



ZIMBABWE

Natural Resources Act

Chapter 20:13

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CHAPTER 20:13

NATURAL RESOURCES ACT

Acts 9/1941, 17/1950, 43/1951, 4/1954, 12/1954, 1/1955 (s. 6), 31/1960, 44/1961, 12/1962, 24/1962 (s. 2), 18/1963, 21/1963, 39/1963, 10/1964, 22/1964 (s. 54), 87/1964, 80/1971 (s. 33), 39/1973 (ss. 22 and 52), 1/1975, 22/1976 (s. 87), 41/1976 (s. 139), 48/1976 (s. 82), 15/1979, 39/1979 (s. 19), 16/1981, 20/1982 (s. 19 – Part XI), 12/1986 (s. 8), 8/1988 (s. 164), 3/1992 (s. 52 – Part IV); R.G.Ns. 153/1963, 801/1963, 214/1964, 386/1964, 217/1970, 365/1970, 923/1972, 1135/1975; S.I 675/1979.

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AN ACT to make provision for the conservation and improvement of the natural resources of Zimbabwe; to provide for the determination of appeals by the Administrative Court; to provide for the construction of works on Communal Land for the conservation of natural resources; and for matters incidental to the foregoing.

[Date of commencement: 1st October, 1941.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Natural Resources Act [Chapter 20:13].

2 Interpretation

In this Act—

“Board” means the Natural Resources Board constituted under section three;

“conservation officer” means a conservation officer appointed in terms of section fifty-eight;

“Corporation” means the Agricultural Finance Corporation of Zimbabwe established by section 3 of the Agricultural Finance Corporation Act [Chapter 18:02];

“Corporation Act” means the Agricultural Finance Corporation Act [Chapter 18:02];

“inspector” means an inspector appointed in terms of section fifty-eight;

“local authority” means a municipality, town, local board or rural district council;

“Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“natural resources” includes—

- (a) the soil, waters and minerals of Zimbabwe;
 - (b) the animal, bird and fish life of Zimbabwe;
 - (c) the trees, grasses and other vegetation of Zimbabwe;
 - (d) the springs, vleis, sponges, reed-beds, marshes, swamps and public streams of Zimbabwe;
 - (e) such other things as the President may, by proclamation in a statutory instrument, declare to be natural resources, including landscapes and scenery which, in his opinion, should be preserved on account of their aesthetic appeal or scenic value;
- “occupier”, in relation to any land, means any person lawfully occupying such land;
- “owner”, in relation to land, means—
- (a) the person registered in the Deeds Registry as the proprietor of the land; or
 - (b) any person lawfully occupying or holding land in accordance with the provisions of any enactment or agreement whereunder he is entitled to obtain from the President title thereto on the fulfilment by him of the conditions prescribed by such enactment or agreement, and the duly authorized representative of any such person; or
 - (c) the legal representative of any registered owner who has died, has become insolvent, is a minor, is of

unsound mind or is otherwise under disability, and the liquidator of a company owning the land;

"private water" means all water, not being water of a public stream, which rises naturally on any land or which falls or naturally drains on to any land, so long as it remains visible on such land and does not join a public stream;

"public stream" means a watercourse of natural origin wherein water flows, whether or not such watercourse or any portion of such watercourse is dry during any period of the year and whether or not its conformation has been changed by artificial means;

"public water" means all water found on or below the bed of a public stream, including springs, swamps, marshes or vleis forming the source of or found upon the course of such stream;

"State land" means land vested in the President, other than Communal Land;

"statutory body" means any body corporate established for special purposes directly by any enactment having the force of law in Zimbabwe;

"storm-water" means all flow of water directly due to rainfall, before such water joins a public stream;

"to construct" includes to do, maintain, repair, carry out, reconstruct or alter;

"user", in relation to land, means any person (other than an owner or occupier) who has or exercises any rights in, over or upon land or who makes use of land in any way;

"wet land" means land which—

- (a) is saturated one hundred and fifty millimetres or less from the surface of the land for the major part of a rainfall season of average rainfall; or
- (b) exhibits in the soil profile one or more of the following features—
 - (i) mottles or rust-like stains in root channels one hundred and fifty millimetres or less from the surface of the land;
 - (ii) black top soil horizons very rich in organic matter overlying pale sands;
 - (iii) dark grey or black heavy clay showing considerable surface cracking when dry and without marked evidence of self-mulching;

"works" means measures taken or to be taken or anything whatsoever constructed or to be constructed with a view to preventing or mitigating soil erosion or promoting soil conservation or the conservation or control of water including pegs placed in the ground for the purpose of demarcating proposed conservation works or for use in the construction of such works.

PART II

NATURAL RESOURCES BOARD

3 Establishment of Natural Resources Board

There is hereby established a board, to be called the Natural Resources Board.

4 Constitution of Board

(1) The Board shall consist of not less than eight members appointed by the President.

(2) The recognized representatives of special interests concerned may submit through the Minister, for the consideration of the President, a panel of names of persons they consider suitable for appointment to the Board.

(3) The President shall designate one member as chairman of the Board and one member as vice-chairman of the Board and the vice-chairman shall exercise the functions and powers and perform the duties of the chairman during

any period that the chairman is unable to exercise his functions.

5 Terms of office, filling of vacancies and remuneration

(1) Each member of the Board shall hold office for such period and on such conditions as the President may decide when the appointment is made.

(2) The office of a member of the Board shall be vacated—

- (a) if his estate is sequestrated or assigned; or
- (b) if he is absent from three consecutive meetings of the Board without the special leave of the Board; or
- (c) upon the expiry of one month after he has given the Minister written notice of his intention to resign his office or after the expiry of such longer or shorter period of notice as he and the Minister may agree.

(3) If a member is prevented by illness, absence from Zimbabwe or other like cause from exercising his functions on the Board, the President may appoint any person to act as deputy for such member during his absence.

(4) If at any meeting of the Board, and if at any meeting both the chairman and vice-chairman are absent, the members present shall choose one of their number to act as chairman at that meeting.

(5) The members of the Board shall be paid from the public revenue of Zimbabwe such remuneration and allowances as the President may from time to time determine.

6 Committee of Board

(1) Subject to the approval of the Minister, the Board may appoint such committees of the Board as it may deem necessary to assist it in the exercise of its functions or the performance of its duties, and may appoint as members of such committees any persons whether they are members of the Board or not.

(2) The members of a committee shall hold office for such period not exceeding three years as the Board, with the approval of the Minister, may fix:

Provided that any member of a committee who is also a member of the Board shall vacate his seat as a member of the committee when he vacates his seat as a member of the Board.

(3) The quorum and procedure of a committee shall be as determined by the Board and, subject to any limitations or conditions fixed by the Board, any decision or order of a committee shall be deemed to be a decision or order of the Board.

7 Procedure of Board

(1) All meetings of the Board shall be held at such times and places as the Board shall from time to time determine.

(2) The chairman of the Board may himself at any time, and shall at the request of any two members of the Board, call a special meeting of the Board.

(3) The decision of the majority of the members of the Board present at any meeting shall constitute the decision of the Board.

Provided that, in the event of an equality of votes at any such meeting, the chairman of the Board shall have a casting vote in addition to his deliberative vote.

(4) A quorum of the Board shall be five members, if the number of members of the Board does not exceed ten, and not less than half the number of members of the Board, if that number exceeds ten.

(5) Subject to this Act, the procedure at meetings of the Board shall be as determined by the Board.

8 Safeguarding interests of occupants of Communal Land

The President shall nominate a person to make representations to the Board in regard to the interests of the occupants of any Communal Land when any matter directly affecting such interests is involved or is being considered by the Board.

9 Safeguarding State interests

Any Minister may nominate any person to present his views to the Board when any matter affecting any department of the State under his administration is involved or is being considered by the Board.

10 Functions of Board

The functions of the Board shall, in addition to the powers and duties specifically assigned to it under this Act, be—

- (a) to exercise general supervision over natural resources;
- (b) to stimulate by the dissemination of information and such other means as it may deem expedient a public interest in the conservation and improvement of natural resources;
- (c) to recommend to the State the nature of legislation or measures by it deemed necessary for the proper conservation, use and improvement of natural resources.

