

Namibia

Soil Conservation Act, 1969

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Republic of Namibia
Annotated Statutes

Soil Conservation Act, 1969

Act 76 of 1969

Published in [South African Government Gazette no. 2437](#) on 18 June 1969

Assented to on 13 June 1969

Commenced on 1 April 1971 by [Act 38 of 1971](#)

[Up to date as at 14 July 2020]

[Amended by [Soil Conservation Amendment Act, 1971 \(Act 4 of 1971\)](#) on 17 March 1971]

[Amended by [Second Soil Conservation Amendment Act, 1971 \(Act 38 of 1971\)](#) on 1 April 1971]

[Amended by [Soil Conservation Amendment Act, 1973 \(Act 11 of 1973\)](#) on 28 March 1973]

[Amended by [Soil Conservation Amendment Act, 1974 \(Act 21 of 1974\)](#) on 13 March 1974]

[Amended by [Expropriation Act, 1975 \(Act 63 of 1975\)](#) on 1 January 1977]

[Amended by [Soil Conservation Amendment Act, 1977 \(Act 22 of 1977\)](#) on 23 March 1977]

[Amended by [Native Laws Amendment Proclamation, 1979 \(Proclamation AG3 of 1979\)](#) on 1 August 1978]

[Amended by [Forest Act, 2001 \(Act 12 of 2001\)](#) on 15 August 2002]

[APPLICABILITY TO SOUTH WEST AFRICA: Section 27A (inserted by [Act 38 of 1971](#)) states “This Act and any amendment thereof shall also apply in the territory”. “The territory” is defined in section 1 (as amended by [Act 38 of 1971](#)) as “the territory of South-West Africa”.]

[TRANSFER TO SOUTH WEST AFRICA: The administration of the Act was transferred to South West Africa by the Executive Powers (Agricultural Technical Services) Transfer Proclamation, AG 11 of 1978, dated 2 March 1978. In South Africa, the [Forest Act 122 of 1984 \(RSA GG 9380\)](#), brought into force on 27 March 1986 by RSA Proc. R.44/1986 (RSA GG 10158), repealed Part VII of the Act and the [Conservation of Agricultural Resources Act 43 of 1983 \(RSA GG 8673\)](#), brought into force on 1 June 1984 by RSA Proc. R.74/1984 (RSA GG 9238), repealed the remainder. Neither of these Acts applied to South West Africa because neither was made expressly so applicable.]

[The reference to the Minister in section 24 of the Act (which deals with limitation of liability) was excluded from the operation of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that in this section “Minister” continued to refer to the South African Minister of Agriculture prior to Namibian independence.]

To consolidate and amend the law relating to the combating and prevention of soil erosion, the conservation, improvement and manner of use of the soil and vegetation and the protection of the water sources in the Republic and the territory of South-West Africa; and to provide for matters incidental thereto.

[long title substituted by Act 38 of 1971]

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Part I – Definitions, Objects of the Act and Powers of the Minister

1. Definitions

In this Act, unless the context otherwise indicates -

“**department**” means the Department of Agricultural Technical Services;

“**direction**” means a direction declared applicable with reference to land under this Act;

“**fire protection committee**” means a fire protection committee established under section 12;

“**fire protection scheme**” means a fire protection scheme referred to in section 13;

“**land occupier**” or “**occupier of land**” means any person who as owner, lessee or otherwise has the management, charge, control or use of any land, whether he resides on that land or not, and includes any person who has a right of cutting trees or wood on any land or of removing trees or wood from any land, any person who has a right to remove sand, stone or soil from any land, any person who carries on prospecting or mining activities on any land, and, in relation to land under the control of a local authority, that local authority, but does not include any person who as a labour tenant, squatter or servant, as defined in section 49 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or as a “bywoner” or “deelsaaier” is in occupation of or has the use of any land;

[The definition of “land occupier” or “occupier of land” is substituted by Act 4 of 1971 and amended by AG 3 of 1979. The Development Trust and Land Act 18 of 1936 was repealed by the Communal Land Reform Act 5 of 2002.]

