

**SOIL CONSERVATION AND HUNTER VALLEY
CONSERVATION TRUST (AMENDMENT) ACT.**

Act No. 27, 1952.

Elizabeth II,
No. 27, 1952. An Act to amend the Soil Conservation Act, 1938-1949, and the Hunter Valley Conservation Trust Act, 1950, in certain respects; and for purposes connected therewith. [Assented to, 21st October, 1952.]

BE it enacted by the Queen'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:—

**Short title,
citation and
commence-
ment.**

1. (1) This Act may be cited as the "Soil Conservation and Hunter Valley Conservation Trust (Amendment) Act, 1952."

(2) The Soil Conservation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Soil Conservation Act, 1938-1952.

(3) The Hunter Valley Conservation Trust Act, 1950, as amended by this Act, may be cited as the Hunter Valley Conservation Trust Act, 1950-1952.

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

2. The Soil Conservation Act, 1938-1949, is amended—

**Sec. 3.
(Defini-
tions.)**

(a) by inserting in section three in appropriate alphabetical order the following new definitions:—

"Assessment Board" means Assessment Board constituted under the provisions of this Act.

"Local

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“Local land board” means the local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the land district in which are situated the lands in respect of which a reference to a local land board under this Act may be made, or if those lands be situated in more than one land district the local land board for any such district. No. 27, 1952.

(b) by inserting next after subsection one of section eleven the following new subsection:— Sec. 11.
(Agree-
ments rela-
tive to
projects.)

(1A) The covenants, conditions and provisions of any agreement entered into under subsection one of this section may include covenants, conditions and provisions relating to—

- (a) the limitation of the total number of livestock or the numbers of livestock of specified classes which may from time to time be carried on the land which is the subject of the agreement;
- (b) the methods and practices of land utilisation to be adopted on such land;
- (c) the assistance the Minister will provide towards the execution of any works or measures required to be undertaken upon such land.

(c) (i) by omitting subsection six of section seventeen; Sec. 17.
(Areas of
erosion
hazard.)

(ii) by omitting from paragraph (b) of subsection seven of the same section the words “or to the determinations of the Land and Valuation Court”;

(d)

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Substituted
sec. 18
and new
secs. 18A,
18B.

Direction
to carry
out works
or
measures.

(d) by omitting section eighteen and by inserting in lieu thereof the following sections:—

18. (1) Where the owner, occupier or mortgagee of any land within an area of erosion hazard—

- (a) has neglected or refused to enter into any agreement under this Act to ensure the carrying into effect of a project instituted in respect of that area in so far as such project relates to that land; or
- (b) has failed to carry out any covenant, condition or provision of any agreement entered into by him as aforesaid,

the Minister may authorise the Commissioner to give to such owner, occupier or mortgagee a notice under this section.

(2) A notice given under subsection one of this section may direct the person to whom it is given to do any one or more of the following, that is to say,—

- (a) to carry out on the land to which the notice relates the remedial works or measures which the Commissioner considers should be carried out upon such land and to complete such works or measures to the satisfaction of the Commissioner within the time specified in the notice;
- (b) to adopt in respect of the land to which the notice relates during the period specified in the notice the methods and practices of land utilisation specified therein;
- (c) to limit during the period specified in the notice the livestock which he shall from time to time carry on the land to which the notice relates or any specified
part

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part thereof to such total number of livestock or the numbers of livestock of specified classes as shall be specified in the notice. No. 27, 1952.

(3) The total number of livestock or numbers of livestock of any classes specified in a notice and the period during which any limitation imposed pursuant to paragraph (c) of subsection two of this section shall apply shall be as determined by the Assessment Board.

(4) Any period specified in a notice given under subsection one of this section shall not exceed ten years.

(5) The requirements of any such notice in relation to the matters referred to in paragraphs (b) and (c) of subsection two of this section may vary according to different times of the year.

(6) Any notice given under subsection one of this section may be revoked, varied or amended by like notice.

