

INDUSTRIAL RELATIONS ACT 1996
INDUSTRIAL RELATIONS COMMISSION RULES 1996

NEW SOUTH WALES



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Made under sections 185 and 186 of the *Industrial Relations Act 1996* and in reliance on section 26 of the *Interpretation Act 1987* by the Rules Committee of the Industrial Relations Commission of New South Wales on 28 August 1996.

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L C Glynn, J
M Schmidt, J

PART 1—PRELIMINARY

Citation

1. These Rules may be cited as the Industrial Relations Commission Rules 1996.

Commencement

2. These Rules commence on 2 September 1996.

Division of Rules

3. These Rules are divided as follows:

PART 1—PRELIMINARY

PART 2—INDUSTRIAL RELATIONS COMMISSION AND OTHER
TRIBUNALS

PART 3—INITIATION OF PROCEEDINGS

PART 4—OTHER STAGES OF PROCEEDINGS

PART 5—DISPUTE NOTIFICATIONS

PART 6—AWARDS AND CONTRACT DETERMINATIONS

- Division 1—Provisions Relating to Awards
- Division 2—Standard Clauses and Formats
- Division 3—Reprints and Consolidations
- Division 4—Correction
- Division 5—Three Yearly Review
- Division 6—Records of Persons Affected by Awards

PART 7—ENTERPRISE AGREEMENTS

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Definitions

4 (1) In these Rules, unless the context or subject matter otherwise requires:

“**Commission**” includes the Contract of Carriage Tribunal.

“**date of decision**”, in relation to determining the period within which an appeal may be made, means the date on which the decision is announced, or where it is indicated that a written decision or reasons for decision are to be issued, the date when the written decision or reasons are made available, whichever is the later;

“**decision**” includes an award, order, direction, contract determination or ruling;

“**filed**” means filed in the office of the Registry in Sydney;

“**President**” means the President of the Industrial Relations Commission of New South Wales;

“**process**” means an application, reference, notice of appeal or other process by which proceedings are initiated and any other document filed or served in the course of proceedings;

“**promptly**”, in relation to the performance of an act, means immediately, or where that is not practicable, as soon as such performance is reasonably possible in the circumstances;

“**Registrar**” means the Industrial Registrar under the Act;

“Registry” means the office of the Registry in Sydney or in any prescribed region;

respondent means a party to the proceedings other than a applicant or appellant;

“the Act” means the Industrial Relations Act 1996 and references to sections and schedule clauses in these Rules refer to sections and schedule clauses in that Act;

“tribunal” includes the Commission, an Industrial Committee, the Contract of Carriage Tribunal and the Registrar.

“tutor” bears the same meaning as that term in the Supreme Court Rules 1970.

(2) In these Rules, words and expressions have the same meaning as they have in the Act.

Forms

5. (1) A reference to a form in these Rules is a reference to a form in Schedule 2 of the Rules.

(2) Schedule 1 of these Rules applies unless the tribunal or the Registrar otherwise directs.

(3) If a form—

(a) is to be completed in a specified manner; or

(b) requires specified information to be included in, attached to or furnished with the form,

the form is not duly completed unless it is completed in that manner and unless it includes, or has attached to or furnished with it, that information.

(4) A document which is not duly completed may, with the approval of the tribunal or the Registrar, be accepted for filing at the Registry.

(5) The Registrar, before accepting a document which is not duly completed for filing, may require the person on whose behalf the document is being filed to give an undertaking to the tribunal that the document will be resubmitted in the proper form within a period as specified by the Registrar.

**PART 2—INDUSTRIAL RELATIONS COMMISSION AND
OTHER TRIBUNALS**

Seals and stamps

6. (1) The seal of the Commission under section 145 (2) must be kept by the Registrar.

(2) A rubber stamp facsimile of the seal may be used instead of the seal for any purpose.

(3) A stamp of the Registrar may be used by the Registrar and any Registry officer as the Registrar may direct.

Registrar to receive and submit all documents filed

7. (1) All proceedings before a tribunal must be commenced in the office of the Registry in Sydney.

(2) The Registrar must endorse the date of lodgment on all process.

(3) Where the signature of the Registrar is required on any document, a rubber stamp or other facsimile of that signature may be affixed to the document by such officer as the Registrar authorises.

Filing by post or Document Exchange

8. Any document for filing in the Registry, other than a Notification of Industrial Dispute under Part 5 of these Rules, may also be filed by:

- (a) posting to the Registry; or
- (b) being left, addressed to the Registry:
 - (i) in the exchange box of Australian Document Exchange Pty Ltd and of the Registry; or
 - (ii) in another exchange box for transmission to the exchange box of that Company and the Registry; or
 - (iii) in a box provided for the purpose in the Registry,

together with a request that it be filed.

Copies to be filed

9. Documents filed in proceedings before a tribunal must be accompanied by such number of copies as set out in Clause 18 of Schedule 1 of these Rules.

Registry hours

10. (1) The office of the Registry in Sydney is to be open for business from 9.30 am. to 4.00 pm. on all days except Saturdays, Sundays and public holidays.

(2) The hours of business at any other office of the Registry are to be determined by the Registrar.

(3) The office of the Registry in Sydney may be opened at other times by the direction of the Registrar or the President.

Serial numbers for filing

11. Documents relating to proceedings must bear a distinctive serial number.

Searches

12. (1) Subject to subrule (2), a person may not search in the Registry for or inspect any document or thing in any proceedings unless the person:

- (a) is a party to those proceedings; or
- (b) is seeking to search an application to make or vary an award or determination; or
- (c) is seeking to search registers kept under sections 45, 331 or 342; or
- (d) is seeking to search copies of part-time work agreements kept by the Registrar under section 78; or
- (e) has the leave of the Commission to make the search.

(2) A person who is a party to those proceedings, or who is seeking to search an application to make or vary an award or determination will require leave of the Commission if the application to search applies to proceedings which:

- (a) relate to an unfair dismissal application; or
- (b) have been conducted privately; or
- (c) relate to evidence for which a direction has been given under section 395; or
- (d) relate to a matter in which the tribunal has previously directed that confidentiality should be observed; or
- (e) are the subject of a direction by the tribunal which dealt with the proceedings that the proceedings or a specified part of the proceedings or a document in the proceedings must not be opened for inspection.

(3) An application for leave of the tribunal to search must set out reasons why the search should be allowed and leave may only be granted where the tribunal is satisfied that that it is appropriate to do so.

(4) An application for leave may be dealt with in Chambers without the appearance of any person.

Scandal, etc.

13. (1) A tribunal may order to be struck out of any document any matter which is scandalous, frivolous, vexatious, irrelevant or otherwise oppressive.

(2) This Rule is in addition to Rule 121.

PART 3—INITIATION OF PROCEEDINGS

Originating process

14. (1) Except as otherwise provided, an application to a tribunal must be in or to the effect of the Forms set out in Schedule 2 of the Rules.

(2) In the case of doubt, the originating process may be in a form approved by the Registrar.

(3) In any proceedings between parties, or where a tribunal or the Registrar directs, the originating process must bear a note requiring any party wishing to appear in the proceedings to file a notice of appearance within 7 days of service of the process upon that person.

(4) A tribunal may, at any stage of the proceedings, permit a person to appear notwithstanding failure to file notice of appearance.

Matters initiated by Commission

15. (1) Where the Commission decides, on its own initiative, to act to resolve any industrial dispute or to exercise any of its functions it may proceed summarily or direct that proceedings be commenced by a summons to show cause.

(2) Such summons must be served by the Registrar upon any person as the Commission may direct.

Urgency affidavit

16. (1) An applicant who desires that any matter should be dealt with as one of urgency must file an affidavit setting out, briefly but specifically, the reasons for the request.

(2) A copy of the affidavit must be served with the originating process or, if the proceedings before the tribunal have already commenced at the time of the filing of the affidavit, it must promptly be served on each of the other parties.

Commission's exercise of powers of Registrar

17. Where in relation to proceedings before the Commission or a Committee any summons, notice, direction or other document may be signed or given or any extension of time may be granted by the Registrar, it may be signed, given or granted by the President or other Member of the Commission.

Proceedings under section 106 (Void Contracts) and section 111 (Regulated Contracts)

18. (1) An application to the Commission to exercise the powers conferred on it by section 106 or by section 111 must be accompanied by affidavits, stating briefly but specifically the facts, matters and circumstances relied upon in support of the application.

(3) Unless otherwise ordered by the Registrar, the application, together with a copy of the affidavits in support, must be served on the respondent.

(4) Where, within the required period, an appearance has not been entered by a respondent, the applicant may proceed to have the matter determined in the absence of that respondent.

Recovery of wages, remuneration and other amounts

19. (1) An application for an order for the payment of money under Part 2 of Chapter 7 must be signed by:

- (a) the person claiming to be entitled to recover money under that Part ("the applicant") or the solicitor for the applicant; or
- (b) a person named in section 369 (1) (b) who has the written consent of the applicant to make such application.

(2) Where an application is made by a person named in section 369 (1) (b), the consent of the applicant must be filed with the application. Nevertheless, proof of such consent may, with leave of the Commission, be given at the hearing.

Small Claims during other Commission proceeding

20. (1) An application under Rule 19 which is made during any proceedings before the Commission and which, pursuant to section 380, is requested to be dealt with under section 379, must be in the form set out in Schedule 2 to the Rules unless the tribunal otherwise orders.

(2) The application must be served promptly on the other parties to the application.

PART 4—OTHER STAGES OF PROCEEDINGS**Service of documents following reference**

21. (1) Upon a reference under section 146 (1) (d), 156 (5) (a), 193 (1), 195 (1) and 195 (4) and clause 9 (6) of Schedule 3, the applicant, or such other party as the Registrar directs, must promptly serve upon the other party or parties before the tribunal a copy of:

- (a) the reference; and
- (b) the appointment for hearing.

