

**SOIL CONSERVATION (AMENDMENT) ACT, 1978,  
No. 128**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 128, 1978.**

An Act to amend the Soil Conservation Act, 1938, to make further provisions in relation to the notification and control of catchment areas, to provide for the appointment of an Assistant Commissioner of the Soil Conservation Service, to increase penalties and for certain other purposes. [Assented to, 21st December, 1978.]

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See also Water (Soil Conservation) Amendment Act, 1978.

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*Soil Conservation (Amendment).*

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**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.      **1.** This Act may be cited as the "Soil Conservation (Amendment) Act, 1978".

Principal Act.      **2.** The Soil Conservation Act, 1938, is referred to in this Act as the Principal Act.

Schedules.      **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO CATCHMENT AREAS.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO THE APPOINTMENT OF AN ASSISTANT  
COMMISSIONER OF THE SOIL CONSERVATION SERVICE.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO PENALTIES.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT BY  
WAY OF STATUTE LAW REVISION.

Amendment of Act No. 10, 1938.      **4.** The Principal Act is amended in the manner set forth in Schedules 1–5.

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*Soil Conservation (Amendment).*

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SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS.

(1) (a) Section 2—

From the matter relating to Part IV, omit “IN CONNECTION THEREWITH”.

(b) Section 2—

In the matter relating to Division 3 of Part IV, after “*Works*”, insert “*and Catchment Areas*”.

(2) Part IV, heading—

Omit “IN CONNECTION THEREWITH”.

(3) Section 19 (2)—

After “Any work”, insert “or proposed work”.

(4) Section 20 (1A)—

After section 20 (1), insert :—

(1A) Where the Minister is of the opinion that the stability of a river or lake is adversely affected or liable to be adversely affected by soil erosion or siltation, he may notify in the Gazette an area of land (not being an area of land that may be notified as a catchment area under subsection (1)) as the catchment area of the river or lake.

(5) (a) Section 21A (b)—

After “1916 ;”, insert “or”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(b) Section 21A (c)—

Omit “1974 ;”, insert instead “1974.”.

(c) Section 21A (d), (e)—

Omit the paragraphs.

(6) (a) Section 21c (1)—

Omit the subsection, insert instead :—

(1) A person shall not—

(a) ringbark, cut down, fell, poison or otherwise destroy, or cause to be ringbarked, cut down, felled, poisoned or otherwise destroyed; or

(b) top, lop, remove or injure, or cause to be topped, lopped, removed or injured,

any tree on any protected land, except in accordance with an authority issued under section 21D in relation to the land.

(b) Section 21c (2) (b)—

After “Act;” , insert “or”.

(c) Section 21c (2) (c)—

Omit “Act ; or”, insert instead “Act.”.

(d) Section 21c (2) (d)—

Omit the paragraph.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(e) Section 21C (3)—

After “destroying”, insert “or topping, lopping or removing”.

(f) Section 21C (3) (a)—

Omit “land; or”, insert instead “protected land;”.

(g) Section 21C (3) (b)—

Omit “the land.”, insert instead “each separate area of protected land where the area of not more than 2 hectares does not comprise more than one-quarter of the separate area of protected land; or”.

(h) Section 21C (3) (c)—

After section 21C (3) (b), insert :—

- (c) the trees comprising a banana plantation or orchard where the ringbarking, cutting down, felling, poisoning or otherwise destroying or the topping, lopping or removing is necessary for the harvesting of the produce of, or the management of, the plantation or orchard.

(i) Section 21C (3A)—

After section 21C (3), insert :—

(3A) The doing of anything referred to in subsection (3) (c) shall be deemed not to be necessary for the harvesting of, or the management of, a plantation or orchard if it results in the complete destruction of the plantation or orchard.

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*Soil Conservation (Amendment).*


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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT AREAS—*continued.*

## (j) Section 21C (5)—

Omit the subsection, insert instead :—

(5) An information in respect of an offence under this section committed after the date of assent to the Soil Conservation (Amendment) Act, 1978, may be laid at any time within 2 years after the commission of the offence.

## (7) Section 21CA—

After section 21C, insert :—

21CA. (1) Where the Board is satisfied that any thing prohibited by section 21C (1) done or proposed to be done by any person on any protected land is causing or is likely to cause soil erosion on the protected land or any adjacent land (whether, in respect of the thing done, any person has been convicted of an offence under section 21C (1) or not), it may, by notice in writing served personally or by post on that person, require that person within the time specified in the notice to abstain from doing or to do or permit to be done such things as the Board considers necessary to mitigate or avoid, or repair the damage caused by, the erosion.

(2) The time referred to in subsection (1) shall commence—

(a) where no objection has been lodged under subsection (5) in respect of the notice or any copy thereof—upon the expiration of the period of 30 days after—

(i) the date of service of the notice; or

Prevention  
of soil  
erosion  
and repair  
of damage.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- (ii) the date of service of a copy of the notice, whichever is the later or latest; or
- (b) where an objection is lodged under subsection (5) in respect of the notice or any copy thereof—upon the date of service of the notice of the Minister's direction under subsection (11) in respect of the notice.
- (3) A copy of a notice under subsection (1) shall be served personally or by post on any person who appears to the Board to be the owner, occupier or mortgagee of the protected land (not being the person on whom the original notice is or is to be served) and, where the notice requires the doing of things on any adjacent land, on any person who appears to the Board to be the owner, occupier or mortgagee of that adjacent land.
- (4) A notice under subsection (1) may be revoked, varied or amended by a like notice.
- (5) Any person on whom a notice has been served under subsection (1) or on whom a copy of a notice has been served under subsection (3) may, within the period of 30 days after service of the notice or copy, as the case may be, lodge with the Board an objection in writing to the requirements of the notice.
- (6) An objection under subsection (5) shall specify the grounds of objection.
- (7) The Board shall refer any objection lodged under subsection (5) to the local land board for inquiry.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(8) Upon receipt of an objection referred to in subsection (7), the local land board shall—

- (a) notify the objector and the Board of the holding of the inquiry;
- (b) hold an inquiry into the matters raised by the objection;
- (c) recommend in writing to the Minister that—
  - (i) the notice be complied with;
  - (ii) the notice be revoked; or
  - (iii) the notice, varied or amended as recommended by the local land board, be complied with; and
- (d) announce the terms of its recommendation in open court.

(9) There shall be no right of appeal against a recommendation made under subsection (8) (c).

(10) The objector and the Board shall be entitled to attend, or be represented at, an inquiry referred to in subsection (8) and be heard.

(11) After considering a recommendation referred to in subsection (8), the Minister may, whether in accordance with that recommendation or not, direct that—

- (a) the notice be complied with;
- (b) the notice be revoked; or



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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(c) the notice as varied or amended by the Minister  
be complied with,

and shall—

(d) in the case of a direction under paragraph (a)  
or (c), serve, either personally or by post, notice  
of the direction on the person served with the  
notice under subsection (1); and

(e) where the person referred to in paragraph (d)  
is not the objector, advise the objector of his  
decision.

(12) Subject to subsection (2)—

(a) if any person wilfully fails to comply with the  
requirements of a notice under subsection (1)  
within the time specified in the notice he is guilty  
of an offence against this Act and liable to a  
penalty not exceeding \$1,000; and

(b) if any person does not comply with the require-  
ments of a notice under subsection (1) within the  
time specified in the notice (whether that person  
has been convicted of an offence under para-  
graph (a) in respect of the notice or not) the  
Minister may, where the notice required the  
doing of a thing on any land, authorise the  
Commissioner to enter upon the land and do the  
thing.

(13) Any costs incurred by the Commissioner  
under subsection (12) (b) may be recovered from the  
person served with the notice in a court of competent  
jurisdiction as a debt due to the Crown.

