

SOIL CONSERVATION (AMENDMENT) ACT 1989 No. 236

NEW SOUTH WALES



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SOIL CONSERVATION (AMENDMENT) ACT 1989 No. 236

NEW SOUTH WALES



Act No. 236, 1989

An Act to amend the Soil Conservation Act 1938 to abolish the Catchment Areas Protection Board and to increase penalties for offences under that Act, and to make consequential amendments to certain other Acts. [Assented to 21 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Soil Conservation (Amendment) Act 1989.

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 Schedules 1 and 2.

Consequential amendment of other Acts

4. Each Act specified in Schedule 3 is amended as set out in that Schedule.

**SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD**

(Sec. 3)

(1) Section 3 (**Definitions**):

Omit the definition of "Board".

(2) Section 15 (**Power of entry**):

(a) Section 15 (1), (3):

Omit ", any member of the Board" wherever occurring.

(b) Section 15 (1), (2):

Omit ", the Board" wherever occurring.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

- (c) Section 15 (1):
Omit ", the member".
- (d) Section 15 (2):
Omit ", by a member of the Board, by an officer or
employee of the Service on behalf of the Board".
- (3) Section 21B (**Protected land**):
Section 21B (1), (2):
Omit "Board" wherever occurring, insert instead
"Commissioner".
- (4) Section 21C (**Destruction of trees on protected land prohibited
except under authority**):
Section 21C (2) (b):
Omit "Board", insert instead "Commissioner".
- (5) Section 21CA (**Prevention of soil erosion and repair of
damage**):
 - (a) Section 21CA (1), (3), (8) (c):
Omit "Board" wherever occurring, insert instead
"Commissioner".
 - (b) Section 21CA (1):
Omit "it may", insert instead "the Commissioner may".
- (6) Section 21D (**Authority to destroy timber on protected land**):
 - (a) Section 21D (1), (2) (a), (3) (i), (3A), (4):
Omit "Board" wherever occurring, insert instead
"Commissioner".

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

- (b) Section 21D (3A):
Omit "if it is", insert instead "if the Commissioner is".
- (c) Section 21D (6):
Omit the subsection.

- (7) Section 21E (**Evidence that land is protected land**):
Omit "Chairman or the Deputy Chairman of the Board",
insert instead "Commissioner".

- (8) Section 31 (**Protection of Minister, Commissioner, and officers
etc.**):
Omit "or the Board" wherever occurring.

- (9) Section 32 (**Catchment Areas Protection Board**):
Omit the section.

- (10) First Schedule (Savings, transitional and other provisions):
(a) Before clause 1, insert:

**PART 1 - PROVISIONS CONSEQUENTIAL
ON ENACTMENT OF STATUTE LAW
(MISCELLANEOUS PROVISIONS)
ACT (No. 2) 1987**

- (b) After clause 1, insert:

**PART 2 - SAVINGS AND TRANSITIONAL
REGULATIONS**

Regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Soil Conservation (Amendment) Act 1989.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to the Act concerned or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 3 - PROVISIONS CONSEQUENTIAL ON
ENACTMENT OF SOIL CONSERVATION
(AMENDMENT) ACT 1989**

Abolition of Catchment Areas Protection Board

3. On the repeal of section 32, the Catchment Areas Protection Board is abolished.

Members of Catchment Areas Protection Board

4. A person who, immediately before the abolition of the Catchment Areas Protection Board, was a member of that Board ceases to hold that office on the abolition of that Board and is not entitled to any remuneration or compensation because of the loss of that office.

Construction of references

5. After the abolition of the Catchment Areas Protection Board, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the Catchment Areas Protection Board is to be read as a reference to the Commissioner of the Soil Conservation Service of New South Wales.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT AREAS PROTECTION BOARD - *continued*

Transfer of assets, liabilities etc. of Board

6. On the abolition of the Catchment Areas Protection Board, any assets, rights, liabilities or obligations of the Board become assets, rights, liabilities or obligations of the Crown.

Existing authorities, notices, maps, orders etc. concerning protected lands

7. Any notice, authority or certificate issued, any map prepared or any order published in the Gazette by the Catchment Areas Protection Board continues to apply in respect of protected land as if that Board had not been abolished.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES

(Sec. 3)

(1) Section 15 (**Power of entry**):

Section 15 (3):

Omit "\$500", insert instead "50 penalty units".

