



THE SOIL CONSERVATION REGULATIONS 1945

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 6th day of
April, 1945

Present :

THE HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Soil Conservation and Rivers Control Act, 1941, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

PART I.—PRELIMINARY

1. These regulations may be cited as the Soil Conservation Regulations 1945.
2. These regulations shall apply only in soil conservation districts constituted and declared in terms of the Soil Conservation and Rivers Control Act, 1941.
3. In these regulations, unless the context otherwise requires,—
 - “ Act ” means the Soil Conservation and Rivers Control Act, 1941 :
 - “ Committee ” means a Soil Conservation Committee constituted under these regulations :
 - “ Council ” means the Soil Conservation and Rivers Control Council :
 - “ District ” means a soil conservation district constituted under the Act :
 - “ Local authority ”, in respect of any district, means the local authority of any borough or any county or any town district that is not part of a county or any road district in a county to which the Counties Act, 1920, does not apply or within which that Act is suspended—that is, within or partly within the district :
 - “ Occupier ” includes a person doing any work by contract for the occupier ; and in respect of the site of any public road means the local authority having control of the surface of the road, and includes a person doing any work by contract for the local authority, and in the case of land of which there is no apparent occupier means the owner :

“Watercourse” has the meaning assigned to it by the Act—that is to say, it includes every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently.

4. The Council may from time to time resolve that any officer appointed under section 9 of the Act shall be a Soil Conservator for the purpose of these regulations for one or more districts specified in the resolution.

5. When a resolution of the Council has been passed appointing any person to be a Soil Conservator for a district a document purporting to be a copy of such resolution certified by a signature purporting to be that of the Chairman or Secretary of the Council shall, without proof of signature or other matters, be *prima facie* evidence that the person therein mentioned was qualified for appointment as and was duly appointed a Soil Conservator for the district and that such appointment continues in force.

PART II.—SOIL CONSERVATION COMMITTEES

6. (1) For each district the Council shall appoint a committee which shall be known as “The [*Name of district*] Soil Conservation Committee.”

(2) Every Committee shall consist of the following persons:—

(a) The Soil Conservator for the District (who shall be Chairman of the Committee):

(b) One or more persons from time to time appointed by resolution of the Council from amongst persons nominated by the local authorities at the request of the Council:

(c) Such other persons, not exceeding in numbers those appointed or proposed to be appointed pursuant to paragraph (b) hereof, as the Council may from time to time by resolution appoint on account of their knowledge of the problems that may arise in the course of administration.

(3) Every member of a Committee, other than the Soil Conservator, shall hold office until his successor is appointed.

(4) Within one month after the ordinary general elections of County Councils, and on such other occasions as the Council thinks fit, the Council shall invite each local authority to submit to the Council nominations for appointments to be made under paragraph (b) of subclause (2) hereof.

(5) In any case in which satisfactory nominations are not received from the local authorities within a reasonable time the Council may select some person or persons who in its opinion is or are fairly representative of the electors of the district.

(6) A resolution of the Council appointing any person to be a member of a Soil Conservation Committee, or a document purporting to be a copy of such resolution certified by a signature purporting to be that of the Chairman or Secretary of the Council, shall, without proof of signature or other matters, be *prima facie* evidence that the person therein mentioned was duly appointed such member and that such appointment continues in force, and the resolution of the Council shall be conclusive evidence of the regularity of the appointment.

7. (1) The functions of a Committee shall be—

(a) To exercise the powers conferred on Committees by these regulations;

(b) To carry out such instructions as it may receive from the Council; and

(c) In particular, from time to time to inquire and report to the Council upon—

(i) The existence, degree, or likelihood of soil erosion in any place;

(ii) The extent to which any farming or other operations are calculated to facilitate, mitigate, or prevent soil erosion; and

(iii) The necessity for, the expediency of, and the adequacy of any works or operations to mitigate or prevent any actual or apprehended soil erosion.

(2) In case of urgency where in his opinion irreparable harm might result from delay the Soil Conservator alone may exercise any of the functions or powers of a Committee, and the provisions of these regulations relating to notices and other acts on the part of a Committee shall, with the necessary modifications, apply to notices and other acts on the part of a Soil Conservator given and done under the authority of this clause.