(14) Where the person referred to in subsection  
(13) is the owner of the land on which the thing is done,  
the costs incurred shall, until paid, be a charge on the land.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(15) Where a person has been prosecuted under subsection (12) (a), it is a defence to that prosecution if the court is satisfied that that person had no legal right to enter the land in respect of which the notice was given and comply with the requirements of the notice.

## (8) (a) Section 21D (1)—

After “protected land,” insert “or to any holder or grantee of timber rights over protected land,”.

## (b) Section 21D (1)—

After “manner”, insert “or the topping, lopping or removing”.

## (c) Section 21D (4)—

After “relates”, insert “or to the holder or grantee of timber rights over the land to which an authority relates”.

## (d) Section 21D (5)—

Omit the subsection, insert instead :—

(5) Any owner or occupier of land or holder or grantee of timber rights over land who succeeds a person to whom an authority has been issued under this section shall, while he remains the owner, occupier, holder or grantee, be deemed to have been issued with that authority.

## (9) Part IV, Division 3, heading—

After “Works”, insert “and Catchment Areas”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(10) (a) Section 22 (1) (a)—

Omit “catchment area notified or constituted under this Act has caused or is likely to cause damage to or has interfered or is likely to interfere with the utility of any proclaimed work; and”, insert instead :—

catchment area—

(i) notified under section 20 (1) or constituted under section 21 has caused or is likely to cause damage to or has interfered or is likely to interfere with the utility of any proclaimed work; or

(ii) notified under section 20 (1A) has caused or is likely to cause soil erosion or siltation;  
and

(b) Section 22 (1) (b)—

Omit “or interference”, insert instead “, interference, soil erosion or siltation”.

(c) Section 22 (1)—

After “the occupier of” wherever occurring, insert “, and on the holder or grantee of any timber rights over,”.

(d) Section 22 (1)—

Omit “or occupier”, insert instead “, occupier, holder or grantee”.

(e) Section 22 (2)—

Omit “or occupier”, insert instead “, occupier, holder or grantee”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- (f) Section 22 (2)—  
After “lodge”, insert “with the Minister”.
- (g) Section 22 (2)—  
Omit “and shall be lodged in the manner prescribed”.
- (h) Section 22 (2)—  
Omit “owner, occupier or mortgagee objecting”,  
insert instead “objector”.
- (i) Section 22 (4)—  
Omit “one hundred dollars” wherever occurring, insert  
instead “\$1,000”.
- (j) Section 22 (4)—  
Omit “less than ten years”, insert instead “more than  
10 years”.
- (k) Section 22 (4)—  
Omit “less than fifteen years”, insert instead “more  
than 15 years”.
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*Soil Conservation (Amendment).*

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SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
APPOINTMENT OF AN ASSISTANT COMMISSIONER OF THE SOIL  
CONSERVATION SERVICE.

(1) Section 3, definition of "Assistant Commissioner"—

After the definition of "Assessment Board", insert :—

"Assistant Commissioner" means the Assistant Commissioner of the Service appointed for the purposes of this Act.

(2) Section 4A—

After section 4, insert :—

4A. (1) The Governor may, from time to time, under the provisions of the Public Service Act, 1902, appoint an Assistant Commissioner of the Service. Assistant Commissioner.

(2) The Assistant Commissioner shall be subject to the provisions of the Public Service Act, 1902, during his term of office.

(3) The Assistant Commissioner—

(a) shall assist the Commissioner in the exercise or discharge of his powers, authorities, duties and functions;

(b) may, with the approval of the Minister, act in the place of the Commissioner or, where there is a deputy Commissioner, in the place of the deputy Commissioner if the Commissioner or the deputy Commissioner, as the case may be—

(i) is absent from duty; or

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*Soil Conservation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
APPOINTMENT OF AN ASSISTANT COMMISSIONER OF THE SOIL  
CONSERVATION SERVICE—*continued.*

(ii) though not absent from duty, is not available to exercise or discharge his powers, authorities, duties and functions,

and while so acting shall have the immunities and may exercise or discharge all the powers, authorities, duties and functions of the Commissioner; and

(c) shall exercise or discharge such other powers, authorities, duties and functions as are conferred or imposed upon him by or under this or any other Act.

(4) An approval under subsection (3) (b), in relation to the Assistant Commissioner acting in the place of the Commissioner, shall not have effect while a deputy Commissioner is acting in the place of the Commissioner under section 4 (6).

(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Assistant Commissioner to act in the place of the Commissioner, or as to the necessity or propriety of any approval for the Assistant Commissioner so to act and all things done or omitted by the Assistant Commissioner while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Commissioner.

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*Soil Conservation (Amendment).*

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SCHEDULE 3.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) Section 15 (3)—

Omit “ten dollars”, insert instead “\$200”.

(2) Section 18 (12)—

Omit “for a first offence to a penalty not exceeding one hundred dollars and for any subsequent offence to a penalty not exceeding two hundred dollars”, insert instead “to a penalty not exceeding \$1,000”.

(3) Section 21c (4)—

Omit “for a first offence to a penalty not exceeding two hundred dollars and for any subsequent offence to a penalty not exceeding five hundred dollars”, insert instead “to a penalty not exceeding \$500”.

(4) Section 22 (6)—

Omit “forty dollars”, insert instead “\$400”.

(5) Section 22o—

Omit “one hundred dollars”, insert instead “\$500”.

(6) Section 27—

Omit “forty dollars”, insert instead “\$400”.

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*Soil Conservation (Amendment).*


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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
PENALTIES—*continued.*

- (7) Section 29 (1)—  
Omit “twenty dollars”, insert instead “\$200”.
- (8) Section 35—  
Omit “twenty dollars”, insert instead “\$200”.
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Sec. 4.

## SCHEDULE 4.

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 3, definition of “Bank”—  
Before the definition of “Catchment Areas Protection Board”, insert :—  
“Bank” means the Rural Bank of New South Wales.
- (b) Section 3, definition of “Occupier”—  
After the definition of “Local land board”, insert :—  
“Occupier”, in relation to land, includes a person having the control or management of the land, whether residing thereon or not.
- (c) Section 3, definition of “Owner”—  
From paragraph (c), omit “or mortgagee in possession”, insert instead “, mortgagee in possession or otherwise”.



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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(d) Section 3, definition of “Works”—

After the definition of “Tree”, insert :—

“Works”, other than in Part IV, means works necessary for the conservation of soil or the mitigation of erosion and any operations incidental thereto.

(2) (a) Section 10 (2)—

After “scheme”, insert “or schemes”.

(b) Section 10 (4)—

Omit “the scheme”, insert instead “a scheme”.

(3) Section 11 (1A) (b)—

After “utilisation”, insert “or land management”.

(4) (a) Section 12 (b) (iii)—

Omit “subsection (1) of section 14 or under section 17”, insert instead “section 14 (1) or 18 or under Part IVA”.

(b) Section 12—

After “an owner”, insert “or occupier”.

(c) Section 12—

After “the owner”, insert “or occupier”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (5) Section 13—

Omit “work”, insert instead “works”.

## (6) (a) Section 14 (1)—

Omit “work in connection with soil conservation or erosion mitigation or in connection with any other purpose contemplated by this Act whether or not such work is”, insert instead “works, whether or not the works are”.

## (b) Section 14 (2), (3)—

Omit “work” wherever occurring, insert instead “works”.

## (c) Section 14 (3)—

Omit “is constructed or used or is”, insert instead “are constructed or used or are”.

## (7) Section 14A—

After section 14, insert:—

14A. The Minister may—

(a) let on hire any machinery, plant or equipment;  
or

(b) provide labour, materials or services,

to any person for the purpose of the carrying out of works, subject to payment of such charge or cost as may be agreed upon.

Minister  
may let  
machinery,  
etc.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(8) Section 18 (2) (b)—

After “utilisation”, insert “or land management”.

(9) Section 22A—

Omit the section.

(10) (a) Section 22B (1A), (1B) —

After section 22B (1), insert:—

(1A) An occupier of land may, with the written consent of the owner of the land, make an application pursuant to subsection (1).

