Province of Alberta

SOIL CONSERVATION ACT

Revised Statutes of Alberta 2000
Chapter S-15

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Soil Conservation Act* that are filed as Alberta Regulations under the Regulations Act.

	Alta. Reg.	*Amendments*
Soil Conservation Act		
Soil Conservation Notice	272/98	*63/2003, 195/2010, 33/2011, 271/2020*

SOIL CONSERVATION ACT

Chapter S-15

Table of Contents

1 Definitions
2 Application of Act

Soil Conservation

3 Duty of landholder
4 Direction to take remedial measures
5 Notification to Board and local authority
6 Remedial measures

Appeals

7 Right to appeal
8 Notice of appeal
9 Staying of officer's order
10 Notification of appeal committee
11 Hearing of appeal
12 Rules governing hearing of appeals
13 Decision of appeal committee
14 Composition of appeal committee

Soil Conservation Officers and Entry onto Land

15 Municipal officers
16 Provincial officers
17 Ministerial direction
18 Obstruction of an officer
19 Entry onto land

General

20 Service of documents
21 Permits, etc.
22 Offences

23 Court order
24 Action prohibited
25 Regulations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

(a) "appeal committee" means an appeal committee established under section 14;

(b) "Board" means an agricultural service board established under the *Agricultural Service Board Act*;

(c) "landholder" means, in respect of land,

(i) the occupant, or

(ii) if there is no occupant, the owner,

of the land;

(d) "local authority" means

(i) the council of a municipality other than an improvement district or a special area,

(ii) the Minister responsible for the *Municipal Government Act* in the case of an improvement district, or

(iii) the Minister responsible for the *Special Areas Act* in the case of a special area;

(e) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

(f) "municipal officer" means a soil conservation officer appointed under section 15 and includes an agricultural fieldman appointed under the *Agricultural Service Board Act*;

(g) "municipality" means a city, town, village, summer village, municipal district, improvement district or special area;

(h) "notice" means a notice referred to in section 4 or 13;

(i) "occupant" means a person other than an owner of land who occupies or exercises control over the land;

(j) "officer" means

(i) an agricultural fieldman appointed under section 8 of the *Agricultural Service Board Act*, or

(ii) a soil conservation officer appointed under this Act;

(k) "owner" means, with respect to land, the person registered under the *Land Titles Act* as the owner of the land;

(l) "provincial officer" means a soil conservation officer appointed under section 16;

(m) "rural municipality" means a municipal district, improvement district or special area.

1988 cS-19.1 s1;1994 cM-26.1 s642(67); 1995 c24 s99(32)

Application of Act

2 This Act does not apply in respect of the use of specified land within the meaning of Part 6 of the *Environmental Protection and Enhancement Act*.

1988 cS-19.1 s2;1992 cE-13.3 s246(12)

Soil Conservation

Duty of landholder

3 Every landholder shall, in respect of the landholder's land, take appropriate measures

(a) to prevent soil loss or deterioration from taking place, or

(b) if soil loss or deterioration is taking place, to stop the loss or deterioration from continuing.

1988 cS-19.1 s3

Direction to take remedial measures

4(1) If an officer is satisfied that, with respect to land, appropriate measures are not being taken

(a) to prevent soil loss or deterioration from taking place, or

(b) in the case where soil loss or deterioration is taking place, to stop the loss or deterioration from continuing,

the officer shall serve on the landholder a notice directing the landholder to take, within the time specified in the notice, the remedial measures set out in the notice.

(2) If the landholder is not the owner of the land in respect of which the notice is given, the officer shall serve a copy of the notice on the owner.

1988 cS-19.1 s4

Notification to Board and local authority

5 Where an officer serves a notice under section 4, the officer shall within 5 days from the day that the notice was served provide a copy of the notice

(a) to the local authority for the municipality in which the land is located, and

(b) if there is a Board appointed for the municipality in which the land is located, to the Board.

1988 cS-19.1 s5

Remedial measures

6(1) Where a landholder does not comply with a notice within the period of time specified in the notice, an officer or a person authorized by an officer may

(a) enter onto the land specified in the notice, and

(b) carry out the remedial measures set out in the notice.

(2) Subject to section 13(2), where expenses are incurred in carrying out remedial work under subsection (1), the local authority shall

(a) notify the landholder and, if the landholder is not the owner, the owner, of those expenses, and

(b) demand payment for those expenses within 30 days from the date of notification.