11 Proof of order of Board

Every recommendation, declaration, decision or order of the Board or a committee of the Board, if purporting to be signed by a person describing himself as the secretary to the Board, shall, unless the contrary is shown, be deemed to be made by the Board or a committee of the Board and to have been so signed and may be proved by the production of a copy thereof purporting to have been so signed.

12 Board to have access to all Ministers

The Board shall have direct access to any Minister through its chairman.

13 Administrative and clerical work of Board

(1) The administrative and clerical work in connection with the duties of the Board shall be performed by such members of the Public Service as may be deputed thereto by the Minister.

(2) Any duties which a member of the Public Service may be required to perform under subsection (1) shall be deemed to be duties of the office of such member.

14 Board to report on soil and water conservation projects

(1) The Board shall, at the request of the Minister, report upon State and other soil and water conservation projects.

(2) No large dam of which the State or any other person is the owner shall proceed to construction unless the Board has reported to the Minister on the state of the catchment area of such large dam.

(3) No soil conservation project of the State or any other person which involves an estimated expenditure in excess of one hundred thousand dollars shall proceed to construction unless the Board has reported to the Minister on the effect the project will have on the natural resources of the area which may be affected.

(4) The Minister shall consider a report submitted in terms of subsection (2) or (3) and shall inform the

appropriate Minister, or any other person responsible for the dam or project, of any conservation problems identified, the remedial measures necessary and the apportionment of costs as recommended in the report.

(5) Any owner of a large dam who constructs or commences to construct a large dam in contravention of subsection (2) shall be guilty of an offence.

(6) Any person who constructs or commences to construct a soil conservation project in contravention of subsection (3) shall be guilty of an offence.

(7) In this section—

“catchment area” shall have the meaning assigned to it in section 2 of the Water Act [Chapter 20:22];

“large dam” and “owner” shall have the meanings assigned to them in section 108 of the Water Act [Chapter 20:22].

15 Board to give notice to interested parties

When any matter arises for the determination of the Board, all persons having an interest in such matter shall, as far as reasonably practicable, be notified of the questions at issue and given facilities for making such representations thereon as they may wish.

16 Board to consult experts on technical questions

When any matter arises which entails the consideration of any professional or technical question, the Board shall consult such persons as may be qualified to advise thereon.

17 Questions of law may be referred to Supreme Court

(1) If any question of law arises from an order of the Board, the Board may, on its own initiative or at the request of any person directly affected by such order, reserve that question for the decision of the Supreme Court.

(2) The Board shall, in such event, state the question in the form of a special case for the opinion of the Supreme Court and transmit it to the registrar thereof.

(3) The question so stated may be answered by the Supreme Court or by any judge thereof with or without argument on behalf of the parties concerned as the said court or judge determines.

18 Board may summon witnesses

(1) For the determination of any subject under its consideration, the Board shall have the powers which a magistrates court has to summon witnesses, to cause the oath to be administered to them, to examine them and to call for the production of documents.

(2) A subpoena for the attendance of a witness or for the production of any book, document or record before the Board shall be signed and issued by the chairman of the Board, and shall be served in the same manner as a subpoena for the attendance of a witness at a criminal trial in a magistrates court.

(3) Any person subpoenaed to give evidence or to produce any book, document or record or giving evidence before the Board shall be entitled to the same privileges and immunities as if he were subpoenaed to attend or were giving evidence at a trial in a magistrates court.

(4) Any person who fails, without reasonable excuse, to attend in obedience to such summons or, subject to subsection (3), fails to answer fully to the best of his knowledge any question relevant to the matter under investigation, or when required fails to produce any book, document or record as aforesaid, shall be guilty of an offence.

19 Penalty for giving false evidence

Any person who, after having been duly sworn, wilfully gives false evidence before the Board, knowing such evidence to be false or not knowing or believing it to be true, shall be deemed guilty of perjury and may be punished accordingly.

20 Penalty for witness refusing to be sworn, give evidence or produce documents

(1) If any person who has been subpoenaed to give evidence or to produce any book, document or record before the Board refuses, without sufficient cause (the onus of proof whereof shall rest upon him), to be sworn as a witness, or, having been sworn, to answer fully and satisfactorily a question lawfully put to him, or to produce any such book, document or record, he shall be guilty of an offence.

(2) The court convicting such person may, in addition to any penalty which it may inflict, order such person to be detained in custody as if he were a prisoner awaiting trial until he consents to be sworn or to answer fully and satisfactorily all questions lawfully put to him or to produce such book, document or record, as the case may be.

21 Board's annual report to be laid before Parliament

(1) The Board shall, on or before the 31st March in each year, furnish to the Minister a report upon its work during the year ended the 31st December last preceding. Such report shall include the recommendations made by it to the State or any Minister and shall show to what extent these recommendations have been adopted.

(2) Every report under subsection (1) shall be laid by the Minister before Parliament as soon as possible after it has been furnished to him.

PART II

APPEALS FROM DECISIONS OF BOARD

22 Appeals from decisions of Board

(1) Where the Board has made a decision or order in terms of section *twenty-seven, twenty-eight, forty, sixty or sixty-four*, it shall as far as reasonably practicable notify any person who is affected thereby, other than, in the case of an order, any person upon whom a copy of the order is served, of the terms of any such decision or order.

(2) Any person who is affected by a decision or order made by the Board in terms of section *twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, forty*, subsection (1) of section *sixty* or section *sixty-four* who considers such decision or order to be inequitable, unreasonable or unduly harsh may appeal to the Administrative Court.

(3) In any appeal in terms of subsection (2) the Board shall be treated as the respondent.

23 Decision varied on appeal

Any decision or order of the Board which is varied on an appeal in terms of this Part shall as so varied be regarded for the purposes of this Act as a decision or order of the Board.

PART IV

CONSERVATION AND IMPROVEMENT OF NATURAL RESOURCES IN AREAS OTHER THAN COMMUNAL LAND

24 This Part not to apply to Communal Land

This Part shall not apply to Communal Land.

25 President may set aside State land or acquire other land

(1) If the President is of the opinion that such course is beneficial to the public interest generally or to any section thereof, he may, on the recommendation of the Board, set aside State land or purchase or, subject to subsection (2), otherwise acquire other land for the conservation or improvement of natural resources.

(2) In default of agreement between the President and the owner of any land, the President may compulsorily acquire such land and the Land Acquisition Act [*Chapter 20:10*] shall apply, *mutatis mutandis*, to such compulsory acquisition of land:

Provided that the Administrative Court shall, in determining the compensation payable in any case referred to it, determine the proportion of compensation which shall be paid by the persons, including the State, who may benefit by the action taken by the President in terms of subsection (1).

(3) For the purposes of this section—

“land” includes any right in or over land.

26 Minister may construct works

(1) Notwithstanding anything contained in any other law, the Minister may, on the recommendation of the Board, when it appears to him to be in the public interest, construct upon any land such works as he may deem necessary or desirable for the conservation or improvement of natural resources, including—

- (a) the preservation or protection of the bed, banks or course of a public stream or any source of public water or private water;
- (b) the disposal or control of storm-water;
- (c) the mitigation or prevention of soil erosion;
- (d) the conservation of water;
- (e) the control of water tables and the disposal of irrigation drainage water:

Provided that, where any works referred to in this subsection will, in the opinion of the Board, directly affect a local authority, the Board shall consult with that local authority before making a recommendation to the Minister.

(2) The cost of the construction of such works shall in the first instance be paid from moneys appropriated by Act of Parliament for the purpose.

27 Apportionment of costs in respect of works constructed in terms of section 26

(1) Where the Minister has commenced the construction of works in terms of subsection (1) of section *twenty-six*, if the Board considers that—

- (a) any person will be benefited by the works in his capacity as the owner, occupier or user of land or that construction of the works has been rendered necessary by the acts or omissions of a person in his capacity as the owner, occupier or user of land, and
- (b) having regard to all the circumstances, it is just and equitable that any person referred to in paragraph (a) shall pay the whole of the cost of such works or contribute towards such cost;

it shall—

- (i) as soon as possible, specify the land owned by a person who, in his capacity as owner of that land—

A. will benefit by the works; or

B has, by his acts or omissions, rendered the works necessary;

and that land shall be liable to be hypothecated in respect of the cost of the works; and

(ii) after the works have been constructed, make an order specifying what proportion of the cost of construction shall be borne by the State and what proportion shall be borne by any person referred to in paragraph (a) and cause a copy of the order to be served on the Minister and that person.