PART III.—FIRE CONTROL AND CONSERVATION OF GROUND COVER

8. (1) Subject to clause (8) of this regulation, no person shall in any district set fire to any tree, shrub, grass, or other plant, whether growing on land or severed therefrom, except in a properly constructed fireplace or within the curtilage of a dwellinghouse, or shall cause or permit a fire to spread to any land within the district.

(2) Where in the opinion of a Soil Conservator or any other person appointed under section 9 of the Act a fire on any land is out of control or likely to get out of control such person may enter on the land or any adjacent land, with assistants, vehicles, and machinery, and there take steps as may reasonably be necessary or advisable to extinguish or control the fire, including the felling of timber, the digging or burning of firebreaks, and the use and diversion of water.

(3) Nothing in these regulations shall place any obligation or responsibility on the Crown or the Council or its officers or any member of a Committee to take any steps to suppress fire on any land whatsoever.

(4) Where a fire breaks out on any land the occupier of that land and his employees and persons on the land for the purpose of taking game, and any miner, prospector, or other person possessing and exercising any statutory right of entry on the land, shall on becoming aware of the outbreak immediately cease the work on which they are engaged and shall take immediate steps to suppress the fire, and shall forthwith arrange to notify the nearest Soil Conservator or other officer appointed by the Council and shall continue their efforts to suppress the fire to the limit of their available resources until the fire is either extinguished or brought under control.

(5) Any person becoming aware of a fire burning unattended or out of control on any land within the district shall do everything reasonably within his power to extinguish such fire, and in the event of his being unable to extinguish such fire shall cause the Soil Conservator or other officer appointed by the Council to be notified of the outbreak.

(6) Any person who throws, leaves, or drops any burning match, pipe-ashes, lighted cigarette, lighted cigar, ashes from a gas-producer, or other burning or smouldering substance on any land within the district, and who omits before leaving the spot wholly to extinguish the fire of such burning or smouldering substance, is guilty of an offence against these regulations.

(7) No person shall in any district destroy or damage any tree, shrub, grass, or other plant growing elsewhere than within the curtilage of a dwellinghouse, and whether on the surface of the land or in or on the banks of any watercourse, except where such destruction or damage is unavoidable in and incidental to any use of the land—that is, for the time being not prohibited by or under these regulations.

(8) Notwithstanding the foregoing provisions of this regulation, the Soil Conservator, if the Committee thinks the burning or other destruction of vegetation under proper safeguards would not materially aggravate soil erosion, may grant permission in writing to the occupier of any land to burn or otherwise destroy vegetation under such conditions, within such period of time, and subject to such restrictions as are specified in the permit, and the setting fire to vegetation or other destruction of vegetation by the person, under the conditions, within the period, and subject to the restrictions specified in the permit shall not be deemed to be an offence against this regulation.

(9) The existence of a permit given under section 27 of the Forests Act, 1921-22, or under section 28 of the Statutes Amendment Act, 1940, or a consent under section 259 of the Land Act, 1924, or a license under any other statute or regulation restricting the lighting of fires shall not excuse any person for non-compliance with this regulation.

(10) The Soil Conservator may, when weather conditions arise which in his opinion present extreme fire hazard, issue an order by radio or other method of notification suspending all or any permit to burn issued under the terms of this regulation. These permits to burn shall cease to be operative during the currency of any order issued pursuant to this regulation.

(11) A permit to burn given pursuant to this regulation shall not discharge the person obtaining the same from any liability for damage caused by any fire lighted pursuant to such permit. No such permit shall be authority for the lighting of a fire during a period mentioned therein if at the time of lighting either a heavy wind is blowing or conditions are such as might cause a fire to spread beyond the limit of the land the subject of such permit.

