NORTHERN TERRITORY OF AUSTRALIA

SOIL CONSERVATION AND LAND UTILISATION ACT

As in force at 1 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

SOIL CONSERVATION AND LAND UTILISATION ACT

An Act to make provision for the prevention of soil erosion and for the conservation and reclamation of soil

Part I Preliminary

1 Short title

This Act may be cited as the *Soil Conservation and Land Utilisation Act*.

3 Definitions

In this Act, unless the contrary intention appears:

approved means approved by the Minister in accordance with this Act.

Commissioner means the Chief Executive Officer of the Agency, within the meaning of the *Public Sector Employment and Management* Act, primarily responsible to the Minister for the administration of this Act.

instrument of approval means a document signed by the Minister stating that the Minister approves a loan.

land means all land in the Territory of whatever title or tenure, and includes native title rights and interests in land, within the meaning of the *Native Title Act 1993* of the Commonwealth.

landholder, in relation to any land, means an owner (including a native title holder within the meaning of the *Native Title Act 1993* of the Commonwealth), lessee, licensee, mortgagee in possession or occupier of that land or a manager or other person managing or controlling the use of that land.

Officer means Soil Conservation Officer.

the Council means the Soil Conservation Advisory Council.

treatment means structural or agronomic work for the purpose of the conservation of soil or reclamation of land.

Part II Administration

4 Commissioner for soil conservation

(2) The Commissioner has such powers and functions as are conferred or imposed on him by this Act.

(3) In the exercise of his powers and functions, the Commissioner is subject to the directions of the Minister.

5 Soil Conservation Officer

(1) There shall be such Soil Conservation Officers to assist the Commissioner in the performance of his functions under this Act as the Minister thinks necessary.

(2) Each Officer has such powers and functions as are conferred or imposed on an Officer by this Act.

(3) In the exercise of his powers and functions, an Officer is subject to the directions of the Commissioner.

6 Appointment of Officers

An Officer shall be appointed by the Minister.

7 Soil Conservation Advisory Council

(1) For the purposes of this Act, there shall be a council, to be known as the Soil Conservation Advisory Council.

(2) The Council has such powers and functions as are conferred or imposed on it by this Act.

(3) The Council shall consist of:

(a) the Commissioner;

(b) a member with practical experience in the pastoral industry;

(c) a member with practical experience in agriculture; and

(d) not less than 2 nor more than 6 other members.

(4) The members of the Council, other than the Commissioner, shall be appointed by the Minister.

(5) The Commissioner shall be the chairman of the Council.

(6) The Minister shall appoint a member of the Council to be the deputy chairman of the Council.

7A Term of office of member

(1) Subject to this Act, a member of the Council holds office until the expiration of such period, not exceeding 3 years, as is specified in his instrument of appointment, but is eligible for re-appointment.

(2) Where a period of appointment is not specified in the instrument of appointment of a member of the Council, the member holds office, subject to this Act, for 3 years.

7B Confidentiality

A member of the Council shall not disclose information obtained in the course of his duties as a member unless that disclosure is made in the course of those duties.

Maximum penalty: 25 penalty units or imprisonment for 3 months.

9 Meetings of Council

(1) Subject to this section, the Council shall meet at such times and places as the chairman considers necessary.

(2) Within 21 days after the receipt of a written request signed by not less than 3 members of the Council, the chairman shall call a meeting.

(3) A meeting of the Council shall be deemed not to have been duly called unless:

(a) at least 14 days' notice of the meeting, or such lesser period of notice of the meeting as is approved by at least 3 members, has been given to each member either by telegram or by writing served personally or by post; and

(b) the notice of the meeting specifies the place where and the time when the meeting is to be held.

(4) At a meeting of the Council:

(a) 5 members, of whom one is the chairman or deputy chairman, form a quorum;

(b) the chairman, or in his absence the deputy chairman, shall preside;

(c) all questions shall be decided by a majority of votes of the members present; and

(d) the chairman, or in his absence the deputy chairman, has a deliberative vote and, in the event of an equality of votes, has also a casting vote.

(5) The Council may permit any person or the representative of any corporation, public authority, body, person or group of persons to speak at a meeting of the Council, but such a person or representative shall not vote at the meeting.

9AA Disclosure of interest

(1) A member of the Council who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Council and the member:

(a) shall not, while he has that interest, take part after the disclosure in any deliberation or decision of the Council in relation to that matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Council in relation to that matter.

Part IIA Powers and functions

9A Functions of Council

The Council shall have the following functions:

(a) to advise the Minister on matters relating to this Act and the regulations, and in particular as to:

(i) the state of erosion on land;

(ii) the progress being made with erosion control;

(iii) the measures which it recommends for further control of erosion or the reclamation of land; and

(iv) matters relating to the future utilisation of land;

(b) to provide a forum for the discussion and consideration of matters concerning soil conservation;

(c) to receive and consider reports and recommendations from the Commissioner on action taken by him under this Act and, where necessary, approve of or ratify that action; and

(d) to hear and consider submissions put before it by members of the public and, in particular, persons affected by the operation of this Act.

9B Officer's power to enter on land

(1) Subject to subsection (2), where an Officer has reasonable cause to suspect that:

(a) soil erosion is occurring on land; or

(b) there is a danger of soil erosion occurring on land because of the use to which that land has been put by the landholder or some other person,

that Officer may:

(c) enter upon that land together with any other persons or any animals, plant, machinery and equipment; and

(d) dig or bore into the land, make surveys, place marks and carry out investigations.