(1B) For the purposes of this Part, where an occupier of land has made, or is entitled to make, an application pursuant to subsection (1), a reference in this Part to the owner, in relation to an application in respect of the land, shall be deemed to be a reference to the occupier of the land.

(b) Section 22B (2)—

Omit “the prescribed form”, insert instead “a form approved by the Minister”.

(c) Section 22B (3)—

After section 22B (2), insert:—

(3) Where this Part provides for the doing of a thing by an owner of land, that thing may be done by an agent of that owner authorised for that purpose.

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*Soil Conservation (Amendment).*


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 SCHEDULE 4—*continued.*

 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (11) Sections 22F, 22G—

Omit the sections, insert instead:—

 Provision of  
 money to  
 meet  
 costs and  
 expenses.

22F. The Bank shall, at the request of the Treasurer, provide money to the Minister as working capital for the purposes of this Part to meet the costs and expenses incurred, or to be incurred, by any person or body, including the Minister, in carrying out works under this Part.

 Payment of  
 advances.

22G. (1) Where any works in respect of which an advance is to be made under this Part have been, or are to be, carried out by any person or body, including the Minister, the advance shall be paid by the Bank at such time and in such manner and to such persons as the Minister directs or, if the Minister so directs, to him to recoup costs and expenses incurred by him.

(2) Without limiting the generality of subsection (1), an advance referred to in that subsection may be paid in the form of progress payments at such times and in such manner as the Minister directs.

(3) For the purposes of this section, the Minister may authorise the Commissioner or any officer or employee of the Service to enter the lands of an owner and inspect works or sites of works.

## (12) (a) 22H (3)—

Omit “the certificate referred to in subsection (5)”, insert instead “a certificate under the hand of the Minister or a person authorised by him”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(b) Section 22H (4), (5)—  
Omit the subsections.

(13) Section 22HA—

After section 22H, insert:—

22HA. The amount of any advance to be made to an owner in respect of works carried out under this Part shall be as finally determined by the Minister.

**Determina-  
tion**  
of amount  
of advance.

(14) Section 22I—

Omit the section, insert instead:—

22I. Where the Minister has, pursuant to this section, as in force before the date of assent to the Soil Conservation (Amendment) Act, 1978, or section 14A, let on hire any machinery, plant or equipment or provided labour, materials or services to any owner for the purpose of carrying out any works in respect of which an advance is to be made under this Part, the Bank shall, at the request of the Minister, pay to the Minister the amount of the charge therefor or the cost thereof and thereupon that amount shall, for the purposes of this Part, be deemed to have been advanced to the owner.

**Advances  
when  
machinery  
let, etc.**

(15) Section 22J (2)—

Omit “the whole”, insert instead “all or any”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (16) (a) Section 22K (1)—

Omit the subsection, insert instead :—

(1) Subject to subsection (5), the repayment of every advance made under this Part, together with interest, shall be secured by a deed of charge over—

(a) the lands of the owner; or

(b) where the advance is repayable by 2 or more owners, the lands of each of those owners,

or over such of those lands as the Minister considers sufficient, whether those lands are the lands in respect of which the advance was made or not.

## (b) Section 22K (5)—

After section 22K (4), insert :—

(5) If the Minister so approves, the repayment of an advance made under this Act, together with interest, may be secured partly by a deed of charge and partly in some other manner approved by the Minister or wholly in some other manner approved by the Minister.

## (17) (a) Section 22M (1) (a)—

After “owner”, insert “or occupier”.

## (b) Section 22M (2) (a)—

After “owner” where firstly occurring, insert “or occupier”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(c) Section 22M (2) (a)—

Omit “by the owner”.

(d) Section 22M (3)—

Omit “, out of the moneys to be advanced to the owner.”.

(e) Section 22M (3)—

After “have been advanced to the owner”, insert “or occupier, as the case may be”.

(18) Section 22P—

Omit the section.

(19) (a) Section 26—

Omit “work” wherever occurring, insert instead “works”.

(b) Section 26 (1)—

After “mitigation”, insert “or for purposes incidental thereto”.

(20) Section 27—

Omit “work which is being or has been”, insert instead “works which are being or have been”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

## (21) (a) Section 28 (1)—

Omit “special lease, scrub lease, inferior lands lease, snow lease, residential lease, improvement lease, settlement lease or lease under section 18 or under section 23 of the Crown Lands Act (Amendment) Act, 1903, or lease under section 73 of the Crown Lands Consolidation Act, 1913, or Crown lease or conditional purchase lease”, insert instead “homestead selection or lease referred to in section 182 of the Crown Lands Consolidation Act, 1913”.

## (b) Section 28 (2)—

Omit “lease”, insert instead “homestead selection or lease”.

## (22) Section 30A—

After section 30, insert :—

30A. (1) The Minister may by instrument in writing delegate to the Commissioner, the Assistant Commissioner or to an officer or employee of the Service the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on the Minister by or under this Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

(2) The Commissioner may by instrument in writing delegate to the Assistant Commissioner or to an officer or employee of the Service the exercise or performance of such of the powers (other than this power of



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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

delegation), authorities, duties or functions conferred or imposed on the Commissioner by or under this or any other Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Minister or the Commissioner, as the case may be, may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated by him.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force or effect as if the act or thing done had been done or suffered by the Minister or the Commissioner, as the case may be.

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*Soil Conservation (Amendment).*

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Sec. 4.

## SCHEDULE 5.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION.

## (1) Section 2—

From the matter relating to Part III, omit “18”, insert instead “18B”.

## (2) (a) Section 3, definition of “Catchment Areas Protection Board”—

Omit “Catchment Areas Protection” where firstly occurring.

## (b) Section 3, definition of “Commissioner”—

Omit “Soil Conservation”.

## (c) Section 3, definition of “Local land board”—

Omit “as amended by subsequent Acts”.

## (d) Section 3, definition of “Prescribed”—

Omit the definition.

## (e) Section 3, definition of “Service”—

Omit the definitions of “Schedule” and “Statutory Corporation”, insert instead :—

“Service” means the Soil Conservation Service of New South Wales.

## (3) (a) Section 4 (1)—

After “Service” where firstly occurring, insert “of New South Wales”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

(b) Section 4 (1)—

Omit “or any Act amending that Act,”.

(c) Section 4 (1)—

Omit “any such”, insert instead “that”.

(d) Section 4 (7) (a) (ii)—

Omit the subparagraph, insert instead :—

(ii) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(e) Section 4 (7) (iv)—

Omit the subparagraph, insert instead :—

(iv) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(f) Section 4 (8) (a), (b)—

Omit “or any Act amending such Acts,” wherever occurring.

(g) Section 4 (8) (a)—

Omit “, or any amendment thereof”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (h) Section 4 (8) (b)—  
Omit “or any amendment thereof.”
- (4) Sections 5 (1), 18B (2) (c), 22D (3)—  
Omit “as amended by subsequent Acts,” wherever occurring.
- (5) Sections 11 (1), 24, 25—  
Omit “His Majesty” wherever occurring, insert instead “the Crown”.
- (6) (a) Section 14 (3)—  
Omit “-1936” wherever occurring.
- (b) Section 14 (3)—  
Omit “Water Conservation and Irrigation Commission”, insert instead “Water Resources Commission”.
- (7) (a) Section 15—  
After “or any officer or employee” wherever occurring, insert “of the Service”.
- (b) Section 15 (2)—  
Omit “by any”, insert instead “by that”.
- (c) Section 15 (2)—  
Omit “or such”, insert instead “or that”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

(8) Section 17 (8)—

Omit “Secretary for Lands”, insert instead “Minister for Lands”.

(9) (a) Section 18 (3)—

Omit “paragraph (c) of subsection (2)”, insert instead “subsection (2) (c)”.

(b) Section 18 (5), (11)—

Omit “paragraphs (b) and (c) of subsection (2)” wherever occurring, insert instead “subsection (2) (b) and (c)”.

