



New South Wales

# Industrial Relations Amendment (Dispute Orders) Bill 2012

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Industrial Relations Act 1996* as follows:

- (a) to increase the maximum monetary penalties that may be imposed for a contravention of a dispute order,
- (b) to enable costs to be awarded in proceedings for a contravention of a dispute order,
- (c) to enable appeals to be made to the Court of Appeal on a question of law of public importance against penalties imposed, or other actions taken, by the Industrial Relations Commission in Court Session for contraventions of dispute orders,
- (d) to provide for the making of any necessary regulations containing consequential savings and transitional provisions.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## **Schedule 1      Amendment of Industrial Relations Act 1996 No 17**

**Schedule 1 [2]** increases the maximum monetary penalty that may be imposed for a breach of a dispute order for a first offence to \$110,000 for the first day of an offence and \$55,000 for each subsequent day the offence continues (the current amounts are \$10,000 and \$5,000, respectively). The new maximum penalty for a subsequent breach will be \$220,000 for the first day of an offence and \$110,000 for each subsequent day the offence continues (the current amounts are \$20,000 and \$10,000, respectively).

**Schedule 1 [3]** removes the prohibition on the awarding of costs in proceedings of the Industrial Relations Commission in Court Session for a contravention of a dispute order.

**Schedule 1 [5]** confers on a party to proceedings for a contravention of a dispute order a right to appeal, with leave, to the Court of Appeal on a question of law of public importance relating to a penalty imposed or other action taken by the Industrial Relations Commission. Dispute orders can be made against parties to industrial disputes, members, officers and employees of industrial organisations and persons engaged in secondary boycotts in connection with industrial disputes. The right to appeal to the Court of Appeal will only operate after any rights of appeal to the Full Bench of the Industrial Relations Commission in Court Session have been exhausted. On an appeal the Court of Appeal may remit the matter to the Full Bench of the Commission for determination in accordance with the decision of the Court of Appeal. **Schedule 1 [1] and [4]** make consequential amendments.

**Schedule 1 [6]** enables regulations containing savings and transitional provisions to be made consequent on the enactment of the proposed Act.

**Schedule 1 [7]** applies the amendments made by the proposed Act to proceedings for contraventions of dispute orders that occur on or after the day the proposed Act commences, whether or not the dispute order concerned was made before that day.

First print



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New South Wales

# Industrial Relations Amendment (Dispute Orders) Bill 2012

No. , 2012

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## A Bill for

An Act to amend the *Industrial Relations Act 1996* with respect to contraventions of dispute orders and to costs in proceedings relating to dispute orders.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Industrial Relations Amendment (Dispute Orders) Act 2012</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Industrial Relations Act 1996 No 17</b>	1 2
<b>[1] Section 139 Contravention of dispute order</b>		3
Insert at the end of section 139 (3):		4
<b>Note.</b> An appeal may be made under section 197C to the Court of Appeal on a question of law relating to penalties imposed, and other actions taken, under this section.		5 6 7
<b>[2] Section 139 (4)</b>		8
Omit the subsection. Insert instead:		9
(4) The maximum penalty that may be imposed on an industrial organisation or employer is:		10 11
(a) except as provided by paragraph (b)—a penalty not exceeding in total \$110,000 for the first day the contravention occurs and an additional \$55,000 for each subsequent day on which the contravention continues, and		12 13 14 15
(b) if a penalty has previously been imposed on the industrial organisation or employer for a contravention of an earlier dispute order—a penalty not exceeding in total \$220,000 for the first day the contravention occurs and an additional \$110,000 for each subsequent day on which the contravention continues.		16 17 18 19 20 21
<b>[3] Section 181 Costs</b>		22
Omit “in proceedings for a contravention of a dispute order or” from section 181 (3).		23 24
<b>[4] Chapter 4, Part 7, heading</b>		25
Omit “to Commission”.		26
<b>[5] Section 197C</b>		27
Insert after section 197B:		28
<b>197C Appeals against penalty orders made by Commission in Court Session for contraventions of dispute orders</b>		29 30
(1) A person who is a party to proceedings before the Commission under section 139 in relation to a contravention of a dispute order may, with the leave of the Court of Appeal, appeal to the Court on a question of law of public importance relating to any penalty imposed or other action taken under section 139 (3) in relation to the contravention.		31 32 33 34 35 36

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Schedule 1 Amendment of Industrial Relations Act 1996 No 17

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(2)	A person may not appeal under this section to the Court of Appeal unless the person has first exercised any right the person has to appeal under this Act to the Full Bench of the Commission in Court Session.	1 2 3 4
(3)	The Court of Appeal may, on the hearing of any appeal under this section, remit the matter to the Full Bench of the Commission in Court Session for determination by the Commission in accordance with any decision of the Court and may make such other orders in relation to the appeal as the Court thinks fit.	5 6 7 8 9
(4)	This section has effect despite section 179.	10
<b>[6]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	11
	Insert at the end of clause 2 (1):	12
	any other Act that amends this Act	13
<b>[7]</b>	<b>Schedule 4</b>	14
	Insert at the end of the Schedule with appropriate Part and clause numbering:	15
<b>Part</b>	<b>Provisions consequent on enactment of Industrial Relations Amendment (Dispute Orders) Act 2012</b>	16 17 18
	The amendments made by the <i>Industrial Relations Amendment (Dispute Orders) Act 2012</i> to this Act apply in respect of proceedings for contraventions of dispute orders that occur on or after the commencement of this Act and so apply whether or not the dispute order concerned was made before that day.	19 20 21 22 23