(3) Subject to section 13(2), where the payment of the expenses demanded under subsection (2) is not made within the 30-day period, the local authority may do one or both of the following:

(a) add the unpaid expenses to the tax roll as an additional tax against the land in respect of which the expenses were incurred;

(b) recover the unpaid expenses as a debt due to the local authority by action against the landholder and, if the landholder is not the owner, the owner.

1988 cS-19.1 s6

Appeals

Right to appeal

7(1) Where a notice is served on a person under section 4, that person may appeal the notice to the appeal committee appointed for the municipality in which the land is located by serving on the local authority for the municipality a notice of appeal.

(2) A notice of appeal is not effective unless it is served on the local authority

(a) within the period of time specified in the notice given under section 4 for the commencement of the remedial measures set out in the notice, or

(b) before any remedial measures are commenced under section 6,

whichever is the later.

(3) Notwithstanding subsection (2), where

(a) a notice is served on a person under section 4 and the notice requires that the remedial measures set out in the notice be carried out within 72 hours or a shorter period of time after the notice is served on the person, and

(b) the remedial measures referred to in that notice were commenced under section 6,

that person may not later than 72 hours after the notice is served on the person serve a notice of appeal on the local authority.

1988 cS-19.1 s7

Notice of appeal

8 A notice of appeal must be in writing and shall

(a) set out

(i) the name of the appellant,

(ii) an address for service on the appellant,

(iii) the legal description of the land in respect of which the appeal is being taken, and

(iv) the grounds of the appeal,

and

(b) be accompanied with a deposit in the amount of $50.

1988 cS-19.1 s8

Staying of officer's order

9(1) When a notice of appeal is served on a local authority under section 7, the operation of the notice that is the subject of the notice of appeal is stayed pending the determination of the appeal under this Act.

(2) If at the time that a notice of appeal is served on a local authority in respect of a notice referred to in section 7(3) remedial measures have been commenced under section 6 but not completed, the carrying out of the remedial measures shall not be continued pending the determination of the appeal under this Act.

1988 cS-19.1 s9

Notification of appeal committee

10 On being served with a notice of appeal, the local authority shall forthwith furnish the notice of appeal to the appeal committee.

1988 cS-19.1 s10

Hearing of appeal

11 On being furnished with a notice of appeal, the appeal committee shall, as soon as conveniently possible, hear the appeal.

1988 cS-19.1 s11

Rules governing hearing of appeals

12(1) For the purposes of hearing an appeal before an appeal committee, the following rules apply:

(a) 48 hours' notice in writing of the time, place and purpose of the hearing shall be served on the appellant at the address for service set out in the notice of appeal;

(b) in addition to the appellant, 48 hours' notice in writing of the time, place and purpose of the hearing shall be served in accordance with section 20 on any person who, in the opinion of the appeal committee, is substantially affected by the appeal;

(c) the appeal committee shall receive the evidence that is relevant to the matter being heard;

(d) the rules of evidence applicable to judicial proceedings do not apply;

(e) all oral evidence received shall be taken down in writing or recorded by electronic means;

(f) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence form the record of the proceeding;

(g) a copy of the order of the appeal committee, together with a copy of the written reasons for it, if any, shall be served within 30 days from the conclusion of the hearing

(i) on the appellant at the address for service set out in the notice of appeal, and

(ii) in accordance with section 20, on any person who, in the opinion of the appeal committee, is substantially affected by the order;

(h) a person appearing at a hearing may be represented by counsel or an agent;

(i) a hearing is open to the public unless the person presiding over the hearing considers it in the public interest to order otherwise;

(j) notwithstanding anything in this section, with the consent of the parties to the appeal,

(i) the appeal committee may consider the matter without a hearing being held, and

(ii) all matters concerning the application or matter being considered may be submitted in writing or otherwise to the appeal committee;

(k) any evidence taken down in writing or recorded under clause (e) may be destroyed at any time after 6 months has elapsed from the conclusion of the appeal;

(l) where a person is served with a written notice to attend a hearing and does not attend in person or by counsel or an agent, the appeal committee may proceed and determine the matter in the same manner as if the person had attended the hearing;

(m) the appeal committee may adjourn the appeal from time to time;

(n) the provisions of the *Alberta Rules of Court* relating to the payment of fees, expenses and allowances to witnesses apply to applications or other matters heard before the appeal committee.

(2) A member of the appeal committee may administer an oath to any person who is giving evidence before the appeal committee.

RSA 2000 cS-15 s12;2009 c53 s172

Decision of appeal committee

13(1) After hearing the appeal, the appeal committee may, by order, do one or more of the following:

(a) confirm the directions and the time period specified in the notice made by an officer under section 4;

(b) quash the notice made by an officer under section 4;

(c) vary the directions or the time period, or both, specified in the notice made by an officer under section 4;

(d) set aside the notice made by an officer under section 4 and in substitution for that notice issue a new notice directing the landholder to take, within the time specified in the new notice, the remedial measures set out in the new notice.