(2) The Registrar may also direct that a copy of the transcript of the proceedings (including the exhibits) before the tribunal from which the question or matter has been referred be similarly served.

(3) An affidavit of service must be filed by the applicant promptly after service of the documents has been effected.

Reply to Application

22. A respondent to an application may, but need not, file a notice in reply.

Points of Contention

23. (1) The Commission may, at any stage of the proceedings, direct each or any party to file and serve on each other party a list of matters which that party asserts are in issue in the proceedings.

(2) The Commission may determine any differences between the parties as to the matters in issue.

(3) Where matters in issue have been agreed or determined by the Commission, the Commission may give such directions as to the conduct of the proceedings as it sees fit to ensure that the proceedings are restricted to the matters in issue.

(4) The power in this Rule is in addition to the powers in Rule 84 (2).

PART 5—DISPUTE NOTIFICATIONS**Notification of Dispute**

24. (1) Notification of an industrial dispute under section 130 or 332 must state the parties affected by the dispute, the applicable industrial instrument, if any, and give relevant particulars of the dispute.

Money claims related to Notification

25. If a notification indicates that an order in respect of a small claim will be sought under section 380, Rule 20 applies.

Reinstatement claims related to Notification

26. Where a notification indicates that an order for reinstatement (or similar) will be sought, particulars of the claim shall be served promptly after notification of the dispute, unless an application under the relevant section is filed.

How disputes can be notified

27. (1) Notification of a dispute may be given to the Registrar in writing, orally (including by telephone) or facsimile message or by other electronic means.

(2) Where the notification is in writing, it may be also be given to the Registrar in the same way as a document can be filed under Rule 8.

(3) When the notification is given other than in writing, the person giving the notification must confirm the notification in writing as soon as practicable.

Service of Notification

28. A copy of the notification (or its confirmation) must be served promptly by the notifier on the other parties.

Summons to Confer

29. (1) A summons to a compulsory conference pursuant to section 132 or 332 may be given in the appropriate form, or may be given to the persons concerned, or their representatives, orally (including by telephone), facsimile message or other electronic means.

(2) A person to whom notice has been given under subrule (1) will be liable to attend or be represented at the compulsory conference.

PART 6—AWARDS AND CONTRACT DETERMINATIONS**Division 1—Provisions relating to awards****Definition**

30. In this Part:

“**award**” includes contract determination,

“**application for award**” includes an application to vary an award and an application to rescind an award, and

“**computer-readable format**” means an electronic version of the award on such media and in such a format as to be compatible with, and readable by, the computer system in the Registry.

Preparation of draft award

31. (1) A tribunal may, if it intends to make an award, direct one or more of the parties to the proceedings or the Registrar to prepare, within the period specified by the tribunal, a draft of the proposed award.

(2) Where the tribunal directs one or more of the parties to the proceedings to prepare a draft, the draft must also be submitted in a computer-readable format.

Computer readable version of award to be filed

32. The applicant, or such person as the tribunal may direct, must file a copy of the award in a computer-readable format promptly after the making of that award.

Settlement of an award

33. (1) As soon as practicable after a tribunal hands down an award the Registrar is to prepare a draft of the award.

(2) The Registrar may prepare and settle the draft of the award without consulting or hearing submissions from the parties to the proceedings or any other person who appeared in the proceedings.

(3) The Registrar may (but need not) consult or hear submissions from those parties or other persons.

(4) The tribunal may give directions to the Registrar about any such consultation or hearings.

Division 2—Standard Clauses and Formats

Publication of clauses and formats

34. (1) A Full Bench of the Commission or the Commission constituted by a Presidential Member may direct the use of standard formats for awards, or standard clauses in awards.

(2) The Registrar must publish such directions in the Industrial Gazette.

(3) A tribunal may depart from a standard clause or format for any reason it considers sufficient.

Division 3—Reprints and Consolidations

Registrar may prepare reprints

35. (1) The Registrar may publish a reprint of an award in the Industrial Gazette, incorporating amendments to the award in a form certified by the Registrar to be correct on a specified date.

(2) The Registrar may alter the wording or form of an award for the purpose of a reprint, if, in the opinion of the Registrar, the alteration will result in the award:

- (a)** being expressed in clearer terms or so as to avoid unnecessary technicalities, or
- (b)** complying with current requirements relating to form or content.

Consolidations

36. (1) The Registrar may exercise the power of the Commission under section 20 either on request by a person bound by the award or on the initiative of the Registrar, but must not do so:

- (a)** contrary to any direction of the Commission, or
- (b)** where the parties to the making of the award object.

(2) The Registrar may alter the wording or form of an award for the purpose of a consolidation, if, in the opinion of the Registrar, the alteration will result in the award:

- (a)** being expressed in clearer terms or so as to avoid unnecessary technicalities, or
- (b)** complying with current requirements relating to form or content.

(3) The Registrar must publish a consolidation in the Industrial Gazette.

Division 4—Correction

Application

37. (1) This Division applies to any order or award which is published in the Industrial Gazette.

(2) The power under Rule 38 is additional to the power in Rule 151.

Correction of orders or awards

38. (1) The Registrar may publish in the Industrial Gazette any correction which is necessary by reason of a clerical or printing error in an order or award as published.

(2) Where there is a mistake in an order or award, arising from an accidental slip or omission, the tribunal, on application by any party or of its own motion, may at any time correct the mistake or error.

(3) A tribunal, on application by any party or of its own motion may, at any time, for the purpose of carrying out its intention and to express accurately its meaning, correct any order or award.

Division 5—Three Yearly Review

Review of Awards

39. (1) At least once every three years the Registrar must give notice to the persons on the records maintained under Rule 40 and to the Commission that an award is due to be reviewed under section 19.

(2) Such notice may be given whenever an application for a new award is filed.

Division 6—Records of persons affected by awards

Records of persons affected by awards

40. The Registrar must maintain records of:

- (a)** the parties to the making of each award; and
- (b)** State peak councils; and
- (c)** registered industrial organisations and other persons who satisfy the Registrar that they respectively have a sufficient industrial interest in applications affecting a specified award to justify normally being served with process relating to that award.

PART 7—ENTERPRISE AGREEMENTS**Comparison and Compliance Statement**

41. (1) An application for approval of an enterprise agreement must be accompanied by an affidavit shortly stating:

- (a) the award or awards, if any, over which the agreement will prevail if approved, or any agreement which will be rescinded and replaced by the agreement, if approved;
- (b) the basis upon which it is contended that:
 - (i) the agreement complies with relevant statutory requirements, including the Anti-Discrimination Act 1977, and
 - (ii) the agreement does not, on balance, provide a net detriment to employees covered by the agreement when compared with the aggregate package of conditions of employment which would otherwise apply under applicable awards, and
 - (iii) the parties understand the effect of the agreement, and
 - (iv) the parties did not enter into the agreement under duress, and
 - (v) the agreement complies with any principles set by the Commission under section 33, or, if the agreement does not meet those requirements, that any departure from those principles does not prejudice the interest of any of the parties to the agreement; and
- (c) a comparison of conditions of employment under the agreement and those which would otherwise apply under relevant awards, or if there are no such awards, under the relevant employment conditions.

(2) Where the agreement does not cover all employees of the employer, the affidavit must also state the basis on which it is contended that the Commission may approve the agreement under section 35 (2).

PART 8—APPEALS**Division 1—General****Time to appeal**

42. (1) Unless otherwise provided, an appeal must be made within 21 days after the date of the decision appealed against (or such further time as the Commission allows, before or after the expiration of that period).

(2) An application to extend time to appeal may be included in the notice of appeal or may be made by separate notice of motion.

Application for stay of proceedings

43. Where it is intended to seek a stay of the whole or part of the decision of a tribunal pending the determination of the appeal, the appeal must include an application to that effect.

Respondents

44. Each of the parties (other than the appellant) appearing or represented in the proceedings from which a decision is being appealed must be joined as respondents to the appeal.

Interlocutory decisions

45. Any decision made in any proceedings before a tribunal prior to a final decision in those proceedings is to be taken for the purposes of appeal to have been made on the same date as the date of the final decision.

Appeal book

46. Unless the tribunal otherwise directs, the appellant must, within 28 days after the filing of an appeal, file an appeal book consisting of:

- (a) the application and any documents subsequently filed in the proceedings; and
- (b) the transcript of the proceedings (including the exhibits) before the tribunal; and
- (c) the decision appealed against,

and must serve a copy of the appeal book on each respondent.

Division 2—Stated Case

Application

47. This Part applies only to proceedings before the Commission in Court Session.

Stated case

48. (1) An application to state and sign a case for the opinion of the Full Bench of the Commission in Court Session pursuant to section 197 must be made within 28 days after the making of the relevant decision, or such further time as the Registrar may allow.

(2) Written notice of the application must be given by the applicant to the respondents by serving a copy of the application upon each respondent within 3 days after the application is made.

Appellant not required to enter recognizance to prosecute appeal

49. The requirement for a person to enter into a recognizance pursuant to section 102 of the Justices Act 1902 does not apply to a person who makes application for a case to be stated for the opinion of the Full Bench of the Commission in Court Session.

Form of stated case

50. The stated case must:

- (a) be divided into paragraphs and numbered consecutively; and
- (b) state concisely the facts and documents necessary to enable the Full Bench of the Commission in Court Session to decide the questions arising or otherwise to hear and determine the proceedings on the stated case; and
- (c) state the questions and matters to be decided or determined.

Draft case to be prepared

51. (1) Within 28 days after filing the application to state and sign a case (or such further time as the Registrar may allow) the applicant must file in the Registry a draft case and serve a copy on each respondent.

(2) A copy of any record of evidence need not be annexed to the draft case.

(3) The applicant may, without leave, state in the draft case grounds on which it is contended that the determination was erroneous in point of law other than the grounds stated in the application to state and sign a case.

