

## SOIL CONSERVATION ACT.

## Act No. 10, 1938.

An Act to make provision for the conservation of soil resources and for the mitigation of erosion; for these and other purposes to amend the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith. [Assented to, 13th October, 1938.]

George VI.  
No. 10, 1938.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

## PART I.

## PRELIMINARY.

**1.** (1) This Act may be cited as the "Soil Conservation Act, 1938."

Short title  
and  
commence-  
ment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**2.** This Act is divided into Parts as follows :—

Division  
into Parts.

PART I.—PRELIMINARY—ss. 1-3.

PART II.—SOIL CONSERVATION SERVICE—ss. 4-15.

PART III.—AREAS OF EROSION HAZARD—ss. 16-18.

PART IV.—PROCLAIMED WORKS AND CATCHMENT  
AREAS IN CONNECTION THEREWITH—ss. 19-22.

PART V.—GENERAL—ss. 23-32.

PART VI.—REGULATIONS—ss. 33-36.

PART VII.—AMENDMENT OF VARIOUS ACTS—s. 37.

SCHEDULES.

**3.**

No. 10, 1938

Definitions.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

“Director” means the Director of the Soil Conservation Service appointed under this Act.

“Owner,” in relation to land, includes every person who jointly or severally, whether at law or in equity—

(a) is entitled to the land for any estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Acts or any other Act relating to the alienation of lands of the Crown; or

(c) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee or mortgagee in possession; or

(d) is the holder of any lease granted under the Crown Lands Acts or any other Act relating to the disposition of lands of the Crown.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Schedule” means Schedule to this Act.

“Statutory Corporation” includes the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Supply and Sewerage Board, the Commissioner for Railways, the Commissioner for Main Roads, the Commissioner for Road Transport and Tramways, the Reclamation Trust of New South Wales, the Maritime Services Board of New South Wales, the Water Conservation and Irrigation Commission, the Forestry Commission of New South Wales, and any county, municipal or shire council.

PART II.

SOIL CONSERVATION SERVICE.

4. (1) The Governor may, under and subject to the Director. Public Service Act, 1902, as amended by subsequent Acts, appoint a person to be the Director of the Soil Conservation Service.

(2) The Director shall, subject to the control of the Minister, exercise and discharge the powers, authorities, duties and functions conferred and imposed upon him by or under this Act.

5. (1) The Governor may, under and subject to the Officers and employees. Public Service Act, 1902, as amended by subsequent Acts, appoint and employ such officers and employees as may be necessary for the execution of this Act.

(2) For the purpose of this Act the Minister may, with the approval of the Minister of the department concerned, on such terms as may be arranged, make use of the services of any of the officers or employees of any Government department.

(3) For the purposes of this Act the Minister may, with the approval of the statutory corporation concerned, on such terms as may be arranged, make use of the services of any of the officers, employees or servants of any statutory corporation.

6. (1) With a view to conserving the soil resources of the State and protecting catchment areas the Director may of his own motion, and shall, if so directed by the Minister, conduct experimental and research work in connection with soil conservation and erosion mitigation and in connection with any other purpose contemplated by this Act. Experimental and research work.

(2) Without prejudice to the generality of subsection one of this section the Director may, in connection with any such work, make such surveys and investigations as he may deem necessary.

7. The Director shall conduct such investigations relative to any special aspect of erosion as may be required by the Minister. Power of Minister to direct special investigations.

8.

**Soil Conservation Act.**

No. 10, 1938.

Power of  
Minister to  
direct or  
authorise the  
making of  
surveys, etc.Publication  
of  
information.

Project.

**8.** The Minister may authorise or direct the making of any survey or the carrying out of any investigation or other operations which he considers necessary or desirable for giving effect to any of the purposes of this Act.

**9.** The Director may—

- (a) publish such information as he may think necessary of the results of any experimental or research work conducted under this Act;
- (b) conduct demonstrations of methods of soil conservation or erosion mitigation in any part of the State;
- (c) carry into effect projects in any part of the State.

**10.** (1) The Director shall prepare and forward to the Minister a scheme or schemes of operations for the purpose of soil conservation or erosion mitigation or for any other purpose contemplated by this Act—

- (a) in respect of each of the catchment areas constituted under this Act—as soon as practicable after the commencement of this Act;
- (b) in respect of any catchment area notified under this Act—as soon as practicable after the notification of such catchment area;
- (c) in respect of the area of erosion hazard constituted under this Act—as soon as practicable after the commencement of this Act;
- (d) in respect of any area of erosion hazard notified under this Act—as soon as practicable after the notification of such area of erosion hazard.

(2) The Director may prepare and forward to the Minister a scheme of operations for the purpose of soil conservation or erosion mitigation or for any other purpose contemplated by this Act in respect of any land not being an area mentioned in subsection one of this section.

(3) Each scheme of operations shall—

- (a) indicate the lands proposed to be dealt with under the scheme;
- (b) indicate generally the nature and class of operations to be carried out on those lands.

(4) The Minister may submit the scheme of operations to the Governor for his approval.

(5)

(5) A scheme of operations which has been approved by the Governor in accordance with this section is in this Act referred to as a "project."

No. 10, 1938.

**11.** (1) Where a project has been instituted the Minister may, on behalf of His Majesty, enter into such agreements with all or any of the respective owners, occupiers or mortgagees of the lands proposed to be dealt with under the project as may be necessary to ensure the carrying into effect of the project.

Agreements  
relative to  
projects.

(2) The instrument evidencing any such agreement may be executed by the Director for the Minister.

