



# *Government Gazette*

of the State of

New South Wales

**Number 380 - Parliament, Ministerial, Courts and Police**

**Friday, 27 September 2024**

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**ACT OF PARLIAMENT ASSENTED TO**

**Legislative Council Office Sydney 23 September 2024**

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Act passed by the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, viz.:

Act No. 57, 2024 – An Act to amend the *Government Sector Finance Act 2018* to make provision about the funding of integrity agencies; to make consequential amendments to other Acts; and for other purposes. [**Government Sector Finance Amendment (Integrity Agencies) Bill 2024**]

David Blunt AM  
Clerk of the Parliaments

## CONSTITUTION ACT 1902

Ministerial arrangements for the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage

Pursuant to section 36 of the *Constitution Act 1902* (NSW), Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable Jihad Dib MP to act for and on behalf of the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage on and from 26 September 2024 to 5 October 2024, inclusive, and the Honourable Paul Scully MP to act for and on behalf of the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage on and from 6 October 2024 to 12 October 2024, inclusive.

Dated: 25 September 2024

CHRIS MINNS, MP  
Premier

## CONSTITUTION ACT 1902

Ministerial arrangements for the Minister for Families and Communities, and Minister for Disability Inclusion

Pursuant to section 36 of the *Constitution Act 1902* (NSW), Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable Michael Daley MP to act for and on behalf of the Minister for Families and Communities, and Minister for Disability Inclusion on and from 1 October 2024 to 6 October 2024, inclusive, and the Honourable Jodie Harrison MP to act for and on behalf of the Minister for Families and Communities, and Minister for Disability Inclusion on and from 7 October 2024 to 14 October 2024, inclusive.

Dated: 25 September 2024

CHRIS MINNS, MP  
Premier

## CONSTITUTION ACT 1902

Ministerial arrangements for the Minister for Skills, TAFE and Tertiary Education

Pursuant to section 36 of the *Constitution Act 1902* (NSW), Her Excellency the Governor, with the advice of the Executive Council, has authorised the Honourable Jenny Aitchison MP to act for and on behalf of the Minister for Skills, TAFE and Tertiary Education on and from 27 September 2024 to 11 October 2024, inclusive.

Dated: 25 September 2024

CHRIS MINNS, MP  
Premier



## PRACTICE NOTE NO. 32

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### INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

#### FILING, LENGTH, PRESENTATION, AND FORMATTING OF DOCUMENTS AND COURTBOOKS

1. This Practice Note has effect from 24 September 2024 and replaces previous Practice Note 32.
2. This Practice Note applies to proceedings before the Industrial Relations Commission and the Industrial Court *other than* criminal proceedings and appeal proceedings. It applies *subject to* any directions that are made in a matter.
3. Filing of documents must be in accordance with [Rule 2.5 of the Industrial Relations Commission Rules 2022](#) and Schedule A of this Practice Note.
4. The Commission may, on application or on its own initiative, grant a party, on terms determined by the Commission, leave to be excused from compliance in part or in whole with the requirements of Schedule A or any directions.
5. Parties should identify any proposed alteration to the standard requirements at the first directions hearing.
6. Once directions have been made, any application to vary the directions can only be made by a party after it has consulted the other party or parties, and must:
  - a. be made in writing no later than 4.00pm, 3 working days before the time for filing of that party's evidence and/or submissions;
  - b. state what alteration to the timetable is sought;
  - c. indicate the attitude of the other party or parties;
  - d. provide reasons for the proposed variation.

#### FILING DOCUMENTS ELECTRONICALLY

7. A Notification of an Industrial Dispute (Form 4) can be filed in the Online Registry or by email to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au).

8. The following forms are required to be filed using the [Online Registry](#) and *not by email*:
- a. Unfair Dismissal Application (Form 7A);
  - b. Application for Public Sector Disciplinary Appeal (Form 4A);
  - c. Employer's Response to Unfair Dismissal Application (Form 7B);
  - d. Employer's Response to Public Sector Disciplinary Appeal (Form 4B);
  - e. Notice of Appearance (UCPR Form 6A);
  - f. Notice of Discontinuance (UCPR Form 33);
  - g. Notice of Change of Solicitor or Appointment of Solicitor (UCPR Form 77);
  - h. Notice of Intention to File Notice of Ceasing to Act (UCPR Form 79); and
  - i. Notice of Ceasing to Act (UCPR Form 80).

