INDUSTRIAL ARBITRATION (FURTHER AMENDMENT) ACT, 1980, No. 183

New South Wales



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Act No. 183, 1980.

An Act to amend the Industrial Arbitration Act, 1940, with respect to the time for recovery of certain wages and other money and the protection of certain elected representatives; to increase penalties for breaches of that Act; to repeal the Masters and Servants Act, 1902; and for other purposes. [Assented to, 17th December, 1980.]

See also Annual Holidays (Amendment) Act, 1980; Long Service Leave (Amendment) Act, 1980; Apprentices (Amendment) Act, 1980.

(20c) the date of the opposition of probably 88871A

Industrial Arbitration (Further 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 "Industrial Arbitration (Further Amendment) Act, 1980".

Commence 2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 1 (2), and Schedule 1 (2) shall be deemed to have commenced on 30th November, 1979.

Principal 3. The Industrial Arbitration Act, 1940, is referred to in this Act. Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :---

SCHEDULE 1.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—Amendments to the Principal Act Relating to Increases in Penalties.

Amendment 5. The Principal Act is amended in the manner set forth in Schedule 1. No. 2, 1940.

Industrial Arbitration (Further Amendment).

- 6. The Principal Act is further amended—
 - (a) by omitting from each provision specified in Column 1 No.2, of Schedule 2 the matter specified opposite that provision in Column 2 of that Schedule; and
 - (b) by inserting instead the matter specified opposite that provision in Column 3 of that Schedule.

7. Notwithstanding the operation of section 6 and Schedule 2, Saving. a person who, on or after the date of assent to this Act, is found guilty of an offence committed against the Principal Act before that date, shall not be liable to any greater penalty than that to which he would have been liable if he had been found guilty of the offence immediately before that date.

8. The Masters and Servants Act, 1902, is repealed.

Repeal. of Act No. 59, 1902.

SCHEDULE 1.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 92 (2)—

Omit :---

twelve months immediately preceding the date of the application (where such person is still in the employment of such employer at that date) or within the last twelve months of the employment with such employer (where the employment was terminated before the date of the application).

Further

amendment of Act

Industrial Arbitration (Further Amendment).

SCHEDULE 1—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT continued.

An application under this subsection made after the termination of the employment shall be made not later than twelve months after the date of such termination.

Insert instead :---

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6 years immediately preceding the date of the application but not earlier than—

- (c) except as provided in paragraph (d)—12 months before the date of assent to the Industrial Arbitration (Further Amendment) Act, 1980; or
 - (d) where the person's employment with the employer was terminated during the period of 12 months immediately preceding that date of assent—12 months before the date of termination of the employment.
- (b) Section 92 (6A)—

Omit "two", insert instead "6".

(2) (a) Section 92B (6)—

Omit the subsection, insert instead :---

(6) An application under this section may not be made in respect of any money payable under a contract where the money became payable—

- (a) before 30th November, 1979; or
- (b) subject to paragraph (a)—earlier than 6 years before the date of the application.

Industrial Arbitration (Further Amendment).

SCHEDULE 1—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT continued.

(b) Section 92B (10)—

Omit "2 years", insert instead "6 years".

(3) (a) Section 95—

Omit "If an", insert instead "(1) If an".

(b) Section 95 (a)—

Omit the paragraph, insert instead :--

(a) is a person who—

- (i) is an officer, delegate or member of a trade or industrial union or of a conciliation committee; or
 - (ii) not being an officer, delegate or member referred to in subparagraph
 (i), is an elected representative of employees; or

(c) Section 95 (2)-(4)—

From section 95, omit :---

A prosecution under this section may be taken before the commission or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed : Provided always that if any party feels aggrieved by any decision of a magistrate he may appeal in the prescribed manner to the commission.

Industrial Arbitration (Further Amendment).

SCHEDULE 1—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT continued.

No prosecution for an offence under this section shall be commenced except by leave of the commission.