PART IV.—LAND UTILIZATION

9. A Committee may, by notice in writing given to the occupier of any land where in its opinion soil erosion is taking place or is likely to take place or where the method of using the land is causing or is likely to cause soil erosion to take place upon other land, require the occupier to do all or any of the following things:—

- (a) To change as the Committee may require and within such time as it may specify the kind and class of stock carried on the land or the use of the land for agricultural or pastoral purposes:
- (b) To restrict during any specified periods the numbers of each kind and class of stock to be depastured on the land to the numbers specified:
- (c) To refrain for a period to be specified from stocking, ploughing, or cultivating the whole or any specified part of the land or from depasturing on the land any specified kind or class of stock or all stock, except stock of a specified kind or class or number; or from changing the kind or class of stock carried on the land:

- (d) To plant or sow trees, shrubs, grasses, and other plants or any of them, of such kinds, in such numbers, in such places, and within such times as may be specified for the purpose of preventing or mitigating soil erosion, whether by landslip by water, by wind, or otherwise :
- (e) Forthwith and at all times whilst the notice remains in force to take all reasonable steps to exterminate, reduce, or keep from increasing the rabbits, deer, wild pigs, and wild goats upon the land :
- (f) Not to change the use to which the land is being put in the course of its management at the time when the notice is given :
- (g) To carry out any specified works or to do any specified things that will in the opinion of the Committee prevent or mitigate soil erosion or prevent damage by flood :
- (h) To abstain from doing any specified things that will in the opinion of the Committee promote soil erosion or cause damage by floods.

10. If in the opinion of a Committee soil erosion is taking place or is likely to take place on any land and can in a practical way be prevented or mitigated only by action upon some other land, the Committee may by notice in writing given to the occupier of such other land require that occupier to do all or any of the things enumerated in the last preceding regulation.

11. The occupier of any land in any district shall refrain from doing on or in respect of the land any act, matter, or thing which may be likely to facilitate soil erosion or floods, and shall carry out every farming operation in such manner and by such method as will conform to prudent farming practice :

Provided, first, that for the purposes of this regulation "prudent farming practice" means practice likely to prevent or, if prevention is not economically practicable, likely to mitigate soil erosion and likely to promote soil conservation and the control of floods :

Provided, secondly, that it shall be a defence to any person charged with an offence against this regulation if such person proves that his refraining from doing any act, matter, or thing in question or that a manner or method of carrying out any farming operation in question was in compliance with a requirement binding on him and given pursuant to Regulation 9 or Regulation 10 hereof.

PART V.—WATERCOURSES

12. No person shall do any of the following things, namely :—

- (a) Alter or in any way interfere with the bed or bank of any watercourse in such manner as may be likely to facilitate soil erosion or floods :
- (b) So place in any watercourse any quantity of any material that the act or material may be likely to facilitate soil erosion or floods :
- (c) So remove from the bed or bank of any watercourse any quantity of any material that the act may be likely to facilitate soil erosion or floods.

13. No person shall, without the previous written permission of the Committee, do any of the following things, namely :—

- (a) Alter the course of any watercourse :

- (b) Erect any bridge, groyne, fence, or other structure in such a position that its effect on the flow of any watercourse may cause the watercourse to be diverted or in such a position that its presence may be likely to facilitate soil erosion or floods :
- (c) Plant or place or leave in the bed of any watercourse or in a place whence it may blow or fall or be washed into any watercourse any willow or poplar that has been wholly or partly severed from the ground, or any severed portion of willow or poplar :
- (d) Plant or sow in or on the banks of any watercourse any broom, gorse, or lupin.

14. A Committee may, by notice in writing given to the occupier of any land being the site of or adjacent to a watercourse where in its opinion trees, shrubs, plants, or grasses are growing in quantities sufficient to facilitate floods, require the occupier to remove such trees, shrubs, plants, or grasses, either wholly or to such extent as may be specified, and in such manner as whilst promoting the control of floods shall not be likely to facilitate soil erosion.

PART VI.—NOTICES GENERALLY

15. Except in cases which in its opinion require urgent action, a Committee, before giving to any occupier a notice pursuant to any of the powers conferred by Regulations 9, 10, and 14 hereof, shall state in writing to the occupier its intention to give such notice, and the terms thereof, and state also that any counter-proposals made to the Soil Conservator within twenty-eight days after the statement of intention is given will be taken into consideration :

Provided that failure to make a counter-proposal shall not prejudice the right of appeal conferred by Part VII of these regulations.

16. The Committee, except in cases of urgency as aforesaid, shall, before giving a notice under the power conferred by Regulations 9, 10, and 14 hereof, take into consideration any counter-proposal made as aforesaid. The validity of any notice given by a Committee shall not be affected by deviation from the terms of a notice of intention, whether in consequence of a counter-proposal or otherwise.

