

Practice Note No.1A

First Issue Date:

14 July 2000

Re-Issue Date:

**15 February 2018
Replacing Practice Note 1**

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

USUAL APPEAL DIRECTIONS

1. The purposes of this Practice Note are: -

- (a) to advise the requirements of the Commission in relation to appropriate procedures for appeals; and
- (b) to facilitate the making of directions as to appeals.

2. This Practice Note has effect from the date of re-issue.

3. Where a Full Bench, or a presiding member of a Full Bench, makes “the usual directions” in relation to an appeal, the directions given will be those set out in Schedule A to this Practice Note, with such modifications (if any) as the Full Bench/presiding member directs.

4. Nothing in this Practice Note or Schedule A affects, or is intended to affect, the powers or discretions of a Full Bench/presiding member in relation to the proceedings.

**P M Kite SC
Chief Commissioner
15 February 2018**

SCHEDULE A TO PRACTICE NOTE NO. 1

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

USUAL APPEAL DIRECTIONS

The Full Bench/presiding member makes the following directions:—

1. The appellant shall by 4.00 pm on the day six weeks before the hearing date, file 4 copies of, and serve —

- (i) a detailed outline of submissions in relation to the appeal;
- (ii) a chronology which should usually be in the form of the chronology specified in Practice Note SC CA No 1 issued on 27 March 2009 applicable in the Supreme Court of New South Wales in relation to appeals to the Court of Appeal; and
- (iii) a written narrative submission on the question of leave to appeal, which document should not exceed three A4 pages of double-spaced typing.

2. The respondent shall by 4.00 pm on the day four weeks before the hearing date, file 4 copies of, and serve —

- (i) a detailed outline of submissions in reply as to the appeal;
- (ii) if the respondent considers it necessary, a chronology in reply which shall be limited to those areas where the respondent disputes matters set out in the appellant's chronology; and
- (iii) a written narrative submission on the question of leave to appeal, which document should not exceed three A4 pages of double spaced typing.

3. The appellant shall by 4.00 pm on the day two weeks before the hearing date, file 4 copies of, and serve, replies to the documents filed and served by the respondent in accordance with direction 2 above.

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

5. Liberty to apply on short notice; such liberty to be exercised by application made to the Associate to the presiding member of the Full Bench and the Full Bench delegates its powers for the purposes of giving directions to the presiding member.

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 all submissions in the appeal not less than 14 days before the date fixed for the hearing.

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.

NOTE:

Practice Note No. SC CA 1 of 27 March 2009 applicable in the Supreme Court of New South Wales in relation to appeals to the Court of Appeal provides, *inter alia*:

35. Chronologies prepared in accordance with r 51.35 must be filed in an appeal by the appellant (r 51.34(1)(b)) and may be filed by the respondent (r 51.34(2)). It must contain cross-references to the Appeal Book. 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* (CA(NSW), Mahoney AP, Clarke and Meagher JJA, 5 November 1993, unreported). The chronology should include key events in the litigation, such as the commencement of the proceedings in the court below. Failure to file a proper chronology may have adverse costs consequences.

The following is the suggested form for chronologies:

APPELLANT (OR RESPONDENT'S) CHRONOLOGY

DATE	EVENT	VOLUME	PAGE AND EXHIBIT NO.
22.09.2001	Arrangements in Wagga between Smith and Co for financing of wheat purchases	Vol 2	15
23.11.2001	First request by Brown to Smith and Co for drawdown to pay for wheat purchases	Vol 2	58
30.11.2001 at 0930 hrs	Fax Smith and Co to Brown re above	Vol 2	58-59 (Exhibit 5)
30.11.2001 at 1145 hrs	Telex Brown to Smith and Co requesting drawdown to pay for further wheat	Vol 2	33
01.12.2001	“Warehouse receipt” from Jones to Smith and Co	Vol 2	60-61 (Exhibit 6)
06.01.2002	Letter Jones to Smith and Co concerning method of carrying out financial arrangements for barley	Vol 2	61 (Exhibit 7)
07.01.2002	Internal memorandum of Smith and Co re meeting Allen in Wagga	Vol 2	143-144 (Exhibit 8)