

CLEAN WATERS (AMENDMENT) ACT, 1981, No. 94

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 94, 1981.

An Act to amend the Clean Waters Act, 1970, in relation to penalties for offences under that Act. [Assented to, 10th June, 1981.]

Clean Waters (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Clean Waters (Amendment) Act, 1981".

Amendment of Act No. 78, 1970.

2. The Clean Waters Act, 1970, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE CLEAN WATERS ACT, 1970.

(1) Section 16 (7)—

Omit "liable to a penalty not exceeding ten thousand dollars and to a further penalty not exceeding five thousand dollars for each day the offence continues.", insert instead:—

liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$40,000 and to a further penalty not exceeding \$20,000 for each day the offence continues; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(2) Section 17 (5)—

Omit “liable to a penalty not exceeding five thousand dollars and to a further penalty not exceeding two thousand dollars for each day the offence continues.”, insert instead:—

liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and to a further penalty not exceeding \$5,000 for each day the offence continues.

(3) Section 19 (6)—

Omit “liable to a penalty not exceeding \$5,000.”, insert instead:—

liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000.

(4) (a) Section 26 (3)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(b) Section 26 (3)—

Omit “liable to a penalty not exceeding ten thousand dollars and to a further penalty not exceeding five thousand dollars for each day the offence continues.”, insert instead:—

liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$40,000 and to a further penalty not exceeding \$20,000 for each day the offence continues; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues.

(5) Section 28 (2)—

Omit “liable to a penalty not exceeding \$1,000.”, insert instead:—

liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$4,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$2,000.

(6) Section 29 (4)—

Omit “\$1,000”, insert instead “\$4,000”.

(7) Section 30—

Omit “one thousand dollars”, insert instead “\$4,000”.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(8) Section 33 (3)—

Omit “two thousand dollars”, insert instead “\$4,000”.

(9) Section 33A—

After section 33, insert:—

Orders for restoration and compensation.

33A. (1) Where, in proceedings before the Court for an offence against this Act arising under section 16, a person is convicted, the Court, in addition to imposing a penalty for the offence, may—

- (a) order the person so convicted to take such steps as are specified in the order, within such time as is so specified or such further time as the Court upon application may allow, to remove, disperse, destroy or mitigate any pollution caused by reason of the commission of the offence; and
- (b) where it appears to the Court that—
 - (i) any statutory authority or local authority has incurred costs and expenses in connection with the removal, dispersion, destruction or mitigation of any such pollution; or
 - (ii) any other person has, by reason of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,

order the person so convicted to pay to the statutory authority, local authority or other person costs and expenses so incurred, or compensation for loss of or damage to property so suffered, as the case may be, in such amount as is fixed by the order.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(2) A person to whom an order under subsection (1) (a) has been given and who fails to comply with the order within the time specified therein (or, where the Court upon application allowed further time, within the time so allowed) is guilty of an offence against this Act and is liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

for every day that the non-compliance continues after that time.

(3) An order under subsection (1) (b) is enforceable as if it were an order made by the Court in proceedings referred to in section 20 of the Land and Environment Court Act, 1979.

(10) Section 34—

Omit “shall be liable to a penalty not exceeding five thousand dollars for every day that the non-compliance continues after that time.”, insert instead:—

is guilty of a further offence against this Act and is liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

for every day that the non-compliance continues after that time.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(11) Section 36 (3)—

Omit the subsection, insert instead:—

(3) The regulations may impose, in respect of an offence against the regulations committed—

- (a) by a corporation—a penalty not exceeding \$20,000 and, in the case of a continuing offence, a further penalty not exceeding \$10,000 for each day the offence continues; or
- (b) by any other person—a penalty not exceeding \$10,000 and, in the case of a continuing offence, a further penalty not exceeding \$5,000 for each day the offence continues.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 10th June, 1981.*



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, May, 1981.*

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1981.

An Act to amend the Clean Waters Act, 1970, in relation to penalties for offences under that Act.

Clean Waters (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Clean Waters (Amendment) Act, 1981".

Amendment of Act No. 78, 1970.

2. The Clean Waters Act, 1970, is amended in the manner set forth in
10 Schedule 1.

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE CLEAN WATERS ACT, 1970.

(1) Section 16 (7)—

15 Omit "liable to a penalty not exceeding ten thousand dollars and to a further penalty not exceeding five thousand dollars for each day the offence continues.", insert instead:—

liable—

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(b) where the offence was committed by any other person—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(2) Section 17 (5)—

5 Omit “liable to a penalty not exceeding five thousand dollars and to a further penalty not exceeding two thousand dollars for each day the offence continues.”, insert instead:—

liable—

- 10 (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and to a further penalty not exceeding \$5,000 for each day the offence continues.

