

## SOIL CONSERVATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The object of this Bill is to amend the Soil Conservation Act 1938 so as—

- (a) to abolish the Soil Conservation Advisory Council; and
- (b) to reconstitute soil conservation catchment committees; and
- (c) to provide that the Crown is bound by the Act; and
- (d) to alter the method of granting exemptions from the prohibition on the destruction of trees on certain protected land; and
- (e) to make other miscellaneous amendments.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the Schedule of amendments to the Soil Conservation Act 1938.

**Clause 4** is a transitional provision dealing with members of the Soil Conservation Advisory Council.

**Clause 5** repeals the Soil Conservation (Catchment Committees) Regulation 1983.

### SCHEDULE 1—AMENDMENTS

**Schedule 1 (1)** amends section 17 to provide that a State forest is not to be included in an area of erosion hazard except with the concurrence of the Minister administering the Forestry Act 1916.

**Schedule 1 (2)** amends section 21C in relation to the circumstances in which trees situated on land designated as protected land under the Principal Act may be damaged or destroyed. At present, these circumstances are described in the Act. The effect of the amendment is to permit them to be prescribed by the regulations or by order of the Catchment Areas Protection Board.

*Soil Conservation (Amendment) 1988*

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**Schedule 1 (3)** amends section 21D so as to provide that applications for authorities to damage or destroy trees on protected land are to be in a form approved by the Board. At present, the form is prescribed by the regulations.

**Schedule 1 (4)** repeals section 23 so as to abolish the Soil Conservation Advisory Council.

**Schedule 1 (5)** substitutes section 23A, under which soil conservation catchment committees are constituted, and repeals section 23B which relates to the membership and procedures of catchment committees. The amendment enables the Minister to constitute such committees as the Minister thinks fit. At present, the regulations make provision for the constitution and membership of soil conservation catchment committees.

**Schedule 1 (6)** amends section 23C as a consequence of the amendment made by Schedule 1 (5).

**Schedule 1 (7)** inserts new provisions into section 25C with respect to land and contracts. The Soil Conservation Commission is specifically authorised to enter into contracts for the use of its property or the services of its public servants or other staff outside New South Wales or Australia. If the Commission enters into a contract for consultancy or other services involving the performance by a public servant or other employee of services outside New South Wales or Australia, the conditions of employment of the public servant or employee may be varied with the consent of the public servant or employee to take account of the special circumstances applying in the particular case.

**Schedule 1 (8)** inserts section 31A so as to provide that the Principal Act binds the Crown.

**Schedule 1 (9)** inserts the Fifth Schedule which deals with provisions relating to the members and procedures of soil conservation catchment committees.

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# SOIL CONSERVATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Soil Conservation Act 1938 No. 10
4. Transitional provision
5. Repeal of Regulation

## SCHEDULE 1—AMENDMENTS

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STATE OF TEXAS

UNIVERSITY OF TEXAS

THE UNIVERSITY OF TEXAS  
AT AUSTIN  
OFFICE OF THE CHANCELLOR  
AUSTIN, TEXAS

# SOIL CONSERVATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



No. , 1988

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## A BILL FOR

An Act to amend the Soil Conservation Act 1938 so as to abolish the Soil Conservation Advisory Council, to reconstitute soil conservation catchment committees, to bind the Crown and for other purposes.

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*Soil Conservation (Amendment) 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Soil Conservation (Amendment) Act 1988.

**5 Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Soil Conservation Act 1938 No. 10**

10 1. 3. The Soil Conservation Act 1938 is amended as set out in Schedule

**Transitional provision**

15 4. A person who, immediately before the repeal of section 23 of the Soil Conservation Act 1938, was a member of the Soil Conservation Advisory Council ceases to hold office on the repeal of that section and is not entitled to any remuneration or compensation because of the loss of that office.

**Repeal of Regulation**

5. The Soil Conservation (Catchment Committees) Regulation 1983 is repealed.

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**SCHEDULE 1—AMENDMENTS**

20 (Sec. 3)

(1) Section 17 (**Areas of erosion hazard**)—

After section 17 (8), insert:

25 (9) No land in a State forest shall be included in an area of erosion hazard except with the concurrence of the Minister administering the Forestry Act 1916.

(2) Section 21C (**Destruction of trees on protected land prohibited except under authority or by exemption**)—

Omit section 21C (2), (3) and (3A), insert instead:

30 (2) Subsection (1) does not apply to the doing of anything—  
 (a) exempted from that subsection by the regulations; or  
 (b) exempted from that subsection by the Board by order published in the Gazette.

