

WESTERN AUSTRALIA

SOIL AND LAND CONSERVATION AMENDMENT ACT 1994

No. 47 of 1994

AN ACT to amend the *Soil and Land Conservation Act 1945*.

[Assented to 27 September 1994.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Soil and Land Conservation Amendment Act 1994*.

Principal Act

2. In this Act the *Soil and Land Conservation Act 1945** is referred to as the principal Act.

[* *Reprinted as approved 13 December 1982.
For subsequent amendments see 1993 Index to Legislation of
Western Australia, Table 1, p. 194, and Act No. 6 of 1994.*]

Section 4 amended

3. Section 4 of the principal Act is amended —

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

“

“Appropriate officer” means the 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.

“District” means a Land Conservation District constituted under section 22 (1).

“Eutrophication” means the deterioration of water quality resulting from the accumulation of nutrients in the water.

“Occupier”, in relation to land, means the person by whom or on whose behalf the land is actually occupied, or, if there is no such person, the person entitled to possession, and includes a

person who, under a licence or concession relating to specified land vested in the Crown, has the right to take a profit à prendre in respect of the land.

”;

- (b) in paragraph (a) of the definition of “Land degradation” by inserting after “salinity” the following —

“ , eutrophication ”; and

- (c) by deleting the definition of “Proper Officer”.

Section 9 amended

4. Section 9 (4) of the principal Act is amended by deleting “Chairman” in both places where it occurs and substituting in each place the following —

“ Chairperson ”.

Section 9A inserted

5. After section 9 of the principal Act the following section is inserted —

“

Deputy members

9A. (1) For each member of the Council appointed under section 9 other than —

- (a) the Commissioner;
- (b) the Chairperson; and

(c) the Deputy Chairperson,

there may be appointed, in the same manner as that member, a deputy member.

(2) A deputy member is entitled, in the absence of the member for whom he is a deputy from a meeting of the Council, to attend that meeting, and when so attending a deputy member has all the powers, functions, entitlements and protection as the member for whom he is deputy.

”.

Section 10 amended

6. Section 10 of the principal Act is amended —

(a) by inserting after the section designation “10.” the subsection designation “(1)”;

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

“ Chairperson ”; and

(c) by inserting the following subsection —

“

(2) For the purposes of subsection (1), regulations made under section 48 may adopt in whole or in part any award made under the *Industrial Relations Act 1979* (either as it is at the time of the making of those regulations or as varied from time to time) as being the level of remuneration and the travelling allowances to be received under subsection (1).

”.

Section 11 amended

7. Section 11 of the principal Act is amended —

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

“ Chairperson ”; and

- (b) in subsection (4) by inserting after “dealt with by the Council” the following —

“
 , but that member or other person is not
 entitled to vote on any such matter
”.

Section 14 amended

8. Section 14 of the principal Act is amended by inserting after paragraph (h) the following paragraph —

“
 (ha) the collection of rates imposed under
 section 25A;
”.

Section 19 amended

9. Section 19 of the principal Act is amended in subsections (1), (2) and (4) by deleting “proper” and substituting in each case the following —

“ appropriate ”.

Section 22 amended

10. Section 22 of the principal Act is amended by inserting after subsection (1) the following subsection —

“ (1aa) The portion of the State constituted as a land conservation district under subsection (1) may be defined by reference to a map showing, where practicable by using geographical or other known features, the locality in such a way as to enable the boundaries of the land conservation district to be readily identified.

”.

Section 23 amended

11. Section 23 of the principal Act is amended —

(a) in subsection (2b) —

(i) in paragraph (b) by deleting “Minister” and substituting the following —

“ Commissioner ”;

(ii) in paragraph (c) by deleting “Minister” in the second place where it occurs and substituting the following —

“ Commissioner ”; and

(iii) in paragraph (d) by deleting “Minister” and substituting the following —

“ Commissioner ”;

(b) in subsection (2c) by deleting “Minister” and substituting the following —

“ Commissioner ”; and

- (c) in subsection (4) by deleting “chairman” and substituting the following —

“ chairperson ”.

Section 24 amended

12. Section 24 of the principal Act is amended in subsection (2) by inserting after “functions set out in subsection (1)” the following —

“
including the power to employ persons to assist in the performance by that committee of those functions
”.

Section 25B amended

13. Section 25B of the principal Act is amended —

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

“
assessed and, following that assessment,
the chief executive officer shall —
”;

- (b) in subsection (2) by deleting “the” where it first occurs;

- (c) in subsection (3) (a) (i) by deleting “the Minister” and substituting the following —

“ the chief executive officer ”;

- (d) in subsection (3) (b) (ii) by deleting “the Minister.” and substituting the following —

“ the chief executive officer. ”;

- (e) in subsection (4) by deleting "The Minister" and substituting the following —

" The chief executive officer ";

- (f) in subsection (6) by deleting "the Minister" and substituting the following —

" the chief executive officer ";

- (g) in subsection (6) (b) by deleting "the Minister" in both places where it occurs and substituting in each place the following —

" the chief executive officer ";

- (h) in subsection (7) by deleting "and" at the end of paragraph (a) and substituting the following —

" (ab) the chief executive officer; and "; and

- (i) by inserting after subsection (7) the following subsection —

"

(8) The administrative costs of imposing and collecting rates in a land conservation district are to be met from the rates imposed and collected in that district.

