

**SOIL CONSERVATION (AMENDMENT) ACT.****Act No. 11, 1947.**

An Act to enable owners of land to obtain advances for the purposes of carrying out works of soil conservation and erosion mitigation; to amend the Soil Conservation Act, 1938, in certain respects; and for purposes connected therewith. [Assented to, 28th March, 1947.]

George VI.  
No. 11, 1947.

**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:—

**1.** (1) This Act may be cited as the "Soil Conservation (Amendment) Act, 1947".

Short title  
and com-  
mencement.

(2) The Soil Conservation Act, 1938, as amended by this Act, may be cited as the Soil Conservation Act, 1938-1947.

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

**2.** (1) The Soil Conservation Act, 1938, is amended by inserting next after Part IV the following new Part:—

Amendment  
of Act  
No. 10,  
1938.

**PART IVA.**

New Part  
IVA.

**ADVANCES FOR WORKS OF SOIL CONSERVATION AND  
EROSION MITIGATION.**

22A. In this Part of this Act, unless the context or subject matter otherwise indicates or requires:—

Definitions.

"Bank" means the Rural Bank of New South Wales.

"Commission" means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by subsequent Acts.

"Works"

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“Works” means works necessary for the conservation of soil or for the mitigation of erosion and any operations incidental thereto.

Application for an advance. cf. Act No. 22, 1946, s. 3.

22b. (1) Any owner of land who desires an advance for the purpose of the carrying out of works, whether such works are included in a project or otherwise, may make an application to the Minister for an advance.

(2) Such application shall be in or to the effect of the prescribed form.

Minister may grant or refuse application. cf. *Ibid.* s. 4.

22c. (1) Upon receipt of an application the Minister shall decide whether or not an advance shall be made.

(2) In the event of the Minister deciding that an advance shall be made, he shall furnish to the applicant a statement, setting out a description of the works he has approved should be carried out, the conditions as to land use or otherwise which the owner shall be required to observe during the currency of the advance, the amount of the advance which the Minister has tentatively approved should be made, and, where the Minister so determines, the cost of the works as estimated by him.

Where the applicant desires the Minister to carry out the works and the Minister is prepared to carry out the works, the Minister shall set out in such statement the terms and conditions under which he is prepared to carry out the works, including the charge to be paid therefor or the manner in which such charge shall be assessed and the amount, if any, but not more than ten per centum of the cost of the works as estimated by the Minister, to be paid to the Minister in accordance with subsection three of this section.

(3) If, on receipt of the statement referred to in subsection two of this section, the applicant is desirous of obtaining the advance, he shall notify the Minister to that effect in the prescribed form, and where he desires the works to be carried out by the Minister, the notification shall be accompanied by the

the amount (if any) set out in the statement referred to in subsection two of this section to be paid to the Minister. No. 11, 1947.

22D. (1) In any case where the applicant notifies the Minister under subsection three of section 22C of this Act that he desires the advance such advance shall, subject to the provisions of this Act, be made by the Bank by way of loan bearing interest at such rate as may be fixed by the Colonial Treasurer. Bank to make advances. cf. Act No. 22, 1946, s. 5.

(2) The powers, authorities, duties and functions conferred or imposed upon the Bank by this Act shall be exercised and performed by the Bank through such agency of the Bank as is determined by the Bank.

(3) To the extent that the same are applicable and are not inconsistent with this Act, the provisions of Division 1 of Part VIb of the Government Savings Bank Act, 1906, as amended by subsequent Acts, shall apply to all moneys which become payable to or recoverable by or which are received by the Bank in pursuance of this Act.

22E. No advance shall be made under this Act unless the Minister is satisfied— Conditions precedent to advances.

- (a) that agricultural, grazing or similar operations will be carried out efficiently on the lands on which the works are to be effected, with a reasonable prospect of success and in accordance with the conditions as to land use or otherwise specified in the statement furnished to the applicant in pursuance of section 22C of this Act; and cf. *Ibid.* s. 6.
- (b) that the carrying out of the works on such lands is necessary to ensure the conservation of the soil of such lands or for the mitigation of erosion thereon.

22F. The amount of any advance to be made to any owner where the works are to be carried out by any person or body, including the owner, other than the Minister, shall be finally determined by the Minister upon completion of the works. Amount of advance where work not carried out by Minister. cf. *Ibid.* s. 7.

22G.

## No. 11, 1047.

Payment of  
advance  
where works  
not  
carried  
out by  
Minister.  
cf. Act No.  
22, 1946,  
s. 8.