“**large stock**” means cattle, horses, donkeys and mules, and such other animals as the Minister may by notice in the Gazette declare to be large stock for the purposes of this Act;

[definition of “large stock” inserted by Act 4 of 1971]

“**local authority**” means any institution or body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), and any municipality or village management board established or constituted or deemed to have been established or constituted under the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963), of the territory, or the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963), of the territory;

[The definition of “local authority” is substituted by Act 38 of 1971. The Republic of South Africa Constitution Act 32 of 1961 was South Africa’s constitution from 1961 to 1984. Although this Act had implications for South-West Africa, it does not appear to have been directly applicable as a law of South West Africa. It was repealed on 3 September 1984 by the Republic of South Africa Constitution Act, 1983, although some provisions relating to provincial government were retained under the new name of the Provincial Government Act 32 of 1961. Local authorities in Namibia are governed by the Local Authorities Act 23 of 1992, which repealed the Municipal Ordinance 13 of 1963 and the Village Management Boards Ordinance 14 of 1963.]

“**Minister**” means the Minister of Agriculture;

“**owner**” in relation to any land means -

- (a) the person in whose name the land is registered or, if such person is absent from the Republic or his whereabouts are unknown, his agent or legal representative in the Republic;
- (b) in the case of State land leased under a lease which contains an option in favour of the lessee to purchase

the land so leased, the lessee who has exercised his option to purchase the land;

- (c) any person who has purchased State land which has not yet been registered in his name; and
- (d) in the case of land under the control of a local authority, that local authority;

“**prescribed**” means prescribed by regulation;

“**Republic**” includes the territory;

[definition of “Republic” inserted by Act 38 of 1971]

“**regulation**” means a regulation made under section 20;

“**small stock**” means sheep and goats, and such other animals as the Minister may by notice in the Gazette declare to be small stock for the purposes of this Act;

[definition of “small stock” inserted by Act 4 of 1971]

“**soil conservation committee**” means a soil conservation committee established under section 9;

“**soil conservation works**” means any works constructed on land for the purpose of -

- (a) the prevention of soil erosion or the stabilizing of land subject thereto; or
- (b) the prevention of drift-sand or the stabilizing of land subject thereto; or
- (c) the protection, conservation or improvement of the vegetation and the surface of the soil; or
- (d) the protection, conservation or stabilizing of any natural water source; or
- (e) the prevention of the silting up of dams and the pollution of water by silt;

“**State**”, except for the purposes of sections 7 and 8, includes the Administration of the territory;

[definition of “State” inserted by Act 38 of 1971]

“**State land**” in the application of this Act in the territory, means land of the Administration of the territory;

[definition of “State land” inserted by Act 38 of 1971]

“**the territory**” means the territory of South-West Africa;

[definition of “the territory” inserted by Act 38 of 1971]

“**this Act**” includes the regulations;

[definition of “this Act” inserted by Act 22 of 1977]

“**urban area**” means the area of a local authority established for a specific town or city, and includes any area subdivided into erven or lots and public open spaces and streets bounded by such erven or lots or spaces, but does not include any commonage in any such area.

2. Objects of Act

The objects of this Act are to make provision for the combating and prevention of soil erosion, and for the conservation, protection and improvement of the soil, the vegetation and the sources and resources of the water supplies of the Republic.

3. Power of Minister to declare directions applicable with reference to land

- (1) The Minister may, either by notice in the Gazette or by written notice to the owner or occupier of land referred to in such notice, declare a direction to be applicable with reference to land referred to in such notice, relating to -
 - (a) the cultivation of land, including the ploughing thereof, the protection, stabilizing or withdrawal of

the land from cultivation, the application of crop rotation to the land and the disposal of crop remnants and plant residues;

[paragraph (a) substituted by Act 11 of 1973]

- (b) the laying out of lands, the destruction of vegetation and the planting of trees in natural water courses;
- (c) the drainage of vleis, marshes, natural water sponges and water courses;
- (d) the run-off or drainage of rain-water, the withdrawal from cultivation, the protection and stabilizing of natural water courses and the establishment, maintenance and protection of artificial water courses;
- (e) the protection, temporary withdrawal from grazing and stabilizing of any soil surface including mountain slopes and natural water courses which are or may become subject to erosion or denudation of vegetation;
- (f) the use of areas reserved as water catchment areas under a provision of any law;
- (g) the protection and stabilizing of barrier dunes on the coast, of other dunes where drift-sand occurs or may occur and of the vegetation occurring thereon;
- (h) the burning of pasturage;
- (i) the resting and utilization of pasturage;
- (j)
 - (i) the number of large stock or small stock which may be kept on land;
 - (ii) the number of large stock as well as small stock which may be kept on land;
 - (iii) in the event of both large stock and small stock being permitted to be kept on land, the number of the one kind of stock which may be kept in the place of the other kind and, in such an event, the number of small stock which shall, for the purposes of the direction, be deemed to be equal to one head of large stock;
 - (iv) in the event referred to in subparagraph (iii), the maximum or minimum percentage which one kind of stock, calculated on the basis contemplated in that subparagraph, may or shall constitute of the total number of stock which is permitted to be kept in terms the direction;