Insert instead :---

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(2) A prosecution under this section may be taken before the commission or an industrial magistrate—

- (a) by the secretary of the industrial union concerned in the industry in which the employee alleged to have been dismissed, injured or prejudiced was employed; or
- (b) where the employee alleged to have been dismissed, injured or prejudiced is an elected representative referred to in subsection (1) (a) (ii)—by the elected representative.

(3) If any party to proceedings for an offence under this section feels aggrieved by any decision made by a magistrate with respect to the proceedings, he may appeal in the prescribed manner to the commission.

(4) No prosecution for an offence under this section shall be commenced except by leave of the commission.

Industrial Arbitration (Further Amendment).

SCHEDULE 2.

Sec. 6.

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Amendments to the Principal Act Relating to Increases in Penalties.

Column 1.	Column 2.	Column 3.
Provision of Principal Act.	Matter to be omitted.	Matter to be inserted.
Section 10A (2) (b) Section 14 (7) Section 17A (3) Section 25 (2) Section 77 (1) Section 77 c Section 88B (3) (a) Section 91F (4) Section 91M (2) Section 92 (5)	two hundred dollars one hundred dollars one hundred dollars one hundred dollars one hundred dollars one hundred dollars two hundred dollars \$200 \$100 of two hundred dollars	\$500 \$500 \$500 \$500 \$500 \$500 \$500 \$500
Section 92 (6) Section 92 (7)	one hundred dollars one hundred dollars forty dollars \$100 two hundred dollars forty dollars one hundred dollars one hundred dollars for the first offence to a penalty not ex- ceeding forty dollars, and for a second or subsequent offence to a penalty not exceeding one hundred dollars	\$500 \$500 \$500 \$500 \$500 \$500 \$500 \$500
Section 96 (2)	twenty dollars \$40 in the case of a first offence or \$100 in the case of a second or subsequent offence	\$500 \$500
Section 97 Section 1111 Section 1111 Section 111k (3) Section 111k (3) Section 111k (3) Section 111k (3) Section 121A Section 127 (3) Section 128 Section 129 (3) Section 129A (3) Section 129A (5) Section 130 (4) (b)	one hundred dollars two hundred dollars one hundred dollars two hundred dollars two hundred dollars two hundred dollars four dollars one hundred dollars twenty dollars one hundred dollars one hundred dollars one hundred dollars one hundred dollars one hundred dollars	\$500 \$500 \$500 \$500 \$500 \$500 \$500 \$500





Industrial Arbitration (Further Amendment).

SCHEDULE 2—continued.

Amendments to the Principal Act Relating to Increases in Penalties—continued.

Column 1.	Column 2.	Column 3.
Provision of Principal Act.	Matter to be omitted.	Matter to be inserted.
Section 145M (10)	 \$200 \$200 one hundred dollars, and if the offence continues after such conviction to a further penalty not exceeding twenty dollars for each day during which the offence continues 	\$500 \$500 \$500
Section 150 Section 153	ten dollars forty dollars	\$500 \$500

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

A. R. CUTLER,

Governor.

Government House, Sydney, 17th December, 1980.

> BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

INDUSTRIAL ARBITRATION (FURTHER AMENDMENT) BILL, 1980

EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:--

Annual Holidays (Amendment) Bill, 1980;

Long Service Leave (Amendment) Bill, 1980;

Apprentices (Amendment) Bill, 1980.

The objects of this Bill are to amend the Industrial Arbitration Act, 1940 ("the Principal Act"), so as to—

- (a) provide that a person may apply for an order under section 92 (2) or 92B of the Principal Act for the recovery of certain wages or other money which became due to the person within the period of 6 years immediately preceding the date of his application, subject to certain limitations (Schedule 1 (1) (a) and (2) (a));
- (b) extend an existing offence under the Principal Act so as to create an offence under that Act if an employer dismisses or injures any employee in his employment or alters any employee's position to his prejudice because the employee is an elected representative of employees (Schedule 1 (3) (b));
- (c) increase penalties for breaches of the Principal Act and provide for increases in penalties for breaches of provisions of instruments made under that Act (clause 6 and Schedule 2); and
- (d) repeal the Masters and Servants Act, 1902 (clause 8).

