

# SOIL CONSERVATION ACT, 1939-1975

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## SOIL CONSERVATION ACT, 1939-1975

being

Soil Conservation Act, 1939, No. 25 of 1939 [Assented to 30th November, 1939];

as amended by

Soil Conservation Act Amendment Act, 1943, No. 37 of 1943 [Assented to 23rd December, 1943];  
 Soil Conservation Act Amendment Act, 1945, No. 44 of 1945 [Assented to 24th January, 1946];  
 Soil Conservation Act Amendment Act, 1947, No. 32 of 1947 [Assented to 4th December, 1947];  
 Soil Conservation Act Amendment Act, 1960, No. 13 of 1960 [Assented to 25th August, 1960];  
 Statute Law Revision Act, 1965, No. 39 of 1965 [Assented to 9th December, 1965];

and

Statutes Amendment (Miscellaneous Metric Conversions) Act, 1975, No. 32 of 1975 [Assented to 3rd April, 1975]<sup>1</sup>.

**An Act to enact certain provisions (including certain amendments of the Pastoral Act, 1936), with the object of preventing the erosion of soil, and for purposes incidental thereto.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Soil Conservation Act, 1939-1975".

Short title.  
 Citation  
 amended by 32,  
 1975, s. 40 (2).

2. In this Act, unless the context otherwise requires or some other meaning is clearly intended—

Interpretation.

"Committee" means the Advisory Committee on Soil Conservation appointed under this Act:

"applicant" means a person who has applied for, or obtained a soil conservation order, and, where necessary to give effect to this Act, includes the successors in title of an applicant:

Def. inserted by  
 44, 1945, s. 3.

"board" means district soil conservation board appointed under this Act:

Def. inserted by  
 44, 1945, s. 3.

"damage" includes harm whether actionable apart from this Act or not:

Def. inserted by  
 44, 1945, s. 3.

"district" means soil conservation district constituted under this Act:

Def. inserted by  
 44, 1945, s. 3.

"occupier" includes a public authority in occupation of land:

Def. inserted by  
 44, 1945, s. 3.

"owner" means person (including a public authority) in whom any land is vested for an estate of freehold or who is a mortgagee in possession:

Def. inserted by  
 44, 1945, s. 3.

"public authority" means a Minister of the Crown, or any statutory authority representing or acting on behalf of the Crown, any municipal or district council or any other local authority:

Def. inserted by  
 44, 1945, s. 3.

<sup>1</sup> Came into operation 15th January, 1976: *Gaz.* 15th January, 1976, p.174.

Def. inserted by  
44, 1945, s. 3.

“respondent” means person against whom a soil conservation order has been made or sought and, where necessary to give effect to this Act, includes the successors in title of a respondent:

Def. inserted by  
44, 1945, s. 3.

“Soil Conservator” means the officer of the Department of Agriculture<sup>1</sup> for the time being in charge of the Soil Conservation Branch thereof:

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

“The Land Board” means The Land Board constituted under the Crown Lands Act, 1929-1936<sup>2</sup>:

the “Pastoral Board” means the Pastoral Board constituted under the Pastoral Act, 1936<sup>3</sup>:

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

Act to apply  
notwithstanding  
the Real  
Property Act.  
S. 2a enacted by  
44, 1945, s. 4.

2a. This Act shall take effect notwithstanding the provisions of the Real Property Act, 1886-1945<sup>4</sup>.

Incorporation.

3. (1) This Act is incorporated with the Compulsory Acquisition of Land Act, 1925<sup>5</sup>, and any person acquiring land for the purposes of this Act shall be regarded as the promoter of an undertaking within the meaning of that Act, and the creation, improving and management of any soil conservation reserve and the construction and execution of any works under this Act for prevention of soil erosion, or for the conservation of soil or for conducting research, shall be regarded as undertakings within the meaning of that Act.

(2) The section of this Act amending the Pastoral Act, 1936, is incorporated with that Act.

#### *Administration*

The Advisory  
Committee.

4. (1) The Governor may appoint an Advisory Committee on Soil Conservation for the purposes of this Act.

(2) The Committee shall consist of such number of persons not exceeding seven as the Governor determines.

(3) Two members of the Committee shall be persons with practical experience in the pastoral industry.

(4) The Governor shall appoint one of the members of the Committee to be the chairman thereof.

Subsec. (4a)  
inserted by 44,  
1945, s. 5.

(4a) The members of the Committee holding office at the time of the passing of the Soil Conservation Act Amendment Act, 1945, shall be deemed to have been lawfully appointed to their respective offices as members on the fifteenth day of February, 1943<sup>6</sup>, and shall, subject to this Act, continue in office until the thirtieth day of June, 1946<sup>7</sup>.

<sup>1</sup> For interpretation of reference to Department of Agriculture see proclamation under Public Service Act, 1967-1975: *Gaz.* 6th November, 1975, p. 2340.

<sup>2</sup> Now Crown Lands Act, 1929-1975.

<sup>3</sup> Now Pastoral Act, 1936-1974.

<sup>4</sup> Now Real Property Act, 1886-1975.

<sup>5</sup> The Compulsory Acquisition of Land Act, 1925, and its amendments, have been repealed and superseded by the Land Acquisition Act, 1969 (now Land Acquisition Act, 1969-1972).

<sup>6</sup> Reference to the year nineteen hundred and forty-three altered to 1943 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

<sup>7</sup> Reference to the year nineteen hundred and forty-six altered to 1946 pursuant to s. 7 (1) of the Acts Republication Act, 1967, as amended.