(3) Where an owner who has entered into an agreement under this section is the holder of land of any tenure under any Act relating to the disposition of lands of the Crown, no act, matter or thing which such owner, under or in conformity with such agreement, does or abstains from doing upon or in relation to his land, shall render such land liable to forfeiture under any such Act merely by reason of the fact that the doing or abstaining from the doing of such act, matter or thing constitutes a breach or non-performance of any covenant, condition or provision applicable to such land under any such Act.

**12.** The Minister may, out of moneys provided by Parliament—

Advances  
and  
payments.

- (a) make an advance, upon such security and at such rate of interest and subject to such covenants, conditions and provisions as he may think fit, to any owner or occupier of land proposed to be dealt with under a project who has, pursuant to this Act, entered into an agreement, for the purpose of enabling such owner or occupier to carry out his obligations under such agreement;
- (b) pay any costs or expenses incurred—
  - (i) in carrying any project into effect;
  - (ii) under any arrangement made pursuant to section thirteen of this Act;
  - (iii) in carrying out any works under subsection one of section fourteen or under section seventeen of this Act.

**13.**

No. 10, 1938.

Carrying out of works by Government departments and statutory bodies.

**13.** The Minister may arrange with the Minister of any Government department or with any statutory corporation for the carrying out by such department or statutory corporation of any work required or authorised by or under this Act to be carried out by the Minister or the Director.

Carrying out of works by Minister or Director.

**14.** (1) The Minister may carry out or authorise the Director to carry out any work in connection with soil conservation or erosion mitigation or in connection with any other purpose contemplated by this Act whether or not such work is for the purpose of giving effect to a project.

(2) The Minister shall be deemed to have authorised the carrying out of any work required or authorised to be done by an owner, occupier or mortgagee of any land under any agreement made pursuant to this Act.

(3) Where any work referred to in this section or in section thirteen or section eighteen of this Act is constructed or used or is proposed to be constructed or used for the purpose of—

- (a) water conservation, irrigation, water supply or drainage; or
- (b) the prevention of inundation of land and overflow of water thereon; or
- (c) changing the course of a river,

such work shall be carried out under the authority of a license or permit issued pursuant to Part II of the Water Act, 1912-1936:

Provided that the Water Conservation and Irrigation Commission may, in any case where, in its opinion, the circumstances so warrant, authorise the carrying out of such work without any such license or permit.

Where any such authority is given the provisions of Part II of the Water Act, 1912-1936, relating to licenses or permits, shall not apply to or in respect of the construction or use of the work referred to in any such authority.

Power of entry.

**15.** (1) The Director or any officer or employee may, in the exercise or performance of any power, authority, duty or function conferred or imposed upon him by or under this Act, enter any land, and make such surveys, place

place such marks, and carry out such investigations thereon (including the taking of specimens of soil) as he may deem necessary. No. 10, 1938.

(2) Where the exercise or performance of any power, authority, duty or function conferred or imposed upon the Director or any officer or employee by or under this Act requires the making of an entry upon any land by the Director or by any officer or employee, the Director or such officer or employee shall be furnished with an authority card in the prescribed form.

Any such authority card may be general or may be limited to specified land or to land in any specified part of the State.

Production of any such authority card shall be evidence of the authority of the bearer thereof to enter any land to which such authority card relates and to make surveys, place marks and carry out investigations thereon.

(3) Any person who—

- (a) obstructs or hinders the Director or any officer or employee from making any survey, placing any mark, or carrying out any investigation authorised by this section; or
- (b) removes or interferes with any mark placed on land under the authority of this section,

shall be liable to a penalty not exceeding five pounds.

### PART III.

#### AREAS OF EROSION HAZARD.

**16.** That part of the State of New South Wales which forms the catchment area of the Snowy River and its tributaries shall be an area of erosion hazard.

Snowy River  
catchment  
to be an  
area of  
erosion  
hazard.

The area referred to in this section is in this Act referred to as the "area of erosion hazard constituted under this Act."

**17.**

No. 10, 1938.

Areas of  
erosion  
hazard.  
cf. Act No.  
59, 1936,  
s. 11.

**17.** (1) Where the Minister is of opinion that any tract of land is subject to erosion or is liable or likely to become liable to erosion and that such tract of land should be notified as an area of erosion hazard he may, by notification published in the Gazette, and in a newspaper circulating in the locality in which such tract of land is situated give notice of a proposal that such tract of land should be notified as an area of erosion hazard.

(2) Every notification under subsection one of this section shall—

- (a) define by reference to a map or plan the tract of land to which the proposal relates;
- (b) appoint a date, not being earlier than thirty days after the publication of the notification in the Gazette, on or before which objections may be lodged against the proposal;
- (c) contain such other particulars as may be prescribed.

(3) A copy of or a reference to the map or plan shall be served in the prescribed manner upon every owner and occupier of land which is wholly or partly within the boundaries of the tract of land to which the proposal relates and, where such land is subject to mortgage, upon the mortgagee.

(4) Any owner, occupier or mortgagee of land which is wholly or partly within the boundaries of the tract of land to which the proposal relates may, not later than the date appointed therefor, lodge an objection in writing to the proposal.

Any such objection shall state the ground upon which the same is based, and shall be lodged in the manner prescribed.

(5) The Minister shall give consideration to all objections against the proposal which may have been lodged within the time appointed therefor, and may, in order to meet any such objection, make such alteration of the proposals as he may think fit.

The Minister shall notify his decision in respect of each such objection to the owner, occupier or mortgagee who lodged the same.