(2) If, within a period of five years after the making of an order in terms of subparagraph (ii) of subsection (1), the Board is satisfied that any person in respect of whom the order was made has, by reason of changed circumstances since the making of the order, benefited by the works concerned to a substantially greater or lesser extent than was apparent at the time of the making of the order, the Board may make a variation order and increase or decrease the proportion of the actual cost of construction of the works which shall be borne by that person and shall cause a copy of the variation order to be served on the Minister and that person.

(3) On the written instructions of the Minister, the Registrar of Deeds shall make a note—

- (a) on the relevant title deed filed in his office; and
- (b) if produced, on the relevant title deed of the owner; and
- (c) in the appropriate registers in the Deeds Registry; stating that transfer is prohibited in terms of subsection (4) of the land which, in terms of subparagraph (i) of subsection (1), is liable to be hypothecated in respect of the cost of the works referred to in subsection (1).

(4) Until the note made in terms of subsection (3) is cancelled in terms of subsection (6), no transfer of the land concerned shall be passed unless the Minister certifies that the owner thereof has given security to his satisfaction for the payment of any amount that may be or become due by him in terms of subsection (8) or that the prospective transferee has undertaken to become liable for that amount.

(5) If the prospective transferee has, in terms of subsection (4), undertaken to become liable for the amount referred to therein, the Registrar of Deeds shall make a note on the new title deed and the provisions of subsections (4) and (6) and of this subsection shall apply, *mutatis mutandis*, in respect thereof.

(6) The Registrar of Deeds shall cancel the note made in terms of subsection (3)—

- (a) when a notice is sent to the Registrar of Deeds in terms of subsection (2) of section 54 of the Corporation Act, stating that it is in respect of the debt concerned; or
- (b) if the Minister certifies that—
 - (i) no notice will be sent to the Registrar of Deeds in terms of subsection (2) of section 54 of the Corporation Act; or
 - (ii) the owner has given the security referred to in subsection (4); or
 - (iii) the debt concerned has been otherwise secured or satisfied.

(7) As soon as possible after the works referred to in subsection (1) are completed or a variation order referred to in subsection (2) has been received, the Minister shall determine, in accordance with the order made in terms of subsection (1) or the variation order, as the case may be, the amount due by the person concerned and shall serve a written demand for the payment thereof upon that person stating the amount and the date when the amount will be due and payable.

(8) Where a written demand of the amount due by a person has been served in terms of subsection (7)—

- (a) the amount shall be a debt due and payable by that person to the State on the date stated in terms of that subsection; and
- (b) if a debt is due by an owner of land which, in terms of subparagraph (i) of subsection (1), is liable to be hypothecated in respect of the cost of the works referred to in subsection (1) and is not discharged on the date stated in terms of subsection (7), the Minister shall, in terms of subsection (1) of section 54 of the Corporation Act, notify the Corporation and the provisions of that section shall thereafter apply; and
- (c) from the date stated in terms of subsection (7) until the debt referred to in paragraph (a) is discharged by the person concerned to the State or the Corporation, as the case may be, interest shall be paid thereon at the rate fixed in terms of section *forty-one*.

(9) A note in respect of works constructed by the Minister which is similar to a note referred to in subsection (3) and which existed immediately before the 13th June, 1975, shall be deemed to be a note made in terms of subsection (3) and the provisions of this section shall apply, *mutatis mutandis*, in respect thereof.

28 Board may make order for conservation of natural resources

(1) Subject to this section, if—

- (a) after—
 - (i) personal inspection of any land; or
 - (ii) consideration of any information supplied by a committee of the Board, a conservation committee, a conservation officer or any other person deemed by the Board to be competent to advise;
- and
- (b) after paying due regard to all the circumstances; the Board considers that such a course is necessary for the conservation of or the prevention of injury to the natural resources of any land and is just and equitable, the Board may serve an order in writing on the owner, occupier or user of any land:

Provided that, if—

- (a) the whereabouts of an owner of land upon whom an order in terms of this subsection is to be served cannot be ascertained after diligent inquiry; or
- (b) an attempt has been made to serve an order on the owner of land in terms of this subsection by registered post but the order has been returned undelivered;

the order may be published in the *Gazette* and in a newspaper circulating in the area in which the land affected by the order is situated and the order shall thereafter be deemed to have been served on the owner of that land.

(2) The Board may, in terms of subsection (1), serve an order which supersedes an order served by an inspector in terms of subsection (1) of section *sixty* and the last-mentioned order shall, upon the service of the order by the Board, lapse.

(3) An order referred to in subsection (1)—

- (a) may, subject to subsections (4) and (6), require the owner, occupier or user of the land—
 - (i) to undertake or adopt such measures; or
 - (ii) within such reasonable time as the Board may fix, to construct such works; or
 - (iii) to refrain from carrying out such activity; as the Board may deem necessary for—
 - A. the conservation of the natural resources of the land; or

- B. the prevention of injury to the natural resources of the land; or
- C. the prevention of injury to the natural resources of other land by the acts or omissions of the owner, occupier or user on whom the order is served;
- and
- (b) shall, subject to any variation by the Board in terms of subsection (5) or upon appeal in terms of Part III, be of full force and effect unless and until it is set aside by the Board in terms of subsection (5) or upon appeal in terms of Part III.
- (4) An order referred to in subsection (1) may relate to one or more of the following—
- (a) the construction or maintenance of soil or water conservation works;
- (b) the preservation and protection of the beds, banks or course of a public stream or the source of public water or private water;
- (c) the prohibition, restriction or limitation of the depasturing or movement of stock;
- (d) the—
- (i) prohibition or restriction of the cultivation or use; or
- (ii) method of cultivation; of the land;
- (e) the control of water, including storm water;
- (f) the prohibition of—
- (i) any excavation; or
- (ii) the erection of buildings; at any place which the Board considers to be too near a public stream or the source of any public water or private water;
- (g) the prohibition or restriction of the excavation or removal of clay, gravel or sand deposits, including any overburden or top-soil;
- (h) the control of water tables and the disposal of irrigation drainage water;
- (i) the cutting, felling, injury to or the destruction of any vegetation whatsoever;
- (j) the construction or maintenance of fireguards.
- (5) An order referred to in subsection (1) may be varied or set aside by notice served upon the owner, occupier or user of land upon whom the order was served and the provisions of the proviso to subsection (1) shall apply, *mutatis mutandis*, to the serving on the owner of land of notice in terms of this subsection.
- (6) No order may be served in terms of subsection (1) or variation made in terms of subsection (5)—
- (a) which will, in the opinion of the Board, directly affect a local authority unless that local authority has been consulted; or
- (b) on an occupier or a user of land which will necessitate the construction of any works by him, unless the condition sought to be ameliorated by such order was brought about or contributed to by an act or omission of that occupier or user; or
- (c) in regard to the matter referred to in paragraph (e) of subsection (4) if the order requires a person to breach or demolish any water works as defined in the Water Act [Chapter 20:22] unless the Secretary of the Ministry for which the Minister is responsible has consented thereto; or
- (d) in regard to any matter referred to in paragraph (f) of subsection (4) which will, in the opinion of the Board, directly affect the working of a mining location as defined in section 5 of the Mines and Minerals Act [Chapter 21:05], unless the Minister as

defined in section 5 of the Mines and Minerals Act [Chapter 21:05] has been consulted; or

(e) in regard to any matter referred to in paragraph (g) of subsection (4) if the order has the effect of interfering with or derogating from any right conferred by the Mines and Minerals Act [Chapter 21:05], the Roads Act [Chapter 13:12] or the Railways Act [Chapter 13:09] or if such order is in conflict with the provisions of any approved scheme, operative master plan or operative local plan as defined in the Regional, Town and Country Planning Act [Chapter 29:12].

(7) Any person who fails or neglects to comply with any order referred to in subsection (1) or any variation of that order which is binding upon him shall be guilty of an offence.

(8) A conviction for a contravention of this section shall not be a bar to further prosecution or prosecutions for a continuation of the offence.