(10) (a) Section 18A (5)—

Omit “or of any Act amending that Act,”.

(b) Section 18A (5)—

Omit “any such”, insert instead “that”.

(c) Section 18A (8)—

Omit “or of any Act amending such Act,”.

(11) (a) Section 21A—

Omit “subsection (1) of section 21B”, insert instead “section 21B (1)”.

(b) Section 21A—

Omit “that subsection”, insert instead “section 21B (1)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (c) Section 21A (a)—  
Omit “subsection (2) of that section”, insert instead  
“section 21B (2)”.
- (12) Sections 21B (1), 21D (1), 21D (4), 21D (6), 21E, 22 (2),  
31—  
Omit “Catchment Areas Protection” wherever occurring.
- (13) Section 21D (6)—  
Omit “that Board”, insert instead “the Board”.
- (14) Section 22 (5) (a)—  
Omit “-1932”.
- (15) (a) Section 22D (1)—  
Omit “subsection (3) of section 22C”, insert instead  
“section 22C (3)”.
- (b) Section 22D (1)—  
Omit “Colonial”.
- (16) Section 22H (4)—  
Omit “subsection (3) of section 22C”, insert instead  
“section 22C (3)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

(17) (a) Section 22J (1)—

Omit “subsection (2) of section 22B”, insert instead  
“section 22B (2)”.

(b) Section 22J (2)—

Omit “subsection (3) of section 22C”, insert instead  
“section 22C (3)”.

(18) Section 25B—

Omit “Her Majesty”, insert instead “the Crown”.

(19) Section 28—

Omit “Secretary for Lands” wherever occurring, insert in-  
stead “Minister for Lands”.

(20) Section 29 (2)—

Omit “or police”.

(21) (a) Section 32 (1) (g)—

Omit “Water Conservation and Irrigation  
Commission”, insert instead “Water Resources  
Commission”.

(b) Section 32 (7)—

Omit “paragraph (i) of subsection (1)”, insert instead  
“subsection (1) (i)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

## (22) Section 36—

Omit the section, insert instead:—

Machinery  
for making  
regulations.

36. Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 21st December, 1978.*



## SOIL CONSERVATION (AMENDMENT) BILL, 1978

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

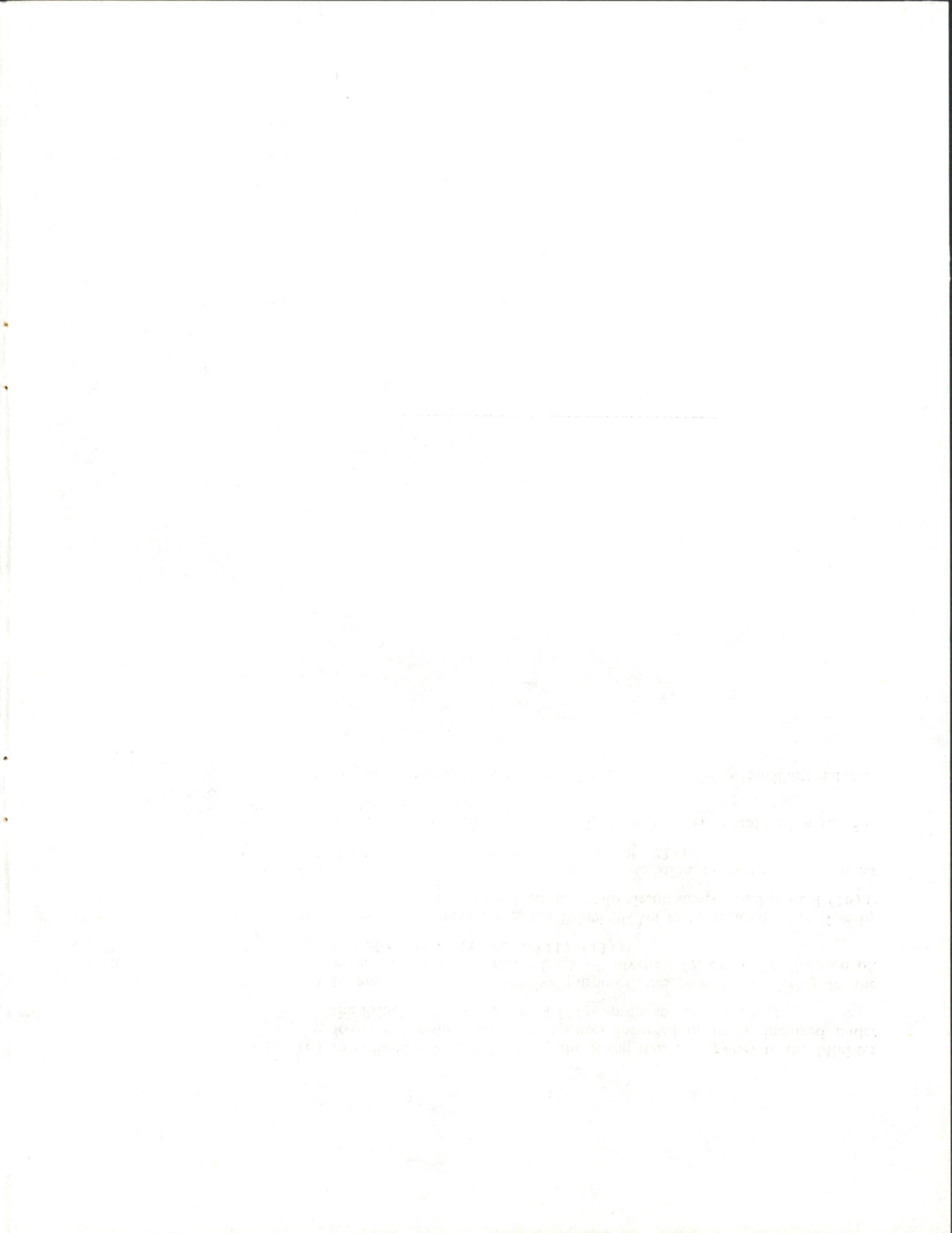
The Water (Soil Conservation) Amendment Bill, 1978, is cognate with this Bill.

THE objects of this Bill are—

- (a) to enable the Minister, where he is of the opinion that the stability of a river or lake is, or is liable to be, adversely affected by soil erosion or siltation, to notify an area of land as the catchment area of the river or lake for the purposes of—
  - (i) controlling the felling, destruction, etc., of trees on steep lands therein; and
  - (ii) otherwise preventing soil erosion and siltation (Schedule 1 (4));
- (b) to provide that, subject to the exemption referred to in paragraph (f) and certain other exemptions, banana plantations or orchards established, and open-cut mines or quarries, carried on, as at the commencement of section 6 of the Forestry, Soil Conservation and Other Acts (Amendment) Act, 1972, within any area of “protected land” referred to in Division 2 of Part IV of the Soil Conservation Act, 1938 (“the Principal Act”) shall no longer be excluded from the operation of the provisions of that Division prohibiting felling, destruction, etc., of trees in certain circumstances (Schedule 1 (5));
- (c) to prohibit the topping, lopping, removing or injuring of trees on protected land in certain circumstances, unless with the authority of the Catchment Areas Protection Board (in addition to the present prohibition against ringbarking, cutting down, felling, poisoning or otherwise destroying trees without authority) (Schedule 1 (6) (a));
- (d) to require the owner or occupier of any protected land established as a forest or woodlot for the production of timber as at the commencement of section 6 of the Forestry, Soil Conservation and Other Acts (Amendment) Act, 1972 (at present exempt from the requirement to obtain the authority of the Catchment Areas Protection Board to the felling, destruction, etc., of trees thereon in certain circumstances) to obtain that authority (Schedule 1 (6) (d));