(7) Any owner, occupier or mortgagee to whom notice has been given under this section may within twenty-eight days after service upon him of such notice lodge with the Commissioner an objection in writing thereto specifying the grounds of objection.

(8) (a) Where any such objection is so lodged the Commissioner shall refer the objection to the local land board. Upon the receipt of such reference the local land board shall hold an inquiry into the matters raised by the objection and may make such variation of the notice as it thinks fit.

(b) The local land board shall notify the objector and the Commissioner of the holding of the inquiry and the objector and the Commissioner shall be permitted to attend the inquiry and be heard.

(c)

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(c) The local land board shall announce its decision in open court and shall thereupon report in writing upon the inquiry to the Commissioner.

(9) The objector may within twenty-one days of the decision of the local land board appeal against such decision to the Minister. The decision of the Minister on any such appeal shall be final.

(10) Any notice given under this section, or if such notice is varied by the local land board or the Minister, the notice as so varied, shall be published in the Gazette and upon publication shall take effect and shall during the currency thereof bind the owners, occupiers or mortgagees of the land to which it relates.

(11) Any direction in respect of any matter referred to in paragraphs (b) and (c) of subsection two of this section may be renewed by the Commissioner from time to time. Notice in writing of such renewal shall be given to the owner, occupier or mortgagee of the land to which the direction relates within a reasonable time before the expiration of the period for which such direction applies.

The provisions of subsections six, seven, eight, nine and ten of this section shall apply, *mutatis mutandis*, to and in respect of any notice given under this subsection.

Where a direction is proposed to be renewed such direction shall, notwithstanding any provisions of this section, remain in force until the notice renewing such direction is published in the Gazette or otherwise disposed of.

(12) Any person who during the currency of any notice published in the Gazette under subsection ten or eleven of this section fails to comply with any direction contained in such notice shall be guilty of an offence and shall
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be liable for a first offence to a penalty not exceeding fifty pounds and for any subsequent offence to a penalty not exceeding one hundred pounds. **No. 27, 1952.**

(13) If any owner, occupier or mortgagee of land to which a notice published in the Gazette under subsection ten or eleven of this section applies fails to carry out on such land the remedial works or measures specified in such notice in accordance with the requirements thereof the Minister may authorise the Commissioner to enter upon such land and execute such works and measures and the Minister may recover the costs incurred from the owner, occupier or mortgagee of such land in any court of competent jurisdiction as a debt due to the Crown and until such repayment such cost shall be a charge on the land.

(14) No person shall be entitled to claim or be paid any compensation whatsoever by reason of or in any way arising out of a direction given or of powers exercised in pursuance of this section.

18A. (1) For the purposes of this Act Assessment Boards shall be constituted as hereinafter provided. **Assessment Board.**

(2) An Assessment Board may be constituted in respect of lands within one or more areas of erosion hazard and in respect of any area for which it is constituted it shall have and may exercise the powers, authorities, duties and functions conferred or imposed upon it by or under this Act.

(3) An Assessment Board shall consist of three members who shall be appointed by the Governor. Of such members—

- (a) one shall be appointed on the nomination of the Commissioner and shall, in and by the instrument by which he

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he is appointed, be chairman of the Assessment Board to which he is appointed;

(b) one shall be appointed on the nomination of the Minister for Agriculture; and

(c) one shall be appointed on the nomination of the Minister as representative of the landowners within the area or areas of erosion hazard for which the Assessment Board is to be constituted.

(4) The Governor may from time to time on the recommendation of the Minister revoke the appointment of any member of an Assessment Board and may appoint another member to that Assessment Board upon the like nomination as that of the member whose appointment has been revoked.

(5) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member of an Assessment Board and such member shall not in his capacity as a member be subject to the provisions of any such Act.

(6) Each member of an Assessment Board shall be entitled to receive—

(a) such remuneration for his services as may from time to time be fixed by the Governor; and

(b) travelling expenses at such rate as the Governor may from time to time determine.

