



# PARLIMEN MALAYSIA



**BILL**

**Land Conversation 1959**

**D.R.3/1960**

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(2) Such notice shall refer to the subsisting order and to the date whereon the same was made and shall contain particulars of the manner in which the same is proposed to be varied.

(3) After service of such notice the procedure prescribed by sections 12 and 13 shall, subject to necessary modifications, apply; and the provisions of this Act applicable to an order made under section 14 shall apply also to any such order as varied under this section.

Operation  
of orders.

16. Subject to the judgment of the High Court, every order made under section 14 shall after service thereof upon the owner or occupier of the land in respect whereof the same is made be, so long as the same remains unrevoked, binding upon all persons who are from time to time registered as owner or occupier of such land and upon all persons who are from time to time in lawful occupation thereof.

Appeal.

17. (1) Every order under section 14 or part thereof which is—

(a) mandatory, and where the cost of the work ordered to be done does not exceed two thousand dollars; or

(b) prohibitory:

shall be final and there shall be no appeal therefrom.

(2) Subject to the provisions of sub-section (1) an appeal shall lie to the High Court from any order made under section 14:

Provided that—

(a) no such appeal shall be brought after the expiration of fourteen days from the time when the order appealed against was made;

(b) the obligation to comply with an order made under section 14 shall not be affected by the fact of an appeal having been preferred against the order, but the High Court may for sufficient cause suspend the obligation.

(3) The procedure governing such appeals to the High Court shall be the same as for appeals to the High Court from decisions of subordinate courts in civil matters:

Provided that the decision of the High Court shall be final and there shall be no appeal therefrom.

Penalty.

18. (1) Any person who without reasonable excuse fails to comply with any order made under, or any provision of this Ordinance, requiring him to do or prohibiting him



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from doing any act or thing shall be liable to a fine of not exceeding five thousand dollars and in default of payment thereof to imprisonment for a term which may, subject to the provisions of section 283 of the Criminal Procedure Code of the Federated Malay States or section 279 of the Criminal Procedure Code of the Straits Settlements, as the circumstances may require, extend to six months.

*F.M.S.  
Cap. 6.*

*S.S.  
Cap. 21.*

(2) Notwithstanding anything in any other written law, any penalty authorised by this section may be imposed by a Court of a Magistrate of the First Class.

19. Where any drain, water-course, dam, wall or other work has in pursuance of an order under section 14 been made on any land, all persons who are from time to time registered as owners or occupiers of such land shall, so long as such order remains unrevoked, at his or their own expense maintain such work in good and efficient order to the satisfaction of the Collector.

*Main-  
tenance of  
work.*

20. (1) Where by virtue of an order made under section 14 any prohibition or requirement is under this Ordinance imposed on an owner or occupier of land, the Collector may certify under his hand and official seal the terms of the order and the particulars of the document or documents of title under which such land is held, and the Registrar having custody of the register wherein the title to such land is recorded shall on production to him of such certificate enter in the said register a memorandum of the making of such order and shall file such certificate.

*Record of  
orders in  
the register.*

(2) Where any order of the making whereof a memorandum has been entered under sub-section (1) is varied or revoked or is affected by a judgment of the High Court, such variation or revocation or the effect of such judgment may in like manner be certified and a memorandum thereof entered in the register and the certificate thereof filled.

—  
PART IV  
GENERAL

21. (1) If any person who is by any order made under or by any provision of this Act required to do any act or thing fails to comply with such requirements, the Collector may cause such act or thing to be done by such persons and in such manner as he may direct, and the cost thereof shall be recoverable from the person making default as aforesaid by the Collector in civil suit.

*Power to  
cause effect  
to be given  
to orders  
and  
recovery  
of cost.*

(2) Nothing in this section contained shall affect any liability of any person to prosecution and punishment under section 18.

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Liability of  
owner or  
occupier for  
acts done  
on land.

22. Where by this Act the doing of any act upon any land by any person is forbidden, any owner or occupier of such land who causes or permits such act to be done shall be deemed to have contravened the provisions of this Act unless he proves that such act was done without his knowledge and consent and that he had taken all reasonable precautions against the doing of such act.

Service of  
notices  
and orders.