(6)



(6) Any owner, occupier or mortgagee who is dissatisfied with the decision in respect of the objection lodged by him may, within thirty days after such decision has been notified to him, appeal to the Land and Valuation Court in accordance with rules of court of that court.

The Land and Valuation Court shall have jurisdiction to hear and determine any such appeal. Any such appeal shall be in the nature of a rehearing and the Land and Valuation Court may take into consideration whether or not the tract of land to which the proposal relates is subject to erosion or is liable or likely to become liable to erosion and whether or not any, and if so what, part of the land of which the appellant is owner, occupier or mortgagee should be included in such tract of land.

Unless the appellant and the Minister otherwise agree any such appeal shall (subject to the concurrence of the judge of the Land and Valuation Court) be heard at such venue as in the opinion of the judge of that court is as near as conveniently may be to the land of which the appellant is owner, occupier or mortgagee.

No order shall be made against the appellant in respect of costs unless the Land and Valuation Court is satisfied that the appeal is either frivolous or vexatious.

(7) (a) If no objection against the proposal is lodged within the time appointed therefor the Minister may, upon the expiration of that time, submit the proposal to the Governor.

(b) If any objection against the proposal is lodged within the time appointed therefor the Minister may, when all such objections have been disposed of, submit the proposal to the Governor with such alterations (if any) as may be necessary to give effect to his decisions or to the determinations of the Land and Valuation Court.

(c) The Governor may notify in the Gazette as an area of erosion hazard, the tract of land defined in the proposal or in the altered proposal (as the case may be) submitted to him.

(8) No Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, shall be included in any area of erosion hazard except with the concurrence of the Secretary for Lands.

No. 10, 1938.

Execution  
of certain  
works by  
Director.

18. (1) The Governor may, on the recommendation of the Minister, authorise the Director to enter upon any specified land within an area of erosion hazard and execute such works thereon as may be necessary for the purpose of giving effect to the project instituted in respect of that area in so far as such project relates to that land.

No such recommendation shall be made unless—

- (a) the Minister is satisfied that the execution of such works is necessary to avoid damage to some other land within such area; and
- (b) the owner, occupier or mortgagee of the land specified in the recommendation has neglected or refused to enter into an agreement under this Act to ensure the carrying into effect of the project; and
- (c) the Minister has given notice to the owner, occupier or mortgagee concerned that he intends to make the recommendation and has, in such notice, appointed a day, not being earlier than thirty days after the giving of such notice within which an objection may be lodged.

(2) Any owner, occupier or mortgagee to whom notice has been given pursuant to paragraph (c) of subsection one of this section may, within the time appointed therefor, lodge an objection in writing in respect of the extent or nature of, or necessity for the work proposed to be executed. Every such objection shall state the grounds upon which it is based, and shall be lodged in the manner prescribed.

The Minister shall refer every such objection to the Catchment Areas Protection Board for inquiry and report.

The owner, occupier or mortgagee objecting shall be entitled to be present and to be heard either personally or by his solicitor, counsel or agent (being a land agent registered under the Land Agents Act, 1927) at any meeting of such board at which his objection is being considered.

An appeal from any report of the Catchment Areas Protection Board may be made to the Land and Valuation Court in accordance with rules of court of that court.

The

The Land and Valuation Court shall have jurisdiction to hear and determine the appeal. Any such appeal shall be in the nature of a rehearing.

No order shall be made against the appellant in respect of costs unless the Land and Valuation Court is satisfied that the appeal is either frivolous or vexatious.

The Minister shall give consideration to the report of the Catchment Areas Protection Board or to the determination of the Land and Valuation Court, as the case may be, in making any recommendation under subsection one of this section and any recommendation so made shall be in conformity with the report or determination as the case may be.

(3) Before any work authorised under subsection one of this section is executed notice in the prescribed form of intention to execute such work shall in the prescribed manner be served on the owner, occupier or mortgagee of the land specified in the authority.

(4) If any owner, occupier or mortgagee upon whom any notice under subsection three of this section has been so served obstructs or hinders the Director in the exercise of his power to execute such work he shall be liable to a penalty not exceeding twenty pounds.

(5) Where the Minister is of opinion that, having regard to all the circumstances, it is just and equitable that the owner of any land upon which any work has been executed under this section or such owner and the owners of any other land within the area of erosion hazard should pay or contribute towards the cost of such work he may notify the owner or each of such owners accordingly and shall in such notification specify the amount of the payment or contribution to be made by such owner or by each of such owners and the manner in which and time within which the same is to be made.

The notification shall also indicate the land of the owner which shall be subject to the charge created by subsection six of this section.

A copy of the notification given to any owner shall be given personally or by post to the mortgagee (if any) of any land of the owner which is indicated in the notification.

Any

**Soil Conservation Act.**

No. 10, 1938.

Any such owner or mortgagee may appeal to the Land and Valuation Court in accordance with rules of court of that Court against the amount specified in the notification.

The Land and Valuation Court shall have jurisdiction to hear and determine the appeal.

The Land and Valuation Court in making a determination on any such appeal shall have regard to—

- (a) the cost of the work and the area affected by the work;
- (b) the present and prospective amounts by which the value of the land of which the appellant is the owner or mortgagee and of any other land within the area of erosion hazard will be enhanced by reason of the work;
- (c) the extent to which the value of the land of which the appellant is the owner or mortgagee will be maintained by the work; and
- (d) the depreciation which would be likely to occur in the present value of the land of which the appellant is the owner or mortgagee had the work not been executed.

In any proceeding before the Land and Valuation Court no order shall be made against the appellant in respect of costs unless the court decides that the appeal is either frivolous or vexatious.

