

Soil and Watershed Conservation Act, 2039(1982)

Date of Authentication and Publication

2039.8.6 (21 November 1982)

Amending Act:

1. Forest Related Some Nepal Acts Amendment Act, 2048.12.30 (12 April 1992)
2048 (1992)
- *2. Strengthening Republic and Some Nepal Laws 2066.10.7 (24 Jan. 2010)
Amendment Act, 2066 (2010)

Act number 16 of the year 2039(1982)

An Act Made to Provide for Soil and Watershed Conservation

Preamble: Whereas, it is expedient to make legal provisions on the land and watershed conservation by controlling natural calamities such as flood, landslide and soil erosion and maintain convenience and economic interests of the general public;

Now, therefore, His Majesty King Birendra Bir Bikram Shah Dev has, on the advice and with the consent of the National Panchayat, enacted this Act.

1. **Short title and commencement:** (1) This Act may be called as the "Soil and Watershed Conservation, 2039 (1982)."

(2) This Act shall come into force immediately.

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:

- (a) "Conserved Watershed Area" means a protected watershed area declared under Section 3.

* The word "Kingdom of" has been deleted by this Amendment.

- (b) "Soil and Watershed Conservation" means acts to prevent or save any area from being destroyed from natural calamities such as flood, landslide and soil-erosion and keep the volume and flow of water in a normal condition or keep on maintaining cleanliness by preventing the flow of water from being muddy.
- (c) "Land use System" means a process of having a long-term use of a land by doing farming or other acts in such a manner as not to weaken or destroy or as to keep on the physical and chemical qualities maintaining the fertility of such land.
- (d) "Department" means the Soil and Watershed Conservation Department.
- (e) "Watershed Conservation Officer" means an officer appointed or designated pursuant to Section 19.
- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. Power to declare as conserved watershed area: (1) If Government of Nepal considers it necessary for the soil and watershed conservation, it may, by a Notification in the Nepal Gazette, declare any area of Nepal as a conserved watershed area, specifying the borders thereof.

(2) Government of Nepal may, by a Notification in the Nepal Gazette, alter as required the boundaries of a conserved watershed area declared pursuant to Sub-section (1).

4. Acts permitted to be carried out in conserved watershed area: The watershed conservation officer may carry out, or cause to be carried out, the following acts in any conserved watershed area for the conservation of soil and watershed:

- (a) To construct, look after and maintain a prevention or control dam, check dam, embankment, terrace improvement, ditch, feeder ditch or diversion

channel or drainage, retaining wall, pond or similar other necessary structure,

- (b) To arrange for trial plots and look after and maintain the same,
- (c) To carry out plantation, plant grasses, weeds or other vegetations, and look after, maintain and grow the same,
- (d) To conserve, look after, maintain and support the forests, weeds, grasses and other natural vegetations in the lands where landslide may occurs and in the sloppy lands,
- (e) To do crops and fruits farming,
- (f) To maintain the soil fertility and the cleanliness of water and environmental in a balanced manner,
- (g) To make electrification in the concerned places,
- (h) To carry out such other soil and watershed conservation related acts as prescribed by Government of Nepal.

5. **Classification of lands within conserved watershed area:** The watershed conservation officer may classify, as prescribed, the lands within any conserved watershed area for the purposes of Section 4.

6. **Farming to be done by following land use system:** (1) The watershed conservation officer may require the farming of any crops or fruits and plantation of trees, plants or grasses or performance of any other acts by following the land use system in any land prescribed within any conserved watershed area.

(2) If any land prescribed pursuant to Sub-section (1) is a privately owned land, the concerned landowner or tenant has to carry out such acts in his/her land by following the land use system.

(3) The Department shall provide technical knowledge and service to the landowner or tenant to carry out acts by following the land use system pursuant to Sub-section (2) and shall provide necessary financial assistance as prescribed.

(4) If a tenant is to be evicted from any land by virtue of the requirement to carry out any act by following the land use system pursuant to Sub-section (1), Government of Nepal shall provide compensation to such tenant. If the concerned landowner intends to convey his/her ownership of the land where any act is required to be carried out by following the land use to Government of Nepal in exchange for compensation, such landowner may convey ownership. In providing compensation to the landowner who so conveys ownership and the tenant, the prevailing market rate shall be taken into consideration.

7. **Provision of technical knowledge and service and financial assistance:** If any person intends to carry out acts as referred to in Clause (a) of Section 4 in a land under his/her private ownership, the Department shall provide to such person necessary technical knowledge and service as well as financial assistance as prescribed so as to carry out such acts.
8. **Provision of compensation:** If the watershed conservation officer carries out the acts as referred to in Clause (a) or (b) of Section 4 in a land privately owned by any person, the watershed conservation officer shall, in consultation with the concerned Village Development Committee or Municipality,⁷ and also taking into consideration of the prevailing rate, provide compensation to the concerned landowner for having carried out these acts in such land.
9. **Making trial:** (1) In making arrangement of any trial plot under clause (b) of Section 4, the watershed conservation officer may make such trial by planting and growing any crops, fruits, trees, plants, grasses or similar other vegetations.

⁷ Amended by the Act Amending Some Nepal Acts relating to Forests, 2048(1992).

(2) No person shall destroy in any way the crops, fruits, trees, plants, grasses or similar other vegetations planted in the trial plot as referred to in Sub-section (1).