23. Notices and orders issued and made in any State under this Act may be served in manner following, and such service shall be equivalent to personal service upon the person on whom service is to be effected:

(a) if the person on whom service is to be effected be within such State, the notice or order may be delivered to him or left with some adult member of his family (other than a servant) residing with him within such State;

(b) if the person on whom service is to be effected has an agent within such State duly authorised by power of attorney to accept service on his behalf, the notice or order may be delivered to such agent;

(c) if service cannot be effected in the manner described in paragraph (a) or paragraph (b), the notice or order may be sent by registered post addressed to the person on whom service is to be effected at his address in any part of Malaya;

(d) where service is to be effected on a corporation, the notice or order may be—

(i) left at the registered office (if any) of the corporation within such State;

(ii) delivered to any director, secretary or other principal officer of the corporation within such State, or to any person within such State duly authorised by power of attorney to accept service on behalf of the corporation, or to any person having, on behalf of the corporation, powers of control or management over the land to which the notice or order relates; or

(iii) sent by registered post addressed to the corporation at its principal office wherever situate; or

(e) if service cannot be effected in accordance with the preceding paragraphs of this section, the notice or order may be put up in a conspicuous position on the land to which it relates.



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24. The Ruler in Council or the Governor in Council, as the case may be, may make rules for carrying out the purposes of this Act. Rules.

25. Nothing in this Act contained shall debar any owner or occupier of land which is affected or likely to be affected by inroad of earth, mud, silt, sand, gravel or stone from other land from instituting any suit or proceedings in respect thereof or shall relieve any person of any liability to which he would have been subject if this Act had not been passed: Private suits not affected.

Provided that a person shall not be liable for any act or omission, or the consequences of any act or omission required by an order under this Act to be done or omitted by him.

26. The Silt Control Enactment of the Federated Malay States, the Hill Lands Ordinance, 1937, of the Straits Settlements, Enactment No. 110 (Silt Control) of the State of Kedah, the Prevention of Soil Erosion Enactment, 1940, of the State of Kelantan and the Hill Lands Enactment, 1951, of the State of Pahang, are hereby repealed: Repeal.  
F.M.S.  
Cap. 143.  
S.S. 44 of  
1937;  
Kedah 110;  
Kel. 23 of  
1940;  
Phg. 4 of  
1951.

Provided that—

- (a) any permit, order, sanction or prohibition made, given, granted or imposed or thing done under any of the written laws hereby repealed shall, in so far as the same is not inconsistent with the provisions of this Act, continue in force and have effect as if it had been made, given, granted or imposed under this Act; and
- (b) any register kept under any former written law hereby repealed shall be deemed part of the register to be kept under the corresponding provisions of this Act.

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## COMPARATIVE TABLE

S.S. = Straits Settlements Hill Lands Ordinance, 1937 (No. 44 of 1937)

F.M.S. = Federated Malay States Silt Control Enactment (F.M.S. Cap. 143)

Clause	Source from which the clause is, with addition, modification or adaptation, derived
1 ... ..	—
2 ... ..	—
"Collector" ...	section 2 of the Irrigation Areas Ordinance, 1953 (No. 31 of 1953)
"hill land" ...	S.S. s. 2
"owner" ...	S.S. s. 2
"occupier" ...	S.S. s. 2
"Registrar" ...	section 2 (1) of the Titles to Land (Occupation Period) Ordinance, 1949 (No. 39 of 1949) and section 2 of the Dealings in Land (Occupation Period) Ordinance, 1949 (No. 40 of 1949)
"short-term crops" ...	S.S. s. 2
2 (2) ... ..	F.M.S. s. 2 (ii)
3 ... ..	S.S. s. 4 (1)
4 ... ..	S.S. s. 4 (2)
5 ... ..	S.S. s. 5
6 ... ..	S.S. s. 6
7 ... ..	S.S. s. 7
8 ... ..	S.S. s. 8
9 ... ..	S.S. s. 9
10 ... ..	S.S. s. 11
11 ... ..	F.M.S. s. 3
12 ... ..	F.M.S. s. 4
13 ... ..	F.M.S. s. 5
14 ... ..	F.M.S. s. 5 and amended by the Silt Control (Amendment) Ordinance, 1952 (No. 34 of 1952)
15 ... ..	F.M.S. s. 7
16 ... ..	F.M.S. s. 8
17 ... ..	F.M.S. s. 9
18 ... ..	F.M.S. s. 12
19 ... ..	F.M.S. s. 10
20 ... ..	F.M.S. s. 11
21 ... ..	F.M.S. s. 13
22 ... ..	S.S. s. 3
23 ... ..	F.M.S. s. 14
24 ... ..	New
25 ... ..	F.M.S. s. 15
26 ... ..	Common form.