29 Registrar of Deeds may make note of order in terms of section 28

(1) Where the Board has served an order in terms of subsection (1) of section *twenty-eight*, the Minister may, on the recommendation of the Board, direct that a copy of the order be forwarded to the Registrar of Deeds for filing in his Deeds Registry and the Registrar of Deeds shall make a note thereof—

- (a) on the relevant title deed filed in his office; and
- (b) if produced, on the relevant title deed of the owner; and
- (c) in the appropriate registers in the Deeds Registry.

(2) An order noted in terms of subsection (1) shall be binding on any successor in title and shall remain noted in terms of that subsection until the note is cancelled on the direction of the Minister.

(3) The noting of an order served by the Board which is similar to a note referred to in subsection (1) and which existed immediately before the 13th June, 1975, shall be deemed to be a note made in terms of subsection (1) and the provisions of this section shall apply, *mutatis mutandis*, in respect thereof.

30 Board may make order to obtain information

(1) Where the Board considers that such a course is necessary in order to obtain information to enable it to decide what measures should be taken or adopted for the conservation of or prevention of injury to the natural resources of any land, it may serve an order in writing on the owner, occupier or user of any land within a reasonable time to—

- (a) provide such maps, mosaics and aerial photographs of the land as the Board may deem necessary; or
- (b) afford facilities to the Board for preparing or obtaining the maps, mosaics or photographs referred to in paragraph (a); or
- (c) construct such works, including the excavation of pits for the examination of soil, as the Board may deem necessary:

Provided that the Board shall not make an order requiring the provision of maps, mosaics or aerial photographs or the construction of works by an occupier or user of land unless it is satisfied that injury has been caused or is likely to be caused to the natural resources of any land by the acts or omissions of that occupier or user.

(2) An order referred to in subsection (1) shall, subject to any variation by the Board in terms of subsection (3) or

upon appeal in terms of Part III, be of full force and effect unless and until it is set aside by the Board in terms of subsection (3) or upon appeal in terms of Part III.

(3) An order referred to in subsection (1) may be varied or set aside by notice served upon the owner, occupier or user of land upon whom the order was served.

(4) Any person who fails or neglects to comply with any order referred to in subsection (1) or any variation of that order which is binding upon him shall be guilty of an offence.

(5) A conviction for a contravention of this section shall not be a bar to further prosecution or prosecutions for a continuation of the offence.

(6) For the purposes of subsection (1)—

“mosaic” means a pictorial representation of the ground obtained by the joining together of vertical aerial photographs in their correct relative positions.

31 Construction or completion by Minister of works required by order in terms of section 28

(1) If—

- (a) an order referred to in section *twenty-eight* makes it necessary for the owner, occupier or user of any land to construct works for the purposes referred to in the order, the Minister may, at the request of the person concerned and on the recommendation of the Board, carry out or complete the necessary works;
- (b) any owner, occupier or user of land who fails or neglects to comply with an order referred to in section *twenty-eight* within such reasonable time as the Board may fix, the Minister may carry out or complete any works which are required to be effected by such order.

(2) Where the Minister undertakes the construction of any works on land in terms of subsection (1) on behalf of the owner of that land, he may notify the Registrar of Deeds in writing that the land is liable to be hypothecated in respect of the cost of the works and thereafter the provisions of subsections (3), (4), (5) and (6) of section *twenty-seven* shall apply, *mutatis mutandis*.

(3) As soon as possible after the works are completed by the Minister in terms of subsection (1), the Minister shall determine the cost thereof and serve a written demand for the payment thereof upon the owner, occupier or user referred to in that subsection stating the amount and the date when the amount will be due and payable.

(4) Where a written demand of the amount due by a person has been served in terms of subsection (3)—

- (a) the amount shall be a debt due and payable by that person to the State on the date stated in terms of that subsection; and
- (b) if the debt is due by an owner of land which, in terms of subsection (2), is liable to be hypothecated in respect of the cost of the works and is not discharged on the date stated in terms of subsection (3), the Minister shall, in terms of subsection (1) of section 54 of the Corporation Act, notify the Corporation and the provisions of that section shall thereafter apply; and
- (c) from the date stated in terms of subsection (3) until the debt referred to in paragraph (a) is discharged by the person concerned to the State or the Corporation, as the case may be, interest shall be paid thereon at the rate fixed in terms of section *forty-one*.

32 Contribution towards cost of works constructed in compliance with order in terms of section 28

(1) An owner, occupier or user of land upon whose land works have been constructed in pursuance of an order referred to in subsection (1) of section *twenty-eight* may, within five years of the completion of the works, notify the Board of the cost thereof and apply for an order in terms of subsection (2).

(2) If the Board considers—

- (a) that the works referred to in subsection (1) have been properly constructed; and
- (b) that the State or any person has been or will be benefited by the works in its or his capacity as the owner, occupier or user of land; and
- (c) having regard to all the circumstances, that it is just and equitable that the State or a person referred to in paragraph (b) shall pay or contribute towards the cost of the works;

it shall, within twelve months of an application in terms of subsection (1), make an order specifying—

- (i) the proportion of the cost of construction, if any, to be borne by the applicant; and
- (ii) the proportion of the cost of construction to be borne by the State or a person referred to in paragraph (b); and
- (iii) where appropriate, the land of any person who, as owner of that land, has been or will be benefited by the works referred to in subsection (1) which land shall be liable to be hypothecated in respect of the cost of the works;

and shall cause a copy of the order to be served on any person affected thereby.

(3) Where a copy of an order has been served upon any person in terms of subsection (2), the applicant referred to in subsection (1) may serve written demand for payment upon that person stating the amount due and the date when the amount will be due and payable.

(4) Where a written demand of the amount due by a person has been served in terms of subsection (3)—

- (a) the amount shall be due and payable by that person to the applicant referred to in subsection (1) on the date stated in terms of subsection (3); and
- (b) if the debt is due by an owner of land which, in terms of subparagraph (iii) of subsection (2), is liable to be hypothecated in respect of the cost of the works referred to in that subsection and is not discharged on the date stated in terms of subsection (3), the applicant referred to in subsection (1) may invoke the provisions of section *sixty-one*; and
- (c) from the date stated in terms of subsection (3) until the debt referred to in paragraph (a) is discharged by the person concerned to the applicant referred to in subsection (1), interest shall be paid thereon at the rate fixed in terms of section *forty-one*.

PART V

CONSERVATION AREAS

33 Interpretation in Part V

In this Part—

“holder of land”, subject to the provisions of subsection (2), means—

- (a) an owner of land; or
- (b) the miner of a mining location upon which mining operations are being conducted; or

- (c) any lessee of private land who has leased that land for a continuing period of not less than two years unless he has agreed with the owner of that land that the owner shall retain his right to vote in terms of sections *thirty-six* and *forty-three*;

Provided that, where the lessee of private land falls within the terms of this paragraph, the owner of that land shall not fall within the terms of paragraph (a); or

- (d) any person leasing State land without the option to purchase and who has leased that land for a continuing period of not less than two years;

“miner” and “mining location” shall bear the meanings respectively assigned to them by section 5 of the Mines and Minerals Act [Chapter 21:05].

(2) Every holder of land which is a society, association, partnership or company may give written authority to a person to be its representative for the purposes of this Part and “holder of land” shall be construed as including such a representative.

Provided that a person may not represent more than one society, association, partnership or company in terms of this Part.

34 Declaration of intensive conservation areas

(1) If the holders of land in any area wish on their own initiative to undertake the construction of works and other measures for the conservation or improvement of natural resources in such area, they may petition the Minister in writing to declare such area to be an intensive conservation area.

(2) Such petition shall contain such particulars as may be prescribed by regulations.

(3) The Minister shall, upon the receipt of the petition, cause notice of the same to be published in the manner which he may deem best calculated to reach all holders of land in the area mentioned in the petition.

(4) Such notice shall set out the boundaries of the area and shall call upon holders of land therein to lodge in writing, within a reasonable time to be fixed by such notice, objections, if any, to the granting of the petition.

(5) The Minister shall, on the expiration of the period fixed for receiving objections, consider the petition and objections thereto.

(6) If the Minister is satisfied that not less than two-thirds of the holders of land in the said area consent to or do not oppose such a course, he may, after consultation with the Board, grant the petition.

(7) If the Minister grants the petition, he shall, by notice in a statutory instrument, declare the said area to be an intensive conservation area.

