

SOIL AND WATER CONSERVATION ACT

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Promulgated by President Order No.2845, May 27, 1994.
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Chapter I General Provisions

Article 1 (Legislative Purpose and Applicability)

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

Article 2 (Competent Authorities)

In this law, the term “competent authority” denotes the Council of Agriculture, Executive Yuan at the central level, municipal government at municipal level, and county / city government at the county / city 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 vegetative measures in order to conserve soil and water resources, to preserve the ecological system or landscape and to prevent disasters resulting from erosion, landslide, and debris flow.

2. Soil and Water Conservation Plan:

A plan for carrying out soil and water conservation measures.

3. Slopeland:

This includes public and private lands, including national forests, forest land used for experimentation and protected forests. These are delimited by the competent authority 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) The land must have an elevation of more than 100 meters.
- (2) The land's elevation is less than 100 meters, however, it has 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 central or municipal competent authority 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 (Obligator of Soil and Water Conservation)

Under this Law, any use of public or private lands should respect soil and water conservation measures. The operator, user or owner responsible for implementing soil and water conservation measures is called the obligator of soil and water conservation.

Article 5 (Assignment for Supervision and Management)

The central or municipal competent authority, when necessary, will assign either a relevant government department, or a government or private corporation to supervise and manage the implementation of the soil and water conservation aspects of a dam, a community, or a large-scale engineering project.

Article 6 (Endorsement of Soil and Water Conservation Plan)

The technical aspects of all soil and water conservation plan, 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 competent authority of the central government must strengthen soil and water conservation education and publicity, extension and research. The competent authority will coordinate with other relevant agencies when designing and implementing educational, extension and research programs.

Chapter 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 in the following areas must be planned, designed and applied in accordance with technical criteria:

1. Watershed protection
2. Development of grazing areas, farms, forests and 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. Slope land development for housing construction, parks, graveyards, recreation areas, athletic facilities, military training camps, piling rocks, disposing of waste, or engaging in excavation on land preparation.
6. Prevention of erosion and landslide 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. Maintenance of city-planned protected areas.
9. Carrying out soil and water conservation plan designed to protect soil and water resources and their quality, and to prevent disasters.

The technical criteria for uses listed above will be formulated by the competent authority of the central government.

Article 9 (Protection of Watershed Areas for Rivers)

The competent authority and relevant government departments involved with the plan will work together to implement a plan for watershed area protection, focusing on soil and water conservation and proper use. The competent authority and relevant departments will develop medium-term and long-term plans.

After plans have been approved by the competent authority of the central government, each agency, department or the obligator of soil and water conservation will carry out the aims designated within the plan.

Watershed areas of rivers will be designated jointly by the competent authority and relevant departments 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 obligator of soil and water conservation 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 competent authority for the management of those forest areas. Soil and water conservation in private forest areas will be carried out by the obligator of soil and water conservation for that forest, under the guidance of the relevant government forest agency.

Article 12 (Soil and Water Conservation Plans for Non-agricultural Uses (I))

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 obligator of soil and water conservation for the area has submitted a soil and water conservation plan to the competent authority for soil and water conservation. The plan must first be approved by the competent authority and must include an environmental influence assessment if one is required by the relevant authorities. Before the soil and water conservation plan has been approved by the competent authority, the relevant business regulatory authorities cannot independently give permission to develop or use the areas.

The soil and water conservation plan must be carried out by the obligator of soil and water conservation for the land in question and supervised by the said competent authority and the relevant business regulatory authorities. 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 said authority as above.

Article 13 (Soil and Water Conservation Plans for Non-agricultural Uses (II))

Development, management, or use of areas listed in article 8, item 5, cannot begin until the obligator of soil and water conservation for the area submits a soil and water conservation plan to the competent authority for soil and water conservation in that area. The plan must first be approved by the competent authority and must include an environmental influence assessment if one is required by the relevant authorities. Before the soil and water conservation plan has been approved by the said competent authority, the relevant business regulatory authorities cannot independently give permission to develop or use the areas.

The soil and water conservation plan must be carried out by the obligator of soil and water conservation for the land in question and supervised by the said competent authority and the relevant business regulatory authorities. 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 said authorities as above.

Article 14 (Soil and Water Conservation in National Parks)

If soil and water conservation plan is necessary to be carried out in a national park, the obligator of soil and water conservation must submit a soil and water conservation plan which will be approved by the competent authority and the National Park Agency.

