

CHAPTER 35:06
AGRICULTURAL RESOURCES CONSERVATION
ARRANGEMENT OF SECTIONS

SECTION

PART I
Preliminary

1. Short title
2. Interpretation

PART II
Agricultural Resources Board

3. Establishment of Board
4. Composition of Board
5. Tenure of office
6. Disqualification of members and vacation of office
7. Proceedings
8. Committees

PART III
Functions and Duties of the Board

9. Functions of the Board
10. Powers of the Board
11. Directions on policy
12. Annual report to Minister
13. Other reports to Minister
14. Notice of investigations and enquiries
15. Evidence and witnesses

PART IV
Conservation and Improvement of Agricultural Resources

16. Powers of Board to issue orders and make regulations
17. Additional powers of the Board
18. Construction of works by the Board
19. Special provisions regarding the control of livestock
20. Conservation and subordinate conservation committees
21. Functions of conservation and subordinate conservation committees
22. Powers of committees
23. Entry upon land

PART V
Appeals

24. Appeals to the Minister
25. Operation of prohibitions and restrictions pending appeal
26. Finality of decision of the Minister

PART VI
General

27. Charge upon land
28. Regulations
29. Penalties
30. Saving

Act 39, 1972,

An Act to make provision for the conservation and improvement of the agricultural resources of Botswana; to establish an Agricultural Resources Board and to define its powers and functions; to provide for conservation committees and subordinate conservation committees and prescribe their functions; and to provide for matters incidental to the foregoing.

[Date of Commencement: 14th June, 1974]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Agricultural Resources Conservation Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"agricultural resources" means the following matters in their relation to agriculture-

- (a) the soils of Botswana;
- (b) the waters of Botswana;
- (c) the plant life and vegetation of Botswana and the vegetable products of the soil;
- (d) the animal life and fauna of Botswana including animals, birds, reptiles, fish and insects;
- (e) such other things, whether similar to the foregoing or not, as the Minister may, by regulations, declare to be agricultural resources;

"Board" means the Agricultural Resources Board established by section 3;

"conservation order" means an order given under section 16(1)(a);

"conservation regulation" means a regulation made under section 16(1)(b);

"land board" means a land board established by section 3 of the Tribal Land Act;

"occupier" means-

- (a) in the case of land not subject to a lease or right of occupancy, the owner of such land or any person occupying the land on sufferance of the owner;
- (b) in any other case, the person lawfully entitled to occupy the land, including a person occupying the land in accordance with a grant by a land board, a subordinate land board or a subordinate land authority;

"owner" means-

- (a) in the case of land registered in the Deeds Registry, the person in the name of whom as owner the land is registered;
- (b) in the case of state land, the Government;
- (c) in the case of tribal land, the land board established by the Tribal Land Act in respect of a tribal area within which such land is situated;

"public officer" means a person holding or acting in an office of emolument in the public service exclusive of all offices referred to in subsections (2) and (3) of section 127 of the Constitution;

"state land" bears the same meaning as in the State Land Act;

"stock" includes cattle, horses, donkeys, mules, sheep, goats ostriches, pigs, animals of the family bovidae in captivity, domestic fowls, turkeys, geese, ducks and any other domesticated or captive animal or bird which the Minister may specify by order published in the *Gazette*;

"stock control order" means an order issued under section 19(1);

"stream" means a watercourse of natural origin in which water flows, whether or not such watercourse or any portion thereof is dry for any period and whether or not its

conformation has been changed by artificial means;

"subordinate land authority" means any person who may, in accordance with customary law, grant or confirm the grant of land as an authority subordinate to some other authority, whether or not such grant requires the approval of such other authority or of any other subordinate land authority;

"subordinate land board" means a subordinate land board established under the provisions of section 19 of the Tribal Land Act;

"tribal land" means land within-

- (a) every tribal territory as defined in section 2 of the Bogosi Act;
- (b) the area defined in Schedule 1 to the Tati Concessions Land Act.

PART II

Agricultural Resources Board (ss 3-8)

3. Establishment of Board

(1) There is hereby established a Board to be known as the Agricultural Resources Board.

