

# ORIGINAL ARTICLES

## The Soil Conservation Act, No. 25 of 1951

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**T**HE substance of this new Act is reproduced in full below together with some comments on how it is being put into action and what results are hoped from it :—

### Act to make provision for the Conservation of Soil Resources, for the Prevention or Mitigation of Soil Erosion and for the Protection of Land against damage by Floods and Drought

[*Date of Assent : August 13, 1951.*]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the Soil Conservation Act, No. 25 of 1951.

Surveys and investigations as to nature and extent of soil erosion.

2. (1) It shall be the duty of the Director to cause surveys and investigations to be made for the purposes of ascertaining the nature and extent of soil erosion and of damage to land by floods and droughts, and of enabling the Minister to determine the areas which should be declared under this Act to be erodible areas.

(2) For the purposes of any survey or investigation carried out under subsection (1), it shall be lawful for any officer authorised in writing by the Director in that behalf to enter and inspect any land at any reasonable time, together with such other persons as he may require, and to carry out thereon all such examinations and inquiries as may be necessary.

Declaration of erodible areas.

3. The Minister may by Order published in the *Gazette* declare any area defined in the Order to be an erodible area for the purposes of this Act.

Regulations for erodible areas

4. The Minister may make regulations, to be applicable either generally in all erodible areas, or specially in any specified erodible area—

(a) requiring the owners of land to make measures designed to prevent or control soil erosion, including measures for the afforestation of sources of streams and of the banks of streams, for the conservation of vegetation along the banks of streams, for the training of streams by means of check dams or otherwise, and for the erection of contour ridges or terraces ;

- (b) prohibiting or restricting the clean weeding of land or other agricultural practices conducive to soil erosion ;
- (c) restricting the use of land for agricultural or pastoral purposes, where such restriction is necessary for the purpose of preventing or controlling soil erosion or protecting the sources and banks of streams ;
- (d) prohibiting or controlling the exploitation of forest and grass land resources in the interests of soil conservation or for the purpose of reducing the danger of fires or of damage caused thereby ;
- (e) authorising any prescribed officer or person to give directions for seasonal or periodical changes in the type or nature of crops cultivated, or for the adoption or alteration of cultivation practices for the purpose of promoting soil conservation.

5. Where the Minister is satisfied that any land in any erodible area should be withdrawn from cultivation or that any measures designed to prevent or reduce erosion should be taken on or with respect to any such land by the Government, the Minister may declare that the land is needed for a public purpose ; and upon such declaration being made, the land shall be acquired under the Land Acquisition Act, No. 9 of 1950, and the provisions of that Act (other than the provisions of sections 2 and 3 thereof) shall apply accordingly.

Acquisition of land required for carrying out measures to prevent erosion.

6. The Minister may make regulations for or in respect of all or any of the following matters :—

General regulations.

- (a) the measures to be taken by owners of land for the purposes of the preservation and promotion of soil fertility and of facilitating the absorption of moisture by the soil ;
- (b) the measures to be taken by owners of land for the purpose of preventing or reducing or remedying damage by soil erosion ;
- (c) the control of the grazing of animals in so far as grazing interferes with the cultivation of land or is likely to reduce soil fertility or to be conducive to damage by soil erosion ;
- (d) the control of floods and of the effects of drought by means of provision requiring the diversion of water or the storage of water, and the correlation of measures designed to control floods and conserve water with measures taken by local authorities for the purpose ;
- (e) the prohibition or restriction of the burning of grass land and of the spread of fire during the burning of chenas ;
- (f) the specification of the times of tillage and irrigation and of the methods of irrigation in specified areas in order to ensure the economic use of available water ;
- (g) the authorisation of any prescribed officer or person to give directions for seasonal or periodical changes in the type or nature of crops cultivated, or for the adoption or alteration of cultivation practices for the purpose of promoting soil conservation ;

- (h) the cambering and cross-draining of roads and paths under the control of any Government Department or local authority and the prohibition or control of the securing of drains and water-channels ;
- (i) any matter in this Act stated or required to be prescribed.

Loan to owner of land who is required to take measures under the Act.

7. (1) Where the owner of any land is required by any regulation made under this Act to take any measures upon or with respect to that land, the Director may, if authorised thereto by regulations made in that behalf and subject to such conditions or restrictions as may be prescribed by such regulations, grant a loan to the owner for the purpose of assisting him to defray the cost of such measures.

(2) No loan shall be made under the preceding provisions of this section except out of moneys provided by Parliament for the purpose.

(3) Regulations may be made prescribing the security upon which loans may be granted under this section and the rate of interest payable upon such loans, and providing for the time and manner of the repayment or recovery of the principal and interest due on such loans.

Authority for Director to take measures where owner of land fails so to do.

8. (1) In any case where any owner of any land fails to take on or with respect to the land any measures specified in that behalf in any regulation made under this Act, it shall be lawful for the Director, after giving to the owner notice of such duration as may be prescribed, to cause such measures to be taken on or with respect to that land by an officer authorised in writing by the Director in that behalf ; and it shall be lawful for any officer so authorised to enter the land, together with such other persons as he may require, and to carry out thereon all such work as may be necessary for the purpose of taking the required measures.