The Bill also makes other provisions of a minor, ancillary or saving nature.

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INDESTRIAL ARBITRATION (FURTHER AMENDMENT) BILL, 1980

EXPLANATORY NOTE

This Explainment, Note relates to this Bill as introduced into Parliament

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Annual Holidays (Amendorem) Bill, 1930;

sone Service Leave (Amendment) Bill, 1980

Approximes (Amendament) 430, 1980.

The objects of this full are to anread the industrial Arbitration Act, 1940 ("the

- a) provide that a person may apply for an order under section 2^{-1} (1) or 9^{-2} at the knowing Act for the recovery of certain wates or other money which became due to the person within the period of b years immediately preceding the date of his application, subject to certain limitations (Schedule 1 (1) (a) and (2) (a));
- b) evtend an poisting oftence under the Principal Act so as to create an inference under that Act if an employer dismisses or injures any employee in his comployment or afters any employee's position to his prejudice because the employee is an elected representative of employees (Schedule 1 (3) (b)).
- c) increase penalties for breaches of the Principal Act and provide for increases in penalties for breaches of provisions of instituments made under that Act (clause 6 and Schedule 2); and

(d) reneal the Masters and Servants Act, 1902- (clause 8).

The Bill also makes other provisions of a minor, accillary or saving nature.

INDUSTRIAL ARBITRATION (FURTHER AMENDMENT) BILL, 1980

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 1. This Act may be cited as the "Industrial Arbitration Short (Further Amendment) Act, 1980".

2. (1) Except as provided in subsection (2), this Act shall comprehence commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 1 (2), and
 10-Schedule 1 (2) shall be deemed to have commenced on 30th November, 1979.

A BILL FOR

3. The Industrial Arbitration Act, 1940, with a principal An Act to amend the Industrial Arbitration Act, 1940, with a principal respect to the time for recovery of certain wages and other money and the protection of certain elected representatives; to increase penalties for breaches of that Act; to repeal the Masters and Servants Act, 1902; and for other purposes.

SCHEDULE A [.0880] F, not solve the state of the state of

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACI RELATING TO INCREASES IN PENALTIES.

See also Annual Holidays (Amendment) Bill, 1980; Long Service Leave (Amendment) Bill, 1980; Apprentices (Amendment) Bill, 1980.

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5. The Principal Act is amended in the manner set forth Schedule 1.

Industrial Arbitration (Further 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 1. This Act may be cited as the "Industrial Arbitration Short (Further Amendment) Act, 1980".

2. (1) Except as provided in subsection (2), this Act shall Commencecommence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 1 (2), and
10 Schedule 1 (2) shall be deemed to have commenced on 30th November, 1979.

3. The Industrial Arbitration Act, 1940, is referred to in this Principal Act as the Principal Act.

respect to the time for recovery of certain wages and other money and the protection of certain elected representatives; to increase penalties for breaches of that Act; to repeal

15 SCHEDULE 1.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—Amendments to the Principal Act Relating to Increases in Penalties.

also Agnetal Holidays (Amendment) Bill, 1980; Long Service Leave (Amendment)

5. The Principal Act is amended in the manner set forth in Amendment 20 Schedule 1. 1940.

6. The Principal Act is further amended—

Further amendment of Act No. 2,

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- (a) by omitting from each provision specified in Column 1 No. 2, of Schedule 2 the matter specified opposite that provision in Column 2 of that Schedule; and
- (b) by inserting instead the matter specified opposite that provision in Column 3 of that Schedule.

7. Notwithstanding the operation of section 6 and Schedule 2, Saving. a person who, on or after the date of assent to this Act, is found guilty of an offence committed against the Principal Act before
10 that date, shall not be liable to any greater penalty than that to which he would have been liable if he had been found guilty of the offence immediately before that date.