- (e) to provide that the provision in the Principal Act which allows the felling, destruction, etc., of the trees on not more than 2 hectares of an area of protected land, notwithstanding the prohibition against felling, destruction, etc., of trees, be varied so as to allow only the felling, destruction, etc., of trees on not more than one-quarter of the area of the land where the area of the protected land is less than 8 hectares (Schedule 1 (6) (g));
- (f) to exempt the owner or occupier of a banana plantation or orchard on protected land from the prohibition against felling, destruction, etc., of trees in so far as the activity is necessary for the harvesting of the produce of, or the management of, the plantation or orchard (Schedule 1 (6) (h), (i));
- (g) to provide that proceedings for the offence of felling, destroying, etc., trees on protected land can be taken within 2 years after the commission of the offence, instead of within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the Commissioner of the Soil Conservation Service (Schedule 1 (6) (j));
- (h) to permit the Catchment Areas Protection Board—
  - (i) to require a person to repair soil erosion caused by felling, destroying, etc., trees on protected land in contravention of the Principal Act; and
  - (ii) to prevent a person from felling, destroying, etc., trees on protected land in contravention of the Principal Act where the felling, destroying, etc., is likely to cause soil erosion, whether the person has been convicted of an offence or not, but subject to the hearing by the local land board of any objections by the persons affected and a final determination by the Minister (Schedule 1 (7)—proposed section 21CA (1)–(11));
- (i) to allow the Minister to authorise the Commissioner of the Soil Conservation Service to enter upon land and do the required work where a requirement referred to in paragraph (h) (i) has not been complied with, and to recover the cost from the person of whom the requirement was made (Schedule 1 (7)—proposed section 21CA (12)–(15));
- (j) to enable the Minister, in addition to serving a notice requiring the preservation of proclaimed works or the prevention of soil erosion on an owner or occupier of land within a catchment area, to serve such a notice on a holder or grantee of timber rights over that land (Schedule 1 (10) (c));
- (k) to provide for the appointment of an Assistant Commissioner of the Soil Conservation Service (Schedule 2);
- (l) to increase penalties under the Principal Act (Schedule 3);
- (m) to enable an occupier of land, with the consent of the owner, to apply for an advance under the Principal Act for the purpose of carrying out works of soil conservation and erosion mitigation (Schedule 4 (10));

- (n) to authorise the provision, by the Rural Bank, of money to the Minister to meet certain costs and expenses incurred or to be incurred under the Principal Act (Schedule 4 (11)—proposed section 22F);
  - (o) to amend, for administrative purposes, the provisions relating to the payment out by the Rural Bank of advances to, or at the direction of, the Minister (Schedule 4 (11)–(13));
  - (p) to enable advances under the Principal Act to be secured other than by deed of charge over the land in certain circumstances (Schedule 4 (16));
  - (q) to make further provisions for the delegation of powers, etc., under the Principal Act (Schedule 4 (18) and (22));
  - (r) to make amendments to the Principal Act by way of statute law revision (Schedule 5); and
  - (s) to make other provisions of a minor, consequential or ancillary nature.
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# SOIL CONSERVATION (AMENDMENT) BILL, 1978

No. , 1978.

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## A BILL FOR

An Act to amend the Soil Conservation Act, 1938, to make further provisions in relation to the notification and control of catchment areas, to provide for the appointment of an Assistant Commissioner of the Soil Conservation Service, to increase penalties and for certain other purposes.

[MR GORDON—22 November, 1978.]

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See also Water (Soil Conservation) Amendment Bill, 1978.

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*Soil Conservation (Amendment).*

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**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 :—

5   **1.** This Act may be cited as the "Soil Conservation Short title.  
(Amendment) Act, 1978".

**2.** The Soil Conservation Act, 1938, is referred to in this Act Principal  
as the Principal Act. Act.

**3.** This Act contains the following Schedules :— Schedules.

10    **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO CATCHMENT AREAS.**

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO THE APPOINTMENT OF AN ASSISTANT  
COMMISSIONER OF THE SOIL CONSERVATION SERVICE.**

15    **SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO PENALTIES.**

**SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT.**

20    **SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT BY  
WAY OF STATUTE LAW REVISION.**

**4.** The Principal Act is amended in the manner set forth in Amendment  
Schedules 1–5. of Act No.  
10, 1938.

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*Soil Conservation (Amendment).*

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SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS.

- (1) (a) Section 2—  
5 From the matter relating to Part IV, omit “IN  
CONNECTION THEREWITH”.
- (b) Section 2—  
In the matter relating to Division 3 of Part IV, after  
“Works”, insert “and Catchment Areas”.
- 10 (2) Part IV, heading—  
Omit “IN CONNECTION THEREWITH”.
- (3) Section 19 (2)—  
After “Any work”, insert “or proposed work”.
- (4) Section 20 (1A)—  
15 After section 20 (1), insert :—  
(1A) Where the Minister is of the opinion that the  
stability of a river or lake is adversely affected or liable to  
be adversely affected by soil erosion or siltation, he may  
20 notify in the Gazette an area of land (not being an area  
of land that may be notified as a catchment area under  
subsection (1)) as the catchment area of the river or lake.
- (5) (a) Section 21A (b)—  
After “1916 ;”, insert “or”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- (b) Section 21A (c)—  
5 Omit “1974 ;”, insert instead “1974.”.
- (c) Section 21A (d), (e)—  
Omit the paragraphs.
- (6) (a) Section 21C (1)—  
Omit the subsection, insert instead :—  
10 (1) A person shall not—  
(a) ringbark, cut down, fell, poison or otherwise  
destroy, or cause to be ringbarked, cut  
down, felled, poisoned or otherwise  
destroyed; or  
15 (b) top, lop, remove or injure, or cause to be  
topped, lopped, removed or injured,  
any tree on any protected land, except in accordance  
with an authority issued under section 21D in relation  
to the land.
- (b) Section 21C (2) (b)—  
20 After “Act;” , insert “or”.
- (c) Section 21C (2) (c)—  
Omit “Act ; or”, insert instead “Act.”.
- (d) Section 21C (2) (d)—  
25 Omit the paragraph.



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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- (e) Section 21c (3)—  
5           After “destroying”, insert “or topping, lopping or  
              removing”.
- (f) Section 21c (3) (a)—  
              Omit “land; or”, insert instead “protected land;”.
- (g) Section 21c (3) (b)—  
10           Omit “the land.”, insert instead “each separate area  
              of protected land where the area of not more than  
              2 hectares does not comprise more than one-quarter  
              of the separate area of protected land; or”.
- (h) Section 21c (3) (c)—  
15           After section 21c (3) (b), insert :—  
  
              (c) the trees comprising a banana plantation or  
                  orchard where the ringbarking, cutting down,  
                  felling, poisoning or otherwise destroying or  
20           the topping, lopping or removing is necessary  
              for the harvesting of the produce of, or the  
              management of, the plantation or orchard.
- (i) Section 21c (3A)—  
              After section 21c (3), insert :—  
  
              (3A) The doing of anything referred to in sub-  
25           section (3) (c) shall be deemed not to be necessary  
              for the harvesting of, or the management of, a  
              plantation or orchard if it results in the complete  
              destruction of the plantation or orchard.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

(j) Section 21C (5)—

5 Omit the subsection, insert instead :—

(5) An information in respect of an offence under  
this section committed after the date of assent to the  
Soil Conservation (Amendment) Act, 1978, may be  
laid at any time within 2 years after the commission  
10 of the offence.

(7) Section 21CA—

After section 21C, insert :—

15 21CA. (1) Where the Board is satisfied that any thing prohibited by section 21C (1) done or proposed to be  
done by any person on any protected land is causing or  
is likely to cause soil erosion on the protected land or any  
adjacent land (whether, in respect of the thing done, any  
person has been convicted of an offence under section  
21C (1) or not), it may, by notice in writing served  
20 personally or by post on that person, require that person  
within the time specified in the notice to abstain from  
doing or to do or permit to be done such things as the  
Board considers necessary to mitigate or avoid, or repair  
the damage caused by, the erosion.

