PART I.—PRELIMINARY.

This Act  
to be  
supplemen-  
tary 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.

Interpre-  
tation.  
Amended by  
No. 32 of  
1955, s. 3;  
No. 40 of  
1974, s. 3;  
No. 63 of  
1981,  
Schedule;  
No. 42 of  
1982, s. 7.  
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—

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

“Commissioner” means the person for the time being holding or acting in the office of the Commissioner of Soil Conservation 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.

“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.

“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,<sup>1</sup> 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,<sup>1</sup> or any other Act relating to the disposition of lands of the Crown.

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<sup>1</sup> Now Land Act 1933-1982.

*Soil and Land Conservation.*

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

“Proper Officer” means officer of a Government department or public authority authorized 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) Any Minister of the Crown charged with the administration of any Act relating to water supply, sewerage or drainage.
- (c) Any Minister of the Crown charged with the administration of the Public Works Act 1902, or responsible for any works which are by virtue of any other Act deemed to be public works for the purposes of that Act.
- (d) Every board, municipal council or Commissioner of a municipality established or constituted under any of the Acts mentioned in the Schedule to this Act.
- (e) Director of Engineering in the Department of Public Works of the Public Service of the State.
- (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.

“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.

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

“Treasurer” means the Treasurer of the State.

PART II.—ADMINISTRATION.

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

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

(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.

[6. *Repealed by No. 42 of 1982, s. 8.*]

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

Commissioner of Soil Conservation to be appointed.  
Amended by No. 32 of 1955, s. 4; No. 42 of 1982, s. 9.  
N.S.W., s. 4 (1) and (2).

*Soil and Land 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.

(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.

(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.



7A. (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".

Deputy  
Commis-  
sioner.  
Inserted by  
No. 40 of  
1974, s. 4.  
Amended by  
No. 42 of  
1982, s. 10.

(2) Where the Commissioner is absent or is temporarily incapable of fulfilling his duties, or where the office of Commissioner is vacant, the Deputy Commissioner of Soil Conservation shall act in the office of the Commissioner during that absence or incapacity or until the vacancy is filled, as the case requires, and while so acting shall—

- (a) have all the powers, functions and authorities; and
- (b) perform and carry out the duties,

of the Commissioner under this Act.

8. (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.

Officers and  
Employees.  
Amended by  
No. 42 of  
1982, s. 11.  
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.

Soil Conservation Advisory Committee established. Amended by No. 67 of 1967, s. 3; No. 94 of 1972, s. 4 (as amended by No. 19 of 1973); No. 40 of 1974, s. 5; No. 42 of 1982, s. 12. N.S.W., s. 23. Vic., s. 4. S.A., s. 4. N.Z., s. 3.

9. (1) There shall be a Committee to be known as the "Soil Conservation Advisory Committee" consisting of 10 members appointed by the Governor on the nomination of the Minister.

(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.

(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 and one other of such members to be the Deputy Chairman.

(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.

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.

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

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Section 12 (2) of Act No. 42 of 1982 reads as follows—

(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.

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.

Proceedings of Committee. Amended by No. 67 of 1967, s. 4; No. 40 of 1974, s. 6. No. 42 of 1982, s. 13. Vic., s. 4 (6). N.Z., s. 6.

(2) At any meeting of the Committee 6 shall be a quorum.

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

(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.

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.

Secretary to the Committee. Substituted by No. 42 of 1982, s. 14.

PART III.—FUNCTIONS AND POWERS.

Heading. Substituted by No. 42 of 1982, s. 15.

13. The general functions of the Commissioner shall include—

Functions of Commissioner. Substituted by No. 42 of 1982, s. 16.

- (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.

Duties of  
Commis-  
sioner.

Amended by  
No. 42 of 1982,  
ss. 17 and 42.

N.S.W., ss.  
5, 7, 8, 9.  
Vic., s. 8 (2).  
N.Z., s. 11.