(2) Section 15E (**Prosecution**):

Section 15E (1):

Omit "\$2,000", insert instead "500 penalty units".

(3) Section 15F (**Commissioner may carry out work**):

Section 15F (4):

Omit "\$500", insert instead "50 penalty units".

(4) Section 18 (**Direction to carry out works or measures**):

Section 18 (12):

Omit "\$2,000", insert instead "500 penalty units".

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES -
continued

- (5) Section 21C (**Destruction of trees on protected land prohibited except under authority**):

Section 21C (4):

Omit "\$10,000", insert instead "400 penalty units".

- (6) Section 21CA (**Prevention of soil erosion and repair of damage**):

Section 21CA (12) (a):

Omit "\$10,000", insert instead "400 penalty units".

- (7) Section 22 (**Preservation of proclaimed works**):

Section 22 (6):

Omit "\$2,000", insert instead "500 penalty units".

- (8) Section 27 (**Interference with or damage to works etc.**):

Omit "\$2,000", insert instead "500 penalty units".

- (9) Section 29 (**Penalties**):

- (a) Section 29 (1):

Omit "\$500", insert instead "50 penalty units".

- (b) Section 29 (2):

Omit the subsection, insert instead:

(2) Proceedings for an offence against this Act are to be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone or before the Land and Environment Court.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES -
continued

(c) Section 29 (3):

Omit "\$2,000", insert instead "100 penalty units".

(10) Section 35 (**Penalty for breach of regulations**):

Omit "\$500", insert instead "50 penalty units".

SCHEDULE 3 - CONSEQUENTIAL AMENDMENT OF OTHER
ACTS

(Sec. 4)

Bush Fires Act 1949 No. 31:

Column 2 of Table to section 22A:

Omit "The Catchment Areas Protection Board", insert instead "The Commissioner of the Soil Conservation Service of New South Wales".

Forestry Act 1916 No. 55:

Section 27H:

Omit "Catchment Areas Protection Board constituted under that Act", insert instead "Commissioner of the Soil Conservation Service of New South Wales".

Western Lands Act 1901 No. 70:

Section 18DB (13) (b):

Omit "Catchment Areas Protection Board constituted under that Act", insert instead "Commissioner of the Soil Conservation Service of New South Wales".

[*Minister's second reading speech made in -
Legislative Assembly on 15 November 1989
Legislative Council on 22 November 1989*]





FIRST PRINT

SOIL CONSERVATION (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Catchment Management Bill 1989.

The objects of this Bill are:

- (a) to abolish the Catchment Areas Protection Board and to transfer the functions of that Board to the Commissioner of the Soil Conservation Service; and
- (b) to increase the penalties for offences under the Soil Conservation Act 1938 and regulations; and
- (c) to make amendments to other Acts consequent on the abolition of the Board.

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 that gives effect to the Schedules of amendments to the Soil Conservation Act 1938.

Clause 4 is a formal provision that gives effect to the Schedule of amendments to other Acts.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT AREAS PROTECTION BOARD

Schedule 1 (9) omits the section that establishes and provides for membership of the Catchment Areas Protection Board.

Soil Conservation (Amendment) 1989

Schedule 1 (1) omits the definition of "Board" from the Act.

Schedule 1 (3), (4), (5), (6) and (7) provide for the functions under the Act that were exercised by the Catchment Areas Protection Board to be exercised by the Commissioner of the Soil Conservation Service.

Schedule 1 (2) omits references to the Board and its members in relation to power of entry under the Act.

Schedule 1 (8) omits references to the Board in relation to protection from liability for actions taken under the Act.

Schedule 1 (10) contains savings and transitional provisions consequent on the abolition of the Board.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES

Schedule 2 (1) increases the penalty for obstructing an officer carrying out surveys or investigations under the Act from \$500 to 50 penalty units (\$5,000).

Schedule 2 (2) increases the penalty for failing to comply with a notice, issued under section 15A (1) in relation to acts or omissions to avoid soil erosion or land degradation, from \$2,000 to 500 penalty units (\$50,000).