(2) The cost of carrying out any work on or with respect to any land in pursuance of the powers conferred by sub-section (1) shall be payable by the owner in such instalments as may be prescribed ; and the amount of any such instalment, if unpaid, shall be recoverable by civil action as a debt due to the Crown.

General provisions as to regulations.

9. (1) Every regulation made by the Minister under this Act shall be brought before the Senate and the House of Representatives for approval, and if so approved shall be published in the *Gazette* and come into operation upon the date of such publication.

(2) Any regulations made under this Act may empower any such officer or person may be specified therein to make such orders or issue such directions to owners of land, cultivators or other persons as may be necessary for securing compliance with or carrying out the objects and purposes of this Act or of any regulations made thereunder.

Appointment of officers.

10. There may be appointed all such officers and servants as may be necessary for carrying out or giving effect to the principles and purposes of this Act.

11. Any person who contravenes or fails to comply with any regulation made under this Act or any order or direction made or given under any such regulation, or who resists or obstructs the Director or any other officer by or under this Act, shall be guilty of an offence and liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees.

Offences and penalties.

12. In this Act, unless the context otherwise requires—

Interpretation:

“ Director ” means the Director of Agriculture ;

“ Minister ” means the Minister of Agriculture and Lands ;

“ owner ” in relation to any land includes the lessee or usufructuary mortgagee of the land ;

“ prescribed ” means prescribed by regulation made under this Act.

In framing the Act many foreign statutes were scanned in an effort to find the best precedents. Full use was made of the recently enacted Soil Conservation and River Catchments Act of New Zealand, and of the Punjab “ Chos ” Act, first drafted in 1903 but drastically revised in 1944. Both of these had more to contribute to Ceylon’s requirements than the Soil Conservation Act of the United States whose operation depends so largely upon a majority of the farmers in an area voting to bring themselves under the Act as a district under a voted committee which has very large powers of executive and operational discipline.

All the functions of the Act are vested in the Director of Agriculture who will thus have to enlarge the scope of his department from being purely advisory and educative, as he, through his officers, will now have to undertake new executive and administrative tasks of land management and the regulation and restriction of the uses of land.

Under section 2 of the Act, the Director of Agriculture is empowered to have surveys and investigations made for the purpose of ascertaining the nature and extent of erosion and of damage to land by floods and droughts. The type of survey or reconnaissance authorized under this section of the Act is already in practice as a sort of fact-finding Land Use Survey by an analysis of erosion conditions, slope, soil, cropping methods, ownership, &c. :

The skeleton staff so far allocated to the Soil Conservation Officer is employed on such a field to field survey of the Kotmale area of the lower hills to locate landslips and analyse individual holdings to find out which are eroding most, and to prepare plans for such changes in land use as may be found necessary. For instance paddy land with a slope steeper than 1 in 5 is recommended for the stoppage of irrigation and bringing under a non-irrigated annual crop. The justification for this is seen in the increasingly common “ soil creep ” which is an unfortunate feature of many of the larger and steeper paddy blocks in Kandy and Nuwara Eliya civil districts.

The steeper land under other annual food crops is earmarked for afforestation or planting with cardamoms under a light tree canopy as they constitute one of the best soil holding crops and still give a fair money return.

The Act provides for the advancing of loans to land owners to help them with the construction of stone terracing to improve land on permissible slopes, but the position of the small man who can neither afford a loan nor find acceptable security has yet to be considered.

Interference with current irrigation practices is also authorised by the Act, and it is hoped that by a combination of educational effort and practical demonstration the wasteful misuse of irrigation supplies in hillside paddy lands will be brought under some sort of control. Excessively heavy irrigation is one of the main causes of soil creep and landslip.

The object of sections 3 and 4 is to bring the vitally important river catchments in the high hills under a special protective regime in which owners can be forced to put their land into good order with such accepted erosion control devices as may be considered best for any given crop or condition of land. A start is to be made with the head waters of the Mahaweli and Kelani by applying a set of rules to about 300,000 acres in the tributary valleys of the Maskeliya, Kehelgoma and Kotmale. This will include some 220,000 acres of tea estates, the rest being village lands and forest.

The second type of rule (section 6) is a general regulation which can be applied specifically to one crop throughout the Island—as for instance to coconut or cacao wherever they occur, or to a given set of erosive conditions such as arises through very heavy grazing or through grass fires.

The Act further provides for the acquisition of land as being needed for a public purpose where the Minister is satisfied that any land in a erodible area should be withdrawn from cultivation or where preventive measures are to be taken by Government. It is hoped however that acquisition will seldom be needed and every effort must be made to induce the owners of land to do whatever is needful towards reducing erosion through their own initiative and as part of an improved agriculture. To further this object the Act provides for the issue of loans by Government to such owners as undertake such tasks as the terracing of hillside fields to make them into bench terraces supported on either stone terraces or grassed river banks.

Finally the act provides for a fine not exceeding Rs. 500 for contravention or failure to comply, but a much heavier punishment actually lies in section 8 which gives authority for work left undone by the owner to be done by Government, the cost being recoverable from the owner by civil action as a debt due to the Crown.