

Practice Note No.32

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18 December 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 32

Issued pursuant to Section 185A of the *Industrial Relations Act 1996* and Section 15 of the *Civil Procedure Act 2005*

USUAL DIRECTIONS REGARDING FILING, LENGTH, PRESENTATION, AND FORMATTING OF DOCUMENTS

1. The purpose of this Practice Note is to facilitate the efficient determination of matters before the Industrial Relations Commission of New South Wales by requiring that documentation filed in the Commission is properly formatted, presented, and limited to a length commensurate with the just, quick and cheap resolution of the real issues in the proceedings.
2. This Practice Note has effect from the date of issue and incorporates aspects of Practice Note 30A dated 15 February 2018, which is rescinded from the date of issue of this Practice Note.
3. Any directions given by the Commission in relation to the filing of evidence and submissions will be taken to be subject to the requirements and limitations set out in Schedule A to this Practice Note, with such modifications (if any) as the Commission directs.
4. The Commission may, on application or on its own initiative, grant a party, on terms determined by the Commission, leave to be excused from compliance with the requirements of this Practice Note. Any application by a party for such leave must be in writing and filed with the Commission no later than seven (7) days prior to the date for filing of that party's evidence and submissions.
5. Nothing in this Practice Note or Schedule A affects, or is intended to affect, the powers or discretion of the Commission in relation to the proceedings.

6. This Practice Note applies to proceedings commenced pursuant to s 174 or s 181E of the *Police Act 1990* (“*Police Act*”) but not to the classes of documents set out in cll 6.1 and 6.2:

6.1. Section 174 applications

- 6.1.1. documents made available to the applicant police officer (“Officer”) pursuant to sub-s 174(5) of the *Police Act*;
- 6.1.2. the notice issued by the Commissioner of Police to the Officer under sub-s 173(5)(a) of the *Police Act*;
- 6.1.3. any response by the Officer provided in accordance with sub-s 173(5)(c) of the *Police Act*; and
- 6.1.4. the Order made by the Commissioner of Police under sub-s 173(2)

6.2. Section 181E applications

- 6.2.1. documents made available to the applicant police officer pursuant to sub-s 181E(3) of the *Police Act* (often referred to as “the Commissioner’s Confidence brief”);
- 6.2.2. the notice issued by *the* Commissioner of Police to the Officer under sub-s 181D(3)(a) of the *Police Act*;
- 6.2.3. any response by the Officer provided in accordance with sub-s 181D(3)(b) of the *Police Act*; and
- 6.2.4. the Order made by the Commissioner of Police under sub-s 181D(1).

7. This Practice Note does not apply to appeals to the Full Bench.

N J Constant
Chief Commissioner
18 December 2023

SCHEDULE A TO PRACTICE NOTE NO. 32

BEFORE THE INDUSTRIAL RELATIONS COMMISSION
OF NEW SOUTH WALES

**DIRECTIONS REGARDING FILING, LENGTH, PRESENTATION, AND FORMATTING OF
DOCUMENTS**

1. Any witness statement or affidavit must not exceed 50 pages including annexures and/or exhibits.
2. Outline of written submissions must not exceed 10 typed pages.
3. Formatting and presentation of all witness statements, affidavits and submissions must be in typeface that is no smaller in appearance than an Arial font in 11 point size or a Times New Roman font in 12 point size and must be in accordance with cl 4.3 of the Uniform Civil Procedure Rules 2005 which provides:

“4.3 Paper and writing (cf SCR Part 65, rule 2; DCR Part 47, rule 3; LCR Part 36, rule 4)

(1) A document must be on standard A4 paper of durable quality, capable of receiving ink writing.

(2) Subject to the rules—

(a) a document may be one-sided (that is, with writing on one side of each sheet) or two-sided (that is, with writing on both sides of each sheet), but not partly one-sided and partly two-sided, and

(b) the sheets of a document must be securely fastened—

(i) if the document is one-sided, at the top left hand corner, or

(ii) if the document is two-sided, along the left hand side,

without obscuring the writing or the margin, and

(c) a left margin of at least 25 millimetres, and a top margin of 30 millimetres, must be kept clear on each sheet of a document that bears writing, and

(d) the pages of a document (that is, the sides of the sheets that bear writing) must be consecutively numbered.

(3) The spacing between the lines of writing in a document must be at least 3 millimetres.

(3A) The following information in a document must be set out in bold—

(a) the name of the first plaintiff and first defendant in the title of the proceedings,

(b) in the case of a cross-claim, the name of the first cross-claimant and first cross-defendant in the title to the proceedings,

(c) in the case of a notice of motion, the name of the person affected by the orders sought,

(d) in all cases, the name of the person specified in the filing details as the person for whom the document is filed.”

4. All parties must comply with cl 2.5 of the Industrial Relations Commission Rules 2022 which provides:

“2.5 Copies to be filed

Unless the Commission directs differently, the documents filed must include the numbers of copies specified in the following table:

Type of Proceedings	Number of copies
General application	Original plus one copy, unless otherwise required in the approved form
Application for award, contract determination, enterprise agreement or contract agreement	Original plus 1 copy
Application for relief from unfair dismissal	Original plus 1 copy
Dispute notification	Original plus 1 copy
Appeals	Original plus 3 copies
Matters before a Full Bench	Original plus 3 copies, or, if the Full Bench consists of more than 3 members, the same number of copies as members of the Full Bench
Contract of Carriage Tribunal	Original plus 3 copies

Note—

Parties will also need a copy for themselves and, if the document has to be served on other parties, enough copies to serve each party plus an additional copy to attach to an affidavit of service.”

5. In addition to the requirements of cl 2.5 of the Industrial Relations Commission Rules 2022, any document filed for the purposes of an arbitration must also be accompanied by an **electronic copy on the same day**.
6. For the purpose of this Practice Note, 'electronic copy' means:
 - a. in the case of text, Microsoft Word (DOCX), or
 - b. text-searchable Portable Document Format (PDF).
7. Subject to paragraph 8, an electronic copy should be provided on a data storage device such as a USB flash drive which bears the matter number (if available), an abbreviated title of the document and the proceeding, and the name of the lodging party.
8. In respect of matters:
 - a. to which Rule 6.3 of the Industrial Relations Commission Rules 2022 applies (which concerns the filing of electronic copies of awards and award variations); or
 - b. where the Commission has given leave for a document to be filed by email; or
 - c. where the Commission has given leave for an electronic copy to be lodged by email;

the document may be sent by email to IRC.Registry@courts.nsw.gov.au, bearing a subject hearing that includes the number and name of the proceeding and information within the email to indicate the nature of the attached document or documents.

9. Although it is essential that all aspects of this Practice Note are strictly observed, it is of particular importance that the requirements under Rule 6.3 (filing of electronic versions of awards) be complied with within the time specified by the Commission when the award or variation is made, to assist the Industrial Registrar to publish the material on the NSW Industrial Relations website.