[paragraph (j) substituted by Act 4 of 1971 and by Act 22 of 1977]

- (k) the prevention of erosion, the denudation, disturbance or drainage of the land;
- (l) the prevention, control and extinguishing of veld, mountain and forest fires;
- (m) any other disturbance of the soil which creates or may create conditions which cause or may cause any form of erosion or pollution of water by silt or drift-sand; and
- (n) generally, as to any other matter whether or not connected with any matter referred to in paragraphs (a) to (m), inclusive, which he considers necessary or expedient for achieving the objects of this Act in respect of the land:

Provided that a direction whereby a person who carries on prospecting or mining activities on land is required to perform specific acts in respect of such land shall not be declared applicable to such land unless the declaration is made in consultation with the Minister of Mines: Provided further that a direction shall not contain any provision which is in conflict with a provision of a fire protection scheme.

- (2) A direction shall be binding upon every owner and occupier of the land with reference to which it has been declared applicable, and their successors in title.
- (3) The Minister may, in any manner referred to in subsection (1), withdraw, amend or, subject to such conditions as he may determine, suspend a direction

[subsection (3) substituted by Act 11 of 1973]

Part II – Soil Conservation Works

4. Minister may order construction of soil conservation works

- (1) The Minister may by means of a direction order the owner of land to construct the soil conservation works referred to in such direction either on land belonging to such owner or on land belonging to another person, in such manner and within such period as may be mentioned in such direction, if the Minister is of the opinion that the construction of such soil conservation works is necessary in order to achieve any object of this Act in respect of the land belonging to such owner.
- (2) (a) A direction referred to in subsection (1) -
 - (i) shall be contained in a written notice to be served on the owner ordered to construct the soil conservation works and, if the soil conservation works are to be erected on land belonging to another person, on that person as well; or
 - (ii) shall be published by the Minister by notice in the Gazette.
- (b) The Minister may amend or withdraw such a direction or may, subject to such conditions as he may determine, suspend it by serving a written notice on the owner or owners or by publishing a notice in the Gazette.
- (2A) Soil conservation works constructed in terms of the provisions of this section shall be maintained by the owner ordered to construct such soil conservation works and by every person who subsequently becomes the owner of the land in respect of which such soil conservation works have been erected.
- (3) The costs in connection with the construction and maintenance of any soil conservation works constructed under the provisions of this section shall be borne by the person ordered by the Minister to construct such soil conservation works, or who is under this section obliged to maintain such works (as the case may be).
- (4) Where the owner of land who is obliged under the provisions of this section to construct or maintain soil conservation works, refuses or neglects to do so, the Minister may cause such steps to be taken as he may deem necessary in order to construct or maintain such soil conservation works and may recover the costs in connection with the taking of such steps from such owner.

[section 4 substituted by Act 22 of 1977]

5. Minister may order payment of certain amounts

- (1) (a) The Minister may on application by the owner of land who has constructed any soil conservation works after having been ordered to do so in terms of section 4(1), which in the opinion of the Minister have increased or are likely to increase the value of land belonging to another person, order such other person to pay such owner the amount determined by the Minister.
- (b) In determining the amount referred to in paragraph (a) the Minister shall, in addition to any other relevant circumstance, also take the following into consideration, namely -
 - (i) the costs in connection with the construction of the soil conservation works in question;
 - (ii) the part of such costs defrayed in terms of section 6(c);
 - (iii) the extent to which the soil conservation works concerned have or are likely to have a beneficial effect on the land of such owner and such other person;
 - (iv) the extent to which the value of such land has been increased or is likely to be increased as a result of the construction of the soil conservation works in question.
- (2) (a) Where an owner of land has constructed any soil conservation works on land belonging to another person in compliance with a direction, as a result of which the value of such land in the opinion of the Minister has been reduced or is likely to be reduced, the Minister may, on application of such other person, order such owner to pay such other person the amount determined by the Minister.