(5) Subject to this Act, every member of the Committee shall hold office for a term not exceeding three years and subject to the terms and conditions determined by the Governor at the time of the appointment of such member.

(6) 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 Governor's opinion renders him unfit to be a member of the Committee.

(7) 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 under subsection (6) of this section.

(8) A member of the Committee shall not be regarded as a public servant within the meaning of the Public Service Act, 1967, as amended<sup>1</sup>, by reason only of his office as such a member.

Subsec. (8)  
amended by 32,  
1975, s. 41.

5. The members of the Committee shall receive such remuneration (if any) for their services as members, as the Governor determines.

Remuneration  
of Committee.

6. The duties of the committee shall be to advise the Minister on soil erosion and soil conservation, and to recommend to the Minister any action which in the committee's opinion should be taken under this Act to prevent the erosion of soil or to restore land which has been affected by erosion of soil.

Duties of  
committee.  
S. 6 substituted  
by 37, 1943,  
s. 2.

#### *Soil Conservation Districts and Boards*

Heading  
inserted by 44,  
1945, s. 6.

6a. (1) At least three-fifths of the occupiers of land in any area may present a petition to the Minister praying that that area shall be constituted a soil conservation district.

Soil  
conservation  
districts.  
S. 6a enacted by  
44, 1945, s. 6.

(2) The area shall be defined in the petition and may consist of one or more separate tracts of land.

(3) The Minister shall ascertain whether the petition is duly signed by the prescribed number of occupiers and if it is so signed shall refer it to the Committee.

(4) The Committee shall make a recommendation to the Minister whether it is desirable that the area defined in the petition, or some other area comprising at least half of the area defined in the petition, with or without other land, shall be constituted a soil conservation district.

(5) If the Committee recommends that an area which is not identical with that mentioned in the petition shall be constituted a soil conservation district—

(a) the Minister shall ascertain whether at least three-fifths of the occupiers of land within the area recommended by the Committee consent to the constitution of that district; and

(b) the area shall not be constituted a soil conservation district unless three-fifths of those occupiers consent thereto.

(6) Subject to subsection (5) of this section the Governor may, by proclamation, declare that any area recommended by the Committee shall be a soil conservation district.

<sup>1</sup> Now Public Service Act, 1967-1975.

Subsec. (7)  
inserted by 13,  
1960, s. 3.

(7) Upon the recommendation of the Committee, the Governor may, by proclamation, declare any part of a soil conservation district to be a separate soil conservation district.

Subsec. (8)  
inserted by 13,  
1960, s. 3;  
amended by 32,  
1975, s. 42.

(8) For the purposes of this section and of section 6c of this Act, "occupiers"—

Para. (a)  
amended by 32,  
1975, s. 42 (a),  
(b).

(a) with respect to land in any area in a municipality or district as defined in the Local Government Act, 1934, as amended<sup>1</sup>, means the ratepayers, as so defined, who—

Subpara. (i)  
amended by 32,  
1975, s. 42 (b).

(i) are the owners or occupiers of such ratable properties within the area as are in each case not less than 2 hectares in extent; and

(ii) reside thereon;

Para. (b)  
amended by 32,  
1975, s. 42 (c).

(b) with respect to land in any area not within a municipality or district as so defined, means the owners or lessees in that area of parcels of land used mainly for agricultural or pastoral purposes and being in each case not less than 2 hectares in extent who are residing thereon; and where there is no such owner or lessee residing thereon, includes the manager or any person who for the time being is in charge of such land and is residing thereon.

Constitution of  
district without  
petition.  
S. 6b enacted by  
44, 1945, s. 6.

**6b.** The Governor on the recommendation of the Committee, may, without any petition, declare that the whole or any part of any area within which Part IV of the Sand Drift Act, 1923-1935<sup>2</sup>, applies, shall be a soil conservation district.

Enlargement of  
districts.  
S. 6c enacted by  
44, 1945, s. 6.  
Subsec. (1)  
amended by 13,  
1960, s. 4.

**6c.** (1) If the Committee recommends that any additional area be included in a district, and the Minister is satisfied that at least three-fifths of the occupiers of land within the additional area consent to the inclusion of that area in the district, or that the additional area was at that time part of another soil conservation district, the Governor may, by proclamation, declare that the additional area shall be included in the district.

(2) Any such proclamation may, if the Committee so recommends, also declare—

(a) that all seats on the board for the district shall become vacant on a day specified in the proclamation;

(b) the number of members of which the board shall after that day be constituted.

(3) The Governor, on the nomination provided for in section 6d of this Act, shall appoint to the board the number of members fixed in the proclamation.

District boards.  
S. 6d enacted by  
44, 1945, s. 6.

**6d.** (1) The Governor shall appoint a district soil conservation board for every district.

(2) Every board shall consist of such number of members not less than three, and not more than seven, as the Governor determines.

One member of every board shall be nominated by the members of the councils of every municipality and district council district which is wholly or partly within the soil conservation district. Whenever it is necessary to appoint a member on a nomination as above mentioned an election shall be held in

<sup>1</sup> Now Local Government Act, 1934-1975.

<sup>2</sup> The Sand Drift Act, 1923, and its amendments, have been repealed by the Statute Law Revision Act, 1965.

accordance with the regulations to determine the person to be so nominated. At every such election each member of a council shall have one vote.

The remaining members of every board shall be nominated by the Committee.

(3) The Governor, on the nomination of the Committee, shall appoint one of the members of a board to be its chairman.