However, if a party is unable to file such a document in the Online Registry due to technical difficulties, a party can file the document by email with a cover note stating that the Online Registry did not allow the filing of the document.

9. All other documents can be filed by email to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au), *provided* they comply with Schedule B.

#### FILING DOCUMENTS IN HARDCOPY

10. If filing a document in hardcopy, either in person or by post, a party must provide two copies (or such greater number of copies as required by [Schedule 2 to the Industrial Relations Commission Rules 2022](#)) and at the same time, an **electronic copy** on a USB drive or by email the same day.
11. An 'electronic copy' means a document in a text-searchable Portable Document Format (**PDF**).
12. The Commission may direct that a document that has been filed is also to be provided electronically in Microsoft Word format by a certain time and if so requested, a party must email such a document within the time specified to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au).
13. The Commission may direct that a copy of a document provided to the Commission during an appearance or hearing that has not been previously filed is to be filed electronically by a certain date to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au).

**JUSTICE I TAYLOR**  
**PRESIDENT**  
**24 SEPTEMBER 2024**

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#### REVISION HISTORY

First Issue Date:  
Re-Issue Date (version 7):

11 February 2021  
24 September 2024

## SCHEDULE A TO PRACTICE NOTE NO. 32

### BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

#### REQUIREMENTS FOR LENGTH, PRESENTATION AND FORMATTING OF DOCUMENTS

##### DOCUMENTS GENERALLY

- A1. Without prior leave, a witness statement or affidavit must not exceed 25 pages before annexures and must not have more than 100 pages of documents, whether annexed or exhibited.
- A2. Without prior leave, an outline of written submissions must not exceed 10 typed pages spaced line and a half.
- A3. Formatting and presentation of all witness statements, affidavits and submissions must be in typeface that is no smaller in appearance than an Arial font in 11-point size or a Times New Roman font in 12-point size and otherwise be in accordance with the formatting and requirements contained in cl 4.3 of the [Uniform Civil Procedure Rules 2005](#).
- A4. Paragraphs A1 and A3 do not apply to applications made pursuant to s229 of the *Work Health and Safety Act 2011* (application for external review), nor the following classes of documents in proceedings commenced pursuant to s174 or s181E of the *Police Act 1990* (**Police Act**):
- A5. Section 174 applications:
- a. documents made available to the applicant police officer (**Officer**) pursuant to sub-s174(5) of the *Police Act*,
  - b. the notice issued by the Commissioner of Police to the Officer under sub-s173(5)(a) of the *Police Act*,
  - c. any response by the Officer provided in accordance with sub-s173(5)(c) of the *Police Act*; and
  - d. the Order made by the Commissioner of Police under sub-s173(2).
- A6. Section 181E applications:
- a. documents made available to the applicant police officer pursuant to sub-s181E(3) of the *Police Act* (often referred to as **the Commissioner's Confidence brief**);
  - b. the notice issued by the Commissioner of Police to the Officer under sub-s181D(3)(a) of the *Police Act*,



- c. any response by the Officer provided in accordance with sub-s181D(3)(b) of the *Police Act*; and
- d. the Order made by the Commissioner of Police under sub-s181D(1) of the *Police Act*.