(2) Except with the permission of the occupier, an Officer shall not, under this section, enter upon land unless 28 days' notice in writing of his intention to enter has been served on the occupier.

Part III Soil conservation and land reclamation

Division 1 Assistance to landholders

10 Information and advice

The Commissioner may provide information and advice relating to soil conservation and land reclamation.

11 Carrying out of treatment

(1) The Commissioner may, by agreement with a person who is a landholder and subject to such conditions (if any) as are included in the agreement:

(a) carry out treatment; or

(b) provide assistance in the carrying out of treatment,

on land of which a person is a landholder.

(2) The Commissioner may share in the cost of:

(a) carrying out a treatment; or

(b) providing assistance in the carrying out of a treatment,

under subsection (1).

(3) The assistance that may be provided under subsection (1) includes:

(a) the preparation of maps, plans and specifications;

(b) the supervision of the carrying out of treatment; and

(c) the hiring to the landholder of equipment (including plant and machinery).

12 Commissioner may carry out treatment

(1) The Commissioner may, out of moneys appropriated by the Parliament for the purpose, carry out treatment for the public purpose of preventing soil erosion or conserving or reclaiming soil.

(2) Without limiting the generality of subsection (1), the Commissioner may:

(a) carry out treatment on Crown lands; and

(b) by agreement with a person who is a landholder, carry out treatment on land of which that person is a landholder where:

(i) that person is not entirely at fault for bringing about the circumstances that necessitate that treatment; or

(ii) that person cannot be required under this Act to carry out that treatment.

(3) The Commissioner may share the cost of carrying out with a person who is a landholder where that treatment is both in the public interest and in that person's interest.

13 Research into causes of erosion

The Commissioner may carry out, and may assist other persons to carry out, research into the causes and prevention of soil erosion and the reclamation and utilisation of land.

Division 2 Precautionary and corrective measures

14 Commissioner may issue soil conservation order

(1) Where in the opinion of the Commissioner a danger of soil erosion would be created if:

(a) timber, scrub or other vegetable cover (whether living or dead) were damaged, destroyed, removed or otherwise interfered with on or from an area of land;

(aa) the surface of an area of land were disturbed;

(b) a particular method or practice of land use were adopted in relation to an area of land; or

(c) the number of livestock carried on an area of land exceeds a particular number, or were to increase beyond a particular number,

the Commissioner may serve a Soil Conservation Order on a landholder of that area of land.

(1A) A Soil Conservation Order served under this section may prohibit absolutely, or prohibit except with and in accordance with the terms and conditions of a written authority given by the Commissioner:

(a) the damaging, destroying, removal or otherwise interfering with timber, scrub or other vegetable cover (whether living or dead) on or from an area of land specified in the order;

(b) the disturbing of the surface of an area of land specified in the order;

(c) the adoption in relation to an area of land specified in the order of a method or practice of land use specified in the order; or

(d) the increasing of the number of livestock carried on an area of land specified in the order beyond a number specified in the order.

(1B) Subject to subsection (2A), a Soil Conservation Order served under this section may direct the person on whom it is served to reduce the number of livestock carried on an area of land specified in the order below a number specified in the order.

(2) Without limiting the generality of subsection (1A), an authority given under that subsection may require the person to whom the authority is given to fence an area of land specified in the authority in a manner approved by the Commissioner.

(2A) A Soil Conservation Order requiring a person to reduce the number of livestock carried on an area of land shall not be served until it has first been approved by the Minister.

(2B) The Commissioner may, under a Soil Conservation Order, require a landholder to provide details of the existing use of land referred to in that order and of that landholder's proposals for the future use of that land.

(3) The Commissioner may revoke or vary a Soil Conservation Order served under this section.

(4) A person served with a Soil Conservation Order under this section or a successor of such a person shall comply with and shall not contravene that order.

Maximum penalty: 8 penalty units.

15 Commissioner may order offender to reduce danger of erosion

(1) Where a person contravenes or fails to comply with a Soil Conservation Order served under section 14 and a danger of soil erosion is, in the opinion of the Commissioner, thereby created, the Commissioner may order that person to take such measures as he specifies to reduce that danger.

(2) A person served with an order under this section shall, forthwith or within such time as the Commissioner allows, comply with and shall not contravene that order.

Maximum penalty: 8 penalty units.

16 Council to ratify acts of Commissioner

(1) Before he serves, or forthwith after he has served, a Soil Conservation Order under this Division, the Commissioner shall call a meeting of the Council.

(2) Where a meeting is called under this section before an order is served, the Commissioner shall not serve that order unless the Council approves it.

(3) Where a meeting is called under this section after an order is served, the Commissioner shall, unless the Council approves the order in the terms in which it is served:

(a) revoke the order; or

(b) vary the order in such manner as the Council directs.

16A Entry of memorial of Soil Conservation Order in register by Registrar-General

(1) In this section:

proprietor means:

(a) a registered proprietor within the meaning of the *Land Title Act*;

(b) a lessee of a lease under the *Crown Lands Act*, the *Pastoral Land Act* or the *Special Purposes Leases Act* registered under the *Land Title Act*;

(d) a mortgagee in possession; or

(e) a person having a registered interest in land under the *Land Title Act*,

who has been served with a Soil Conservation Order;

register means the land register kept by the Registrar-General under the *Land Title Act*.