Draft case to be forwarded to magistrate

52. (1) The Registrar is required to forward the draft case, when filed, to the magistrate concerned, who is to appoint in writing a time and place at which the draft case is to be settled.

(2) A respondent who wishes to object to the draft case must, before the date appointed to settle it, give notice of the objection in writing to the applicant and to the magistrate.

Settlement of draft case

53. (1) The magistrate is required to notify the applicant in writing when the draft case has been settled.

(2) Within 14 days after being notified that the draft case has been settled, the applicant is to obtain it and prepare and file the case for signature by the magistrate.

(3) The applicant may apply in writing to the magistrate to dispense with the copying of evidence which is irrelevant to the stated case.

Magistrate to sign stated case

54. (1) When the magistrate has signed the case the magistrate is to notify the applicant that the case has been signed.

(2) The proceeding before the Full Bench of the Commission in Court Session is to be commenced by the applicant filing the case in the Registry within 7 days after being notified that the case has been signed.

(3) Unless otherwise ordered by the Registrar or the Full Bench of the Commission in Court Session, no copies of the case need be filed.

Service of copies of case

55. The applicant must promptly serve a copy of the case (including the record of evidence) upon each of the respondents.

Further powers of Chief Industrial Magistrate

56. For the purpose of stating a case for the Full Bench of the Commission in Court Session, the Chief Industrial Magistrate is the prescribed person referred to in section 104A of the Justices Act 1902.

PART 9—PARTICULARS**General**

57. (1) A party filing any process must give the necessary particulars of any claim or other matter raised by that party in such process.

(2) Rules 58 to 64 do not affect the generality of subrule (1).

Interest

58. (1) Subject to subrule (2), Rule 57 does not require a party to give particulars of a claim for an order for interest under section 372 of the Act.

(2) Where a party making application for orders under Part 9, Unfair Contracts, of Chapter 2 of the Act, claims, as part of that relief, an order for or which includes, interest, particulars must be given of the rates at which, the amounts on which and the periods for which, interest is claimed.

Fraud, etc.

59. A party must give particulars of any fraud, misrepresentation, breach of trust, wilful default or undue influence on which the party relies.

Condition of mind

60. (1) A party pleading any condition of mind must give particulars of the facts on which that party relies.

(2) In subrule (1) “**condition of mind**” includes any disorder or disability of mind, any malice and any fraudulent intention, but does not include knowledge.

Out of pocket expenses

61. A party who claims moneys which have been paid or which the party is liable to pay must give particulars of those moneys.

Damages

62. A party who claims damages must give particulars of the facts and matters relied upon to establish that claim.

Manner of giving particulars

63. Where any of Rules 57 to 62 require particulars to be given, the particulars must be set out in the process or in a separate document referred to in the process and that document must be filed and served with the process.

Order for particulars

64. (1) A tribunal may, on terms, order a party to file and serve on any other party:

- (a) further particulars of any claim or other matter stated in any process, or in any affidavit filed by that party; or
- (b) a statement of the nature of the case on which the party relies; or
- (c) where the party claims damages, particulars of those damages.

(2) Without limiting the generality of subrule (1), where a party alleges as a fact that a person had knowledge or notice of some fact, matter or thing, the tribunal may, on terms, order that party to file and serve on any other party:

- (a) where knowledge is alleged, particulars of the facts on which the party relies; and
- (b) where notice is alleged, particulars of that notice.

PART 10—INDUSTRIAL COMMITTEES

Dissolution or extension of term of an Industrial Committee

65. (1) An application to the Commission to dissolve or extend the term of an Industrial Committee shall be served on the person on the records relating to that Committee maintained by the Registrar under Rule 67 (b) and (c), and on such other persons as the Registrar directs.

(2) The Registrar must, not less than three months before the date on which the dissolution of a Committee will take place pursuant to section 200 (1), notify the parties who have the right to nominate a member of that Committee of the date of such dissolution.

(3) If the Registrar is of opinion that a Committee has ceased to function or has become obsolete, the Registrar may submit a report to that effect to the Commission.

(4) The Commission, after considering the report and hearing the interested parties (if any) may dissolve a Committee. Where the Commission considers that there are no interested parties, it may dissolve the Committee in chambers.

Notice of sitting of an Industrial Committee

66. A sitting of a Committee may be convened by the Chairperson by service by the Registrar on the members of the Committee of a notice in the appropriate form or in such other manner as the Chairperson directs.

Records relating to Industrial Committees

67. The Registrar must maintain records of:

- (a) the members, alternate members and deputy members of each Committee;
- (b) the persons having nominating rights to each Committee; and

- (c) any other persons who, not having nominating rights, nevertheless satisfy the Registrar that they respectively have a sufficient industrial interest in applications affecting a specified Committee to justify normally being served with process affecting the establishment, constitution or dissolution of that Committee.

PART 11—MOTIONS

Application

68. Unless a tribunal directs otherwise, an interlocutory or other application in relation to proceedings already commenced must be made by motion.

Notice

69. (1) Subject to subrule (2), a person must not move a tribunal for any order unless before moving that person has filed notice of the motion in the appropriate form and has served the notice on each interested party who has an address for service in the proceedings.

(2) A person may move a tribunal without previously filing or serving notice of the motion:

- (a) where the preparation of the notice, or the filing or service (as the case may be) of the notice would cause undue delay or other mischief to the applicant; or
- (b) where each other party interested consents to the order; or
- (c) where the tribunal dispenses with the requirements of subrule (1).

(3) The notice of motion must:

- (a) state the date and time when, and the place where, the motion is to be made; and
- (b) where the tribunal makes an order under Rule 70, bear a note of the order made; and
- (c) state concisely the nature of the order which is sought; and
- (d) name each party affected by the order which is sought.

(4) Costs need not be specifically claimed.

Time for service of notice

70. Where a notice of motion is required to be served, it must, unless the tribunal otherwise orders, be served not less than 3 days before the date fixed for the motion.

Service

71. Where a notice of motion is to be served on a person who has not entered an appearance and the time for entering an appearance has not expired, the notice must be served personally.

Absence of party

72. A tribunal may hear and dispose of a motion in the absence of any party:

- (a) where service or notice of the motion on the absent party is not required by these Rules or by an order; or
- (b) where the notice of motion has been duly served on the absent Party.

Notice of adjournment

73. Where a notice of motion has been served for any date or the hearing of a motion has been adjourned to any date and, before that date, any party files a request, bearing the consent of each other party to the motion, for an adjournment in accordance with this Rule, the hearing of the motion is to stand adjourned to the date specified in the notice or to such later date as the tribunal may appoint.

Further hearing

74. (1) Where a notice of a motion for any day has been filed and served, and the motion is not disposed of on that day:

- (a) the tribunal may hear and dispose of the motion on any later date fixed by the tribunal; and
- (b) subject to subrule (2), filing or service of a further notice of motion must not be required.

(2) Subrule (1) (b) is not to have effect:

- (a) where the tribunal directs the filing or service of a further notice of motion; or
- (b) where service is required on a party on whom notice of the motion has not previously been served.

PART 12—APPEARANCE**Appearance by solicitor, agent or in person**

75. Subject to section 166, a respondent may enter an appearance and may be represented in proceedings by a solicitor or agent or in person.

No step without appearance

76. Subject to these Rules, a person must not, except by leave of the tribunal, take any step in any proceedings unless, before taking the step, that person has filed originating process or has entered an appearance.

Mode of entry

77. (1) An appearance in any proceedings may be entered by filing a notice of appearance or, with leave, orally in the course of the proceedings.

(2) Where an appearance is entered orally in the course of the proceedings written confirmation shall be promptly filed and served.

(3) Two or more persons entering an appearance by the same solicitor or agent on the same day may do so by a single notice of appearance.

Notice of appearance

78. (1) A notice of appearance must show:

- (a) the name, address, telephone number and facsimile number (if any) of the person entering the appearance; and
- (b) where the person entering the appearance appears by a solicitor or agent, the name, address, telephone number and facsimile number (if any) of the solicitor; and
- (c) where the person entering the appearance appears by a solicitor and that solicitor has another solicitor as agent in the proceedings, the name, address, telephone number and facsimile number (if any) of the agent; and
- (d) an address for service.

(2) Where any address shown in a notice of appearance is not genuine, the applicant may, with the leave of the Commission, continue the proceedings as if the appearance had not been entered.

(3) A respondent who wishes to take no active part in proceedings may:

- (a) include in the respondent's appearance a statement that the respondent submits to the making of orders and the giving or entry of judgment in respect of all claims made; and
- (b) add to the statement , "save as to costs".

(4) A respondent who has filed an appearance containing a statement referred to in subrule (3):

- (a) must not, except with the leave of the tribunal, file any process or affidavit or take any other step in the proceedings; and
- (b) may at any time, by leave of the tribunal, file any process or affidavit and take any other step in the proceedings upon such terms and conditions as may be imposed by the tribunal.

Time for an appearance

79. (1) A respondent must enter an appearance before filing any document and within 7 days of service of any originating process on that respondent.

(2) Notwithstanding subrule (1), where a matter is commenced by way of notice of motion a respondent must enter an appearance before the date appointed for any hearing or mention and before filing any document, except with leave of the tribunal.

Late appearance

80. (1) A respondent may enter an appearance at any time without leave.

(2) A respondent entering an appearance after the time limited for appearing is not, unless the tribunal otherwise orders, entitled to file any process by way of defence or do any other thing later than if an appearance had been entered within that time.

Service

81. A respondent filing a notice of appearance must, on the date of entry of appearance or on the next day, serve the notice of appearance on the applicant and on each other party of whose address for service the respondent has notice.

Setting aside originating process etc.