Unless the appellant and the Minister otherwise agree any appeal under this section shall (subject to the concurrence of the judge of the Land and Valuation Court) be heard at such venue as in the opinion of the judge of that court is as near as conveniently may be to the land on which the work has been executed.

The amount specified in the notification or determined by the Land and Valuation Court, as the case may be, as the amount of the payment or contribution to be made by any owner shall be paid in the manner and within the time mentioned in the notification by such owner to the Minister and, if not so paid, may be recovered by the Minister from such owner as a debt due to the Crown.

The notification shall confer on the owner a right to elect, within a period of three months from the date thereof, to make the payment or contribution---

- (a) in any case where the amount of the payment or contribution does not exceed fifty pounds—by equal

equal annual instalments over such period, not being less than ten years, as may be specified in the notification together with interest at a rate to be determined by the Minister. No. 10, 1938.

- (b) in any case where the amount of the payment or contribution exceeds fifty pounds—by equal annual instalments over such period, not being less than fifteen years, as may be specified in the notification together with interest at a rate to be determined by the Minister.

The notification shall specify the date upon which the amount, or the first and subsequent instalments, as the case may be, shall be paid.

(6) (a) Every amount which becomes payable by an owner under this section, and any costs awarded to the Minister in proceedings for the recovery of that amount, shall be a charge on the land indicated in the notification or determination as the case may be of the owner by whom such amount is payable in priority to all sales, conveyances, transfers, mortgages, charges, liens and incumbrances whatsoever made or given after the date of registration of such charge. cf. Act No. 41, 1919, s. 152.

Every such charge shall be registered in the Register of Causes, Writs and Orders affecting land kept in accordance with the provisions of the Conveyancing Act, 1919-1932.

Where any such charge is so registered any person dealing or proposing to deal with the owner, occupier or mortgagee of the land subject to the charge may obtain, on application made as prescribed, a certificate as to the sum (if any) then due (whether or not being presently payable) in respect of the amount charged on the land.

Such certificate shall, in favour of any such person, be conclusive evidence of the sum due at the date of the certificate or, as the case may be, that no sum is due, in respect of the amount charged on the land.

(b) The charge under this subsection shall rank *pari passu* with any charge on land under section twenty-two of this Act.

## PART IV.

PROCLAIMED WORKS AND CATCHMENT AREAS IN CONNECTION  
THEREWITH.

**Proclaimed works.** **19.** The Governor may, by proclamation published in the Gazette, declare any work or proposed work for the storage, regulation or conservation of water, to be a work to which this Part of this Act applies.

Any such work is in this Act referred to as a "proclaimed work."

**Catchment area.** **20.** (1) The Minister may notify in the Gazette an area of land as the catchment area in connection with any proclaimed work.

(2) The Minister may modify or revoke any notification under this section by a further notification published in the Gazette.

(3) No Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, shall be included within a catchment area notified under this section except with the concurrence of the Secretary for Lands.

**Works and areas set out in Schedules.** **21.** (1) (a) This Part of this Act shall apply to the works respectively mentioned in the First Part of the First, Second and Third Schedules.

(b) A reference in any provision (other than section nineteen) of this Part of this Act to a "proclaimed work" shall include a reference to a work referred to in paragraph (a) of this subsection.

(2) (a) The area described in the Second Part of the First Schedule shall be the catchment area in connection with the work mentioned in the First Part of that Schedule.

(b) The area described in the Second Part of the Second Schedule shall be the catchment area in connection with the work mentioned in the First Part of that Schedule.

(c) The area described in the Second Part of the Third Schedule shall be the catchment area in connection with the work mentioned in the First Part of that Schedule.

(d)

(d) The areas referred to in this subsection are in this Act referred to as "catchment areas constituted under this Act." No. 10, 1938.

22. (1) Where the Minister is satisfied—

- (a) that any act or thing done or proposed to be done on or in relation to any land within a catchment area notified or constituted under this Act has caused or is likely to cause damage to or has interfered or is likely to interfere with the utility of any proclaimed work; and
- (b) that such damage or interference can be mitigated or avoided,

Preservation of proclaimed works.

He may by notice in writing served personally or by post on the owner and the occupier of such land require such owner or occupier to abstain from doing or to do or permit to be done such acts and things as may be specified in the notice.

The acts and things to be specified in the notice shall be such acts and things as the Minister considers necessary to mitigate or avoid damage to, or interference with the utility of, the proclaimed work.

A copy of the notice served on the owner and the occupier of any such land shall be served personally or by post on the mortgagee (if any) of such land.

(2) Any owner or occupier upon whom any such notice is served or any mortgagee upon whom any such copy is served may, within thirty days after such service lodge an objection in writing to the requirements of such notice. Every such objection shall state the grounds upon which it is based and shall be lodged in the manner prescribed.

The Minister shall refer every such objection to the Catchment Areas Protection Board for inquiry and report.

The owner, occupier or mortgagee objecting shall be entitled to be present and to be heard either personally or by his solicitor, counsel or agent (being a land agent registered under the Land Agents Act, 1927) at any meeting of such board at which his objection is being considered.

No. 10, 1933.

An appeal from any report of the Catchment Areas Protection Board may be made to the Land and Valuation Court in accordance with rules of court of that court.

The Land and Valuation Court shall have jurisdiction to hear and determine the appeal.

In any proceeding before the Land and Valuation Court no order shall be made against the appellant in respect of costs unless the court decides that the appeal is either frivolous or vexatious.