(2) Upon serving a Soil Conservation Order under section 14, the Commissioner may deposit with the Registrar-General:

(a) a copy of that order certified by the Commissioner to be a true copy of the order;

(b) a document in writing:

(i) stating that that order was served, the name of the person served and the date of service;

(ii) identifying the land to which that order relates with land in a register;

(iii) requesting that a memorial of that order be entered in that register; and

(iv) signed by the Commissioner.

(3) Upon receiving the documents referred to in subsection (2), the Registrar-General shall:

(a) enter in the land register in relation to that land, a memorial of the making of the Soil Conservation Order; and

(b) file those documents in his office.

(4) When a memorial has been entered in the land register under subsection (3) and not withdrawn or removed, the obligation to comply with that order is binding on the proprietor for the time being of the land concerned.

(5) When the requirements of a Soil Conservation Order in relation to which a memorial has been entered in a register in accordance with this section have been carried out to the satisfaction of the Commissioner, the Commissioner shall so notify the Registrar-General in writing and thereupon the Registrar-General shall make an entry in the land register discharging the memorial of the order in relation to that land.

(6) The Commissioner may, by notice in writing to the Registrar-General, request that the memorial of a Soil Conservation Order be noted in the register as withdrawn, whereupon the Registrar-General shall note on the memorial that the memorial is withdrawn as at the time of receipt by him of that notice.

(7) A person affected by the entry in a register of a memorial of a Soil Conservation Order may apply, by motion, to the Supreme Court of the Northern Territory of Australia for an order that the memorial be removed from that register and that court may, upon being satisfied that the memorial should be removed, make such order, either ex parte or otherwise, as shall seem just including the payment of costs of the motion.

(8) Upon being served with an order made under subsection (7) requiring removal of a memorial from a register, the Registrar-General shall:

(a) note in the land register that the memorial is removed by the order of the court; and

(b) file that order in his office,

and may make such further notation in relation to that order as to him seems necessary.

Division 3 Areas of erosion hazard

17 Declaration of area of erosion hazard

(1) The Minister may, upon the recommendation of the Council, by notice in the *Gazette*, declare an area of land that is subject to soil erosion or that is likely to become subject to soil erosion to be an area of erosion hazard.

(2) A declaration made under subsection (1) shall:

(a) define, by reference to a map or plan, the area of land to which it relates; and

(b) prescribe measures to be taken in the area to reduce the hazard and specify by whom the measures must be taken.

(3) Without limiting the generality of subsection (2), a declaration made under subsection (1) may:

(a) require treatment to be carried out on or in relation to the land, or a part of the land, to which it relates;

(b) determine a limit to the number of livestock, or to the number of livestock of a specified class, that are permitted to be carried, or to be carried from time to time, on the land, or a part of the land, to which it relates; and

(c) otherwise restrict the lawful use of the land, or a part of the land, to which it relates.

(4) The Minister may, upon the recommendation of the Council, by notice in the *Gazette*, amend a declaration made under subsection (1) by prescribing measures, to be taken in the area of land to which the declaration relates to reduce the hazard, in substitution for the measures prescribed in the declaration.

(5) The Minister may, upon the recommendation of the Commissioner, by notice in the *Gazette*, revoke a declaration made under subsection (1).

18 Notice of proposal to create area of erosion hazard

(1) Before making a recommendation for the purposes of section 17 the Council shall:

(a) give notice in the *Gazette* and in a newspaper circulating in the locality in which the land, the subject of the proposed recommendation, is situated, of its intention to make the recommendation;

(b) serve a copy of the notice on:

(i) each landholder holding a registered interest in the land or a part of the land;

(ii) the occupier of the land or of each part of the land; and

(iii) each registered mortgagee of any part of the land that is subject to mortgage; and

(c) consider the objections, if any, that are referred to it in accordance with section 19.

(2) A notice given under subsection (1) shall:

(a) define, by reference to a map or plan, the area of land the subject of the proposed recommendation;

(b) set out the proposed recommendation and, where that recommendation includes a recommendation that treatment should be required to be carried out, estimate the cost of carrying out that treatment; and

(c) appoint a date, not being earlier than 42 days after the notice is published as required and not being earlier than 30 days after the copy of the notice is served as required, on or before which objections may be lodged against the proposal.

19 Objections

(1) A person upon whom a copy of a notice is served under section 18 may, not later than the appointed date, lodge with the Commissioner an objection in writing to the proposal, specifying the grounds of the objection.

(2) The Commissioner shall, subject to subsection (3), refer the objection to the Council.

(3) The Commissioner may, without calling a meeting of the Council:

(a) where no objections are lodged, forward the proposed recommendation to the Minister in the name of the Council; or

(b) where an objection is lodged, allow it and forward the proposed recommendation as so amended to the Minister in the name of the Council.

20 Landholder to reduce hazard

A landholder in an area that is declared to be an area of erosion hazard shall, within such time as the Commissioner allows, take the measures to reduce the hazard that are prescribed or provided for under section 17 in relation to the land of which he is a landholder.

Maximum penalty: 0.8 penalty unit.