(4) Subject to this Act, every member of a board shall hold office for three years: Provided that a member appointed to a casual vacancy shall hold office for the balance of the term of the member in whose place he was appointed.

(5) The Governor may dismiss a member of a board from his office, if he has been guilty of any act or conduct which, in the Governor's opinion, shows him to be unfit to be a member of the board.

(6) The office of a member of a board 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 under this section.

(7) A member of a board shall not be a public servant within the meaning of the Public Service Act, 1967, as amended<sup>1</sup>, by reason only of his office as such member.

Subsec. (7)  
amended by 32,  
1975, s. 43.

(8) Subject to this section, the members of a board shall hold office on such terms and conditions as are determined by the Governor.

(9) The members of a board shall be entitled to such allowances as the Governor may approve. Such allowances shall be paid out of moneys appropriated by Parliament for the purpose.

6e. The duties of a board shall be—

- (a) to foster local interest in soil conservation by lectures, demonstrations, conferences and discussions;
- (b) to collect information as to soil erosion and soil conservation within its district;
- (c) to make any investigations requested by the Minister or the Committee;
- (d) to make reports and recommendations on soil erosion and soil conservation;
- (e) to make orders under this Act.

Duties of  
boards.  
S. 6e enacted by  
44, 1945, s. 6.

6f. (1) A board may—

- (a) appoint local committees, each consisting of not more than five persons, to conduct inquiries, investigations and negotiations connected with the work of the board;
- (b) assign to any local committee an area within which it shall operate;
- (c) remove any member of any local committee and appoint another member in his stead;
- (d) by resolution refer matters to any local committee for inquiry, investigation, and report.

Local  
committees.  
S. 6f enacted by  
44, 1945, s. 6.

<sup>1</sup> Now Public Service Act, 1967-1975.

(2) A member of a board shall not be appointed as a member of a local committee.

(3) A local committee may submit reports to the board on any matter relating to soil conservation.

Powers of entry of boards.  
S. 6g enacted by 44, 1945, s. 6.

**6g.** Every member or officer of a board or local committee shall have the same powers as are conferred on a member of the Committee by section 7 of this Act; and that section shall be construed as if it expressly applied to the members and officers of a board or local committee.

Powers of boards to secure evidence.  
S. 6h enacted by 44, 1945, s. 6.

**6h.** (1) For the purpose of obtaining information required for purposes of this Act a board may—

- (a) by summons signed on behalf of the board by a member or officer of the board require any person to attend before the board and, if the summons so requires, to produce to the board any books, papers or documents;
- (b) inspect any books, papers or documents produced before it and retain them for reasonable periods and make copies of them or any of their contents;
- (c) examine witnesses on oath or affirmation, which may be administered by any member of the board.

(2) If a person—

- (a) who has been personally served with a summons under this section, does not comply therewith; or
- (b) being called as a witness before the board, refuses to take an oath or affirmation; or
- (c) being before the board refuses to answer any relevant question put to him by the board,

he shall be guilty of an offence and liable to a fine not exceeding one hundred dollars<sup>1</sup>.

(3) A summons under this section may be served in any manner prescribed in section 17 of this Act.

Procedure of board and majority decisions.  
S. 6i enacted by 44, 1945, s. 6.

**6i.** Subject to this Act, the business of a board shall be conducted in such manner and at such times and places as the board may determine; but no decision of the board on or in relation to any application for a soil conservation order shall be valid unless concurred in by a majority of the whole number of members of the board.

Heading enacted by 13, 1960, s. 5.

### *Drifting Sand*

Causing sand to drift.  
S. 6j enacted by 13, 1960, s. 5.

**6j.** (1) A person shall not by cultivation, burning off or stock grazing on any land create on that land conditions as a result of which sand drifts from that land to any other land and detriment or damage to such other land or loss to any other person is caused.

(2) A person who commits a breach of subsection (1) of this section shall be guilty of an offence and on conviction shall be liable to a penalty of two hundred dollars<sup>1</sup>.

<sup>1</sup> Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

*Powers for Soil Conservation*

7. (1) Any of the following persons, namely, the Minister, any member of the Committee or any person authorized in writing by the Minister may, for the purpose of or in connection with the exercise or performance of any power, authority, duty or function conferred or imposed by or under this Act, or for the purpose of deciding whether to exercise or perform any such power, authority, duty, or function—

Power of entry.

- (a) enter upon any land:
  - (b) make any survey, inspection or investigation of or upon any land:
  - (c) place, erect, or make on any land any peg or mark which he deems to be necessary.
- (2) Any person who—
- (a) prevents the Minister, any member of the Committee, or any person authorized as aforesaid from making any such survey, inspection, or investigation or from placing, erecting, or making any pegs or marks on any land; or
  - (b) obstructs or hinders the Minister or any such member or person in making any such survey, inspection, or investigation or in placing, erecting, or making any pegs or marks on any such land; or
  - (c) removes or interferes with any peg or mark placed, erected, or made on land under this section,

shall be guilty of an offence and liable to a fine not exceeding one hundred dollars<sup>1</sup>.

(3) This section shall not be construed so as to take away or abridge any power conferred on any person by the Compulsory Acquisition of Land Act, 1925<sup>2</sup>, but the powers conferred by this section shall be in addition to those conferred by the said Act.

8. (1) The Minister may, for the purpose of the creation of soil conservation reserves, or of the exercise or performance of any power, authority, duty, or function, conferred or imposed on any person by this Act, acquire any land by purchase or compulsory process.

