

WESTERN AUSTRALIA

SOIL AND LAND CONSERVATION AMENDMENT ACT

No. 46 of 1988

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

[Assented to 30 November 1988]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Soil and Land Conservation Amendment Act 1988*.

Commencement

2. (1) Subject to subsections (2) and (3), this Act shall come into operation on such day as is fixed by proclamation.

(2) Sections 15 and 16 (a) shall, if section 101 of the *Acts Amendment (Land Administration) Act 1987* (in this subsection called “section 101”)—

(a) has come into operation before the day on which this Act receives the Royal Assent, be deemed to have come into operation on the day on which section 101 came into operation;

or

(b) comes into operation on or after the day on which this Act receives the Royal Assent, come into operation on the day on which section 101 comes into operation.

(3) Section 16 (b) shall be deemed to have come into operation on the day on which *The Rural and Industries Bank of Western Australia Act 1987* came into operation.

Principal Act

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

[*Reprinted as approved 13 December 1982 and amended by Act No. 98 of 1985.]

Section 4 amended

4. Section 4 of the principal Act is amended by—

(a) inserting before the definition of “Commissioner” the following definitions—

“ “Chief executive officer” means chief executive officer of the Department of Agriculture.

“Chief executive officer, Land Administration,” means chief executive officer of the Department within the meaning of the *Land Act 1933*. ”;

(b) deleting the definition of “District advisory committee” and substituting the following definition—

“ “District committee” means land conservation district committee established under section 23 (2). ”;

(c) deleting the definition of “Permanent head”;

- (d) deleting paragraphs (e) and (f) of the definition of “Public Authority” and substituting the following paragraphs—

“ (e) the Water Authority of Western Australia established under the *Water Authority Act 1984*;

(f) the Executive Director within the meaning of the *Conservation and Land Management Act 1984*; ”; and

- (e) deleting the definition of “Soil conservation district” and substituting in its appropriate alphabetical position the following definition—

“ “Land conservation district” means land conservation district constituted under section 22 (1). ”.

Section 9 amended

5. Section 9 of the principal Act is amended—

- (a) in subsection (2) (e) by deleting “Primary Industry Association of Western Australia” and substituting the following—

“ Western Australian Farmers Federation (Inc.) ”;

- (b) in subsection (2a) by deleting “56” and substituting the following—

“ 90 ”; and

- (c) in subsection (2b) (a) by deleting “30” and substituting the following—

“ 60 ”.

Heading to Part IIIA amended

6. The heading to Part IIIA of the principal Act is amended by deleting “SOIL” and substituting the following—

“ LAND ”.

Heading to Division 1 of Part IIIA amended

7. The heading to Division 1 of Part IIIA of the principal Act is amended by inserting before—

- (a) “*Districts*” the following—
“ *Land Conservation* ”; and
- (b) “*Committees*” the following—
“ *District* ”.

Section 23 amended

8. (1) Section 23 of the principal Act is amended—

- (a) in subsection (1) by deleting “Primary Industry Association of Western Australia” and substituting the following—
“ Western Australian Farmers Federation (Inc.) ”;
- (b) in subsection (2) by deleting “district advisory” and substituting the following—
“ land conservation district ”;
- (c) in subsection (2b) by—
 - (i) deleting “Governor” in paragraph (b) and substituting the following—
“ Minister ”;
 - (ii) deleting “of the Governor” in paragraph (c) and substituting the following—
“ of the Minister ”;
 - (iii) deleting “Governor on the nomination of the” in paragraph (c);
 - (iv) deleting “Governor on the nomination of the” in paragraph (d); and
 - (v) inserting after “actively engaged in” in the 2 places where it occurs in paragraph (d) in each case the following—
“ , or affected by or associated with, ”;

and

- (d) in subsection (2c) by deleting “nominated for appointment.” and substituting the following—

“ appointed. ”.

(2) A district advisory committee established under section 23 of the principal Act before the coming into operation of this section and in existence immediately before that coming into operation shall on that coming into operation be deemed to be a land conservation district committee established under section 23 of the principal Act as amended by this section.

(3) A person who was, immediately before the coming into operation of this section, a member of a district advisory committee appointed under section 23 (2b) (b), (c) or (d) of the principal Act for a particular period (in this subsection called “the initial period”) shall be deemed on that coming into operation to have been appointed under that subsection as amended by this section to be a member of the land conservation district committee which is by virtue of subsection (2) the successor to the district advisory committee for a period equal to the remainder of the initial period.