25 (2) The time referred to in subsection (1) shall  
commence—

(a) where no objection has been lodged under sub-  
section (5) in respect of the notice or any copy  
thereof—upon the expiration of the period of 30  
30 days after—

(i) the date of service of the notice; or

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- 5 (ii) the date of service of a copy of the notice,  
whichever is the later or latest; or
- (b) where an objection is lodged under subsection  
10 (5) in respect of the notice or any copy thereof  
—upon the date of service of the notice of the  
Minister's direction under subsection (11) in  
respect of the notice.
- (3) A copy of a notice under subsection (1)  
15 shall be served personally or by post on any person who  
appears to the Board to be the owner, occupier or mort-  
gagee of the protected land (not being the person on  
whom the original notice is or is to be served) and, where  
the notice requires the doing of things on any adjacent  
land, on any person who appears to the Board to be the  
owner, occupier or mortgagee of that adjacent land.
- 20 (4) A notice under subsection (1) may be  
revoked, varied or amended by a like notice.
- 25 (5) Any person on whom a notice has been  
served under subsection (1) or on whom a copy of a  
notice has been served under subsection (3) may, within  
the period of 30 days after service of the notice or copy,  
as the case may be, lodge with the Board an objection  
in writing to the requirements of the notice.
- (6) An objection under subsection (5) shall  
specify the grounds of objection.
- 30 (7) The Board shall refer any objection lodged  
under subsection (5) to the local land board for inquiry.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

5 (8) Upon receipt of an objection referred to in  
subsection (7), the local land board shall—

(a) notify the objector and the Board of the holding  
of the inquiry;

(b) hold an inquiry into the matters raised by the  
objection;

10 (c) recommend in writing to the Minister that—

(i) the notice be complied with;

(ii) the notice be revoked; or

15 (iii) the notice, varied or amended as recom-  
mended by the local land board, be  
complied with; and

(d) announce the terms of its recommendation in  
open court.

(9) There shall be no right of appeal against a  
recommendation made under subsection (8) (c).

20 (10) The objector and the Board shall be  
entitled to attend, or be represented at, an inquiry referred  
to in subsection (8) and be heard.

25 (11) After considering a recommendation  
referred to in subsection (8), the Minister may, whether  
in accordance with that recommendation or not, direct  
that—

(a) the notice be complied with;

(b) the notice be revoked; or

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

5 (c) the notice as varied or amended by the Minister  
be complied with,

and shall—

10 (d) in the case of a direction under paragraph (a)  
or (c), serve, either personally or by post, notice  
of the direction on the person served with the  
notice under subsection (1); and

(e) where the person referred to in paragraph (d)  
is not the objector, advise the objector of his  
decision.

(12) Subject to subsection (2)—

15 (a) if any person wilfully fails to comply with the  
requirements of a notice under subsection (1)  
within the time specified in the notice he is guilty  
of an offence against this Act and liable to a  
penalty not exceeding \$1,000; and

20 (b) if any person does not comply with the require-  
ments of a notice under subsection (1) within the  
time specified in the notice (whether that person  
has been convicted of an offence under para-  
graph (a) in respect of the notice or not) the  
25 Minister may, where the notice required the  
doing of a thing on any land, authorise the  
Commissioner to enter upon the land and do the  
thing.

30 (13) Any costs incurred by the Commissioner  
under subsection (12) (b) may be recovered from the  
person served with the notice in a court of competent  
jurisdiction as a debt due to the Crown.

35 (14) Where the person referred to in subsection  
(13) is the owner of the land on which the thing is done,  
the costs incurred shall, until paid, be a charge on the land.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- 5 (15) Where a person has been prosecuted under subsection (12) (a), it is a defence to that prosecution if the court is satisfied that that person had no legal right to enter the land in respect of which the notice was given and comply with the requirements of the notice.
- (8) (a) Section 21D (1)—
- 10 After “protected land,” insert “or to any holder or grantee of timber rights over protected land.”
- (b) Section 21D (1)—
- After “manner”, insert “or the topping, lopping or removing”.
- 15 (c) Section 21D (4)—
- After “relates”, insert “or to the holder or grantee of timber rights over the land to which an authority relates”.
- (d) Section 21D (5)—
- 20 Omit the subsection, insert instead :—
- (5) Any owner or occupier of land or holder or grantee of timber rights over land who succeeds a person to whom an authority has been issued under this section shall, while he remains the owner, occupier, holder or grantee, be deemed to have been
- 25 issued with that authority.
- (9) Part IV, Division 3, heading—
- After “Works”, insert “and Catchment Areas”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- (10) (a) Section 22 (1) (a)—
- 5 Omit “catchment area notified or constituted under  
this Act has caused or is likely to cause damage to or  
has interfered or is likely to interfere with the utility  
of any proclaimed work; and”, insert instead :—
- catchment area—
- 10 (i) notified under section 20 (1) or constituted  
under section 21 has caused or is likely to  
cause damage to or has interfered or is likely  
to interfere with the utility of any pro-  
claimed work; or
- 15 (ii) notified under section 20 (1A) has caused  
or is likely to cause soil erosion or siltation;  
and
- (b) Section 22 (1) (b)—
- 20 Omit “or interference”, insert instead “, interference,  
soil erosion or siltation”.
- (c) Section 22 (1)—
- After “the occupier of” wherever occurring, insert  
“, and on the holder or grantee of any timber rights  
over,”.
- 25 (d) Section 22 (1)—
- Omit “or occupier”, insert instead “, occupier, holder  
or grantee”.
- (e) Section 22 (2)—
- 30 Omit “or occupier”, insert instead “, occupier, holder  
or grantee”.

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*Soil Conservation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CATCHMENT  
AREAS—*continued.*

- 5 (f) Section 22 (2)—  
After “lodge”, insert “with the Minister”.
- (g) Section 22 (2)—  
Omit “and shall be lodged in the manner prescribed”.
- 10 (h) Section 22 (2)—  
Omit “owner, occupier or mortgagee objecting”,  
insert instead “objector”.
- (i) Section 22 (4)—  
Omit “one hundred dollars” wherever occurring, insert  
instead “\$1,000”.
- 15 (j) Section 22 (4)—  
Omit “less than ten years”, insert instead “more than  
10 years”.
- (k) Section 22 (4)—  
Omit “less than fifteen years”, insert instead “more  
than 15 years”.
-



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*Soil Conservation (Amendment).*

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SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
APPOINTMENT OF AN ASSISTANT COMMISSIONER OF THE SOIL  
CONSERVATION SERVICE.

5 (1) Section 3, definition of "Assistant Commissioner"—

After the definition of "Assessment Board", insert :—

"Assistant Commissioner" means the Assistant Commissioner of the Service appointed for the purposes of this Act.

10 (2) Section 4A—

After section 4, insert :—

4A. (1) The Governor may, from time to time, under the provisions of the Public Service Act, 1902, appoint an Assistant Commissioner of the Service.

15 (2) The Assistant Commissioner shall be subject to the provisions of the Public Service Act, 1902, during his term of office.

(3) The Assistant Commissioner—

20 (a) shall assist the Commissioner in the exercise or discharge of his powers, authorities, duties and functions;

25 (b) may, with the approval of the Minister, act in the place of the Commissioner or, where there is a deputy Commissioner, in the place of the deputy Commissioner if the Commissioner or the deputy Commissioner, as the case may be—

(i) is absent from duty; or

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*Soil Conservation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
APPOINTMENT OF AN ASSISTANT COMMISSIONER OF THE SOIL  
CONSERVATION SERVICE—*continued.*

5 (ii) though not absent from duty, is not  
available to exercise or discharge his  
powers, authorities, duties and functions,

and while so acting shall have the immunities and  
may exercise or discharge all the powers,  
10 authorities, duties and functions of the Commis-  
sioner; and

(c) shall exercise or discharge such other powers,  
authorities, duties and functions as are conferred  
or imposed upon him by or under this or any  
15 other Act.

