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SOIL AND WATER CONSERVATION LAW

COUNCIL OF AGRICULTURE
AND
THE CHINESE SOIL AND WATER CONSERVATION SOCIETY
1995

SOIL AND WATER CONSERVATION LAW

Passed by the Legislative Yuan after the Third Reading on May 12, 1994.

Promulgated by President Order No. 2845, May 27, 1994.

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Part I - GENERAL PRINCIPLES

Article 1 Legislative Purpose and Scope

The purpose of this law is to carry out soil and water conservation, preserve soil and water resources, reduce disasters, promote the rational and proper use of land and benefit all citizens.

Article 2 Responsible Agencies

The responsible agencies as designated by this law are the Council of Agriculture at the central government level, the Provincial and Municipal Governments at the intermediate level; and Country and City Governments at the local level.

Article 3 Definition of Terms

Terms used in this law are defined as follows:

1. Soil and Water Conservation:
The application of engineering, agronomic or plant technology to conserve soil and water resources, preserve the ecological landscape, and prevent disasters resulting from erosion, landslides, and debris flows.
2. Soil and Water Conservation Project:
A project for carrying out soil and water conservation measures.
3. Slopeland:
Public and private lands, including national forests, experimental forest land, and protection forest, that are delimited by the responsible agencies with the approval of the Executive Yuan, based on physiography, administrative boundaries, or need of use and conservation and that meet one, or both, of the following conditions:
 - (1) Elevation of more than 100 meters.
 - (2) Elevation of less than 100 meters but with a slope greater than 5%
4. Watershed Area:
The total area above a given point on a stream that contributes to the water flow at that point.
5. Designated Soil and Water Conservation Area:
An area that has been designated by the responsible central or provincial agency as having a compelling need for the implementation of soil and water conservation.
6. Reservoir watershed:
An area from which the rivers flow into a reservoir or an area above the intake of an off-channel reservoir.
7. Protected Zone:
Within a designated soil and water conservation area the land not suitable for farming is set aside for reforestation with approved tree species, natural forest growth, or approved vegetation cover.

8. Protection Forest:
A forest designated for protection under the Forest Law.

Article 4 People Responsible for Soil and Water Conservation

Under this law public or private land's when in use should be treated with ad water conservation measures. The owners, lessees, or developers responsible for soil and water conservation measures are called i-oo ren (see translator's note¹).

Article 5 Authorization for Supervision and Management

The central or provincial (municipal) responsible agency, when necessary, will appoint either a relevant government department, or a government or private corporation to supervise and manage the implementation of the soil and water conservation aspects for a dam, a community, or a large scale engineering project.

Article 6 Endorsement of Soil and Water Conservation Projects

The technical aspects of all soil and water conservation projects, whether a private or public project, will be endorsed by a qualified person. This person must be certified and registered by an agency of the Central Government.

Article 7 Soil and Water Conservation Education, Publicity and Research

The responsible agency of the central government must strengthen soil and water conservation education and publicity, extension and research and will coordinate with other relevant agencies when designing and implementing educational, extension and research programs.

PART II – SOIL AND WATER CONSERVATION IN GENERAL AREAS

Article 8 General Scope of Soil and Water Conservation

Soil and water conservation measures for the protection, management, and use of the following must be planed, designed and applied in accordance with technical standards:

1. Watershed protection.
2. Development of grazing areas, farms, forests, fisheries.
3. Mine exploration, mining, digging of wells, removal of gravel, or establishment of related facilities.
4. Construction and repairs of railroad tracks, public or private roads, canals or ditches.
5. On slopeland or in forest areas: the erection of buildings, parks, tombs, recreation areas, athletic facilities, or military training camps, or when piling rocks, disposing of waste, excavation or land preparation.
6. Prevention of erosion and landslides on coasts, the riparian zones around lakes and dams and on the banks of waterways.
7. Protection of deserts, beaches, sand dunes, and windward areas against wind damage, wind erosion and other damage.
8. Care of city-planned protection areas.
9. Carrying out of soil and water conservation projects designed to protect soil and water resources and their quality, and to prevent disasters.

The technical standards for uses listed above will be formulated by the responsible agency of the central government.

Article 9 Protection of Watershed Areas for Rivers

¹ This word has a specific meaning in Chinese which has no equivalent in English. In this case it refers to the "person responsible" for the implementation of the soil and water conservation measures for a parcel of land.