The plan must be carried out under the supervision of both units as above.

Article 15 (Soil and Water Conservation Cost Sharing)

In the case that slopeland is suitable for agriculture or grazing, if the obligator of soil and water conservation is not the owner of the land, that person must still carry out the soil and water conservation plan according the regulations of the competent authority. Once the implementation of the plan has been certified as meeting soil and water conservation technical criteria, the obligator of soil and water conservation will, by written notice, inform the owner of the management fee, government subsidy, and the rate paid by the obligator of soil and water conservation. When the land is returned to the owner, the owner must compensate the obligator of soil and water conservation, 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 are covered under regulations not listed in this Law, or if the obligator of soil and water conservation and the owner have an agreement regarding the sharing of costs, then this article will not apply.

In situations in which disputes arise over cost sharing, these disputes will be mediated by the competent authority of the municipal, county, or city government.

Chapter 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 or in 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, municipal, and county / city competent authority.

Article 17 (Delimitation of Soil and Water Conservation Zones)

Designated soil and water conservation zones that cross the boundaries of a municipality or counties will be delimited by the competent authority of the central government, which will also announce that delimitation. Within a municipality, municipality competent authority will delimit zones, and such delimitation will be approved and announced by the competent authority of the central government.

The criteria to be followed in delimiting the above areas will be established by the competent authority of the central government.

Article 18 (Approval of Plan for Designated Soil and Water Conservation Zones)

The competent authority must have a long-term soil and water conservation plan for the area. Every five years, the said authority must review and revise the plan based on current conditions. If there is a need to change the plan, the competent authority 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 the 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 flow, 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:
Wind erosion control and sand stabilization.

5. Other areas:

Conservation items are designated by the competent authority.

No development activity will be allowed in any of the designated soil and water conservation zones, with the exception of major water resources projects or natural recreation areas requiring only a limited extent of change in landscape and having secured an approved environmental impact statement issued by the competent authority of the central government.

The criteria for defining the limited extent of charge in landscape will be designed by the competent authority of the central government and relevant authorities.

Article 20 (Reservoir Protected Zones)

If a reservoir watershed has been defined as a designated soil and water conservation zone, the management agency must establish a protected zone starting at the top of the water storage level, which range from 30-50 meters in length. Other purposes of designated soil and water conservation zones must, as needed, be reported by the management agency to the competent authority of the central government for approval of the establishment of such zones.

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

If the area in the first paragraph of this article within above a protected zone is forest land, the land must be designated as a protected forest in accordance with the Forest Law.

Article 21 (Limits and Compensation for the Land Use on Reservoir Protected Zones)

If the lands mentioned in the reservoir protected zones in the preceding article are not retaken by the government, the competent authority must restrict or disallow use of the land, or the government must instruct the users of the land in appropriate management and protection techniques.

If the reservoir protected zone is located in forest land, the land must be designated as a

protected forest, in accordance with Forest Law.

Owners of private land and owners of buildings on private land are entitled to compensation from the government; compensation will be based on fair market value of the land or the buildings appropriated.

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

Chapter IV Supervision and Management

Article 22 (Procedures in the Event of Illegal Agricultural Use)

If the use of slopeland falls outside the prescribed limits, 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 criteria, the municipal or city competent authority, in coordination with relevant government authorities, will notify the obligator of soil and water conservation for the land that the regulations are being violated and that changes are necessary.

If the obligator of soil and water conservation fails to carry out the changes required to comply with soil and water conservation technical criteria, government departments must be notified, and those departments 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 canceled, 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 appropriate for public use must be retaken by the original owner or by 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 operator, user or owner of the land within a specified time. If the operator, user or owner fails to do so, then the competent

authority will coordinate with the land management agency to clear the land. Rented land in national or public forests will be dealt with in accordance with Forest Law.

Article 23 (Procedures in the Event of Illegal Non-Agricultural Use)

If the soil and water conservation plan carried out is not in accordance with article 12, 13, or 14, in addition to the penalties stipulated in article 33, the competent authority and relevant business regulatory authorities will jointly notify the operator, user or owner to rectify the situation within a specified time period. If the improvement is not carried out within the specified time period or if the improvement is not satisfactory, the said authority will notify the responsible person that all further work on the land must be stopped, will order the responsible person to dismantle any construction that has not been completed, and will cancel permission to proceed with construction. Any construction that has already been completed cannot be used.