### **COURT BOOKS FOR HEARING**

- A7. For final hearings, the Commission prefers that relevant documents are provided to the Commission in the form of a court book. Paragraphs A8-A12 apply where a court book is being filed.
- A8. The court book is to be provided to the Commission by 4.00pm 3 working days prior to a hearing, in both hardcopy and electronic copy containing all documents that any party will seek to tender or refer to in the proceeding.
- A9. The Applicant is to provide the court book, unless otherwise agreed or directed.
- A10. If the matter is to be heard by a single member and witnesses are to be called, two hardcopies are to be provided (so there is a second copy to be shown to witnesses). If the matter is being heard by a full bench at first instance, then four hardcopies are to be provided. The hardcopies are to be exact replicas of the electronic copies, with physical tab numbers separating the documents and every page sequential page numbered.
- A11. As early as possible following all submissions and evidence being filed, the parties are to confer as to the index to the court book to ensure that the court book will, so far as known, contain all documents that a party will seek to tender or refer to in the proceeding, and does not contain any documents filed that no party will need. Note: the court book is to contain documents that a party will seek to tender even if another party will object to that tender.
- A12. The electronic version of the court book is to be in the following format:
  - a. A single PDF that is text-searchable.
  - b. Every page of the PDF, starting with the cover page and index, is to be sequentially numbered.
  - c. Each separate document within the PDF is to be bookmarked with tab numbers that replicate the tab numbers in the hardcopy.
  - d. It commences with a cover page that records the matter number, names of the parties, date of the filing, states the name of the party that filed the bundle with an index that lists each document and its page numbers. The following is an example of the Index.

### **COURT BOOK INDEX**

Title of Document		Page Numbers
1.	Workplace Policy	1-16
2.	Memorandum dated 3 June 2024	17-22
3.	Email dated 6 June 2024	23-25

## AUTHORITIES

- A13. A party who intends to refer to authorities or legislation at a hearing is to file a list of authorities and legislation along with an authorities bundle in accordance with [Practice Note 2A](#).
- A14. The Commission encourages the parties to confer with a view to providing a joint bundle of authorities.

## SCHEDULE B TO PRACTICE NOTE NO. 32

### BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

#### REQUIREMENTS FOR FILING DOCUMENTS BY EMAIL TO

[IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au)

A document permitted to be filed by email will be accepted if it complies with the following requirements. If you are unable to comply with these requirements, you can file a hardcopy in person or by post.

- B1. The email is addressed to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au) and copied to all other parties to the proceedings.
- B2. The email states:
- a. the matter number, or if the matter has not yet commenced, the subject line specifies the nature of the matter (eg. Dispute Notification: Unfair Dismissal);
  - 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;
  - c. the parties that have been copied into the email.
- B3. What is attached to the email complies with the following:
- a. Documents other than statements and affidavits are to be attached as a single document in the following format:
    - i. A single PDF that is preferably text-searchable.
    - ii. Every page of the PDF starting with the cover page and index, is to be sequentially numbered.
    - iii. Unless you are unable to do this, each separate document within the PDF is to be bookmarked.
    - iv. 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 has an index that lists each document and its page numbers. The following is an example of an Index.

<b>INDEX</b>		
<b>Title of Document</b>		<b>Page Numbers</b>
1.	Workplace Policy	1-16
2.	Memorandum dated 3 June 2024	17-22
3.	Email dated 6 June 2024	23-25

- b. Each statement of evidence or affidavit is to be attached to the email as a separate PDF document. After the last page of the body of the statement or affidavit and before the first page of any annexure, there should be an index of the documents in the annexure in the format prescribed above. Every page of the PDF, including any index, is to be sequentially numbered.
- c. There is a size limitation for documents electronically lodged with the Commission. This size restriction is currently 150Mb via email and 5Mb via the Online Registry. Please contact the Registry to discuss lodgement options for documents over the size restriction.



## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

### USUAL DIRECTIONS

1. The matter will be set down for hearing on ....., [*ordinarily 8-10 weeks from the date orders are made*] on the basis of an estimate of ..... day(s) for the hearing.
2. The **applicant**<sup>1</sup> shall, by 4:00pm on ..... [*ordinarily 3 weeks later and about 6 weeks before the hearing date*] file and serve:
  - a. Evidence; and
  - b. An outline of submissions, not exceeding 10 pages, spaced line and a half.
3. The **respondent** shall, by 4:00pm on ..... [*ordinarily 3 weeks after previous date and about 3 weeks before the hearing date*], file and serve:
  - a. Evidence; and
  - b. An outline of submissions, not exceeding 10 pages, spaced line and a half.
4. The **applicant** shall, by 4:00pm on ..... [*1 week after previous date and about 2 weeks before the hearing date*], file and serve:
  - a. Any evidence in reply; and
  - b. An outline of submissions in reply, not exceeding 5 pages, spaced line and a half.
5. The matter is listed for Compliance Check Hearings before the Registrar on the following dates:
  - a. [*the Wednesday following the date in order 2*], which will be vacated if order 2 is complied with;
  - b. [*the Wednesday following the date in order 3*], which will be vacated if order 3 is complied with;
  - c. [*the Wednesday following the date in order 4*], which will be vacated if order 4 is complied with.
6. [*Option 1 – Court Book*] Not later than 4pm 3 working days before the hearing the applicant [*or the respondent*] is to file in the [Smith Street Parramatta/Bridge Street