(4) An approval under subsection (3) (b), in  
relation to the Assistant Commissioner acting in the place  
of the Commissioner, shall not have effect while a deputy  
Commissioner is acting in the place of the Commissioner  
20 under section 4 (6).

(5) No person shall be concerned to inquire  
whether or not any occasion has arisen requiring or  
authorising the Assistant Commissioner to act in the place  
of the Commissioner, or as to the necessity or propriety of  
25 any approval for the Assistant Commissioner so to act and  
all things done or omitted by the Assistant Commissioner  
while so acting shall be as valid and effectual and shall  
have the same consequences as if they had been done or  
omitted by the Commissioner.

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*Soil Conservation (Amendment).*

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SCHEDULE 3.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) Section 15 (3)—

Omit “ten dollars”, insert instead “\$200”.

5 (2) Section 18 (12)—

Omit “for a first offence to a penalty not exceeding one hundred dollars and for any subsequent offence to a penalty not exceeding two hundred dollars”, insert instead “to a penalty not exceeding \$1,000”.

10 (3) Section 21c (4)—

Omit “for a first offence to a penalty not exceeding two hundred dollars and for any subsequent offence to a penalty not exceeding five hundred dollars”, insert instead “to a penalty not exceeding \$500”.

15 (4) Section 22 (6)—

Omit “forty dollars”, insert instead “\$400”.

(5) Section 22o—

Omit “one hundred dollars”, insert instead “\$500”.

(6) Section 27—

20 Omit “forty dollars”, insert instead “\$400”.

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*Soil Conservation (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
PENALTIES—*continued.*

- (7) Section 29 (1)—  
5 Omit “twenty dollars”, insert instead “\$200”.
- (8) Section 35—  
Omit “twenty dollars”, insert instead “\$200”.
- 

SCHEDULE 4.

Sec. 4.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- 10 (1) (a) Section 3, definition of “Bank”—  
Before the definition of “Catchment Areas Protection  
Board”, insert :—  
“Bank” means the Rural Bank of New South Wales.
- (b) Section 3, definition of “Occupier”—  
15 After the definition of “Local land board”, insert :—  
“Occupier”, in relation to land, includes a person  
having the control or management of the land,  
whether residing thereon or not.
- (c) Section 3, definition of “Owner”—  
20 From paragraph (c), omit “or mortgagee in posses-  
sion”, insert instead “, mortgagee in possession or  
otherwise”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(d) Section 3, definition of “Works”—

5 After the definition of “Tree”, insert :—

“Works”, other than in Part IV, means works necessary for the conservation of soil or the mitigation of erosion and any operations incidental thereto.

10 (2) (a) Section 10 (2)—

After “scheme”, insert “or schemes”.

(b) Section 10 (4)—

Omit “the scheme”, insert instead “a scheme”.

(3) Section 11 (1A) (b)—

15 After “utilisation”, insert “or land management”.

(4) (a) Section 12 (b) (iii)—

Omit “subsection (1) of section 14 or under section 17”, insert instead “section 14 (1) or 18 or under Part IVA”.

20 (b) Section 12—

After “an owner”, insert “or occupier”.

(c) Section 12—

After “the owner”, insert “or occupier”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(5) Section 13—

5 Omit “work”, insert instead “works”.

(6) (a) Section 14 (1)—

10 Omit “work in connection with soil conservation or erosion mitigation or in connection with any other purpose contemplated by this Act whether or not such work is”, insert instead “works, whether or not the works are”.

(b) Section 14 (2), (3)—

Omit “work” wherever occurring, insert instead “works”.

15 (c) Section 14 (3)—

Omit “is constructed or used or is”, insert instead “are constructed or used or are”.

(7) Section 14A—

After section 14, insert:—

20 14A. The Minister may—

(a) let on hire any machinery, plant or equipment;  
or

Minister  
may let  
machinery,  
etc.

(b) provide labour, materials or services,

25 to any person for the purpose of the carrying out of works, subject to payment of such charge or cost as may be agreed upon.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(8) Section 18 (2) (b)—

5       After “utilisation”, insert “or land management”.

(9) Section 22A—

      Omit the section.

(10) (a) Section 22B (1A), (1B) —

      After section 22B (1), insert:—

10       (1A) An occupier of land may, with the written  
      consent of the owner of the land, make an application  
      pursuant to subsection (1).

      (1B) For the purposes of this Part, where an  
      occupier of land has made, or is entitled to make, an  
15       application pursuant to subsection (1), a reference  
      in this Part to the owner, in relation to an application  
      in respect of the land, shall be deemed to be a  
      reference to the occupier of the land.

(b) Section 22B (2)—

20       Omit “the prescribed form”, insert instead “a form  
      approved by the Minister”.

(c) Section 22B (3)—

      After section 22B (2), insert:—

25       (3) Where this Part provides for the doing of a  
      thing by an owner of land, that thing may be done by  
      an agent of that owner authorised for that purpose.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(11) Sections 22F, 22G—

5 Omit the sections, insert instead:—

22F. The Bank shall, at the request of the Treasurer, provide money to the Minister as working capital for the purposes of this Part to meet the costs and expenses incurred, or to be incurred, by any person or body, including the Minister, in carrying out works under this Part. Provision of money to meet costs and expenses.

10

22G. (1) Where any works in respect of which an advance is to be made under this Part have been, or are to be, carried out by any person or body, including the Minister, the advance shall be paid by the Bank at such time and in such manner and to such persons as the Minister directs or, if the Minister so directs, to him to recoup costs and expenses incurred by him. Payment of advances.

15

(2) Without limiting the generality of subsection (1), an advance referred to in that subsection may be paid in the form of progress payments at such times and in such manner as the Minister directs.

20

(3) For the purposes of this section, the Minister may authorise the Commissioner or any officer or employee of the Service to enter the lands of an owner and inspect works or sites of works.

25

(12) (a) 22H (3)—

Omit “the certificate referred to in subsection (5)”, insert instead “a certificate under the hand of the Minister or a person authorised by him”.



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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(b) Section 22H (4), (5)—

5 Omit the subsections.

(13) Section 22HA—

After section 22H, insert:—

10 22HA. The amount of any advance to be made to an owner in respect of works carried out under this Part shall be as finally determined by the Minister. Determination  
of amount  
of advance.

(14) Section 22I—

Omit the section, insert instead:—

15 22I. Where the Minister has, pursuant to this section, as in force before the date of assent to the Soil Conservation (Amendment) Act, 1978, or section 14A, let on hire any machinery, plant or equipment or provided labour, materials or services to any owner for the purpose of carrying out any works in respect of which an advance is to be made under this Part, the Bank shall, at the request  
20 of the Minister, pay to the Minister the amount of the charge therefor or the cost thereof and thereupon that amount shall, for the purposes of this Part, be deemed to have been advanced to the owner. Advances  
when  
machinery  
let, etc.

(15) Section 22J (2)—

25 Omit “the whole”, insert instead “all or any”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(16) (a) Section 22K (1)—

5 Omit the subsection, insert instead :—

(1) Subject to subsection (5), the repayment of every advance made under this Part, together with interest, shall be secured by a deed of charge over—

(a) the lands of the owner; or

10 (b) where the advance is repayable by 2 or more owners, the lands of each of those owners,

or over such of those lands as the Minister considers sufficient, whether those lands are the lands in respect of which the advance was made or not.

15 (b) Section 22K (5)—

After section 22K (4), insert :—

20 (5) If the Minister so approves, the repayment of an advance made under this Act, together with interest, may be secured partly by a deed of charge and partly in some other manner approved by the Minister or wholly in some other manner approved by the Minister.

(17) (a) Section 22M (1) (a)—

After “owner”, insert “or occupier”.