10. Prohibited acts in land vulnerable or likely to be vulnerable to natural

calamity: Notwithstanding anything contained in the prevailing law, no person shall, without permission of the watershed conservation officer, carry out any of the following acts in such land, out of the lands within a conserved watershed area, as specified by the watershed conservation office as a land that is vulnerable or likely to be vulnerable to floods or landslide or soil-erosion or soil-cutting:

- (a) To block or collect in any way the water of any stream, canal, rill, lake or reservoir or ground water or divert the blocked or collected water elsewhere or return the same through a ditch, diversion channel, drainage or in any other manner or use such water in any work by so blocking, collecting, diverting, returning or otherwise,
- (b) To cut or otherwise destroy any such trees, plants or other forest products as that person may deal with according to his/her will pursuant to the prevailing law relating to forests,
- (c) To cut or otherwise destroy any existing forests, trees, plants, weeds, grasses or other natural vegetations,
- (d) To carry out any act causing the collection or dumping of stone, sand mud, etc. or any act causing the collected or dumped stone, sand, mud etc. to be swept away,
- (e) To dig, excavate or take away stone, sand or other kind of soil,
- (f) To throw away solid wastes or similar other detritus contaminating the environment or build a site for collecting or keeping such solid wastes or detritus.
- (g) To establish an industry, business or settlement of habitation,

(h) To carry, keep or graze cows, buffaloes, sheep, goats, chicken and similar other domestic animals and birds.

11. Powers to shift industry, business and settlement of habitation: (1) If Government of Nepal considers it necessary, for soil and watershed conservation acts, to shift elsewhere any industry, business and settlement of habitation existing in a land within a conserved watershed area or to acquire the land where such industry, business and settlement of habitation is situated, Government of Nepal may shift elsewhere such industry, business and settlement of habitation or acquire the land where such industry, business and settlement of habitation is situated pursuant to the prevailing law related with land acquisition.

(2) Government of Nepal shall provide reasonable compensation to the concerned person for any loss and damage caused to that person from shifting elsewhere any industry or settlement of habitation pursuant to Sub-section (1).

12. Powers to enter: (1) The Watershed Conservation Officer or any employee designated by him/her may at any time enter the land within a conserved watershed area in order to carry out any acts mentioned in Section 4 or inspect or look after and maintain such acts.

(2) No person shall cause any obstacle or hindrance in making entry pursuant to sub-section (1).

13. Power to prohibit: The Watershed Conservation Officer may prohibit the commission of any acts that may cause soil-erosion or soil cutting in a land where any of the acts has been done under Section 4 and in vicinity of such land.

14. Power to acquire land: If Government of Nepal intends to acquire any privately owned land for the soil and watershed conservation, it may acquire such land pursuant to the prevailing land relating to land acquisition.

15. National resources conservation commission: (1) Government of Nepal shall, by a Notification in the Nepal Gazette, form a national resources conservation

commission to render advices and opinions to Government of Nepal in matters pertaining to soil and watershed conservation.

(2) The functions, duties and powers of the national resources conservation commission formed pursuant to Sub-section (1) shall be as prescribed.

16. District soil and watershed conservation committee: (1) Government of Nepal may, by a Notification in the Nepal Gazette, form a district soil and watershed conservation committee in order to coordinate the implementation of activities pertaining to soil and watershed conservation in the district.

(2) The functions, duties and powers of the district soil and watershed conservation committee formed pursuant to Sub-section (1) shall be as prescribed.

17. Prohibition on destroying, damaging, deforming or altering: No person shall destroy, damage, deform or alter any act carried out in a conserved watershed area pursuant to Section 4.

18. District soil and watershed conservation committee to be consulted: The Watershed Conservation Officer shall, in classifying the land within the conserved watershed area pursuant to Section 5 or causing any act to be done in such land by following the land use system pursuant to Sub-section (1) of Section 6, consult the district soil and watershed conservation committee.

19. Appointment of Watershed Conservation Officer: Government of Nepal may, for the purposes of this Act, appoint Watershed Conservation Officers, as required. Where Watershed Conservation Officers are not so appointed, Government of Nepal may designate any other officers to perform the function of those Officers.

20. Power to take possession: If any person commits any act in contravention of this Act and the Rules framed under this Act, the Watershed Conservation Officer may take possession of the tools, four-footed animals, motor vehicles and other goods used in the course of commission of such act.

Provided that, in the case of a four-footed animal, such animal may be handed over to its owner by collecting a deposit from the owner; and if the owner does not intend to pay such deposit, the Watershed Conservation Officer may auction such animal.

21. Punishment: (1) A person who commits any act in violation of Sub-section (2) of Section 6 or Sub-section (2) of Section 12 shall be punished with imprisonment for a term not exceeding two months or with a fine not exceeding five hundred rupees or with both.

(2) A person who commits any act in violation of Section 10 shall be punished with imprisonment for a term not exceeding Three months or with a fine not exceeding Five Hundred Rupees or with both.

(3) A person who commits any act in violation of Section 17 shall be punished with imprisonment for a term not exceeding One year or with a fine not exceeding One Thousand rupees or with both, and the amount in controversy for loss and damage shall also be recovered from such person.

(4) A person who commits any act in violation of the other Sections of this Act or the Rules framed under this Act shall be punished with imprisonment for a term not exceeding Three months or with a fine not exceeding Five Hundred Rupees or with both.

(5) Any tools, four-footed animals, motor vehicles and other goods related with any offense punishable under this Act shall be confiscated.

22. Government to be the plaintiff: Government of Nepal shall be the plaintiff in a case to be registered under this Act.

23. Investigation of cases: (1) The Watershed Conservation Officer shall investigate a case related with any offense punishable under this Act.

(2) In investigating a case pursuant to Sub-section (1), the Watershed Conservation Officer may consult the government attorney.

24. **Not to prevent Government of Nepal from using and distributing water resources:** Nothing contained in this Act shall be deemed to have prevented Government of Nepal from developing any water resources on its own.
25. **Powers to frame Rules:** Government of Nepal may frame necessary Rules carry out the objectives of this Act.

NEPAL LAW COMMISSION