17. Without prejudice to the generality of any provision of these regulations relating to notices, it is enacted that any notice or permit given or issued to an occupier of land may require that any act or thing be done or be not done—

- (a) Only on specified portions of the land of the occupier :
- (b) Only on land having more than or less than a specified slope or altitude :
- (c) Only before or after a specified point of time or before or after or during a specified season of the year :
- (d) And generally only in such manner, by such methods, under such conditions, and subject to such restrictions as may be specified in the notice.

18. (a) Every notice given under these regulations to an occupier of any land shall be binding on every other occupier thereof, whether his occupation exists when the notice is given or commences subsequently thereto.

(b) Any notice or copy of notice or permission to be given under these regulations shall be sufficient—

- (i) If delivered to the occupier personally :
- (ii) If delivered upon the land referred to in the notice to some person having the general management of the land :
- (iii) If sent by registered post addressed to the occupier at his usual or last known place of abode or of business, and in that case shall be deemed to have been given at the time when it would be available for delivery in the ordinary course of registered post :
- (iv) In the case of an occupier being a company incorporated or deemed to be incorporated under the Companies Act, 1933, in manner provided by section 379 of that Act :
- (v) By publication in a newspaper circulating in the district, and in that case shall be deemed to be given on the day next but one following the date of publication, and shall be sufficient notwithstanding that any occupier is not referred to by name and that the lands affected thereby are not specifically enumerated.

19. Any notice or permit given on the part of a Committee shall be sufficient if purporting to be given pursuant to a resolution of the Committee and purporting to be signed by or on behalf of a Soil Conservator.

20. When a Committee gives a notice to the occupier of any land otherwise than by publication in a newspaper it shall forthwith send by registered-post letter a copy of the notice addressed to every owner, lessee, and mortgagee of the land at his last known place of business or abode so far as the existence and names and addresses of such persons are known to the Committee, but failure so to send a copy of any notice shall not in any way invalidate a notice given to an occupier.

21. Every occupier receiving, whether from a Committee or from any person, a notice under these regulations given otherwise than by publication in a newspaper shall forthwith communicate the terms thereof to every person who is then or thereafter, by direct succession from the first-named occupier, becomes an occupier of the land, and to every person who is then entitled to any estate or interest in the said land as owner, lessee, or mortgagee or otherwise, unless he knows that such person has already received a copy of the notice, and the lodging of an appeal against the notice shall not excuse compliance with this regulation.

22. Every notice or permission given by a Committee to an occupier under these regulations shall have appended thereto, endorsed thereon, or be accompanied by a memorandum drawing attention to the right of appeal conferred by Part VII of these regulations.

23. Every person who knowingly fails to comply with any notice of a Committee given under these regulations, from whomsoever received, commits an offence against these regulations.

24. Every Soil Conservation Committee shall maintain a register of all notices given by the Committee and for the time being in force, together with an index of the names of occupiers and other persons to whom the notice has been given and the names (so far as known to the Committee) of subsequent occupiers on whom a notice is binding

and an index of land affected, such indexes to be kept and maintained as far as may be in the manner in which similar indexes under the Land Transfer Act, 1915, are kept and maintained, and shall permit the register and indexes to be searched during such convenient hours as the Committee may from time to time appoint.

PART VII.—APPEALS

25. Any occupier to whom a notice under these regulations is given by a Committee, and any person having any estate or interest as owner, lessee, mortgagee, or otherwise in the land affected by the notice, and any occupier to whom permission is refused or granted under these regulations to do anything otherwise forbidden by these regulations, may appeal against such notice or refusal or the terms of such permission as herein provided.

26. Where a notice requires an occupier to desist or refrain from doing anything upon any land the lodging of an appeal shall not, unless the Soil Conservator otherwise directs, suspend the liability of the occupier and all other persons to comply with the notice pending determination of the appeal.

27. Where a notice requires an occupier to do anything upon any land, then, if an appeal is lodged against the notice, it shall not be obligatory upon any person to comply with the notice pending determination of the appeal.

28. Every appeal shall be made to the Council by notice in writing given to the Secretary of the Council at Wellington within thirty days after the notice appealed against was given to the occupier of the land affected.

29. (a) Every appeal shall be heard by an Appeal Board, which shall comprise such person or persons as may be agreed upon between the appellant and the Council, but, failing agreement, shall comprise three persons, of whom one shall be appointed by the appellant, one by the Council, and the third (who shall be President) by the other two.