(2) The Board shall be a body corporate capable of suing and being sued in its own name and, subject to the provisions of this Act, of performing such acts as bodies corporate may by law perform.

4. Composition of Board

(1) The Board shall consist of a Chairman and nine other members who shall be appointed by the President by notice published in the *Gazette*.

(2) The Board shall co-opt the Chief Game Warden to participate as a member in meetings at which questions affecting game or wild life or affecting any area of land declared to be a game reserve or sanctuary under the Wildlife Conservation and National Parks Act are discussed or considered; and in relation to such questions the Chief Game Warden shall when so co-opted be entitled to vote as if he were a member.

(3) The Minister shall appoint a public officer as Secretary of the Board.

5. Tenure of Office

(1) Subject to the provisions of this section the members of the Board, excluding any member appointed by the term designating a public office, shall hold office for such period not exceeding three years as may be specified in the notice appointing them, and on the expiration of such period shall be eligible for re-appointment:

Provided that in appointing members of the Board the President shall specify such periods of appointment that the periods of appointment of not more than one third of the members shall expire in any one year.

(2) On the expiration of the period for which a member is appointed he shall continue to hold office until his successor has been appointed.

(3) If after three months reckoned from such expiration a successor has not been appointed to replace a member whose period of appointment has expired he shall be deemed to have been re-appointed on the expiration of the said period.

(4) The Board shall once in every year elect from among its members a Deputy Chairman who shall hold office as such for a period of one year and shall be eligible for re-election.

(5) Any member who is not a public officer shall be paid out of funds of the Board such remuneration and allowances, if any, as the Minister may prescribe.

6. Disqualification of members and vacation of office

(1) No person shall be appointed a member-

- (a) if he has been declared insolvent or bankrupt under any law in any country and has not been rehabilitated or discharged or has made a composition with his creditors and has not paid his debts in full;
- (b) if he is, or is becoming, incapacitated by mental or physical illness or infirmity from

- performing his functions;
- (c) if he is a member of the National Assembly.

(2) If the President is satisfied that a member other than a member appointed by the term designating a public office-

- (a) is subject to any of the disabilities set out in subsection (1);
- (b) since his appointment has been sentenced to imprisonment without the option of a fine or has been convicted of an offence under this Act or an offence involving dishonesty;
- (c) has been absent from three consecutive meetings of the Board without the special leave of the Chairman; or
- (d) is otherwise unable or unfit to discharge the functions of a member,

the President may declare the office of such member to be vacant, and thereupon such office shall become vacant.

(3) A member other than a member appointed by the term designating a public office may at any time resign his office by one month's notice in writing of his intention to resign given by him to the President.

7. Proceedings

(1) Subject to the provisions of this Act, the Board shall conduct its proceedings in such manner as may be directed by the Minister or, in the absence of such direction, in such manner as the Board deems fit.

(2) The Chairman, or in his absence the Deputy Chairman, or in the absence of both, a member elected by the Board shall preside at all meetings of the Board, and the person presiding at any meeting, if not the Chairman, shall with respect to such meeting or any business transacted thereat have all the powers of, and be deemed to be, the Chairman.

(3) The Board shall meet not less than four times in a year at such times and places and on such dates as the Chairman may determine or as may be directed by the Minister, and such meeting shall be convened by notice given by the Chairman.

(4) A quorum of the Board shall consist of a majority of the members.

(5) The decision of the majority of the members present and voting at any meeting of the Board shall be deemed to be the decision of the Board:

Provided that in the event of an equality of votes the Chairman shall have a casting as well as a deliberative vote.

(6) No member of the Board shall participate in any discussion or vote on any matter in which he or his spouse, father, grandfather, son, grandson, brother, father-in-law, brother-in-law or son-in-law has a pecuniary interest or other direct or indirect material interest.

(7) Any member of the Board who contravenes subsection (6) shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

(8) No act, decision, or proceeding of the Board shall be questioned on account of any vacancy in the membership thereof, or on account of the appointment of any member being defective, if the act was done or authorized or the decision was made or the proceeding took place by or in accordance with a majority vote of the persons who at the time were entitled to act as members.