82. (1) A tribunal may, on notice of motion filed by a respondent in accordance with subrule (2), by order:

- (a) set aside the originating process; or
- (b) set aside the service of the originating process on the respondent;
or
- (c) declare that the originating process has not been duly served on the respondent; or

- (d) discharge any order giving leave to serve the originating process outside the State or confirming service of the originating process outside the State; or
 - (e) discharge any order extending the validity for service of the originating process; or
 - (f) protect or release property seized, or threatened with seizure, in the proceedings; or
 - (g) declare that the tribunal has no jurisdiction over the respondent in respect of the subject matter of the proceedings; or
 - (h) decline in its discretion to exercise its jurisdiction in the proceedings; or
 - (i) grant such other relief as it thinks appropriate.
- (2) Notice of motion under subrule (1):
- (a) may be filed without entering an appearance;
 - (b) must bear a note “The respondent’s address for service is” and state the address;
 - (c) must be filed within the time limited for entering an appearance.
- (3) The making of an application under subrule (1) is not to be treated as a voluntary submission to jurisdiction.

PART 13—GENERAL PROCEDURE

General powers

83. A tribunal, in addition to its powers generally under the Act, may in relation to any proceedings before it:

- (a) hear and determine the proceedings in the absence of a party who has been summoned or given notice to appear; or
- (b) refer any matter to an expert and receive the report of the expert as evidence; or
- (c) direct parties to be joined or struck out.

Directions generally

84. (1) A tribunal may generally give all such directions and do all such things as in its opinion will enable expense or delay to be reduced and will help to achieve a prompt hearing of the matters at issue between the parties and will contribute to the expeditious conduct of the proceedings and the just determination of the matter or dispute and the equitable disposal of proceedings.

(2) Without limiting the generality of subrule (1) or the powers in section 162, a tribunal may:

- (a) make orders for the purpose of defining the matters in dispute and the issues to be decided; or
- (b) direct the mode in which issues may be proved; or
- (c) give directions with regard to the production of documents and the making of admissions (subject to all just exceptions) with respect to any document or to any question of fact; or
- (d) dispense with the formal proof of any matter which is not genuinely in dispute.

(3) A tribunal may exercise its powers under this clause at any time after the commencement of the proceedings and on its own motion or on the application of any party.

Directions where procedure wanting or in doubt

85. (1) Where any person desires to commence proceedings or to take any steps in a particular case before a tribunal and:

- (a) the provisions of the Act and these Rules do not make any or adequate provision for a procedure to be followed and there is no established practice or usage of the Commission; or
- (b) a difficulty arises or doubt exists as to the procedure to be followed,

the tribunal may give directions or make such orders with respect to the procedure to be followed as it considers necessary.

(2) Directions may be given or orders may be made by the tribunal:

- (a) on its own initiative; or
- (b) on application by notice of motion by a party seeking such directions or orders.

(3) Such application may be made *ex parte*, but must be served on such persons as the tribunal directs.

(4) Such directions and orders are to be directed to providing a just, speedy and inexpensive determination of proceedings.

(5) Proceedings commenced in accordance with such directions or orders are to be taken to be well commenced.

(6) Steps taken in accordance with such directions or orders are to be taken to be regular and sufficient.

Production of document on notice

86. Where a party to any proceedings serves on another party a notice requiring the party served to produce at any proceedings a document or thing for the purpose of evidence and that document or thing is in the possession, custody or power to produce of the party served, the party must, unless the tribunal otherwise orders, produce the document or thing in accordance with the notice without the need for any summons for production.

Exhibits

87. (1) Where a matter before a tribunal has been completed, the Registrar must retain any exhibit until after the expiration of the appeal period.

(2) Where a notice of appeal has not been filed within the permitted time, the Registrar may, on the Registrar's initiative or upon written application, return any exhibit to the person who tendered it or to any person who proves, to the Registrar's satisfaction, an entitlement to the exhibit, subject to an obligation to return the exhibit if required.

(3) Any exhibit may be taken out by leave or order of the tribunal or of the President, subject to an undertaking to return the exhibit if required.

Waiver of compliance with procedural requirements

88. (1) Application to a tribunal to waive strict compliance with any procedural requirement or to exempt any party from compliance with any such requirement either before or after the occasion for compliance arises, may be made by notice of motion or orally in the course of the proceedings and if made separately must, unless the tribunal otherwise directs, be supported by affidavit.

(2) Subject to any direction of the Commission, the Presidential Member of the Contracts of Carriage Tribunal or the Chairperson of an Industrial Committee, the Registrar may extend the time fixed by these Rules for the lodging of any document or the doing of any act (whether or not that time has expired).

Supplementary practice before Commission

89. (1) Where:

- (a) the provisions of the Act and the Regulation do not make any or adequate provision for a procedure to be followed and there is no established practice or usage of the tribunal; or
- (b) a difficulty arises or doubt exists as to the procedure to be followed; or

(c) a tribunal desires to change any established practice, procedure or usage,

the President may, by Practice Direction, determine or change the practice, procedure or usage.

(2) Such Practice Direction is to be signed by the President and published by the Registrar in the Industrial Gazette.

(3) Practice Directions are to be directed to providing a just, speedy and inexpensive determination of proceedings.

(4) A Practice Direction becomes effective 14 days after publication in the Industrial Gazette or such later date as the Practice Direction directs.

(5) Where:

(a) there are no relevant provisions; and

(b) there is no established practice, procedure or usage; and

(c) there is no Rule, order, direction or Practice Direction in force,

the practice, procedure or usage for the time being of the Supreme Court or, in the case of appeals, the practice, procedure or usage for the time being of the Court of Appeal or the Court of Criminal Appeal, as may be appropriate, is, as far as practicable, to regulate the practice, procedure or usage of the tribunal.

PART 14—SUMMONSES

Interpretation

90. In this Part:

“**summons for production**” means a summons to attend and produce documents or things as referred to in section 165 (3) (c);

“**summons to confer**” means a summons to attend and confer as referred to in section 165 (3) (a);

“**summons to give evidence**” means a summons to attend and give evidence as referred to in section 165 (3) (b);

“**the person named**” means, in relation to a summons, the person to whom the summons is addressed;

“**tribunal**”, in relation to a summons, means the person or body authorised to issue the summons and in relation to an Industrial Committee means the Chairperson of that Committee and in relation to the Contract of Carriage Tribunal means the Presidential Member of that Tribunal.

Summonses

91. (1) On the request by a party, the Registrar must, if authorised by the Act and unless the tribunal otherwise orders, issue a summons for production or to give evidence.

(2) A summons to confer may only be issued on the initiative of the Commission, the Presidential Member of the Contract of Carriage Tribunal or the Chairperson of an Industrial Committee.

(3) Any number of persons may be included in one summons, but the copy served need only contain the name of the person upon whom it is served.

(4) A party requesting the issue of a summons must produce a form of summons and file a copy thereof.

Conduct money

92. (1) Where a summons for production or to give evidence is issued at the request of a party, the person named is to be tendered, at the time of service of the summons or not later than a reasonable time before the day on which compliance is required by the summons, a sum required by the Industrial Relations (General) Regulation 1996.

(2) The person named is not required to attend on any day on which attendance is required unless that sum is paid or tendered at the relevant time.

(3) This Rule does not apply to a summons to confer.

Service of summons

93. (1) Service of a summons, other than a summons to confer, under this Part must be effected in accordance with this Part unless a tribunal or the Registrar otherwise directs.

(2) Service of a summons may be effected by handing the summons or a copy of the summons to the person named.

(3) If, on tender of the summons to the person named, the person refuses to accept it, the summons may be served by putting it down in the presence of that person after the nature of the summons has been explained.

(4) Where the person named in the summons is a party for whom a solicitor or an agent is specified in the proceedings, the summons may, with the consent of the solicitor or agent, be served on the person named by leaving it at the address for service.

(5) Service of a summons on a corporation may be effected by serving the summons in accordance with subrule (2) or (3), as the case may require, on the mayor, chairperson or president, or on the general manager, clerk, secretary, treasurer, principal officer or other similar officer of the corporation or, where provision is made by or under any Act for service of a document on a corporation, by serving the summons in accordance with that provision.

(6) Service of a summons on any State peak council or any organisation or association registered under the Act may be effected by serving the summons in accordance with subrule (2) or (3), as the case may require, on the president, principal officer, secretary, treasurer or other similar officer of the organisation or by serving the summons in accordance with Rule 106.

(7) A summons issued at the request of a party may not be served on the person named later than 5 days before the date the person is required to attend, unless the tribunal otherwise orders.

(8) An order for short service may be made at any time.

(9) An order for short service may be sought by filing notice of motion, indicating why an order for short service should be made.

(10) An application may, unless the tribunal orders otherwise, be dealt with in chambers without the appearance of any person.

(11) A copy of any order for short service must be served with the summons.

Setting aside of summons

94. (1) A tribunal may on application by the person named in the summons set aside wholly or in part a summons issued at the request of a Party.

(2) An application under subrule (1) must be made by notice of motion or, with leave of the tribunal, orally in the course of proceedings.

(3) An application under subrule, if made by notice of motion, must be served on the party on whose request the summons was issued.

Witnesses expenses

95. Expenses for witnesses answering a summons for production or to give evidence issued at the request of a party are as provided by the Industrial Relations (General) Regulation 1996.

Production by non-party

96. (1) A summons requiring production of any document or thing must, unless the tribunal otherwise orders, permit the person named to produce the document or thing to the Registrar by hand or by post so that it is received not later than 2 days before the first date on which production is required, instead of attending and producing it.

(2) Where a document or thing is produced to the Registrar in accordance with subrule (1), the Registrar must:

- (a) if requested so to do, give a receipt to the person producing the document or thing; and
- (b) produce the document or thing as the nature of the case requires or as the tribunal may direct.

Production of documents by Registrar

97. (1) Where for the purpose of any proceedings a person requests the Registrar in writing to produce to the Commission or an Industrial Committee any document in the custody of the Registrar, the Registrar must, unless the tribunal otherwise orders, arrange for the production of the document in accordance with the request.

