Practice Note No. 1A

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 1A

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

APPEALS

1. This Practice Note has effect from 18 February 2025 and replaces the previous Practice Note 1A. To the extent practicable, it applies to proceedings whether filed before, or after, the date of reissue.

2. This Practice Note applies to all appeals before the Industrial Relations Commission and all appeals before the Industrial Court *other than* appeals from the Local Court and appeals in respect of criminal matters.

3. Following the filing of an application to appeal the matter will be listed for a directions hearing. Where "the usual directions" are made in relation to an appeal, the directions will be those set out in Schedule A to this Practice Note. At the directions hearing the parties are to indicate whether they seek anything different than the usual directions.

4. Where a party is in default of any of the requirements of this practice note or any directions or orders that have been made by more than 3 business days, the parties, including the party or parties not in default, have an obligation to bring this matter to the attention of the chambers of the presiding judge or commissioner. At the same time, that party will also notify the other parties to the appeal.

Filing documents

5. Electronic copies of documents required to be filed by Schedule A can be filed by email, *provided* they comply with Schedule B.

6. The Appeal Book and any bundle of authorities are to be provided in hard copy form and in electronic form by email, as set out in Schedule C.

Justice I Taylor
President
18 February 2025

REVISION HISTORY

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SCHEDULE A TO PRACTICE NOTE NO. 1A

BEFORE A FULL BENCH OF THE INDUSTRIAL RELATIONS COMMISSION
OF NEW SOUTH WALES

USUAL APPEAL DIRECTIONS

1. The appellant shall, by 4.00pm on the day 20 business days before the hearing date, in either hard copy or electronic copy, file and serve —

   (i) an outline of submissions addressing both leave to appeal and the appeal, not exceeding 10 pages at 12 point font and 1.5 line spacing including any annexures, unless leave has been given; and

   (ii) a chronology in compliance with the note below.

2. The respondent shall, by 4.00pm on the day 15 business days before the hearing date, in either hard copy or electronic copy, file and serve —

   (i) an outline of submissions addressing both leave to appeal and the appeal not exceeding 10 pages at 12 point font and 1.5 line spacing including annexures, unless leave has been given; and

   (ii) if the respondent considers it necessary, a chronology in reply which shall be limited to adding additional entries or amended entries where the respondent disputes matters set out in the appellant's chronology.

3. The appellant shall, by 4.00pm on the day 10 business days before the hearing date, in either hard copy or electronic copy, file and serve —

   (i) an outline of submissions in reply not exceeding 5 pages at 12 point font and 1.5 line spacing including annexures, unless leave has been given; and

   (ii) if the appellant considers it necessary, a chronology in reply which shall be limited to those areas where the appellant disputes matters set out in the respondent's chronology.

4. The parties shall confer and agree on an index to the Appeal Book prior to the date it is to be filed.

5. By 4.00pm on the day 5 business days before the hearing date, 3 hard copies and 1 electronic copy of the Appeal Book are to be prepared and filed in accordance with Schedule C.

6. By 4.00pm, 3 business days before the hearing date, the parties are to file a list of authorities in accordance with Schedule C.

7. By 4.00pm, 2 business days before the hearing date, the parties are to file a bundle or bundles of those authorities that are to be read at the hearing.

8. The appeal is listed for hearing before the Full Bench on ……, on the basis of an estimate of …… day(s) for the hearing.

9. Liberty is given to the parties to apply on short notice for variations to these orders. Such liberty is to be exercised by application made to the Associate to the presiding member of the Full Bench.

10. The Full Bench expects that either or both parties will promptly arrange for the matter to be listed before the Commission pursuant to the liberty to apply, should there be any non-compliance with the timetable which could result in the Full Bench not receiving the appeal book containing all submissions 5 business days before the date fixed for the hearing.

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11. The term “hearing date” in these directions refers to the date set down for the hearing of the appeal or, if more than one date is set, the first of those dates.

12. The term “electronic copy” in these directions means a copy in the form required by Schedule B.

NOTE:

The chronology should be an objectively correct statement of “the principal events leading up to the litigation” and should not be a chronology merely of those matters of assistance to one party or the other: *Woods v Harwin* [1993] NSWCA 291. The chronology should also include key events in the litigation, such as the commencement of the proceedings. It must contain cross references to the Appeal Book.