(3) Section 19 (6)—

15 Omit “liable to a penalty not exceeding \$5,000.”, insert instead:—

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- 20 (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000.

(4) (a) Section 26 (3)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(b) Section 26 (3)—

5 Omit “liable to a penalty not exceeding ten thousand dollars and to a further penalty not exceeding five thousand dollars for each day the offence continues.”, insert instead:—

liable—

10 (a) where the offence was committed by a corporation—to a penalty not exceeding \$40,000 and to a further penalty not exceeding \$20,000 for each day the offence continues; or

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(5) Section 28 (2)—

Omit “liable to a penalty not exceeding \$1,000.”, insert instead:—

liable—

20 (a) where the offence was committed by a corporation—to a penalty not exceeding \$4,000; or

(b) where the offence was committed by any other person—to a penalty not exceeding \$2,000.

(6) Section 29 (4)—

Omit “\$1,000”, insert instead “\$4,000”.

25 (7) Section 30—

Omit “one thousand dollars”, insert instead “\$4,000”.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(8) Section 33 (3)—

Omit “two thousand dollars”, insert instead “\$4,000”.

5 (9) Section 33A—

After section 33, insert:—

Orders for restoration and compensation.

10 33A. (1) Where, in proceedings before the Court for an offence against this Act arising under section 16, a person is convicted, the Court, in addition to imposing a penalty for the offence, may—

15 (a) order the person so convicted to take such steps as are specified in the order, within such time as is so specified or such further time as the Court upon application may allow, to remove, disperse, destroy or mitigate any pollution caused by reason of the commission of the offence; and

(b) where it appears to the Court that—

20 (i) any statutory authority or local authority has incurred costs and expenses in connection with the removal, dispersion, destruction or mitigation of any such pollution; or

25 (ii) any other person has, by reason of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,

30 order the person so convicted to pay to the statutory authority, local authority or other person costs and expenses so incurred, or compensation for loss of or damage to property so suffered, as the case may be, in such amount as is fixed by the order.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

5 (2) A person to whom an order under subsection (1) (a) has been given and who fails to comply with the order within the time specified therein (or, where the Court upon application allowed further time, within the time so allowed) is guilty of an offence against this Act and is liable—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

10 (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

for every day that the non-compliance continues after that time.

15 (3) An order under subsection (1) (b) is enforceable as if it were an order made by the Court in proceedings referred to in section 20 of the Land and Environment Court Act, 1979.

(10) Section 34—

Omit “shall be liable to a penalty not exceeding five thousand dollars for every day that the non-compliance continues after that time.”, insert instead:—

20 is guilty of a further offence against this Act and is liable—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(b) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

25 for every day that the non-compliance continues after that time.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(11) Section 36 (3)—

Omit the subsection, insert instead:—

- 5 (3) The regulations may impose, in respect of an offence against the regulations committed—
- (a) by a corporation—a penalty not exceeding \$20,000 and, in the case of a continuing offence, a further penalty not exceeding \$10,000 for each day the offence continues; or
- 10 (b) by any other person—a penalty not exceeding \$10,000 and, in the case of a continuing offence, a further penalty not exceeding \$5,000 for each day the offence continues.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

CLEAN WATERS (AMENDMENT) BILL, 1981

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Clean Air (Amendment) Bill, 1981.

The object of this Bill is to amend the Clean Waters Act, 1970, to increase the penalties for offences under that Act and to provide for different penalties with respect to offences committed by corporations and by ordinary persons.



CLEAN WATERS (AMENDMENT) BILL, 1981

No. , 1981.

A BILL FOR

An Act to amend the Clean Waters Act, 1970, in relation to penalties for offences under that Act.

[MR BEDFORD—14 *April*, 1981.]

Clean Waters (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Clean Waters (Amendment) Act, 1981".

Amendment of Act No. 78, 1970.

2. The Clean Waters Act, 1970, is amended in the manner set forth in Schedule 1.

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(Sec. 2.)

AMENDMENTS TO THE CLEAN WATERS ACT, 1970.

(1) Section 16 (7)—

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liable—

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Clean Waters (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

(2) Section 17 (5)—

5 Omit “liable to a penalty not exceeding five thousand dollars and to a further penalty not exceeding two thousand dollars for each day the offence continues.”, insert instead:—

liable—

- 10 (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and to a further penalty not exceeding \$10,000 for each day the offence continues; or
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(4) (a) Section 26 (3)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

Clean Waters (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CLEAN WATERS ACT, 1970—*continued.*

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Omit “liable to a penalty not exceeding \$1,000.”, insert instead:—

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penalty not exceeding \$4,000; or

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Omit “\$1,000”, insert instead “\$4,000”.