Schedule 2 (3) increases the penalty for obstructing or hindering the Soil Conservation Service in carrying out works pursuant to a notice issued under section 15A (1) from \$500 to 50 penalty units (\$5,000).

Schedule 2 (4) increases the penalty for failing to comply with a notice, issued under section 18 (1) in relation to directions to carry out works or other measures on land that is an area of erosion hazard, from \$2,000 to 500 penalty units (\$50,000).

Schedule 2 (5) increases the penalty for destroying trees on protected land, except in accordance with an authority, from \$10,000 to 400 penalty units (\$40,000).

Schedule 2 (6) increases the penalty for failing to comply with a notice, issued under section 21CA (1) in relation to acts or omissions to prevent soil erosion or repair damage to protected land, from \$10,000 to 400 penalty units (\$40,000).

Schedule 2 (7) increases the penalty for failing to comply with a notice, issued under section 22 (1) concerning interference with the utility of a proclaimed work, from \$2,000 to 500 penalty units (\$50,000).

Schedule 2 (8) increases the penalty for interfering with or damaging any works carried out pursuant to the Act from \$2,000 to 500 penalty units (\$50,000).

Schedule 2 (9) (a) increases the penalty for contravening a provision of the Act, where no other penalty is expressly provided, from \$500 to 50 penalty units (\$5,000).

Schedule 2 (9) (b) makes provision for the Land and Environment Court to deal with additional offences under the Act.

Schedule 2 (9) (c) increases the maximum penalty where proceedings for an offence are brought in a Local Court from \$2,000 to 100 penalty units (\$10,000) or the maximum penalty provided by the Act, or regulations for the particular offence, whichever is the lesser.

