PRACTICE NOTE NO 39

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

PAPERLESS HEARINGS

COMMENCEMENT

1. This practice note commences on 5 August 2026.

APPLICATION

2. The Commission (including the Commission in Court Session) may direct that a hearing be conducted as a Paperless Hearing in accordance with this practice note.

3. If such a direction is made then this practice note operates, subject to any further direction, and prevails over other practice notes to the extent of any inconsistency.

4. This practice note is intended to make the hearing process more efficient. It will not ordinarily be applied in proceedings involving litigants who are not represented by an Australian legal practitioner or industrial organisation.

5. Regardless of whether a hearing is conducted as a Paperless Hearing, the Commission expects parties to proactively consider the use of technology to facilitate the efficient presentation of evidence and conduct of a hearing, including by conferring with other parties and, where appropriate and with the Commission's leave, adopting one or more of the procedures set out in this practice note.

PAPERLESS HEARINGS

6. In a Paperless Hearing:

    a. all documentary materials including evidence are viewed in electronic form;

    b. all documents are filed and tendered electronically;

    c. hard copy documents are not accepted for filing or tender without leave of the Commission; and

    d. all documents are received and marked electronically.

7. All documents relied upon by the parties in a Paperless Hearing must comply with Schedule A to Practice Note No 32, which includes requirements for how documents are to be filed and how electronic documents including court books are to be prepared.

8. A Paperless Hearing is conducted using an electronic court book. The Commission will set a date by which the court book is to be filed.

9. Hard copies of any documents, including court books, must not be filed except with leave of the Commission.

10. The Commission may provide the parties with a link to a secure Shared Folder. If so, the Shared Folder becomes the repository of all documents to be referred to or tendered during the hearing in addition to the court book.

11. Access links to the Shared Folder will be provided by email to the parties' nominated representatives who require access or to a party themselves, if unrepresented. Users with access to the Shared Folder are not permitted to share access with another person unless the Commission has granted that other person access. If a party has an enquiry regarding access, they may contact the Associate of the presiding Presidential Member or, if the matter is before a Commissioner, Commissioner Support.

12. The Shared Folder may be configured by the Commission to include a designated subfolder for each party. Documents placed in a party's subfolder may be moved by the Commission into other designated subfolders once admitted into evidence or marked for identification. All subfolders will be accessible to all users of the Shared Folder.

13. The parties are responsible for ensuring all documents uploaded to the Shared Folder:

    a. have been reviewed to ensure they are appropriate and intended for upload;

    b. function as expected; and

    c. are not password protected.

14. Documents over which privilege or confidentiality is claimed should not be uploaded to the Shared Folder.

15. Where a party intends to hand up a document in a Paperless Hearing that is not in the court book:

    a. the document must be uploaded to the Shared Folder (if one is being used); and

    b. an email sent to the Associate of the presiding Presidential Member or, if the matter is before a Commissioner, Commissioner Support, containing a link to the document in the Shared Folder or attaching the document itself;

    no less than one hour before the commencement of the hearing in which the document is to be used.

16. A party granted leave to tender a hard copy document under paragraph 6(c) may be directed by the Commission to uplift and provide the document to the bench and other parties in accordance with paragraph 15.

17. This practice note does not require parties to give prior notice of documents intended to be used in cross-examination. Where a party wishes to refer a witness to a document in cross-examination that is not in the court book or otherwise an exhibit in the proceedings, the party may do so by showing the witness the document on the screen. Questioning shall not proceed until the document is accessible to the bench and other parties. The document cannot be tendered until it has been uploaded to the Shared Folder or otherwise provided.

18. A party who considers it necessary to use hard copy documents without notice in the cross-examination of a witness should obtain leave in advance to do so. Such leave can be sought in the course of cross-examination. As a precondition of obtaining such leave the party must provide sufficient hard copies of the document for the witness and other parties at the time of use and have an electronic copy provided to the bench and other parties in accordance with paragraph 15 by the conclusion of the day.

19. All electronic documents handed up to the bench in accordance with paragraph 15 should be clearly titled to readily identify their nature to the presiding member, in the following format:

    a. document title (the title must be as concise as practicable and will be used to identify the document when it is tendered);

    b. document date; and

    c. proceeding number (where multiple proceeding numbers exist, the parties must confer to agree a principal proceeding number for this purpose).

20. If there is a sufficient gap between the close of evidence and submissions, the Commission may direct that a supplementary court book be filed containing all documents tendered during the proceedings that were not included in the original court book.

21. The procedure set out in this practice note does not alleviate parties from the obligation to file documents as otherwise required. Should the Commission grant leave during a Paperless Hearing for a document to be filed in Court the document must be provided to the bench and other parties in accordance with paragraph 15 and copied to IRC.emailfiling@courts.nsw.gov.au, accompanied by a request that it be filed pursuant to a grant of leave by the Commission.

22. At the conclusion of the proceeding the documents in the Shared Folder, to the extent that they were admitted into evidence or marked for identification, will be retained by the Commission in an electronic file that can be accessed by the parties by request. The balance of the documents will be deleted by the Commission from the Shared Folder.

DISPLAY OF ELECTRONIC DOCUMENTS

23. It is the responsibility of parties to display relevant documents on screens that can be viewed by the bench and witnesses.

24. The Commission's premises at 47 Bridge Street, Sydney and 10 Smith Street, Parramatta are equipped with display screens for the bench and witnesses, together with USB-C, USB-B, HDMI and Mini HDMI cables for the display of documents from a party's device (such as a laptop, iPad or tablet) to witnesses appearing in person or remotely.

25. Parties should consider whether they need to bring to the hearing two devices, since a device may not be capable of simultaneous use while connected for document display.

26. The parties are responsible for:

    a. controlling the display of documents to the bench and witnesses, and must ensure that the version displayed is identical to the version available to the bench and the other parties;

    b. providing the hardware required to access the electronic court book and, where applicable, display documents to witnesses;

    c. ensuring private or confidential content is not accidentally displayed; and

    d. ensuring the necessary technology is available to display documents filed or tendered in native format rather than Portable Document Format (PDF).

27. A witness appearing in a Paperless Hearing may annotate a document using an electronic device on which the document is open, including by means of an electronic pen or stylus, trackpad or mouse. The annotated document may then be displayed from the device and a copy of the document so annotated provided to the bench and the other parties in accordance with paragraph 15. Where a party considers it more efficient for a witness to annotate a hard copy document, it is the responsibility of the party to provide a hard copy to be annotated. That party may be directed by the Commission to uplift and provide the document to the bench and other parties in accordance with paragraph 16.

TECHNOLOGY BRIEFING

28. Prior to the commencement of the hearing, the Commission may conduct a technology briefing for the benefit of the parties' representatives during which the Shared Folder's functionality and the protocol for the display of electronic documents will be demonstrated and tested. If a party wishes to arrange a technology briefing, they may contact the Associate of the presiding Presidential Member or, if the matter is before a Commissioner, Commissioner Support.

AUDIO-VISUAL LINKS

29. Representatives, parties and witnesses may request leave to appear by audio-visual link in a Paperless Hearing, subject to any direction of the Commission. The Commission's Protocol on the Use of Audio-Visual Links applies.

LIVESTREAMING

30. Matters of significant public interest conducted as a Paperless Hearing may be livestreamed, subject to any direction of the Commission. The Commission's Protocol on the Use of Audio-Visual Links applies.

JUSTICE I TAYLOR
PRESIDENT
3 AUGUST 2026

AMENDMENT HISTORY

5 August 2026: This Practice Note was first issued on 5 August 2026.