22g. Where any works in respect of which an advance is to be made under this Act are carried out by any person or body, including the owner, other than the Minister, such advance shall be made in such manner as the Minister directs and upon the Minister certifying that the works have been carried out or are being carried out in a satisfactory manner and in accordance with the approval of the Minister.

For the purposes of this section any officer or servant of the Public Service or of the Commission, authorised by the Minister in that behalf may enter the lands of the owner and inspect the works.

Minister  
may carry  
out work  
where  
advance  
is made.  
cf. *Ibid.*  
s. 9.

22h. (1) In any case where the owner desires the Minister so to do the Minister may for or on behalf of and at the cost of the owner carry out or have carried out in pursuance of section thirteen of this Act works in respect of which an advance is to be made under this Act.

(2) Any works carried out under this section shall be carried out on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner and the Minister.

(3) Where the charge to be paid by the owner for any works carried out under this section is the actual cost incurred in carrying out the works, the amount of the actual cost may include all proper supervision costs and the certificate referred to in subsection five of this section shall be accepted as final and conclusive evidence of such actual cost.

(4) Where any works are carried out under this section, the amount of the advance to be made by the Bank shall be the charge agreed to be paid by the owner to the Minister for the carrying out of the works less the amount (if any) paid to the Minister by the owner under the provisions of subsection three of section 22c of this Act.

(5) On completion of any such works carried out under this section, a certificate under the hand of the Minister or of such person as may be authorised by him so to do, setting out the amount

of

of the charge to be paid to the Minister for the carrying out of the works shall be forwarded to the Bank whereupon the amount of the advance shall be paid to the Minister by the Bank and thereupon the advance shall, for the purposes of this Act, be deemed to have been made to the owner.

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22r. (1) The Minister may let on hire any machinery, plant or equipment for the purpose of the carrying out of works by an owner or occupier of lands.

Minister may let machinery, etc., on hire.

cf. Act No. 22, 1946, s. 10.

(2) Where any machinery, plant or equipment has been let out on hire to an owner under this section for the purpose of carrying out any works in respect of which an advance is to be made under this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Minister the amount of any such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

22j. (1) The owners of two or more separate parcels of land who are desirous of carrying out or having carried out joint works on their lands may, whether or not the whole of the works are to be constructed on the land of one owner, make an application for an advance for the carrying out of works for that purpose. The provisions of subsection two of section 22B and of section 22c of this Act shall apply, mutatis mutandis, to and in respect of an application under this section.

Joint works. cf. *Ibid.* s. 11.

(2) The amount of every advance made in pursuance of an application lodged under this section shall be repaid by the whole of the owners in such proportions as may be agreed upon between them. Notification of such proportions shall be given to the Minister when giving notification in accordance with subsection three of section 22c of this Act.

22k. (1) The repayment of every advance made under this Act together with interest as hereinbefore provided shall be secured by a deed of charge over the lands of the owner in such form as may be required by the Bank.

Repayment of advance secured by deed of charge. cf. *Ibid.* s. 12.

Where

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Where the advance is made to two or more owners under section 22J of this Act, each owner shall execute a deed of charge to secure the repayment of his respective proportion of the amount of the advance.

(2) Such deed of charge shall, where the works are to be carried out by any person or body, including the owner, other than the Minister, be expressed to be made between the owner of the lands and the Bank, and where the works are to be carried out by or on behalf of the Minister, be expressed to be made between the owner of the lands, the Minister and the Bank, and shall provide for the repayment of the amount advanced to such owner by consecutive half-yearly instalments within a period, not exceeding fifteen years, determined by the Minister, together with interest as aforesaid on the amount owing from time to time, and shall contain—

- (a) a condition to the effect that in the event of the owner failing to maintain the works in respect of which the advance is made to the satisfaction of the Minister or failing to observe the conditions as to land use or otherwise specified in the statement furnished to the owner in pursuance of section 22c of this Act, the whole of the principal and interest secured by the charge shall at the option of the Bank become immediately due and payable; and
- (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

(3) Where any works are to be carried out by or on behalf of the Minister such deed of charge shall be executed by the owner before the commencement of the construction of the works and where any works are to be carried out by any person or body, including the owner, other than the Minister, such deed of charge shall be executed by the owner before any advance is made to the owner.

(4) Any sum payable under a deed of charge under this section shall be paid to the Bank and shall,

shall, until so paid, be and remain a charge in its favour on the land mentioned in the deed, and shall be recoverable by the Bank in any court of competent jurisdiction from the owner of the land for the time being. No. 11, 1947.