8. The Masters and Servants Act, 1902, is repealed.

Repeal. of Act No. 59, 1902.

SCHEDULE 1. "own" time

Sec. 5.

15 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 92 (2)-

Omit :---

twelve months immediately preceding the date of the application (where such person is still in the employment of such employer at that date) or within the last twelve months of the employment with such employer (where the employment was terminated before the date of the application).

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SCHEDULE 1-continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACTof Schedule 2 the matter, baunitinos opposite that pro

> An application under this subsection made after the termination of the employment shall be made not later than twelve months after the date of such termination.

Insert instead :---

6 years immediately preceding the date of the application but not earlier than-

- (c) except as provided in paragraph (d)-12 months before the date of assent to the Industrial Arbitration (Further Amendment) Act, 1980; or
- (d) where the person's employment with the employer was terminated during the period of 12 months immediately preceding that date of assent-12 months before the date of termination of the employment.
- (b) Section 92 (6A)—

Omit "two", insert instead "6".

(2) (a) Section 92B (6) -

Omit the subsection, insert instead :--

(6) An application under this section may not be made in respect of any money payable under a contract where the money became payable-

- (a) before 30th November, 1979; or
- (b) subject to paragraph (a)—earlier than 6 years before the date of the application.

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SCHEDULE 1—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT 1321M continued.ounitmoo

No prosecution for an offene (01) a29 not offene Omit "2 years", insert instead "6 years", immoo

(2) A prosecution under this section met (2)

Omit "If an", insert instead "(1) If an".

(b) Section 95 (a) the industrie (a) 76 notice (b)

Omit the paragraph, insert instead :---

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(a) is a person who-

- (i) is an officer, delegate or member of a trade or industrial union or of a based of conciliation committee; or
- (ii) not being an officer, delegate or member referred to in subparagraph (i), is an elected representative of under this section fe ro ; employees; or a decision made
- may appeal in the prescrip(4)-(2) 78 noitoed (2)

From section 95, omit :---

A prosecution under this section may be taken before the commission or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed : Provided always that if any party feels aggrieved by any decision of a magistrate he may appeal in the prescribed manner to the commission.

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SCHEDULE 1—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT continued.

No prosecution for an offence under this section shall be commenced except by leave of the commission.

Insert instead :---

(2) A prosecution under this section may be taken before the commission or an industrial magistrate—

(a) by the secretary of the industrial union concerned in the industry in which the employee alleged to have been dismissed, injured or prejudiced was employed; or

(b) where the employee alleged to have been dismissed, injured or prejudiced is an elected representative referred to in subsection (1) (a) (ii)—by the elected representative.

(3) If any party to proceedings for an offence under this section feels aggrieved by any decision made by a magistrate with respect to the proceedings, he may appeal in the prescribed manner to the commission.

(4) No prosecution for an offence under this section shall be commenced except by leave of the commission.

Provided atways that if any party feels agarieved by

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Act No. 1980. 1980.

Industrial Arbitration (Further Amendment).

SCHEDULE 2. ALUGENCE

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO

Sec. 6.

Amendments to the Principal Act Relating to Increases in Penalties.

