

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

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

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.

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-
ment.

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
Act.

3. The Industrial Arbitration Act, 1940, is referred to in this 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
of Act
No. 2,
1940.

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

Industrial Arbitration (Further Amendment).

6. The Principal Act is further amended—

Further amendment of Act No. 2, 1940.

- (a) by omitting from each provision specified in Column 1 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 The Masters and Servants Act, 1902, is repealed.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).

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 :—

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 :—

(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.

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) ..	two hundred dollars	\$500
Section 14 (7)	one hundred dollars	\$500
Section 17A (3)	one hundred dollars	\$500
Section 25 (2)	one hundred dollars	\$500
Section 77 (1)	one hundred dollars	\$500
Section 77c	one hundred dollars	\$500
Section 88B (3) (a) ..	two hundred dollars	\$500
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
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
Section 95	one hundred dollars	\$500
Section 95A (3)	one hundred dollars	\$500
Section 96 (1)	for the first offence to a penalty not exceeding forty dollars, and for a second or subsequent offence to a penalty not exceeding one hundred dollars	to a penalty not exceeding \$500
Section 96 (2)	twenty dollars	\$500
Section 96 (2B)	\$40 in the case of a first offence or \$100 in the case of a second or subsequent offence	\$500
Section 97	one hundred dollars	\$500
Section 111r	two hundred dollars	\$500
Section 111r	one hundred dollars	\$500
Section 111r (8)	two hundred dollars	\$500
Section 111κ (3)	two hundred dollars	\$500
Section 117	two hundred dollars	\$500
Section 121A	four dollars	\$500
Section 127 (3)	one hundred dollars	\$500
Section 128	twenty dollars	\$500
Section 129 (3)	one hundred dollars	\$500
Section 129A (3)	one hundred dollars	\$500
Section 129A (5)	one hundred dollars	\$500
Section 130 (4) (b) ..	one hundred dollars	\$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 145L (4)	\$200	\$500
Section 145M (10)	\$200	\$500
Section 149	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
Section 150	ten dollars	\$500
Section 153	forty dollars	\$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.

INDUSTRIAL ARBITRATION (FURTHER AMENDMENT)
BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to the 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 21 (1) of the Principal Act for the recovery of certain wages or other money which became due to the person within the period of a year 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 (1) (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.

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:—

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

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

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

No. , 1980.

A BILL FOR

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.

[MR HILLS—12 November, 1980.]

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

86496B 126—
The Principal Act is amended in the manner set forth in the 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". title.

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

(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**. Act.

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

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

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

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

Industrial Arbitration (Further Amendment).

6. The Principal Act is further amended—
- Further
amendment
of Act
No. 2,
1940.
- (a) by omitting from each provision specified in Column 1 of Schedule 2 the matter specified opposite that provision in Column 2 of that Schedule; and
- 5 (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.

Sec. 5.

15 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 92 (2)—

Omit :—

20 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).

Industrial Arbitration (Further Amendment)

SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

5 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 :—

10 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

15 (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.

20 (b) Section 92 (6A)—

Omit "two", insert instead "6".

(2) (a) Section 92B (6)—

Omit the subsection, insert instead :—

25 (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)—
5 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 :—
10 (a) is a person who—
(i) is an officer, delegate or member of
a trade or industrial union or of a
conciliation committee; or
15 (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 :—
20 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 :
25 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.

5 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—

10 (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

15 (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.

20 (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.

25 (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.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
INCREASES IN PENALTIES.