- (b) In determining the amount referred to in paragraph (a), the Minister shall, in addition to any other, relevant circumstance, also take into consideration the extent to which the construction of the soil conservation works in question has or is likely to have a detrimental effect on the land of such owner and such other person, as well as the extent to which the value of such land has been reduced or is likely to be reduced as a result of such construction.

[section 5 amended by Act 21 of 1974 and substituted by Act 22 of 1977]

6. Subsidies, grants and defrayal of certain costs by Minister

The Minister may, from moneys appropriated by Parliament for the purpose, and subject to such conditions as he may determine or prescribe -

- (a) pay subsidies to any person in respect of costs incurred by such person in connection with the construction of any soil conservation works;
- (b) make grants to any person in order to enable such person to perform an act for the achievement of an object to this Act;
- (c) defray such portion of the costs referred to in section 4(3) and (4) as the Minister in consultation with the Minister of Finance may determine.

[section 6 substituted by Act 11 of 1973 and by Act 21 of 1974]

7. Construction and maintenance of soil conservation works by Minister and charging and recovery of costs of such construction

- (1) The Minister may at any time cause such steps to be taken as he may deem necessary for the construction and maintenance on any land of such soil conservation works as he may deem necessary in order to achieve any object of this Act in respect of any land.
- (2) The costs of construction of any such soil conservation works may, in the discretion of the Minister, be charged entirely to the State or entirely to the owner or owners of the land in respect of which, in the opinion of the Minister, the soil conservation works have a beneficial effect, or partly to the State and partly to such owner or owners, and any costs so charged to an owner or owners of land shall be recovered from the owner or owners concerned by the Minister in such manner as he may deem fit.
- (3) In determining the costs referred to in subsection (2), the Minister shall take into consideration, in addition to any other relevant circumstance, the extent to which the relevant soil conservation works have or are likely to have a beneficial effect on the land of the said owner or owners, or the extent to which the value of such land has increased or is likely to increase as a result of the construction of such soil conservation works.
- (4) *[subsection (4) deleted by Act 4 of 1971]*
- (5) The Minister may by means of a direction order the owner or occupier of land on which soil conservation works have been constructed under the provisions of this section, to maintain such soil conservation works subject to such conditions as may be determined by him.

8. Minister may carry out soil conservation works on any land for purposes of demonstration or research

The Minister may, with the approval of the owner of any land and subject to such conditions as may be agreed upon between the Minister and the said owner, construct and maintain at State expense soil conservation works on or in respect of the land of the said owner for the purpose of public demonstration or research in matters relating to veld, soil and water conservation.

Part III – Soil Conservation Committees

9. Soil conservation committees

- (1) The Minister may establish a committee, to be known as a soil conservation committee, in respect of an area determined by the Minister.
- (2) The number of members of a soil conservation committee shall in each case from time to time be determined by the Minister, and such members shall be appointed by the Minister after consultation with the South African Agricultural Union.
- (3) A member of a soil conservation committee shall hold office, subject to the provisions of this Act, for such period not exceeding five years as the Minister may upon the appointment of that member determine.
- (4) Any person whose period of office as member of a soil conservation committee has expired, may be reappointed.
- (5) A member of a soil conservation committee may at any time be removed from office by the Minister.
- (6) The Minister may at any time dissolve a soil conservation committee if he is of the opinion that such committee does not satisfactorily perform the functions entrusted to it, and appoint a new committee in accordance with the provisions of this section.

10. Duties of a soil conservation committee

A soil conservation committee shall within the area in respect of which it has been established -

- (a) advise the Minister, owner or occupier of land on all matters relating to soil conservation; and
- (b) perform such other duties as the Minister may assign to it.

11. Expenditure in connection with functions or powers of a soil conservation committee

All expenditure relating to the performance of the functions and the exercise of the powers of a soil conservation committee shall be defrayed from moneys appropriated by Parliament for this purpose.