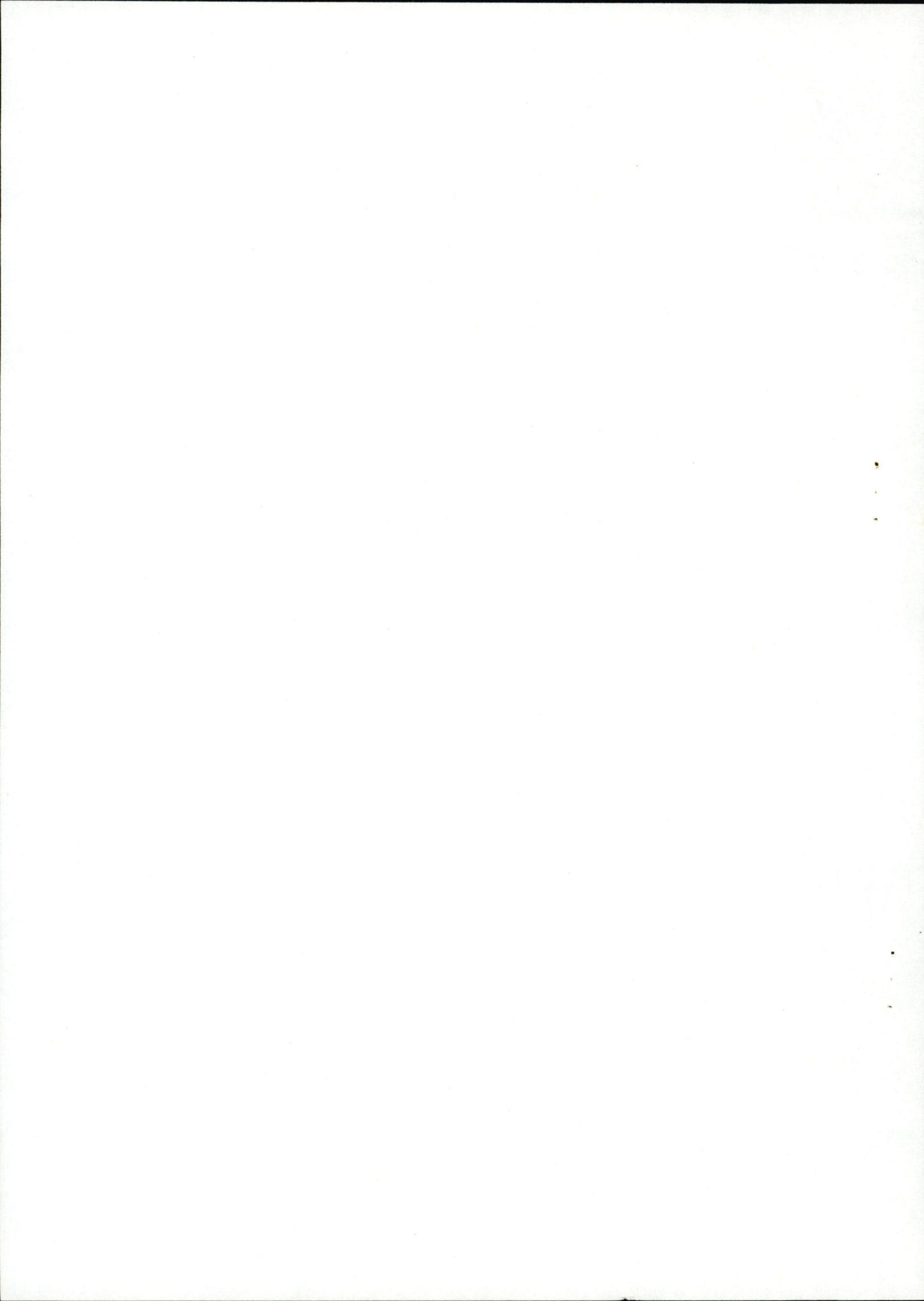
Soil Conservation (Amendment) 1989

Schedule 2 (10) increases the penalty for a breach of the regulations from \$500 to 50 penalty units (\$5,000).

SCHEDULE 3 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS

Schedule 3 provides for amendment, consequent on the abolition of the Catchment Areas Protection Board, of the following Acts:

Bush Fires Act 1949
Forestry Act 1916
Western Lands Act 1901



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SOIL CONSERVATION (AMENDMENT) BILL 1989

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PROTECTION BOARD

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES

SCHEDULE 3 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS

SOIL CONSERVATION (AMENDMENT) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Soil Conservation Act 1938 to abolish the Catchment Areas Protection Board and to increase penalties for offences under that Act, and to make consequential amendments to certain other Acts.

Soil Conservation (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Soil Conservation (Amendment) Act 1989.

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 Schedules 1 and 2.

Consequential amendment of other Acts

4. Each Act specified in Schedule 3 is amended as set out in that Schedule.

**SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD**

(Sec. 3)

(1) Section 3 (**Definitions**):

Omit the definition of "Board".

(2) Section 15 (**Power of entry**):

(a) Section 15 (1), (3):

Omit ", any member of the Board" wherever occurring.

(b) Section 15 (1), (2):

Omit ", the Board" wherever occurring.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

- (c) Section 15 (1):
Omit ", the member".
- (d) Section 15 (2):
Omit ", by a member of the Board, by an officer or
employee of the Service on behalf of the Board".
- (3) Section 21B (**Protected land**):
Section 21B (1), (2):
Omit "Board" wherever occurring, insert instead
"Commissioner".
- (4) Section 21C (**Destruction of trees on protected land prohibited
except under authority**):
Section 21C (2) (b):
Omit "Board", insert instead "Commissioner".
- (5) Section 21CA (**Prevention of soil erosion and repair of
damage**):
 - (a) Section 21CA (1), (3), (8) (c):
Omit "Board" wherever occurring, insert instead
"Commissioner".
 - (b) Section 21CA (1):
Omit "it may", insert instead "the Commissioner may".
- (6) Section 21D (**Authority to destroy timber on protected land**):
 - (a) Section 21D (1), (2) (a), (3) (i), (3A), (4):
Omit "Board" wherever occurring, insert instead
"Commissioner".

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

- (b) Section 21D (3A):
Omit "if it is", insert instead "if the Commissioner is".
- (c) Section 21D (6):
Omit the subsection.

- (7) Section 21E (**Evidence that land is protected land**):
Omit "Chairman or the Deputy Chairman of the Board",
insert instead "Commissioner".

- (8) Section 31 (**Protection of Minister, Commissioner, and officers
etc.**):
Omit "or the Board" wherever occurring.

- (9) Section 32 (**Catchment Areas Protection Board**):
Omit the section.