8. Committees

(1) The Board may with the consent of the Minister appoint one or more committees of the Board consisting of such number of persons, whether members of the Board or not, as it may deem necessary to assist it in the performance of its functions:

Provided that a person, other than a member of the Board, shall not be a member of such a committee except for a period for which the Minister by notice published in the *Gazette* has authorized his appointment, and that the provisions of section 6 shall apply to such a person *mutatis mutandis* and with the functions of the President thereunder vesting in the Minister.

(2) The Chairman of any committee shall be appointed by the Board from among the

members of such committee with the approval of the Minister, which shall be signified by notice in the *Gazette*.

(3) The procedure and functions of any committee shall be determined by the Board: Provided that the Board shall not delegate to any committee any of the functions assigned to it under the provisions of paragraphs (c), (d), (e) and (f) of section 9.

(4) The Chairman of a committee may convene meetings of such committee at such places and times as he may determine.

(5) The Minister may nominate in writing any public officer to attend any meeting of any committee and such public officer may take part in the proceedings at such meeting as if he were a member of such committee, except that he shall not be entitled to vote.

(6) Any member of a committee who is not a public officer shall be paid out of funds of the Board such remuneration and allowances, if any, as the Minister may prescribe.

PART III

Functions and Duties of the Board (ss 9-15)

9. Functions of the Board

The functions of the Board shall be-

- (a) to exercise supervision as provided in this Act over the agricultural resources of Botswana;
- (b) to advise the Minister regarding-
 - (i) matters relating to the general supervision of all agricultural resources;
 - (ii) the nature of legislation necessary to secure or promote the proper conservation, use and improvement of agricultural resources;
 - (iii) the means of stimulating public interest in the proper conservation, use and improvement of agricultural resources;
- (c) to carry out of its own motion or at the direction of the Minister investigations of or enquiries into any matter related to the conservation, use or improvement of agricultural resources;
- (d) to issue conservation orders and stock control orders, and to make conservation regulations in accordance with the provisions of this Act;
- (e) to give directions to any owner or occupier of land to ensure that an order or regulation issued or made under the provisions of this Act is complied with;
- (f) to construct on any land such works as it deems necessary for conservation purposes;
- (g) to give to any conservation committee or subordinate conservation committee directions concerning the policy to be followed by it in the exercise of its functions under this Act; and
- (h) after consultation with any land board established by the Tribal Land Act, and with the district council within whose area the tribal area in respect of which such land board is established is situated, to give to such land board directions concerning the proper use of any land within such tribal area:

Provided that the Board shall have no powers over any land constituted as a national park in terms of the Wildlife Conservation and National Parks Act.

10. Powers of the board

The Board shall have all powers necessary or convenient for the performance of its functions and duties.

11. Directions on policy

The President may give the Board directions regarding the policy to be followed in the exercise of its functions under this Act.

12. Annual report to Minister

(1) The Board shall submit to the Minister a full report on its activities during each calendar year within three months after the end of such year.

(2) The report for any year shall include-

- (a) a list of all conservation orders issued;
- (b) a list of all conservation regulations made;
- (c) a list of all stock control orders issued;
- (d) a list of all works constructed on the instructions of the Board;
- (e) a report on all court action involving the enforcement of the Act;
- (f) a report on all appeals brought before the Minister;
- (g) a full report on any enquiries or investigations conducted by the Board;
- (h) a complete financial statement of all public moneys spent by the Board;
- (i) a report of all cost apportionment proceedings;
- (j) any other matters considered relevant by the Board;
- (k) any other information requested by the Minister;
- (l) a report of directions given to the land boards under section 9(h).

(3) The Minister shall lay a copy of every such report before the National Assembly within 30 days of his receiving it.

13. Other reports to Minister

The Minister may request and the Board shall furnish a report on its activities at any time during the year.

14. Notice of investigations and enquiries

When the Board is about to carry out, or is carrying out, an investigation or enquiry into any matter it may cause notice thereof to be published in the *Gazette* and a newspaper circulating in any area to which the investigation or enquiry relates and shall, where practicable, cause any person whose material or pecuniary interests may or will, in the Board's opinion, be involved in, or affected as a result of such investigation or enquiry, to be notified thereof in writing and to be given a reasonable opportunity to make representations to the Board concerning the subject matter of such investigations or enquiry.