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<sup>1</sup> In respect of a public sector disciplinary appeal the public sector employer's case is to be presented first, and accordingly the orders will reflect that by having the respondent employer file evidence and submissions first.

Sydney] registry 2 hard copies and 1 electronic copy of a Court Book in accordance with Practice Note 32 and serve an electronic copy of that Court Book on the other party.

[*Option 2 – no Court Book*] Not later than 4pm 3 working days before the hearing each party is to file 1 hard copy of their submissions and evidence documents in the [Smith St Parramatta/Bridge St Sydney] registry.

7. **Evidence** in the proceedings will be given by way of signed statements or affidavits along with relevant documents filed and served by a party.
8. The applicant's/notifier's **outline of submissions** should summarise, plainly, concisely and directly:
  - a. the primary legal grounds for the relief sought;
  - b. the important facts giving rise to the claim/dispute; and
  - c. the nature of and the party against whom relief is sought from the Commission.
9. The respondent's **outline of submissions** should summarise, plainly, concisely and directly:
  - a. any legal or factual issue in dispute; and
  - b. why the relief sought from the Commission should not be granted.
10. The parties must comply with Practice Note No. 32, including the page limits and other requirements of Annexure A - *Requirements for length, presentation and formatting of documents*. Any request for leave to depart from the requirements of Practice Note No. 32 should be made in writing no less than 48 hours before the relevant document is due to be filed.
11. Filing of submissions and evidence by the dates required can be done by emailing them to [IRC.emailfiling@courts.nsw.gov.au](mailto:IRC.emailfiling@courts.nsw.gov.au), in accordance with Practice Note No. 32.
12. Without the leave of the Commission, cross examination of a witness will not be allowed unless, at least one week prior to the hearing, notice has been given to the opposing party that a witness is required for cross-examination.
13. Without prior leave of the Commission, no summons for the production of documents may be made returnable less than 3 weeks prior to the date set for the hearing of the matter.
14. Any application to vary these orders must be made in writing, after consulting with the other party or parties, in accordance with Practice Note No. 32.
15. [*Optional*] The parties are directed to confer and to file a Statement of Agreed and Disputed Facts and Issues by 4pm on .....
16. [*Where applicable*] The Registrar is to arrange for an interpreter to attend the hearing.

## NOTES

The Registrar conducts a list each Wednesday to deal with summonses for production.

Self-represented parties must obtain leave to issue summonses (Rule 7.3 of the *Uniform Civil Procedure Rules 2005*).

A party may not be able to rely on evidence filed later than the time directed in the timetable.

## FORMS OF ADDRESS

In the interests of ensuring that all participants in the proceedings are treated with equal dignity and respect, the parties are invited to inform the Commission in respect of each person who will be involved in the arbitration/hearing:

- Their name;
- How they would prefer to be addressed, including their preferred title (for example, Mr/Ms/Mx/Dr), if any; and
- The pronouns to be used when referring to them.

Unless advised to the contrary, the Commission will be guided by the forms of address adopted in the parties' evidence and submissions, and will otherwise default to the customary use of male and female honorifics (Mr/Ms) and the use of male and female pronouns.