Power to acquire land.

(2) Any provision in any lease, agreement, or licence by which a power of resuming land comprised in such lease, agreement, or licence for public purposes is conferred on the Governor or any Minister of the Crown shall be deemed to confer power to resume such land for the creation of soil conservation reserves or for the exercise or performance of any power, authority, duty, or function conferred or imposed on any person by this Act.

9. (1) The Governor may by proclamation—

- (a) declare any land acquired or resumed under this Act or any land resumed under any other power to resume land for public purposes, or any other land which belongs to the Crown and is not subject to any lease, agreement or licence, to be a soil conservation reserve:
- (b) add any land, being land such as is described in paragraph (a), to any soil conservation reserve:

Power to declare soil conservation reserve.

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

<sup>2</sup> The Compulsory Acquisition of Land Act, 1925, and its amendments have been repealed and superseded by the Land Acquisition Act, 1969 (now Land Acquisition Act, 1969-1972).



(c) declare that any land shall be excluded from any soil conservation reserve:

(d) revoke any proclamation in force under this section.

(2) Every soil conservation reserve shall be under the control and management of the Minister, and the Minister shall manage and control every such reserve in such manner as he thinks will best conserve the soil of such reserve and prevent injury to any other land.

(3) If any person without the consent of the Minister—

(a) removes from any soil conservation reserve the whole or any part of any tree, shrub, grass or other plant whatever; or

(b) injures or destroys any tree, shrub, grass or other plant on any soil conservation reserve; or

(c) places any stock or causes or permits any stock to be placed, on any soil conservation reserve, or permits any stock to trespass upon any soil conservation reserve,

he shall be guilty of an offence and liable to a fine not exceeding one hundred dollars<sup>1</sup>.

Execution of  
works for soil  
conservation.

10. The Minister may on any land construct or execute any fences, contour banks, channels, or other works or do any act or thing which in the opinion of the Minister it is necessary or expedient to construct, execute or do for the purpose of conserving the soil of any land or for the purpose of conducting research into the causes and modes of prevention of soil erosion.

S. 10a enacted  
by 37, 1943,  
s. 3; repealed by  
44, 1945, s. 7.

\* \* \* \* \*

Loans and  
grants for soil  
conservation.

11. (1) The Minister may make grants or loans of money to any body or person for any of the following purposes:—

(a) fencing any land so as to protect the vegetation thereon for the purpose of conserving the soil:

(b) constructing contour banks, dams, channels and any other works for preventing the erosion of soil by water or otherwise:

(c) purchasing, planting and maintaining trees, shrubs, plants, or grasses for the purpose of conserving the soil:

(d) executing any other works or doing any other act or thing which in the Minister's opinion it is necessary or expedient to execute or do for the purpose of conserving the soil of any land:

(e) research into the causes and modes of prevention of soil erosion.

(2) Any grant or loan made under this section shall be made upon such terms and conditions, and in the case of a loan, upon such security (if any) as the Minister thinks fit.

(3) Any money repayable in respect of any loan under this section shall be deemed to be a debt due to the Crown, and may be recovered on behalf of the Crown by the Minister by action. In any such action it shall be sufficient to describe the plaintiff by his ministerial title without any further name or description.

<sup>1</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

12. (1) For the purpose of preventing the erosion of soil the Minister may from time to time, by notice in the *Government Gazette*—

Control of use  
of stock routes,  
etc.  
Subsec. (1)  
substituted by  
37, 1943,  
s. 4 (1).

- (a) prohibit the driving of stock on any road, travelling stock reserve, or stock route or part of a road, travelling stock reserve, or stock route specified in the notice:
- (b) prohibit the driving of stock by any person whomsoever upon any land specified in the notice:
- (c) prohibit the driving of stock on any road, travelling stock reserve, or stock route or part of a road, travelling stock reserve, or stock route specified in the notice except in the circumstances or subject to the conditions or restrictions specified in the notice:
- (d) prohibit the driving of stock by any person whomsoever upon any land specified in the notice except in the circumstances or subject to the conditions or restrictions specified in the notice.

(2) The Minister shall not publish in the *Government Gazette* under subsection (1) of this section—

Subsec. (2)  
substituted by  
37, 1943,  
s. 4 (1).

- (a) any notice relating to a road, travelling stock reserve, or stock route or any part thereof within a hundred or relating to any land within a hundred except upon the recommendation of the Land Board:
- (b) any notice relating to a road, travelling stock reserve, or stock route or any part thereof not within a hundred or relating to any land not within a hundred except upon the recommendation of the Pastoral Board:
- (c) any notice relating to any road, travelling stock reserve, or stock route or any part thereof or relating to any land, unless the Minister is satisfied either—
  - (i) that there is a practicable route for the driving of stock alternative to the road, travelling stock reserve, stock route or part thereof or land to which the notice relates:  
or
  - (ii) that in lieu of being driven on the road, travelling stock reserve, stock route or part thereof or land to which the notice relates, the stock can conveniently be transported by some means.

(3) Every such notice shall specify the day on which it comes into operation, being a day not earlier than fourteen days from the publication of the notice in the *Gazette* and the period or periods for which it will remain in operation, and shall have effect accordingly.

(4) If any person drives any stock or causes any stock to be driven in contravention of any such notice he shall be guilty of an offence and liable to a fine not exceeding two hundred dollars<sup>1</sup>.

(5) In this section "stock route" means stock route as defined by section 99 of the Pastoral Act, 1936-1939<sup>2</sup>.

