

SOIL CONSERVATION.

No. 5 of 1960.

An Ordinance for Conserving Soil Resources.

1. This Ordinance may be cited as the *Soil Conservation Ordinance 1960*.* Short title.

2. The *Conservation of Soil Ordinance 1947* is repealed. Repeal.

3. In this Ordinance, unless the contrary intention appears— Definitions.

“appeal” means an appeal under section seven of this Ordinance;

“order” means an order under section four of this Ordinance or, if an order under that section has been varied on appeal, the order as so varied.

4.—(1.) Where the Minister is satisfied that a person who occupies, or has an estate or interest in, land has failed to take the action that the Minister considers necessary to prevent or arrest soil erosion on that or other land, the Minister may, by order under his hand, direct the person— Orders by Minister.

(a) to adopt, or to refrain from adopting or continuing to adopt, with respect to that land, any method of using or dealing with that land specified in the order;

(b) to take on that land such other action to prevent or arrest soil erosion on that or other land as is specified in the order; or

(c) to bear the whole or a part of the expense reasonably incurred by another person in taking any action specified in the order, being an action that the other person is, or could be, required, by order under this section, to take.

(2.) An order may specify the period within which an action specified in the order shall be completed.

(3.) An order may specify that the whole or a part of the expense reasonably incurred in taking any action specified in the order shall be borne by the Commonwealth and, if the person to whom the order is directed reasonably incurs expense in taking that action, an amount equal to the whole or that part of that expense shall be a debt due to that person by the Commonwealth and may be recovered by action against the Commonwealth in a court of competent jurisdiction.

* Made on 21st July, 1960; notified in the *Commonwealth Gazette* and commenced on 11th August, 1960.

(4.) Where an order directs a person to bear the whole or a part of the expense reasonably incurred by another person in taking any action specified in the order and—

- (a) the other person reasonably incurs expense in taking that action; or
- (b) the other person pays to the Commonwealth, or the Commonwealth recovers from the other person, under section six of this Ordinance, some or all of the expense incurred by the Commonwealth by reason of the taking of that action by a person authorized by the Minister under that section,

an amount equal to the whole or that part of the expense so incurred by, or so paid by or recovered from, the other person shall be a debt due to the other person by the first-mentioned person and may be recovered by action against the first-mentioned person in a court of competent jurisdiction.

(5.) An order shall be served on the person to whom it is directed.

(6.) A person on whom an order is served shall not contravene or fail to comply with the order.

Penalty: Two hundred pounds.

(7.) The Minister may, at any time, cancel an order.

5. The Minister shall, before making an order in relation to a person—

- (a) cause to be served on the person a notice setting out—
 - (i) the intention of the Minister to make an order;
 - (ii) the terms of the proposed order; and
 - (iii) the period within which representations in relation to the making of the proposed order may be made to the Minister; and
- (b) consider any representations that the person may make, within the period specified in the notice, in relation to the proposed order.

6.—(1.) Where the Minister is satisfied that a person has failed to comply with an order, the Minister may—

- (a) authorize another person to take any action that would have been required to be taken by the first-mentioned person to comply with an order and, for that purpose, to enter with such other

Notification of intention to make order.

Failure to comply with order.

persons as the person so authorized considers necessary, upon the land to which the order relates; and

- (b) direct that the whole, or such part as the Minister determines, of the expense so incurred by the Commonwealth shall be borne by the first-mentioned person.

(2.) The amount of any expense that the Minister directs shall be borne by a person under this section shall be a debt due to the Commonwealth by the person and may be recovered by action against the person in a court of competent jurisdiction.

(3.) In proceedings 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 Commonwealth in taking an action specified in the certificate is evidence of the fact so certified.

7.—(1.) A person to whom an order is directed may, within fourteen days after the order is served on him, appeal to the Supreme Court against the making of the order. Appeals from orders.

(2.) The Minister shall be the respondent upon an appeal.

(3.) On an appeal, the Supreme Court shall—

- (a) if it is satisfied that the order or a provision of the order is unreasonable or unnecessary—revoke the order or vary the order as it thinks fit; or
- (b) if it is not so satisfied—dismiss the appeal.

(4.) In determining whether an order or a provision of an order is unreasonable or unnecessary, the Supreme Court may take into consideration any other order made by the Minister.

(5.) Jurisdiction to hear and determine appeals is vested in the Supreme Court.

8. An order or notice shall be deemed to be served on a person for the purposes of this Ordinance if it is— Service of orders and notices.

- (a) served personally on the person;
- (b) left at the usual or last-known place of abode or business of the person; or
- (c) sent by letter to the person addressed to him at his usual or last-known place of abode or business.

9.—(1.) This section applies to—

- (a) land situated between, or forming part of, the banks of a creek or watercourse;
- (b) a strip of land one chain wide along each bank of a creek or watercourse;

Preservation of vegetable cover on land

- (c) a strip of land one and one-half chains wide along each side of a line running the length of, and connecting the deepest points in, a depression formed by the juxtaposition of two slopes each of which has an average slope of more than fourteen degrees from the horizontal, being land forming part of the depression;
- (d) land with a slope of more than eighteen degrees from the horizontal.

(2.) Subject to the succeeding provisions of this section, a person shall not, except with the approval in writing of the Minister or for the purpose of complying with an order—

- (a) damage, destroy or otherwise interfere with timber, scrub or other vegetable cover (whether living or dead) on land to which this section applies;
- or

- (b) remove such cover from such land.

Penalty: Two hundred pounds.

(3.) This section does not prohibit—

- (a) the grazing of stock on land to which this section applies; or
- (b) the doing of anything on land to which this section applies that is required to be done under the *Noxious Weeds Ordinance* 1921-1943.

Entry on land,
&c.

10. The Minister may, for the purposes of this Ordinance, authorize a person—

- (a) to enter, with such other persons as the person so authorized considers necessary, upon any land and make a survey, investigation or inspection;
- (b) to place on any land survey pegs, marks or poles; or
- (c) to dig or bore into any land so as to ascertain the nature of the soil or set out the lines of any works on the land.

Offences.

11. A person shall not—

- (a) without the approval of the Minister, destroy, mutilate, deface, take away or alter the position of a survey peg, mark or pole placed, or the lines of any works set out, on land in accordance with an authority of the Minister under the last preceding section; or
- (b) assault, obstruct, threaten or intimidate a person acting in accordance with an authority of the Minister under the last preceding section.

Penalty: One hundred pounds or imprisonment for six months.