25 (b) Section 22M (2) (a)—

After “owner” where firstly occurring, insert “or occupier”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

- 5 (c) Section 22M (2) (a)—  
Omit “by the owner”.
- (d) Section 22M (3)—  
Omit “, out of the moneys to be advanced to the  
owner,”.
- 10 (e) Section 22M (3)—  
After “have been advanced to the owner”, insert “or  
occupier, as the case may be”.
- (18) Section 22P—  
Omit the section.
- (19) (a) Section 26—  
15 Omit “work” wherever occurring, insert instead  
“works”.
- (b) Section 26 (1)—  
After “mitigation”, insert “or for purposes incidental  
thereto”.
- 20 (20) Section 27—  
Omit “work which is being or has been”, insert instead  
“works which are being or have been”.

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(21) (a) Section 28 (1)—

5 Omit “special lease, scrub lease, inferior lands lease,  
snow lease, residential lease, improvement lease,  
settlement lease or lease under section 18 or under  
10 section 23 of the Crown Lands Act (Amendment)  
Act, 1903, or lease under section 73 of the Crown  
Lands Consolidation Act, 1913, or Crown lease or  
conditional purchase lease”, insert instead “home-  
stead selection or lease referred to in section 182 of  
the Crown Lands Consolidation Act, 1913”.

(b) Section 28 (2)—

15 Omit “lease”, insert instead “homestead selection or  
lease”.

(22) Section 30A—

After section 30, insert :—

20 30A. (1) The Minister may by instrument in writing Delegation.  
delegate to the Commissioner, the Assistant Commissioner  
or to an officer or employee of the Service the exercise or  
performance of such of the powers (other than this power  
of delegation), authorities, duties or functions conferred  
25 or imposed on the Minister by or under this Act as may be  
specified in the instrument of delegation and may in like  
manner revoke wholly or in part any such delegation.

30 (2) The Commissioner may by instrument in  
writing delegate to the Assistant Commissioner or to an  
officer or employee of the Service the exercise or perfor-  
mance of such of the powers (other than this power of

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*Soil Conservation (Amendment).*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

5 delegation), authorities, duties or functions conferred or imposed on the Commissioner by or under this or any other Act as may be specified in the instrument of delegation and may in like manner revoke wholly or in part any such delegation.

10 (3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

15 (4) Notwithstanding any delegation made under this section, the Minister or the Commissioner, as the case may be, may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated by him.

20 (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force or effect as if the act or thing done had been done or suffered by the Minister or the Commissioner, as the case may be.

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*Soil Conservation (Amendment).*

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SCHEDULE 5.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION.

- (1) Section 2—
- 5 From the matter relating to Part III, omit “18”, insert  
instead “18B”.
- (2) (a) Section 3, definition of “Catchment Areas Protection  
Board”—
- 10 Omit “Catchment Areas Protection” where firstly  
occurring.
- (b) Section 3, definition of “Commissioner”—  
Omit “Soil Conservation”.
- (c) Section 3, definition of “Local land board”—  
Omit “as amended by subsequent Acts,”.
- 15 (d) Section 3, definition of “Prescribed”—  
Omit the definition.
- (e) Section 3, definition of “Service”—  
Omit the definitions of “Schedule” and “Statutory  
Corporation”, insert instead :—
- 20 “Service” means the Soil Conservation Service of  
New South Wales.
- (3) (a) Section 4 (1)—  
After “Service” where firstly occurring, insert “of New  
South Wales”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (b) Section 4 (1)—  
5 Omit “or any Act amending that Act,”.
- (c) Section 4 (1)—  
Omit “any such”, insert instead “that”.
- (d) Section 4 (7) (a) (ii)—  
Omit the subparagraph, insert instead :—  
10 (ii) becomes bankrupt, applies to take the benefit  
of any law for the relief of bankrupt or insol-  
vent debtors, compounds with his creditors or  
makes an assignment of his remuneration for  
their benefit;
- 15 (e) Section 4 (7) (iv)—  
Omit the subparagraph, insert instead :—  
20 (iv) becomes a temporary patient, a continued  
treatment patient, a protected person or an  
incapable person within the meaning of the  
Mental Health Act, 1958, or a person under  
detention under Part VII of that Act;
- (f) Section 4 (8) (a), (b)—  
Omit “or any Act amending such Acts,” wherever  
occurring.
- 25 (g) Section 4 (8) (a)—  
Omit “, or any amendment thereof”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (h) Section 4 (8) (b)—  
5 Omit “or any amendment thereof.”
- (4) Sections 5 (1), 18B (2) (c), 22D (3)—  
Omit “as amended by subsequent Acts,” wherever  
occurring.
- (5) Sections 11 (1), 24, 25—  
10 Omit “His Majesty” wherever occurring, insert instead “the  
Crown”.
- (6) (a) Section 14 (3)—  
Omit “-1936” wherever occurring.
- (b) Section 14 (3)—  
15 Omit “Water Conservation and Irrigation  
Commission”, insert instead “Water Resources  
Commission”.
- (7) (a) Section 15—  
20 After “or any officer or employee” wherever occurring,  
insert “of the Service”.
- (b) Section 15 (2)—  
Omit “by any”, insert instead “by that”.
- (c) Section 15 (2)—  
Omit “or such”, insert instead “or that”.



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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (8) Section 17 (8)—  
5 Omit “Secretary for Lands”, insert instead “Minister for  
Lands”.
- (9) (a) Section 18 (3)—  
Omit “paragraph (c) of subsection (2)”, insert  
instead “subsection (2) (c)”.
- 10 (b) Section 18 (5), (11)—  
Omit “paragraphs (b) and (c) of subsection (2)”  
wherever occurring, insert instead “subsection (2)  
(b) and (c)”.
- (10) (a) Section 18A (5)—  
15 Omit “or of any Act amending that Act,”.
- (b) Section 18A (5)—  
Omit “any such”, insert instead “that”.
- (c) Section 18A (8)—  
Omit “or of any Act amending such Act,”.
- 20 (11) (a) Section 21A—  
Omit “subsection (1) of section 21B”, insert instead  
“section 21B (1)”.
- (b) Section 21A—  
25 Omit “that subsection”, insert instead “section  
21B (1)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

- (c) Section 21A (a)—
- 5 Omit “subsection (2) of that section”, insert instead  
“section 21B (2)”.
- (12) Sections 21B (1), 21D (1), 21D (4), 21D (6), 21E, 22 (2),  
31—  
Omit “Catchment Areas Protection” wherever occurring.
- 10 (13) Section 21D (6)—  
Omit “that Board”, insert instead “the Board”.
- (14) Section 22 (5) (a)—  
Omit “-1932”.
- (15) (a) Section 22D (1)—
- 15 Omit “subsection (3) of section 22c”, insert instead  
“section 22C (3)”.
- (b) Section 22D (1)—  
Omit “Colonial”.
- (16) Section 22H (4)—
- 20 Omit “subsection (3) of section 22c”, insert instead  
“section 22C (3)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

(17) (a) Section 22J (1)—

5 Omit “subsection (2) of section 22B”, insert instead  
“section 22B (2)”.

(b) Section 22J (2)—

Omit “subsection (3) of section 22c”, insert instead  
“section 22c (3)”.

10 (18) Section 25B—

Omit “Her Majesty”, insert instead “the Crown”.

(19) Section 28—

Omit “Secretary for Lands” wherever occurring, insert in-  
stead “Minister for Lands”.

15 (20) Section 29 (2)—

Omit “or police”.

(21) (a) Section 32 (1) (g)—

20 Omit “Water Conservation and Irrigation  
Commission”, insert instead “Water Resources  
Commission”.

(b) Section 32 (7)—

Omit “paragraph (i) of subsection (1)”, insert instead  
“subsection (1) (i)”.

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*Soil Conservation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

(22) Section 36—

5 Omit the section, insert instead:—

36. Section 41 of the Interpretation Act, 1897, applies Machinery  
in respect of a regulation as if this Act had been for making  
passed after the commencement of the Interpretation regulations.  
(Amendment) Act, 1969.

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