".

Section 25C amended

14. Section 25C of the principal Act is amended —

- (a) by repealing subsection (2);

(b) in subsection (3) —

(i) by deleting “in respect of a land conservation district under subsection (2) of this section” and substituting the following —

“ under subsection (1) ”;

(ii) in paragraph (a) by deleting “the district” and substituting the following —

“ a district ”;

(iii) in paragraph (b) —

(I) by inserting before “any rates” the following —

“ subject to section 25B (8), ”; and

(II) by deleting “the district” and substituting the following —

“ a district ”;

(iv) in paragraph (c) by deleting “the district” and substituting the following —

“ a district ”; and

(v) in paragraph (d) by deleting “the district” and substituting the following —

“ a district ”;

(c) in subsection (4) —

(i) by deleting “in respect of a land conservation district under subsection (2) of this section may be applied by the Minister or the Commissioner,

on the recommendation of the district committee for the district, towards" and substituting the following —

"

under subsection (1) may be allocated by the chief executive officer, either at the direction of the Minister, on the recommendation of a district committee or on the chief executive officer's own initiative, to a district committee to be used for the purposes of this Act, including

”;

(ii) by deleting the full stop after paragraph (f) and substituting a semicolon; and

(iii) by inserting after paragraph (f) the following paragraph —

"

(g) any remuneration payable as a consequence of employment of persons under section 24 (2).

”;

and

(d) by inserting after subsection (4) the following subsection —

"

(5) The chief executive officer may, at any time —

(a) require a district committee to prepare a report showing the manner in which moneys allocated to it have been applied;

- (b) appoint an auditor to examine the records of a district committee to ensure that funds have been properly expended; or
- (c) generally, attach conditions with respect to the allocations made to a district committee.

”.

Section 25D amended

15. Section 25D (1) of the principal Act is amended —

- (a) by deleting “section 25C (2) of this Act” and substituting the following —

“ section 25C (1) ”;

- (b) by deleting “expenditure incurred or to be incurred” and substituting the following —

“ allocations made or to be made ”; and

- (c) by deleting “that expenditure” and substituting the following —

“ those allocations ”.

Section 25E amended

16. Section 25E (2) of the principal Act is amended —

- (a) after paragraph (a) by deleting “and”; and
- (b) by inserting after paragraph (a) the following paragraph —

“

- (ab) include in its annual report the text of any direction given by the Minister under section 25C (4); and

”.

Section 30B amended

17. Section 30B (1) of the principal Act is amended by deleting “natural”.

Section 32 amended

18. Section 32 of the principal Act is amended —

- (a) in subsection (1) (e) by inserting after “of that land” the following —

“ , or on any other person who, in the opinion of the Commissioner, is acting in a manner described in paragraph (a), (b), (c) or (d) which is directly associated with the actual or potential land degradation,

and

- (b) in subsection (3) (a) by deleting “each owner, and each occupier,” and substituting the following —

" each person ".

Section 34 amended

19. Section 34 (1) of the principal Act is amended by deleting “An owner or occupier of land” and substituting the following —

“ A person ”.

Section 35 amended

20. Section 35 of the principal Act is amended by inserting after subsection (8) the following subsection —

(9) In any proceedings for an offence under subsection (2), a document purporting to be signed and

certified by an authorized land officer within the meaning of the *Land Act 1933* stating that a particular geographic location is the area to which the notice relates is, without proof of the signature of that officer, admissible as evidence of the matter so certified.

”.

Section 38 amended

21. Section 38 (2) of the principal Act is amended by deleting “An owner or occupier of land” and substituting the following —

“ A person ”.

Section 39 amended

22. Section 39 (1) of the principal Act is amended by deleting “An owner or occupier of land” and substituting the following —

“ A person ”.

Section 39A amended

23. Section 39A (1) (c) of the principal Act is amended by deleting “other than in the Division of Resource Management in that Department”.

Section 44 amended

24. Section 44 of the principal Act is amended by inserting after subsection (3) the following subsection —

“

(4) In any proceedings for offences against this Act or the regulations in which a question arises as to

whether land degradation was liable or likely to become liable to occur, or did occur, as a result of the actions of the owner or occupier of any land —

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

”.

Section 46 amended

25. Section 46 of the principal Act is amended —

- (a) by inserting after “recommendation” in the 2 places where it occurs the following —

“ , advice ”; and

- (b) by inserting after “made” the following —

“ or given ”.

Section 48 amended

26. Section 48 of the principal Act is amended in subsection (2) (f) by inserting after “erosion,” the following —

“ eutrophication, ”.