

## **Orissa Soil Conservation Act, 1965**

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## **Orissa Soil Conservation Act, 1965**

An Act to provide for the preparation and execution of schemes for the conservation and improvement of soil resources, the prevention or mitigation of soil erosion and matters connected therewith Be it enacted by the Legislature of the State of Orissa in the Sixteenth Year of the Republic of India, as follows: \*. Published vide Orissa Gazette Ext.25.1.1966-0.A. No. 4 of 1966. For Statement of Objects and Reasons, see Orissa Gazette Ext. No.670/ 25.9.1963 and for Report of Select Committee see ibid No. 1303/22.8.1964.

### **CHAPTER 1 PRELIMINARY**

#### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Orissa Soil Conservation Act, 1965.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf and different dates may be so appointed for different areas within the State.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (1) "beneficiary" means a person who or whose land shall be benefited as a result of the execution of a scheme;
- (2) "Collector" includes any Gazetted Officer specially appointed by the State Government to perform the functions of the Collector under this Act;
- (3) "Committee" means the Advisory Committee constituted under Section 21 in respect of a scheme;
- (4) "erosion" means removal or displacement of earth, stones or other materials by the action of wind and water or other natural process;
- (5) "Grama Sasan" means a Grama Sasan constituted under the Orissa Grama Panchayats Act, 1948 (Orissa Act 15 of 1948);
- (6) "owner" in relation to land includes a mortgagee with possession, a lessee or sub-lessee;
- (7) "Podu cultivation" means any kind of shifting cultivation generally known as Podu, Jhuming, Biringa, Dangar, Gudia, Bagada

or Khaman cultivation;

(8) "prescribed" means prescribed by rules made under this Act;

(9) "scheme" means a scheme prepared under this Act and includes a scheme declared to be in force for the purposes of this Act under Section 18;

(10) "statement" means a statement prepared under Section 19;

(11) "work" means any work of public utility constructed, erected or carried out under a scheme and includes a pasture or forest provided or raised under a scheme.

## **CHAPTER 2 PREPARATION OF SCHEMES**

### **3. State Government To Direct Preparation Of Schemes :-**

Whenever in the of the State Government it is expedient in the interest of the public to provide for the conservation of sub-soil water or the prevention or mitigation of erosion of lands in any area they may direct the preparation of a scheme by the Collector in respect of such area.

### **4. Matters Which Scheme May Provide :-**

The scheme under Section 3 may provide for all or any of the following matters, namely:

- (i) prevention of erosion of soil;
- (ii) preservation and improvement of soil;
- (iii) construction of earth and masonry works in fields, gullies and ravines;
- (iv) training of Streams;
- (v) prohibition or control of grazing or reservation of land for pasture:

Provided that no such prohibition or control shall be imposed at any time in respect of more than fifty per centum of the pasture lands within the area under the scheme;

- (vi) planting and preservation of trees, shrubs and grass for afforesting uncultivable land or providing shelter-belts against wind or sand or for any other purpose;
- (vii) regulation or prohibition of firing of vegetation;
- (viii) improvement of water-supply; and
- (ix) any other matter which may be prescribed.

### **5. Preparation Of Draft Scheme :-**

On a direction being issued under Section 3 the Collector shall, in

accordance with the instructions, if any, issued by the State Government in that behalf, prepare a draft scheme containing the following particulars, namely:

- (i) objects of the scheme;
- (ii) approximate area and boundaries of the lands to be included in the scheme together with a plan of such area
- (iii) names of persons, including the Government who will be affected by the scheme;
- (iv) the work or kind of work to be carried out under the scheme and its estimated cost; and
- (v) such other particulars as may be prescribed.

## **6. Consideration Of Objections And Report To Government**

**:-**

(1) The draft scheme prepared under Section 5 shall be notified by the Collector in the official Gazette and simultaneously published in such other manner as may be prescribed, inviting objections in writing from all persons likely to be affected by the scheme to be submitted to the Collector within sixty days of the said notification.

(2) The Collector shall consider all such objections, as may have been received under Sub-section (1) make such enquiries as he deems fit and submit his report together with the objections received to the Committee recommending modifications, if any, which in his opinion are required in any of the particulars contained in the draft scheme so prepared.

(3) The Committee shall, after considering the objections and the report made by the Collector, submit its report together with the objections and the report of the Collector to the State Government recommending modifications, if any, which in its opinion are required in any of the particulars contained in such draft scheme.