SCHEDULE 1—AMENDMENTS—*continued*

- (3) Section 21D (**Authority to destroy timber on protected land**)—
- (a) Section 21D (2)—  
Omit the subsection, insert instead:
- (2) An application for an authority under this section shall—
- 5 (a) be in a form approved by the Board; and  
(b) be accompanied by such fee as may be prescribed by the regulations.
- (b) Section 21D (3)—  
Omit “shall be in the prescribed form and”.
- 10 (4) Section 23 (**Soil Conservation Advisory Council**)—  
Omit the section.
- (5) Sections 23A, 23B—  
Omit the sections, insert instead:
- Catchment committees**
- 15 23A. (1) The Minister may constitute such soil conservation catchment committees as the Minister thinks fit.
- (2) Without limiting the generality of subsection (1), the Minister may—
- 20 (a) determine the area in relation to which a catchment committee is to operate; and  
(b) vary the area in relation to which a catchment committee is to operate; and  
(c) amalgamate catchment committees; and  
(d) suspend the operations of a catchment committee for any  
25 period of time or until further order; and  
(e) disband a catchment committee.
- (3) A catchment committee shall consist of such members as are appointed by the Minister.
- (4) The Minister may nominate a particular member of a  
30 catchment committee to be the chairperson of the committee until a successor is nominated by the Minister.
- (5) The Fifth Schedule has effect with respect to the members and procedure of a catchment committee.
- (6) Section 23C (**Functions of catchment committee**)—
- 35 Section 23C (1)—  
Omit “prescribed”.

*Soil Conservation (Amendment) 1988*SCHEDULE 1—AMENDMENTS—*continued*(7) Section 25C (**Powers of Corporation with respect to land and contracts**)—

## (a) Section 25C (1) (b)—

After “materials”, insert “(whether at a place within or outside Australia)”.

## (b) Section 25C (3), (4)—

After section 25C (2), insert:

(3) If the Corporation enters into a contract under subsection (1) involving the performance of services by a public servant or other employee referred to in section 5—

(a) outside Australia; or

(b) within Australia but outside New South Wales,

the Corporation may (with the consent of that public servant or other employee) vary the conditions of employment (including rates of remuneration) of that public servant or other employee in connection with the performance of those services as the Corporation thinks fit.

(4) Subsection (3) has effect despite anything to the contrary in the Public Sector Management Act 1988 or in any award or industrial agreement.

## (8) Section 31A—

After section 31, insert:

**Act binds Crown**

31A. (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

## (9) Fifth Schedule—

After the Fourth Schedule, insert:

**FIFTH SCHEDULE—PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF CATCHMENT COMMITTEES**

(Sec. 23A (5))

**Definition**

1. In this Schedule—

“committee” means a catchment committee.



*Soil Conservation (Amendment) 1988***SCHEDULE 1—AMENDMENTS—*continued*****Term of office**

2. Subject to this Schedule, a member of a committee shall hold office for such period as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

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**Reimbursement of expenses**

3. A member of a committee may be reimbursed for such reasonable expenses as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

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4. (1) The office of a member of a committee becomes vacant if the member—

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(a) dies; or

(b) completes a term of office and is not re-appointed; or

(c) resigns the office by instrument in writing addressed to the Minister;  
or

(d) is removed from office by the Minister under this clause.

(2) The Minister may remove a member from office at any time.

**Effect of certain other Acts**

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5. (1) The Public Sector Management Act 1988 does not apply to the appointment of a member of a committee and a member is not, as a member, subject to that Act (except Part 8).

(2) If by or under any other Act provision is made—

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(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

(b) prohibiting the person from engaging in employment outside the duties of that office,

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the provision does not operate to disqualify the person from holding that office and also the office of a member of a committee or from accepting and retaining any money payable to the person under this Schedule as reimbursement for expenses.

(3) The office of a member of a committee is not, for the purposes of any Act, an office or place of profit under the Crown.

**Liability of members etc.**

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6. No matter or thing done by a committee, any member of a committee or any person acting under the direction of a committee shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

**General procedure**

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7. The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall, subject to any direction by the Minister, be as determined by the committee.

*Soil Conservation (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

**Presiding member**

8. (1) At a meeting of a committee, the chairperson of the committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present shall preside.

5 (2) The person presiding at a meeting of a committee has a deliberative vote only.

**Quorum**

9. The quorum for a meeting of a committee is a majority of its members for the time being.

10 **Voting**

10. A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is the decision of the committee.





# SOIL CONSERVATION (AMENDMENT) ACT 1988 No. 101

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Soil Conservation Act 1938 No. 10
4. Transitional provision
5. Repeal of Regulation

SCHEDULE 1—AMENDMENTS

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NEW SOUTH WALES



TABLE OF PROVISIONS

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# SOIL CONSERVATION (AMENDMENT) ACT 1988 No. 101

## NEW SOUTH WALES



### Act No. 101, 1988

An Act to amend the Soil Conservation Act 1938 so as to abolish the Soil Conservation Advisory Council, to reconstitute soil conservation catchment committees, to bind the Crown and for other purposes. [Assented to 19 December 1988]

*Soil Conservation (Amendment) 1988***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Soil Conservation (Amendment) Act 1988.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Soil Conservation Act 1938 No. 10**

3. The Soil Conservation Act 1938 is amended as set out in Schedule 1.

**Transitional provision**

4. A person who, immediately before the repeal of section 23 of the Soil Conservation Act 1938, was a member of the Soil Conservation Advisory Council ceases to hold office on the repeal of that section and is not entitled to any remuneration or compensation because of the loss of that office.