(b) Subject to the express provisions of these regulations, the provisions of the Arbitration Act, 1908, shall, so far as applicable, apply to every appeal under these regulations as if the appeal were a submission to arbitration under that Act, the member or members of the Board, other than a President, an arbitrator or arbitrators, the President an umpire, and the decision of the Board an award, under that Act.

(c) No person shall be disqualified from being a member of an Appeal Board solely on the ground that he is an officer of the Public Service.

30. On the hearing of an appeal the Appeal Board shall hear such evidence as may be submitted by the appellant and the Soil Conservator, and such other evidence as it thinks fit, whether the same is strictly legal evidence or not, and shall allow the appellant and the Soil Conservator and any person having an estate or interest in the land, and may allow any other person having any interest that might be affected, to appear in person and be represented by counsel or solicitor, and may adjourn the hearing from time to time and from place to place, save that, unless the appellant otherwise agrees, the hearing shall be at some place or places within or near the district.

31. The Appeal Board may uphold or dismiss the appeal or modify as it thinks fit the notice or refusal or permission appealed from, and every determination of an Appeal Board shall have effect according to its tenor notwithstanding that it deals with matters not dealt with in the notice or refusal or permission appealed from.

32. Notice of the determination of any appeal against a notice shall be given by the Secretary of the Council to every person not a party to the appeal to whom a copy of the original notice was given pursuant to Regulation 20 hereof, but failure to send such notice shall not invalidate the effect of the determination of the Appeal Board.

PART VIII.—PERIODICAL RECONSIDERATION

33. When any notice given under these regulations has been in force for a period of one year computed in the case where no appeal was lodged from the date when the notice was given to the occupier, and in the case where an appeal was lodged from the date of determination of the appeal, the occupier for the time being may apply in writing to the Soil Conservator for withdrawal or modification of the notice, and if such withdrawal or modification be not granted by means of a notice given to the occupier by the Committee within twenty-eight days after the application was made the application shall at the expiration of the said twenty-eight days be deemed to be refused and the occupier may within thirty days thereafter appeal to the Council against such refusal, but no such appeal shall suspend the obligation of any person of continued compliance with the notice pending determination of the appeal.

34. If no appeal against the refusal is lodged, or if the refusal is upheld on appeal either absolutely or subject to any modification of the notice, then at any time after the expiration of one year computed in the case where no appeal was lodged from the date of refusal, and in the case where an appeal against the refusal was lodged from the date of determination of the appeal, the occupier for the time being may again apply in writing to the Soil Conservator for withdrawal or modification of the notice, and the provisions of the last preceding regulation shall apply.

PART IX.—TRAVELLING-ALLOWANCES

35. (1) The Travelling-allowance Regulations 1941 shall apply to and be deemed to be incorporated in these regulations so as to relate to all Soil Conservation Committees and the members of such Committees.

(2) The subsistence allowance referred to in Regulation 4 of the Travelling-allowance Regulations 1941 shall be at the rate of £1 5s. a day.

(3) The rate of mileage-allowance referred to in Regulation 11 of the Travelling-allowance Regulations 1941 for journeys performed in a motor-vehicle shall—

(a) Where the horse-power of the vehicle does not exceed $9\frac{1}{2}$ d., be 5d. a mile :

(b) Where the horse-power of the vehicle exceeds $9\frac{1}{2}$ but does not exceed $14\frac{1}{2}$, be $5\frac{3}{4}$ d. a mile :

(c) Where the horse-power of the vehicle exceeds $14\frac{1}{2}$, be $6\frac{1}{4}$ d. a mile.

(4) The actual garage expenses referred to in Regulation 11 of the Travelling-allowance Regulations 1941 shall not exceed 2s. 6d. for every night.

PART X.—PENALTIES

36. As provided by section 15 of the Act, every person who without lawful excuse acts in contravention of or fails to comply in any respect with these regulations or any direction, requirement, prohibition, condition, limitation, or restriction given or imposed under these regulations shall be liable to a fine of £100, and in the case of a continuing offence to a further fine of £5 for every day during which the offence is committed.

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 12th day of April, 1945.

These regulations are administered in the Public Works Department.