The Minister shall take into consideration the report of such board or the determination of the Land and Valuation Court, as the case may be, and shall, if such a course is necessary to conform with the report or determination as the case may be, either dismiss the objection or vary or amend the requirements of the notice to which the objection relates.

(3) Where the doing of any act or thing specified in a notice under subsection one of this section or an amended notice as the case may be involves the expenditure of money, such act or thing may be done by the Minister and the cost thereof met out of moneys provided by Parliament.

(4) Where the Minister is of opinion that, having regard to all the circumstances, it is just and equitable that the owner of any land upon which any act or thing has been done pursuant to subsection three of this section, should pay or contribute towards the cost of doing such act or thing he may notify the owner accordingly and shall in such notification, specify the amount of the payment or contribution to be made by such owner and the manner in which and time within which the same is to be made.

A copy of the notification given to such owner shall be given personally or by post to the mortgagee (if any) of the land upon which such act or thing has been done.

Such owner or mortgagee may appeal to the Land and Valuation Court in accordance with rules of court of that Court against the amount specified in the notification.

The Land and Valuation Court shall have jurisdiction to hear and determine the appeal.

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The Land and Valuation Court in making a determination on any such appeal shall have regard to— No. 10, 1938.

- (a) the cost of the work and the area affected by the work;
- (b) the present and prospective amounts by which the value of the land of which the appellant is the owner or mortgagee will be enhanced by reason of the work;
- (c) the extent to which the value of the land of which the appellant is the owner or mortgagee will be maintained by the work; and
- (d) the depreciation of the present value of the land of which the appellant is the owner or mortgagee which would be likely to occur had the work not been executed.

In any proceeding before the Land and Valuation Court no order shall be made against the appellant in respect of costs unless the court decides that the appeal is either frivolous or vexatious.

Unless the appellant and the Minister otherwise agree any appeal under this section shall (subject to the concurrence of the judge of the Land and Valuation Court) be heard at such venue as in the opinion of the judge of that court is as near as conveniently may be to the land on which the act or thing has been done.

The amount specified in the notification or determined by the Land and Valuation Court, as the case may be, as the amount of the payment or contribution to be made by any owner shall be paid in the manner and within the time mentioned in the notification by the owner to the Minister and, if not so paid, may be recovered by the Minister from such owner as a debt due to the Crown.

The notification shall confer on the owner a right to elect, within a period of three months from the date thereof, to make the payment or contribution—

- (a) in any case where the amount of the payment or contribution does not exceed fifty pounds—by equal annual instalments over such period, not being less than ten years, as may be specified in the notification together with interest at a rate to be determined by the Minister;

(b)

No. 10, 1938.

- (b) in any case where the amount of the payment or contribution exceeds fifty pounds—by equal annual instalments over such period, not being less than fifteen years, as may be specified in the notification together with interest at a rate to be determined by the Minister.

The notification shall specify the date upon which the amount, or the first and subsequent instalments, as the case may be, shall be paid.

cf. Act No.  
41, 1919,  
s. 152.

(5) (a) Every amount which becomes payable by an owner under subsection four of this section, and any costs awarded to the Minister in proceedings for the recovery of that amount, shall be a charge on the land upon which the act or thing has been done pursuant to subsection three of this section in priority to all sales, conveyances, transfers, mortgages, charges, liens and incumbrances whatsoever made or given after the date of registration of such charge.

Every such charge shall be registered in the Register of Causes, Writs and Orders affecting land kept in accordance with the provisions of the Conveyancing Act, 1919-1932.

Where any such charge is so registered any person dealing or proposing to deal with the owner, occupier or mortgagee of the land subject to the charge may obtain, on application made as prescribed, a certificate as to the sum (if any) then due (whether or not being presently payable) in respect of the amount charged on the land.

Such certificate shall, in favour of any such person, be conclusive evidence of the sum due at the date of the certificate, or, as the case may be, that no sum is due, in respect of the amount charged on the land.

(b) The charge under this subsection shall rank *pari passu* with any charge on land under section eighteen of this Act.

(6) Any owner who fails to comply with any of the requirements of a notice under subsection one of this section or an amended notice as the case may be shall be guilty of an offence and shall be liable for each such offence to a penalty of not more than twenty pounds.

## PART V.

No. 10, 1938.

## GENERAL.

**23.** (1) The Minister may from time to time constitute one or more advisory committees.

Advisory  
committees.  
cf. Act No.  
59, 1936,  
s. 9.

Each of such committees shall consist of the Minister, the Director and such number of other members as the Minister may determine.

(2) The members of any such committee (other than the Minister and the Director) shall hold office for such term as may be specified in the instrument by which they are appointed.

(3) The Minister shall preside at any meeting of an advisory committee at which he is present. In the absence of the Minister the Director shall preside.

(4) It shall be the duty of an advisory committee—

- (a) to consider such matters in relation to soil conservation or erosion mitigation or in relation to any other purpose contemplated by this Act as may be referred to it by the Minister;
- (b) to furnish reports and recommendations upon any matter so referred to it;
- (c) to carry out such functions of an advisory character as the Minister may determine or as may be prescribed.

**24.** The Governor may, under the Public Works Act, 1912, purchase, resume or appropriate land for the purposes of this Act.

Resumption.  
cf. Act No.  
55, 1916,  
s. 15.

Such purchase, resumption or appropriation shall be deemed to be for an authorised work and the Minister for Public Works shall be the constructing authority.

The Governor may, by notification published in the Gazette, declare that any land purchased, resumed or appropriated under the authority of this section is vested in His Majesty and upon publication of such notification the land therein referred to shall vest in His Majesty for the purposes of this Act.