15. Evidence and witnesses

(1) The Board may in the course of an investigation or enquiry hear such witnesses and receive such documentary evidence as in its opinion may assist it in such investigation or enquiry.

(2) The Board may require any witness appearing before it to give his evidence on oath, and the Chairman is empowered to administer oaths for that purpose.

(3) If the Board is of the opinion that the evidence of any person or the production of any document is necessary for the purposes of the investigation or enquiry, the Chairman may issue a summons under his hand in such form as may be prescribed directing the person named therein to attend at a time and place mentioned therein to give evidence or to produce the documents therein specified or to do both.

(4) The clerk of the magistrate's court within whose area of jurisdiction the person named in the summons resides shall at the request of the Chairman take steps to ensure the serving of summonses under this section.

(5) Every person attending at an investigation or enquiry in obedience to a summons issued under this section shall be entitled to fees and allowances payable out of public moneys, as though he were attending at a magistrate's court as a witness in civil proceedings under subpoena.

(6) If any person upon whom a summons has been served under the provisions of this section refuses or omits without sufficient cause to attend in obedience to such summons, or fails to answer fully and satisfactorily to the best of his knowledge and belief all the questions put to him by or with the concurrence of the Board, or refuses or omits without sufficient cause to produce any documents in his possession or under his control which are mentioned in the summons, he shall be guilty of an offence and liable to a fine not exceeding P100:

Provided that no person giving evidence before the Board shall be compellable to incriminate himself and every such person shall in respect of any evidence given by him or any

document which he is required to produce be entitled to all the privileges to which a witness in a trial before the High Court is entitled in respect of evidence given by him or a document which he is required to produce before such court.

PART IV

Conservation and Improvement of Agricultural Resources (ss 16-23)

16. Powers of Board to issue orders and make regulations

(1) If, after paying due regard to all the circumstances, the Board considers that such a course is necessary or desirable for the conservation of agricultural resources on any land and is just and equitable it may, subject to the provisions of subsection (9)-

- (a) give a written order to the owner or occupier of such land to undertake or adopt such measures as it may deem necessary to conserve agricultural resources on such land or prevent injury to agricultural resources on other land arising from the acts or omissions of such owner or occupier; or
- (b) make such regulations to regulate agricultural land-use practices in areas designated thereby as it deems necessary for the conservation of agricultural resources in such areas.

(2) Any order given by the Board under subsection (1)(a) shall be known as a conservation order and shall be deemed to be sufficiently served on the owner or occupier to whom it is directed if delivered to him personally by a person nominated by the Board or if sent in a letter by registered post to his last known address, whether within or outside Botswana; if so sent, it shall be deemed, unless the contrary is proved, to have been served at the time at which the letter would be delivered in the ordinary course of the post.

(3) Any regulation made under subsection (1)(b) shall be known as a conservation regulation and shall come into operation in any area designated thereby one month after it has been published in the *Gazette*.

(4) As soon as any conservation regulation has been published in the *Gazette*, the Board shall use its best endeavours to ensure that public announcements drawing attention to such regulation are made at public meetings at such places as it may deem appropriate and that notices drawing attention to such regulation are prominently placed on such public notice boards as it may select within the area designated by such regulation.

(5) Notwithstanding the provisions of section 19, conservation orders and conservation regulations may-

- (a) prohibit, regulate, require or control-
 - (i) cultivation;
 - (ii) the grazing or watering of livestock;
 - (iii) the setting on, clearing or destruction of vegetation and its protection against fire;
 - (iv) the afforestation or re-afforestation of land;
 - (v) the protection of slopes or catchment areas;
 - (vi) the drainage of land including the construction, maintenance or repair of artificial or natural drains, gullies, contour banks, terraces and diversion ditches,
 - (vii) the fencing of land;

when such prohibition, regulation, requirement or control is deemed by the Board to be necessary for any of the following purposes-

- (aa) for the protection of land against erosion;
- (bb) for the protection of land against the deposit thereon of sand, stones or gravel or any other material;
- (cc) for the prevention of silting up of dams;
- (dd) for the preservation of vegetation;
- (ee) for the protection of the source and banks of streams;
- (ff) otherwise for the preservation of the soil and its fertility;
- (gg) for any other purpose connected with sound husbandry;

(b) prohibit, restrict or control the use of insecticides, fertilizers, or any type of chemical compound in, on or over land.