Part IV – Fire Protection Committees, Fire Protection Areas and Schemes

12. Declaration and establishment of fire protection areas and committees

- (1) The Minister may by notice in the Gazette -
 - (a) define any area and declare that area to be a fire protection area; and
 - (b) establish a fire protection committee in respect of any fire protection area.
- (2) The constitution, functions and procedure at any meeting of a fire protection committee shall be as prescribed.
- (3) A fire protection committee established under a law repealed by this Act shall, as from the commencement of this Act, be deemed to have been established under this Act.
- (4) A fire protection area which has been declared a fire protection area under a law repealed by this Act shall, as from the commencement of this Act, be deemed to have been declared a fire protection area under this Act.
- (5) The Minister may from time to time by notice in the Gazette alter the boundaries of a fire protection area or withdraw any notice whereby a fire protection area has been established.

13. Fire protection schemes

- (1) A fire protection committee shall, in addition to its prescribed functions, prepare and submit to the

Minister a fire protection scheme in respect of the area for which it has been established.

- (2) A fire protection scheme shall define the land with reference to which it applies and shall state the objects and scope thereof and shall contain provisions relating to -
- (a) the regulation or prohibition of veld burning; and
 - (b) the prevention, control and extinguishing of veld and forest fires: Provided that a fire protection scheme shall not contain provisions which are inconsistent with the provisions of the Forest Act, 2001 (Act No. 12 of 2001).

[paragraph (b) amended by Act 12 of 2001]

- (3) The Minister may approve, or amend and approve any fire protection scheme submitted to him under subsection (1) and shall, subject to the provisions of subsection (4), specify a date in that fire protection scheme and direct that the scheme shall as from that date apply with reference to the area defined therein.
- (4) If the Minister approves a fire protection scheme submitted to him under subsection (1) -
- (a) he shall, at least one month prior to the date specified under subsection (3), cause particulars of the fire protection scheme to be published by notice in the Gazette;
 - (b) he may, if he deems fit, at any time cause to be served on every owner or occupier of land with reference to which the fire protection scheme is being or is to be applied and whose name and address are known to him, a copy of the fire protection scheme.
- (5) Any fire protection scheme which is being applied in accordance with any provision of a law which is repealed by this Act shall, as from the commencement of this Act, be deemed to be applied in accordance with the provisions of this section.
- (6) Every owner and occupier of land with reference to which a fire protection scheme has been applied under this section, and their successors in title, shall be bound by the provisions of such scheme and shall in respect of any contravention of any provision of that scheme be liable to the penalties prescribed by section 45 of the Forest Act, 2001 (Act No. 12 of 2001).

[subsection (6) amended by Act 12 of 2001]

14. Minister may amend fire protection schemes

The Minister may from time to time, after consultation with the fire protection committee concerned, by notice in the Gazette amend the provisions of any: fire protection scheme in operation under this Act.

15. Minister may render financial assistance to fire protection committee

The Minister may, from moneys appropriated by Parliament for the purpose, and subject to such conditions as he may prescribe, render financial assistance by way of grants or otherwise to any fire protection committee.

Part V – Miscellaneous Provisions

16. Secretary for Agricultural Credit and Land Tenure may on behalf of the State recover expenditure incurred in connection with soil conservation works

Any amount owing to the State in connection with the construction and maintenance by the State of any soil conservation works or in connection with the application of any direction shall be recovered by the Secretary for Agricultural Credit and Land Tenure on behalf of the State.

17. Right of entry on or way over land

- (1) Any officer of any department of State, the South African Railways and Harbours Administration, a provincial administration or a divisional council and any person duly authorized thereto by the Minister,

may enter upon any land and may take with him such equipment and such number of assistants as are required for the purpose of constructing or maintaining on that land any soil conservation works in accordance with the provisions of this Act, and may, after notice to the owner or occupier of such land and without any obligation to pay compensation therefor, erect a temporary camp, and dig or take such stones, sand, earth, water, bush or wood as required or the purpose of constructing or maintaining on that land such soil conservation works; in addition any person duly authorized thereto by the Minister may enter upon any other land for the removal of the aforesaid material if suitable material is not readily available on the land where the soil conservation works must be constructed or maintained, in which case the compensation determined by the Minister shall be paid.