If the responsible person fails to submit a soil and water conservation plan to the competent authority for approval in accordance with articles 12, 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 competent authority will require that all work on the land be stopped, will seize all facilities and equipment, will dismantle all buildings that have already been started or completed and will clear the area of all related materials. The costs for such seizure, destruction, and land-clearing will be borne by the operator, user or owner who, for a two-year period after the penalties are first imposed, may not apply for permission to develop the land.

The penalties listed in the preceding two paragraphs still apply to roads and facilities that have already been completed.

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. Procedures and safeguards will be planned by the competent authority and relevant authority of the central government.

If the soil and water conservation plan has been carried out and has been certified as having met soil and water conservation technical criteria, 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 are found to exist, the responsible person must rectify 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 criteria, the competent authority and the relevant authorities will carry out the soil and water conservation plan. The costs of implementing the plan will either be charged to the responsible person or will be deducted from the deposit.

Article 25 (Appropriation of Land)

When public land is in need of soil and water conservation, the competent authority will appropriate the land. If the land is private land, the competent authority must appropriate the land according to the law. Emergency appropriations of land 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 competent authority has the right to directly appropriate the materials, workers and land necessary for the operation and also has the right to 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 competent authority, the compensation being based on current market conditions. Workers are also entitled to financial compensation. If there is a difference of opinions regarding the amount of compensation, the competent authority must report this to a higher level of competent authority, which will mediate any disputes.

Article 27 (Exercise of Police Powers)

In implementing emergency management or assessing penalties in soil and water conservation are by this Law, the competent authority has the right to exercise police powers. If necessary, the competent authority can also request assistance from military or police agencies in the local area.

Chapter V Budget and Funding

Article 28 (Overall Budget for Soil and Water Conservation)

All competent authorities and relevant authorities at all levels must make annual budget projections. The budget is for education, extension, publicity and research in soil and water conservation.

Article 29 (Soil and Water Conservation Budgets for Dams and Waterway Projects)

When building dams, railways, public roads, or drains, the total budget must include: funds for watershed management; funds for soil and water conservation of the roads and maintenance fees for road conservation.

Article 30 (Budget Items 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 plans.
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.

Chapter VI Incentives

Article 31 (Relief for Losses Sustained)

If any of the following situations occur, the competent authority must provide relief appropriate to the situation.

1. Losses suffered when soil and water conservation is promoted in the interest of 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.

Chapter 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 forests, or private forest areas as enumerated in article 8, items 2-5 without permission, which results in soil and water losses or damages soil and water conservation facilities, is 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 does not result in serious damage, the jail term may be reduced or omitted.

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

In the event that the illegal activities mentioned in the first paragraph of this article are performed out of negligence, 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 is 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 of the following will be fined not less than six 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 criteria are not in accordance with the technical criteria listed in article 12 or 13, or failing to correct, within a specified time period, deficiencies in a soil and water conservation plan, or failing to carry out a suitable soil and water conservation plan as outlined in article 22, paragraph 1.
2. Failing to submit a soil and water conservation plan, or failing to carry out soil and water conservation according to the approved plans 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 whose technical standards are not

in accordance with those listed in article 23.

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

If any given 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 six hundred thousand New Taiwan Dollars. If such a violation results in death, the penalty will be a jail term of not less than three years and not more than ten 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 if not more than six hundred thousand New Taiwan Dollars.

Article 34 (Joint Penalties)

If the operation of a business violates article 32 or article 33, paragraph 3, the corporate entity or individual which employs the violator will be subject to the same penalties as those imposed on the violator.

Article 35 (Agencies Responsible for Imposing Fines)

The fines listed in this Law will be imposed by the competent authority of the municipality, county, or city government.

Article 36 (Enforcement of Payment)

If the fines imposed by the competent authority under this Law are not paid within a specified time period, the competent authority will notify the courts, which will compel payment.

Chapter VIII Supplementary Provisions

Article 37 (Enforcement Rules)

The enforcement rules of this Law will be established by the central competent authority.

Article 38 (Plan for Assistance and Guidance)

In order to meet the goals of soil and water resource conservation and disaster prevention, the competent authority must draw up a plan of assistance and guidance for improving soil and water conservation. Besides, the competent authority must report on the results of implementing the plan within five years. This plan must be drawn up by the competent authority and must be filed with the Legislative Yuan.

Article 39 (Date of Enforcement)

Law will be enforced as of the date of its promulgation.