## **7. Sanction Of Scheme By Government :-**

(1) The State Government may, after considering the report under Section 6 and any further reports that they deem fit to call for, sanction the scheme with or without modifications, or reject it and direct that in lieu thereof a fresh draft scheme be prepared and submitted for their sanction under this sub-section.

(2) The scheme as sanctioned under Sub-section (1) shall be published in the Official Gazette and also in such other manner in the area to which the scheme relates as in the opinion of the State Government is best suited to the circumstances.

## **8. Coming Into Force Of The Scheme :-**

The scheme shall come into force on the date on which it is published in the Official Gazette under Subsection (2) of Section 7.

## **9. Section 9 :-**

## **10. Podu Cultivation And Pasture Lands And Village Forests :-**

Without prejudice to the generality of the powers under Sections 3 to 8, the State Government may, from time to time, whenever in the public interest they deem it expedient so to do-

(a) notify any area where the system of Podu cultivation is prevalent and cause demarcation, survey and division into separate blocks of such lands within the area as are in their opinion amenable to such cultivation; or

(b) notify all communal pasture or forest lands in any area and cause demarcation and survey of such of the lands as are in their opinion denuded of pasture or of forest growth.

## **11. Draft Scheme Relating To Podu Cultivation And Pasture And Forest :-**

(1) Where action has been taken under Clause (a) of Section 9 the Collector shall with a view to diminish the wasting effects of the system of Podu cultivation on the soil and the gradual abolition of the system prepare a draft scheme providing for the control of such cultivation by rotational closure of the blocks or by otherwise regulating, restricting or prohibiting the same within the area:

Provided that no person having a right to cultivate any land shall be prohibited from adopting the system of Podu cultivation therein, unless in lieu thereof other lands of similar productivity are allotted to him by the Collector in the prescribed manner:

(2) Where action has been taken under Clause (b) of Section 9 the Collector shall with a view to the development and maintenance of pasture lands and forest growth in the area prepare a draft scheme providing for the execution of such works as may be in his opinion necessary and for the said purpose for closing from time to time such portions of the communal lands to grazing and exercise of other rights, as the Collector may consider best suited to the circumstances obtaining in the area.

## **12. Sanction Of Scheme Prepared Under Section 10 :-**

On the preparation of a draft scheme under Section 10 the provisions of Section 6, Section 7 and Section 8 shall, mutatis mutandis, apply.

### **CHAPTER 3 EXECUTION OF SCHEMES AND MAINTENANCE AND REPAIR OF WORKS**

#### **13. Execution And Cost Of Schemes :-**

When a scheme comes into force in accordance with the provisions of the foregoing Chapter the Collector shall execute the scheme and the works to be carried out thereunder.

#### **14. Regulation :-**

For the purpose of carrying out the objects of any scheme the Collector may, subject to the control and directions of the State Government, make regulations, published in the prescribed manner requiring any person or persons of the public generally to do or refrain from doing any acts in respect of any matter necessary, supplementary or incidental to the scheme.

#### **15. Power Of Entry, Survey, Etc. :-**

(1) The Collector or any person authorised by him in writing in that behalf may, for the purpose of preparing, sanctioning or executing any scheme or repairing or maintaining any works under any scheme, after giving such reasonable notice as may be prescribed to the owner, occupier or any person interested in any land, enter upon survey and mark out such land and do all acts necessary for such purpose.

(2) The Collector and every person authorised by him under Subsection (1) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

#### **16. Payment Of Compensation For Damages, Etc. :-**

(1) Reasonable compensation in respect of any loss, damage or injury caused to the property of any person in carrying out any operations under this Chapter shall, on a claim being made in that behalf in the manner, be paid to the person-

(a) where an agreement has been entered into with the person concerned, in accordance with such agreement ; and-

(b) where no such agreement is possible, by the Collector as may be assessed by him in that behalf.

(2) No claim for compensation shall be entertained by the Collector under Sub-section (1) unless it is made within ninety, days from date notified by the Collector in that behalf in the prescribed manner inviting such claims.

(3) Any person aggrieved by an order of the Collector under Clause (b) of Sub-section (1) may before the expiry of sixty days from the date of the order appeal to such authority and in such manner as may be prescribed and the orders passed in such appeal, shall, subject to the provisions of Sub-section (4), be final.

(4) The High Court may, on any question of law raised in an application for revision by any person aggrieved by an order passed under Sub-section (3) filed within sixty days from the date of the said order, revise the same and confirm, reverse or modify the said order according as the Court thinks proper.