**25.** The Minister may lease any land vested in His Majesty for the purposes of this Act to any person at such rent, and subject to such covenants and conditions as the Minister may determine.

Leases.

The

**Soil Conservation Act.****No. 10, 1938.**

Vesting of  
works in  
statutory  
body.

The term of any such lease shall not exceed five years.

**26.** (1) On completion of any work carried out in pursuance of this Act, the Governor, on the recommendation of the Minister, may, by proclamation published in the Gazette, vest in a statutory corporation any work constructed for the purpose of soil conservation or erosion mitigation.

The care, control and maintenance of such work shall thereupon devolve upon the statutory corporation.

(2) The Governor may, by the same or a subsequent proclamation, vest in the statutory corporation the whole or any part of any land acquired under this Act for the purposes of the work so vested in the statutory corporation.

Interference  
with or  
damage to  
works, etc.  
cf. Act No.  
55, 1916,  
s. 32.

**27.** Any person who, except under the authority of the Director, interferes with or does any act which damages or tends to damage any structure, plantation, breakwind or vegetative cover placed or planted on any land as part of or in connection with any work which is being or has been carried out in pursuance of this Act, shall be liable to a penalty not exceeding twenty pounds and in addition shall be liable for any loss or damage caused by the offence.

Such loss or damage may be awarded by the Court imposing the penalty and may be recovered in the same manner as the penalty.

Alteration  
of covenants,  
etc., of  
certain  
leases.

**28.** (1) Where the Minister is satisfied that compliance with any covenant, condition or provision of a special lease, scrub lease, inferior lands lease, snow lease, residential lease, improvement lease, settlement lease or lease under section eighteen or under section twenty-three of the Crown Lands Act (Amendment) Act, 1903, or lease under section seventy-three of the Crown Lands Consolidation Act, 1913, or Crown lease or conditional purchase lease, would tend to cause erosion on any land, he may so advise the Secretary for Lands.

(2) Where the Secretary for Lands has been so advised he may vary, modify, revoke or add to the covenants, conditions or provisions of the lease under and in accordance with section one hundred and eighty-two of the Crown Lands Consolidation Act, 1913.

**29.**

**29.** (1) Any person who contravenes or fails to comply with any provision of this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding ten pounds.

No. 10, 1938.  
Penalties.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate or any two or more justices in petty sessions.

**30.** Any information, complaint or other legal proceeding under this Act or the regulations may be laid, made and taken by the Minister or by any officer duly authorised by the Minister in that behalf either generally or in any particular case.

Information.

The production of a certificate that the person named therein is an officer authorised by the Minister under this section, either generally or specially, shall be prima facie evidence that the person named therein is an officer and of the extent of the authorisation under which he acts.

**31.** No act, matter or thing done by the Minister or the Director or by any officer, employee or person acting under the direction of the Minister or the Director, shall, if the act, matter or thing was done bona fide for the purpose of carrying out or giving effect to this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

Protection  
of Minister,  
Director  
and officers,  
etc.

**32.** (1) There shall be a Catchment Areas Protection Board which shall consist of—

Catchment  
Areas  
Protection  
Board.

- (a) the Minister, who shall be chairman of the Board;
- (b) the Director, who shall be the deputy chairman of the Board;
- (c) the person for the time being holding the office or Under Secretary, Department of Lands, or an officer of the Department of Lands nominated by him;
- (d) the person for the time being holding the office of Under Secretary, Department of Agriculture, or an officer of that department nominated by him;
- (e) the person for the time being holding the office of Under Secretary, Department of Works and Local Government, or an officer of that department nominated by him;

(f)

**Soil Conservation Act.**No. 10, 1938.

- (f) the person for the time being constituting the Forestry Commission of New South Wales, or an officer of that Commission nominated by him;
  - (g) a Commissioner or an officer of the Water Conservation and Irrigation Commission nominated by that Commission.
- (2) All meetings of the Board shall be called by direction of the chairman.
- (3) At any meeting of the Board the chairman or deputy chairman and any three other members shall form a quorum.
- (4) The chairman shall preside at any meeting of the Board at which he is present. In the absence of the chairman the deputy chairman shall preside.
- (5) The chairman, or the deputy chairman (when presiding at any meeting) shall have an original vote on any question before the Board, and in the case of an equality of votes shall have a second or casting vote.
- (6) The Board shall exercise such functions as are conferred upon it by this or any other Act or as may be prescribed.

**PART VI.****REGULATIONS.**

Regulations relating to destruction of timber, etc.

**33.** (1) The Governor may, on the joint recommendation of the Minister and the Secretary for Lands, make regulations regulating or prohibiting the destruction of or interference with timber or scrub on any lands held under any form of lease or license under any Act relating to the disposition of lands of the Crown.

(2) A regulation made under this section may be made to apply—

- (a) (i) to all land held under any such lease or license; or
- (ii) to land in any specified locality held under any such lease or license or held under any specified class of such lease or license; or
- (iii)

(iii) to all land held under any such lease or license other than land in any specified locality held under any such lease or license or held under any specified class of such lease or license;

(b) (i) generally to all timber or scrub; or

(ii) particularly to any specified class of timber or scrub; or

(iii) to all timber or scrub other than any specified class of timber or scrub.

(3) Any regulation made under this section may authorise any matter or thing to be from time to time determined, applied or regulated by the Minister or by the Director.

**34.** (1) The Governor may, subject to section thirty-three of this Act, make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) (a) Without prejudice to the generality of the power conferred by subsection one of this section the Governor may make regulations prohibiting the lighting of fires in the area of erosion hazard constituted under this Act or in any area of erosion hazard notified under this Act or in any catchment area notified or constituted under this Act except under such circumstances and subject to such limitations, conditions and restrictions as may be prescribed.