	Column 3.	Column 2.	Column I.
	Column 1.	Column 2. Matter to be omitted.	Column 3. Jon 1
5	Provision of	Matter to be omitted.	Matter to be
	Principal Act.	\$200 \$200	inserted. 124 Fraction
	\$500	t one hundred dollars, and if the offener	ection 149
	Section 10A (2) (b)	two hundred dollars and approximate	\$500
	Section 14 (7)		\$500
10	Section 17A (3)	one hundred dollars	\$500
	Section 25 (2)	one hundred dollars and noo ponotio	\$500
	Section 77 (1) 0022	one hundred dollars	\$500
	Section 77c 0022	one hundred dollars	sting 153
	Section 88B (3) (a)	two hundred dollars	\$500
15	Section 91F (4)	\$200	\$500
	Section 91M (2)	\$100	\$500
	Section 92 (5)	of two hundred dollars	not exceeding \$500
	Section 92 (6)	one hundred dollars	\$500
20	Section 92 (7)	one hundred dollars	\$500
	Section 92 (8) (b)	forty dollars	\$500
	Section 92B (13)	\$100	\$500
	Section 93 (1)	two hundred dollars	\$1,000
	Section 94	forty dollars	\$500
25	Section 95	one hundred dollars	\$500
	Section 95A (3)	one hundred dollars	\$500
	Section 96 (1)	for the first offence to a penalty not ex-	to a penalty
		ceeding forty dollars, and for a second	not exceed-
		or subsequent offence to a penalty not	ing \$500
30		exceeding one hundred dollars	
	Section 96 (2)	twenty dollars	\$500
	Section 96 (2B)	\$40 in the case of a first offence or \$100	\$500
		in the case of a second or subsequent	
~ ~		offence vitrontura ve	0.000
35	Section 97	one hundred dollars	\$500 23 // 10
	Section 1111	two hundred dollars	\$500 (200)
	Section 1111	one hundred dollars	2200
	Section 111 _J (8)	two hundred dollars	\$500
40	Section 111k (3)	two hundred dollars	\$500
40	Section 117	two hundred dollars	\$500
	Section 121A	four dollars one hundred dollars	\$500
	Section 127 (3)	twenty dollars	\$500 \$500
	C (1 100 (2)	one hundred dollars	\$500
15	a 100 (0)	one hundred dollars	\$500
43	a 100 (E)	one hundred dollars	\$500
	a 100 (1) (1)	one hundred dollars	\$500
	Section 130 (4) (b)	one numered donars	9500
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Act No. 801 , 1980. 1 10A

Industrial Arbitration (Further Amendment).

SCHEDULE 2-continued,

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INCREASES IN PENALTIES—continued.

INCREASES IN PENALTIES.

Column 1.	Column 2.	Column 3.
Provision of Principal Act.	Matter to be omitted.	Matter to be inserted.
Section 145L (4)	Matter to be omitted. 0022	Provision of Principal Actooc \$ \$500
Section 149	Long hand doubt and the state of the state o	Section 104 (2) (b) .
\$\$00 \$\$00	dollars for each day during which the	Section 17x (3) Section 25 (2)
Section 1500022 Section 1530022	ten dollars forty dollars (wo hundred dollars)	Section 77 (1) 57 0022 Section 77c 0022 Section 888 (3) (a)
13500 3500 not exceeding	1 5200 S100 Vof two hundred dollars	5 Section 9 11 (4) 3. 2003 Section 914 (2) Section 92 (5)
\$500 	one hundred dollars	Section 92 (6)
\$500 \$500	fone hundred dollars) Section 92 (7) Section 92 (8) (b).
5300 51,000 	\$100 two hundred doflars forty dollars	Section 92a (13) Section 93 (1) Section 94 Ection
\$500 \$500	one hundred dollars	Section 95 Section 95 Section 95A (3)
not exceed-	for the first offence to a penalty not ex- ceeding forty dollars, and for a second or subsequent offence to a penalty net	Section 96 (1)
972 \$300 \$500	exceeding one numbed dollars	Section 96 (2)
5.500-	540 in the case of a first-offence or \$100 in the case of a second or subsequent	Section 96 (2n)
	BY AUTHORITY ERNMENT PRINTER, NEW SOUTH WALES	5 Section 97 Section 97
(20c) (20c)	two hundred dollars	Section 1111
\$500 \$500	two frundred deflars two hundred deflars	Section 111 (a) Section 111k (3)
5500 5500	four dollars	Section 121 v Section 127 (3)
5500 5500 2500	twenty dollars one hundred dollars one hundred dollars	Section 128 Section 129 (3)
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