(2) A party desiring the production of a document or thing in the custody of any other tribunal or court must request, in writing, the Registrar to proceed under subrule (3).

(3) On the receipt of a request, the Registrar is to request the tribunal or court holding the document or thing to send it to the Registrar.

(4) The Registrar is required upon receipt of such document or thing to produce the same in accordance with the request or as the tribunal may direct.

PART 15—SERVICE AND NOTICE OF HEARING**Service of process by parties**

98. Except as otherwise provided by these Rules or unless the Registrar otherwise directs, service of all process, including interlocutory applications, must be effected by the parties.

Service of originating process

99. An applicant must promptly and within the time and in the manner specified in this Part, serve a copy of the originating and interlocutory process on:

- (a) any person named as a respondent; and
- (b) where the application relates to an award or determination, the persons shown in the list maintained by the Registrar under Rule 40 (c) relevant to that award, unless the tribunal otherwise directs; and
- (c) such other persons as the tribunal may direct.

Registrar to facilitate service of process

100. (1) The Registrar must take all reasonable steps to ascertain the persons interested in or who may be affected by an application and may require evidence to be supplied upon affidavit or otherwise as to the persons so interested or affected.

(2) Any such affidavit must state the means of knowledge of the deponent and the inquiries or searches, which may have been undertaken to ascertain who is so interested or affected.

Service of summons or notice to show cause

101. Service of a summons or notice to show cause must be in accordance with Rule 104 (a) or (b), 105 (a), (b) or (c), 106 (a), (b) or (c) or 107 (1) and (2), as the case may require.

Service of appeal

102. Upon lodging an appeal, the appellant must (unless the Registrar otherwise directs) serve a copy of the appeal promptly on each of the respondents.

Service of other process

103. Except as otherwise provided by this Part or unless the tribunal has given a direction with regard to service, process other than a summons must be served as specified in this Part.

Service upon individuals

104. Service of process upon any natural person must be effected:

- (a) by leaving any document to be served with the person; or
- (b) if any document to be served is not accepted, by putting the document down in the presence of the person to be served and indicating its nature; or

- (c) by leaving any document with any other person apparently above the age of 14 years at the residence or usual place of business of the person; or
- (d) by posting any document to the person or leaving it at the address for service filed by the person; or
- (e) where any person has not filed an address for service, by posting any document to the person at the residence or usual place of business of that person.

Service upon corporations other than industrial organisations

105. Service of process upon a corporation other than an organisation incorporated under the Act must be effected:

- (a) by leaving any document with the secretary or other principal officer of the corporation; or
- (b) by tendering any document to that secretary or principal officer after indicating its nature; or
- (c) by leaving any document with a person at the registered office of the corporation; or
- (d) where the corporation has filed an address for service, by posting any document to that secretary or principal officer at that address or by leaving it at that address; or
- (e) where the corporation has not filed an address for service, by posting any document to that secretary or principal officer at the registered office of the corporation; or
- (f) where provision is made by any other Act for the service of a document on the corporation concerned, by serving a copy of any document in accordance with the provision.

Service upon industrial organisations

106. (1) In this Rule, “industrial organisation” includes any associations registered under Chapter 6 and any State peak council.

- (2)** Service of process upon an industrial organisation must be effected:
- (a) by leaving any document with the secretary or principal officer of the industrial organisation; or
 - (b) by tendering any document to that secretary or principal officer after indicating its nature; or
 - (c) by leaving any document with a person at the registered office of the industrial organisation; or

- (d) where the industrial organisation has filed an address for service, by posting any document to that secretary at that address or by leaving it at that address; or
- (e) where the organisation has not filed an address for service, by posting any document to that secretary or principal officer at the registered office of the organisation.

Service on solicitors or agents

107. (1) Where a party is represented by a solicitor or agent, any process other than the originating process may be served upon the solicitor or agent at the solicitor's or agent's office or at the solicitor's or agent's document exchange box provided by the Australian Document Exchange Pty Limited.

(2) Where a solicitor or agent makes a note on a copy of an originating process that service is accepted on behalf of any person, the document is to be taken to have been duly served on that person on the date on which the solicitor or agent makes the note or such earlier date of service as may be proved.

(3) The term "solicitor" in this Rule includes the solicitor's agent.

Time of service

108. (1) Every originating process, together with any accompanying affidavits, must be served upon each of the persons thereby notified or summoned to appear promptly and at least 3 days before the day on which the matter is to be dealt with unless the tribunal gives leave for a shorter period of service.

(2) Any affidavit in answer to a served document may be filed and must, unless otherwise directed by the tribunal, be served as soon as practicable but not later than the day preceding the hearing.

Affidavit of service

109. (1) An affidavit of service must be filed by the applicant promptly after service of the originating process has been effected.

(2) An affidavit of service must be filed by the appellant promptly after service of the appeal has been effected.

(3) An affidavit of service may be filed in any other case.

Substituted service

110. (1) Where personal or other service of any process is required by these Rules or otherwise and it is made to appear to the tribunal that such service cannot conveniently be effected, the tribunal may make such order for substituted or other service, or for the substitution of notice by letter, facsimile message, other electronic means, public advertisement or otherwise, as may seem just.

(2) Such notice must contain such particulars as the tribunal directs.

Service out of the State but Within Australia

111. (1) This Rule applies where any process or document is to be served outside the State but within Australia.

(2) Process in proceedings before a tribunal may be served in accordance with the provisions of the Service and Execution of Process Act 1992.

(3) Process and documents before the Commission may also be served in accordance with such directions as the Commission may give when requiring such service under section 162.

(4) Where process served under this Rule requires or permits the filing of a notice of appearance, the period for entry of such an appearance will be 21 days after service, unless the tribunal, on application allows a shorter period.

Service out of Australia

112. (1) This Rule applies where, pursuant to section 162 (2) (f) or otherwise, any process or document is to be served outside the State and outside Australia.

(2) Process or documents may be served outside Australia, but must bear a note in the appropriate form.

(3) Where process served under this Rule requires or permits the filing of a notice of appearance, the period for entry of such an appearance will be 21 days after service, unless the tribunal, on application allows a shorter period.

(4) Where there is no appearance by the defendant or respondent to any process served under this Rule, the applicant must not proceed except by leave of the tribunal before which the proceedings are brought.

Notice of hearing

113. (1) Notice of the time and place for the mention or hearing of any matter (or any alteration of that time or place) must be promptly given to the applicant by the Registrar.

(2) Unless the appointed date, time and place are stated in the originating process, the applicant must cause notice of such appointment to be served upon the other parties promptly and at least within the time specified in Rule 108.

(3) Where the date, time and place have been appointed before the originating process has been served upon a party, notice of the appointment may be given to such party by endorsement of the notice on the originating process.

(4) Amended notice must be given and served where the appointed date, time or place are altered.

(5) Where the Registrar is required to give notice under this Rule, notice may be given in the same way as a Summons to Confer may be served under Rule 29 and shall have the same consequences.

PART 16—AFFIDAVITS**Time for swearing**

114. An affidavit for use in any proceedings may be sworn before or after the commencement of the proceedings.

Form

115. (1) An affidavit must be made in the first person.

(2) The body of an affidavit must be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

(3) Where it appears to the person before whom an affidavit is sworn that the deponent is illiterate or blind, the person must certify in or below the jurat that:

- (a) the affidavit was read in the person's presence to the deponent; and
- (b) the deponent seemed to understand the affidavit.

(4) Where an affidavit is made by an illiterate or blind deponent and a certificate in accordance with subrule (3) does not appear on the affidavit, the affidavit may not be used unless the tribunal is satisfied that the affidavit was read to the deponent and that the deponent seemed to understand it.

Alterations

116. (1) Where there is any interlineation, erasure or other alteration in the jurat or body of an affidavit, the affidavit may not be used without the leave of the tribunal unless the person before whom the affidavit is sworn initials the alteration and, in the case of an erasure, re-writes in the margin of the affidavit any word or figures written on the erasure and signs or initials them.

(2) Subrule (1) applies to an account verified by affidavit as if the account were part of the affidavit.

Annexures and exhibits

117. (1) A document to be used in conjunction with an affidavit must, where convenient, be annexed to the affidavit.

(2) Where annexure is inconvenient, the document may be made an exhibit to the affidavit.

(3) An exhibit to an affidavit must be identified by a certificate entitled in the same manner as the affidavit and made by the person before whom the affidavit is sworn.

Irregularity

118. An affidavit may, with the leave of the tribunal, be used notwithstanding any irregularity in its form.

Handing up affidavits

119. (1) An affidavit, unless required by or under an Act or by an order of a tribunal, may be filed in the Registry or may be handed up in the course of proceedings.

(2) An affidavit which has been served must, before it is filed or handed up, bear a note by the person who served the same, indicating the time, place and manner of service, unless the tribunal otherwise directs.

Service

120. A party intending to use an affidavit must serve it on each other interested party not later than a reasonable time before the occasion for using it arises.

Scandal, etc.

121. Where there is scandalous, irrelevant or otherwise oppressive matter in an affidavit, a tribunal may order that:

- (a) the matter be struck out; or
- (b) the affidavit be taken off the file.

Cross-examination

122. (1) A party may require the attendance for cross-examination of a person making an affidavit.

(2) A requirement under subrule (1) must be made to the party serving or proposing to use the affidavit.

(3) Where the attendance of a person is required under subrule (1), the affidavit may not be used unless the person attends or is dead or the tribunal grants leave to use it.

(4) Where a person making an affidavit is cross-examined, the party using the affidavit may re-examine the person.

PART 17—SOLICITORS AND AGENTS**Solicitors or agents**

123. Every matter or thing which under these Rules is required or permitted to be done by a party may (subject to section 166) be done by a solicitor or agent for the party.