(b) Any regulation made under this subsection may be made to apply to all such areas of erosion hazard and catchment areas or to any specified area of erosion hazard or catchment area or to any specified part of any specified area of erosion hazard or catchment area.

(3) Any regulation made under this section may authorise any matter or thing to be from time to time determined, applied or regulated by the Minister or by the Director.

**Soil Conservation Act.**

No. 10, 1938.

Penalty for  
breach of  
regulations.Publication  
of  
regulations.

**35.** Any regulation made under this Act may impose a penalty not exceeding ten pounds for any breach thereof.

**36.** All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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**PART VII.**
**AMENDMENT OF VARIOUS ACTS.**Amendment of  
Act No. 7,  
1913.Sec. 5.  
(Defini-  
-tions.)Sec. 30.  
(Reserves  
from sale.)Sec. 34A.  
(Catchment  
areas board.)

**37.** (1) The Crown Lands Consolidation Act, 1913, is amended—

- (a) by inserting in section five immediately before the definition of "City town or village" the following new definition:—

"Catchment Areas Protection Board"  
means the Catchment Areas Protection  
Board constituted under the Soil Con-  
servation Act, 1938.

- (b) by omitting from section thirty the words—  
"A reserve from sale for the purpose of a  
catchment area shall not be revoked or modified  
except with the concurrence of the board consti-  
tuted under section 34A of this Act."
- (c) by omitting section 34A and the short heading  
thereto;

(d)



- (d) by omitting section 83A and the short heading thereto and by inserting in lieu thereof the following short heading and section:—

No. 10, 1938.

Substituted  
sec. 83A.

*Leases and licenses of land within areas of erosion hazard or catchment areas.*

83A. Notwithstanding anything to the contrary in any Act, land within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act, shall not be let under any form of lease or license of any kind referred to in this Part nor shall the term of any lease of any kind referred to in this Part (other than a conditional lease) of such land be extended except upon the recommendation of and subject to such special conditions as may be recommended by the Catchment Areas Protection Board.

Leases and  
licenses of  
land within  
areas of  
erosion  
hazard or  
catchment  
areas.

- (e) (i) by omitting from subsection four of section eighty-five the words "or any reserve from sale for the purpose of a catchment area";
- (ii) by omitting from the same subsection the words "or in the case of a reserve from sale for the purpose of a catchment area the revocation has been recommended by the board constituted under section 34A of this Act";
- (f) by omitting section 136J and the short heading thereto and by inserting in lieu thereof the following short heading and section:—

Sec. 85.

(Classifica-  
tion of  
Crown  
lands.)Substituted  
sec. 136J.

*Leases of land within areas of erosion hazard or catchment areas.*

136J. (1) Notwithstanding anything to the contrary in any Act, land within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act shall not be let under any form of lease of any kind referred to in this Part, except upon  
the

Leases of  
land within  
areas of  
erosion  
hazard or  
catchment  
areas.

No. 10, 1938.

the recommendation of and subject to such special conditions as may be recommended by the Catchment Areas Protection Board.

(2) Subsection one of this section shall not apply to or in respect of a letting under a lease which is granted or issued—

- (a) upon the surrender of an earlier lease consequent upon the granting (as to part of the land in such earlier lease) of an application to extend the term of the earlier lease to a lease in perpetuity;
- (b) upon the surrender of an earlier lease consequent upon the subdivision of the land in the earlier lease;
- (c) upon the surrender of the title to an earlier holding of or including the land in such lease consequent upon conversion of such holding.

Sec. 139.  
(Subdi-  
vision of  
irrigation  
areas.)

- (g) (i) by omitting from subsection four of section one hundred and thirty-nine the words "or any reserve from sale for the purpose of a catchment area";
- (ii) by omitting from the same subsection the words "or in the case of a reserve from sale for the purpose of a catchment area the revocation has been recommended by the board constituted under section 34A of this Act";

Sec. 145B.  
(Suspension  
of con-  
ditions.)

- (h) by omitting the proviso to subsection one of section 145B and by inserting in lieu thereof the following proviso:—

Provided that where the whole or any part of the land held under lease is within an area of erosion hazard notified under the Soil Conservation Act, 1938, or within a catchment area notified or constituted under that Act, the alteration, modification or cancellation of any condition of the lease shall not be made except upon the recommendation of and subject to any further conditions recommended by the Catchment Areas Protection Board.

(i)

- (i) by omitting section 147B and the short heading thereto and by inserting in lieu thereof the following short heading and section:—

No. 10, 1938.  
Substituted  
sec. 147B.

*Leases of land within areas of erosion hazard or catchment areas.*

147B. (1) Notwithstanding anything to the contrary in any Act, land within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act, shall not be let under any form of lease of any kind referred to in this Part or added to any such lease under the provisions of this Act, except upon the recommendation of and subject to such special conditions as may be recommended by the Catchment Areas Protection Board.

Leases of  
land within  
areas of  
erosion  
hazard or  
catchment  
areas.

(2) Subsection one of this section shall not apply to or in respect of a letting under a lease which is granted or issued upon the surrender of an earlier lease of the same land consequent upon subdivision of such land.