**JUSTICE I TAYLOR  
PRESIDENT  
24 SEPTEMBER 2024**

### REVISION HISTORY

First Issue Date:  
Re-Issue Date

14 March 2023  
24 September 2024



# INDUSTRIAL COURT CRIMINAL PRACTICE NOTE NO. 1

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## INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Issued pursuant to Section 185A of the *Industrial Relations Act 1996*

### WORK HEALTH AND SAFETY ACT PROSECUTIONS

#### COMMENCEMENT

1. This Practice Note commenced on 1 July 2024 and was amended effective 24 September 2024.

#### APPLICATION

2. This Practice Note applies to all criminal proceedings commenced in the Court pursuant to s229B(1)(b) the *Work Health and Safety Act 2011* (**the WHSA**) (**WHS prosecutions**).

#### INTRODUCTION

3. The purpose of this Practice Note is to explain the administrative and case management procedures followed in the Court for WHS prosecutions.

#### COMMENCEMENT OF SUMMARY PROCEEDINGS

4. Summary Proceedings are to be commenced pursuant to s246 *Criminal Procedure Act 1986* (**CPA**) and Rule 7C of the Industrial Relations Commission Rules.
5. The Summons will be made returnable on the Monday following 8 weeks from the date of issue.
6. The Summons and a copy of this practice note is to be served on the defendant within 7 days of the issue of the summons in accordance with Rule 7C.2(4) of the Industrial Relations Commission Rules.
7. The defendant or the defendant's legal representative is to file with the Court and serve on the prosecutor a Notice of Appearance (in the approved form) within 7 days of the service of the Summons.



## **SERVICE OF THE BRIEF OF EVIDENCE**

8. The prosecutor is to serve the brief of evidence and a statement of facts on the defendant or the defendant's legal representative within 2 weeks of service of the Notice of Appearance or within 28 days of the issuing of the Summons, whichever is the later.

## **BEFORE THE FIRST MENTION**

9. The parties are to take the following steps before the first mention to assist with the efficient progress of the matter:
  - a. Retain solicitors and/or counsel who will be appearing in the matter to allow for meaningful and binding forensic decisions to be made;
  - b. The defendant is to consider the plea that it intends to enter to the charge;
  - c. The defendant is to consider any representations that it might wish to make to the prosecutor regarding the particulars of the charge and the facts that will facilitate a plea of guilty. The defendant should be available on the first mention date to commit to a timetable for the submission of representations;
  - d. The defendant is to consider whether the defendant intends to make an application to the regulator for an Enforceable Undertaking.

## **AT THE FIRST MENTION**

10. The prosecutor is to advise whether service of the brief and the statement of facts has been given in accordance with the requirements of this practice note.
11. The defendant is to advise the court of whether it is in a position to enter a plea, and if so, the nature of that plea, and the following procedure then applies:
  - a. If the defendant enters a plea of guilty, the matter will be listed for a sentence hearing;
  - b. If the defendant enters a plea of not guilty, the matter will be listed for defended hearing;
  - c. If the defendant needs further time to consider the brief of evidence and/or seek further particulars, the matter will be stood over for 9 weeks, with any request for particulars to be sent within 2 weeks and responded to within 3 weeks from the date that it was received.
12. Upon entry of the plea, the parties should be prepared to provide estimates for the length of any hearing (either interlocutory, sentence or defended) and any special requirements or directions required for such hearing (eg. service of expert evidence, requirement for an interpreter).
13. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the following procedure applies:
  - a. A direction will be made for the defendant to make representations to the prosecutor relating to the particulars of the charge and the facts alleged;

- b. A direction will be made for the prosecutor to respond to the defendant's representations;
  - c. The matter will be listed for mention, at which time the defendant is to enter a plea of guilty or not guilty to the charge;
  - d. In the event that there is still a dispute between the parties as to some of the facts and/or particulars alleged by the prosecutor, the defendant can enter a plea of guilty and the matter will be listed for sentence hearing on the basis that the disputed facts and/or particulars will be determined at the sentence hearing.
14. Where a plea is entered, and the parties identify the need for an interlocutory hearing, that hearing will be listed and a timetable imposed.
  15. If the defendant intends to make an application to the regulator for an Enforceable Undertaking, the procedure at paragraphs 43-46 applies.