The responsible agency and related government departments involved with the project will work together to implement a plan to protect watershed areas, focusing on soil and water conservation and proper use. The agency and departments will develop medium-range and long-range plans.

After the plans are approved by the responsible agency of the central government, each agency, department or i-oo ren will carry out the aims as designated within the plan.

Watershed areas of rivers will be designated jointly by the responsible agency and related agencies of the central government.

Article 10 Items to be Coordinated for Agricultural Use

When slopeland is used for farming or grazing, its soil and water conservation plan must be coordinated with the watershed protection plan and/or the farming and grazing development area plan. This work must be carried out by the i-oo ren for the land being used.

Article 11 Soil and Water Conservation in Forest Areas

Soil and water conservation in national and other public forest areas will be planned and carried out by the agencies responsible for the management of those forest areas. Soil and water conservation in private forest areas will be carried by i-oo ren for the forest, under the guidance of the relevant government forest agency.

Article 12 Soil and Water Conservation Projects for Non-agricultural Uses

Development, management, or use of areas listed in Article 8, Items 3 and 4, as well as the building of access roads, excavation, land preparation or land shaping on slopeland or in forest areas, in connection with agriculture, forestry, fisheries, or grazing cannot be undertaken until the i-oo ren for the area submits a soil and water conservation plan to the agency responsible for soil and water conservation in that area.

The plan must be approved by the agency and must include an environmental impact statement if one is required by the agency. Before the soil and water conservation plan is approved by the agency, related government departments cannot independently give permission to develop or use the areas.

The soil and water conservation plan must be carried out by the i-oo ren for the land in question and supervised by the responsible agency and related government departments. The dissemination of the contents of the plan, the procedures for a review of the plan and follow-up inspections of the plan's implementation will be designed and carried out by the responsible agency and related government departments.

**Article 13 Soil and Water Conservation Projects for Non-agricultural Uses
(continued)**

Development, management, or use of areas listed in Article 8, Items 5, as well as the building of access roads, excavation, land preparation or land shaping on slopeland or in forest areas, in connection with agriculture, forestry, fisheries, or grazing cannot be undertaken until the i-oo ren for the area submits a soil and water conservation plan to the agency responsible for soil and water conservation in that area.

The plan must be approved by the agency and must include an environmental impact statement if one is required by the agency. Before the soil and water conservation plan is approved by the agency, related government departments cannot independently give permission to develop or use the areas.

The soil and water conservation plan must be carried out by i-oo ren for the land in question and supervised by the responsible agency and related government departments. The dissemination of the contents of the plan, the procedures for a review of the plan and follow-up inspections of the

plan's implementation will be designed and carried out by the responsible agency and related government departments.

Article 14 Soil and Water Conservation in National Parks

If soil and water conservation projects are to be carried out in a national park, the i-oo ren must submit a soil and water conservation plan to the government department responsible for soil and water conservation in that area. Both the agency and the national park management department must approve it, and the plan must be carried out under the supervision of both bodies.

Article 15 Soil and Water Conservation Cost Sharing

When slopeland is suitable for agriculture or grazing, if the i-oo ren is not the owner of the land, that person must still carry out the soil and water conservation plan according the regulations of the responsible agency. Once the implementation of the plan is certified as meeting soil and water conservation technical standards, the i-oo ren will, by written notice, inform the owner of the management fee, government subsidy, and the rate paid by the i-oo ren.

When the land is returned to the owner, the owner must compensate the i-oo ren, the compensation being based on the current value of the land minus the subsidies paid to the responsible person by the government. However, if costs associated with soil and water conservation work are covered under regulations not listed in this law, or if the i-oo ren and the owner have an agreement regarding the sharing of costs, then this article will not apply. In situations where disputes arise over cost sharing, then these disputes will be mediated by the responsible agencies of the municipal, county, or city government.

PART III – DESIGNATED SOIL AND WATER CONSERVATION ZONES

Article 16 Designated Soil and Water Conservation Zones

The following areas are hereby designated as soil and water conservation zones:

1. Reservoir watershed areas.
2. Watershed areas located in river basins rivers that need special protection.
3. Sea shores, lake shores, and the banks of waterways that need special protection.
4. Sand dune areas, beaches, and other areas that are especially susceptible to wind erosion.
5. Slopeland areas in which the slopes are steep enough to pose a threat to public safety.
6. Other areas that seriously affect soil and water conservation.