14. The duties of the Commissioner shall include—

- (a) the carrying out of surveys and investigations to ascertain the nature and extent of land degradation throughout the State;
- (b) the investigation and design of preventive and remedial measures in respect of land degradation;
- (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 land degradation and soil conservation and reclamation;
- (f) the instruction and supervision of landholders in matters pertaining to soil conservation and reclamation;
- (g) the advising and assistance of landholders whose land has been affected by land degradation;
- (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 utilization of Crown lands or other lands vested in public authorities;
- (i) the carrying out of works authorized by this Act.

[ (j) Deleted by No. 42 of 1982, s. 17. ]

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

Special powers of Commissioner.  
Vic., s. 8 (3).

- (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.

16. The functions of the Committee shall be—

Functions of Committee.  
Amended by No. 42 of 1982, s. 42. N.S.W., s. 23 (4).

- (a) to consider the general aspects of soil conservation and land degradation 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 land degradation 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.

Co-ordination of works of Government Departments in respect of land degradation and soil conservation and reclamation. Amended by No. 42 of 1982, ss. 18 and 42. N.S.W., s. 13. Vic., s. 9. N.Z., s. 11 (2).

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 authorized by or under this Act to be carried out by the Minister or the Commissioner.

(2) The Commissioner 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 land degradation.

[ (3) *Repealed by No. 42 of 1982 s. 18.* ]

(4) The Commissioner shall consult with any government department or public authority undertaking any work likely to cause land degradation 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.

Powers to Government Departments and Public Authorities. Amended by No. 42 of 1982, s. 19. Vic., s. 9 (2).

18. Every Government department and every public authority is hereby authorized—

- (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.

Commissioner may advise as to alienation of Crown land. Amended by No. 42 of 1982, ss. 20 and 42. Vic., s. 9 (3).

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 the Commissioner



considers that the matter of land degradation or soil 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 any Government department which the Commissioner considers should be informed of such advice and may be published by the Commissioner.

(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.

(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 land degradation or any reports as to land degradation, soil conservation or the utilization of land whether undertaken, made or received before or after the commencement of this Act.

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.

Alteration  
of covenants  
etc. of  
certain  
leases etc.  
Inserted by  
No. 42 of  
1982, s. 21.

(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.

Carrying out of works by Minister or Commissioner.  
Amended by No. 32 of 1955, s. 5; No. 42 of 1982, s. 42.  
N.S.W., s. 14.

20. (1) The Minister may carry out or authorize the Commissioner to carry out any work in connection with soil conservation or mitigation of land degradation or in connection with any other purpose contemplated by this Act.

[(2) *Repealed by No. 32 of 1955, s. 5.*]

Minister may make certain advances and payments.  
Inserted by No. 32 of 1955, s. 6.  
Amended by No. 42 of 1982, s. 42.  
Cf. s. 34 of No. 15 of 1945.

20A. The Minister may, out of moneys provided by Parliament—

(a) make any advance upon such security and at such rate of interest and subject to such covenants, conditions and provisos as he may think fit to any owner or occupier of land on which the Commissioner has proposed the expenditure of money for works or practices for soil conservation or mitigation of land degradation; and

(b) pay any costs or expenses incurred—

(i) in carrying out any works or practices proposed by the Commissioner for soil conservation or mitigation of land degradation; or

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

Power of Entry.  
Amended by No. 113 of 1965, s. 8; No. 42 of 1982, s. 22.  
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 at least 7 days' notice in writing 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.

(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 is reasonable in the circumstances.

(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 authorized 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—\$500.

Saving provision in relation to State forests and timber reserves.  
Inserted by No. 32 of 1955, s. 7.  
Cf. s. 36 of No. 15 of 1945.

21A. Notwithstanding anything to the contrary contained elsewhere in this Act, where any works proposed to be carried out under the authority of this Act 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.

Part IIIA. and heading.  
Inserted by No. 42 of 1982, s. 23.

PART IIIA.—SOIL CONSERVATION DISTRICTS.

Division 1. and heading.  
Inserted by No. 42 of 1982, s. 23.

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

Soil conservation districts.  
Amended by No. 113 of 1965, s. 8;  
No. 42 of 1982, ss. 24 and 42.  
N.Z., s. 13 (1).

22. (1) The Governor may by Order in Council made on the recommendation of the Minister—

- (a) constitute any portion of the State defined in the Order 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.