#### **AT THE SECOND MENTION**

16. The defendant is to advise the court of whether it is in a position to enter a plea, and if so, the nature of that plea, and the following procedure then applies:
  - a. If the defendant enters a plea of guilty, the matter will be listed for a sentence hearing;
  - b. If the defendant enters a plea of not guilty, the matter will be listed for a defended hearing.
17. Upon entry of the plea, the parties should be prepared to provide estimates for the length of any hearing (either interlocutory, sentence or defended) and any special requirements or directions required for such hearing (eg. service of expert evidence, requirement for an interpreter).
18. Where a plea is entered, and the parties identify the need for an interlocutory hearing, that hearing will be listed and a timetable imposed.
19. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the procedure set out at paragraph 13 applies. The Court may have regard to a failure at the second mention to indicate that a plea of guilty is likely to be entered when assessing the utilitarian value of any plea of guilty entered at a later time.
20. If the defendant has made an application to the regulator for an Enforceable Undertaking, the procedure at paragraphs 45-46 applies.
21. Where no plea is entered the Court will allocate the matter for hearing on the basis of a not guilty plea unless the Defendant or their legal representative satisfies the Court that the interests of justice dictate a further adjournment, in which case the matter will be listed for a third mention within 4 weeks.

### AT THE THIRD MENTION

22. Where a plea of guilty is likely to be entered, subject to an agreement on the particulars of the charge and the facts alleged, the procedure set out at paragraph 13 applies.
23. Subject to any order being made by the Court, in the absence of a plea being entered, the matter will be allocated for hearing on the basis of a not guilty plea.
24. No further adjournments, other than by operation of paragraph 22, will be allowed except in exceptional circumstances and where the interests of justice dictate. Any such application should be made by notice of motion supported by evidence on affidavit.

### EXPERT EVIDENCE

25. Unless the Court otherwise orders, an expert witness' evidence in chief must be given by the tender of one or more reports.
26. The provisions of Part 31 rules 23 and 27 *Uniform Civil Procedure Rules 2005* apply to the evidence of expert witnesses and any report of an expert witness.

### PREPARATION FOR FINAL HEARINGS

27. Unless the Court otherwise orders, the prosecution should file and serve a tender bundle of the material upon which it intends to rely at hearing no later than 3 weeks before the first day on which the matter is listed for hearing.
28. Unless the Court otherwise orders, the defence should indicate whether it intends to object to any of that material no later than 1 week before the first day on which the matter is listed for hearing.

### PREPARATION FOR SENTENCE HEARINGS WHERE PROSECUTOR'S FACTS ARE NOT IN CONTEST

29. Unless the Court otherwise orders, paragraphs [30]-[37] apply in respect of sentence hearings. Sentence hearings where the prosecutor seeks to prove disputed particulars or facts will require bespoke directions on a case by case basis.
30. Where a plea of guilty is entered, the prosecutor is to file and serve any sentence bundle on the defendant no later than 4 weeks before the date on which the matter is listed for sentence. The sentence bundle should not include documents that are wholly addressed by agreed facts.
31. If the prosecutor or the defendant seeks an order referred to in ss236-241 WHSA, the prosecutor or the defendant is to notify the other party in writing of the terms of the order sought and is to file and serve any affidavit evidence in support of the order, by no later than 4 weeks before the date on which the matter is listed for sentence.
32. The defendant is to file and serve any affidavit and supporting documentation relevant to the issue of capacity to pay a fine (s6 *Fines Act 1996*) no later than 4 weeks before the date on which the matter is listed for sentence.

33. The defendant is to file and serve any other affidavit and supporting documentation no later than 2 weeks before the date on which the matter is listed for sentence.
34. The prosecution is to file and serve an outline of submissions no later than 3 weeks prior to the sentence date.
35. The defence is to file and serve an outline of submissions no later than 2 weeks prior to the sentence date.
36. The prosecution is to file any outline of submissions in reply no later than 1 week prior to the sentence date. The filing of reply submissions is optional.
37. If there is a change to the conduct or length of the sentence hearing, the parties are to notify the list judge or, once allocated, the Judge case managing the proceedings at the earliest possible stage.

