

NORTHERN TERRITORY OF AUSTRALIA

WATER AMENDMENT ACT 1996

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**No. 66 of 1996**

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# NORTHERN TERRITORY OF AUSTRALIA

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No. 66 of 1996

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## AN ACT

to amend the *Water Act*

[Assented to 31 December 1996]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Water Amendment Act 1996*.

2. COMMENCEMENT

This Act comes into operation on the commencement of the *Environmental Offences and Penalties Act 1996*.

3. PRINCIPAL ACT

The *Water Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 4(1) of the Principal Act is amended -

(a) by inserting after the definition of "environment" the following:

"'environmental harm' means any harm to or adverse effect on, or potential harm to or adverse effect on, the environment;"

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- (b) by inserting after the definition of "licence" the following:

"'material environmental harm' means environmental harm that -

- (a) is not trivial or negligible in nature;
- (b) results or is likely to result in not more than \$50,000 being spent in taking appropriate action to prevent or minimise the harm or rehabilitate the environment; or
- (c) results in actual or potential loss or damage to the value of not more than \$50,000;"; and

- (c) by inserting after the definition of "Review Panel" the following:

"'serious environmental harm' means environmental harm that is more serious than material environmental harm and includes environmental harm that -

- (a) results or is likely to result in more than \$50,000 being spent in taking appropriate action to prevent or minimise the harm or rehabilitate the environment;
- (b) results in actual or potential loss or damage to the value of more than \$50,000;
- (c) damages an aspect of the environment that is of a high conservation value or of special significance; and
- (d) is irreversible or otherwise of a high impact or on a wide scale;".

5. PROHIBITION OF POLLUTION

Section 16 of the Principal Act is amended -

- (a) by omitting subsection (2) and substituting the following:

"(2) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, wilfully cause, either directly or indirectly -

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- (a) waste to come into contact with water; or
- (b) water to be polluted,

causing serious environmental harm.

"(2A) An offence against subsection (2) is an environmental offence level 1.

"(2B) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly -

- (a) waste to come into contact with water; or
- (b) water to be polluted,

causing serious environmental harm.

"(2C) An offence against subsection (2B) is an environmental offence level 2.

"(2D) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly -

- (a) waste to come into contact with water; or
- (b) water to be polluted,

causing material environmental harm.

"(2E) An offence against subsection (2D) is an environmental level 3 offence.

"(2F) A person shall not, unless authorised to do so by or under this or any other law in force in the Territory and in accordance with that authorisation, cause, either directly or indirectly -

- (a) waste to come into contact with water; or
- (b) water to be polluted.

"(2G) An offence against subsection (2F) is an environmental offence level 4.";

- (b) by omitting from subsection (3) "subsection (2)" and substituting "this section"; and

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(c) by adding at the end the following:

"Default penalty: \$500 or, in the case of a body corporate, \$2,500."

6. PROHIBITION OF UNLICENSED WASTE DISPOSAL

Section 62 of the Principal Act is amended -

(a) by omitting subsection (1) and substituting the following:

"(1) A person shall not, unless authorised by or under this Act to do so, wilfully cause waste to be disposed of underground by means of a bore causing serious environmental harm.

"(1A) An offence against subsection (1) is an environmental offence level 1.

"(1B) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore causing serious environmental harm.

"(1C) An offence against subsection (1B) is an environmental offence level 2.

"(1D) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore causing material environmental harm.

"(1E) An offence against subsection (1D) is an environmental offence level 3.

"(1F) A person shall not, unless authorised by or under this Act to do so, cause waste to be disposed of underground by means of a bore.

"(1G) An offence against subsection (1F) is an environmental offence level 4.";

(b) by omitting from subsection (2) -

(i) "subsection (1)" and substituting "this section"; and

(ii) "that subsection" and substituting "this section"; and

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(c) by adding at the end the following:

"Default penalty: \$500 or, in the case of a body corporate, \$2,500."

7. BREACH OF TERM OR CONDITION OF LICENCE

Section 64 of the Principal Act is amended by -

(a) omitting "The holder" and substituting "(1) The holder";

(b) by omitting all words after "licence is subject."; and

(c) by adding at the end the following:

"(2) An offence against subsection (1) is an environmental offence level 3.

Default penalty: \$500 or, in the case of a body corporate, \$2,500."

8. CHANGE IN USE OF BORE

Section 65 of the Principal Act is amended -

(a) by omitting from sub section (4) all words after "consent is subject."; and

(b) by adding at the end the following:

"(5) An offence against this section is an environmental offence level 3.

Default penalty: \$500 or, in the case of a body corporate, \$2,500."

9. BREACH OF TERMS OR CONDITIONS OF LICENCE

Section 76 of the Principal Act is amended -

(a) by omitting "The holder" and substituting "(1) The holder";

(b) by omitting all words after "licence is subject."; and

(c) by adding at the end the following:

"(2) An offence against this section is an environmental offence level 3.

Default penalty: \$500 or, in the case of a body corporate, \$2,500."

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10. EMERGENCY POWERS TO CONTROL POLLUTION

Section 97 of the Principal Act is amended -

- (a) by omitting from subsection (3) all words after "Act is subject."; and
- (b) by inserting after subsection (3) the following:

"(3A) An offence against subsection (3) is an environmental offence level 3.

Default penalty: \$500 or, in the case of a body corporate, \$2,500."

11. NEW SECTION

The Principal Act is amended by inserting in Part 10 after section 105 the following:

"105A. ALTERNATIVE VERDICTS

"(1) In a proceeding for an environmental offence level 1 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 2, or an environmental offence level 3, that is an offence against that same section.

"(2) In a proceeding for an environmental offence level 2 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 3 that is an offence against that same section.

"(3) In a proceeding for an environmental offence level 3 against a section of this Act, the person charged with the offence may be found guilty alternatively of an environmental offence level 4 that is an offence against that same section."