(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.

(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 clearing or 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 land degradation 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 land degradation.

(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 authorize 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—\$1 000.

[*(5) Repealed by No. 42 of 1982, s. 24.*]

District  
advisory  
committee.  
Amended by  
No. 42 of  
1982, s. 25.

23. (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.

(3) Members of a district advisory committee (other than the Commissioner or his nominee) 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 (other than the Commissioner or his nominee) to be the chairman thereof.

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

- (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.

25. The Minister may, whenever he deems it necessary or expedient, invite any member of a district advisory committee 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.  
Amended by No. 42 of 1982, s. 27.  
Vic., s. 13.

*Division 2.—Rating and Finance.*

Division 2 and heading.  
Inserted by No. 42 of 1982, s. 28.

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.

Imposition of rate.  
Inserted by No. 42 of 1982, s. 28.

(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.

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—

Assessment,  
collection  
and payment  
of rate.  
Inserted by  
No. 42 of  
1982, s. 28.

- (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.

*Soil and Land Conservation.*

(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.  
Inserted by  
No. 42 of  
1982, s. 28.

(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.

**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.

Advances by  
Treasurer.  
Inserted by  
No. 42 of  
1982, s. 28.

(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.  
Inserted by  
No. 42 of  
1982, s. 28.

- (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.

Audit.  
Inserted by  
No. 42 of  
1982, s. 28.

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.

(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.



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,

Statements to be tabled. Inserted by No. 42 of 1982, s. 28.

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

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 conservation 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,<sup>1</sup> 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

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<sup>1</sup> Now Public Works Act 1902-1979.

Crown land within the meaning and for the purposes of the Land Act 1933-1939,<sup>1</sup> 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,<sup>2</sup> 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.  
Amended by No. 42 of 1982, s. 29.  
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 and land of the reserve and prevent injury to other land.

Offences in relation to soil conservation reserves.  
Amended by No. 113 of 1965, s. 8;  
No. 42 of 1982, s. 30.  
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,

<sup>1</sup> Now Land Act 1933-1982.

<sup>2</sup> Now Public Works Act 1902-1979.

shall be guilty of an offence against this Act.

Penalty—\$1 000.

(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 land degradation.

Execution of works for land degradation. Amended by No. 42 of 1982, s. 42. S.A., s. 10.

(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,<sup>1</sup> and the provisions of that Act shall apply thereto accordingly.

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.

Vesting of works in a public authority. Inserted by No. 42 of 1982, s. 31.

(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

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<sup>1</sup> Now Public Works Act 1902-1979.

the property of the Crown and is required for the purposes of the work so vested in the public authority.

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

30. (1) The Minister may grant leases of or licenses to occupy any land comprised in any soil conservation reserve to any person 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.

Heading  
amended by  
No. 42 of  
1982, s. 32.

#### PART V.—SOIL CONSERVATION NOTICES.

Soil con-  
servation  
notices.  
Substituted  
by No. 42 of  
1982, s. 33.

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.

Service of  
notices.  
Substituted  
by No. 42 of  
1982, s. 33.

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

- (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.

Minister may vary or quash notice.  
Substituted by No. 42 of 1982, s. 33.

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

Appeal to Minister against service of notice.  
Substituted by No. 42 of 1982, s. 33.

**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.

(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.

35. (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.

(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.

(3) If a person bound by a soil conservation notice fails to do any thing which the notice requires him to do, any person authorized by the Commissioner, with or without assistants—

- (a) may do that thing and all things incidental thereto;
- (b) for the purpose of doing those things may, with or without plant and equipment, enter, remain upon, and pass and repass over, any land.

Enforcement of orders.  
Substituted by No. 32 of 1955, s. 8.  
Amended by No. 113 of 1965, s. 8; No. 42 of 1982, s. 34.  
Cf. s. 13 (1) of the Soil Conservation Act, 1939-1947, S.A., added by No. 44 of 1945, s. 10, S.A.  
Cf. No. 30 of 1918, s. 29 as to penalty.