Effect of change of solicitor or agent

124. (1) A change (including removal or withdrawal) of a solicitor or agent of which notice is required or permitted to be filed has no effect:

- (a) as between a party or solicitor or agent to whom the change relates and the tribunal until notice of the change is filed; and
- (b) as regards any other party, until notice of the change is filed and served on that party (or the party's solicitor or agent).

(2) Where a notice of change of solicitor or agent has no effect because it has not been filed or served in accordance with subrule (1), the address of the solicitor or agent (or solicitor's agent) may be continued to be used as the address for service.

Adverse parties

125. Where a solicitor or an agent or partner of the solicitor or agent acts as solicitor or agent for any party to any proceedings, or is a party to any proceedings, that solicitor or agent must not, without leave of the tribunal, act for any other party to the proceedings not in the same interest.

Change of solicitor or agent

126. (1) Where a solicitor or an agent acts for a party, the party may change that solicitor or agent.

(2) A party who changes a solicitor or agent must file notice of the change and serve the notice on the other parties and, where practicable, the former solicitor or agent.

Change of solicitor's agent

127. Where a solicitor (in this Rule called the principal solicitor) acts for a party in proceedings and another solicitor acts as agent for the principal solicitor, and the principal solicitor changes the solicitor acting as agent, the party must file notice of the change and serve notice on the other parties and on the former agent solicitor.

Appointment of solicitor or agent

128. A party who acts without a solicitor or agent in any proceedings and afterwards appoints a solicitor or an agent to act in the proceedings must file notice of the change and serve the notice on the other parties.

Removal of solicitor or agent

129. Where a solicitor or an agent acts for a party in any proceedings and afterwards the party terminates the authority of the solicitor or agent to act:

- (a) the party must file notice of the change and serve the notice on the other parties and on the former solicitor or agent; and
- (b) the former solicitor or agent may file notice of the change and serve the notice on the parties.

Withdrawal of solicitor or agent

130. (1) Where a solicitor or an agent acts for a party to any proceedings and afterwards ceases to act, the solicitor or agent may, subject to subrule (2), file notice of the change and serve the notice on the parties.

(2) A solicitor or an agent must not file or serve notice of a change under subrule (1) without leave of the tribunal unless the solicitor or agent has, not less than 7 days before doing so, served on the former client notice of intention to file and serve the notice of change.

(3) A solicitor or an agent filing a notice of change under subrule (1) must, except where the notice is filed with the leave of the tribunal, file and serve with the notice an affidavit showing service in compliance with subrule (2).

(4) A solicitor or an agent may serve a notice under this Rule on the former client by posting it to the former client at the residential or business address of the former client last known to the solicitor.

Signature for solicitor

131. (1) Where any signature by a solicitor (“the Solicitor”) is required or permitted for the purpose of any proceedings, the signature for the Solicitor by any of the following persons, as well as the signature of the Solicitor, is to be sufficient:

- (a) a partner of the Solicitor;
- (b) a solicitor who is agent of the Solicitor for the purpose of the proceedings;
- (c) a partner of the agent of the Solicitor;
- (d) a solicitor employed by:
 - (i) the Solicitor;
 - (ii) the agent of the Solicitor;
 - (iii) the Solicitor’s employer; or
 - (iv) the firm in which the Solicitor or the agent is a partner; and
- (e) a signatory authorised under subrule (2).

(2) Anything that is required or permitted for the purpose of any proceedings to be signed by a solicitor is to be taken to have been signed by the solicitor (being a solicitor corporation) if:

- (a) it has the corporation's seal affixed to it; or
- (b) it is signed by a director of the corporation or by an officer or employee of the corporation who is a solicitor.

(3) A signature made pursuant to this Rule must be accompanied by a statement of the capacity in which the signature is made.

Actions by a solicitor corporation

132. Where, by or under these Rules:

- (a) any act, matter or thing is authorised or required to be done by a solicitor for a person; and
- (b) the solicitor is a solicitor corporation; and
- (c) the act, matter or thing can, in the circumstances of the case, only be done by a natural person,

the act, matter or thing may be done by a director of the corporation or by an officer or by an employee of the corporation who is a solicitor.

PART 18—TIME

Reckoning of time

133. (1) Any period of time fixed by Rules or by any order or by any document in any proceeding, must be reckoned in accordance with this Rule.

(2) Where a time of 1 day or a longer time is to be reckoned by reference to a given day or event, the given day or the day of the given event must not be counted.

(3) Where, apart from this subrule, the period in question, being a period 5 days or less, would include a day on which the Registry is closed, that day must be excluded.

(4) Where the last day for doing a thing is a day on which the Registry is closed, the thing may be done on the next day on which the Registry is open.

(5) Section 36 of the Interpretation Act 1987 does not apply to these Rules.

Extension and abridgment

134. (1) A tribunal may, on terms, by order, extend or abridge any time fixed by the Rules or by any order.

(2) A tribunal may extend the time under subrule (1) as well after as before the time expires whether or not an application for the extension is made before the time expires.

(3) The period within which a person is required by Rules or by any order to serve, file or amend any process or other document may be extended by consent without an order for extension.

Fixing time period

135. Where no time is fixed by these Rules for the doing of any thing in or in connection with any proceeding before a tribunal, the tribunal may fix the time within which the thing is to be done.

Vacation

136. (1) In reckoning the time fixed by these Rules or in any judgment or order for the doing by a party of any act, the period from the beginning of 25 December until the end of 2 January next following must, unless the tribunal otherwise orders, be excluded but business may be done during that period.

(2) Where a tribunal makes an order under subrule (1) on the application of a party, the party on whose application the order was made must serve a minute of the order:

- (a)** in the case of an order with respect to the time of appearance to be limited in an originating process—with the originating process;
- (b)** otherwise—forthwith on each other party.

PART 19—WITHDRAWALS AND DISCONTINUANCE**Division 1—Withdrawal of appearance****Withdrawal of appearance**

137. A party who has entered an appearance may withdraw the appearance at any time with the leave of a tribunal.

Division 2—Discontinuance**Discontinuance**

138. (1) A party may, before the beginning of the hearing of any proceedings, discontinue the proceedings so far as concerns the whole or any part of any application made by that party:

- (a) where the party or the party's solicitor certifies that the party does not represent any other person and all other parties having an address for service in the proceedings consent; or
- (b) with the leave of the tribunal.

(2) Leave of the tribunal may be given in Chambers without the appearance of any person.

Withdrawal of process in the nature of defence, reply etc.

139. (1) A party raising any matter in process by way of a defence or reply or in a subsequent process may withdraw that matter at any time.

(2) Subrule (1) does not enable a party to withdraw, without the consent of another party or the leave of the tribunal, an admission or any other matter operating for the benefit of that other party.

Terms of leave

140. A tribunal may give leave under Rule 138 or Rule 139 on terms.

Mode of discontinuance or withdrawal

141. (1) Except with leave of the tribunal, a discontinuance or withdrawal under Rule 138 or Rule 139 must be made by filing a notice stating the extent of the discontinuance or withdrawal.

(2) Where the discontinuance or withdrawal is by consent, the notice under subrule (1) must bear the consent of each consenting party.

Service

142. A party filing a notice under Rule 141 must, on the day of filing, serve the notice on each other party.

Effect of discontinuance

143. A discontinuance under this Division as to any cause of action does not, subject to the terms of any leave to discontinue, prevent a person from bringing fresh proceedings or claiming the same relief in fresh proceedings.

Stay to secure costs

144. Where:

- (a) a party discontinues proceedings so far as concerns the whole or any part of any claim for relief and is, by reason of the discontinuance, liable to pay the costs of another party occasioned by the proceedings; and
- (b) before payment of the costs, brings against that other party further proceedings on the same or substantially the same cause of action as that on which the discontinued proceedings were brought,

the tribunal may stay the further proceedings until those costs are paid.

Division 3—Discontinuance By Commission**Discontinuance of Committee proceedings by Commission**

145. Where the Commission gives a direction under section 199 (4) that proceedings before a Committee be discontinued, a person shall not claim the same relief in fresh proceedings except with leave of the Commission.

Division 4—Want of Prosecution**Want of prosecution**

146. Where any party has not done any act required to be done by or under the Act or any other Act or otherwise has not pursued the proceedings with due diligence, a tribunal may:

- (a) order that the application be dismissed for want of prosecution; or
- (b) fix a definite time for the doing of the act and at the same time order that upon non-compliance the application shall stand dismissed for want of prosecution or subsequently, in the event of non-compliance, order that it be dismissed; or
- (c) make such further or other order as in the circumstances may seem just.

Effect of Dismissal

147. Subject to any right of appeal, where a tribunal dismisses an application for want of prosecution the applicant shall not claim the same relief in fresh proceedings.

PART 20—AMENDMENT**General**

148. (1) A tribunal may, at any stage of any proceedings, on application by any party or of its own motion, order that any document in the proceedings be amended, or that any party have leave to amend any document in the proceedings, in either case in such manner as the tribunal considers to be necessary in the interests of justice.

(2) Unless the tribunal otherwise orders or permits, an application to amend shall be made by notice of motion.

Amendment of process

149. A party may by consent of the parties amend the originating process at any stage of the proceedings.

Mode of amendment-directions

150. (1) Except where the tribunal otherwise orders or permits, amendments must be made by filing a fresh document bearing a statement specifying the date of the amendment and:

- (i) if made pursuant to an order, the date of the order or;
- (ii) if made pursuant to consent, the date that consent was filed.

(2) A filed document amended under this Rule must be served on the other parties within three days of filing.

Minute of judgment or order

151. (1) Where there is a mistake in an order or decision, arising from an accidental slip or omission, a tribunal, on application by any party or of its own motion, may at any time correct the mistake or error.

(2) A tribunal, on application by any party or of its own motion, may, at any time, for the purpose of carrying out its intention and to express accurately its meaning, correct any order or decision.

(3) The power in this Rule is additional to the power in Rule 38.