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## EXPLANATORY STATEMENT

Various laws relating to soil conservation are at present in force in most of the States of the Federation. In view of the fact that such laws are substantially similar, it is considered desirable to consolidate them, for the purpose of providing uniformity of the law on this subject, and the above Bill is intended to accomplish this objective.

2. The comparative table indicates the sources of the various clauses of the Bill. It should be emphasised, however, that the Bill deals with matters falling within the sphere of State legislatures, and therefore can only become effective in any State if adopted by a State law.

[A.G. 288/51.]







Federation of Malaya

HIS MAJESTY'S GOVERNMENT

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*BILLS  
SUPPLEMENT No. 1*

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The following Bills introduced into the House of Representatives are published for general information:

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(Presented and read a first time and ordered to be printed, 25th November, 1959).

A BILL  
*intituled*

An Act to consolidate the law relating to the conservation of hill land and the protection of soil from erosion and the inroad of silt.

[ ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

PART I  
INTRODUCTORY

1. (1) This Act may be cited as the Land Conservation Act, 1959. Short title and application.

(2) This Act shall not come into operation in any State until it has been adopted by a law made by the Legislature of that State pursuant to the provisions of Clause (3) of Article 76 of the Constitution.

2. (1) In this Act, unless the context otherwise requires— Interpretation.  
“Collector” means—

- (a) as regards the States of Negri Sembilan, Pahang, Perak and Selangor, a Collector of Land Revenue as defined in the Land Code of the Federated Malay States; F.M.S.  
Cap. 138.
- (b) as regards the State of Johore, a Collector as defined in the Land Enactment of that State; Johore No. 1.
- (c) as regards the State of Trengganu, a Collector of Land Revenue under the Land Enactment of that State; Trengganu  
No. 3 of  
1357.
- (d) as regards the State of Kedah, a Land Officer and also a Settlement Officer appointed under the Land Enactment of that State; Kedah  
No. 56.
- (e) as regards the State of Perlis, the Commissioner or a Land Officer appointed under the Land Enactment of that State; Perlis No. 11  
of 1356.
- (f) as regards the State of Kelantan, a District Officer appointed under the Land Enactment of that State; and Kelantan  
No. 26 of  
1938.
- (g) as regards the States of Malacca and Penang means a Collector of Land Revenue of the State concerned;

“hill land” means any land declared to be hill land in accordance with the provisions of section 3;



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"owner" means the person for the time being receiving the rent of land in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or as receiver, or who would receive the rent if the land were let to a tenant, but does not include the Government of the Federation or the Government of any State in the Federation;

"occupier" means the person in occupation of land in connection with which the word is used, or having the charge, management or control thereof, either on his own account or as agent of another person, and includes a lessee of land, a person occupying land consequent upon an approved application, an approved occupant in the State of Johore, and any person occupying land under section 9 of the Lands Ordinance of the Straits Settlements;

*S.S.Cap. 113.*

"Registrar" means—

(a) as regards the States of Negri Sembilan, Pahang, Perak and Selangor, a Registrar or Collector as defined in the Land Code of the Federated Malay States;

*F.M.S.  
Cap. 138.*

(b) as regards the State of Johore, a Commissioner or a Collector as defined in the Land Enactment of that State;

*Johore No. 1.*

(c) as regards the State of Trengganu, a Registrar as defined in the Land Enactment of that State;

*Trengganu  
No. 3 of  
1957.  
Kedah  
No. 56.*

(d) as regards the State of Kedah, the Director or Land Officer as defined in Enactment No. 56 (Land) of that State;

(e) as regards the State of Perlis, the Commissioner or Land Officer as defined in the Land Enactment of that State;

*Perlis No. 11  
of 1956.*

(f) as regards the State of Kelantan, a Land Registrar as defined in the Land Enactment of that State;

*Kelantan  
No. 26 of  
1938.  
S.S.Cap. 126.*

(g) as regards the State of Malacca, the Registrar as defined in the Mutations in Titles to Land Ordinance of the Straits Settlements;

(h) as regards the State of Penang, the Registrar as defined in the Registration of Deeds Ordinance of the Straits Settlements;

*S.S.Cap. 121.*

"short-term crops" means any crops which normally complete their life cycle within two years after planting, and includes pineapples, bananas and derris.

(2) Nothing in this Act contained—

(a) refers to land held under mining lease or other mining title;

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- (b) shall in any manner whatsoever affect the rights of the Yang di-Pertuan Agong or of the Government or of the Ruler or Governor or of the Government of any State.