Division 4 Control of public on restricted use areas

20A Interpretation

In this Division unless the contrary intention appears:

Crown Land means Crown Land within the meaning of the *Crown Lands Act* but includes reserved or dedicated land.

exempted road means a road exempted pursuant to section 20B(8).

open land means land:

(a) that is not within a municipality or a town within the meaning of the *Crown Lands Act*; and

(b) that is held by a landholder under any tenure.

motor vehicle means any motor car, motor carriage, motor cycle, motor lorry, motor omnibus, motor tractor, or other vehicle propelled wholly or partly by any volatile spirit or by steam, gas, oil, or electricity, or by any means other than human or animal power.

proper authority means:

(a) in the case of Crown Land:

(i) that is vested in; or

(ii) that is under the control of,

a person, body or authority for a public purpose – that person, body or authority;

(b) in the case of land vested in a local government council – the council; or

(c) in the case of other land – the Commissioner.

public land means land:

(a) that is not within a municipality or a town within the meaning of the *Crown Lands Act*; and

(b) that is unalienated Crown Land.

20B Declaration by Minister

(1) The Council may recommend to the Minister that an area of land be declared a Restricted Use Area.

(2) If the Minister is satisfied, on the recommendation of the Council, that an area of land is subject to soil erosion through use or continued use of it by the public, the Minister may, by notice in the *Gazette*, declare that area to be a Restricted Use Area.

(3) A person may request the Council to recommend that the Minister make a declaration in accordance with subsection (2) in relation to:

(a) open land of which that person is a landholder;

(b) public land adjacent to land of which that person is the landholder; or

(c) land vested in or under the control of a proper authority and adjacent to land of which that person is a landholder.

(4) A proper authority may request the Council to recommend that the Minister make a declaration in accordance with subsection (2) in relation to:

(a) land vested in, or under the management or control of, that proper authority; or

(b) public land adjacent to land vested in, or under the management or control of, that proper authority.

(5) The Council shall not make a recommendation under subsection (1) in respect of land vested in, or under the control of, a proper authority except at the request of that proper authority.

(6) A declaration under subsection (2) shall:

(a) define the land to which it relates by reference to a map or plan; and

(b) indicate where the map or plan may be inspected.

(7) The map or plan shall be kept and displayed:

(a) at the place indicated in the declaration; and

(b) at all police stations in the vicinity of the area to which the declaration relates,

and shall at all reasonable times be available for inspection without fee by members of the public.

(8) The Minister may exempt from the effect of a declaration made under subsection (2) such roads in the area of land to which the declaration relates as the Minister shall define in the declaration, and may in that declaration stipulate:

(a) the persons or classes of persons who may use those roads; or

(b) the types of vehicles that may be used on those roads.

20C Offence relating to use of restricted use area

(1) Except with and in accordance with the written permission of the proper authority, a person within a Restricted Use Area shall not:

(a) unless he is on an exempted road, have in his possession or use a motor vehicle;

(b) remove or damage any vegetation;

(c) take or remove any sand, gravel, rock, clay or earth;

(d) interfere with any erosion prevention works; or

(e) cause water or other fluid to be drained or to flow over the area.

Maximum penalty: 4 penalty units.

(2) Where a stipulation has been made under section 20B(8)(a) or (b), in respect of an exempted road:

(a) a person:

(i) other than a person stipulated; or

(ii) other than one of a class of persons stipulated,

in relation to that road shall not use that exempted road; and

(b) a person shall not have in his possession or use a vehicle other than a stipulated type of vehicle on that exempted road.

Maximum penalty: 4 penalty units.

(3) Where permission is granted under subsection (1) by the proper authority, that authority:

(a) may limit the use to a use of part of the Restricted Use Area by a motor vehicle, or a class of motor vehicle; or

(b) may impose such other conditions as to the use of the Restricted Use Area as it sees fit.

20D Powers of Officers

(1) A member of the Police Force or an Officer may require a person who, he reasonably believes, has committed an offence against section 20C to give his full name and address to that member of the Police Force or Officer.

(2) A person:

(a) shall not refuse to give his name and address; and

(b) shall not give a false name or address,

to a member of the Police Force or to an Officer.

Maximum penalty: 1.5 penalty units.

(3) A person shall not obstruct, hinder or molest a member of the Police Force or an Officer in the exercise of his powers under this Act.

Maximum penalty: 1.5 penalty units.

Part IV Enforcement

21 Contribution between landholders

(1) Where a person reasonably incurs expense in taking an action that, under this Act, he is required to take, he may recover contribution from any other person who is required to take that action.

(2) An action claiming contribution may be brought in a court of competent jurisdiction.

(3) A court hearing such an action shall consider the relative benefit to each party of the action taken and shall make such order as to contribution and as to costs as it thinks just.

22 Failure to perform obligation

(1) Where a landholder neglects or refuses to take an action that, under this Act, he is required to take, the Territory may, at the request of the Commissioner, cause that action to be taken and, for that purpose, may, by its servants or agents, with or without vehicles and equipment, enter upon the land of which that person is a landholder.

(2) For the purposes of subsection (1):

(a) the Administrator may authorize the taking of action by or on behalf of the Territory; and

(b) the Minister may authorize the taking of an action by or on behalf of the Territory at a cost not exceeding $20,000.

(3) The amount of the expense incurred by the Territory in causing an action to be taken under subsection (1) shall be a debt due to the Territory by the person who neglected or refused to take the action and that debt:

(a) shall bear interest at such rate as the Minister from time to time determines by notice in the *Gazette*;

(b) may be recovered, together with that interest, by action against the debtor in a court of competent jurisdiction; and

(c) is a statutory charge, within the meaning of the *Land Title Act*, on the land.