**Repeal of Regulation**

5. The Soil Conservation (Catchment Committees) Regulation 1983 is repealed.

**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**(1) Section 17 (Areas of erosion hazard)—**

After section 17 (8), insert:

(9) No land in a State forest shall be included in an area of erosion hazard except with the concurrence of the Minister administering the Forestry Act 1916.

**(2) Section 21C (Destruction of trees on protected land prohibited except under authority or by exemption)—**

Omit section 21C (2), (3) and (3A), insert instead:

(2) Subsection (1) does not apply to the doing of anything—

- (a) exempted from that subsection by the regulations; or
- (b) exempted from that subsection by the Board by order published in the Gazette.



SCHEDULE 1—AMENDMENTS—*continued*(3) Section 21D (**Authority to destroy timber on protected land**)—

## (a) Section 21D (2)—

Omit the subsection, insert instead:

(2) An application for an authority under this section shall—

(a) be in a form approved by the Board; and

(b) be accompanied by such fee as may be prescribed by the regulations.

## (b) Section 21D (3)—

Omit “shall be in the prescribed form and”.

(4) Section 23 (**Soil Conservation Advisory Council**)—

Omit the section.

## (5) Sections 23A, 23B—

Omit the sections, insert instead:

**Catchment committees**

23A. (1) The Minister may constitute such soil conservation catchment committees as the Minister thinks fit.

(2) Without limiting the generality of subsection (1), the Minister may—

(a) determine the area in relation to which a catchment committee is to operate; and

(b) vary the area in relation to which a catchment committee is to operate; and

(c) amalgamate catchment committees; and

(d) suspend the operations of a catchment committee for any period of time or until further order; and

(e) disband a catchment committee.

(3) A catchment committee shall consist of such members as are appointed by the Minister.

(4) The Minister may nominate a particular member of a catchment committee to be the chairperson of the committee until a successor is nominated by the Minister.

(5) The Fifth Schedule has effect with respect to the members and procedure of a catchment committee.

(6) Section 23C (**Functions of catchment committee**)—

Section 23C (1)—

Omit “prescribed”.

*Soil Conservation (Amendment) 1988*SCHEDULE 1—AMENDMENTS—*continued*(7) Section 25c (**Powers of Corporation with respect to land and contracts**)—

## (a) Section 25c (1) (b)—

After “materials”, insert “(whether at a place within or outside Australia)”.

## (b) Section 25c (3), (4)—

After section 25c (2), insert:

(3) If the Corporation enters into a contract under subsection (1) involving the performance of services by a public servant or other employee referred to in section 5—

(a) outside Australia; or

(b) within Australia but outside New South Wales,

the Corporation may (with the consent of that public servant or other employee) vary the conditions of employment (including rates of remuneration) of that public servant or other employee in connection with the performance of those services as the Corporation thinks fit.

(4) Subsection (3) has effect despite anything to the contrary in the Public Sector Management Act 1988 or in any award or industrial agreement.

## (8) Section 31A—

After section 31, insert:

**Act binds Crown**

31A. (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

## (9) Fifth Schedule—

After the Fourth Schedule, insert:

**FIFTH SCHEDULE—PROVISIONS RELATING TO THE MEMBERS  
AND PROCEDURE OF CATCHMENT COMMITTEES**

(Sec. 23A (5))

**Definition**

1. In this Schedule—

“committee” means a catchment committee.

*Soil Conservation (Amendment) 1988***SCHEDULE 1—AMENDMENTS—*continued*****Term of office**

2. Subject to this Schedule, a member of a committee shall hold office for such period as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Reimbursement of expenses**

3. A member of a committee may be reimbursed for such reasonable expenses as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

4. (1) The office of a member of a committee becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause.

(2) The Minister may remove a member from office at any time.

**Effect of certain other Acts**

5. (1) The Public Sector Management Act 1988 does not apply to the appointment of a member of a committee and a member is not, as a member, subject to that Act (except Part 8).

(2) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member of a committee or from accepting and retaining any money payable to the person under this Schedule as reimbursement for expenses.

(3) The office of a member of a committee is not, for the purposes of any Act, an office or place of profit under the Crown.

**Liability of members etc.**

6. No matter or thing done by a committee, any member of a committee or any person acting under the direction of a committee shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

**General procedure**

7. The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall, subject to any direction by the Minister, be as determined by the committee.

*Soil Conservation (Amendment) 1988*

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SCHEDULE 1—AMENDMENTS—*continued*

**Presiding member**

8. (1) At a meeting of a committee, the chairperson of the committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present shall preside.

(2) The person presiding at a meeting of a committee has a deliberative vote only.

**Quorum**

9. The quorum for a meeting of a committee is a majority of its members for the time being.

**Voting**

10. A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is the decision of the committee.

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[*Minister's second reading speech made in—  
Legislative Assembly on 29 November 1988  
Legislative Council on 7 December 1988*]