- (2) Any person referred to in subsection (1) may, after reasonable notice to the owner or occupier of land over which it is considered necessary to proceed, enter upon such land with the necessary assistants, animals, vehicles and equipment for the purpose of reaching the land on which soil conservation works have to be constructed or maintained under this Act.
- (3) Any officer referred to in subsection (1), any member of a soil conservation committee and any person duly authorized thereto by the Minister
- (a) may enter upon any land at all reasonable times for the purpose of
- (i) ascertaining the desirability of constructing upon that land any soil conservation works or declaring directions applicable with reference to that land; or
 - (ii) making surveys and of erecting or effecting beacons or marks which indicate the position of soil conservation works which are to be constructed or which indicate the area to which a direction has been declared applicable; or
 - (iii) inspecting any soil conservation works which are being or have been constructed on that land; or
 - (iv) ascertaining whether the provisions of this Act, any condition subject to which financial assistance by way of a subsidy or a grant has been rendered or any direction which is applicable to or with reference to that land has been or is being properly carried out or complied with;
- (b) shall at all reasonable times have right of way over any land over which it is reasonably necessary to proceed in order to reach land referred to in paragraph (a).

[subsection (3) substituted by Act 21 of 1974 and by Act 22 of 1977]

- (4) The provisions of subsections (1), (2) and (3) shall mutatis mutandis apply also in respect of any member of a fire protection committee and any person authorized by such committee to perform any act in connection with the construction or maintenance of a firebelt or works on such land in accordance with the provisions of any fire protection scheme applicable to that land.

18. Expropriation of land for conservation or stabilization purposes

- (1) Whenever in the opinion of the Minister any land is required for -
- (a) the prevention of soil erosion or the stabilizing of land subject thereto; or
 - (b) the prevention of drift-sand or the stabilizing of land subject thereto; or
 - (c) the protection of catchment areas or the conservation of water sources,
- he may cause such land to be expropriated.

- (2) The provisions of the Expropriation Act, 1975, shall mutatis mutandis apply with reference to the expropriation of land under this section.

[Subsection (2) is amended by Act 63 of 1975. Only section 4 of the Expropriation Act 63 of 1975 was ever directly applicable to South West Africa, and that section was repealed by the National Transport Corporation

Act 21 of 1987 (SWA) (which was repealed in turn by the National Transport Services Holding Company Act 28 of 1998). Expropriation of land for public purposes is covered in general by the Expropriation Ordinance 13 of 1978 (SWA). However, section 18(2) of this Act appears to make the Expropriation Act 63 of 1975 applicable to South West Africa for certain limited purposes.]

19. Minister may perform certain acts

The Minister may, from moneys appropriated by Parliament for the purpose, perform on or in respect of any land any act relating to any matter referred to in paragraphs (a) to (n), inclusive, of section 3 and which he deems necessary in order to achieve any object of this Act in respect of such land and may recover the costs in connection with the performance of such act or such portion of such costs as the Minister may determine from the owner of such land.

20. Regulations

- (1) The Minister may make regulations relating to
 - (a) the calling of and the procedure and quorum at meetings of a soil conservation committee;
 - (b) the constitution, functions, powers and procedure at meetings of a fire protection committee;
 - (c) the remuneration and allowances payable to a member of a soil conservation committee or of a fire protection committee;
 - (d) the conditions subject to which and the rates at which financial assistance by way of subsidies, grants or otherwise shall be rendered in terms of sections 6 and 15;
 - (dA) the remission by the Minister of the whole, or a portion, of an amount payable by a person to the State on account of his failure to comply with a condition referred to in section 6, and the conditions subject to which such remission shall be granted;

[Paragraph (dA) is inserted by Act 21 of 1974.]

[Section 4(2) of Act 21 of 1974 contains the following transitional provision:]

["Any remission by the Minister before the commencement of this Act of the whole, or a portion, of an amount which a person owed the State on account of non-compliance with a condition imposed in terms of section 6 of the principal Act, is hereby validated."]

- (dB) the form and dimensions of beacons or marks referred to in section 17(3), the manner of their erecting, effecting, marking for identification, maintenance and repair;

[paragraph (dB) inserted by Act 22 of 1977]
 - (e) the manner in which a direction shall be served, the manner in which receipt of a direction shall be acknowledged and the records which shall be kept of the service and receipt of directions; and
 - (f) generally, all matters which he considers it necessary or expedient to prescribe in order to achieve the objects of this Act.
- (2) Any regulation relating to State revenue or expenses shall be made in consultation with the Minister of Finance.

