



Western Australia

Soil and Land Conservation Act 1945

Soil and Land Conservation Regulations 1992

Soil and Land Conservation Regulations 1992

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Soil and Land Conservation Regulations 1992

1. Citation

These regulations may be cited as the *Soil and Land Conservation Regulations 1992*¹.

2. Interpretation

In these regulations, unless the contrary intention appears —
the Act means the *Soil and Land Conservation Act 1945*.
[Regulation 2 amended: Act No. 54 of 2003 s. 118(2).]

3. Form of authority

The form of the authority card referred to in section 21(2) of the Act shall be that which is set out in Schedule 1.

[4. Deleted: Act No. 54 of 2003 s. 118(3).]

5. Notice of intention to drain or pump water

- (1) When an owner or occupier of land proposes to drain or pump water from under the land surface because of the salinity of the land or the water and to discharge that water onto other land, into other water or into a watercourse, the owner or occupier shall, at least 90 days before the draining or pumping commences, notify the Commissioner in writing in a form approved by the Commissioner.

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- (2) An owner or occupier of land who gives notice to the Commissioner in accordance with subregulation (1) but fails to commence draining or pumping water within the period of 2 years from the date of the notice, is required, at least 90 days before he or she proposes to drain or pump water, to give notice, in accordance with subregulation (1), to the Commissioner for reassessment.
- (2a) A notice under subregulation (1) or (2) is to be accompanied by —
- (a) a plan or an aerial photograph in a scale approved by the Commissioner —
 - (i) with a north point and the scale clearly marked;
 - (ii) identifying the land to which the notice relates and adjacent land, including lot or location numbers;
 - (iii) showing the location of the proposed drains or pumping works, and where the water will be discharged; and
 - (iv) showing any public roads adjacent to the land to which the notice relates;and
 - (b) any approval, permission or consent to —
 - (i) carry out the proposed draining or pumping, or to discharge the water; or
 - (ii) construct any works to be used for the proposed drainage or pumping, or to discharge the water,obtained under any law of the State, or any application submitted for such approval, permission or consent.
- (3) An owner or occupier who discharges water without having notified the Commissioner in accordance with subregulations (1) or (2) commits an offence.
- Penalty: \$2 000.

- (4) On receiving a notice under subregulation (1), the Commissioner shall send a copy of the notice to any Public Authority or district committee that is or may be concerned with the salinity of that other land or water.

[Regulation 5 amended: Gazette 22 Jun 2004 p. 2137-8.]

6. Notice of intention to drain or pump water in the Peel-Harvey Catchment Area

- (1) When an owner or occupier of land situated in the area set out in Figure 1 of Appendix 1 to the Statement of Planning Policy No. 2* known as the Peel-Harvey Catchment Area proposes to drain or pump water from, on or under the land and to discharge that water onto other land, into other water or into a watercourse, whether within the area or outside the area, the owner or occupier shall, at least 90 days before draining or pumping commences, notify the Commissioner in writing in a form approved by the Commissioner.
- (2) An owner or occupier of land who gives notice to the Commissioner in accordance with subregulation (1) but fails to commence draining or pumping water within the period of 2 years from the date of the notice, is required, at least 90 days before he or she proposes to drain or pump water, to give notice, in accordance with subregulation (1), to the Commissioner for reassessment.
- (2a) A notice under subregulation (1) or (2) is to be accompanied by —
 - (a) a plan or an aerial photograph in a scale approved by the Commissioner —
 - (i) with a north point and the scale clearly marked;
 - (ii) identifying the land to which the notice relates and adjacent land, including lot or location numbers;

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- (iii) showing the location of the proposed drains or pumping works, and where the water will be discharged; and
 - (iv) showing any public roads adjacent to the land to which the notice relates;
- and
- (b) any approval, permission or consent to —
 - (i) carry out the proposed draining or pumping, or to discharge the water; or
 - (ii) construct any works to be used for the proposed drainage or pumping, or to discharge the water,obtained under any law of the State, or any application submitted for such approval, permission or consent.
- (3) An owner or occupier who discharges water without having notified the Commissioner in accordance with subregulations (1) or (2) commits an offence.
Penalty: \$2 000.
- (4) On receiving a notice under subregulation (1), the Commissioner shall send a copy of the notice to any Public Authority or district committee that is or may be concerned with the condition of that other land or water.

[Prepared under section 5AA of the Town Planning and Development Act 1928 and published in the Gazette of 21 February 1992 at p. 947-55.]*

[Regulation 6 amended: Gazette 22 Jun 2004 p. 2138-9.]