(2) Where

(a) the appeal committee hears an appeal arising out of a notice referred to in section 7(3),

(b) remedial measures have been carried out in whole or in part under section 6 in respect of that notice, and

(c) the appeal committee finds, in whole or in part, in favour of the appellant,

the appeal committee may do one or more of the things referred to in subsection (3).

(3) If subsection (2) applies, the appeal committee in addition to making an order under subsection (1) may, with respect to the remedial measures carried out, by order do one or more of the following:

(a) direct that the local authority and not the appellant nor the owner, if the owner is not the appellant, be liable for the expenses or a portion of them, as determined by the appeal committee, that were incurred in carrying out the remedial measures under section 6;

(b) direct that the local authority restore the land to a state that the appeal committee considers appropriate in the circumstances;

(c) direct that the local authority and not the appellant nor the owner, if the owner is not the appellant, be liable for the expenses or a portion of them, as determined by the appeal committee, that will be incurred in restoring the land under clause (b).

(4) The appeal committee may, with respect to a deposit paid under section 8, return the deposit or any portion of it to the appellant at the conclusion of the appeal.

1988 cS-19.1 s13

Composition of appeal committee

14 An appeal committee shall consist of

(a) in the case of a municipal district, the Board, or, if there is no Board, at the discretion of the council,

(i) the council, or

(ii) at least 3 members of the council appointed by a resolution of the council;

(b) in the case of an improvement district, the Board, or, if there is no Board, at least 3 persons appointed by the Minister responsible for the *Municipal Government Act*;

(c) in the case of a special area, the Board, or, if there is no Board, at least 3 persons appointed by the Minister responsible for the *Special Areas Act*;

(d) in the case of a municipality other than one referred to in clause (a), (b) or (c), at the discretion of the council,

(i) the council, or

(ii) at least 3 members of the council appointed by a resolution of the council.

1988 cS-19.1 s14; 1995 c24 s99(32)

Soil Conservation Officers and Entry onto Land

Municipal officers

15(1) The local authority of a rural municipality

(a) shall appoint at least one soil conservation officer for that municipality, and

(b) may pay remuneration to any soil conservation officer appointed under clause (a).

(2) The local authority of a municipality other than a rural municipality may, subject to subsection (3),

(a) appoint one or more soil conservation officers for that municipality, and

(b) pay remuneration to any soil conservation officer appointed under clause (a).

(3) Where the Minister is of the opinion that

(a) in the case of a rural municipality, the local authority has not appointed a sufficient number of soil conservation officers to meet the needs of the municipality, or

(b) in the case of a municipality other than a rural municipality, the circumstances are such that the municipality should appoint one or more soil conservation officers to meet the needs of the municipality,

the Minister may make an order under subsection (4).

(4) If subsection (3) applies, the Minister may, by order, direct the local authority to

(a) appoint one or more soil conservation officers for the municipality, and

(b) pay remuneration to the soil conservation officers referred to in clause (a), in accordance with the directions, if any, contained in the order.

(5) Where the local authority appoints a soil conservation officer for a municipality, that officer shall exercise the officer's powers only within the municipality for which the officer is appointed.

1988 cS-19.1 s15

Provincial officers

16(1) The Minister may, in accordance with the *Public Service Act*, appoint soil conservation officers for the purposes of carrying out this Act.

(2) Where a soil conservation officer is appointed under this section, that officer may exercise the officer's powers anywhere within the Province.

1988 cS-19.1 s16

Ministerial direction

17(1) If the Minister makes an order under section 15(4) and the local authority of a municipality does not comply with the order, the Minister may direct one or more provincial officers to perform the duties of a municipal officer within that municipality.

(2) Without restricting the authority or powers of a provincial officer, if the Minister is of the opinion that a municipal officer

(a) is in need of assistance in carrying out the officer's duties under this Act, the Minister may direct a provincial officer to assist the municipal officer in carrying out the officer's duties under this Act, or

(b) is not carrying out the officer's duties under this Act in a satisfactory manner, the Minister may, by order,

(i) suspend the municipal officer from performing any duties under this Act, and

(ii) direct a provincial officer to carry out the suspended officer's duties.

(3) Where under subsection (1) or (2)(b) the Minister directs a provincial officer to perform the functions of a municipal officer in a municipality, the Government may recover from the local authority for that municipality as a debt due to the Crown any expenses, including the remuneration of the provincial officer, incurred by reason of the provincial officer's performing the duties of the municipal officer.