## PART II

## CONTROL OF HILL LAND

3. The Ruler in Council or the Governor in Council of a State may, by notification in the *Gazette*, declare any area or class or description of land in the State to be hill land for the purposes of this Act.

Declaration of hill land.

4. The Collector shall, upon the making of any declaration under section 3 cause to be presented to the Registrar a memorandum containing a complete list of all the lands affected by such declaration, and the Registrar shall note in the register against all such lands the fact that such declaration has been made.

Entry of declaration on the register.

5. No person shall plant any hill land with short-term crops :

Prohibition of short-term crops except under permit.

Provided that the Collector may issue an annual permit to plant specified short-term crops to any applicant who satisfies him that such cultivation will not cause appreciable soil erosion, and in such permit may prescribe the area of the land and the terms and conditions under which such cultivation is permitted.

6. (1) No person shall clear any hill land or interfere with, destroy or remove any trees, plants, undergrowth, weeds, grass or vegetation on or from any hill land :

Restrictions on clearing and cultivation of hill land.

Provided that it shall be lawful for the Collector, on the application of the owner or occupier of any hill land, to authorise by permit in writing under his hand, subject to such terms and conditions and to such extent and in such manner as may be specified in such permit—

(a) the clearing of such hill land for the purpose of cultivation;

(b) the clearing or weeding of such hill land under lawful cultivation.

(2) Any person who fails to comply with any terms or conditions prescribed in a permit issued under sub-section (1) shall be deemed to have contravened the provisions of this Act.

(3) Whenever the Collector declines to issue a permit under this section in terms acceptable to the applicant he shall, on being requested so to do by the applicant, forthwith issue to him a certificate under his hand setting forth



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the nature of the permit asked for and the grounds of such refusal and the date of issue of such certificate.

Appeal.

7. (1) Any applicant aggrieved by the refusal of the Collector to issue a permit under section 6 in terms acceptable to such applicant may, within fifteen days of the issue of the Collector's certificate under sub-section (3) of section 6, or within such further time as the Ruler in Council or the Governor in Council, as the case may be, may in any case allow, appeal to the Ruler in Council or the Governor in Council, against such refusal and the Ruler in Council or the Governor in Council, after hearing such person, or in his absence, as the Ruler in Council or the Governor in Council shall think fit, may confirm such refusal or order the Collector to issue such permit with or without modifications.

(2) Every such appeal shall be by notice in writing signed by the appellant or his advocate and solicitor and shall be delivered to the Collector, who shall forthwith transmit such notice to the State Secretary, together with a copy of the certificate issued under sub-section (3) of section 6.

(3) In deciding any such appeal it shall be lawful for the Ruler in Council or the Governor in Council to receive and take into consideration any signed statement or report of any person as to the condition of the land in question and the desirability or otherwise of the issue of a permit therefor.

(4) The order of the Ruler in Council or the Governor in Council under this section shall be final and no Court shall call in question any such order.

Acquisition  
of hill land.

8. Whenever it appears desirable to the Ruler in Council or the Governor in Council, as the case may be, to acquire any hill land for the purpose of preventing soil erosion, it shall be lawful for the Ruler in Council or the Governor in Council to direct that such hill land be acquired either by private treaty or under the written law relating to the compulsory acquisition of land for a public purpose in force in the State; and for the purpose of such written law the land to be acquired shall be deemed to be required for a public purpose.

Power to  
require  
statements  
as to persons  
interested.

9. (1) The Collector may by order in writing require the owner or occupier of any hill land to deliver to him within a time to be specified in the order, being not less than fifteen days from the service thereof, a statement in writing containing to the best of his knowledge and ability the name and address of every person who possesses or has possessed

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within one year preceding the date of service of the order any interest in the land or any part thereof, whether as co-owner, mortgagee, lessee, sub-lessee, tenant, squatter or otherwise, and the nature of any such interest.

(2) Every such order shall be personally served on the owner or occupier, as the case may be.

(3) Every owner or occupier required to deliver a statement under this section shall be legally bound to do so within the meaning of sections 176 and 177 of the Penal Code.

*F.M.S.  
Cap. 45.*

10. (1) Whenever any owner or occupier of hill land fails to comply with any term or condition imposed by a permit issued under section 5 or 6 the Collector, or any person authorised by him in writing generally or specially in that behalf, may enter upon such hill land with such assistants and things as are necessary, and may perform and do thereon and therein all acts and things required to conform with the terms and conditions of such permit, and the cost thereof shall be recoverable from such owner or occupier; and the amount of such cost may be reported to the Court of a Magistrate and recovered in the same manner as if it were a fine imposed by such Court, notwithstanding that such amount may be in excess of the ordinary jurisdiction of such Court.