The following is the suggested form for chronologies:

DATE	EVENT	APPEAL BOOK & PAGE NO.
22.09.2023	Mr Smith called in for disciplinary hearing	15
23.11.2023	Department commences investigation	58–59 (Exhibit 5)
30.11.2023 at 0930 hrs	Mr Smith sends email to Mr Jones raising issues with investigation	33 (Exhibit 7)

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SCHEDULE B TO PRACTICE NOTE NO. 1A

REQUIREMENTS FOR FILING DOCUMENTS BY EMAIL

A document required to be filed on appeal can be filed by email if it complies with the following requirements. If you are unable to comply with these requirements, you can file a hard copy in person or by post along with an electronic copy on a USB.

The email is addressed to IRC.emailfiling@courts.nsw.gov.au and copied to all other parties to the proceedings.

1. The email states:

   a. the matter number;

   b. the name of the party forwarding the document for filing and the contact details of a person responsible for the matter, including their email address and phone number; and

   c. the parties that have been copied into the email.

2. What is attached to the email complies with the following:

   a. a single Portable Document Format (PDF) that is text-searchable;

   b. every page of the PDF starting with the cover page and index is to be paginated sequentially;

   c. each separate document within the PDF is to be bookmarked; and

   d. it commences with a cover page that records a title of the document or bundle, the nature of the matter, matter number, names of the parties, date of the filing, states the name of the party that filed the PDF and if the bundle contains more than one document, it has an index that lists each document and its page numbers.

The following is an example of an index:

APPEAL BOOK INDEX	
Title of Document	**Page Numbers**
Notice of Appeal	1-16
Exhibit 1 – Affidavit of S Smith dated 5 February 2024	17-22
Transcript, Day 1, 25 March 2025	23-80

REVISION HISTORY

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SCHEDULE C TO PRACTICE NOTE NO. 1A

APPEAL BOOK AND AUTHORITIES

APPEAL BOOK

1. The Applicant/Appellant is to provide the Appeal Book in hard copy and electronic copy, unless otherwise agreed or directed.

2. The Appeal Book should contain:

   a. Evidence and transcript to the extent referred to in submissions. Other evidence and transcript are to be included only if necessary for the hearing and determination of the appeal;

   b. the written submissions; and

   c. the chronology/chronologies.

3. The electronic version of the Appeal Book is to be in the following format:

   a. a single Portable Document Format (PDF) that is text searchable by way of optical character recognition (OCR) or similar;

   b. every page of the PDF, starting with the cover page and index, is to be paginated sequentially;

   c. each separate document within the PDF is to be bookmarked with tab numbers that replicate the tab numbers in the hard copy;

   d. commences with a cover page that records:

      i. the matter number;

      ii. names of the parties;

      iii. the name of the party that filed the Appeal Book; and

      iv. date of the filing;

   e. contains an index that lists each document and its page numbers. It is preferred if the index includes for each listed document, a cross-document relative hyperlink to the attached document.

4. The hard copies are to be identical to the electronic copy, with the same pagination, cover page and index.

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5. The Appellant must consult with the Respondent before filing any Appeal Book. Parties are expected to co-operate to identify the material that should be included in the Appeal Book. Parties should liaise with each other regarding the provision to each other of a copy of any Appeal Books.

   The following is an example of an Index:

APPEAL BOOK INDEX	
Title of Document	**Page Numbers**
Notice of Appeal	1-16
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BUNDLES OF AUTHORITIES

6. The list of authorities that each party is to file 3 business days before the hearing is a document that lists the cases, legislation and bills and explanatory memoranda that a party wishes to refer to at hearing.

7. The list of authorities is to be divided into two parts. In Part A are those materials which are to be read at hearing, and it must specify the paragraphs or pages that are to be read. Materials to be referred to but not read are to listed in Part B.

8. A bundle of the authorities in Part A are to be prepared and provided to the Commission at least 2 business days before the hearing in both hard copy (3 copies) and electronic copy.

9. Separate bundles of authorities for each party should be avoided. Rather, wherever possible, the parties should confer to produce and file a joint consolidated version of all of the authorities, legislation and explanatory and other material proposed to be relied upon at the hearing by any party.

10. The electronic copy of authorities is to be in the following format:

    a. a single Portable Document Format (PDF) that is text-searchable by way of optical character recognition (OCR) or similar;

    b. each separate authority within the PDF is to be bookmarked with tab numbers that replicate the tab numbers in the hard copy; and

    c. it is to have an index that lists each authority and the page or paragraph numbers which are relevant.

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