

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

F. B. LANGLEY,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 20 March, 1947.

New South Wales.



ANNO UNDECIMO

GEORGII VI REGIS.

Act No. , 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.

BE 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.

36413 64—A

(2)

Soil Conservation (Amendment).

(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.

10

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.

15

“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.

20

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

25

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.

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

30

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

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

Minister may grant or refuse application.

35

(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

cf. *Ibid.* s. 4.

Soil Conservation (Amendment).

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
5 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
10 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
15 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
20 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 amount (if any) set out in the statement referred
to in subsection two of this section to be paid to the
25 Minister.

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
30 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
35 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 Govern-
40 ment Savings Bank Act, 1906, as amended by
subsequent

Soil Conservation (Amendment).

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.

5 22E. No advance shall be made under this Act unless the Minister is satisfied—

10 (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

15 (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.

20 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.

25 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.

30 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.

35 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.

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Conditions precedent to advances. cf. Act No. 22, 1946, s. 6.

Amount of advance where work not carried out by Minister. cf. *Ibid.* s. 7.

Payment of advance where works not carried out by Minister. cf. *Ibid.* s. 8.

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

Soil Conservation (Amendment).

5 (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.

10 (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.

15 (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.

20 (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 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.

30 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.

35 (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

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

Soil Conservation (Amendment).

such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

5 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. Act No.
22, 1946,
s. 11.

15 (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.

20 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.

30 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.

35 (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
40 half-yearly

Soil Conservation (Amendment).

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—

- 5 (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
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- 15 (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

20 (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.

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

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35 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

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Minister may carry out work where advance is not made.
cf. Act No. 22, 1946 s. 13.

in

Soil Conservation (Amendment).

in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Minister.

5 (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 for-
warded to the owner or occupier, which certificate
10 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 evi-
dence of the charge payable by the owner or occupier.

15 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—

- 20 (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
25 of any works proposed to be carried out on
any lands.

Minister
may carry
out investi-
gations,
prepare
estimates,
etc.
cf. Act No.
22, 1946,
s. 14.

(2) The charge, if any, to be paid to the
Minister for any supervision or technical work
carried out by him pursuant to the provisions of
subsection one of this section may—

- 30 (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
35 (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)

Soil Conservation (Amendment).

(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.

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.

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

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) who, while any money is owing to the Bank 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,

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

shall be liable to a penalty not exceeding fifty pounds.

Soil Conservation (Amendment).

- 22P. (1) The Minister may by writing under his hand delegate to the Permanent Head of the Department 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 amended—
- (a) by inserting in section two next after the matter relating to Part IV, the following new matter:—
- PART IV_A.—ADVANCES FOR WORKS OF SOIL
CONSERVATION AND EROSION MITIGATION
—SS. 22A.—22P.
- (b) by inserting at the end of section twelve the 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 IV_A of this Act and the provisions of the said Part shall apply, mutatis mutandis, to and in respect of any such advance.
- (c) by inserting in subsection three of section fourteen after the word "eighteen" the words "or Part IV_A."

Delegation
of power.Further
amendment
of Act No.
10, 1938.Sec. 2.
(Division
into Parts.)Sec. 12.
(Advances
and
payments.)Sec. 14.
(Carrying
out of
Works by
Minister or
Director.)

No. , 1947.

A BILL

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.

[MR. WEIR;—13 *March*, 1947.]

BE 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
5 the same, as follows:—

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

36413 64—A

Short title
and com-
mencement.

(2)

Soil Conservation (Amendment).

(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.

10

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.—

15

“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.

20

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

25

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.

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

30

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

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

Minister may grant or refuse application.

35

(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

cf. *Ibid.* s. 4.

Soil Conservation (Amendment).

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
 5 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
 10 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
 15 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
 20 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 amount (if any) set out in the statement referred
 to in subsection two of this section to be paid to the
 25 Minister.

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
 30 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
 35 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 VI B of the Govern-
 40 ment Savings Bank Act, 1906, as amended by
 subsequent

Soil Conservation (Amendment).

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.

5 22E. No advance shall be made under this Act unless the Minister is satisfied—

10 (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

15 (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.

20 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.

25 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.

30 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.

35 40 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.

Conditions precedent to advances. cf. Act No. 22, 1946, s. 6.

Amount of advance where work not carried out by Minister. cf. *Ibid.* s. 7.