Subsec. (5)  
inserted by 37,  
1943, s. 4 (2).

<sup>1</sup> Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

<sup>2</sup> Now Pastoral Act, 1936-1974.

Notice of  
intention to  
clear.  
S. 12a enacted  
by 44, 1945,  
s. 8.  
Subsec. (1)  
substituted by  
32, 1947, s. 3

**12a.** (1) A person shall not destroy any vegetation on any scrub land until the expiration of three months after he has given the Soil Conservator notice in writing of his intention to do so:

Provided that this subsection shall not apply to—

- (a) the cutting of trees for firewood, posts, or timber;
- (b) the burning of standing scrub.

(2) A person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding two hundred dollars<sup>1</sup>.

Subsec. (3)  
substituted by  
32, 1947, s. 3.

(3) In this section "scrub land" means land on which there exists—

- (a) the whole or substantially the whole of the natural vegetation; or
- (b) the whole or substantially the whole of the natural vegetation remaining after the cutting of trees for firewood, posts, or timber, or the burning of standing scrub.

(4) This section shall not apply to the clearing of land—

- (a) for fire-breaks;
- (b) for afforestation;
- (c) for the construction of public works and roads;
- (d) in any area declared by proclamation to be exempt from this section.

(5) The Governor may by proclamation—

- (a) declare that any area defined or described in the proclamation shall be exempt from this section;
- (b) vary or revoke any proclamation for the time being in force under this sub-section.

Protection of  
trees.

**13.** (1) If the Minister is of opinion that for the purpose of preventing the erosion of soil it is desirable that the trees upon any land should not be cut down or otherwise destroyed or injured, he may serve a notice upon the owner of that land, and if the owner is not the occupier, upon the occupier also—

- (a) setting out his said opinion; and
- (b) inviting the person upon whom the notice is served to make representations to him, not later than a day specified in the notice, for the purpose of showing cause why an order should not be made forbidding the cutting down or other destruction or injury of trees on land specified in the notice, without the consent of the Minister.

(2) A person on whom a notice is served under subsection (1) shall not, during the period between the service of the notice and the service upon him of an order or notice under subsection (4) of this section, cut down, destroy or injure any trees upon the land specified in the first mentioned notice, and if he does so he shall be guilty of an offence and liable to a fine not exceeding two hundred dollars<sup>1</sup>.

(3) After service of a notice or notices as mentioned in subsection (1) in relation to any land and after hearing and considering any representations made pursuant to the notice or notices the Minister may, if he thinks fit, make an order that trees upon the said land shall not be cut down or otherwise

<sup>1</sup> Pursuant to s. 8 of the Acts Republication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

destroyed or injured during the period specified in the order except in such circumstances or with such consents (if any) as may be specified in the order.

(4) The order shall be served upon the owner of the land to which it relates, and if the owner is not the occupier, upon the occupier also. If the Minister decides not to make an order he shall forthwith after making that decision serve notice thereof on the owner of the land to which the decision relates and, if the owner is not the occupier, upon the occupier also.

(5) If any person upon whom such an order is served contravenes the order in any way, he shall be guilty of an offence and liable to a fine not exceeding two hundred dollars<sup>1</sup>.

(6) The Minister may give his consent to the cutting down or other destruction of or injury to any trees upon condition that the person to whom the consent is given will within a time specified by the Minister plant other trees to the number and of the kind required by the Minister, in replacement of any trees cut, destroyed, or injured pursuant to the consent.

If any person who has cut down, destroyed or injured any tree pursuant to a consent given upon condition as mentioned in this section, fails to comply with that condition, he shall be guilty of an offence and liable to a fine not exceeding two hundred dollars<sup>1</sup>.

(7) The Minister may if he thinks fit give notices and make orders under this section in relation to shrubs, plants, or grasses or any class of any of them, either in substitution for, or in addition to trees, and in any such case this section shall apply to such shrubs, plants and grasses, and the term "trees" as used in this section, shall be deemed to include such shrubs, plants or grasses.

\* \* \* \* \*

S. 13a enacted by 37, 1943, s. 5; amended by 44, 1945, s. 9; repealed by 32, 1947, s. 4.

### *Soil Conservation Orders*

Heading enacted by 44, 1945, s. 10.

13b. (1) A board shall have jurisdiction to make a soil conservation order in any case where land within the district of that board is likely to be damaged by, or as a result of—

Applications for soil conservation orders.  
S. 13b enacted by 44, 1945, s. 10.

- (a) any agricultural or pastoral practices or methods, which have been or are likely to be adopted on that land, or on any other land whether within the district of the board or not; or
- (b) the clearing or intended clearing of that land or of any other land, whether within the district of the board or not; or
- (c) failure on the part of any person to take reasonable precautions to prevent erosion or drift of soil or sand on that land or any other land whether within the district of the board or not.

(2) Any of the following persons may apply for a soil conservation order, namely:—

- (a) any owner or occupier or mortgagee of land likely to be damaged as mentioned in subsection (1) of this section;
- (b) the Minister or a local committee, whether he or it is the owner or occupier of any such land or not.

<sup>1</sup> Pursuant to s. 8 of the Acts Reproduction Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

(3) A local committee appointed under section 6f of this Act may with the written approval of any owner or occupier in its own name make and conduct an application on behalf of that owner or occupier, if the local committee considers it in the public interest to do so. In any such case the owner or occupier on behalf of whom the application is made shall be subject to any soil conservation order made by the board as if he had made the application in his own name.

