



PRACTICE NOTE 24A

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Issued pursuant to s 185A of the *Industrial Relations Act 1996* (NSW)
and s 15 of the *Civil Procedure Act 2005* (NSW)

PROCEDURES FOR MATTERS ARISING UNDER THE *POLICE ACT 1990* (NSW)

COMMENCEMENT

- 1 This Practice Note shall commence on the date of issue and supersedes Practice Note 24. Practice Note 24 shall cease to operate upon the commencement of this Practice Note.

APPLICATION

- 2 This Practice Note applies to proceedings before the Industrial Relations Commission of New South Wales (**the Commission**) that arise under Part 9 of the *Police Act 1990* (NSW) (**the Police Act**), being:
 - a. applications under s 174 of the Police Act for review of an order imposing 'reviewable action' under s 173 of the Police Act (**s 174 Review**);
 - b. applications under s 181E of the Police Act for review of an order under s 181D of the Police Act removing a police officer in whom the Commissioner of Police has lost confidence (**s 181E Review**); and
 - c. applications under s 186 of the Police Act providing for the appeal of a decision of the Commissioner of Police in relation to the provision of paid leave for absences caused by that officer being "hurt on duty" (as that term is understood under the *Police Regulation (Superannuation) Act 1906*) (**HOD Appeal**),(collectively, Part 9 Applications).

COMMENCEMENT OF PROCEEDINGS

- 3 A police officer (or registered organisation where available) who wishes to review/appeal a decision of the Commissioner of Police under Part 9 of the Police Act must complete and file the approved form: [Form IRC8 – Application for review/appeal under Police Act 1990](#). The form may be filed via the Online Registry, in person at the Registry or by post in accordance with r 2.5 of the Rules.
- 4 The time limits for filing Part 9 Applications are as follows:

REVISION HISTORY

First Issue Date: 14 August 2025

- a. A s 174 Review must be filed within 21 days of the date on which written notice of the making of the order to which it relates was served on the police officer.¹ Time to file the application cannot be extended.
 - b. A s 181E Review must be filed within 14 days of the date on which the police officer is given a copy of the order to which the application relates.² Time to file the application cannot be extended.
 - c. An HOD Appeal must be lodged within 28 days after the police officer is notified of the decision against which the appeal is to be made.³ Time to file the application cannot be extended.
- 5 A respondent to a Part 9 Application must file and serve a notice in reply to the application within 7 days of being served the application.⁴

ALLOCATION OF A LISTING DATE

- 6 After a Part 9 Application has been filed it will be listed for Conciliation, usually within 14 days.

CONCILIATION

- 7 Parties, legal practitioners, industrial agents and others who appear before the Commission shall do all they can to facilitate the fair and prompt disposal of matters before the Commission.
- 8 Parties are expected to have a person present at the Conciliation with sufficient authority to make decisions to enable the resolution of the matter.
- 9 Parties and their representatives should:
- a. identify the real issues in dispute prior to the conciliation;
 - b. establish parameters in which they are willing to resolve the matter at the conciliation. Such parameters do not need to be divulged nor maintained at the conciliation but will assist the Commission in assisting the parties to resolve the matter;
 - c. make contact with the opposing party prior to the conciliation to attempt to narrow the issues in dispute and to explore the basis on which the matter might be resolved; and
 - d. both before and during the conciliation, use their best endeavours to resolve the issues in dispute, including by ensuring the participation in the conciliation by individuals with authority to settle proceedings.
- 10 Ordinarily, there should be one conciliation. A Commission member may permit further conciliation conferences at their discretion. If a party fails to appear at a Conciliation

¹ Police Act s 174(4).

² Police Act s 181G(1)(b); *Industrial Relations Act 1996* (NSW) (**the IR Act**) s 85.

³ IR Act s 100B; applied to an HOD Appeal by sub-ss 186(2)-(3) of the Police Act.

⁴ *Industrial Relations Commission Rules 2022* (NSW) r 4.5(2), noting this Practice Note stands as a standard direction for the purpose of r 4.5(2)(b) of the Rules.

and does not provide a clear and compelling reason for non-attendance, this may result in the application being determined in their absence.