(6) If any owner or occupier of land fails or neglects to carry out or comply with any conservation order, served in accordance with subsection (2) or any conservation regulation, which has come into operation in accordance with subsection (3), within such reasonable time as may be fixed by the Board and stated in the order or regulation he shall be guilty of an offence and a court by which he is convicted shall in addition to any penalty which it may impose make an order requiring him to carry out or comply with the aforementioned order or regulation within a specified period of time, failure to comply with the order made by the court shall constitute a separate offence.

(7) Where it is necessary for an owner or occupier of land to construct any works to give effect to an order made under this section the Board may, at his written request, cause such works to be carried out and completed on his behalf; and where costs are incurred on such works under the provisions of this subsection the amount thereof shall be a debt due to the State by the owner or occupier concerned and, until it is discharged, interest on such debt shall be payable at such rate as may be prescribed.

(8) The Board may reduce the amount of costs payable under subsection (7) by such amount as it determines to be the value to the public of the works on which such costs were incurred.

(9) The Board shall not, with reference to any land in respect of which an order under section 10 of the Town and Country Planning Act has been published, give an order or make a regulation under this section except after consultation with the local authority named in such order.

(10) Where after consultation with the local authority in accordance with the provisions of subsection (9) the Board gives an order or makes a regulation, no permission to do anything which is required to be done by reason of the said order or regulation shall be refused or withheld by such local authority under the provisions of the Town and Country Planning Act.

(11) Any owner or occupier may apply to the Board to apportion any sum spent by him, or for which he has become liable, by reason of the provisions of this section in respect of works required to be constructed between himself and other persons having an interest in land which may be benefited by such works; an application under this subsection shall be in writing and shall state the names and addresses of the other persons having an interest as aforesaid, and the nature of such interest.

(12) Where an application is made under subsection (11) the Board shall fix a date for the hearing thereof and shall notify the applicant and the other persons named in the application and shall give them full opportunity to be heard thereon.

(13) The Board shall apportion the sums spent by the owner or occupier or for which he has become liable by reason of the provisions of this section in respect of works required to be constructed between the owner or occupier and the other persons named in the application in such manner as it considers equitable having regard to the respective interests of the persons concerned in the land benefited by such works.

(14) Any sum apportioned to any person other than the owner or occupier shall become a debt due by such person to the owner or occupier and, until it is discharged, interest thereon shall be paid at such rate as may be prescribed.

(15) The decision of the Board under subsection (13) shall be final, unless taken on appeal to the Minister within the period prescribed.

17. Additional powers of the Board

(1) When the owner or occupier of land is served with a conservation order or is affected by a conservation regulation under the provisions of section 16, he may apply in writing to the Board to direct any person resident on or using land or having any right in or over land to which the conservation order or conservation regulation relates, to refrain from doing any act on the

said land which would prevent or hinder compliance with the said conservation order or conservation regulation, and the Board may give such direction to any such person as it may consider reasonably necessary to enable the said conservation order or conservation regulation to be carried out.

(2) Any person who refuses or neglects to carry out or comply with any direction given by the Board under the provisions of subsection (1) shall be guilty of an offence.

18. Construction of works by the Board

(1) If the Board decides that such works and measures on any land as are hereinafter mentioned should not be the subject of a conservation order or conservation regulation under section 16 but deems them necessary or desirable for any of the following purposes-

- (a) mitigation or prevention of soil erosion;
- (b) the disposal and control of water including storm water and drainage water;
- (c) the protection of the catchment, source, course, banks or feeders of any stream;
- (d) the prevention or control, whether by firebreaks or by control-burning, of bushfires;
- (e) the prevention of pollution of public water;
- (f) the elimination of tsetse fly or the prevention of the spread of tsetse fly;
- (g) the eradication or prevention of noxious weeds,

it may cause such works to be construed or measures to be undertaken upon such land:

Provided that the Board shall not decide that any such works shall be constructed or measures undertaken on any land in respect of which an order under section 10 of the Town and Country Planning Act has been published, except after consultation with the local authority named in such order.

