

AUSTRALIAN CAPITAL TERRITORY

SOIL CONSERVATION ORDINANCE 1960.

EXPLANATORY MEMORANDUM

No. 5 of 1960

The A.C.T. Conservation of Soil Ordinance introduced in 1947 provided for the establishment of a Soil Conservation Council in the A.C.T. mainly to investigate matters relating to soil conservation and the prevention and control of soil erosion, and to give advice for carrying out soil conservation practices with the agreement of the landholder and, if necessary, require other measures to be taken. In practice, however, the Council has had very little formal responsibility since soil conservation surveys have continued to be a regular activity of the Agriculture and Stock Section of the Department of the Interior, and any necessary soil conservation work has been either done or supervised by that Section according to the status of the land concerned. Of recent years the formally constituted Council has served no useful purpose.

Although there was provision in the Ordinance for affected land to be proclaimed "areas of erosion hazard", and for the Council to carry out preventive measures if landholders did not safeguard their own lands, there is no power to compel a landholder to carry out soil conservation measures on his own property. Although there has never been, up to the present, any need to take such extraordinary measures against landholders in the A.C.T., it is desirable that there should be legislative power to require preventive measures to be taken in the event of an erosion hazard being allowed to develop on privately held land.

Since 1947 there has been constituted a Commonwealth/State Standing Committee on Soil Conservation consisting of representatives from all States and the Commonwealth, operating as a subsidiary committee of the Australian Agricultural Council. The A.C.T. is represented on that Standing Committee by the Director, Agriculture and Stock, in the Department of the Interior. The Standing Committee meets annually for the purpose of formulating and adopting uniform approaches to the problems of soil erosion. Since 1947 most of the States have introduced legislation dealing with soil conservation, generally along the lines that landholders are advised and encouraged to conserve soil resources, and providing that where they do not undertake soil conservation measures that are considered necessary by the properly constituted Authority to prevent and control soil erosion on their properties, they shall be required to take such action as the Directing Authority may determine, or the work may be carried out by or on behalf of the Authority at the cost of the defaulting landholder.

It is desirable that soil conservation legislation in the A.C.T. should be more or less consistent with that operating in the adjacent State of New South Wales. Conditions in the A.C.T. are not dissimilar from those in New South Wales, and it is necessary here as elsewhere that soil erosion should be prevented from occurring on individual properties since uncontrolled erosion can often constitute a hazard to other land in the vicinity. In order to ensure that effective action can be taken to guard

against soil erosion being allowed to get out of hand on privately owned or leased lands in the A.C.T., the present Ordinance needs to be replaced by one giving similar powers to those in force in New South Wales.

The main objectives of the new Ordinance are to provide for the making and enforcing of soil conservation orders where landholders do not undertake the necessary measures to prevent and control erosion, and for preserving vegetation in vulnerable areas.

Under the new Ordinance the Department of the Interior will continue to investigate the need for soil conservation measures, and as at present these will in most cases be carried out either by the Department or the landholder by mutual agreement. No statutory authority is required for this. If, however, a landholder is not prepared to comply with reasonable soil conservation measures which are considered necessary, the Minister is empowered by the Ordinance –

- (a) to give notice of his intention to make a soil conservation order (Section 5);
- (b) unless he is satisfied by representations that it is not necessary, to make an order (Section 5) directing the landholder to adopt or refrain from adopting or continuing to adopt a specified method of using or dealing with the land or to take specified action to prevent or arrest soil erosion on his own or other land; and
- (c) to apportion the cost between the Commonwealth, the landholder, and other landholders who will benefit from the work.

Failure to comply with a soil conservation order will constitute an offence, and the Minister may, if satisfied that a person has failed to comply with an order, authorise the required action to be undertaken and may direct that the whole or part of the expense so incurred be borne by the person failing to comply with the original order (Section 6).

The landholder against whom an order is made will have a right of appeal to the Supreme Court (Section 7).

As a general soil conservation measure, vegetative cover should not be disturbed adjacent to creeks, in depressions, or on any steep slopes, and by Section 9 it will become an offence to disturb such vegetative cover in specified areas except with the approval of the Minister. However, this will not prevent the grazing of stock on such areas or the eradication of noxious weeds.

Since all the necessary functions can be, and are in fact being, performed by the Agriculture and Stock Section of the Department, and this has been the case for some years, the provision for a Soil Conservation Council is not being retained in the new Ordinance.