35 Description of boundary of intensive conservation area

(1) The Minister shall, on the recommendation of the Board, by notice in a statutory instrument, publish a description of the area of each intensive conservation area, which shall be known by the name specified in such notice.

(2) The Minister may, on the recommendation of the Board—

- (a) more clearly describe or correct any error in the description of an intensive conservation area; or
- (b) amend the description of an intensive conservation area pursuant to the alteration of the boundaries of a council area in terms of section 4 of the Urban Councils Act [Chapter 29:15], section 139 of the Rural District Councils Act [Chapter 29:13] or of

Communal Land in terms of section 6 of the Communal Land Act [Chapter 20:04]; or

- (c) add any area of land to an intensive conservation area; or
- (d) combine any two or more intensive conservation areas into one intensive conservation area; or
- (e) sever any portion of an intensive conservation area and declare such severed portion to be an intensive conservation area or join it to another intensive conservation area; or
- (f) divide any intensive conservation area into two or more intensive conservation areas; or
- (g) cancel the declaration of any area as an intensive conservation area;

and the Minister shall cause notice of any action taken by him under this subsection to be published in a statutory instrument:

Provided that—

- (i) no notice made in terms of paragraph (a) or (b) shall have the effect of transferring any land to or from an intensive conservation area; and
- (ii) the Minister shall not publish a notice in terms of paragraph (c), (d), (e) or (f) unless he is satisfied that two-thirds of the holders of land in the area or areas concerned consent to or do not oppose the course he proposes to adopt.

36 Conservation committees

(1) On a date and at a place to be appointed by the Minister, the holders of land in an intensive conservation area shall elect a committee to be called a conservation committee.

(2) No person shall be eligible for election to a conservation committee unless—

- (a) he is a holder of land within the intensive conservation area; or
- (b) he resides in the intensive conservation area and has been nominated in writing for the purposes of this subsection by a holder of land within that area.

(3) If the holders of land in an intensive conservation area fail, neglect or refuse, for any reason whatsoever, to elect any or all of the members of a conservation committee, the Minister may appoint to the conservation committee the member or members which the holders of land have failed, neglected or refused, as the case may be, to elect.

(4) A conservation committee shall be a body corporate and may sue and be sued and, subject to the provisions of this Act, do all such acts as a body corporate may by law perform.

37 Composition of conservation committees

A conservation committee shall consist of such number of elected members, not exceeding seven, as the Minister, after consultation with the Board, may fix who shall be elected in the manner prescribed by regulation:

Provided that the Minister may, in special circumstances and on the recommendation of the Board, direct that a particular conservation committee shall consist of such number of elected members greater than seven as he may fix.

38 Functions of conservation committees

The functions of a conservation committee shall be—

- (a) the preservation, protection and improvement of natural resources in its area and to make recommendations relating thereto to the Board;
- (b) subject to the approval of the Board, to inaugurate and undertake works and other measures for—

- (i) soil and water conservation and the improvement of soil and water resources in its area; or
- (ii) the proper management and control of the use of natural resources, including any measures that a conservation committee may be authorized to undertake in terms of any other law;
- (c) generally, to co-operate with and assist the Board in carrying out the objects and purposes of this Act.

39 Powers of conservation committees

A conservation committee shall, subject to the approval of the Board, have power—

- (a) to construct and maintain such works as it may deem necessary in respect of any matter mentioned in paragraph (b) of section *thirty-eight*; and
- (b) to superintend and perform, or enter into contracts for the superintendence or performance of, all such acts, matters or things as are incidental to the proper performance of its functions under this Act; and
- (c) to make arrangements with any other conservation committee for undertaking on a joint or co-operative basis any works in their respective areas; and
- (d) from its own funds, to contribute towards the cost of any works mentioned in paragraph (a); and
- (e) from its own funds, to make loans to any holder of land for the undertaking of any works referred to in paragraph (b) of section *thirty-eight*.

40 Costs of works effected by conservation committees

(1) The cost and maintenance of any works and other measures undertaken by a conservation committee in the exercise of its powers under section *thirty-nine* or such proportion of the cost as the committee may, with the approval of the Board, determine shall be borne by every person who, in his capacity as the owner, occupier or user of land within the area of the committee has—

- (a) benefited or will benefit by the works; or
- (b) by his acts or omissions, rendered the works necessary.

(2) The Minister shall, on the application of a conservation committee in the manner prescribed, notify the Registrar of Deeds specifying the land of an owner referred to in subsection (1) and thereafter—

- (a) that land shall be liable to be hypothecated in respect of the cost of the works; and
- (b) the provisions of subsections (3), (4), (5) and (6) of section *twenty-seven* shall apply, *mutatis mutandis*, and any reference to a notice sent to the Registrar of Deeds in terms of subsection (2) of section 54 of the Corporation Act shall be deemed to be a reference to a note in terms of subsection (1) of section *sixty-one*.

(3) If any dispute arises as to whether any person has been benefited or has, by his acts or omissions, rendered the works necessary or where there is a failure to agree on the apportionment of the cost of works referred to in subsection (1), the matter shall be referred to the Board for decision:

Provided that, where any statutory body is a party to any such dispute, the matter shall be referred to the Minister for decision.

(4) As soon as possible after the works referred to in subsection (1) are completed, the conservation committee shall determine the cost thereof and serve a written demand for the payment thereof upon the owner, occupier or user referred to in that subsection stating the amount and the date when the amount will be due and payable.

(5) Where a written demand of the amount due by a person has been served in terms of subsection (4)—

- (a) the amount shall be a debt due and payable by that person to the conservation committee on the date stated in terms of that subsection; and
- (b) if the debt is due by an owner of land which, in terms of subsection (2), is liable to be hypothecated in respect of the cost of the works referred to in subsection (1) and is not discharged on the date stated in terms of subsection (4), the conservation committee may invoke section *sixty-one*; and
- (c) from the date stated in terms of subsection (4) until the debt referred to in paragraph (a) is discharged by the person concerned, interest shall be paid thereon at the rate fixed in terms of section *forty-one*.

41 Fixing of interest rate

Interest on any debt under this Act shall be fixed by the Minister after consultation with the Corporation.

42 Loans to conservation committees

(1) The Minister, on the recommendation of the Board, may, from moneys appropriated for the purpose by Act of Parliament, make loans, subsidies or grants-in-aid to a conservation committee or to two or more conservation committees to enable it or them to construct such works or to undertake such measures as it or they may deem necessary to carry out its or their functions under this Act.

(2) The repayment of loans may be made by annual instalments on such scale as may be arranged, spread over a period of years sufficient to redeem the loan and cover the interest charges at the rate fixed in terms of section *forty-one*.

(3) The number of instalments shall not exceed thirty, but the period of redemption may be fixed to begin from a date not later than three years from the time at which the works have been completed.

43 Power of conservation committee to impose taxes

(1) Subject to this section, a conservation committee may for each calendar year, with the approval of the Board, impose and assess a tax upon every person who, at any time during the three months immediately preceding a date to be fixed by the conservation committee, was the holder of more than twenty hectares of land within the area of the conservation committee or such part of that area as may be specified by the conservation committee.

(2) A tax may be imposed and assessed in terms of subsection (1) for the purposes of defraying expenditure incurred in carrying out works and other measures for the general benefit of the area or part of the area of the conservation committee, including the establishment of fire-guards, the payment of fire rangers, the control of pests and the payment of the expenses of the members of the conservation committee incurred by them in connection with their duties as members.

(3) A tax shall not be imposed and assessed in terms of subsection (1) unless it has been approved by a resolution passed by two-thirds of those holders of land present at a meeting convened in terms of subsection (4).

(4) A conservation committee shall convene, for the purpose of considering the proposed tax, a meeting of holders of land upon whom it is proposed that the tax be imposed and assessed in terms of subsection (1) and shall give not less than fourteen days' notice of the time and place of such meeting by advertisement in a newspaper

circulating in its area and shall give verbal or written notice of the time and place of such meeting to every such holder of land whose address is known to such committee.

(5) The notice referred to in subsection (4) shall set out the proposed amount of the unit of the tax to be imposed.

(6) At any meeting convened in terms of subsection (4), those members of the conservation committee who are holders of land referred to in that subsection shall be entitled to vote on any resolution at such meeting.