(2) Where a local authority has been consulted in accordance with the proviso to subsection (1), no permission to construct the works or undertake the measures concerning which it has been consulted shall be refused or withheld by it under the Town and Country Planning Act.

(3) No works shall be constructed or measures undertaken under the provisions of this section unless prior notice in writing of the intended works or measures, including a statement of the estimated cost thereof has been given to the owner or occupier of the land concerned and to such other persons as may in the opinion of the Board be adversely affected by such works or measures.

(4) The cost of construction of works or of measures undertaken under the provisions of this section shall be paid from moneys appropriated by Parliament for that purpose:

Provided that the Board may, if it is of the opinion that having regard to all the circumstances it is just that any person having an interest in the land on which the works will be or are being or have been constructed or the measures will be or are being or have been undertaken should contribute towards their cost, notify such person accordingly and in such notification specify the amount to be contributed by the said person.

(5) The amount to be contributed by any person shall, when such person has been notified under the provisions of subsection (4), be a debt due to the State by such person and, until it is discharged, interest shall be paid thereon at such rate as may be prescribed.

(6) Any notice to be given under this section shall be deemed to be sufficiently served on the person to be notified if delivered to him personally by a person nominated by the Board or if sent in a letter by registered post to his last known address, whether within or outside Botswana; if so sent, it shall be deemed, unless the contrary is proved, to have been served at the time at which the letter would be delivered in the ordinary course of the post.

19. Special provisions regarding the control of livestock

(1) If, after paying due regard to all the circumstances the Board considers that such a course is necessary or desirable for the conservation of the agricultural resources of any area and is just and equitable, it may by order prescribe the maximum number and the class of stock

which may be kept or pastured, or permitted to be kept or pastured by any owner or occupier of land within such area specified in such order, or which may be watered at any watering point specified in such order.

(2) Any order issued under subsection (1) shall be known as a stock control order, shall be in writing, and shall be deemed to be sufficiently served on the person to whom it is directed if delivered to him personally by a person nominated by the Board or if sent in a letter by registered post to his last known address, whether within or outside Botswana; if so sent, it shall be deemed, unless the contrary is proved, to have been served at the time at which the letter would be delivered in the ordinary course of the post.

(3) The operation of any stock control order shall be deferred for a reasonable time to be specified in such order if the person to whom it is directed will have to find alternative grazing or dispose of stock in order to comply with the order.

(4) A stock control order may relate to any cattle on the land or watered at the watering point to which such order relates regardless of whether some or all of the cattle are the subject of a contract, traditional or not, which prohibits or inhibits the person to whom the order is directed from selling or slaughtering them.

(5) If any owner or occupier wilfully contravenes or fails to comply with a stock control order directed to him he shall be guilty of an offence and, in addition to any penalty that may be imposed on him by any court convicting him, the Board may, after such conviction, order that any stock in excess of the number that may be grazed by him on the land to which the stock control order relates, which number has been signified in such order, shall be confiscated:

Provided that no such confiscation order shall be made until the time for appeal from such conviction has elapsed or all rights of appeal therefrom have been exhausted.

(6) When a confiscation order has been made under subsection (5) the Board may order that the confiscated stock be sold by public auction or disposed of to or through the Botswana Meat Commission.

(7) The proceeds of the sale or disposal of any such stock shall after the deduction of any administrative costs or judicial fines be delivered to the owner.

(8) No action shall lie against the Board in respect of any stock lost, stolen, strayed or which die while under confiscation provided reasonable care has been exercised in looking after such stock.

20. Conservation and subordinate conservation committees

(1) The Minister may, by notice published in the *Gazette*-

- (a) establish conservation committees and subordinate conservation committees; and
- (b) subject to the provisions of subsection (3), appoint such number of the members of any such committee as he may think fit.