### **BREACH OF THE COURT'S DIRECTIONS**

38. If there is a breach of the Court's directions sufficient to cause slippage in the timetable that will impact upon the listing dates for the matter, the parties must, in accordance with paragraph 38 below, relist the matter in the next Monday list. The party in breach, or a legal practitioner with knowledge of the reasons for the breach, must send to the list Judge's associate, and serve, a letter by no later than 4pm on the preceding Thursday, identifying the breach, explaining the reasons for the breach and outlining the proposed directions to be made in consequence of the breach.

### **LIBERTY TO RESTORE**

39. Parties have general liberty to restore to the Monday list on 2 working days' notice. A party seeking to do so is to make prior arrangement with, or give appropriate notice to, any other party and notify the List Judge or, once allocated, the Judge case managing the proceedings.

### **APPLICATIONS TO VACATE HEARINGS**

40. Applications to vacate hearing dates by consent (other than as a consequence of a plea of guilty being entered by a defendant) are to be made by letter to the Judge's associate explaining the reasons for the application. Otherwise, applications to vacate hearing dates are to be by notice of motion with an affidavit in support explaining the circumstances giving rise to the application.

### **COURT TECHNOLOGY AND EVIDENCE**

41. If a party intends to adduce electronic evidence during the sentence hearing, the party must consult the Associate to the Judge hearing the matter no later than 7 days before the sentence hearing or trial to confirm that the Court's technology resources are capable of playing the evidence.
42. Where the electronic evidence is not in a form that is compatible with the Court's technology resources, the evidence must either be converted to formats used by the Court or the party must bring their own devices to play the evidence.

## APPLICATIONS FOR ENFORCEABLE UNDERTAKINGS

43. Applications to the regulator for an Enforceable Undertaking (EU) pursuant to Part 11 WHSA must be made by a defendant no later than 12 weeks after the service of the brief of evidence.
44. The Court will take into account an application for an EU made later than 12 weeks after the service of the brief of evidence which is unsuccessful, when assessing the utilitarian value of any plea of guilty entered at a later time.
45. Matters in which an application for an EU is made will be adjourned for a preliminary hearing on a date no later than the Monday following 2 weeks after the next meeting of the Enforceable Undertaking Panel or other convenient date in the EU process. The parties must, within 2 weeks of a decision by the regulator to reject an application for an EU, re-list a matter for mention.
46. The making of such an application will have the effect of pausing the timetable established by this practice note.

## RECKONING OF TIME

47. The provisions of Part 1.11 of the *Uniform Civil Procedure Rules 2005* apply to criminal proceedings.

## AFFIDAVITS

48. The provisions of Part 35 of the *Uniform Civil Procedure Rules 2005* apply to affidavits filed in criminal proceedings.

## MOTIONS

49. The provisions of Part 18 of the *Uniform Civil Procedure Rules 2005* apply to motions filed in criminal proceedings.

## SUMMONSES

50. The provisions of Part 33 of the *Uniform Civil Procedure Rules 2005* apply to the following summonses filed in criminal proceedings:
  - a. summonses to give evidence under s165(3)(b) of the *Industrial Relations Act 1986*; and
  - b. summonses for production under s165(3)(c) of the *Industrial Relations Act 1986*

**JUSTICE I TAYLOR**  
**PRESIDENT**  
**24 SEPTEMBER 2024**

### REVISION HISTORY

First Issue Date:  
Re-Issue Date:

1 July 2024  
24 September 2024



## LEGISLATIVE ASSEMBLY

Office of the Clerk

### ACT OF PARLIAMENT ASSENTED TO Legislative Assembly Office, 23 September 2024

It is hereby notified, for general information, that Her Excellency the Governor, has, in the name and on behalf of His Majesty, this day assented to the under mentioned Act passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 58 — An Act to amend the *Transport Administration Act 1988* to promote active transport and to improve the activation of public spaces; to convert the Transport Asset Holding Entity of New South Wales into the Transport Asset Manager New South Wales and provide for its functions, management and status; and for related purposes. **[Transport Administration Amendment Bill 2024]**

Helen Minnican  
Clerk of the Legislative Assembly