1988 cS-19.1 s17

Obstruction of an officer

18 No person shall

(a) resist, or

(b) wilfully obstruct or delay

an officer from or in the carrying out of the officer's duties under this Act or the regulations.

1988 cS-19.1 s18

Entry onto land

19(1) An officer or a member of an appeal committee or any person authorized by one of them may, at any reasonable time, enter onto land for the purposes of

(a) determining, in respect of that land,

(i) whether appropriate measures are being taken

(A) to prevent soil loss or deterioration from taking place, or

(B) in the case where soil loss or deterioration is taking place, to stop the loss or deterioration from continuing,

or

(ii) whether remedial measures set out in a notice are being properly carried out,

or

(b) carrying out remedial measures set out in a notice.

(2) The right to enter onto land as permitted under this section does not, without the permission of the landholder, include the right to enter any building or structure that is situated on the land.

1988 cS-19.1 s19

General

Service of documents

20(1) A notice, order or other document issued in respect of this Act may be served on the person to whom it is issued by one or more of the following methods:

(a) by personal service;

(b) by registered mail

(i) to the person at that person's last address known to the person issuing the notice, order or other document, or

(ii) in the case of an appeal where an address for service is set out in a notice of appeal, to the appellant at that address for service;

(c) by leaving the notice, order or other document with a person who

(i) appears to be over the age of 18 years, and

(ii) is in the dwelling place or place of business of the person to whom the notice, order or document is directed.

(2) If service cannot be effected by one of the methods referred to in subsection (1), the notice may be served by posting a copy of the notice in a conspicuous place on the land referred to in the notice.

(3) Any notice, order or other document sent by registered mail under this section is deemed to have been received by the person to whom it is addressed 10 days after it was sent.

1988 cS-19.1 s20

Permits, etc.

21(1) A local authority may, in the case of a council, by bylaw, or, in the case of the Minister responsible for the *Municipal Government Act* or the Minister responsible for the *Special Areas Act*, by order, do one or more of the following:

(a) provide for the issuance of permits governing

(i) the removal of topsoil from land;

(ii) the burning of stubble on land;

(b) prescribe and govern the terms and conditions under which a permit may be issued, suspended, reinstated or cancelled;

(c) prohibit the removal of topsoil from land;

(d) prohibit the burning of stubble on land.

(2) When a bylaw or order is made under subsection (1), a copy of it shall be forthwith provided to the Minister.

(3) Where a bylaw or order made under subsection (1) conflicts with this Act or the regulations, this Act or the regulations, as the case may be, prevail.

1988 cS-19.1 s21

Offences

22(1) A person who

(a) fails to comply with a notice,

(b) contravenes this Act or the regulations,

(c) contravenes a bylaw or order made under section 21, or

(d) fails to comply with the terms or conditions under which a permit is issued,

is guilty of an offence and liable to a fine of not more than $5000.

(2) A person who fails to comply with section 3 is guilty of an offence and liable to a fine of not more than $500 for each day or part of a day that the offence continues, to a maximum fine of not more than $10 000.

1988 cS-19.1 s22;1998 c2 s8

Court order

23(1) Where

(a) a person is authorized under this Act to enter onto a landholder's land and the landholder refuses to allow that person to enter onto that land, or

(b) the landholder refuses to comply with a notice as finally determined under this Act,

an officer may apply to the Court of Queen's Bench for an order requiring the landholder, as the case may be, to permit the person to enter onto the landholder's land or to comply with the notice, or both.

(2) On an application being filed with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting any relief that the Court considers appropriate pending the determination of the application.

(3) An interim order under subsection (2) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(4) In determining the application, the Court may

(a) grant its order subject to any terms or conditions it considers appropriate in the circumstances, and

(b) award costs in respect of the matter.

RSA 2000 cS-15 s23;2009 c53 s172

Action prohibited

24 No action lies against

(a) the Minister,

(b) the Minister responsible for the *Municipal Government Act*,

(c) the Minister responsible for the *Special Areas Act*,

(d) a local authority or an official of a local authority,

(e) a member of a Board,

(f) a member of an appeal committee, or

(g) an officer or other person,

for an act done or performed in good faith under this Act or the regulations.

1988 cS-19.1 s24

Regulations

25 The Lieutenant Governor in Council may make regulations

(a) governing qualifications of officers;

(b) governing the contents and use of forms;

(c) governing any of the matters set out in section 21.

1988 cS-19.1 s25

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