Enforcement of terms and conditions of permits.

(2) Nothing in this section shall affect the liability of any person to prosecution and punishment under section 18.

## PART III

## CONTROL OF SILT AND EROSION

11. Whenever it appears to a Collector on grounds to be recorded by him in writing with reference to land owned by any person—

Notice to show cause against order.

- (a) that earth, mud, silt, gravel or stone from such land has caused or is likely to cause damage to other land, whether alienated or not, or to any water-course, whether natural or artificial, or has interfered or is likely to interfere with the due cultivation of other land, whether alienated or not; or
- (b) that by reason of the steepness of the slope of such land, damage has been or is likely to be caused to such land by erosion or displacement of earth, mud, silt, gravel or stone upon or from such land,

the Collector may, by notice served on the owner or occupier of such land, require him to shew cause, at a time



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and place to be stated in such notice, why an order should not be made under this Act prohibiting him from doing, or requiring him to do, any act or thing which may under section 14 be prohibited or required to be done.

Appearance  
to show  
cause.

12. Any owner or occupier of land who is required to show cause why an order under section 11 should not be made in respect of such land may attend and show cause either in person, or by his agent duly authorised by power of attorney in that behalf, or by an advocate and solicitor or, with the permission of the Collector, by any other person.

Procedure on  
appearance.

13. (1) If an owner or occupier of land who is required to show cause as aforesaid attends in person, or by any representative referred to in section 12, at the time and place stated in the notice, the Collector shall—

- (a) inform such owner or occupier or representative, as the case may be, of the grounds on which the notice was issued;
- (b) in the presence of such owner or occupier or representative, make any enquiry and take and record any evidence which the Collector thinks necessary as to the facts and circumstances of the case;
- (c) hear and record the statement (if any) of such owner or occupier or representative; and
- (d) take and record the evidence of all persons attending at the instance of such owner or occupier or representative whom such owner or occupier or representative desires to examine.

(2) For the purpose of carrying out the provisions of this section the Collector shall have the same powers of summoning and enforcing the attendance of witnesses and of compelling the production of documents and of adjourning proceedings from time to time as the Court of a Magistrate has in civil suits.

Powers to  
make orders  
and nature  
of orders.

14. (1) If an owner or occupier of land who is required to show cause as aforesaid fails without reasonable excuse (to be allowed by the Collector) to attend in person or by any representative referred to in section 12 at the time and place mentioned in the notice, or, having so attended, fails to show cause to the satisfaction of the Collector why an order in respect of the land referred to in the notice should not be made, the Collector may—

- (a) make an order in writing under his hand prohibiting, either absolutely or to such extent as may be prescribed in the order, interference with

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or destruction or removal of any trees, plants, undergrowth, weeds or grass within or from such parts of the said land as are specified in the order;

- (b) with the sanction of the State Secretary, make an order in writing under his hand requiring the making on the said land of drains and water-courses, and the construction thereon of dams and retaining walls, of such character and dimensions and in such positions as are specified in the order;
- (c) with the sanction of the State Secretary, make an order in writing under his hand requiring the doing on or in respect of the said land of any act or thing which appears to the Collector likely to prevent, and prohibiting the doing on or in respect of the said land of any act or thing which appears to the Collector likely to facilitate the passage of earth, mud, silt, sand, gravel or stone from the said land to other land, whether owned by any person or not, or to any river, canal or drain.

(2) Any order made under this section may prescribe the time within which any work, act or thing required by such order to be made or done shall be completed.

**15.** (1) Any order made under section 14 may be varied or revoked by the Collector by writing under his hand:

Provided that—

Variation  
and  
revocation  
of orders.

- (i) no such order or part thereof made with the sanction of the State Secretary shall be varied or revoked save with the sanction of the State Secretary;
- (ii) no such order shall be varied so as to prohibit or require anything not authorised by section 14 to be prohibited or required;
- (iii) the sanction of the State Secretary shall be required for any variation of such an order which, if contained in an original order under section 14, would require the sanction of the State Secretary;
- (iv) no such order shall, except with the express consent of the owner or occupier of the land in respect whereof the order was made, or of some person duly empowered so to consent on behalf of the owner or occupier, be varied unless reasonable opportunity shall first have been given to such owner or occupier to show cause why the order should not be varied.