(4) Where, under this section, 2 or more persons are liable for a debt, they are jointly and severally liable.

(5) A person who, under this section, is liable for a debt may recover contribution from another person who is likewise liable, either by joining that other person as a party in an action brought under this section or by bringing a separate action in a court of competent jurisdiction.

(6) A court hearing a claim for contribution under this section shall consider the relative benefit of the action from which the debt arose to each party and shall make such order as to contribution and as to costs as it thinks just.

(7) In proceedings by the Territory to recover an amount under this section, a certificate by the Minister certifying that an amount specified in the certificate was the amount of expense incurred by the Territory in taking an action specified in the certificate is prima facie evidence of the fact certified.

23 Caveat

(1) Where, in an action under this Act, judgment has been entered for an amount to be paid to the Territory, the subject land is charged with payment of the amount and the Commissioner or a person authorized by him to do so may, while the amount remains unpaid, lodge a caveat with the Registrar-General forbidding the registration of any dealing with the subject land.

(2) Part 7, Division 2 (other than section 142) of the *Land Title Act* applies to a caveat lodged in accordance with subsection (1).

Part V Loans for soil conservation treatment or equipment

25 Application for advance

(1) A person may make application to the Commissioner for a loan in respect of treatment proposed to be carried out on land of which the person is a landholder.

(2) The application shall be in writing addressed to the Commissioner and signed by the applicant.

(4) The application may be in respect of:

(a) treatment to be carried out by the applicant;

(b) treatment to be carried out by some person other than the applicant under a contract between the applicant and that other person; or

(c) treatment to be carried out by the by or on behalf of the Commissioner at the request of the applicant,

and shall indicate the person proposed by the applicant as the person by whom treatment is to be carried out.

(5) An application under this section may be for, or include, the purchase or hire of equipment to carry out treatment on land of which the person is the landholder.

26 Procedure on receipt by Commissioner of application

(1) On receipt of the application, the Commissioner shall obtain such information as he considers necessary concerning the application and shall then submit the application to the Council together with:

(a) a report as to the desirability of the treatment proposed;

(b) an estimate of the cost of the treatment;

(c) the Commissioner's views on whether or not a loan should be recommended; and

(d) if the Commissioner is of the view that a loan should be recommended – a statement setting out the extent and estimated cost of the treatment in respect of which he is of the view that a loan should be recommended.

(2) The Council shall consider the matter and, if it recommends that a loan be approved, shall forward its recommendations to the Minister together with all reports, estimates and other documentation received from the Commissioner.

27 Minister may approve

(1) On receipt of an application so submitted the Minister may, in his discretion, but subject to this Act, approve that a loan of such amount as he specifies in the instrument of approval be made to the applicant.

(2) The approval shall be in writing signed by the Minister and shall set out any conditions, not being conditions applicable under this Act to all advances, to which the advance, if made, shall be subject.

(3) A loan, if made, shall be made for such period, not exceeding 20 years, as the Minister specifies in the instrument of approval.

28 Where consent of administrator required

The Minister shall not, without the consent of the Administrator, approve that a loan be made if:

(a) the amount of the advance exceeds $20,000; or

(b) in respect of previous assistance under this Act the applicant owes an amount which, together with the amount of the loan, exceeds $20,000.

29 Loan to be made out of moneys appropriated

If an advance is made it shall be made out of moneys appropriated by the Parliament.

30 Interest on loan

(1) The Treasurer may, by notice in the *Gazette*, determine an interest rate on loans made under this Act.

(2) A loan shall bear interest at the determined rate as at the date on which the loan is made.

(3) In determining the rate of interest payable on a loan the Treasurer shall take into consideration any recommendation of the Council.

31 Security for loan

A loan shall not be made to a person unless repayment of the loan together with interest shall have been secured by way of such mortgage or charge as the Minister approves.

32 Advance not to exceed 90% of cost of work or equipment

(1) A loan under this Act shall not exceed 90% of the cost of carrying out the treatment in respect of which the loan is approved.

(2) Where assistance furnished under this Act to a person and expressed to be furnished as or as part of a loan exceeds 90% of the finally determined cost of carrying out the treatment in respect of which the person has made application for a loan, the excess is a debt owed by the person to the Territory, and is payable by the person to the Territory when the Commissioner serves on the person notice, which may be by post, of the amount of the excess.

(3) For the purposes of this section where a loan is approved and the applicant for the loan carries out all or part of the treatment in respect of which the loan is approved, the cost of carrying out the treatment shall include, in respect of the treatment or part of the treatment carried out by the applicant:

(a) the amount estimated by the Commissioner to be the cost of the treatment or part of the treatment carried out by the applicant; or

(b) the amount estimated by the Commissioner to be what it would have cost the Commissioner to carry out the treatment or part of the treatment carried out by the applicant,

whichever is the less.

33 Minister to be satisfied as to certain matters before approving loan

The Minister shall not approve a loan unless he is satisfied that the work in respect of treatment in respect of which the loan is applied for is, having regard to the state of development of the Territory and of the land to which the application relates, desirable for the maintenance of stability or of the productive capacity of the land.

34 Minister to inform commissioner if loan approved

If the Minister approves a loan he shall inform the Commissioner that he has done so and shall forward to the Commissioner a copy of the instrument of approval.

35 Commissioner to inform applicant where loan is approved

(1) On receipt of a copy of an instrument of approval, the Commissioner shall serve on the applicant to whom the instrument relates a statement in writing informing him that his application is approved and a document containing an offer to him of a loan.