(7) A member of an Assessment Board who is an officer of the Public Service or of any statutory body representing the Crown shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled

entitled to receive remuneration under the provisions of subsection six of this section in addition to any remuneration to which he is entitled as an officer of the Public Service or of any statutory body representing the Crown, as the case may be. No. 27, 1952.

(8) The office of a member of an Assessment Board shall not for the purpose of the Constitution Act, 1902, or of any Act amending such Act, be deemed to be an office or place of profit under the Crown.

18B. (1) Upon being requested from time to time by the Commissioner to determine the total number of livestock or the numbers of livestock of specified classes which may be carried on any land or specified part thereof within an area of erosion hazard and the period during which any such determination shall apply, the Assessment Board constituted for such area shall make such determination and thereupon report the same to the Commissioner. Any such determination may provide for the variation of the numbers of livestock or numbers of livestock of specified classes which may be carried on such land according to different times of the year. Powers of
Assessment
Board.

(2) For the purpose of the exercise and discharge of its powers, authorities, duties and functions such Assessment Board may—

- (a) enter at all reasonable times and inspect any lands in respect of which it is constituted;
- (b) require any owner or occupier of any lands in respect of which it is constituted to furnish such information relative to the numbers or numbers of each class of livestock usually carried on the lands within the preceding five years and purchases or sales of that livestock

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livestock made by him during that period as such Assessment Board may require and to verify such information to the satisfaction of such Assessment Board;

- (c) require the Pastures Protection Board constituted under the Pastures Protection Act, 1934, as amended by subsequent Acts, for the pastures protection district within which are situated any lands in respect of which such Assessment Board is constituted, to produce for the inspection of such Assessment Board all or any returns made by any owner or occupier of the lands pursuant to the provisions of that Act and, where an assessment of carrying capacity has been made by the Pastures Protection Board in respect of any such lands, that assessment.

(3) In making any determination referred to in subsection one of this section such Assessment Board shall have regard to—

- (a) the condition of the lands in respect of soil erosion;
- (b) the classes of soils included in the lands and the slopes of the surfaces thereof;
- (c) the kinds of grasses and pastures growing on the lands;
- (d) the provision (if any) made on the lands for reserve fodder;
- (e) the area (if any) of the lands cultivated or usually cultivated for fodder production;
- (f) the works or measures (if any) undertaken on the lands for pasture improvement;
- (g) the works or measures (if any) undertaken on the lands for the prevention or mitigation of soil erosion;
- (h)

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(h) the provision for stock water supplies on the lands; **No. 27, 1952.**

(i) any other matters which, in the opinion of the Assessment Board, affect the livestock carrying capacity of the lands.

(e) by inserting next after section twenty-five the following new sections:— **New secs. 25A, 25B.**

25A. Where any land purchased, resumed or appropriated for the purposes of this Act is not required for such purposes the Minister may absolutely sell and dispose of such land and apply the purchase money arising from such sale in such manner as the Governor shall direct. **Sale of land resumed, etc. and not required for purposes of Act.**

25B. The Minister may grant any easement, right or privilege of any kind over or in relation to any land vested in Her Majesty for the purposes of this Act. **Easements, etc.**

3. The Hunter Valley Conservation Trust Act, 1950, is amended by inserting next after section ten the following new section:— **Amendment of Act No. 34, 1950.**

New sec. 10A.

10A. The Trust shall have and shall be deemed always to have had, subject to the approval of the Minister, authority to contribute from its funds such amounts as the Trust thinks fit to the capital cost of any work or measure undertaken or carried out or proposed to be undertaken or carried out within the Trust District by any Department of the State, public authority, council, association or person for the purpose of afforestation, reafforestation, timber preservation, soil conservation, flood mitigation, or river improvement, or for any purpose connected therewith or incidental thereto. **Trust may contribute to certain works.**

GENERAL