Section 24 repealed and substituted

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

Functions of district committees

“ 24. (1) The functions of a district committee are—

- (a) on behalf of, and in accordance with any direction, approval or authorization given by, the Commissioner—

(i) to manage projects; and

(ii) to carry out or cause to be carried out works or practices,

for preventing, remedying or mitigating land degradation and for promoting soil conservation and reclamation;

- (b) to review, assess and report to the Commissioner on the effects of land use or land management on the condition of the land within its land conservation district;

- (c) to develop, promote and, in accordance with any direction, approval or authorization given by the Commissioner, implement programmes of soil and land conservation within its land conservation district;
- (d) if any matter relating to land use, land degradation or soil conservation is referred to it by the Minister or the Commissioner, to consider and report on that matter to the Commissioner or the Minister, as the case requires;
- (e) to make recommendations to, and to consult with, the Commissioner concerning any works, research, experimental or educational programmes which may be necessary or desirable within its land conservation district;
- (f) to make recommendations to the Minister for the purposes of section 25A (1);
- (g) to make recommendations to the Minister or the Commissioner, as the case requires, for the purposes of section 25C (4); and
- (h) to perform such functions relating to land degradation and soil conservation as may be agreed between the Committee and the Commissioner.

(2) A district committee has all such powers as are reasonably necessary to enable it to perform the functions set out in subsection (1). ”.

Section 25 amended

10. Section 25 of the principal Act is amended by deleting “the committee.” and substituting the following—

“ the Committee. ”.

Section 25C amended

11. Section 25C of the principal Act is amended in subsections (1) and (2) by deleting “Soil” and substituting in each case the following—

“ Land ”.

Section 25D amended

12. Section 25D of the principal Act is amended in subsection (3) by deleting “Soil” and substituting the following—

“ Land ”.

Section 32 amended

13. Section 32 of the principal Act is amended—

- (a) in paragraphs (e) and (f) of subsection (1) by deleting “the owner or the occupier, or on both the owner and the occupier,” and substituting in each case the following—

“ each owner, and each occupier, ”;

- (b) in subsection (2) (a) by deleting “the person or persons upon whom the notice is served” and substituting the following—

“ each or any one or more of the persons bound by the soil conservation notice ”; and

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

“ (3) A soil conservation notice—

- (a) while it subsists, binds each owner, and each occupier, on whom it is served; and

- (b) while a memorial of the soil conservation notice remains registered under section 34A, binds each successive owner, and each successive occupier, of the land to which the soil conservation notice relates. ”.

Sections 34A and 34B inserted

14. The principal Act is amended by inserting, after section 34, the following sections—

Registration of memorial of soil conservation notice

“ 34A. (1) When a soil conservation notice is served under section 32, the Commissioner may, whenever he considers it desirable to do so, deliver a memorial of the soil conservation notice—

- (a) in the case of a soil conservation notice relating to land which is under the operation of the *Transfer of Land Act 1893*, to the Registrar of Titles;
- (b) in the case of a soil conservation notice relating to land which is alienated from the Crown but which is not under the operation of the *Transfer of Land Act 1893*, to the Registrar of Deeds and Transfers; or
- (c) in the case of a soil conservation notice relating to land which is under the operation of the *Land Act 1933*, to the chief executive officer, Land Administration.

(2) On receiving a memorial of a soil conservation notice delivered under subsection (1), the Registrar of Titles, the Registrar of Deeds and Transfers or the chief executive officer, Land Administration, as the case requires, shall register that memorial and endorse or note accordingly the appropriate Register Book or register or record in respect of the land to which the soil conservation notice relates.

(3) When a soil conservation notice of which a memorial is registered under this section—

- (a) is quashed under section 33 or 34; or
- (b) is discharged under section 38 or 39,

the Commissioner shall deliver to the Registrar of Titles, the Registrar of Deeds and Transfers or the chief executive officer, Land Administration, as the case requires, a certificate in a form approved by the Registrar of Titles, the Registrar of Deeds and Transfers or the chief executive officer, Land Administration, signed by the Commissioner and certifying that that quashing or discharge took place on the date specified in that certificate.