(2) The statement shall specify the cost estimated by the Commissioner to be the cost of the treatment in respect of which the application is approved.

(3) The offer shall specify:

(a) the treatment in respect of which the offer is made;

(b) the amount, not exceeding 90% of the estimated cost of that treatment, provisionally approved as the amount to be advanced in respect of that treatment;

(c) where the treatment is to be carried out by the Commissioner, the conditions (including conditions as to charges to be made by the Commissioner) under which the Commissioner is prepared to do that treatment; and

(d) the conditions as to repayment of the loan subject to which the offer is made.

(4) The statement and the document may be served by post.

36 Notice of acceptance, &c.

(1) If the applicant desires to accept a loan in accordance with the offer referred to in section 35 he shall, not later than 2 months after the date on which the document containing the offer is served on him, serve on the Commissioner notice in writing that he accepts the offer.

(2) The notice may be served by post.

(3) Where the treatment is to be carried out by the Commissioner, the applicant shall furnish to the Commissioner, with the notice referred to in subsection (1), an amount equal to the difference between the cost estimated by the Commissioner to be the cost of that treatment and the amount provisionally approved as the amount to be advanced in respect of that treatment.

37 Instalments and conditions of loan

Subject to this Act and the regulations, a loan shall be made by such instalments and shall be subject to such conditions as are agreed between the applicant and the Commissioner.

38 Extension of time for payment

(1) In case of hardship the Minister may extend the time for payment of any sum due by any producer on account of a loan.

(2) Where the time for payment of any sum is extended in pursuance of this section, the sum shall, during the time in which it remains unpaid bear interest at the rate borne by the loan.

Part VI Miscellaneous

39 Commissioner may require person to furnish information

(1) For the purposes of this Act, the Commissioner may require a person to furnish such information concerning land of which that person is or was a landholder as in the opinion of the Commissioner is necessary or desirable relating to:

(a) works executed on or in relation to that land;

(b) livestock carried on that land; and

(c) methods and practices of land use adopted on that land.

(2) The Commissioner may require information furnished under subsection (1) to be verified, by statutory declaration or otherwise, to the satisfaction of the Commissioner.

(3) A person shall comply with and shall not contravene a requirement made by the Commissioner under this section.

Maximum penalty: 4 penalty units.

41 Obstruction of authorized person, &c.

A person shall not:

(a) without the approval of the Commissioner, destroy, damage, deface or remove from its position any improvement, structure, line, mark or item of machinery or equipment placed on land in the exercise of a power or the performance of a function or duty under this Act; or

(b) prevent or hinder a person exercising a power or performing a function or duty under this Act.

Maximum penalty: 4 penalty units.

42 Damage

Where a person authorized by or under this Act to exercise a power conferred by or under this Act causes damage in the course of exercising that power, no liability for the damage lies upon any person, but the Minister may, if he thinks fit, pay such amount as he thinks fit in full or partial compensation for the damage to the person who appears to him to have suffered the damage.

43 Acquisition of property

(1A) To the extent that the exercise of a power conferred by or under this Act results in the acquisition by the Territory of property (including land), that acquisition is hereby permitted and the property is compulsorily acquired.

(1) A person who claims that the exercise of a power conferred by or under this Act has resulted in the acquisition by the Territory of property of which he is the owner may apply to the Minister for payment to him by the Territory of the value of the property which he claims to have been acquired by the Territory.

(2) The application shall be in writing and shall set out details as to:

(a) the property alleged to have been acquired;

(b) the applicant's title to that property;

(c) the time when and the circumstances in which that property is alleged to have been acquired; and

(d) the amount alleged to be the value of that property.

(2A) Where property in respect of which compensation is payable under section 43 comprises native title rights or interests, the person or persons who may be entitled to compensation may request that the compensation should be in a form other than money and the Minister, in considering the application:

(a) must consider the request; and

(b) must negotiate in good faith in relation to the request.

(3) The Minister shall consider the application and, if he is satisfied that property of the applicant has been acquired by the Territory as a result of the exercise of a power conferred by or under this Act, he shall offer to the applicant payment of the amount alleged by the applicant to be the value of the property so acquired or such lesser amount as is in his opinion the value of that property or any compensation other than money agreed on in pursuance of section (2A) or, where no such agreement is reached, such other compensation as the Minister thinks fit.

(4) If the applicant accepts the offer, the Minister shall pay or provide to the applicant the amount or other compensation so agreed on.

(5) If the Minister rejects the application or the applicant rejects the offer of payment or compensation made by the Minister:

(a) in the case of compensation for land or land and improvements – the Minister may within 60 days after rejection of the application or the offer, and shall if so requested in writing by the applicant, refer the mater to the Lands Acquisition Tribunal established under the *Lands Acquisition Act* which shall deal with the matter under that Act as though it were referred to it under section 69 of that Act and the *Lands Acquisition Act*, with the necessary changes, applies accordingly; or

(b) in any other case, the applicant may institute proceedings against the Territory in a court of competent jurisdiction for payment to the applicant of an amount as compensation for the acquired property.

44 Service of notice

(1) An order or notice under this Act may be served on a person:

(a) by handing it or tendering it to that person;

(b) by posting it to that person at his last known or usual place of abode or business;

(c) by leaving it with some person apparently over the age of 16 years at the last known or usual place of abode or business of that person; or

(d) if the address of the person is not known, by publishing the notice in 2 numbers of the *Gazette* published within a period of not more than one month.