(7) Every such tax shall be imposed, assessed and graduated in accordance with the Schedule, and shall become due and payable upon a date fixed by the conservation committee.

(8) If any tax imposed under this section remains unpaid after three months from the date fixed by the conservation committee for the payment thereof, interest upon such tax may, in the discretion of the conservation committee, be charged and recovered by such committee at the rate fixed in terms of section *forty-one*, reckoned from the date upon which such period of three months expires, with a minimum charge of one month's interest.

44 Position upon division of intensive conservation area

(1) Whenever an intensive conservation area is divided into two or more intensive conservation areas in consequence of the exercise by the Minister of the powers conferred upon him by paragraph (f) of subsection (2) of section *thirty-five* or whenever any portion of an intensive conservation area is severed and declared to be a separate intensive conservation area or is joined to another intensive conservation area in consequence of the exercise by the Minister of the powers conferred upon him by paragraph (e) of subsection (2), the assets and liabilities of the conservation committee appointed for the intensive conservation area which is divided or from which the portion is severed, as the case may be, shall be apportioned among the conservation committees concerned in such manner and in such proportions as may be mutually agreed upon by such committees or, failing such agreement, as may be determined by the Board.

(2) Whenever two or more intensive conservation areas are joined in consequence of the exercise by the Minister of the powers conferred upon him by paragraph (d) of subsection (2) of section *thirty-five*, the conservation committees appointed for such areas shall be deemed to be dissolved and all the assets and liabilities of such committees shall be transferred to and vest in the committee appointed in their place.

(3) Whenever the declaration of an area as an intensive conservation area is cancelled in consequence of the exercise by the Minister of the powers conferred upon him by paragraph (g) of subsection (2) of section *thirty-five*, the conservation committee appointed for such area shall be dissolved and all moneys or other assets or property or things whatsoever, and all books, accounts or other documents belonging to such committee shall be vested in such person as may be appointed for that purpose by the Minister (hereinafter called the liquidator), and the liquidator shall liquidate all valid claims against the committee out of the moneys or other assets of the committee.

(4) If the moneys or other assets referred to in subsection (3) prove to be—

(a) less than the amount required to liquidate all valid claims which may be brought against the committee, the liquidator may, in order to make good the deficiency, levy a rate assessed in such manner as may

be approved by the Board upon all holders of land within the committee's area, and such rate shall become due on such date as may be determined by the liquidator and may be recovered by him by proceedings in any court of competent jurisdiction;

(b) in excess of the amount required to liquidate all valid claims which may be brought against the committee, the liquidator shall dispose of such surplus in such manner as the Board may direct.

PART VI

CONSERVATION AND IMPROVEMENT OF NATURAL RESOURCES IN COMMUNAL LAND

45 Provisions for Communal Land

The provisions of this Part shall apply to Communal Land.

46 Protection of despoiled or deteriorated areas

(1) Where in any Communal Land any land has become despoiled or is deteriorating through over-grazing or other misuse, the Board may, with the approval of the Minister responsible for the administration of the Communal Land Act [*Chapter 20:04*] direct that the whole or part of such land be reserved against human occupation or cultivation, the depasturing of stock or the cutting down or destruction of trees and other vegetation.

(2) No reservation shall take place in terms of subsection (1) unless and until the Minister responsible for the administration of the Communal Land Act [*Chapter 20:04*] is satisfied that suitable provision has been made elsewhere for the inhabitants who would be affected by the reservation and such reservation shall be withdrawn when, in the opinion of the Board, its objects have been sufficiently accomplished.

(3) Land reserved in terms of this section shall be clearly demarcated and may, with a view to more effective regeneration, be fenced on the recommendation of the Board and the cost of such fencing shall be paid from moneys appropriated for the purpose by Act of Parliament.

(4) Any person committing an act in conflict with a reservation made in terms of subsection (1) or interfering with any demarcation or fencing carried out in terms of subsection (3) shall be guilty of an offence.

47 Destocking and limitation of stock

(1) Whenever the President is satisfied, on the report of the Board or of the Minister responsible for local government, that the natural resources in any Communal Land are being injured or are deteriorating through over-stocking by domestic animals, he may authorize the reduction of the number of such animals and prescribe the maximum number and class of such animals as may be depastured on a fixed unit of land.

(2) The Minister responsible for local government, before submitting any report to the President in terms of subsection (1), shall first submit such report to the Board for its report thereon.

(3) Destocking and limitation of stock in terms of this section shall be carried out in accordance with regulations.

48 Setting aside areas for protection of natural resources

(1) The President may, on the recommendation of the Board and with the approval of the Minister responsible for the administration of the Communal Land Act [*Chapter 20:04*] set aside areas in any Communal Land for the

conservation or improvement of natural resources or for the protection of irrigation works or sources of water supplies.

(2) No area shall be set aside in terms of subsection (1) unless and until the Minister responsible for the administration of the Communal Land Act [Chapter 20:04] is satisfied that suitable provision has been made elsewhere for the inhabitants who would be affected by the setting aside of such area.

49 Obligation to maintain conservation works

Where soil conservation works have been carried out for the common benefit of the inhabitants living in Communal Land, any such inhabitant enjoying the facilities furnished thereby who fails to maintain such portions of the works as afford direct protection to the land set aside for his use in a manner reasonably sufficient to ensure such protection shall be guilty of an offence.

50 Powers of Minister in respect of Communal Land preserved

Nothing in this Act contained shall derogate from the powers in respect of natural resources conferred by the Communal Land Forest Produce Act [Chapter 19:04] on the Minister to whom the administration of that Act has been assigned or the Secretary of the Ministry for which the Minister is responsible, or by the Rural District Councils Act [Chapter 29:13] on rural district councils. The advice and co-operation of the Board shall be available to the person or council exercising such powers.

PART VII

CONSTRUCTION OF WORKS IN COMMUNAL LAND FOR CONSERVATION OF NATURAL RESOURCES

51 Interpretation in Part VII

In this Part—

“expenditure” means the expenditure incurred by the Minister in respect of the wages and feeding of persons employed in the construction of works, but does not include the amount of any such expenditure which the Board certifies as being payable by any person in terms of any order made under section *twenty-seven*;

“works” means any works constructed or to be constructed in any Communal Land in terms of this Part.

52 Minister may construct works in Communal Land

(1) The Minister may, on the recommendation of the Board, construct in Communal Land any works which he may deem necessary or desirable for the conservation of the natural resources, including the control of water tables and the disposal of irrigation drainage water, of land outside such Communal Land or within such Communal Land.

(2) The cost of the construction of such works shall, in the first instance, be paid from moneys appropriated for the purpose by Act of Parliament.

(3) Section *twenty-seven* shall apply, *mutatis mutandis*, in respect of the apportionment and recovery of the cost of such works:

Provided that no order for the payment of costs shall be made under that section against an inhabitant.

53 Imposition of levy on inhabitants

(1) For the purpose of recovering the expenditure on any works, such Minister as the President may, by notice in a statutory instrument, designate, may, after consultation with the local authority, from time to time impose a levy on

such of the inhabitants as, in his opinion, may benefit from the construction of the works.

(2) The Minister may for good cause shown remit the whole or any part of the levy imposed upon any inhabitants.

(3) The proceeds of the levy shall be paid into the Consolidated Revenue Fund.

54 Recovery of levy

The amount of any levy imposed on any inhabitant shall be a debt due to the State and shall be recoverable by action in any court of competent jurisdiction.

55 Penalty for non-payment of levy

(1) Any inhabitant who fails to pay the amount of any levy imposed on him upon the demand of a local authority or any person authorized by the local authority to demand such amount shall be guilty of an offence and liable to a fine not exceeding twenty dollars or, in default of payment, to imprisonment for a period not exceeding thirty days.

(2) In addition to any penalty which it may inflict, the court convicting such inhabitant may, upon application by the prosecutor, give summary judgment for the amount of any levy due and unpaid by such inhabitant, and such judgment shall have the same force and effect and be executed in the same manner as if it had been given in a civil action duly instituted before a competent court.