PART 21—ADMISSIONS**Application**

152. Unless a tribunal otherwise orders, this Part applies only to proceedings before the Commission in Court Session.

Voluntary admission

153. (1) A party to proceedings may, by notice served on another party, admit, in favour of the other party, but for the purpose of the proceedings only, the facts specified in the notice.

(2) A party may, with the leave of the Commission, withdraw an admission under subrule (1).

Notice to admit facts

154. (1) A party to proceedings may, by notice served on another party, require that party to admit, for the purpose of the proceedings only, the facts specified in the notice.

(2) If, as to any fact specified in the notice, the party on whom the notice is served does not, within 14 days after service, serve, on the party serving the notice to admit facts, a notice disputing that fact, that fact shall, for the purpose of the proceedings, be admitted by the party on whom the notice to admit facts is served in favour of the party serving the notice.

(3) A party may, with the leave of the Commission, withdraw an admission under subrule (2).

Judgment on admissions

155. (1) Where admissions are made by a party, the Commission may, on the application of any other party, give any judgment or make any order to which the applicant is entitled on the admissions.

(2) The Commission may exercise its powers under subrule (1) notwithstanding that other questions in the proceedings have not been determined.

Admission of documents discovered

156. (1) Where a list of documents is served on a party under Part 22 (which relates to discovery and inspection of documents), and inspection of any document specified in the list is permitted to that party under that Part, then, subject to subrule (2), the following admissions by that party in favour of the party serving the list shall have the effect unless the Commission otherwise orders:

- (a)** that the document, if described in the list as an original document, is an original document and was printed, written, signed or executed as it purports to have been; or
- (b)** that the document, if described in the list as a copy, is a true copy.

(2) Where a party:

- (a) has by my process denied the authenticity of a document; or
- (b) within 14 days after the time limited under Part 22 for inspection of a document, serves on the party giving inspection a notice that the authenticity of the document is disputed,

subrule (1) does not work as an admission by the first mentioned party as to that document.

(3) Where a party serves on another party a list of documents pursuant to Part 22, those parties shall be in the position that they would be in if the latter party had, on the date of service of the list, served on the party serving the list a notice requiring production at the hearing of such of the documents specified in the list as are in the possession, custody or power of the party serving the list.

Notice to admit documents

157. (1) A party to proceedings may, by notice served on another party, require that other party to admit, for the purpose of those proceedings only, the authenticity of the documents specified in the notice.

(2) If, as to any document specified in the notice, the party on whom the notice is served does not, within 14 days after service, serve, on the party serving the notice to admit documents, a notice disputing the authenticity of the document, the document shall, for the purpose of the proceedings, be admitted by the party on whom the notice to admit documents is served.

(3) A party may, with the leave of the Commission, withdraw an admission under subrule (2).

Restricted effect of admission

158. An admission under this Part for the purpose of any proceedings shall not be used:

- (a) against the admitting party in any other proceedings; or
- (b) in favour of any person other than the party in whose favour the admission is made.

PART 22—DISCOVERY AND INSPECTION OF DOCUMENTS**Application**

159. Unless a tribunal otherwise orders, this Part applies only to proceedings before the Commission in Court Session.

Definitions

160. In this Part:

- (a) **“document”** includes any part of a document;
- (b) **“excluded documents”** means in relation to proceedings, subject to any order of the Commission to the contrary:
 - (i) any document filed in the proceedings and any copy thereof;
 - (ii) any document served on party A (as described in Rule 162 (1)) after the commencement of the proceedings and any copy thereof;
 - (iii) any document which wholly came into existence after the commencement of the proceedings;
 - (iv) any additional copy of a document included in a list of documents under Rule 162 (5), which contains no mark deletion or other matter, relevant to a fact in issue, not present in the document so included; and
 - (v) any document comprising an original written communication sent by party B prior to the date of commencement of the proceedings of which a copy is included in a list of documents under Rule 162 (5).
- (c) **“privileged document”** means in relation to proceedings:
 - (i) a document of which evidence could not be adduced in the proceedings over the objection of any person, by virtue of the operation of Part 3.10 of the Evidence Act 1995;
 - (ii) a document that relates to matters of state within the meaning of section 130 of the Evidence Act 1995, unless and until the Commission directs that it cease to be a privileged document;

- (iii) where a claim is made against a party for the recovery of a statutory penalty or for the enforcement of a forfeiture, a document which is or has been in the possession, custody or power of that party which is:
 - (A) relevant to a fact in issue on that claim; and
 - (B) not relevant to a fact in issue on any claim made in the proceedings other than for the recovery of a statutory penalty or for the enforcement of a forfeiture;
- (d) a document or matter is to be taken to be relevant to a fact in issue of it could, or contains material which could, rationally affect the assessment of the probability of the existence of that fact (otherwise than by relating solely to the credibility of a witness), regardless of whether the document or matter would be admissible in evidence.

Notice to produce for inspection

161. (1) A party (party A) may by notice served on another party (party B) require party B to produce for the inspection of party A:

- (a) any document (other than a privileged document) referred to in any originating process, pleading, affidavit or witness statement filed or served by party B;
- (b) any other specific document (other than a privileged document) clearly identified in the notice, relevant to a fact in issue.

(2) The maximum number of documents which party A may require party B to produce in reliance on subrule (1) (b), whether by one or more notices, is 50.

(3) Party B, upon being served with a notice under subrule (1), shall within a reasonable time:

- (a) produce for the inspection of party A such of the documents as are in the possession, custody or power of party B;
- (b) in respect of any document which is not produced, serve on party A a notice stating in whose possession the document is, to the best of the knowledge, information and belief of party B, or that party B has no knowledge, information or belief as to that matter.

(4) A notice under subrule (1) may specify a time for production of all or any of the documents required to be produced. If the time specified is 14 days or longer after service of the notice it is to be taken to be a reasonable time for the purpose of subrule (3) unless the contrary is shown. If the time specified is less than 14 days after service of the notice it is to be taken to be less than a reasonable time unless the contrary is shown.

Order for discovery

162. (1) The Commission may, on the application of a party or of its own motion, order that any party (party B) give discovery to any other party (party A) or parties (each of which is included in the expression “party A”) of:

- (a) documents within a class or classes specified in the order;
- (b) one or more samples (selected in such manner as the Commission may specify) of documents within such a class.

(2) A class of documents shall not be specified in more general terms than the Commission considers to be justified in the circumstances.

(3) Subject to subrule (2), a class of documents may be specified:

- (a) by relevance to one or more facts in issue;
- (b) by description of the nature of the documents and the period within which they were brought into existence;
- (c) in such other manner as the Commission considers appropriate in the circumstances.

(4) The effect of an order for discovery under subrule (1) is that the parties involved are required to comply with the succeeding provisions of this Rule.

(5) Party B must, within 28 days of the order being made (or of notice of the order being received by party B, if party B was not present or represented when the order was made) or such other period as the Commission may specify, serve on party A:

- (a) a list, complying with subrule (6), of all the documents or samples specified in the order (other than excluded documents) which:
 - (i) are in the possession, custody or power of party B; or
 - (ii) are not, but were later than 6 months prior to the commencement of the proceedings, in the possession, custody or power of party B;

- (b) an affidavit made in accordance with subrule (7) stating:
 - (i) that the deponent has made reasonable enquiries and:
 - (A) believes that there are no documents (other than excluded documents) falling within any of the classes specified in the order which are, or were later than 6 months prior to the commencement of the proceedings, in the possession, custody or power of party B other than those referred to in the list of documents;
 - (B) believes that the documents in part 1 of the list are within the possession, custody or power of party B;
 - (C) believes that the documents in part 2 of the list are within the possession or power of the persons (if any) respectively specified in that part;
 - (D) as to any document in part 2 in respect of which no such person is specified, that the deponent has no belief as to whose possession or power the document is in; and
 - (ii) in respect of any documents which are claimed to be privileged documents, the facts relied on as establishing the existence of the privilege; and
 - (c) where party B is represented by a solicitor, a certificate by that solicitor stating:
 - (i) that the solicitor has advised party B as to the obligations arising under an order for discovery (and where party B is a corporation, which officers of party B have been so advised); and
 - (ii) that the solicitor is not aware of any documents within any of the classes specified in the order (other than excluded documents) which are, or were later than 6 months prior to the commencement of the proceedings, in the possession, custody or power of party B, other than those referred to in the list of documents.
- (6) The list of documents shall:
- (a) be divided into two parts, of which part 1 relates to documents in the possession, custody and power of party B, and part 2 relates to documents which are not, but were later than 6 months prior to the commencement of the proceedings, in the possession, custody or power of party B;

- (b) include a brief description by reference to nature and date (or period) of each document or group of documents, and in the case of a group, the number of documents in that group;
- (c) specify against the description of each document or group in part 2 of the list the person (if any) in whose possession the document or group of documents is believed to be;
- (d) identify any document or group of documents which is claimed to be privileged, and specify:
 - (i) any provision of Part 3.10 of the Evidence Act 1995 under which the privilege is claimed to arise; or
 - (ii) the circumstances which it is claimed bring the document or group of documents within Rule 161 (c) (ii) or (iii).

(7) The affidavit shall be made:

- (a) where party B is a natural person and not a disable person—by party B;
- (b) where party b is a disable person—by party B’s tutor;
- (c) where party B is a corporation—by an officer of the corporation having knowledge of the facts so far as they are known to the corporation, or by its liquidator or provisional liquidator;
- (d) where party B is the Crown—by an officer of the Crown having knowledge of the facts so far as they are known to the Crown.

(8) If at any time after the affidavit is made, and before the end of the trial or hearing, party B becomes aware:

- (a) that any document within the class or classes specified in the order (not being an excluded document) but not included in part 1 of the list of documents is within, or has come into, party B’s possession, custody or power; or
- (b) that any document included in part 1 of the list of documents which was claimed to be a privileged document, was not, or has ceased to be, a privileged document,

party B shall thereupon give written notice to party A of that fact and comply with subrule (10) in respect of the document, as if that document had been included in part 1 of the list of documents and the list had been served on the date of the giving of such notice.