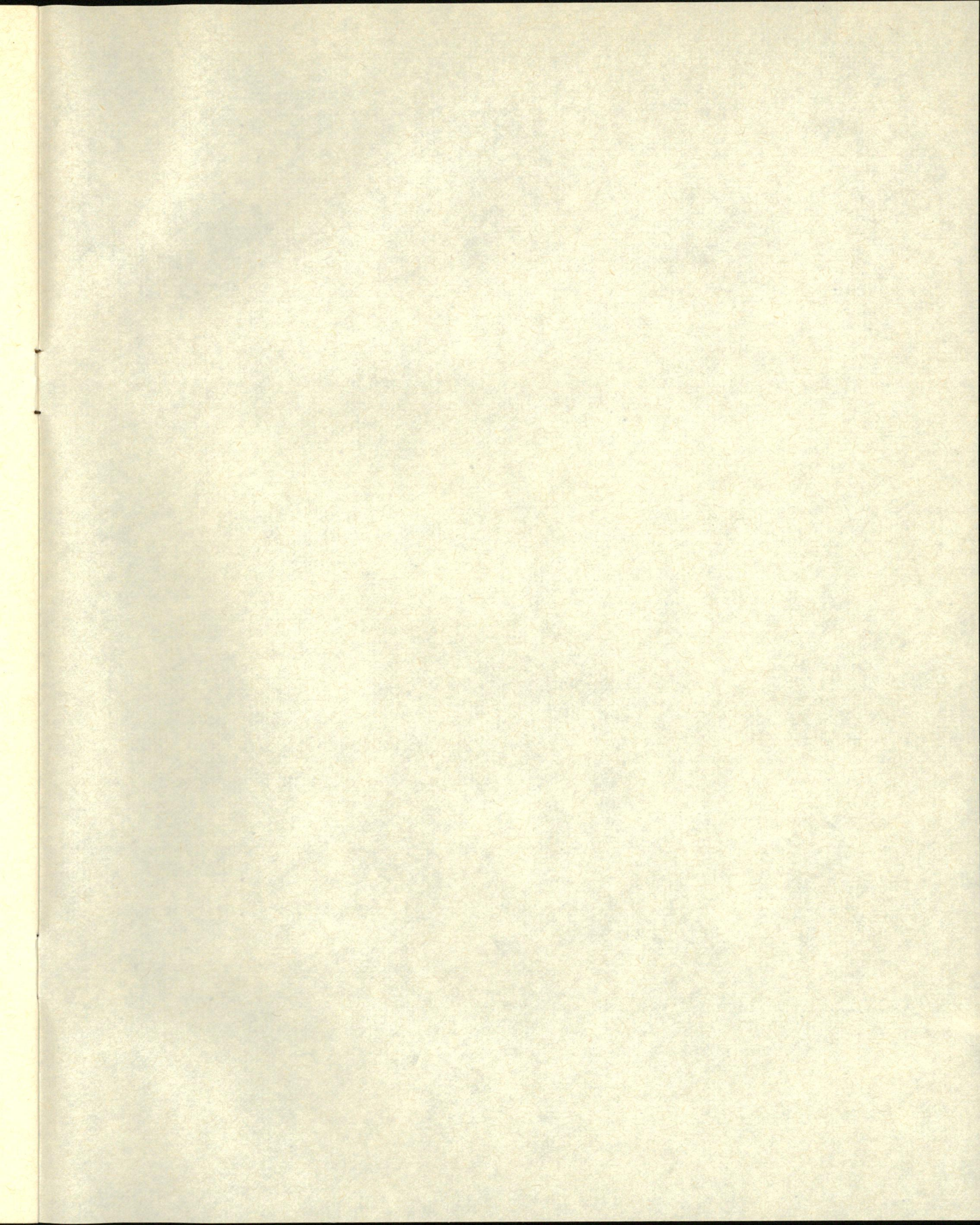
	Column 1.	Column 2.	Column 3.
5	Provision of Principal Act.	Matter to be omitted.	Matter to be inserted.
	Section 10A (2) (b)	two hundred dollars	\$500
	Section 14 (7)	one hundred dollars	\$500
10	Section 17A (3)	one hundred dollars	\$500
	Section 25 (2)	one hundred dollars	\$500
	Section 77 (1)	one hundred dollars	\$500
	Section 77c	one hundred dollars	\$500
	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 exceeding forty dollars, and for a second or subsequent offence to a penalty not exceeding one hundred dollars	to a penalty not exceeding \$500
30	Section 96 (2)	twenty dollars	\$500
	Section 96 (2B)	\$40 in the case of a first offence or \$100 in the case of a second or subsequent offence	\$500
35	Section 97	one hundred dollars	\$500
	Section 111i	two hundred dollars	\$500
	Section 111j	one hundred dollars	\$500
	Section 111j (8)	two hundred dollars	\$500
	Section 111k (3)	two hundred dollars	\$500
40	Section 117	two hundred dollars	\$500
	Section 121A	four dollars	\$500
	Section 127 (3)	one hundred dollars	\$500
	Section 128	twenty dollars	\$500
	Section 129 (3)	one hundred dollars	\$500
45	Section 129A (3)	one hundred dollars	\$500
	Section 129A (5)	one hundred dollars	\$500
	Section 130 (4) (b)	one hundred dollars	\$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.
5 Provision of Principal Act.	Matter to be omitted.	Matter to be inserted.
Section 145L (4)	\$200	\$500
Section 145M (10)	\$200	\$500
10 Section 149	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
15 Section 150	ten dollars	\$500
Section 153	forty dollars	\$500
BY AUTHORITY		
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980		
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