The areas mentioned above have to be managed by departments created or assigned by the central, provincial, or city government.

Article 17 Delimitation of Soil and Water Conservation Zones

Designated soil and water conservation zones that cross the boundaries of a province or municipality will be delimited by the responsible agency of the central government, which will also announce the delimitation.

Within a province, municipality, or executive area, the provincial or municipal responsible agency will delimit the zone and such delimitation will be announced by the responsible agency of the central government after the agency approves the delimitation.

The standards to be followed in delimiting the above areas will be established by the responsible agency of the central government.

Article 18 Approval of Plans for Designated Soil and Water Conservation Zones

The responsible agency must have a long-term soil and water conservation plan for the area. Every five years, the agency must review and revise the plan based on current conditions. If there is a

need to change the plan, the responsible agency will, through official channels, submit the planned change to the central government for approval.

Article 19 Designated Soil and Water Conservation Zones – Areas of Focus

The areas of focus of long-term soil and water conservation plans for designated soil and water conservation zones are as follows:

1. Reservoir and watershed areas:
Conservation of water resources, prevention of erosion, landslides, and debris flows, improvement of water quality, and preservation of the natural ecology.
2. Watershed areas in major river basins:
Preservation of soil and water resources, prevention and control of erosion and landslides, prevention of floods, and preservation of the natural ecology.
3. Sea shores, lake shores, and the banks of waterways:
Prevention of landslides and erosion, preservation of the natural ecology, and protection of adjacent land.
4. Sand dunes and beaches
Erosion control and sand stabilization
5. Other areas:
Designated by the responsible agencies as required by the following conditions:

No development activity will be allowed in any of the designated soil and water conservation zones, except major water resources project or natural recreation area within a limited extent of change in landscape and approved environmental impact statement by responsible agency of the central government.

The criteria for defining the limited extent of change in landscape will be designed by the responsible agency of the central government and related agencies.

Article 20 Reservoir Buffer Zones

In defining a buffer zone above a reservoir, an imaginary line will be drawn from top storage level for 30-50 meters. All land vertically above this line will be set aside as a buffer zone.

The reservoir Watershed Management Agency will decide on the length of the imaginary horizontal line. No activities will be allowed in the buffer zone.

Other special soil and water conservation zones must, as needed, be reported by the municipal or city to the responsible agency of the central government for approval of the establishment of such zones.

If protection zones include private land, the government will appropriate the land and compensate the owner. If the land is public land, it will be set aside as a protection zone, and if the land has already been rented out, the government will retake possession of this land.

If the area within above a buffer zone is forest land, the land must be designated as a protection forest according to the Forest Law.

Article 21 Reservoir Buffer Zones – Limits and Compensation

If the lands mentioned in the reservoir buffer zones in the preceding article are not retaken by the government, the responsible agency must restrict the users of the land in the management and protection techniques.

If the reservoir buffer zone is forest land, the land must be designated as a protection forest according to the Forest Law.

Owners of private land, or building on private land, are entitled to compensation from the government, the compensation being based on the fair market value of the land or buildings appropriated.

Procedures for fixing compensation amounts will be promulgated by the responsible agency of the central government, and the procedures will be filed with the Legislative Yuan.

PART IV - SUPERVISION AND MANAGEMENT

Article 22 Dealing with Illegal Agricultural Uses

If the use of slopeland is not within the prescribed limits for slopeland use, or if the development of farms, forests, fisheries, or grazing areas on slopeland is in violation of the regulations listed in Article 10, or if soil and water conservation is not carried out according to soil and water conservation technical standards, the municipal or city responsible agency, in coordination with related government departments, will notify the person responsible for the land that the regulations are being violated and that changes are necessary.

If the responsible person fails to carry out the changes required to comply with the soil and water conservation technical standards, government departments must be notified and must deal with the situation according to the following regulations:

1. For public land that is rented, leased, or for which cultivation rights have been registered, the rental contracts, leases, or cultivation rights will be stopped or cancelled, and the government will reclaim the land and manage it accordingly. For land that was leased, any money that was paid by the owner will not be returned.
2. Leased land or land set aside for public use must be retaken by the original owner or the management agency.
3. All development on private land will be stopped.

