

PRACTICE NOTE NO. 8A

First Issue Date:

29 May 2003

Re-Issue Date:

**1 February 2010
Replacing Practice note 8**

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

MAJOR INDUSTRIAL CASES

1. The purposes of this Practice Note are:
 - (a) to enable prompt and timely notice to be provided to the Commission of the likelihood of the commencement of a major industrial case and thereby to ensure, as far as practicable, the effective use of the Commission's resources in respect of such cases.
 - (b) to emphasise the importance of prompt and timely notice being provided to the Commission of the likelihood of the commencement of a major industrial case and that failure to give notice of a matter which is or may be a major industrial case in terms of this Practice Note may, and is likely to, affect the priority that the Commission is able to afford to the matter.
2. This Practice Note has effect from the date of re-issue.
3. For the purpose of this Practice Note:
 - (A) "Commission" means the Industrial Relations Commission of New South Wales
 - (B) The term "major industrial case" shall include, without limiting its generality:
 - (a) any application within the arbitral jurisdiction of the Commission which could reasonably be expected to be heard by a Full Bench of the Commission pursuant to:
 - (i) section 51 "Making of State decisions" of the Act;
 - (ii) the Special Case principle;
 - (iii) or the Equal Remuneration principle, and which is likely to require five or more hearing days; and
 - (b) any other Full Bench arbitral proceeding which, because of its importance, or other special feature, is appropriate for consideration for listing on an expedited or priority basis.
 - (C) The word "Act" means the *Industrial Relations Act* 1996.
4. When a registered industrial organisation, or other person or organisation entitled under section 11(2) of the Act to make such application, determines to make an application in respect of a major industrial case it shall thereupon give notice in writing to the Industrial Registrar of its intention to do so.

5. The notice referred to in paragraph 4:
 - (a) shall be given as soon as practicable after the determination to make the application has been made;
 - (b) shall be served on every other party to the affected award or awards and on every other person, organisation, corporation or firm which is likely to have an interest in the application;
 - (c) shall include particulars of the nature of the application; a statement as to its significance or importance for the purpose of determining its appropriate priority; details of the persons, organisations etc upon whom or which the notice is to be served; the estimated or likely date when the application will be filed; the estimated time of hearing of the application and any other matters which the applicant considers would assist the Commission to program the matter.
6. The Registrar, upon receipt of the said notice, shall forthwith refer it to the President of the Commission.
7. The President, upon receipt of the notice, shall determine whether a conference of the parties under the auspices of the Commission shall be convened.
8. A conference convened pursuant to paragraph 7 shall be chaired by the President or a Presidential Member of the Commission nominated by the President. The conference may only deal with:
 - (a) the programming and priority of the matter; and
 - (b) whether it is appropriate to make a Member of the Commission available for the conciliation and case management of the matter.
9. Notwithstanding paragraph 8, if the notice to the Commission or the information received by the Commission during the conference indicates that there exists an industrial dispute (including a threatened or likely dispute or industrial action) in respect of the application or proposed application, the matter or dispute may be dealt with pursuant to section 130 of the Act.
10. Parties should note that failure to give notice of a matter which is or may be a major industrial case in terms of this Practice Note may, and is likely to, affect the priority that the Commission is able to afford to the matter.

Boland J, President
1 February 2010