7. Steps to be taken before service charge imposed

For the purposes of section 25A(8) the steps to be taken by the district committee of a soil conservation district before recommending to the Minister that a service charge be imposed for that district are —

- (a) that one or more public meetings in accordance with regulations 8, 9 and 10 be held; and
- (b) that consultation with local government in accordance with regulation 11 be undertaken.

[Regulation 7 inserted: Gazette 11 Jun 1999 p. 2534.]

8. Public meeting

- (1) A public meeting is to be held at a place within the district which is —
 - (a) reasonably accessible to the persons who would be liable to pay the proposed service charge;
 - (b) of a sufficient capacity to hold the number of persons reasonably expected to attend the meeting.
- (2) The district committee is to cause notice of a public meeting to be given not more than 4 weeks and not less than 2 weeks before the date of the proposed meeting in a newspaper circulating in the district.
- (3) The district committee is to give to all affected local governments not less than 6 weeks' notice in writing of the public meeting.
- (4) The notices referred to in subregulations (2) and (3) are to —
 - (a) specify the soil conservation purpose for which the service charge is proposed to be imposed;
 - (b) specify the category of persons who will be affected by the proposed service charge; and
 - (c) outline the purpose of the meeting.
- (5) A local government which receives a notice under subregulation (3) is to exhibit a copy of the notice to the public on a notice board at the local government's offices.
- (6) In this regulation and in regulations 9 and 10 —

affected local government means a local government in which land on which it is proposed to impose a service charge is situated.

[Regulation 8 inserted: Gazette 11 Jun 1999 p. 2535.]

9. Procedure at public meeting

- (1) The chairperson of the meeting is to be —
 - (a) where there is only one affected local government, the mayor or president or in the absence of the mayor or president the deputy mayor or deputy president of that local government; or
 - (b) where there is more than one affected local government, the mayor or president or deputy mayor or president, as the case requires, of the local government which has the greatest number of persons who would be liable to pay the proposed service charge.
- (2) The quorum for the meeting is to be determined prior to the meeting by the Minister after consultation with the district committee.
- (3) The meeting procedure is to be —
 - (a) in accordance with the meeting procedure set out in the standing orders of the council of the local government which the chairperson represents; or
 - (b) in accordance with the meeting procedure determined by the majority of the persons present at the meeting and entitled to vote at the meeting.
- (4) Each person who is the owner of land upon which it is proposed to impose the service charge is entitled to vote at the meeting.

[Regulation 9 inserted: Gazette 11 Jun 1999 p. 2535-6.]

10. Information to be placed before public meeting

- (1) For the purposes of section 25A(9)(b) the information to be placed before a public meeting is —

- (a) a detailed description of the proposed soil conservation service sufficient to enable a reasonably informed person without technical qualifications to assess the service;
 - (b) a plan of the way in which the proposed service will be implemented;
 - (c) a timetable for the proposed completion of stages of the proposed service, including a time for total completion of the service;
 - (d) a full costing of the proposed service, including separate details of expected administration costs; and
 - (e) details of the way in which it is proposed that the cost of the proposed service will be imposed on the persons by whom it will be payable.
- (2) The information referred to in subregulation (1) is to be in writing.

[Regulation 10 inserted: Gazette 11 Jun 1999 p. 2536.]

11. Local government to be advised of result of meeting

- (1) Where a meeting held in accordance with regulations 8, 9 and 10 votes for the imposition of the proposed service charge the district committee is to forward to all affected local governments as soon as practicable after the meeting a copy of —
- (a) the information presented to the meeting in accordance with regulation 10;
 - (b) a summary of the progress of the meeting; and
 - (c) the recommendation of the district committee on whether the proposed service charge should be imposed.
- (2) As soon as practicable after receipt of the information referred to in subregulation (1) the local government or local governments are to present that information to a meeting of the council for consideration.

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- (3) After consideration by the council the local government is to advise the district committee on —
- (a) whether it supports or opposes the imposition of the proposed service charge (“**the proposal**”); and
 - (b) if it supports the proposal, whether it will be willing to make an arrangement under section 25B(1a)(b) to serve the notice of assessment of the proposed service charge,

and give to the committee brief reasons to support its decision.

[Regulation 11 inserted: Gazette 11 Jun 1999 p. 2536-7.]

12. Recommendation to the Minister

A recommendation by a district committee to impose a service charge is to be forwarded to the Minister together with —

- (a) copies of the information forwarded to local government in accordance with regulation 11(1);
- (b) copies of all newspaper notices referred to in regulation 8(2); and
- (c) evidence of local government support referred to in regulation 11(3).