22L. (1) Where the owner or occupier of any lands desires the Minister to carry out works and is prepared to pay in cash for the carrying out of such works, the Minister may carry out or have carried out in pursuance of section thirteen of this Act, the works on such terms and conditions, including the charge to be paid therefor or the manner in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Minister. Minister may carry out work where advance is not made.  
cf. Act No. 22, 1946, s. 13.

(2) A certificate under the hand of the Minister or such person as may be authorised by him in that behalf, of the amount payable by the owner or occupier for any such works shall be forwarded to the owner or occupier, which certificate shall, where the charge to be paid for the works is the actual cost incurred by the Minister in carrying out the works, be accepted as final and conclusive evidence of the charge payable by the owner or occupier.

Such amount until paid shall be and remain a debt due to the Minister and if not paid in accordance with the terms and conditions agreed upon shall be recoverable by the Minister in any court of competent jurisdiction.

22M. (1) The Minister may—

- (a) supervise, on behalf of any owner, the carrying out of any works on any lands; and
  - (b) carry out surveys and investigations and prepare designs for and estimates of cost of any works proposed to be carried out on any lands.
- Minister may carry out investigations, prepare estimates, etc.  
cf. *Ibid.* s. 14.

(2) The charge, if any, to be paid to the Minister for any supervision or technical work

carried

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carried out by him pursuant to the provisions of subsection one of this section may—

- (a) where so agreed between the owner and the Minister be paid for in cash by the owner;
- (b) be the subject of an advance under and in accordance with the provisions of this Act;  
or
- (c) be included in the amount of any advance which is made under and in accordance with the provisions of this Act for the carrying out of any works.

(3) Where the charge for any supervision or technical work carried out by the Minister under the provisions of subsection one of this section is the subject of an advance under and in accordance with the provisions of this Act, or where any such charge is included in the amount of any advance being made under and in accordance with the provisions of this Act, the Bank shall, out of the moneys to be advanced to the owner, pay to the Minister the amount of such charge and any such amount paid by the Bank to the Minister shall, for the purposes of this Act, be deemed to have been advanced to the owner.

Entry on  
land and  
use of  
materials.  
cf. Act No.  
22, 1946,  
s. 15.

22N. Where any works are to be carried out by or on behalf of the Minister under this Act the owner and the occupier of the lands on which the works are to be carried out shall for the purpose of enabling the said works to be carried out grant to the Minister, his officers, workmen, servants, contractors or agents at all reasonable times, full and free right of ingress, egress and regress in, over or upon all or any of such lands and the right to the use of earth, stone, timber, gravel or sand or other materials or things dug, raised or obtained on such lands.

Offences.  
cf. *Ibid.*  
s. 17.

22o. Any person—

- (a) who receives any advance from the Bank under this Act and in any manner directly or indirectly uses the same or permits the same to be used for any purpose other than the purpose for which the advance was made; or

(b)



- (b) who, while any money is owing to the Bank No. 11, 1947.  
in respect of any advance under this Act,  
without the consent of the Bank removes,  
sells or otherwise disposes of any  
machinery, plant or other thing forming  
part of any works for the carrying out of  
which such advance was made,

shall be liable to a penalty not exceeding fifty pounds.

22P. (1) The Minister may by writing under his Delegation  
of power.  
hand delegate to the Permanent Head of the Depart-  
ment of Conservation all or any of the Minister's  
powers, duties and functions under sections 22c and  
22F of this Act and to any other officer of the Public  
Service or of the Commission any other of the  
Minister's powers, duties and functions under this  
Act so that the delegated powers, duties and  
functions may be carried out by the delegate with  
respect to the matters or class of matters and subject  
to the conditions or limitations specified in the  
instrument of delegation.

(2) Every delegation under this section shall  
be revocable at will and no delegation shall prevent  
the exercise of any power, duty or function by the  
Minister.

(2) The Soil Conservation Act, 1938, is further Further  
amendment  
of Act No.  
10, 1938.  
amended—

- (a) by inserting in section two next after the matter Sec. 2.  
(Division  
into Parts.)  
relating to Part IV, the following new matter:—

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—SS. 22A.—22P.

- (b) by inserting at the end of section twelve the Sec. 12.  
(Advances  
and  
payments.)  
following words:—

Any advance to an owner under the provisions  
of this section shall be made only upon the  
application of the owner under and in  
accordance with the provisions of Part IVA  
of this Act and the provisions of the said Part shall  
apply, mutatis mutandis, to and in respect of  
any such advance.

(c)

**Coal Mines Regulation (Amendment) Act.****No. 11, 1947.**

Sec. 14.

(Carrying  
out of  
Works by  
Minister or  
Director.)(c) by inserting in subsection three of section  
fourteen after the word "eighteen" the words  
"or Part IVA."

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