



PRACTICE NOTE 31A

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

PRODUCTION OF AND ACCESS TO SUMMONSED MATERIAL

COMMENCEMENT

1. This Practice Note commenced on 15 February 2018. This amendment is effective from 1 June 2026.

APPLICATION

2. This Practice Note applies to production of documents in compliance with a Summons issued in regard to proceedings in the Commission and the return of summonsed documents and exhibits after proceedings have been determined.
3. Parties are invited to use the email address IRC.summons@courts.nsw.gov.au to file a Summons and/or produce summonsed material in the event the Summons or material being produced cannot be filed through the Online Registry Website.
4. This Practice Note does not apply to Summonses issued pursuant to ss 132, 165(3)(a) and (b), 315, 332 or 348(9) of the *Industrial Relations Act 1996* (NSW) or as a consequence of Rules 3.2 and 5.6 of the Industrial Relations Commission Rules 2022, save as to any Order made by the Commission in that regard.

DEFINITIONS

5. In this Practice Note:
 - a. **UCPR** means Uniform Civil Procedures Rules 2005;
 - b. **Issuing party** means the party requesting the issue of a Summons for production; and
 - c. **Summons recipient** means the person to whom a Summons for production is addressed.
 - d. **Commission** means both the Commission and the Commission in Court Session.

INTRODUCTION

6. The purpose of this Practice Note is:
 - a. to inform the parties of their ability to nominate, on the Summons document before filing, a return date for the Summons;

- b. to inform the parties of the need to endorse a proposed access order on the Summons and the procedure that applies in that regard;
- c. to inform the parties of the Commission's preferred practice in relation to the format of documents being produced in response to a Summons;
- d. to inform parties of the Commission's practice in relation to accessing material produced in response to a Summons; and
- e. to inform Summons recipients and parties of the Commission's practice in relation to returning summonsed material.

SERVING THE SUMMONS

7. The forms of Summons to produce, and to attend and give evidence and produce, include the Summons recipient's declaration (in relation to whether the documents produced are originals and whether they need to be returned): see forms IRC 41 and IRC 42. The issuing party must provide a copy of the Summons when it is served so that the Summons recipient can retain the Summons and provide a completed declaration when producing material in accordance with that Summons.
8. A Summons must be served on all active parties to the proceedings, even where they are not the producing party.
9. The issuing party can nominate a convenient return date for the Summons on the document filed at the registry, provided that sufficient time is allowed to serve the Summons recipient, which, pursuant to UCPR 33.3(8), must be done no later than 5 days before the return date, or on an earlier or later date as may be fixed by the Commission. The Commission has a Summons list every Wednesday at 9.15am during the Commission term. If the Summons does not include a nominated return date, the registry will allocate a date.

ENDORSEMENT OF ACCESS ORDERS

10. The issuing party must endorse the proposed access order on the Summons.
11. If the issuing party does not propose an access order on the Summons the following proposed access order will be applied by the Registry:

"General access to all parties."
12. Where a different proposed access order is sought the issuing party must attach their reasons to the Summons. If there is a dispute over access the parties must appear on the return date.
13. An order for access includes an order that, where necessary, the documents may be physically inspected and photocopied.
14. The Commission may make costs orders against parties who have not complied with the Rules or this Practice Note.
15. Any party, or the producer, may object to the proposed access orders or to the issuing of the Summons. Notice of any objection should be provided to the issuing party in the first instance. The issuing party must notify all the other parties of the objection. Persons who wish to contest the proposed access order or seek to have the Summons set aside in whole or in part, must appear on the return date or advise the Registrar that they are

filing or have filed a Notice of Motion to vary the access orders or to set aside the Summons in whole or part with a supporting affidavit. The matter may be timetabled for brief written submissions on that date or remitted for determination on a future date.

16. If there is no objection to the proposed access order at the return of Summons no application to set the Summons aside, in whole or in part, and no appearances by the parties or producing party, the Registrar may record a “*general access to all parties*” order, with effect from that date.