21. Penalties

- (1) Any person who -
 - (a) contravenes or fails to comply with any provision of this Act; or

[paragraph (a) substituted by Act 22 of 1977]
 - (b) refuses or fails to comply with a direction; or

- (c) contravenes or fails to comply with a condition referred to in section 3(3); or
- (cA) with a view to his being paid a subsidy or made a grant referred to in section 6 makes any statement or furnishes any document or particulars knowing the same to be false; or

[paragraph (cA) inserted by Act 4 of 1971]

- (d) obstructs or hinders any person referred to in section 17 in the execution of his duties or the performance of his functions; or
- (e) damages, destroys, fails to maintain or without the written permission of the Minister moves or alters -
 - (i) any soil conservation works constructed or maintained by the State, any owner or occupier of land or any other person; or
 - (ii) any firebelt or works constructed in terms of a fire protection scheme; or
 - (iii) any beacon or mark constructed or effected in terms of section 17(3),

[paragraph (e) substituted by Act 22 of 1977]

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

22. Jurisdiction of magistrate's court

Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

23. Delegation of Minister's powers

- (1) The Minister may delegate to any senior officer in any department of State all or any of the powers conferred upon him by this Act, other than the powers referred to in section 20 but shall not be divested of any power delegated by him, and may vary or withdraw any decision of any such officer upon application by any person affected and feeling aggrieved by such decision.
- (1A) When delegating powers in terms of subsection (1) the Minister may delegate the same powers to more than one officer or he may delegate certain powers to one officer and other powers to another officer or he may delegate any such powers to an officer in respect of a particular area.

[subsection (1A) inserted by Act 4 of 1971]

- (2) An application referred to in subsection (1) shall be made within the period and in the manner prescribed.

24. Limitation on liability of the State, Minister, etc.

The State, the Minister, any officer, any soil conservation committee, any fire protection committee or any person authorized under this Act shall not be liable in respect of anything done in good faith under the provisions of this Act.

[The reference to the "Minister" in this section was excluded from the operation of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that the administration of this section was not transferred to South West Africa prior to independence.]

25. Appropriated moneys

Moneys appropriated by Parliament for defraying expenditure incurred in respect of any matter for the purposes of any law repealed by this Act shall be deemed to have been appropriated also for defraying expenditure incurred for the purposes of this Act in respect of any similar matter.

26. Application of Act

(1) Subject to the provisions of subsection (2), this Act shall not apply -

- (a) to land situated in an urban area;
- (b) to land of which the ownership is in terms of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), vested in the South African Development Trust, constituted by section 4 of the said Act;

[Paragraph (b) is amended by AG 3 of 1979. The Development Trust and Land Act 18 of 1936 was repealed by the Communal Land Reform Act 5 of 2002.]

- (c) to land contemplated in section 4 of the South West Africa Bantu Affairs Administration Act, 1954 (Act No. 56 of 1954);

[Act 56 of 1954 was originally enacted as the "South-West Africa Native Affairs Administration Act" (SA GG 5302). It became the "South-West Africa Bantu Affairs Administration Act" in South Africa by virtue of the Bantu Laws Amendment 42 of 1964 (RSA GG 801) read together with section 16(1) of the Native Laws Amendment Act 46 of 1962 (RSA GG 240). However, in South West Africa, the relevant sections of these two laws were repealed insofar as they were applicable to South West Africa by the Native Laws Amendment Proclamation, AG 3 of 1979 (OG 3898), with effect from 1 August 1978 (section 5 of AG 3 of 1979). Thus, Act 56 of 1954 was once again the "South-West Africa Native Affairs Administration Act" in South West Africa.]

[However, this provision uses the title "South West African Bantu Affairs Administration Act". This provision was never specifically amended in South West Africa. AG 3 of 1979 provides that "there is hereby substituted for the word 'Bantu' wherever it occurs in any law as a reference to a person or persons, the word 'Black' or 'Blacks', as the context in question may require". It is not clear if this directive would apply to the name of a law, and so the name "South West African Bantu Affairs Administration Act" has not been altered here. If AG 3 of 1979 did have the effect of altering the reference to the name of the Act to the South West Africa Black Affairs Administration Act 56 of 1954, then it must be noted that AG 3 of 1979 also amended section 3A(1) of Act 56 of 1954 to state "Any reference in any law in force in the territory, including the Eastern Caprivi Zipfel, or in any document, relating to any matter in such territory, to a Black, being a reference to a person, shall be construed as a reference to a native, and any word or expression in any such law or document connected with a Black shall be construed accordingly." This would mean that the name "South West Africa Black Affairs Administration Act" was to be construed as the "South West Africa Native Affairs Administration Act".]