56 Evidence

In any civil or criminal proceedings under this Act, a certificate alleging—

- (a) the amount of the levy due and payable by the defendant or the accused, as the case may be; and
- (b) that the defendant or accused failed to pay such levy on demand by a person named in the certificate;

shall, if issued by the local authority, be admissible in evidence in any court on production by any person and shall suffice as proof of any facts falling within the scope of paragraphs (a) and (b) unless sufficiently rebutted by other evidence or unless it is proved that it was not duly issued by the local authority.

PART VIII

GENERAL

57 Conservation councils

(1) The President may, by proclamation in a statutory instrument, for the area defined in such proclamation appoint a council, to be called a conservation council and the council shall be representative of the special interests of the said area.

(2) A conservation council shall confer with and advise the Board in regard to the conservation and improvement of natural resources within the area for which it is appointed.

58 Appointment of inspectors and conservation or other officers

(1) For the purposes of this Act—

- (a) the Minister may appoint such inspectors and other officers as he may consider necessary; and
- (b) the Minister responsible for agriculture may appoint such conservation officers as he may consider necessary.

(2) An inspector appointed in terms of subsection (1) shall, either on his own initiative or at the request of the Board, report to the Board on such matters as appear relevant to the objects and purposes of this Act and shall

carry out such other duties as may be assigned to him by the Minister.

59 Incidence and payment of costs incurred under sections 27 and 40

(1) No person who is an owner of land in terms of paragraph (b) of the definition of "owner" in section two shall be entitled to obtain title thereto unless and until he has paid any debt due by him under this Act or until he has consented in writing to a note being made under this Act in respect of such debt against the title deed to be issued in his favour.

(2) Whenever a person has, by agreement with the owner of any land, obtained the right or incurred the obligation to acquire such land at a fixed or ascertainable price or consideration, he shall be required on acquiring the land to pay to the owner, in addition to such price or consideration, any debt which, subsequent to the conclusion of such agreement, such owner has incurred and paid under this Act in respect of such land, and shall take over the liability of such owner for any outstanding balance of such debt.

(3) When any land in respect of which an owner has become liable for costs under section *twenty-seven, twenty-eight, thirty-one, thirty-two or forty* was, at the time such liability accrued, held by a person under an agreement for the payment of rent or other consideration, such person shall, during the continuance of such agreement, pay, in addition to the stipulated rent or other consideration, interest at the rate fixed in terms of section *forty-one* upon such sum as the owner is liable for in terms of the said section.

60 Inspector may make orders for conservation of natural resources

(1) If an inspector considers that such a course is immediately necessary for the conservation of, or the prevention of injury to, natural resources on any land, he may serve an order in writing on user or occupier of such land to undertake or adopt such measures as he may deem necessary for the conservation of natural resources on such land and the prevention of injury to natural resources on other land by the acts or omissions of such user or occupier.

(2) No order shall be made under subsection (1) in respect of land which is in the area of the local authority or conservation committee, except after consultation with that local authority or the chairman of that conservation committee, as the case may be.

(3) Any order made in terms of subsection (1) shall, subject to any variation by an inspector in terms of subsection (6) or by the Board in terms of subsection (11), be of full force and effect unless and until it is—

- (a) withdrawn by an inspector in terms of subsection (6); or
- (b) set aside by the Board in terms of subsection (11); or
- (c) superseded by the serving of an order in terms of subsection (2) of section *twenty-eight*.

(4) Such order may relate to—

- (a) the prohibition or restriction of cultivation of any land;
- (b) the control of water, including storm-water;
- (c) the prohibition or restriction, for the purpose of preventing soil erosion, of removal of vegetation.

(5) An order made under subsection (1) shall contain the conditions, if any, referred to in subsection (6) and shall clearly indicate the area of land to which the order relates.

(6) An order made in terms of subsection (1)—

- (a) shall be withdrawn by an inspector upon the satisfactory fulfilment of any conditions he may have imposed when making the order;
- (b) may, by notice served on the person concerned, be varied by an inspector.

(7) If any user or occupier of land fails or neglects to carry out any order made under subsection (1) within such reasonable time as may be fixed by the inspector or fails to comply with any of the conditions imposed in such order in terms of subsection (5), he shall be guilty of an offence. A conviction for a contravention of this section shall not be a bar to further prosecution or prosecutions for a continuation of the offence.

(8) An inspector shall, within seven days of the serving of an order made under subsection (1), forward a copy of such order, together with full information relating to the need for the order, to the Board and to the chairman of the conservation committee or local authority, as the case may be, referred to in subsection (2).

(9) Any person upon whom an order has been served may make representations to the Board within a period of thirty days of the serving of the order.

(10) Where any representations have been made in terms of subsection (9), the Board shall review the order within such period not exceeding sixty days of the serving of the order as it may consider reasonable having regard to all the circumstances.

(11) The Board may—

- (a) in reviewing an order in terms of subsection (10), confirm, vary or set aside the order; or
 - (b) where representations have not been made in terms of subsection (9), vary or set aside an order;
- and any order varied in terms of this subsection shall, for the purposes of subsection (7), be deemed to be made under subsection (1):

Provided that the Board may not make an order more onerous in terms of this subsection.

61 Hypothecation of land

(1) Where a debt due by the owner of land is not discharged as referred to in—

- (a) paragraph (b) of subsection (4) of section *thirty-two*; or
- (b) paragraph (b) of subsection (5) of section *forty*; the Minister shall, on the application in the prescribed manner of the applicant referred to in subsection (1) of section *thirty-two* or the conservation committee, as the case may be, direct the Registrar of Deeds to note, free of charge, the amount of the outstanding debt on the title deed of the land and the Registrar of Deeds shall make a note—
 - (i) on the relevant title deed filed in his office; and
 - (ii) if produced, on the relevant title deed of the owner; and
 - (iii) in the appropriate registers in the Deeds Registry.

(2) A note made in terms of subsection (1) shall constitute an hypothecation of the land concerned in favour of the applicant or the conservation committee, as the case may be, referred to in subsection (1) ranking from the date on which such note was made and for the amount stated in the direction given by the Minister in terms of that subsection.

(3) The debt referred to in subsection (1) shall be redeemed in instalments over such period, not exceeding thirty years, and on such terms as the Minister, after consultation with the Board, may determine:

Provided that—

- (i) at any time the debt may be redeemed entirely by the payment of an amount equal to the unredeemed portion of the debt after deduction therefrom of the amount representing any interest included therein for the unexpired part of the period of redemption;
- (ii) at the time of the payment of any instalment there may be paid any multiple thereof and thereafter the balance of the debt may be repaid by reduced equal instalments over the unexpired part of the period of redemption;
- (iii) the payment of instalments may be fixed to begin from a date not later than three years from the date of an order made in terms of section *thirty-two* or from the date of the completion of the works referred to in subsection (1) of section *forty*, as the case may be.

(4) If any instalment referred to in subsection (3) is in arrear for more than three months, the applicant or the conservation committee, as the case may be, referred to in subsection (1) may, subject to subsection (5), recover from the owner concerned the instalment due or the full amount which the owner would have to pay in terms of subsection (3) in order to redeem the debt entirely.

(5) Before taking legal proceedings for the recovery of the full amount which is owing in terms of subsection (4), the applicant or the conservation committee, as the case may be, referred to in subsection (1) shall, subject to subsection (6), give to the owner three months' notice in writing of his intention to take such proceedings.

(6) The notice referred to in subsection (5) shall be deemed to have been given to the owner concerned on the date of its dispatch if it is sent to the owner by registered post and is addressed to him at the property which is hypothecated in terms of subsection (2), whether he receives the notice or not.

(7) The Registrar of Deeds shall not pass transfer of any land hypothecated in terms of this section unless he receives—

- (a) a written request by the applicant or the conservation committee, as the case may be, referred to in subsection (1) for the cancellation of such hypothecation; or
- (b) a written agreement—
 - (i) signed by the transferee of the land concerned and the applicant or the conservation committee, as the case may be, referred to in subsection (1); and
 - (ii) stating that the balance of the debt referred to in subsection (1) shall remain and be registered as an hypothecation against such land after such transfer has been passed;

attested or authenticated in the same manner as provided for in respect of powers of attorney in terms of section 78 of the Deeds Registries Act [Chapter 20:05].