(2) Any notice whereby a conservation committee or subordinate conservation committee is established shall specify the name of the committee and the area over which it shall have jurisdiction, and any notice whereby members of a committee are appointed shall, except in the case of members appointed by the term designating a public office, specify the periods for which they are appointed.

(3) In the case of a conservation committee established with jurisdiction over any tribal area as defined in the Tribal Land Act, the Minister shall appoint two members of the land board established in respect of such area by that Act to be members of the conservation committee.

(4) The Chairman of a conservation committee or subordinate conservation committee shall be a member thereof who is nominated by the Minister to be Chairman.

(5) Conservation committees and subordinate conservation committees shall meet at intervals of not less than three months at such places and times as may be decided by the Chairman.

(6) The Chairman of a conservation committee or subordinate conservation committee shall have a deliberative vote and in the event of an equality of votes shall also have

a casting vote.

(7) The quorum of a conservation committee or subordinate conservation committee shall consist of a simple majority of the members.

(8) In the absence of the Chairman from any meeting of a conservation committee or subordinate conservation committee the members present at such meeting shall elect a Chairman for that particular meeting.

(9) If any member present at a meeting of a conservation committee or subordinate conservation committee has any pecuniary or other interest, direct or indirect, in any matter under discussion, or is the husband, father, grandfather, son, grandson or brother, father-in-law, brother-in-law or son-in-law of any person seeking a grant from the Board he shall disclose the fact and, if the Chairman or other member presiding so directs, he shall withdraw from the meeting during such discussion or refrain from discussion of, or voting on, the matter.

(10) The Minister may appoint any public officer, with the consent of the Minister in whose Ministry such officer is employed, to be a temporary member of any conservation committee or subordinate conservation committee if he considers such appointment necessary to enable such committee properly to discharge its functions, and no temporary member shall be entitled to vote.

21. Functions of conservation and subordinate conservation committees

(1) The functions of a conservation committee shall be-

- (a) to keep under continual review the conservation of agricultural resources within its area of jurisdiction and make recommendations thereon to the Board;
- (b) to attempt to persuade any owner or occupier of land in its area of jurisdiction to adopt such methods of farming or land use as it may deem necessary for the purpose of conserving soil fertility and protecting agricultural resources;
- (c) to assist in giving notice to all owners or occupiers of land who are affected by a conservation order, stock control order or conservation regulation;
- (d) to recommend to land boards restrictions to be attached to customary grants of land rights and restrictive conditions to be attached to grants of land rights under the common law when it considers such restrictions or restrictive conditions to be in the interest of good husbandry;
- (e) generally to assist in measures for the preservation, wise use and improvement of agricultural resources within its area of jurisdiction;
- (f) to stimulate public interest in the conservation of agricultural resources; and
- (g) to consider, investigate and report upon any matter referred to it by the Minister or by the Board.

(2) The function of a subordinate conservation committee shall be to perform any functions enumerated in subsection (1) which may be assigned to it by the conservation committee to which, in the notice establishing it, it is subordinated.

(3) The conservation committee and the subordinate conservation committee shall conduct their proceedings in such manner as may be directed by the Minister or, in the absence of such direction, in such manner as they deem fit.

22. Powers of committees

A conservation committee and a subordinate conservation committee shall have all powers necessary or convenient for the performance of its functions and duties.

23. Entry upon land

(1) In so far as is required in the interests of country planning or in order to secure the development or utilization of property for the purpose of conserving agricultural resources any person authorized by this Act or by the Minister in writing may with such assistants, servants, workmen, animals, vehicles appliances and instruments as are necessary for the performance of any functions or duties prescribed, or the exercise of any powers conferred by this Act, enter upon any land or premises and do all such acts thereon as are necessary for or incidental to the

exercise of the said powers or the performance of the said functions or duties:

Provided that-

- (i) no person shall by virtue of this section enter upon any land or into any building or enclosed place thereon (except with the consent of the owner or occupier thereof) without previously giving such owner or occupier at least seven days' notice of his intention to do so;
- (ii) reasonable notice to exercise any of the other powers conferred by this subsection shall be given to the owner or occupier of the land;
- (iii) as little damage and in convenience as possible shall be caused by the exercise of any of the powers conferred by this subsection.