[Act 56 of 1954 was repealed by the Communal Land Reform Act 5 of 2002.]

- (d) to land in the territory included in the "Gebiet", as defined in section 1 of the Rehoboth Investment and Development Corporation Act, 1969 (Act No. 84 of 1969); and

[The Rehoboth Investment and Development Corporation Act 83 of 1969 was repealed by the Rehoboth Investment and Development Corporation Repeal Act 15 of 1996.]

- (e) to land to which a provision of the Rural Coloured Areas Act, 1963 (Act No. 24 of 1963), applies or of which the ownership is vested in the Minister of Coloured Affairs in trust for Coloured persons.

[The Rural Coloured Areas Act 24 of 1963 was not made applicable to South West Africa.]

(2) The Minister may, by notice in the Gazette, declare the Act applicable to land specified in such notice and situated in an urban area.

[section 26 amended by Act 38 of 1971 and substituted by Act 21 of 1974]

26A. Presumption

In any prosecution for an offence under this Act, it shall be deemed that this Act is applicable to the land upon or in respect of which such offence is alleged to have been committed, unless the contrary is proved.

[section 26A inserted by Act 11 of 1973]

26B. Admissibility and evidential value of certain documents

- (1) A document purporting to be certified by an officer in the department as a true copy of a direction shall on the production thereof by any person in a prosecution in terms of this Act be prima facie evidence of the particulars of the direction of which that document purports to be a copy, and of the authority in terms of this Act of the person who declared that direction applicable.
- (2) If a document referred to in subsection (1) purports to be endorsed by an officer in the department to the effect that he served the direction of which that document purports to be a copy, upon a person mentioned in the endorsement, it shall be presumed in any prosecution in terms of this Act that such direction was served on such person until the contrary is proved.

[section 26B inserted by Act 22 of 1977]

27. Repeal of laws

- (1) Subject to the provisions of subsection (2) the laws specified in the Schedule are hereby repealed to the extent shown in the third column of that Schedule.
- (2) The provisions of a soil conservation scheme which are in force at the commencement of this Act shall remain in force until such provisions are withdrawn or amended by the Minister either by notice in the Gazette or by notice to the owner or occupier of land with reference to which such provisions apply.

[Section 4 of Act 38 of 1971, which amended this Act to make it applicable to South West Africa, provided for some additional repeals in respect of South West Africa:]

[The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof: Provided that any provision of any law so repealed shall, notwithstanding the repeal of such law, continue to apply in respect of any matter in connection with which anything has been done under any law aforesaid or in respect of anything incidental to any such matter or which may be necessary to be done in connection with any such matter, as if such law had not been so repealed.]

[Schedule - Laws Repealed]

| No. and year of law. | Short title. | Extent of repeal. |
|--------------------------|---|-------------------|
| | South-West Africa. | |
| Ordinance No. 28 of 1952 | The Soil Conservation Ordinance, 1952 | The whole. |
| Ordinance No. 20 of 1954 | The Soil Conservation Amendment Ordinance, 1954. | The whole. |
| Ordinance No. 11 of 1961 | The Soil Conservation Validation Ordinance, 1961. | The whole. |

27A. Application of Act in the territory

This Act and any amendment thereof shall also apply in the territory.

[section 27A inserted by Act 38 of 1971]

28. Short title and commencement

- (1) This Act shall be called the Soil Conservation Act, 1969, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.
- (2) Different dates may be so fixed under subsection (1) in respect of the several provisions of this Act.

Schedule

Laws Repealed

| No. and year of law. | Short title. | Extent of repeal. |
|------------------------------------|--|---|
| Act No. 45 of 1946 | Soil Conservation Act, 1946. | The whole. |
| Act No. 37 of 1960 | Soil Conservation Amendment Act, 1960. | The whole. |
| Act No. 31 of 1964 | Soil Conservation Amendment Act, 1964. | The whole. |
| Act No. 55 of 1965 | Expropriation Act, 1965. | Section 25. |
| Act No, 28 of 1966 | Agricultural Credit Act, 1966. | Section 56. |
| Act No. 15 of 1967 | Soil Conservation Amendment Act, 1967. | The whole. |
| Act No. 70 of 1968 | General Law Amendment Act, 1968. | Section 32. |
| Act No. 72 of 1968 | Forest Act, 1968. | In so far as it relates to the Soil Conservation Act, 1946. |