- 11 Hearing dates and other directions will usually form part of the directions made by the Commission member following an unsuccessful conciliation. Parties should attend the conciliation and/or any subsequent directions hearing with a reasonable estimate of the time required for the hearing of the application and available dates for the hearing.

PRELIMINARY ISSUES

- 12 If a party wishes to raise a preliminary issue, such as a jurisdictional challenge, it should be raised by way of a Notice of Motion with an affidavit in support.
- 13 A respondent in their notice in reply, or any party in their Notice of Motion, may indicate that they do not object to conciliation taking place prior to the hearing of a preliminary issue.
- 14 In deciding whether a preliminary issue will be determined prior to conciliation, the Commission member will consider the overriding objective of the just, quick and cheap resolution of the real issues in dispute and the interests of justice.
- 15 Upon deciding that a preliminary issue needs to be determined the Commission will set a date to hear that question and issue directions. The Commission can, however, determine that a preliminary question be determined at the same time as the substantive issues in the matter.

OBJECTION TO CONCILIATING COMMISSION MEMBER ARBITRATING THE MATTER

- 16 A member of the Commission who is involved in any endeavour to settle a s 181E Review must not subsequently hear the review. No objection needs to be made by a party to the proceedings.
- 17 In a s 174 Review or an HOD Appeal, any member of the Commission involved in an attempt to resolve the matter via Conciliation cannot sit to hear and determine the substantive review/appeal proceedings, if a party objects.⁵
- 18 Any objection to the Commission member who conducted a conciliation continuing to hear the application should be made in writing addressed to the Commission member who conducted the Conciliation or the Industrial Registrar, and lodged within seven days of the date of the conciliation.
- 19 A Commission member is not taken to have attempted conciliation merely because:
 - a. the Commission member attempted conciliation after commencing the hearing; or
 - b. the Commission member arranged or gave directions for a conference of the parties involved in the matter, or their representatives, to be presided over by the Commission member, but the conference did not take place or was not presided over by the Commission member; or

⁵ See s 173 and s 100E(2) of the IR Act, applied by s 186(2)-(3) of the Police Act.

- c. the Commission member arranged or gave directions for the parties or their representatives to confer among themselves at a conference at which the Commission member was not present.
- 20 If a party exercises its rights to object, the Commission member will forward the file to the Industrial Registrar for reallocation by the President of the Commission.

FURTHER CONCILIATION

- 21 A party may make an application for a further conciliation conference only by consent of the other party, and by writing to the Industrial Registrar.
- 22 Any further conciliation does not excuse the parties from complying with directions made in the proceedings unless an order is made by the Commission to that effect.
- 23 Nothing in this Practice Note prevents the Commission from undertaking further conciliation at the hearing of the matter.

LISTING OF THE APPLICATION FOR HEARING

- 24 When conciliation before the Commission is unsuccessful, the Commission will make directions for the hearing of the application. The Commission has issued "Usual Directions" which, in the ordinary course, will be made by the Commission. The "Usual Directions" can be found on the Commission's website: [Usual Directions](#).
- 25 For a s 181E Review and an HOD Appeal, the "Usual Directions" will be modified to accommodate the requirement that the case for the Commissioner of Police be considered first.⁶

COMPLIANCE WITH DIRECTIONS

- 26 Parties must comply with any directions made by the Commission unless the Commission determines to vary the directions. An application to vary the directions must be made prior to the date for compliance. Such an application must be in writing and contain full supporting grounds and the other party's view of the request for variation.

ADJOURNMENTS

- 27 An adjournment of the date that is allocated for a conciliation or hearing will not be granted unless there are clear and compelling reasons for the adjournment to occur.
- 28 Any applications for adjournment must be made in a timely way, following consultation with the other party, be in writing and contain full grounds including the other party's view of the request for adjournment. Consent of the other party does not guarantee that an adjournment will be granted by the Commission.

⁶ See s 181F of the Police Act, and s 100G of the IR Act applied to HOD Appeals by sub-ss 186(2)-(3) of the Police Act.

- 29 In the event that a party fails to attend at a hearing at which they have been duly notified, the Part 9 Application may, in appropriate circumstances, be heard and determined in the absence of that party.

JUSTICE I TAYLOR
PRESIDENT
14 AUGUST 2025