(2) An order or notice under this Act may be served on a company in the same manner as a document within the meaning of the Corporations Act 2001 may be served under that Law.

45 Offences

(1) Where a person commits an offence by reason of his refusal or failure to do an act that he is required under this Act to do:

(a) that offence shall, for the purpose of paragraph (b), be deemed to continue so long as the person refuses or fails to do the act; and

(b) if that person is convicted of the offence, then he commits a further offence against this Act on each day on which the

offence is deemed to continue after the day on which he is so convicted and he is punishable in respect of each such further offence, upon conviction, by a maximum penalty of 0.8 penalty unit.

(2) Proceedings for the conviction of a person, in respect of an offence against this Act may be instituted in the name of the Commissioner .

45A Regulatory offences

An offence of contravening or failing to comply with an order or a requirement under section 14, 15 or 39 is a regulatory offence.

46 Council to furnish annual report

The Council shall, as soon as practicable after the end of each year ending on 30 June, furnish to the Minister a report with respect to its operations in that year.

47 Regulations

The Administrator may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Soil Conservation and Control Ordinance 1969* (Act No. 9, 1970)**

Assent date	8 April 1970
Commenced	8 April 1970

***Soil Conservation and Control Ordinance 1970* (Act No. 35, 1970)**

Assent date	1 October 1970
Commenced	1 October 1970

***Ordinances Revision Ordinance 1973* (Act No. 87, 1973)**

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

Amending Legislation

***Ordinances Revision Ordinance 1974* (Act No. 34, 1974)**

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974* (Act No. 69, 1974)**

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976* (Act No. 27, 1976)**

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

***Soil Conservation and Land Utilization Ordinance 1977* (Act No. 22, 1977)**

Assent date	31 May 1977
Commenced	31 May 1977

***Transfer of Powers (Self-Government) Ordinance 1978* (Act No. 54, 1978)**

Assent date	1 July 1978
Commenced	1 July 1978 (s 8)

***Statute Law Revision Act 1978* (Act No. 95, 1978)**

Assent date	5 September 1978
Commenced	5 September 1978

***Soil Conservation and Land Utilization Act 1978* (Act No. 5, 1979)**

Assent date	3 January 1979
Commenced	3 January 1979

***Remuneration (Statutory Bodies) Act 1979* (Act No. 9, 1980)**

Assent date	14 January 1980
Commenced	8 February 1980 (*Gaz* G6, 8 February 1980, p 6)

***Soil Conservation and Land Utilization Act 1980* (Act No. 14, 1980)**

Assent date	13 March 1980
Commenced	23 March 1980 (s 3, s 2 *Conservation Commission Act 1980* (Act No. 13, 1980) and *Gaz* G13, 28 March 1980, p 7)

***Criminal Law (Regulatory Offences) Act 1983* (Act No. 68, 1983)**

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz* G46, 18 November 1983, p 11 and *Gaz* G8, 26 February 1986, p 5)

***Soil Conservation and Land Utilization Amendment Act 1985* (Act No. 72, 1985)**

Assent date	24 December 1985
Commenced	24 December 1985

***Companies and Securities (Consequential Amendments) Act 1986* (Act No. 18, 1986)**

Assent date	30 June 1986
Commenced	1 July 1986 (s 2)

***Corporations (Consequential Amendments) Act 1990* (Act No. 59, 1990)**

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz* S76, 21 December 1990)

***Pastoral Land (Consequential Amendments) Act 1992* (Act No. 39, 1992)**

Assent date	25 June 1992
Commenced	26 June 1992 (s 2, s 2 *Pastoral Land Act 1992* (Act No. 17, 1992) and *Gaz* S33, 26 June 1992)

***Real Property (Statutory Charges Consequential Amendments) Act 1993* (Act No. 77, 1993**

Assent date	23 November 1993
Commenced	1 October 1994 (s 2, s 2, *Real Property Amendment Act (No. 2) 1993* (Act No. 76, 1993) and *Gaz* G37, 14 September 1994, p 2)

***Local Government (Consequential Amendments) Act 1993* (Act No. 84, 1993)**

Assent date	31 December 1993
Commenced	1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

***Native Title (Consequential Amendments) Act 1993* (Act No. 30, 1994)**

Assent date	18 May 1994
Commenced	29 June 1994 (*Gaz* G26, 19 June 1994, p 3)

***Parks and Wildlife Commission (Consequential Amendments) Act 1995* (Act No. 46, 1995)**

Assent date	15 November 1995
Commenced	29 November 1995 (s 2, s 2 *Conservation Commission Amendment Act 1995* (Act No. 43, 1995) and *Gaz* S42, 29 November 1995)

***Land Title (Consequential Amendments) Act 2000* (Act No. 45, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

***Corporations Reform (Consequential Amendments NT) Act 2001* (Act No. 17, 2001)**

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 Corporations Act 2001 (Cth Act No. 50, 2001) and Cth *Gaz* S285, 13 July 2001)

***Local Government (Consequential Amendments) Act 2008* (Act No. 28, 2008)**

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

***Statute Law Revision Act 2009* (Act No. 25, 2009)**

Assent date	1 September 2009
Commenced	16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

***Penalties Amendment (Miscellaneous) Act 2013* (Act No. 23, 2013)**

Assent date	12 July 2013
Commenced	28 August 2013 (*Gaz* G35, 28 August 2013, p 2)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 4 *Soil Conservation and Land Utilization Act 1980* (Act No. 14, 1980)
s 4 *Soil Conservation and Land Utilization Act 1985* (Act No. 72, 1985)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (as amended) to the following provisions: ss 7, 9, 12, 15, 17, 18, 19, 20, 22, 23, 27, 28, 32, 35, 36, 39, 41, 44, 45 and 46.

