

Practice Note No.14A

Issue Date:
Replacing Practice Note 14

15 February 2018

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE No. 14A

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

Conciliation of applications referred by the Supreme Court

1. The purpose of this Practice Note is to facilitate the resolution of matters commenced in the Supreme Court pursuant to Part 9 of Chapter 2 or Part 2 of Chapter 7 of the Industrial Relations Act 1996 and referred to the Commission for conciliation by making standard directions to ensure that:

- such proceedings are conducted before the Commission in an efficient and expeditious manner; and
- practitioners and others who appear before the Commission, do all they can to facilitate the just, quick and cost effective disposal of such proceedings.

2. This Practice Note replaces Practice Note No. 14 and has effect from the date of issue.

3. The purpose of conciliation is to resolve the proceedings by agreement and without proceeding to a full hearing. Conciliation provides the parties with an opportunity to reach agreement about some or all of the issues in dispute. It is essential that the parties clearly identify the issues between them prior to the conciliation.

Standard directions

4. The following standard directions apply in respect of matters listed for conciliation.

(1) Conciliation is to be attempted by means of a conciliation conference conducted after reasonable notice to the parties.

(2) Conciliation conferences follow a structured process in which the Commission endeavours to assist the parties to:

- (a) communicate effectively with each other, and
- (b) reach agreement on the issues in dispute.

(3) Subject to any direction of the Commission the following provisions apply to the conduct of a conciliation conference:

- (a) each party must file and serve at least 7 days prior to the conciliation an outline, not exceeding 3 pages, of their case;

- (b) each party may be represented, but only by a person who is fully conversant with the matter and has full authority in relation to the settlement of the matter,
- (c) each party must attend the conciliation with information as to:
 - (i) the costs incurred by the party to date, and
 - (ii) an estimate of the number of hearing days that would be involved, and of the costs that the party would incur, if the matter were to proceed to a hearing,
- (d) a party who believes that there is a matter of fact or law:
 - (i) that has not already been identified in the pleadings (or outline required by paragraph (a), and
 - (ii) that would require determination if the matter were to proceed to a hearing, must document the matter, and file and serve a copy of the relevant documentation, not less than 7 days before the date fixed for conference,
- (e) a party who contends that any term of a written contract or industrial instrument is in issue must file and serve a copy of the document, together with a brief summary as to the nature of the issue, not less than 7 days before the date fixed for the conference,
- (f) in unfair contract proceedings, the applicant must file and serve a statement as to mitigation of damage or loss not less than 7 days before the date fixed for the conference,
- (g) during the week prior to the conference, the parties must consult with each other for the purpose of clearly identifying all issues and matters in dispute.

PM Kite SC
Chief Commissioner

15 February 2018