(4) On receiving a certificate delivered under subsection (3), the Registrar of Titles, the Registrar of Deeds and Transfers or the chief executive officer, Land Administration, as the case requires,

shall cancel the registration of the memorial of the relevant soil conservation notice and endorse or note accordingly the appropriate Register Book or register or record in respect of the land to which that certificate relates.

(5) In this section—

“memorial” means—

- (a) in the case of a memorial of a soil conservation notice referred to in subsection (1) (a), a memorial in a form approved by the Registrar of Titles;
- (b) in the case of a memorial of a soil conservation notice referred to in subsection (1) (b), a memorial in a form approved by the Registrar of Deeds and Transfers; and
- (c) in the case of a memorial of a soil conservation notice referred to in subsection (1) (c), a memorial in a form approved by the chief executive officer, Land Administration;

“Registrar of Titles” has the meaning given by the *Transfer of Land Act 1893*;

“Registrar of Deeds and Transfers” has the meaning given by the *Registration of Deeds Act 1856*.

Duty of outgoing owner or occupier to
notify Commissioner and potential successor in
ownership or occupation

34B. While a memorial of a soil conservation notice remains registered under section 34A, each owner and each occupier of the land to which the soil conservation notice relates shall—

- (a) before agreeing with another person in writing that the other person will succeed him in the ownership or occupation or both, as the case requires, of that land notify in writing the other person of the content of the soil conservation notice and of the fact that the soil conservation notice will be binding on the other person if the other person succeeds him in that ownership or occupation or both; and
- (b) within a period of 14 days after the day on which he ceases to be such an owner or occupier, notify in writing the Commissioner of that cessation and of the name and address of each person who succeeds him in the ownership or occupation or both, as the case requires, of that land.

Penalty: \$2 000. ”.

Section 35 amended

15. Section 35 of the principal Act is amended in subsection (7) by deleting—

(a) paragraph (b) and substituting the following paragraph—

“ (b) signed and certified by an authorized land officer within the meaning of the *Land Act 1933* as being a true copy of a photograph taken under the authority of an authorized land officer within the meaning of the *Land Act 1933* on the date specified in the certificate and as correctly identifying, and showing the boundaries of, the land according to official survey, ”;

and

(b) “Surveyor General, admissible” and substituting the following—

“ authorized land officer first mentioned in paragraph (b), admissible ”.

Section 36 amended

16. Section 36 of the principal Act is amended—

(a) in subsections (1) (c) and (3) (c) by deleting “Under Secretary for Lands” wherever it occurs and substituting in each case the following—

“ chief executive officer, Land Administration, ”;

and

(b) in subsection (1) (d) by deleting “Commissioners of the”.

Section 39 amended

17. Section 39 of the principal Act is amended in subsection (2) by deleting “Commission” and substituting the following—

“ Commissioner ”.

Section 39A amended

18. Section 39A of the principal Act is amended in subsection (1) (a) by deleting “of the Public Service of the State employed in the Department of Conservation and Environment” and substituting the following—

“ appointed within the meaning of section 22 (1) of the *Environmental Protection Act 1986* ”.

Amendment of references to permanent head

19. The principal Act is amended by deleting “permanent head” wherever it occurs in the provisions referred to in the Table to this section and substituting in each case the following—

“ chief executive officer ”.

TABLE

Sections 7 (2) and (4), 12, 25C (2) and 25D (1).

Amendment of references to district advisory committees

20. The principal Act is amended by deleting “district advisory committee” wherever it occurs in the provisions referred to in the Table to this section and substituting in each case the following—

“ district committee ”.

TABLE

Sections 11 (4), 23 (2a), (2b), (2c) and (3), 25, 25A (1), (4) and (5) and 25C (4).

Amendment of references to soil conservation districts

21. (1) The principal Act is amended by deleting “soil conservation district” wherever it occurs in the provisions referred to in the Table to this subsection and substituting in each case the following—

“ land conservation district ”.

TABLE

Sections 22 (1) (a), (1a) and (3) (a), 23 (2), (2a) and (2b), 25A (1), (3), (4) and (7), 25B (7) and 25C (2), (3) and (4).

(2) Section 22 (3) (a) of the principal Act is amended by deleting “soil conservation districts” and substituting the following—

“ land conservation districts ”.