(4) If a person bound by a soil conservation notice obstructs or hinders the Commissioner or his assistants in exercising the powers conferred by subsection (3) of this section, he commits an offence.

Penalty—\$500.

(5) Expense incurred by the Commissioner in exercising his powers under this section—

- (a) is a debt due to the Crown by any person required by the notice to do anything done by the Commissioner, and may be recovered by the Attorney General by action in any Court of competent jurisdiction; and
- (b) shall be deemed to be incurred in respect of the whole of the farm, pastoral holding, or other area of land, on which the thing in respect of which the expense is incurred, is done.

(6) If a person bound by a soil conservation notice fails to comply therewith, and damage is caused to the land of any other person which would not have been caused if the notice had been complied with, the owner or occupier of the land so damaged has a right of action against that person for the damage.

(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.

36. (1) (a) Where land in respect of which expense is incurred under section thirty-five of this Act is under the operation of the Transfer of Land Act 1893, the Commissioner may give to the Registrar of Titles notice that expense has been so incurred and that so much of the expense as is specified in the notice is owing in respect of the land, specifying it, and upon receipt of the notice the Registrar of Titles is authorized to register it by making a memorandum of the notice in the Register Book.

Expense to be a charge on land. Substituted by No. 32 of 1958, s. 8. Cf. s. 13 (k), Soil Conservation Act 1939-1947, S.A., added by No. 44 of 1945, s. 10, S.A. Cf. Part IV., Div. 3, of the Transfer of Land Act 1893.

(b) Where land in respect of which expense is incurred under section thirty-five of this Act is alienated from the Crown but is not under the Transfer of Land Act 1893, the Commissioner may register under the Registration of Deeds Act 1856, a memorial that expense has been so incurred and that so much of the expense as is specified in the memorial is owing in respect of the land, specifying it.

(c) Where land in respect of which expense is incurred under section thirty-five of this Act is the subject of a lease or licence under the Land Act 1933, the Commissioner may give to the Under Secretary for Lands notice that expense has been so incurred and that so much of the expense as

Cf. ss. 143-140 of the Land Act 1933.

is specified in the notice is owing in respect of the land, specifying it, and upon receipt of the notice the Under Secretary for Lands is authorized to register it by making a memorandum of the notice in the Register Book.

(d) Where a notice or memorial is so registered, the amount of the expense specified in the notice or memorial together with interest on that amount or the balance thereof owing for the time being at such rate not exceeding four per centum per annum, as the Commissioner fixes with the approval of the Minister, becomes on registration a first charge on the land mentioned therein and ranks in priority to all other mortgages, charges and encumbrances on that land except mortgages and charges created in favour of the Crown or The Commissioners of the Rural and Industries Bank of Western Australia before the registration of the notice or memorial.

(2) Where default is made in the payment of any amount in respect of which a notice or memorial is so registered or the interest on that amount, the Commissioner—

Cf. Part IV.,  
Div. 3 of the  
Transfer of Land Act  
1893.

(a) has and may exercise in respect of the land specified in the notice if it is land under the operation of the Transfer of Land Act 1893, the powers conferred by that Act upon a mortgagee under a mortgage in respect of which default has been made in payment;

(b) has and may exercise in respect of land specified in the memorial if it is land alienated from the Crown but not under the operation of that Act, those powers but with such adaptations and modifications as are necessary because the land is not under the operation of that Act; and

Cf. s. 147 of  
the Land  
Act 1933.

(c) has and may exercise in respect of land specified in the memorial if it is land the subject of a lease or licence under the Land Act 1933, the powers conferred by the Land Act 1933, upon a mortgagee under a mortgage in respect of which default has been made in payment.

(3) When the amount for which a notice or memorial is so registered is fully paid the Commissioner—

- (a) shall, if the land in respect of which the notice is registered is under the operation of the Transfer of Land Act 1893, give notice in writing of the payment in full of the amount to the Registrar of Titles who is authorized thereupon to register it in the Register Book;
- (b) shall, if the land in respect of which the memorial is registered is alienated from the Crown, but is not under the operation of that Act, register a memorial under the Registration of Deeds Act 1856, of the payment in full of the amount; or
- (c) shall, if the land in respect of which the memorial is registered is the subject of a lease or licence under the Land Act 1933, give notice in writing of the payment in full of the amount to the Under Secretary for Lands who is authorized thereupon to register it in the Register Book,

and upon registration of the notice or the memorial, as the case may be, the land ceases to be subject to the charge.