Payment of advance where works not carried out by Minister. cf. *Ibid.* s. 8.

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

Soil Conservation (Amendment).

5 (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.

10 (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.

15 (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.

20 (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 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.

30 22i. (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.

35 (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

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cf. Act No.
22, 1946,
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Soil Conservation (Amendment).

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—

- 5 (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
10 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
15 (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

20 (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
25 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, until so paid, be and remain a charge in its
30 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.

35 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
40 in

Minister may carry out work where advance is not made.
cf. Act No. 22, 1946, s. 13.

Soil Conservation (Amendment).

in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Minister.

5 (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 for-
warded to the owner or occupier, which certificate
10 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 evi-
dence of the charge payable by the owner or occupier.

15 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—

- 20 (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
25 any lands.

Minister
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gations,
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cf. Act No.
22, 1946,
s. 14.

(2) The charge, if any, to be paid to the
Minister for any supervision or technical work
carried out by him pursuant to the provisions of
subsection one of this section may—

- 30 (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
35 (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)

Soil Conservation (Amendment).

(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.

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.

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

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) who, while any money is owing to the Bank 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,

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

shall be liable to a penalty not exceeding fifty pounds.

Soil Conservation (Amendment).

- 22P. (1) The Minister may by writing under his hand delegate to the Permanent Head of the Department 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 amended—
- (a) by inserting in section two next after the matter relating to Part IV, the following new matter:—
- PART IVA.—ADVANCES FOR WORKS OF SOIL
CONSERVATION AND EROSION MITIGATION
—ss. 22A.—22P.
- (b) by inserting at the end of section twelve the 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) by inserting in subsection three of section fourteen after the word "eighteen" the words "or Part IVA."

Delegation of power.

Further amendment of Act No. 10, 1938. Sec. 2. (Division into Parts.)

Sec. 12. (Advances and payments.)

Sec. 14. (Carrying out of Works by Minister or Director.)

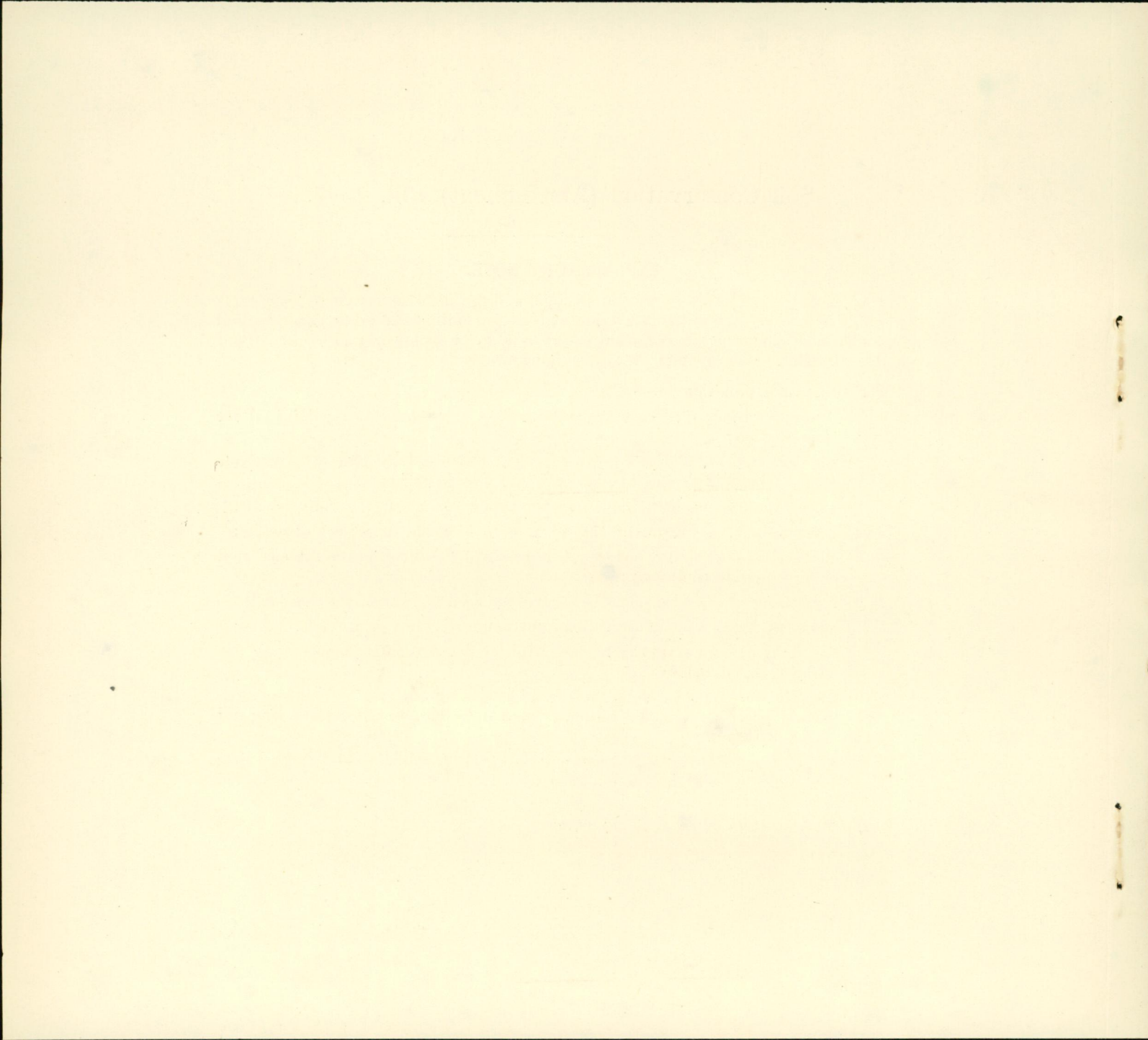
Soil Conservation (Amendment) Bill, 1947.