(4) Any owner or occupier of land on which acts or omissions likely to cause damage to land of which the applicant is the owner, occupier or mortgagee may be made a respondent to any application.

(5) Every application shall be in writing and shall contain—

- (a) the name and address of the applicant;
- (b) a description of the land which is alleged to be likely to be damaged;
- (c) the nature of the estate or interest of the applicant in the land mentioned in paragraph (b);
- (d) the name and address of the respondent;
- (e) a description of the land on which acts or omissions likely to cause damage to the land specified in paragraph (b) of this subsection, have been done or have taken place, or are likely to be done or take place;
- (f) the nature of the estate or interest of the respondent in the land mentioned in paragraph (e);
- (g) particulars of the order asked for, or a request that the board shall make such order as it deems proper in the circumstances.

(6) The applicant shall serve on the respondent a copy of his application and shall give notice to the board that he has done so.

Notice to persons interested.  
S. 13c enacted by 44, 1945, s. 10.

**13c.** (1) The board may order that any owner or occupier of the land on which acts or omissions likely to cause damage, are alleged to have been done or taken place, or to be likely to be done or take place, and who is not named in the application as a respondent, shall be served with notice of the application and shall be a respondent to the application.

(2) The board shall serve notice of the application on every mortgagee of the said land and shall give every such mortgagee an opportunity to be heard by the board concerning the order to be made; but an order shall not be made against a mortgagee unless he is in possession of the said land by himself or his tenant.

Preliminary negotiations.  
S. 13d enacted by 44, 1945, s. 10.

**13d.** The board may refuse to consider any application unless it is satisfied that the applicant has made reasonable efforts to settle the matter in dispute between himself and the respondent by negotiations. The board may postpone the consideration of any application to enable the applicant to conduct such negotiations.

Procedure on applications.  
S. 13e enacted by 44, 1945, s. 10.

**13e.** (1) Subject to section 13d of this Act, upon receipt of the application the board shall—

- (a) fix a time and place for hearing the applicant and the respondent and their witnesses and give notice thereof to the parties;

(b) obtain a report on the application from an officer of the Soil Conservation Branch of the Department of Agriculture<sup>1</sup>.

(2) After considering all matters submitted to it by the parties and the report of the said officer, the board in its discretion may—

(a) if it finds that just cause exists for so doing, make a provisional soil conservation order; or

(b) make a provisional order dismissing the application.

(3) A provisional soil conservation order may order all or any of the following things:—

(a) that the respondent adopt or refrain from adopting any agricultural or pastoral methods or practices specified in the order;

(b) that the respondent refrain from clearing any land specified in the order;

(c) that the respondent take such action as is specified in the order, for preventing the erosion, drift, or movement of soil, sand, or water on or from any land specified in the order;

(d) if there are two or more respondents in respect of the same land, that the cost of complying with the order or any losses arising from such compliance be apportioned between the respondents, or that one or more respondents shall contribute to the other or others a specified share of that cost or those losses;

(e) that the obligations placed on the respondent by the order shall be subject to a condition that the applicant will bear some part of the costs of complying with the order or of the losses arising from such compliance;

(f) any other matter incidental to the foregoing.

**13f.** (1) When an application for a soil conservation order has been made to a board, the chairman of the board may after making such inquiries as he thinks necessary, make an interim soil conservation order which may contain any such provisions as the board could include in an order pursuant to this Act.

Interim orders.  
S. 13f enacted  
by 44, 1945,  
s. 10.

(2) Any such interim order shall remain in force until the application has been finally dealt with, or for any shorter period specified in the order, and shall contain only such provisions as are necessary for preventing damage to land during the hearing of the application.

(3) The provisions of section 13j of this Act shall apply to interim orders made under this section.

**13g.** (1) A provisional order shall have no force or effect until confirmed by the Committee or by the Chairman of the Committee on behalf of the Committee.

Confirmation of  
orders.  
S. 13g enacted  
by 44, 1945,  
s. 10.

(2) Upon the making of a provisional order the board shall forthwith send copies thereof to the parties and to the Chairman of the Committee.

(3) Every provisional order shall contain a statement that the order is subject to confirmation by the Committee and that the parties have the right to make representations to the Committee objecting to the confirmation of the

<sup>1</sup> For interpretation of reference to Department of Agriculture see proclamation under Public Service Act, 1967-1975: Gaz. 6th November, 1975, p. 2340.

order, at any time before a date to be specified therein, being at least fourteen days after the making of the order.

(4) As soon as practicable after the expiration of the period specified in the provisional order, and after considering any representations made to it during that period the Committee shall confirm, vary, or quash the order or make any order which the Committee considers should have been made by the board.

Provided that if no representations are so made during that period the chairman of the Committee may confirm the order on behalf of the Committee.

(5) An order confirmed, varied or made by the Committee or the Chairman of the Committee shall not be subject to any appeal.

Devolution of liabilities of respondents under orders.  
S. 13h enacted by 44, 1945, s. 10.

**13h.** (1) Except as provided in this section a soil conservation order shall be binding on the respondent only and not on his successors in title.

(2) A soil conservation order may contain a provision that upon registration it shall be binding on the successors in title of the respondent.

(3) Where a soil conservation order relates to land which is subject to the provisions of the Real Property Act, 1886-1945<sup>1</sup>, and contains a provision that upon registration it shall be binding on the successors in title of the respondent—

(a) the Minister may serve on the Registrar-General a copy of the order accompanied by a statement signed by the Minister describing the land to which the order relates; and

(b) the Registrar-General shall thereupon enter a memorial of the order on the original certificate of title to that land and on the duplicate certificate if it is at any time produced to him.

