

PRACTICE NOTE No.4

Issue Date: 17 December 1999

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INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

PRACTICE NOTE NO. 4

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

VIRTUAL HEARINGS

1. The purpose of this Practice Note is to inform parties about the process to seek leave to have certain hearings conducted by way of virtual facilities (via teleconference or AVL).
2. This Practice Note has effect from the date of re-issue.
3. Hearings undertaken using virtual facilities are still formal proceedings, and all usual etiquette, protocols, procedures, and restrictions apply. The *Court Security Act 2005* prohibits the use of recording devices in court and this applies to proceedings using virtual facilities. Practitioners should advise clients, witnesses and others that the access details are to be used for the purposes of the hearing only and are not to be published by those persons for any other purpose. Persons accessing the system for inappropriate purposes or in a way that interferes with the proper administration of justice may be referred to the Supreme Court or the Attorney General for contempt of court.

Seeking leave to conduct a virtual hearing

4. Any party may request leave for the Commission to conduct a hearing using virtual facilities, rather than by personal appearance, where it is not, or may not be, practicable for a party to attend in-person. A request should be made as soon as practical after the party is notified of the proposed date of the hearing. The party proposing to make a request for leave to the Commission must, before doing so, make reasonable attempts to obtain the consent of all other parties. The request should indicate whether the application is by consent of the other parties to the matter and, if not, what response to the request for consent was given by the other parties.
5. The application should set out the grounds on which the request is made. Leave may be granted for reasons of:
 - a. costs;

- b. distance;
 - c. medical reasons;
 - d. the nature of the relationship between the parties; or
 - e. such other reason as appears appropriate to the Commission.
6. The Commission may, if it thinks appropriate that the hearing be held by virtual means, agree to the request, with or without conditions. The Commission will notify the parties of the result of the application but will not be obliged to give reasons for its decision.

Joining a virtual hearing

7. It is the responsibility of each party to have dialled in at the time specified by the Commission. Each party must ensure that they are at a quiet and private location with reception to conduct a virtual hearing. Internet access is required for video conferencing and parties are responsible for ensuring reliable connectivity. Video conferencing via AVL requires all parties to have a working camera enabled.
8. When joining a telephone hearing, parties are immediately audible in the Virtual Courtroom. Parties are requested to mute the audio on their devices until their matter has been called. Representatives from a party may dial into the proceedings from separate phone numbers or on a single line. Once called upon, it is important to identify who is present on the phone.
9. It is the parties' responsibility to address technical issues prior to the commencement of the virtual hearing. The Commission does not provide a technical support service. The Commission may require the parties to attend an informal test of the technology prior to the time that the matter is listed.
10. Parties should ensure that any documents to which they wish to refer in a virtual hearing are served on the other parties to the hearing, prior to the date of the hearing. Documents should be filed in the Registry at least two full business days before the hearing.

Chief Commissioner Constant
18 December 2023