EXPLANATORY NOTE.

THE objects of this Bill are to provide financial and technical assistance to landowners who desire to carry out soil conservation and erosion mitigation works generally and to enable such landowners to carry out such works or for such works to be carried out by the Minister, by contractors, or by such landowners.

The Bill makes provision for—

- (1) The applications for assistance and advances to be made to the Minister for Conservation;
- (2) the Minister for Conservation or person authorised by him to investigate applications and decide whether advances are to be made;
- (3) advances to be made through an appropriate agency of the Rural Bank;
- (4) determining the amount of any advance to be made in respect of works;
- (5) the works to be carried out by or on behalf of the Minister, or the applicant or by a private contractor;
- (6) repayment of the advance to be secured by deed of charge over the land;
- (7) advances for a joint conservation programme for two or more landowners;
- (8) the carrying out of works by the Minister for a cash payment where an advance is not made;
- (9) the Minister or person authorised by him to carry out surveys and investigations, prepare designs and estimates of cost, and supervise the carrying out of the works;
- (10) the hiring to landowners or occupiers of heavy plant under appropriate conditions to assist them to implement soil conservation and erosion mitigation programmes;
- (11) other matters of an ancillary nature.



No. , 1947.

A BILL

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.

[MR. WEIR;—13 *March*, 1947.]

BE 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
5 the same, as follows :—

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

36413 64—A

(2)

Short title
and com-
mencement.

Soil Conservation (Amendment).

(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.

10

PART IV A.

New Part
IV A.

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.

15

“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.

20

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

25

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.

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

30

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

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

Minister
may grant
or refuse
application.

35

(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

cf. *Ibid.*
s. 4.

owner

Soil Conservation (Amendment).

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
 5 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
 10 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
 15 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
 20 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 amount (if any) set out in the statement referred
 to in subsection two of this section to be paid to the
 25 Minister.

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
 30 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
 35 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 VI_B of the Govern-
 40 ment Savings Bank Act, 1906, as amended by
 subsequent

Soil Conservation (Amendment).

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.

5 22E. No advance shall be made under this Act unless the Minister is satisfied—

(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

10
15 (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.

20 22F. The amount of any advance to be made to any person 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.

25 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.

30 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.

35 40 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.

Conditions precedent to advances. cf. Act No. 22, 1946, s. 6.

Amount of advance where work not carried out by Minister. cf. *Ibid.* s. 7.

Payment of advance where works not carried out by Minister. cf. *Ibid.* s. 8.

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

Soil Conservation (Amendment).

5 (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.

10 (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.

15 (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.

20 (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 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.

30 22i. (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.

35 (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

Soil Conservation (Amendment).

such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

5 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 10 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. Act No.
22, 1946,
s. 11.

15 (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 20 this Act.

25 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.