- (j) (i) by omitting from section one hundred and sixty-four the words "Land reserved from sale for the purpose of a catchment area" and by inserting in lieu thereof the words "Land within an area of erosion hazard notified under the Soil Conservation Act, 1938, or within a catchment area notified or constituted under that Act";
- (ii) by omitting from the same section the words "board constituted under section 34A of this Act" and by inserting in lieu thereof the words "Catchment Areas Protection Board";
- (k) (i) by omitting from section one hundred and eighty-two the words "reserved from sale for the purpose of a catchment area" and by inserting in lieu thereof the words "within the area of erosion hazard constituted under the Soil Conservation Act, 1938,

Sec. 164.  
(Additions  
to lease or  
license.)

Sec. 182.  
(Alteration  
of condi-  
tions of  
lease.)

or

No. 10, 1938.

or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act”;

- (ii) by omitting from the same section the words “board constituted under section 34A of this Act” and by inserting in lieu thereof the words “Catchment Areas Protection Board”;

Sec. 190.  
(Conversion  
of special  
lease.)

- (l) by inserting at the end of subsection two of section one hundred and ninety the following word and new paragraph:—

and

- (d) a conversion shall not be allowed of land within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act except with the approval of the Catchment Areas Protection Board.

Substituted  
sec. 198A.

- (m) by omitting section 198A and the short heading thereto and by inserting in lieu thereof the following short heading and section:

*Exchanges affecting land within areas of erosion hazard or catchment areas.*

Exchanges  
affecting  
land within  
areas of  
erosion  
hazard or  
catchment  
areas.

198A. Notwithstanding anything to the contrary in any Act, Crown lands within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act shall not be disposed of in exchange for land surrendered or acquired in pursuance of the provisions of this Division, and lands surrendered to the Crown under this Division which are within any such area of erosion hazard or catchment area shall not be added to any lease or license or conditional purchase or homestead selection, except upon the recommendation of  
and

and subject to such special conditions as may be recommended by the Catchment Areas Protection Board. No. 10, 1938.

- (n) (i) by omitting from section 229B the words "reserved from sale for the purpose of a catchment area" and by inserting in lieu thereof the words "within the area of erosion hazard constituted under the Soil Conservation Act, 1938, or within any area of erosion hazard notified under that Act or within a catchment area notified or constituted under that Act"; Sec. 229B.  
(Extension of terms of certain leases.)
- (ii) by omitting from the same section the words "board constituted under section 34A of this Act" and by inserting in lieu thereof the words "Catchment Areas Protection Board."

(2) The Closer Settlement Act, 1904, as amended by subsequent Acts, is amended by omitting the proviso to section thirty-nine. Amendment of Act No. 37, 1904.  
Sec. 39.  
(Permit to occupy.)

(3) The Closer Settlement (Amendment) Act, 1909, as amended by subsequent Acts, is amended— Amendment of Act No. 21, 1909.

- (a) by omitting from subsection one of section twenty-one the words "Provided that where the land is reserved from sale for the purpose of a catchment area it shall not be so set apart except with the recommendation of the board constituted under section 34A of the Crown Lands Consolidation Act, 1913"; Sec. 21.  
(Setting apart for closer settlement.)
- (b) by omitting from subsection six of the same section the words "Provided that land reserved from sale for the purpose of a catchment area shall not be so leased or exchanged, except upon the recommendation of, and subject to such special conditions as may be recommended by the board constituted under section 34A of the Crown Lands Consolidation Act, 1913."

(4) The Closer Settlement (Amendment) Act, 1914, as amended by subsequent Acts, is amended by omitting from subsection one of section four the words "Provided that land reserved from sale for the purpose of Amendment of Act No. 7, 1914.  
Sec. 4.  
(After auction sales.)

80                    **Soil Conservation Act.**

**No. 10, 1938.**

of a catchment area shall not be so leased, except upon the recommendation of, and subject to, such special conditions as may be recommended by the board constituted under section 34A of the Crown Lands Consolidation Act, 1913.”

Amendment of Act No. 21, 1916.  
Sec. 4.  
(Special provision for settlement of discharged soldiers.)

(5) The Returned Soldiers Settlement Act, 1916, as amended by subsequent Acts, is amended by omitting subsection (1A) of section four.

Amendment of Act No. 55, 1916.  
Sec. 25B.  
(Catchment reserves.)

(6) The Forestry Act, 1916-1935, is amended by omitting section 25B.

Amendment of Act No. 6, 1935.  
Sec. 5.  
(Revision.)

(7) The Crown Lands, Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1935, is amended—

- (a) by omitting paragraphs (a) to (h) both inclusive and paragraph (k) of subsection one of section five;
- (b) by omitting subsections two to five both inclusive of the same section.

Sec. 21.

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**SCHEDULES.**

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**FIRST SCHEDULE.**

**FIRST PART.**

**Burrinjuck Dam.**

**SECOND PART.**

*Catchment area in connection with Burrinjuck Dam.*

That part of the State of New South Wales forming that portion of the catchment area of the Murrumbidgee River and its tributaries which drains into the Burrinjuck Storage Reservoir.

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**SECOND**

SECOND SCHEDULE.

No. 10, 1938.

FIRST PART.

Hume Reservoir.

SECOND PART.

*Catchment area in connection with Hume Reservoir.*

That part of the State of New South Wales forming that portion of the catchment area of the Indi and Murray Rivers and their tributaries which drains into the Hume Reservoir.

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THIRD SCHEDULE.

FIRST PART.

Wyangala Dam.

SECOND PART.

*Catchment area in connection with Wyangala Dam.*

That part of the State of New South Wales forming the catchment areas of the Abercrombie and Crookwell Rivers and their tributaries, together with that portion of the catchment area of the Lachlan River and its tributaries which drains into the Wyangala Dam Storage Reservoir.

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