- (10) First Schedule (Savings, transitional and other provisions):
(a) Before clause 1, insert:

**PART 1 - PROVISIONS CONSEQUENTIAL
ON ENACTMENT OF STATUTE LAW
(MISCELLANEOUS PROVISIONS)
ACT (No. 2) 1987**

- (b) After clause 1, insert:

**PART 2 - SAVINGS AND TRANSITIONAL
REGULATIONS**

Regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Soil Conservation (Amendment) Act 1989.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT
AREAS PROTECTION BOARD - *continued*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to the Act concerned or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 3 - PROVISIONS CONSEQUENTIAL ON
ENACTMENT OF SOIL CONSERVATION
(AMENDMENT) ACT 1989**

Abolition of Catchment Areas Protection Board

3. On the repeal of section 32, the Catchment Areas Protection Board is abolished.

Members of Catchment Areas Protection Board

4. A person who, immediately before the abolition of the Catchment Areas Protection Board, was a member of that Board ceases to hold that office on the abolition of that Board and is not entitled to any remuneration or compensation because of the loss of that office.

Construction of references

5. After the abolition of the Catchment Areas Protection Board, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the Catchment Areas Protection Board is to be read as a reference to the Commissioner of the Soil Conservation Service of New South Wales.

SCHEDULE 1 - AMENDMENTS RELATING TO CATCHMENT AREAS PROTECTION BOARD - *continued*

Transfer of assets, liabilities etc. of Board

6. On the abolition of the Catchment Areas Protection Board, any assets, rights, liabilities or obligations of the Board become assets, rights, liabilities or obligations of the Crown.

Existing authorities, notices, maps, orders etc. concerning protected lands

7. Any notice, authority or certificate issued, any map prepared or any order published in the Gazette by the Catchment Areas Protection Board continues to apply in respect of protected land as if that Board had not been abolished.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES

(Sec. 3)

(1) Section 15 (**Power of entry**):

Section 15 (3):

Omit "\$500", insert instead "50 penalty units".

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Section 15E (1):

Omit "\$2,000", insert instead "500 penalty units".

(3) Section 15F (**Commissioner may carry out work**):

Section 15F (4):

Omit "\$500", insert instead "50 penalty units".

(4) Section 18 (**Direction to carry out works or measures**):

Section 18 (12):

Omit "\$2,000", insert instead "500 penalty units".

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES -
continued

(5) **Section 21C (Destruction of trees on protected land prohibited except under authority):**

Section 21C (4):

Omit "\$10,000", insert instead "400 penalty units".

(6) **Section 21CA (Prevention of soil erosion and repair of damage):**

Section 21CA (12) (a):

Omit "\$10,000", insert instead "400 penalty units".

(7) **Section 22 (Preservation of proclaimed works):**

Section 22 (6):

Omit "\$2,000", insert instead "500 penalty units".

(8) **Section 27 (Interference with or damage to works etc.):**

Omit "\$2,000", insert instead "500 penalty units".

(9) **Section 29 (Penalties):**

(a) **Section 29 (1):**

Omit "\$500", insert instead "50 penalty units".

(b) **Section 29 (2):**

Omit the subsection, insert instead:

(2) Proceedings for an offence against this Act are to be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone or before the Land and Environment Court.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES -
continued

(c) Section 29 (3):
Omit "\$2,000", insert instead "100 penalty units".

(10) Section 35 (**Penalty for breach of regulations**):
Omit "\$500", insert instead "50 penalty units".

**SCHEDULE 3 - CONSEQUENTIAL AMENDMENT OF OTHER
ACTS**

(Sec. 4)

Bush Fires Act 1949 No. 31:

Column 2 of Table to section 22A:

Omit "The Catchment Areas Protection Board", insert
instead "The Commissioner of the Soil Conservation
Service of New South Wales".

Forestry Act 1916 No. 55:

Section 27H:

Omit "Catchment Areas Protection Board constituted
under that Act", insert instead "Commissioner of the Soil
Conservation Service of New South Wales".

Western Lands Act 1901 No. 70:

Section 18DB (13) (b):

Omit "Catchment Areas Protection Board constituted
under that Act", insert instead "Commissioner of the Soil
Conservation Service of New South Wales".