[Regulation 12 inserted: Gazette 11 Jun 1999 p. 2537.]

13. Reports to the Minister on administration of service charge projects

A district committee is to report to the Minister at regular intervals of not more than 12 months on the progress of every service on which a service charge is imposed.

[Regulation 13 inserted: Gazette 11 Jun 1999 p. 2537.]

14. False statements in notices

A person who in any notice given to the Commissioner under regulation 4, 5 or 6 —

- (a) makes a statement which the person knows is false or misleading in a material particular;
- (b) makes a statement which is false or misleading in a material particular, with reckless disregard as to whether or not the statement is false or misleading in a material particular;
- (c) provides, or causes to be provided, information that the person knows is false or misleading in a material particular; or
- (d) provides, or causes to be provided, information that is false or misleading in a material particular, with reckless disregard as to whether the information is false or misleading in a material particular,

commits an offence.

Penalty: \$1 000.

[Regulation 14 inserted: Gazette 22 Jun 2004 p. 2139.]

Schedule 1

Schedule 1

[Reg. 3]

SOIL AND LAND CONSERVATION ACT 1945

SOIL AND LAND CONSERVATION REGULATIONS 1992

CERTIFICATE OF AUTHORITY

This is to certify

that.....

.....
is authorised, generally, under section 21 of the *Soil and Land Conservation Act 1945* to enter on any land, in relation to the power conferred by the Act, and make such surveys, place such marks and carry out such investigations thereon as he may deem necessary.

.....

Specimen signature
of holder

.....

Minister for Agriculture

Date.....

Schedule 2

[Form 1 deleted: Act No. 54 of 2003 s. 118(4).]

[Forms 2 and 3 deleted: Gazette 22 Jun 2004 p. 2139.]

[Schedule 3 deleted: Act No. 54 of 2003 s. 118(5).]

Notes

- ¹ This reprint is a compilation as at 11 March 2005 of the *Soil and Land Conservation Regulations 1992* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Soil and Land Conservation Regulations 1992</i>	17 Jun 1992 p. 2519-29	17 Jun 1992
<i>Soil and Land Conservation Amendment Regulations 1999</i>	11 Jun 1999 p. 2534-7	12 Jun 1999 (see r. 2 and <i>Gazette</i> 11 Jun 1999 p. 2533)
<i>Soil and Land Conservation Amendment Regulations 2002</i>	23 Aug 2002 p. 4349-50	23 Aug 2002
<i>Environmental Protection Amendment Act 2003</i> s. 118 and 119 assented to 20 Oct 2003 ²		8 Jul 2004 (see s. 2 and <i>Gazette</i> 30 Jun 2004 p. 2581)
<i>Soil and Land Conservation Amendment Regulations 2004</i>	22 Jun 2004 p. 2137-9	22 Jun 2004
Reprint 1: The <i>Soil and Land Conservation Regulations 1992</i> as at 11 Mar 2005 (includes amendments listed above)		

- ² The *Environmental Protection Amendment Act 2003* s. 119 reads as follows:
“

119. Transitional provisions

- (1) In this section —
Authority has the same meaning as it has in the EP Act;
commencement day means the day on which section 110 comes into operation;
EP Act means the *Environmental Protection Act 1986* as amended by this Act;
regulation 4 notice means a notice of intention under regulation 4 of the *Soil and Land Conservation Regulations 1992*.
- (2) This subsection applies to clearing if —
- (a) a regulation 4 notice relating to the clearing was given not less than 90 days before the commencement day;
 - (b) the clearing was or is commenced not more than 2 years after the giving of the notice and is completed not more than 2 years after the commencement day;

- (c) the clearing was not referred to the Authority as a proposal under Part IV of the EP Act, or was so referred and not accepted by the Authority; and
 - (d) a soil conservation notice, within the meaning of section 31 of the *Soil and Land Conservation Act 1945*, has not been served in respect of the clearing.
- (3) For the purposes of sections 51C and 74B of the EP Act, clearing to which subsection (2) applies is to be regarded as being clearing of a kind set out in Schedule 6 to the EP Act.
- (4) Subject to subsection (5), a regulation 4 notice given less than 90 days before the commencement day is to be regarded as being an application for a clearing permit made in accordance with section 51E(1) and (2) of the EP Act.
- (5) Subsection (4) does not apply to a regulation 4 notice unless the fee prescribed under the EP Act for the purposes of this subsection is paid.

”.

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
affected local government.....	8(6)
the Act.....	2