(2) After any entry upon land made under subsection (1), the Board, in the case of entry made by it, or, in any other case the Minister, shall promptly pay such compensation (if any) as may be adequate for any damage done or detriment caused by action taken under that subsection; and any dispute as to the interest or right of any person claiming an interest in or right over such land, the legality of such entry or acts, or the amount (if any) of compensation to which such person may be entitled by reason of such damage or detriment may, if the amount of compensation claimed does not exceed the jurisdiction of a magistrate's court presided over by a Magistrate Grade I or over having jurisdiction in the area where the land is situated, be referred by any party to such dispute to such court, whose decision shall be subject to an appeal to the High Court, and, if the amount claimed does exceed the said jurisdiction, such dispute may be referred to the High Court; and any person aggrieved by any delay in the payment of compensation due to him may apply to the High Court for the purpose of obtaining prompt payment thereof.

PART V

Appeals (ss 24-26)

24. Appeals to the Minister

(1) Any person affected directly or indirectly by-

- (a) a conservation order issued under section 16(1)(a);
- (b) an apportionment order made under section 16(13);
- (c) a direction given under section 17(1); or
- (d) a stock control order issued under section 19(1),

may appeal to the Minister within 30 days or such other time as the Minister may allow on the ground that such order or direction is inequitable, unreasonable or unduly harsh.

(2) Any person entitled to notice under section 18(3) may appeal to the Minister on the ground that the effect, in relation to him, of the intended works or measures will be inequitable, unreasonable or unduly harsh.

(3) Any person receiving a notification in terms of the proviso to section 18(4) may appeal to the Minister on the ground that the requirement that he should contribute, or contribute to the amount specified, is inequitable, unreasonable or unduly harsh.

(4) On the hearing of any appeal brought under this section the Minister may confirm, vary or set aside any order, direction, decision or proposal the subject of the appeal.

(5) Any order, direction, decision or proposal as so varied shall be deemed to be an order, direction, decision or proposal of the Board.

25. Operation of prohibitions and restrictions pending appeal

Any prohibition or restriction contained in any order or direction which is the subject of an appeal under this Part shall, pending the determination of such appeal, be of full force and effect in relation to all persons affected thereby to the extent to which such prohibition or restriction does not require the taking of positive action.

26 Finality of decision of minister

Any decision of the Minister shall, except as may be otherwise provided in this Act or in any other law, be final and shall not be subject to appeal.

PART VI
General (ss 27-30)

27. Charge upon land

(1) If any person has under any of the provisions of this Act become indebted to the State in his capacity as owner of any land registered in the Deeds Registry, the Registrar of Deeds shall, at the request of the Permanent Secretary of the Ministry of Agriculture made and given effect to while such person is owner of such land, enter such indebtedness upon the title-deeds to such land as a charge upon such land and the whole amount of such indebtedness shall be recoverable from such person or from any subsequent owner of the land so long as the charge remains registered.

(2) Any charge entered under subsection (1) shall rank prior for all purposes to any charge of later date registered against the title to the land and shall remain registered against the title until the Registrar of Deeds is satisfied that the indebtedness has been discharged in full and that the Minister responsible for finance has consented to the cancellation of the charge.

28. Regulations

The Minister may make regulations for the better carrying out of the objects and purposes of this Act and for giving effect to its principles and provisions, and without prejudice to the generality of the foregoing may make regulations-

- (a) prescribing anything which in terms of this Act is to be or may be prescribed;
- (b) regulating and prescribing the practice and procedure to be followed, the forms to be used and the fees to be paid in connection with proceedings of the Board or appeals before the Board.

29. Penalties

A person guilty of an offence under this Act shall be liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding 12 months, or to both.

30. Saving

Nothing in this Act shall be construed so as to conflict with or derogate from any of the provisions of the Water Act, the Mines and Minerals Act, or the Precious and Semi-Precious Stones (Protection) Act, and the provisions of this Act shall not be taken to apply to any matter or case which the provisions of any of the said Acts are designed to regulate, decide or control.