5 LIST OF AMENDMENTS

s 1	amd No. 25, 2009, s 10
s 2	rep No. 22, 1977, s 3
s 3	amd No. 22, 1977, s 4; No. 54, 1978, s 4; No. 14, 1980, s 5; No. 30, 1994, s 3; No. 46, 1995, s 3
s 4	amd No. 54, 1978, s 4; No. 14, 1980, ss 7 and 8; No. 46, 1995, s 3
s 5	amd No. 22, 1977, s 5; No. 54, 1978, s 4
s 6	amd No. 22, 1977, s 6; No. 54, 1978, s 4 sub No. 14, 1980, s 9 amd No. 46, 1995, s 3
s 7	amd No. 54, 1978, s 4; No. 14, 1980, ss 6 and 10
s 7A	ins No. 72, 1985, s 3
s 7B	ins No. 72, 1985, s 3 amd No. 23, 2013, s 14
s 8	amd No. 54, 1978, s 4 rep No. 9, 1980, s 6
s 9	amd No. 14, 1980, ss 6 and 10
s 9AA	ins No. 14, 1980, s 11
pt IIA hdg	ins No. 22, 1977, s 7
s 9A	ins No. 22, 1977, s 7 amd No. 54, 1978, s 4; No. 14, 1980, ss 6 and 8; No. 46, 1995, s 3; No. 25, 2009, s 10
s 9B	ins No. 22, 1977, s 7 amd No. 5, 1979, s 3
s 11	sub No. 22, 1977, s 8 amd No. 5, 1979, s 3
s 12	amd No. 22, 1977, s 9
s 13	amd No. 25, 2009, s 10
pt III div 2 hdg	amd No. 22, 1977, s 10;
s 14	amd No. 22, 1977, s 11; No. 54, 1978, s 4; No. 5, 1979, s 4; No. 23, 2013, s 14
s 15	amd No. 22, 1977, s 12; No. 23, 2013, s 14
s 16	amd No. 14, 1980, s 6
s 16A	ins No. 22, 1977, s 13 amd No. 39, 1992, s 3; No. 45, 2000, s 11
s 17	amd No. 22, 1977, s 14; No. 54, 1978, s 4; No. 14, 1980, s 6
s 18	amd No. 22, 1977, s 15; No. 14, 1980, s 6
s 19	amd No. 54, 1978, s 4; No. 14, 1980, s 6
s 20	amd No. 35, 1970, s 2; No. 23, 2013, s 14
pt III div 4 hdg	ins No. 22, 1977, s 16
s 20A	ins No. 22, 1977, s 16 amd No. 39, 1992, s 3; No. 84, 1993, s 6; No. 28, 2008, s 3
s 20B	ins No. 22, 1977, s 16 amd No. 54, 1978, s 4; No. 14, 1980, ss 6 and 8; No. 46, 1995, s 3
ss 20C – 20D	ins No. 22, 1977, s 16 amd No. 23, 2013, s 14
s 22	amd No. 22, 1977, s 17; No. 54, 1978, s 4; No. 14, 1980, s 12; No. 77, 1993, s 13; No. 46, 1995, s 3; No. 45, 2000, s 11
s 23	amd No. 54, 1978, s 4; No. 45, 2000, s 11
s 24	rep No. 22, 1977, s 18
pt V hdg	sub No. 22, 1977, s 19
s 25	amd No. 22, 1977, s 20; No. 14, 1980, s 13; No. 46, 1995, s 3
s 26	sub No. 22, 1977, s 21 amd No. 54, 1978, s 4; No. 14, 1980, s 6

s 27	amd No. 54, 1978, s 4
s 28	amd No. 22, 1977, s 22; No. 54, 1978, s 4
s 30	amd No. 22, 1977, s 23; No. 54, 1978, s 4; No. 14, 1980, s 14
s 31	amd No. 54, 1978, s 4
s 32	amd No. 22, 1977, s 24; No. 54, 1978, s 4
s 33	sub No. 22, 1977, s 25 amd No. 54, 1978, s 4
s 34	amd No. 54, 1978, s 4
s 35	amd No. 22, 1977, s 26
s 36	amd No. 22, 1977, s 27
s 38	amd No. 54, 1978, s 4
s 39	amd No. 22, 1977, s 28; No. 23, 2013, s 14
s 40	rep No. 22, 1977, s 29
s 41	amd No. 22, 1977, s 30; No. 23, 2013, s 14
s 42	amd No. 54, 1978, s 4
s 43	amd No. 54, 1978, s 4; No. 30, 1994, s 3
s 44	amd No. 22, 1977, s 31; No. 18, 1986, s 3; No. 59, 1990, s 4; No. 17, 2001, s 21
s 45	amd No. 23, 2013, s 14; No. 8, 2016, s 45
s 45A	ins No. 68, 1983, s 39
s 46	amd No. 54, 1978, s 4; No. 14, 1980, ss 6 and 8; No. 46, 1995, s 3
s 47	amd No. 95, 1978, s 14