### **17. Realisation Of Costs :-**

(1) On the execution of any scheme under this Act the State Government shall, having regard to-

- (a) the amount of costs incurred in the execution of such scheme;
- (b) the nature and scope of the scheme;
- (c) the economic conditions of the beneficiaries; and
- (d) any other factor as the State Government may consider relevant in that behalf;

by notified order giving reasons thereof, specify whether or not the whole or any part of the aforesaid costs may be recovered from the beneficiaries or any section thereof and the amount, if any, that may be so recovered and thereupon the Collector shall recover the said amount from such beneficiaries in such portion and in such instalments as he may, by order, determine:

Provided that the Collector in apportioning the costs amongst such beneficiaries shall have regard to the extent of the benefits conferred by the scheme.

(2) Any person aggrieved by an order passed by the Collector under Sub-section (1) may, before the expiry of thirty days from the date of such order appeal to the State Government in the prescribed manner and the orders of the State Government passed in such appeal shall be final.

### **18. Liability To Maintain And Repair :-**

(1) Every beneficiary in respect of any scheme executed in accordance with the provisions of this Act, or any scheme providing for any matter specified in Section 4 or Section 10 and commenced or executed prior to the date of commencement of this Act and declared by the State Government in the Official Gazette to be a scheme in force for purposes of this Act shall be liable to maintain and repair to the satisfaction of the Collector any work carried out under any such scheme in his own land or in any other land in respect of which he is shown as liable so to do in the statement, if any, prepared under Section 19 :

Provided that no such declaration shall be made by the State Government without obtaining the report and recommendations, if any, of the Committee constituted in respect of any scheme commenced or executed prior to the date of commencement of this Act and without considering the report and recommendations so obtained.

(2) If such person fails to maintain or repair the work within the time that may be fixed by the Collector in that behalf under sub-section (1) the Collector shall himself get the work repaired and maintained and the expenses incurred on that account shall be recovered from such person.

(3) Any dispute as to the amount of the expenses to be recovered under Sub-section (2) shall be decided by the Collector and subject to the decision in appeal, if any, before the State Government in accordance with the rules made in that behalf, the decision of the Collector shall be final.

### **19. Statement Of Liability :-**

(1) For purposes of Section 18 the Collector shall prepare a draft statement giving for any specified area the following particulars, namely :

- (a) the work done;
- (b) a map showing the work done;
- (c) the cost of such work;
- (d) the persons who in the opinion of the Collector are liable jointly or individually to maintain and repair any such work; and
- (e) such other matters as may be prescribed.

(2) The draft statement prepared under Sub-section shall be published in the prescribed manner inviting objections from the persons affected to be submitted to the Collector within thirty days from the date of such publication.



(3) The Collector shall consider all such objections as are received under Sub-section (2) and after holding such enquiry as he deems fit and giving the persons filing such objection an opportunity of being heard, by order confirm the statement with such alteration or modifications, if any, as he deems fit and proper.

(4) Any person aggrieved by an order under Sub-section (3) in respect of any entry in the statement, may, before the expiry of thirty days from the date of such order, appeal to the State Government in the manner prescribed and the orders of the State Government passed in such appeal shall be final.

(5) The statement prepared in accordance with the foregoing subsections may, on the application of any person interested, be revised by the Collector by an order made by him in that behalf in the prescribed manner on the ground of any change in the beneficiaries shown in such statement and all such orders shall have effect subject to the decision in an appeal, if any, so far as may be, in accordance with Sub-section (4).

## **20. Execution Of Scheme By Grama Sasan :-**

(1) Notwithstanding anything contained in Section 13 the State Government may, whenever they deem it fit so to do, entrust the maintenance or repair of any work carried out under any scheme which has come into force under Section 11 or under any scheme providing for any matter specified in Section 10 in respect of which a declaration has been made by the State Government under Section 18, the Grama Sasan having jurisdiction over the area to which the scheme relates.

(2) Where the maintenance or repair of any work is entrusted to the Grama Sasan the expenses incurred in that behalf by such Grama Sasan shall be recovered by it from the person or persons who are liable for such maintenance or repair in accordance with the statement prepared by the Collector under Section 19.

(3) Any dispute as to the amount of the expenses to be recovered under Sub-section (2) shall be decided by the Grama Panchayat of the concerned Grama Sasan, and subject to the decision in appeal, if any, before the Collector in accordance with the rules made in that behalf, the decision of the Grama Panchayat shall be final.

