



Practice Note No.14B

Issue Date:
Replacing Practice Note 14A

3 June 2025

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE No. 14B

Re-issued pursuant to section 185A of the Industrial Relations Act 1996 (NSW) and section 15 of the Civil Procedure Act 2005 (NSW)

Usual Directions for Applications for Recovery of Money and Civil penalties and Applications under section 106 of the Industrial Relations Act 1996 (NSW)

1. The purpose of this Practice Note is to facilitate the resolution of matters commenced pursuant to Part 9 of Chapter 2 or Part 2 of Chapter 7 of the *Industrial Relations Act 1996* (NSW), the *Fair Work Act 2009* (Cth) or other proceedings for recovery of money under other applicable legislation and referred to the Commission for conciliation by making standard directions to ensure that:
 - such proceedings are conducted before the Commission in an efficient and expeditious manner; and
 - practitioners and others who appear before the Commission do all they can to facilitate the just, quick and cost-effective disposal of such proceedings.
2. This Practice Note does not apply to small claims applications within the meaning of the *Industrial Relations Act 1996*, section 379; as to which see rule 8.3 of the *Industrial Relations Commission Rules 2022*.
3. This Practice Note replaces Practice Note No. 14A and has effect from the date of issue.
4. The purpose of conciliation is to resolve the proceedings by agreement and without proceeding to a full hearing. Conciliation provides the parties with an opportunity to reach agreement about some or all of the issues in dispute. It is essential that the parties clearly identify the issues between them prior to the conciliation.

Usual directions for conciliation

5. The following standard directions apply in respect of matters listed for conciliation.
 - (1) Conciliation is to be attempted by means of a conciliation conference conducted after reasonable notice to the parties.
 - (2) Conciliation conferences follow a structured process in which the Commission endeavours to assist the parties to:
 - (a) communicate effectively with each other; and
 - (b) reach agreement on the issues in dispute.

- (3) Subject to any direction of the Commission, the following provisions apply to the conduct of a conciliation conference:
- (a) each party must file and serve an outline of their case, not exceeding 3 pages, at least 7 days prior to the conciliation;
 - (b) each party may be represented, but only by a person who is fully aware of and conversant with the matter and has full authority to settle the matter;
 - (c) each party must attend the conciliation with information on:
 - (i) the costs incurred by the party to date; and
 - (ii) an estimate of the number of hearing days that would be involved, and of the costs that the party would incur, if the matter were to proceed to a hearing;
 - (d) a party who believes that there is a matter of fact or law:
 - (i) that has not already been identified in the pleadings (or outline required by paragraph (a)); and
 - (ii) that would require determination if the matter were to proceed to a hearing, must document the matter, and file and serve a copy of the relevant documentation, not less than 7 days before the date fixed for the conference;
 - (e) in unfair contract proceedings:
 - (i) where the claim is for compensation the applicant must file and serve a statement as to mitigation of damage or loss not less than 7 days before the date fixed for the conference;
 - (ii) a party who contends that any term of a written contract or industrial instrument is in issue must file and serve a copy of the document, together with a brief summary as to the nature of the issue, not less than 7 days before the date fixed for the conference;
 - (f) during the week prior to the conference, the parties must consult with each other for the purpose of clearly identifying all issues and matters in dispute.

Usual directions for hearing

- 6. Matters which do not resolve at conciliation will be allocated to a judicial member of the Commission and, if the matter was conciliated by such a member, it will be allocated to a different judge.
- 7. Upon allocation of the matter to a judicial member of the Commission after conciliation:
 - (1) the usual directions for proceedings for the recovery of money and civil penalties are set out in Annexure A; and
 - (2) the usual directions for unfair contract proceedings are set out in Annexure B.

Justice I Taylor
President
3 June 2025

Annexure A - Usual directions for proceedings for the recovery of money and civil penalties

1. The Applicant is to file and serve its outline of submissions of no more than 10 pages in length and any evidence that the Applicant seeks to rely on by 4.00pm on _____ (*within 21 days*).
2. The Respondent is to file and serve its outline of submissions of no more than 10 pages in length and any evidence that the Respondent seeks to rely on by 4.00pm on _____ (*within 21 days*).
3. The Applicant is to file and serve its outline of submissions in reply of no more than 5 pages in length and any evidence in reply by 4.00pm on _____ (*within 14 days*).
4. The matter is listed for In Person Compliance Check Hearings at 9.15am before the Registrar on the following dates:
 - a. [*the Monday following the date in order 1*], which will be vacated if order 1 is complied with;
 - b. [*the Monday following the date in order 2*], which will be vacated if order 2 is complied with;
 - c. [*the Monday following the date in order 3*], which will be vacated if order 3 is complied with.
5. Evidence in the proceedings must be given by way of affidavits along with relevant documents filed and served by a party.
6. By 4.00pm on _____, the parties are to:
 - a. give notice to the opposing party of any witnesses required for cross-examination; and
 - b. file and serve an electronic Court Book in the form required by Practice Note 32.
7. By 4.00pm on _____, the parties are to file and serve a joint list of authorities and legislation along with a joint authorities bundle in accordance with Practice Note 2A.
8. Without prior leave of the Commission, no summons for the production of documents may be made returnable less than 3 weeks prior to the date set for the hearing of the matter.
9. The matter is listed for Hearing before _____ on _____ with an estimate of 1 to 2 days.
10. Leave to the parties to apply on 3 days' notice is granted.

Annexure B – Usual directions for unfair contract proceedings

1. The requirements of Schedule 3 Part 2 of the Industrial Relations Commission Rules 2022 are dispensed with.
2. The Applicant is to file and serve an outline of submissions of no more than 10 pages in length and any evidence that the Applicant seeks to rely on by 4.00pm on _____ (*within 28 days*).
- (Optional 2A: The Applicant is to file and serve any amendments to the originating process by 4.00pm on _____ (*within 14 days*)).
3. The Respondent is to file and serve its outline of submissions of no more than 10 pages in length and any evidence that the Respondent seeks to rely on by 4.00pm on _____ (*within 28 days of service of Order 2 material*).
- (Optional 3A: The Respondent is to file and serve any amended reply by 4.00pm on _____ (*within 14 days after service of any Order 2A amendments*)).
4. The Applicant is to file and serve its outline of submissions in reply of no more than 5 pages in length and any evidence in reply by 4.00pm on _____ (*within 14 days of service of Order 3 material*).
5. The matter is listed for In Person Compliance Check Hearings at 9.15am before the Registrar on the following dates:
 - (a) [the Monday following the date in order 2], which will be vacated if order 2 is complied with;
 - (b) [the Monday following the date in order 3], which will be vacated if order 3 is complied with;
 - (c) [the Monday following the date in order 4], which will be vacated if order 4 is complied with.
6. Evidence in the proceedings must be given by way of affidavits along with relevant documents filed and served by a party.
7. By 4.00pm on _____, the parties are to:
 - (a) give notice to the opposing party of any witnesses required for cross-examination; and
 - (b) file and serve an electronic Court Book in the form required by Practice Note 32.
8. By 4.00pm on _____, the parties are to file and serve a joint list of authorities and legislation along with a joint authorities bundle in accordance with Practice Note 2A.
9. Without prior leave of the Commission, no summons for the production of documents may be made returnable less than 3 weeks prior to the date set for the hearing of the matter.
10. The matter is listed for Hearing before _____ on _____ with an estimate of ____ days.
11. Leave to the parties to apply on 3 days' notice is granted.