



## **PRACTICE NOTE NO. 36**

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### **INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES**

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

### **THIRD-PARTY AND MEDIA ACCESS TO COMMISSION FILES**

#### **COMMENCEMENT**

1. This Practice Note will commence on 1 June 2026 and will apply to all proceedings from that date, regardless of when the proceedings commenced.
2. This Practice Note applies to all proceedings before the Commission including the Commission in Court Session.

#### **APPLICATION**

3. The purpose of this Practice Note is to prescribe the procedures surrounding the provision of access to Commission files for non-parties and media.
4. In this Practice Note, '*media*' means institutions or organisations that produce and distribute news and information to the public and digital or internet-based producers of news and information.

#### **SEARCH**

5. A person may not search in a registry for or inspect any document or thing in any proceedings except with leave of the Commission or as prescribed directly by the legislation.

#### **ACCESS**

6. Access to material in any civil proceedings is restricted to parties except with the leave of the Commission or in accordance with the Industrial Relations Commission Rules 2022.
7. Access will normally be granted to non-parties or media in respect of:
  - a. applications, submissions and judgments/decisions in proceedings that have been concluded, except where they are subject to a suppression or non-publication order;

- b. documents that record what was said or done in open Commission proceedings;
  - c. material that was admitted into evidence; and
  - d. information that would have been heard or seen by any person present in open Commission proceedings, unless the Judge or Commissioner or Registrar dealing with the application considers that the material, or portions of it, should be kept confidential.
8. Access will not normally be granted to non-parties or media in respect of the following:
  - a. any documents relating to a matter that is set down for, or currently in, conciliation; and
  - b. any other material not identified in paragraph 7.
9. In criminal proceedings, third parties, other than a media representative, will not normally be granted access to documents until a plea has been entered by the defendant. Access will normally then be granted to non-parties in respect of:
  - a. applications, submissions and judgments in proceedings that have been concluded, except where they are subject to a suppression or non-publication order;
  - b. documents that record what was said or done in open Commission proceedings;
  - c. material that was admitted into evidence; and
  - d. information that would have been heard or seen by any person present in open Commission proceedings, unless the Judge or Registrar dealing with the application considers that the material, or portions of it, should be kept confidential.
10. Media may be given access to material if the material is captured by section 314 of the *Criminal Procedure Act 1986*. Where section 314 applies, the material may be provided either in full or in redacted form, as determined by the Registrar.
11. If exceptional circumstances exist, or the parties to the proceedings consent, the Judge or Commissioner or Registrar may permit access to material referred to in paragraph 8.
12. The applicant must demonstrate that access should be granted in respect of the particular documents the subject of the application and state why the applicant seeks access.
13. Applications for access to material held by the Commission in proceedings by a person who is not a party to those proceedings and not a media representative must be made by emailing a completed Industrial Relations Commission Form 203 to the Industrial Registrar at [industrial.registrar@courts.nsw.gov.au](mailto:industrial.registrar@courts.nsw.gov.au).
14. Applications for access to material held by the Commission in proceedings by a media representative must be made by emailing a completed media application to access a court file to [ircmedia@courts.nsw.gov.au](mailto:ircmedia@courts.nsw.gov.au).

15. The Registrar may refer an application for access to the Judge or Commissioner with carriage of a matter for determination.
16. The Registrar or a Judge or Commissioner may notify interested parties before dealing with or determining the application in accordance with rule 2.7 of the *Industrial Relation Commission Rules 2022*.
17. A person to whom any document or thing is produced by the Commission for inspection may make copies of or take extracts from that document or thing.
18. Access will not be granted to inspect a file by way of email unless the request to receive the file by email has specifically formed part of the application.

#### **INFORMATION TO NOTE BEFORE MAKING AN APPLICATION**

19. Access to a file, or to any material contained within it, will ordinarily not be permitted until the proceedings have concluded, as granting access beforehand may impede the parties' capacity to resolve the matter through conciliation or negotiation, or otherwise prejudice the proceedings.
20. Affidavits and witness statements filed in proceedings are not always read in open Commission proceedings, despite having been filed. This may occur where parts of the evidence are objected to and ruled inadmissible, or where the matter settles prior to hearing. Affidavits, witness statements, exhibits and pleadings may also contain material that is scandalous, frivolous, vexatious, irrelevant or otherwise oppressive. Under r 4.15 of the Uniform Civil Procedure Rules 2005 (NSW), the Commission may order that such material be struck out.
21. Even where material has been read in open Commission proceedings or is included in pleadings, there may be good reason for refusing access. Material that has been rejected, not used or struck out as being scandalous, frivolous, vexatious, irrelevant or otherwise oppressive may still be legible. Where access to material would be otherwise unobjectionable, it may concern matters that are required to be kept confidential by statute (eg, the *Criminal Records Act 1991* (NSW)) or by public interest immunity considerations (eg, affidavit in support of suppression orders).
22. Enquiries about current or future applications may be made to the Registrar at [industrial.registrar@courts.nsw.gov.au](mailto:industrial.registrar@courts.nsw.gov.au).

**JUSTICE I TAYLOR**  
**PRESIDENT**  
**1 JUNE 2026**

#### **AMENDMENT HISTORY**

1 June 2026: Practice Note No. 36 was issued.