## **CHAPTER 4 ADVISORY COMMITTEE**

### **21. Constitution Of Committee And Term Of Office :-**

(1) The State Government shall, in respect of each scheme, constitute an Advisory Committee consisting of the following members:

(i) Collector of the district in which the area under the scheme is situate and where the area is situate in more than one districts the Collector of all the districts,

(ii) Soil Conservation Officer or Officers exercising jurisdiction within the area,

(iii) District Agricultural Officer or Officers exercising jurisdiction within the area,

(iv) Divisional Forest Officer or Officers exercising jurisdiction within the area,

(v) Members of the Legislative Assembly whose constituencies include any part of the area or their nominees,

(vi) A person nominated by the State Government from amongst persons who will be affected by the scheme.

(2) The Collector of the district or, where there are more than one such Collector in the Committee, the Collector of the district having the largest area under the scheme shall be the Chairman of the Committee.

(3) The Soil Conservation Officer or, where there are more than one such Officer, the Officer exercising jurisdiction over the largest portion of such area shall be the Secretary of the Committee.

(4) The term of office of the member specified in Clause (vi) of Sub-section (1) shall be two years and in the event of any casual vacancy accruing by reason of death or resignation of such member or otherwise the vacancy shall be filled up by nomination by the State Government and the member so nominated shall hold office for the remaining term of the member in whose place he has been nominated.

## **22. Functions Of The Committee :-**

The functions of the Committee shall be-

(a) to consider the scheme and furnish the State Government with its report;

(b) to take steps to ensure proper execution of the scheme;

(c) to take steps to educate people in soil conservation; and

(d) to perform such other functions as may be assigned by the State Government.

## **23. Conduct Of Business :-**

The business of the Committee shall be conducted in the prescribed manner.

## **CHAPTER 5 MISCELLANEOUS**

### **24. Recovery Of Dues :-**

Any amount or any part thereof payable to the State Government under this Act which is not paid on the date when it becomes due shall be recoverable as an arrear of land revenue.

### **25. Delegation Of Powers :-**

- (1) The State Government and, subject to the control of the State Government, the Collector may respectively delegate to any officer or authority subordinate to the State Government or to the Collector, as the case may be, any of the powers, functions and duties conferred and imposed by or under the provisions of this Act.
- (2) All powers, functions and duties so delegated shall be exercised, performed and discharged subject to such directions and to such conditions, limitations and restrictions, if any, as the State Government may, from time to time issue or specify in that behalf.

### **26. Power To Revoke Scheme :-**

The State Government may, at any time by notification published in the Official Gazette and in such other manner as may be prescribed, revoke any scheme after it has come into force and on such revocation the provisions of this Act shall cease to apply to such scheme.

### **27. Penalty :-**

- (1) Any person who contravenes or causes any, contravention of any of the provisions of a scheme for the time being in force or any of the regulations made under Section 14 or fails to fulfil any liability under Section 18 shall on conviction be punishable with fine which may extend to five hundred rupees.
- (2) Any person who does any act which causes damage to any of the works carried out under the scheme or to any structure or machinery used for the purposes of the scheme shall on conviction be punishable with imprisonment which may extend to one month or fine which may extend to five hundred rupees or with both.

### **28. Procedure At Inquiries :-**

The State Government or any other authority while making an inquiry in accordance with or in pursuance of the provisions of this Act or of the rules or regulations made thereunder shall have all the powers of a Civil Court while trying a suit, in respect of the summoning and enforcing the attendance of any person and examining on oath and compelling the production of documents and any other matter as may be prescribed.

### **29. Indemnity :-**

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

### **30. Power To Make Rules :-**

(1) The State Government may subject to the condition of previous publication make rule for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for the following matters, namely :

(a) all matters allowed or required by this Act to be prescribed;

(b) procedure to be followed in making inquiries;

(c) manner of service of notices;

(d) preparation of draft scheme under Section 5 and Section 10 and submission thereof to the State Government;

(e) making of regulations by the Collector under Section 14;

(f) preparation of draft statement under Section 19;

(g) duties and responsibilities of various officers and agencies that may be engaged in the implementation of schemes;

(h) manner in which lands shall be dealt with and works executed and maintained by officers and agencies.

(3) All rules made under this section shall be laid as soon as possible, after they are made, before the State Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two or more sessions and shall be subject to such modifications as the Assembly may make during the

said period:

Provided that no rule shall have effect until the expiry of the said period.

**31. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act the State Government may by order published in the Official Gazette make such provision or give such direction not inconsistent with the purposes of this Act as appears to them to be necessary or expedient for removing the difficulty.