(4) Where a soil conservation order relates to land which is not subject to the provisions of the Real Property Act, 1886-1945<sup>1</sup>, and contains a provision that upon registration it shall be binding on the successors in title of the respondent, the Minister may produce the order for registration under Part II of the Registration of Deeds Act, 1935<sup>2</sup>, together with a memorial of the order prescribed by that Part, and the Registrar-General of Deeds shall register the order accordingly.

(5) The liabilities and rights (if any) of a respondent under a soil conservation order registered under this section, shall pass to and may be enforced against or by the successors in title of the respondent, and all such persons shall be deemed to have notice of the order.

Devolution of applicants' rights under orders.  
S. 13i enacted by 44, 1945, s. 10.

**13i.** The rights and liabilities (if any) of an applicant under a soil conservation order shall pass to and may be enforced by or against his successors in title.

Enforcement of orders.  
S. 13j enacted by 44, 1945, s. 10.

**13j.** (1) If a person bound by an order contravenes or fails to comply with the order he shall be guilty of an offence and liable to a fine of not more than two hundred dollars<sup>3</sup>.

<sup>1</sup> Now Real Property Act, 1886-1975.

<sup>2</sup> Now Registration of Deeds Act, 1935-1973.

<sup>3</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

(2) If a person bound by an order fails to do any act or work which the order requires him to do, any person authorized by the Committee, with or without assistants—

(a) may do that act or work and all acts and work incidental thereto, including such acts and work as, in the opinion of the Committee, are or would become necessary or desirable through such failure;

Para. (a)  
amended by 13,  
1960, s. 6.

(b) for the purpose of doing such acts or work may, with or without plant and equipment, enter, remain upon, and pass and repass over, any land.

(3) Any expense incurred by the Committee in exercising its powers under this section shall be a debt due to the Crown by any person who was liable under the order to do the act or work done by the Committee, and may be recovered by the Attorney-General by action in any court of competent jurisdiction.

(4) If a person bound by a soil conservation order fails to comply therewith, and damage is caused to the land of the applicant which would not have been caused if the order had been complied with, the applicant shall have a right of action against that person for damages.

**13k.** (1) The committee may give notice to the Registrar-General that any amount is owing to the committee pursuant to section 13j of this Act, in respect of any land specified in the notice, and upon receipt of such a notice the Registrar-General shall register it by making a memorandum of charge in the register book or register of Crown leases. Thereupon the amount specified in the notice 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 committee fixes with the approval of the Minister, shall become a first charge on the land mentioned therein and shall rank in priority to all other mortgages, charges and encumbrances on that land except mortgages and charges created in favour of the Crown before the notice was registered.

Expense to be a  
charge on land.  
S. 13k enacted  
by 44, 1945,  
s. 10.

(2) If default is made in the payment of any amount in respect of which a notice is registered under this section or the interest on that amount, the committee shall have in respect of the land referred to in the memorandum of charge the same powers as are given by the Real Property Act, 1886-1945<sup>1</sup>, to a mortgagee under a mortgage in respect of which default has been made in the payment of principal.

(3) When the amount for which a notice is registered under this section has been fully paid the committee shall give notice in writing of that fact to the Registrar-General who shall thereupon enter in the register book or the register of Crown leases a memorandum of removal of the charge.

(4) If the land in respect of which any expense was incurred under section 13j of this Act is not under the Real Property Act, 1886-1945<sup>1</sup>, the committee may register in the General Registry Office a memorial of the amount of such expense due and owing to the committee and thereupon the expense shall become a first charge on the land ranking in the order of priority mentioned in subsection (1) of this section.

(5) Any notice under this section may be signed on behalf of the committee by the chairman or secretary thereof.

(6) Expense incurred under section 13j of this Act shall be deemed to have been incurred in respect of the whole of the farm, pastoral holding, or other

<sup>1</sup> Now Real Property Act, 1886-1975.



area of land, on which the acts or work for which the expense was incurred, was done.

Right of mortgagee to add expense to amount secured by mortgage.  
S. 13l enacted by 44, 1945, s. 10.

**13l.** (1) If a person liable to pay the committee the amount of any expense incurred under section 13j of this Act fails to pay that amount upon demand made by or on behalf of the committee, any mortgagee of the land in respect of which the expense was incurred, may pay to the committee the amount of that expense and thereupon that amount shall be added to and form part of the principal sum secured by the mortgage of that mortgagee.

(2) If a mortgagee incurs expense in complying with any obligations imposed on him by a soil conservation order, the amount of that expense shall be added to and form 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 under this section shall be payable on that date; and where a principal sum is payable by instalments each instalment shall be 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) Any amount added to a principal sum pursuant to this section shall bear interest at the same rate as that principal sum.

Discharge of orders.  
S. 13m enacted by 44, 1945, s. 10.

**13m.** (1) An order discharging any soil conservation order may be made under this section if the soil conservation order has been fully complied with or is no longer necessary, or any other just cause exists for discharging it.

(2) Any person interested may apply to the board which made the soil conservation order, for an order discharging that order. If the board which made a soil conservation order has ceased to exist, or if the order was made by the Soil Conservator under section 13n of this Act the application may be made to the Soil Conservator.

(3) The board or the Soil Conservator, after inquiring into the application, may make an order discharging the soil conservation order, or dismissing the application. An order so made shall not be subject to appeal.

(4) An order discharging a soil conservation order may be registered in the same manner as a soil conservation order may be registered under section 13h of this Act.