(4) Notices, memorials, and registrations under this section are exempt from stamp duty and registration fees.

37. (1) If a person who is liable to pay the Commissioner the amount of any expense incurred under section thirty-five of this Act fails to pay that amount upon demand made by or on behalf of the Commissioner, any mortgagee of the land in respect of which the expense was incurred, may pay to the Commissioner the amount of that expense and thereupon that amount is by operation of this section added to and forms part of the principal sum secured by the mortgage of that mortgagee.

Right of mortgagee to add expense to mortgage. Substituted by No. 32 of 1958, s. 8. Amended by No. 42 of 1982, s. 35. Cf. s. 131 of the Soil Conservation Act 1939-1947, S.A., added by No. 44 of 1945, s. 10, S.A.

(2) If a mortgagee incurs expense in complying with any obligations imposed on him by a soil conservation notice, the amount of that expense is by operation of this section added to and forms part of the principal sum secured by the mortgage.

(3) Where the whole of the principal sum secured by a mortgage is payable on a fixed date any amount added to that sum by this section is payable on that date; and where a principal sum is payable by instalments each instalment is by operation of this section increased by such amount as the mortgagee determines so as to spread the payment of the amount added over the outstanding term of the mortgage.

(4) Where an amount is added to a principal sum by this section that amount, by operation of this section, bears interest at the same rate as that principal sum.

Discharge  
of notices.  
Substituted  
by No. 42 of  
1982, s. 36.

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.

*[Former section 39 repealed, as part of original Part V., by No. 32 of 1955, s. 8.]*

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.  
Inserted by No. 42 of 1982, s. 36.

(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.  
Inserted by No. 42 of 1982, s. 36.

- (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.

[40. Repealed by No. 42 of 1982, s. 37.]

[41. Repealed by No. 42 of 1982, s. 37.]

Inter-  
ferences  
with or  
damage to  
works, etc.  
Amended by  
No. 113 of  
1965, s. 8;  
No. 42 of  
1982, s. 38.  
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—\$500.

(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.

[43. *Repealed by No. 42 of 1982, s. 39.*]

Penalties.  
Amended by  
No. 113 of  
1965, s. 8;  
No. 42 of  
1982, s. 40.  
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 \$500.

(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 authorized 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 authorized 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 authorization 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, Commissioner 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 Director of Agriculture a report—

Annual report by Commissioner, etc. Amended by No. 32 of 1955, s. 10. 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 authorized 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. Amended by No. 32 of 1955, s. 11 No. 113 of 1965, s. 8; No. 42 of 1982, ss. 41 and 42. N.S.W., s. 33. 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;

*Soil and Land Conservation.*

- (b) the carrying out of surveys and investigations to ascertain the nature and extent of land degradation;
- (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 land degradation;
- (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, salinity or flooding, and the terms and conditions under which such assistance shall be given;
- [(g) *Deleted by No. 32 of 1955, s. 11.*]
- (h) the form of notices, orders, certificates, authorities and other documents;
- [(i) *Deleted by No. 32 of 1955, s. 11.*]
- (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 Her 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,<sup>1</sup> the regulation or prohibition of the destruction of or interference with timber or scrub on land held under any form of lease or licence from the Crown;
  - (o) the prohibition of the lighting of fires in the open air in any area of land degradation hazard except under such circumstances and subject to such limitations, conditions and restrictions as may be prescribed;
  - (p) the prohibition or regulation of depasturing of livestock on a soil conservation reserve or on an area of land degradation hazard or on any specified portion of such reserve or hazard;
  - (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.
- (3) Any regulation made under this section may—
- (a) authorize 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 \$500 for a breach of any regulation.
- (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

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<sup>1</sup> Now Forests Act 1918-1976

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(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.

Sec. 3.  
Substituted  
by No. 42 of  
1982, s. 43.

## 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.