PRODUCTION OF SUMMONSED MATERIAL

17. UCPR rule 33.6(6) allows the Summons recipient to produce a copy of documents, unless the Summons specifically requires the original documents to be produced. The issuing party should only specify that the original document is required in those special circumstances where the original document may need to be tendered in their original form.
18. Summonsed material should be produced via the [NSW Subpoena Response Portal](#) (‘the portal’).
19. The portal has a limit of 3GB per upload. Material in excess of 3GB should be uploaded in tranches. In the event the producing party is unable to access the portal to provide their response, they may email the material to the registry at IRC.summons@courts.nsw.gov.au, provided a scanned copy of the Summons is also attached to the email. The subject line of the email must state the matter name, number and that the email is the production of summonsed material.
20. Where material cannot be produced digitally via the portal or email, a producing party may produce by way of provision of a USB to the registry, or by providing hard copy documents.
21. Where material is not able to be produced, the producing party must indicate that. This can be done via the portal. If an error is experienced with the portal a document should be sent in accordance with paragraph 19 above which sets out which category of the summons cannot be responded to and why. Reasons may include:
 - a. the documents are not held by the producer;
 - b. the documents have been destroyed;
 - c. the documents cannot be located;
 - d. no documents exist which meet the request in the Summons.

ACCESSING SUMMONSED MATERIAL PRODUCED IN AN ELECTRONIC FORMAT

22. Parties to proceedings who have access to the matter on the Online Registry will be able to download and view summonsed material where a general access order has been made. If a party does not have access to the Online Registry, write to IRC.summons@courts.nsw.gov.au and request that an access link be made available by the Registry.
23. The party applying for access may also provide a blank USB device onto which a copy of the material can be placed. The registry may, upon request in exceptional circumstances, provide access to the material by sending an email attaching the material to the party applying for access.

24. Any material provided to the registry in hard copy or via USB will be uploaded to the portal where that is possible. If the documents produced are too voluminous, orders permitting the inspection or uplift and copy of the material may be made, upon application.

TENDERING SUMMONSED MATERIAL ORIGINALLY PRODUCED IN AN ELECTRONIC FORMAT

25. If directions have not been made to allow the tendering of documents at the hearing in an electronic format, then it is the responsibility of the party intending to tender a document which was originally provided to the registry in an electronic format to provide an appropriate copy for tendering.

RETURNING PRODUCED DOCUMENTS

26. Unless a contrary indication is given in the relevant section of the Summons Declaration by a producing party, Summons material held in hard copy will be destroyed at the conclusion of proceedings and any applicable appeal period.

APPLICATIONS TO THE REGISTRAR TO REQUEST THE PRODUCTION OF A FILE, DOCUMENT OR THING FROM A COURT OR TRIBUNAL

27. UCPR rule 33.13 provides that a party may request the Registrar produce a document or item held by the Court or Tribunal (or another Court or Tribunal). If it is held by the same Court, the Registrar must produce it in Court or to an authorised person. If it is held by another Court, the Registrar must request its transfer and then produce it.
28. Applications of this nature should be made using the [‘Application for production of a file’](#) form which is available on the Commission’s website.
29. Once the file has been produced to the Registrar, it will be assessed before access orders are made. Access orders may be facilitated in chambers, or you may receive a listing date before the Registrar in the Return of Summons list where orders may be made.

JUSTICE I TAYLOR
PRESIDENT
1 JUNE 2026

Amendment History:

1 June 2026: This Practice Note replaces former Practice Note 31A Production of and Access to Summonsed Material and Returning Exhibits and Summonsed Material in Civil Proceedings which was issued on 2 August 2024.

2 August 2024: This Practice Note replaced former Practice Note 31A Production of and Access to Summonsed Material and Returning Exhibits and Summonsed Material in Civil Proceedings which was issued on 15 February 2018.