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(8) Section 33 (3)—

Omit “two thousand dollars”, insert instead “\$4,000”.

5 (9) Section 33A—

After section 33, insert:—

Orders for restoration and compensation.

10 33A. (1) Where, in proceedings before the Court for an offence against this Act arising under section 16, a person is convicted, the Court, in addition to imposing a penalty for the offence, may—

15 (a) order the person so convicted to take such steps as are specified in the order, within such time as is so specified or such further time as the Court upon application may allow, to remove, disperse, destroy or mitigate any pollution caused by reason of the commission of the offence; and

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SCHEDULE 1—*continued.*

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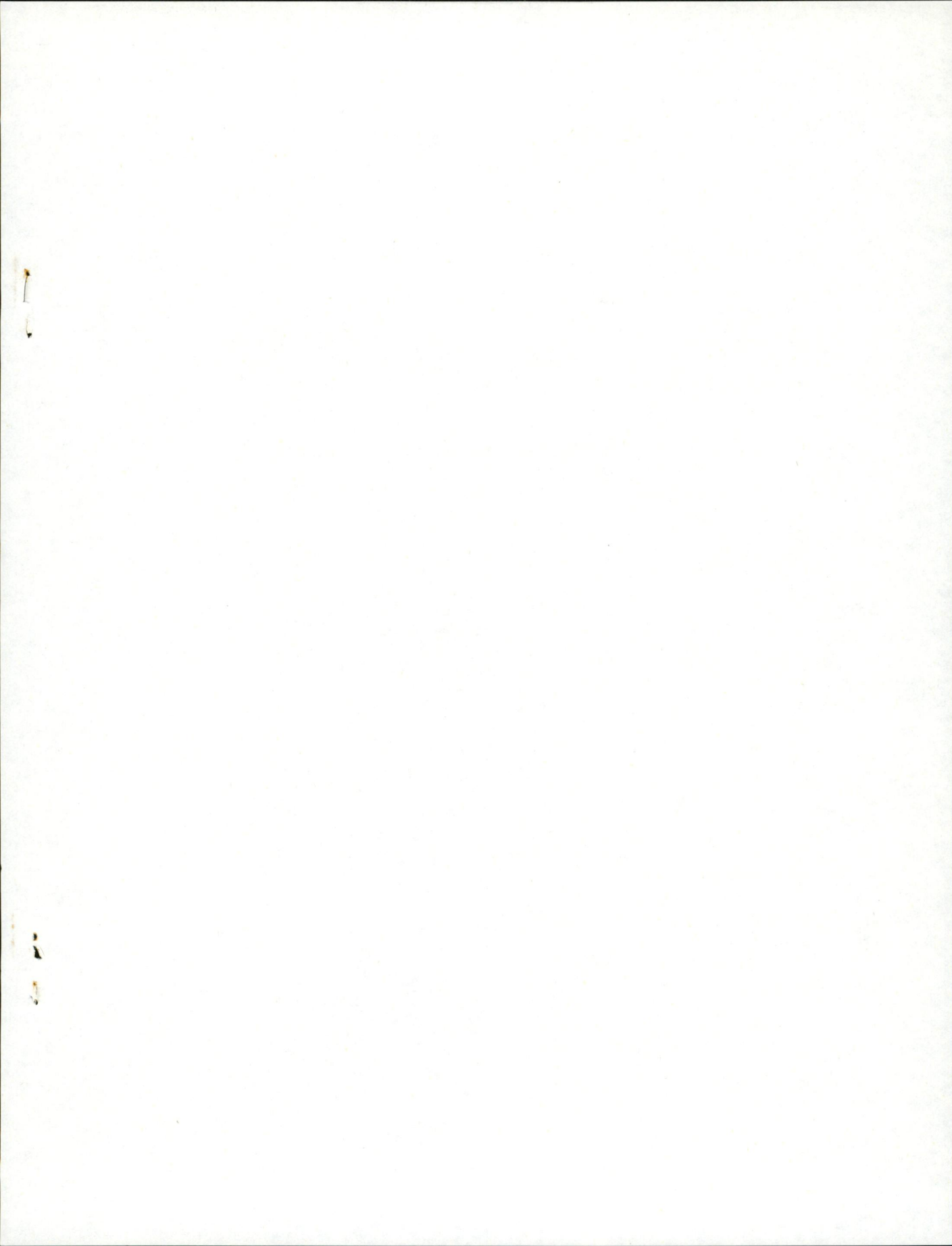
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D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