(8) Any charge upon land created in terms of this Act, other than a charge created or deemed to have been created in favour of the Corporation, and any terms fixed for the redemption of any such charge which are in force immediately before the 13th June, 1975, shall be deemed to have been created or fixed in terms of subsection (1) or (3), as the case may be, and the provisions of this section shall apply, *mutatis mutandis*, in respect thereof.

(9) In this section—

“debt” includes any interest which may, from time to time, be payable thereon.

62 Rights of entry

(1) Subject to the restrictions imposed by subsection (2), and to the extent necessary for exercising the powers conferred or performing the duties imposed by this Act upon them, the Minister, the Board, a conservation council, a conservation committee, a conservation officer, an inspector or other officers appointed in terms of subsection (1) of section *fifty-eight* shall by themselves or by persons authorized in writing by them have the right to enter upon any land or premises at all reasonable times with such men, animals, vehicles, appliances and instruments and to do all such acts thereon as are necessary for or incidental to the exercise of the aforesaid powers or the performance of the aforesaid duties.

(2) The exercise of the rights conferred by subsection (1) shall be subject to the following restrictions—

- (a) no person shall enter any building or any enclosed yard attached to a dwelling except with the consent of the occupant thereof;
- (b) as little damage as possible shall be caused to any land or premises by the exercise of such rights and compensation shall be paid for all damage so caused by the authority exercising such rights and the amount of compensation, if not mutually agreed upon, shall be determined by the Administrative Court;

Provided that paragraph (b) shall not apply where entry is made for the purposes of subsection (2) of section *sixty-six*.

(3) Any person who wilfully—

- (a) prevents entry upon any land as is authorized by this section; or
- (b) hinders or obstructs any person referred to in subsection (1) in the exercise of his powers or the performance of his duties under this Act; or
- (c) fails to answer, or gives any answer which he knows to be false or which he does not reasonably believe to be true to, any question put to him by any person referred to in subsection (1) in the exercise of his powers or the performance of his duties under this Act;

shall be guilty of an offence.

Provided that no person shall be required to answer any question put to him in terms of paragraph (c) if he would be entitled to decline to answer that question were he a witness giving evidence in a court of law.

63 Removal of soil or water conservation work and prohibition of injury thereof

(1) The Board may authorize the removal of any soil or water conservation work, other than an irrigation work as defined in the Water Act [Chapter 20:22] which is the subject of an order made by the Water Court in terms of that Act.

(2) Any person who, without the authority of the Board, injures any such soil or water conservation work shall be guilty of an offence.

64 Discharge of storm-water and compensation for damage

(1) Notwithstanding anything contained in the Water Act [Chapter 20:22], it shall be lawful for any owner of land by mutual agreement with any other person to construct on the land of such other person such drains and other works as may be necessary for the purpose of safely

leading to the public stream, in the catchment of which such owner's land is situated, storm-water which would naturally gather or impinge upon his land or which in terms of this section may be led on to his land:

Provided that it shall at any time be competent for the Board in terms of subsection (1) of section *twenty-eight* to order an owner referred to in this subsection to construct such works as it may deem necessary to prevent or repair damage to the bed, banks or course of a public stream or any source of public water or private water occasioned by action taken in terms of this subsection.

(2) Failing agreement in terms of subsection (1) an owner of land may refer the matter to the Board and the Board, after having regard to all the circumstances, may issue an order authorizing such owner to construct such drains and other works.

(3) If as a result of the construction of any drains or other works in terms of this section any person suffers damage to his property or otherwise or is compelled to expend any money, the owner of the land for whose benefit the drains or works were constructed shall pay reasonable compensation to the person aggrieved; and in the event of any dispute as to the cause of such damage or expense or the amount of compensation, the matter shall be referred to the Administrative Court.

65 Regulations

(1) The Minister, after consultation with the Board, may make regulations—

- (a) prescribing the method of election of members of conservation committees;
- (b) prescribing the particulars to be given in a petition for the declaration of an intensive conservation area;
- (c) prescribing matters which by this Act are required or are permitted to be prescribed;
- (d) for the destocking and limitation of the number of domestic animals in Communal Land;
- (e) prohibiting or restricting the cultivation or use of wet land, the banks of public streams or land adjacent to artificially conserved water;
- (f) providing for the preservation and protection of the bed, banks or course of any public stream and any source of public water or private water;
- (g) prohibiting the use or possession of sleighs and other vehicles the use of which, in his opinion, is excessively injurious to natural resources;
- (h) providing for the protection and maintenance of any works constructed or other measures carried out for the conservation of natural resources under this Act;
- (i) defining and altering areas in the whole or any part of Zimbabwe wherein it shall not be lawful—
 - (i) to graze or depasture cattle or other domestic animals or to permit or allow cattle or other domestic animals to graze or to be depastured;
 - (ii) to cut, fell, injure or destroy any vegetation whatsoever;

Provided that no regulation made under this paragraph shall come into operation until at least one month after it has been promulgated in a statutory instrument and published in a newspaper or newspapers circulating in the district affected thereby;

- (j) prohibiting or restricting the excavation or removal of clay, gravel or sand deposits, including any overburden or top-soil:

Provided that regulations referred to in this paragraph shall not interfere with or derogate from any right conferred by the Mines and Minerals Act [Chapter 21:05], the Roads Traffic Act [Chapter

13:11] or the Railways Act [13:09] or conflict with the provisions of any approved scheme, operative master plan or operative local plan as defined in the Regional, Town and Country Planning Act [Chapter 29:12];

- (k) empowering the Board, a conservation committee, an inspector or a conservation officer, where he is of the opinion that any cattle or other domestic animals are trespassing or straying on any land to the detriment of such land, to impound the cattle concerned or cause them to be impounded, and applying, with such modifications as may be necessary or expedient, the provisions of the Stock Trespass Act [Chapter 19:14] in respect of the impounding of any such animals;
- (l) defining the terms and conditions, including the indemnification of the State and the Board and the payment of charges, under which persons may inspect or be given a copy of a report made to the Minister in terms of section *fourteen*;
- (m) for the better carrying out of the objects and purposes of this Act.

(2) The Board may, upon application by the owner, occupier or user of any land and subject to such conditions as it may think fit to impose, declare that the provisions of all or any regulations made under paragraphs (d) to (m) of subsection (1) shall not apply to such land.

(3) Where any conditions imposed in terms of subsection (2) are not complied with, the Board may withdraw a declaration made in terms of that subsection.

(4) Any person who contravenes the provisions of any regulations made under this section or any conditions imposed by the Board in a declaration made in terms of subsection (2) shall be guilty of an offence.

66 Penalties

(1) Any person who is guilty of an offence under this Act shall be liable—

- (a) on a first conviction, to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment;
- (b) on a second or subsequent conviction, to a fine not exceeding two thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) If a person is convicted of cultivating land in contravention of this Act, the Board may—

- (a) order the person to remove or destroy, within such period as the Board may specify, any crops grown illegally by him on the land; or
- (b) cause any crops grown illegally by the person on the land to be reaped and delivered to such person as the Board may appoint.

(3) If a person convicted of cultivating land in contravention of the provisions of this Act does not comply with an order referred to in paragraph (a) of subsection (2), the Board may cause the crops grown illegally by him on the land to be—

- (a) removed or destroyed; or
- (b) reaped and delivered to such person as the Board may appoint;

and the costs reasonably incurred to be recovered from the person so convicted.

(4) Crops reaped in terms of paragraph (b) of subsection (2) or paragraph (b) of subsection (3) shall vest in and

become the property of the State without the payment of any compensation.

- exceeding four dollars which shall be the unit for the purposes of this Schedule.
- 2. Every holder of land in excess of twenty hectares shall be liable to pay the tax.
- 3. The amount of tax payable by a holder of land shall, subject to paragraph 2, be calculated in accordance with the following provisions—

SCHEDULE (Section 43)

IMPOSITION, ASSESSMENT AND GRADATION OF TAXES

1. The conservation committee shall fix an amount not

	<i>Per 400 hectares</i>
(a) in respect of the first 1200 hectares or part thereof.....	1 unit;
(b) in respect of the second 1200 hectares or part thereof.....	60% of a unit;
(c) in respect of the next 4 800 hectares or part thereof.....	40% of a unit;
(d) in respect of the next 4 800 hectares or part thereof.....	20% of a unit;
(e) in respect of any area in excess of 12000 hectares.....	10% of a unit.