



# **Bores and Wells Act 1996**

**No. 19, 1996**

## **Compilation No. 1**

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**Includes amendments up to:** Norfolk Island Continued Laws Ordinance 2015  
(No. 2, 2015)

NORFOLK



ISLAND

# **BORES AND WELLS ACT 1996**

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## **Bores and Wells Act 1996**

An Act to provide for the prohibition of the construction or alteration of bores or wells, and for related purposes

### **PART 1 — PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Bores and Wells Act 1996*.

#### **Commencement**

2. This Act commences on the date on which notification of Assent is published in the Gazette.

#### **Repeal**

3. Section 68 and 69 of the *Environment Act 1990* are repealed.

#### **Interpretation**

4. In this Act, unless the contrary intention appears —  
“bore” includes equipment associated with the use of a bore as a source of water;  
“construct” includes —
  - (a) erect; and
  - (b) dig or bore a hole;“Court” means the Court of Petty Sessions;  
“well” includes equipment associated with the use of a well as a source of water.

### **PART 2 — EXISTING APPROVALS**

#### **Validity of existing approvals**

5. (1) Subject to subsection 5(2), a purported approval to construct or alter a bore or a well given by or on behalf of the executive member or the Administration on or after 31 December 1990 and before 26 June 1996, is to be taken for all purposes to have had effect under the *Environment Act 1990* as if the approval were valid on and after the date it was given.

(2) Subsection 5(1) only applies in respect of a bore or well where construction or alteration has been completed before 26 June 1996.

### **PART 3 — INTERIM ENFORCEMENT**

#### **Construction or alteration of bores and wells**

6. A person shall not construct or alter a bore or well.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

#### **Remedial work notices**

7. (1) This section applies where, in the opinion of the executive member based on reasonable grounds, a bore or well is being, or has been, constructed or altered on or after 31 December 1990 without a purported approval to which subsection 5(1) applies.

(2) Where this section applies, the executive member may issue a notice to the owner of the land upon which the bore or well is being, or has been, constructed or altered requiring that person, within a specified period, to undertake specified action to reverse any effects of the construction or alteration.

#### **Enforcement of remedial work notices**

8. (1) If a person fails to comply with a notice under subsection 7(2), the executive member may apply to the Court for an order that the person, within a further specified period, comply with the notice and undertake any specified action to reverse any effects of the construction or alteration.

(2) Upon an application under subsection 8(1), the Court shall make an order under that subsection if satisfied that —

(a) the person against whom the order is sought is constructing or altering, or has constructed or altered, a bore or well without a purported approval to which subsection 5(1) applies; and

(b) the person has failed to comply with a notice under subsection 7(2).

(3) A person shall not, without reasonable excuse, fail to comply with an order under subsection 8(2).

Penalty for contravention of subsection 8(3): 60 penalty units or imprisonment for 12 months, or both.

#### **Restitution by Administration**

9. (1) If, in the opinion of the executive member based on reasonable grounds, a person fails to comply with an order under subsection 8(2), the executive member may cause to be carried out such works as the executive member considers on reasonable grounds to be necessary to comply with the order.

(2) The cost of carrying out works under subsection 9(1) is a debt due and payable to the Administration by the person to whom the order was directed and

may be recovered by the Administration in a court of competent jurisdiction.

(3) No action lies against the Crown or any person carrying out works under subsection 9(1) for anything done or omitted to be done, in good faith, in relation to the carrying out or purported carrying out of those works.

#### PART 4 — TRANSITIONAL

##### Application of Planning Act 1996

10. (1) Part 6 of the *Planning Act 1996* applies in relation to the complete or partial construction or alteration of a bore or well as if that construction or alteration were a planning activity carried out without approval under the *Planning Act 1996*.

(2) Subsection 10(1) does not apply in relation to the construction or alteration of a bore or well if —

- (a) the construction or alteration was completed before 31 December 1990 in accordance with the law; or
- (b) subsection 5(1) applies in relation to the construction or alteration; or
- (c) the executive member has issued a notice under subsection 7(2) about the construction or alteration.

**NOTES**

The *Bores and Wells Act 1996* as shown in this consolidation comprises Act No. 19 of 1996 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Bores and Wells Act 1996</i>	19, 1996	20.08.1996	

<b>Ordinance</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provision</b>
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015) (now cited as Norfolk Island Continued Laws Ordinance 2015 (see F2015L01491))	17 June 2015 (F2015L00835)	18 June 2015 (s 2(1) item 1)	Sch 1 (items 344–375)
<b>as amended by</b>			
Norfolk Island Legislation Amendment (Public Health) Ordinance 2018	9 Mar 2018 (F2018L00237)	Sch 1 (item 13): 10 Mar 2018 (s 2(1) item 1)	—

**Table of Amendments**

ad = added or inserted    am = amended    rep = repealed    rs = repealed and substituted

<b>Provisions affected</b>	<b>How affected</b>	
Title	am	Ord No. 2, 2015 (as am by F2018L00237)
Part 3		
6	am	Ord No. 2, 2015 (as am by F2018L00237)
7	am	Ord No. 2, 2015 (as am by F2018L00237)
Part 4		
10	am	Ord No. 2, 2015 (as am by F2018L00237)