Soil conservation orders where land outside districts.  
S. 13n enacted by 44, 1945, s. 10.  
Subsec. (1) substituted by 32, 1947, s. 5; amended by 13, 1960, s. 7 (a).

**13n.** (1) As regards any land which—

(a) is not within a soil conservation district; or

(b) is within a soil conservation district for which no board exists,

any person may apply to the Soil Conservator for a soil conservation order in any case when if the land were within a soil conservation district for which a board existed, he could apply to that board for such an order.

(2) Upon any such application the Soil Conservator shall have the same jurisdiction and powers to hear and determine the application and make a provisional order as a board would have if the land were within its district; and the provisions of sections 13b to 13m inclusive shall apply with the necessary modifications to every such application and to proceedings thereon and any provisional or other order made thereon.

Subsec. (3) inserted by 13, 1960, s. 7 (b).

(3) With respect to any land referred to in subsection (1) of this section, the Minister may, after such inquiry as he thinks fit, make a provisional soil

conservation order in any case where, if the land were within a soil conservation district for which a board existed, he could apply to that board for such an order.

(4) A provisional order referred to in subsection (3) of this section shall not be made unless each owner or occupier and each mortgagee of the land has been given an opportunity to make representations to the Minister.

Subsec. (4)  
inserted by 13,  
1960, s. 7 (b).

(5) The provisions of subsection (3) of section 13e, sections 13g and 13h, subsections (1), (2), and (3) of section 13j, and sections 13k to 13m, inclusive, shall apply with necessary modifications to and with respect to every provisional order referred to in subsection (3) of this section and in so far as those provisions so apply—

Subsec. (5)  
inserted by 13,  
1960, s. 7 (b).

- (a) any reference in those provisions to a provisional soil conservation order shall be construed as a reference to a provisional soil conservation order made or capable of being made by the Minister pursuant to this section;
- (b) any reference in those provisions to a respondent or to respondents shall be construed as a reference to the person or the persons to whom a provisional soil conservation order so made by the Minister is directed;
- (c) any reference to the board in section 13g shall be construed as a reference to the Minister;
- (d) any reference to the Soil Conservator in section 13m shall be construed as a reference to the Minister; and
- (e) any reference to a soil conservation order in section 13m shall be construed as a reference to a provisional soil conservation order made by the Minister pursuant to this section whether or not such order has been confirmed by the Committee.

\* \* \* \* \*

S. 13a enacted  
by 44, 1945,  
s. 10;  
amended by 32,  
1947, s. 6;  
repealed by 39,  
1965, s. 2 (1st  
Sched.).

#### *Amendment of the Pastoral Act, 1936*

14. The following section is enacted and inserted in the Pastoral Act, 1936, after section 44 thereof:—

Enactment of  
s. 44a of  
Pastoral Act—

44a. (1) Every lease granted after the passing of the Soil Conservation Act, 1939, shall contain such terms, covenants and conditions as are recommended by the board and approved by the Commissioner for restricting the number of stock to be depastured on the land comprised in the lease.

Over stocking.

(2) Every lease, whether granted before or after the passing of the Soil Conservation Act, 1939, shall be deemed to contain a covenant that the lessee will comply with any notice given under subsection (3) of this section.

(3) If the board is of opinion that the lessee of any such lease is depasturing on the land included in his lease such a number of stock that the land is likely to be permanently injured thereby, the Commissioner may by notice in writing require the lessee within the time specified in the notice to reduce the number of stock so depastured to the number specified in the notice and to comply with any other restrictions

specified in the notice as to the stocking of such land, and if the lessee fails to comply with the terms of the notice the Commissioner may forfeit the lease as if the lessee had been guilty of a breach of a covenant contained therein.

### *Miscellaneous Provisions*

Summary  
proceedings.

15. Proceedings for offences against this Act shall be disposed of summarily.

Financial  
provision.

16. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated by Parliament for those purposes.

Service of  
notices and  
orders.

17. (1) A notice or order shall be duly served for the purposes of this Act if it has been—

- (a) served personally on the person on whom it is to be served; or
- (b) left at the usual or last known place of abode or business of that person; or
- (c) sent by registered post to that person, addressed to him at his usual or last known place of abode or business.

(2) If—

- (a) any person required to be served with a notice or order is absent from the State or cannot be found after diligent enquiry; or
- (b) in the case of a body corporate, the place of business of that body corporate cannot be found after diligent enquiry,

the notice or order shall be deemed to be duly served if it is affixed on some conspicuous part of the land to which it relates.

Regulations.

18. The Governor may make regulations—

- (a) prescribing any matters (in addition to those contained in this Act) necessary or convenient to be prescribed for the prevention of soil erosion:
- (b) prescribing any matters necessary or convenient to be prescribed for the control and protection of soil conservation reserves:

Para. (b1)  
inserted by 37,  
1943, s. 6;  
struck out by 44,  
1945, s. 11.

\* \* \* \* \*

- (c) prescribing any matters necessary or convenient to be prescribed for the purpose of the administration of this Act:
- (d) prescribing fines recoverable summarily and not exceeding one hundred dollars<sup>1</sup> for breach of any regulations.

Annual report  
to Parliament.  
S. 19 enacted by  
37, 1943, s. 7.

19. The Minister shall, within three months after the close of every financial year, prepare a report of the administration of this Act by the Minister and the proceedings of the committee during that financial year. Every such report shall be laid before both Houses of Parliament.

<sup>1</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.