All improvements, including crops and buildings, on land listed in the preceding three items will be cleared or otherwise dealt with by the tenant or owner of the land within a certain time. If the tenant or owner fails to do so, then the responsible agency will coordinate with the government department to clear the land. Rented land in national or public forests will be dealt with in accordance to the Forest Law.

Article 23 Dealing with Illegal Non-agricultural Uses

If the soil and water conservation plan carried out is not in accordance with Article 12, or 13, or 14, in addition to the penalties stipulated in Article 33, the responsible agency and government departments will jointly notify the tenant or owner to improve the situation within a special time. If the improvement is not carried out within the given time or if the improvement is not satisfactory, then the agency will notify the responsible person that all further work on the land must be stopped, will order the responsible person to destroy any construction that has not been completed, and will cancel permission to proceed with construction. Any construction that has been completed cannot be used.

If the responsible person fails to submit a soil and water conservation plan to the responsible agency for approval according to Article 12, or 13, or 14, the responsible person will be assessed two different penalties. The first penalty is stipulated in Article 33. In addition to the penalty stipulated in Article 33, the responsible agency will require that all work on the land be stopped, seize all facilities and equipment, destroy all building that have already been started or completed, and clear the area of all related materials. The costs for such seizure, destruction, and clearing the land will be borne by the tenant or owner, who, for a two-year period after the penalties are first imposed, may not apply for permission to develop the land.

For roads and facilities already completed, the penalties listed in the preceding two paragraphs still apply.

Article 24 Soil and Water Conservation Deposits

Whoever undertakes development, management, or use of land listed in Article 8, Items 3–5, must pay a soil and water conservation deposit. The procedures and safeguards will be planned by the responsible agency of the central government and government departments.

If the soil and water conservation plan is carried out and is certified as having met soil and water conservation technical standards, the soil and water conservation deposit will be returned to the person who paid it.

If any of the conditions mentioned in Article 22 or Article 23 exist, the responsible person must improve the situation within a specified time period. If the responsible person fails to do so, or the soil and water conservation plan is carried out but fails to meet soil and water conservation technical standards, then the responsible agency and the related agencies will carry out the soil and water conservation plan. The costs of implementation of the plan will either be charged to the responsible person or will result in the forfeiture of the deposit.

Article 25 Appropriation of Land

When public land is in need of soil and water conservation, the responsible agency will appropriate the land. If the land is private land, the responsible agency must appropriate the land according to the law. Emergency appropriations can be carried out immediately if such appropriation is reported to and approved by the Executive Yuan.

Article 26 Emergency Soil and Water Conservation

When carrying out emergency soil and water conservation for public safety, the local responsible agency can directly appropriate the materials, workers and land necessary for the operation and can remove all obstacles in carrying it out.

The owners of the materials and land appropriated and the owners of anything that is destroyed when carrying out the emergency conservation project are entitled to compensation from the responsible agency, the compensation being based on current conditions. Workers are entitled to be paid. If there is a different of opinions regarding the amount of compensation, the local responsible agency must report this to a higher responsible agency, which will mediate any disputes.

Article 27 Exercise of Police Powers

If the responsible agency is implementing emergency management or assessing penalties in soil and water conservation areas designated by this law, the responsible agency can exercise police powers. If necessary, the responsible agency can request assistance from military or police agencies in the local area.

PART V - BUDGET AND FUNDING

Article 28 Overall Budget for Soil and Water Conservation

All responsible and related agencies at all levels must make budget projections annually. The budget is for education, extension, publicity and research in soil and water conservation.

Article 29 Budget for Soil and Water Conservation for Dams and Waterway Projects

When building dams, railways, public roads, or drains, the total budget must include money needed for watershed management or soil and water conservation related to building roads.