30 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.

35 (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 40 the amount advanced to such owner by consecutive half-yearly

Soil Conservation (Amendment).

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—

- 5 (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
- 10 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
- 15 (b) such other powers, covenants, provisions, conditions and clauses as the Bank determines.

20 (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

25 deed of charge shall be executed by the owner before any advance is made to the owner.

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

35 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

40 in

Minister may carry out work where advance is not made. cf. Act No. 22, 1946, s. 13.

Soil Conservation (Amendment).

in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Minister.

5 (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.

10 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.

15 22M. (1) The Minister may—

- 20 (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. Act No. 22, 1946, s. 14.

25 (2) The charge, if any, to be paid to the Minister for any supervision or technical work carried out by him pursuant to the provisions of subsection one of this section may—

- 30 (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
- 35 (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)

Soil Conservation (Amendment).

(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.

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.

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

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) who, while any money is owing to the Bank 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,

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

shall be liable to a penalty not exceeding fifty pounds.

Soil Conservation (Amendment).

- 22p. (1) The Minister may by writing under his hand delegate to the Permanent Head of the Department 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 amended—
- (a) by inserting in section two next after the matter relating to Part IV, the following new matter:—
- PART IVA.—ADVANCES FOR WORKS OF SOIL
CONSERVATION AND EROSION MITIGATION
—ss. 22A.—22P.
- (b) by inserting at the end of section twelve the 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) by inserting in subsection three of section fourteen after the word "eighteen" the words "or Part IVA."

Delegation
of power.Further
amendment
of Act No.
10, 1938.
Sec. 2.
(Division
into Parts.)Sec. 12.
(Advances
and
payments.)Sec. 14.
(Carrying
out of
Works by
Minister or
Director.)

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

F. B. LANGLEY,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 21 March, 1947.

New South Wales.



ANNO UNDECIMO

GEORGII VI REGIS.

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.]

BE 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)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

Soil Conservation (Amendment).

(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.

Amendment
of Act
No. 10,
1938.

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

New Part
IVA.

PART IVA.

ADVANCES FOR WORKS OF SOIL CONSERVATION AND
EROSION MITIGATION.

Definitions.

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

“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” 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

Soil Conservation (Amendment).

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 amount (if any) set out in the statement referred to in subsection two of this section to be paid to the Minister.

22b. (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

Soil Conservation (Amendment).

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—

- (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
- (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.

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.

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)

Conditions precedent to advances. cf. Act No. 22, 1946, s. 6.

Amount of advance where work not carried out by Minister. cf. *Ibid.* s. 7.

Payment of advance where works not carried out by Minister. cf. *Ibid.* s. 8.

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

Soil Conservation (Amendment).

(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 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.

22i. (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

Soil Conservation (Amendment).

such hire and any such amount shall, for the purposes of this Act, be deemed to have been advanced to the owner.

Joint works.
cf. Act No.
22, 1946,
s. 11.

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.

(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.

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

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.

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

Soil Conservation (Amendment).

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, 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.

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

Minister
may carry
out work
where
advance
is not
made.

cf. Act No.
22, 1946,
s. 13.

in

Soil Conservation (Amendment).

in which such charge is to be assessed, as may be agreed upon by the owner or occupier and the Minister.

(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.

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

Minister
may carry
out investi-
gations,
prepare
estimates,
etc.
cf. Act No.
22, 1946,
s. 14.

Soil Conservation (Amendment).

(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.

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.

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

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) who, while any money is owing to the Bank 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,

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

shall be liable to a penalty not exceeding fifty pounds.

Soil Conservation (Amendment).

Delegation
of power.

22P. (1) The Minister may by writing under his hand delegate to the Permanent Head of the Department 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.

Further
amendment
of Act No.
10, 1938.
Sec. 2.
(Division
into Parts.)

(2) The Soil Conservation Act, 1938, is further amended—

(a) by inserting in section two next after the matter relating to Part IV, the following new matter:—

PART IVA.—ADVANCES FOR WORKS OF SOIL
CONSERVATION AND EROSION MITIGATION
—SS. 22A.—22P.

Sec. 12.
(Advances
and
payments.)

(b) by inserting at the end of section twelve the 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.

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."

In the name and on behalf of His Majesty I assent to this Act.

NORTHCOTT,
Governor.

*Government House,
Sydney, 28th March, 1947.*