Article 30 Budget Item for Soil and Water Conservation

The government must include the following items when budgeting for soil and water conservation:

1. Comprehensive financing of soil and water conservation
2. Funds for emergency soil and water conservation projects
3. Assistance needed for investigation, research, and improvement of technology
4. Funds to promote international exchanges and cooperation
5. Other items related to soil and water conservation

PART VI - INCENTIVES

Article 31 Relief of Losses

If any of the following situations occur, the responsible agency must provide relief according to the situation:

1. Losses suffered when soil and water conservation is promoted due to public safety
2. Losses suffered due to exchange of land or forced relocation
3. Injuries or deaths resulting from carrying out emergency soil and water conservation plans as listed in article 26

PART VII - PENALTIES

Article 32 Penalties for Illegal Occupation of Land

Engaging in any development, management, or use of public or private slopeland, national or public forest areas, or private forest areas without permission, as listed in Article 8, Items 2-5, that causes soil and water losses or damages soil and water conservation facilities in punishable by a jail term of not less than six months and not more five years with a fine of six hundred thousand New Taiwan Dollars. However, if the offense is not serious and is forgivable, the jail term may be reduced or omitted.

If any of the illegal activities mentioned in the preceding paragraph cause a disaster, the jail term will be increased by 50%. If any of said illegal activities result in death, the jail term for the offense is to be not less than five years and not more than twelve years, and the fine cannot exceed one million New Taiwan Dollars. If said illegal activity results in serious injuries, the penalty is a jail term of not more than three years and not less than ten years, with a fine of not more than eight hundred thousand New Taiwan Dollars.

If the illegal activities mentioned in the first paragraph of this Article are carried out mistakenly, the penalty is a jail term of not more than one year and a fine of not more than six hundred thousand New Taiwan Dollars. Any attempt to commit any of the illegal activities listed in the first paragraph of this Article are punishable as if the offense had been committed. The crops, tools, materials, and equipment used in the commission of any of the illegal activities listed in the first paragraph of this Article will be confiscated.

Article 33 Penalties for Illegal Activities

Anyone found guilty of any the following will be fined not less than sixty thousand New Taiwan Dollars and not more than three hundred thousand New Taiwan Dollars:

1. Carrying out a soil and water conservation plan in which the technical standards are not in accordance with the technical standards listed in Article 8, Section 1, or failing to correct, within a certain time period, deficiencies in a soil and water conservation plan, or failing to carry out a suitable soil and water conservation plan as listed in Article 22, section 1.
2. Failing to submit a soil and water conservation plan, or failing to carry out soil and water conservation according to the approved plan as listed in Article 12 or 13 or 14, or failing to correct technical deficiencies within a specified time, or carrying out a soil and water conservation plan in which the technical standards are not suitable as listed in Article 23.

In any case, if deficiencies are not corrected or if the corrected work still fails to meet technical standards, the violator will be fined until deficiencies are corrected. In addition, new development work must be stopped. If the violation continues then all facilities and equipment will be confiscated, the land will be cleared of all equipment, and all buildings must be destroyed, the cost of doing so to be borne by the manager, user, or owner of the land.

If a violation of Item 2 above results in soil and water losses or damages soil and water conservation facilities, the penalty will be a jail term of not less than six months and not more than five years, with a fine of not more than eight hundred thousand New Taiwan dollars. If such a violation results in serious injuries, the penalty will be a jail term of not less than one year and not more than seven years, with a fine of not more than six hundred thousand New Taiwan Dollars.

Article 34 Joint Penalties

If a business's operation violate Article 33, Section 3, in addition to penalties imposed on the violator, the government or private corporation who employs the violator will be subject to the same penalties imposed on the violator, the government or private corporation who employs the violator will be subject to the same penalties.

Article 35 Agencies Responsible for Imposing Fines

The fines listed in this law will be imposed by the responsible agencies of the municipality, county, or city government.

Article 36 Enforcement of Payment

If the fines imposed by the responsible agency under this law are not paid within a specified time, the responsible agency will notify the courts, which will compel payment.

Part VIII - SUPPLEMENTARY RULES

Article 37 Operating By-laws

The operating by-laws will be set by the responsible agency of the central government.

Article 38 Plan for Assistance and Guidance

In order to meet the goal of conservation of soil and water resources and prevention of disasters, the responsible agency must draw up a plan for assistance and guidance to the i-oo ren affected by this legislation and must, within five years from the effective date of this legislation, report on the results of implementing the plan.

This plan must be drawn up by the responsible agency of the central government and must be filed with the Legislative Yuan.

Article 39 Effective Date

This law is effective from the date of signing by the President.

Translated by the Council of Agriculture and the Baha'i Office of the Environment for Taiwan and Chinese Soil and Water Conservation Society

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