(9) Party B shall ensure that the documents described in part 1 of the list (other than privileged documents) are:

- (a) at the time the list of documents is served on party A and for a reasonable time thereafter, physically kept and arranged in a way that makes the documents readily accessible, and capable of convenient inspection by party A; and
- (b) at the time the list of documents is served on party A and until completion of the trial of the proceedings, identified in a way that enables particular documents to be readily retrieved.

(10) Within 21 days after service of the list of documents, or within such other period or at such other times as the Commission may specify, party B shall, on request by party A:

- (a) produce for inspection by party A the documents described in part 1 of the list (other than privileged documents);
- (b) make available a person who is able to, and does on request by party A, explain the way the documents are arranged and assist in locating and identifying particular documents or classes of documents;
- (c) provide facilities for the inspection and copying of such of the documents (other than privileged documents) as are not capable of being copied by photocopying;
- (d) subject to an undertaking being given by the solicitor for party A to pay the reasonable costs thereof (or if party A has no solicitor, subject to party A providing to party B an amount not less than a reasonable estimate of the reasonable costs of the use thereof), provide photocopies of, or photocopying facilities for the copying of, such of the documents as are capable of being copied by photocopying.

(11) No copy document, or information from a document, obtained by party A as a result of discovery by party B shall be disclosed or used otherwise than for the purposes of the conduct of the proceedings, without the leave of the Commission, unless the document has been received into evidence in open court.

(12) Nothing in subrule (11) shall affect the power of the Commission to make an order restricting the disclosure or use of any document whether or not received into evidence, or the operation of any such order.

Powers of Commission

163. The commission may, on the application of a party, or of its own motion:

- (a) by order discharge, vary or extend any of the obligations arising under Rules 161 and 162;
- (b) determine any question of privilege or other question arising from the operation of this part.
- (c) where a party does not comply with an obligation arising under Rules 161 and 162:
 - (i) by order, dismiss or limit any claim made by that party;
 - (ii) by order, strike out or amend any process filed by that Party;
 - (iii) strike out, disallow or reject any evidence which that party has adduced or seeks to adduce;
 - (iv) require that party to pay the whole or part of the costs of another party of the proceedings; or
 - (v) make such other order as the Commission considers appropriate in the circumstances.

Contempt

164. Neither the provisions of Rule 163 (c) nor any order made thereunder shall affect the liability of a party or any other person for contempt in respect of any breach of an order for discovery under Rule 162 (1).

PART 23—OFFER OF COMPROMISE**Application**

165. (1) Unless a tribunal otherwise orders, this Part applies only to proceedings before the Commission in Court Session.

(2) Except by leave of the Commission, this Part does not apply to proceedings which the Commission is required to attempt to settle by conciliation until the Commission indicates that all reasonable attempts to conciliate have been unsuccessful.

Mode of making offer

166. (1) An offer or compromise is made to a party under this Part by serving a notice of the offer on the party.

(2) A notice of offer must:

- (a) be prepared in accordance with the directions in Schedule 1 of these Rules; and
- (b) bear a statement to the effect that the offer is made in accordance with this Part.

Application

167. In any proceedings the applicant or the respondent may make to the other an offer to compromise any claim in the proceedings on the terms specified in the notice of offer.

Time for making OF accepting offer

168. (1) An offer may be made at any time before the time prescribed by subrule (8) in respect of the claim to which it relates.

(2) A party may make more than one offer.

(3) An offer may be expressed to be limited as to the time it is open to be accepted but the time expressed must not be less than 28 days after it is made.

(4) An offeree must, within 3 days after service, serve a written acknowledgment of receipt on the offeror.

(5) An offeree may accept the offer by serving notice of acceptance in writing on the offeror before:

- (a) the expiration of the time specified in accordance with subrule (3) or, if no time is specified, the expiration of 28 days after the offer is made; or
- (b) the time prescribed by subrule (8) in respect of the claim to which the offer relates,

whichever is sooner.

(6) An offer must not be withdrawn during the time it is open to be accepted, unless the Commission otherwise orders.

(7) An offer is open to be accepted within the period referred to in subrule (5) notwithstanding that during that period the party to whom the offer (the “first offer”) is made makes an offer (the “second offer”) to the party who made the first offer whether or not the second offer is made in accordance with this Part.

(8) The time prescribed for the purposes of subrules (1) and (5) and Rule 216 (3) is after the Commission or Registrar gives a decision or begins to give reasons for a judgment (except an interlocutory judgment).

(9) Where an offer is accepted under this Rule, a party to the compromise may request the Commission or Registrar to order in accordance with the compromise.

Time for payment

169. An offer providing for the payment of a sum of money, or for the doing of any other act, must, unless the notice of offer otherwise provides, be taken to provide for the payment of that sum or the doing of that act within 28 days after acceptance of the offer.

Withdrawal of acceptance

170. (1) A party who accepts an offer may, by serving a notice of withdrawal on the offeror, withdraw the acceptance:

- (a) where the offer provides for payment of a sum of money or the doing of any other act and the sum is not paid or the act is not done within 28 days after acceptance of the offer or within such other time as the offer provides; or
- (b) where the Commission gives leave so to do.

(2) On withdrawal of an acceptance all steps in the proceedings taken in consequence of the acceptance are to have such effect only as the Commission may direct.

(3) On withdrawal of an acceptance or on the motion for leave to withdraw an acceptance, the Commission may:

- (a) give directions under subrule (2);
- (b) give directions for restoring the parties as nearly as may be to their positions at the time of the acceptance; and
- (c) give directions for the further conduct of the proceedings.

Offer without prejudice

171. An offer made in accordance with this Part is to be taken to have been made without prejudice, unless the notice of offer otherwise provides.

Disclosure of offer to Commission

172. (1) No statement of the fact that an offer has been made must be contained in any process, document or affidavit.

(2) Where an offer has not been accepted, then, except as provided by Rule 216 (9), no communication with respect to the offer must be made to the Commission at the hearing until after all questions of liability and the relief to be granted have been determined.

(3) Subrules (1) and (2) do not apply:

- (a) where a notice of offer provides that the offer is not made without prejudice; or
- (b) in so far as disclosure is necessary to enable the offer to be taken into account for the purpose of determining whether any amount or a reduced amount of interest will be ordered under section 157 of the Act.

Failure to comply with accepted offer

173. (1) Where a party to an accepted offer fails to comply with the terms of the offer, then, unless for special cause the Commission otherwise orders, the other party must be entitled, as that party may elect, to:

- (a) such order as is appropriate to give effect to the terms of the accepted offer; or
- (b) where the party in default is the applicant, an order that the proceedings be dismissed, and, where the party in default is the respondent, that any defence be dismissed, and in either case that there be judgment accordingly.

(2) Where a party to an accepted offer fails to comply with the terms of the offer, and a respondent in the proceedings has made a cross-claim which is not the subject of the accepted offer, the Commission may make such order or give such judgment under subrule (1) and make such order that the proceeding on the cross-claim be continued as it thinks fit.

Multiple respondents

174. Where two or more respondents are alleged to be jointly or jointly and severally liable to the applicant and rights of contribution or indemnity appear to exist between the respondents, Rule 216 does not apply to an offer unless:

- (a) in the case of an offer made by the applicant—the offer is made to all respondents, and is an offer to compromise the claim against all of them; or
- (b) in the case of an offer made to the applicant:
 - (i) the offer is to compromise the claim against all respondents; and
 - (ii) where the offer is made by 2 or more respondents—by the terms of the offer the respondents who made the offer are jointly or jointly and severally liable to the applicant for the whole amount of the offer.

PART 24—EVIDENCE**Application**

175. Unless a tribunal otherwise orders, this Part (Rules 176, 177, 181, 182 and 186 excepted) applies only to proceedings before the Commission in Court Session.

Form of evidence

176. In any proceeding before a tribunal, it may hear evidence either orally or by affidavit or both, whether notice or intention to call such oral evidence has been given or not.

Evidence in other proceedings

177. Subject to the Act, a party may, with the leave of the tribunal, but subject to all just exceptions, read into proceedings before that tribunal evidence taken, or an affidavit filed, in other proceedings under the Act.

Hearsay and copies

178. (1) Subject to subrule (4), subrules (2) and (3) apply where undue delay or hardship would otherwise be caused.

(2) Where a statement on information and belief is made by a deponent in an affidavit, or by a witness being examined orally, and the deponent or witness gives the source and ground of and for the information and belief, the statement is not to be inadmissible on the ground that it is hearsay.

(3) Where a deponent swears in an affidavit, or a witness being examined orally states, that a document is a copy of an original, the document is not to be inadmissible as evidence of the contents of the original on the ground that the original is not produced.

(4) This Rule does not apply to evidence on an issue at a hearing.

Witness statements

179. (1) In any proceedings, the Commission may give directions to any party to serve on each other party who has an address for service in the proceedings written statements of the oral evidence which the party intends to adduce in chief on any issues of fact to be decided at the hearing.

(2) Each statement must be signed by the intended witness unless the signature of the intended witness cannot be procured or the Commission otherwise orders.

(3) If an intended witness, to whose evidence a statement under subrule (1) relates, does not give evidence, no party may put the statement in evidence at the hearing without leave of the Commission.

(4) Directions given under subrule (1) may:

- (a) make different provision with regard to different issues of fact or different witnesses; or
- (b) require that statements be filed; or
- (c) require that notice be given of any objection to any of the evidence in a statement and of the grounds of the objection.

(5) Where the party serving the statement calls the witness at the hearing:

- (a) the party may not, except with the leave of the Commission, adduce evidence from the witness, the substance of which is not included in the statement served, except in relation to new matters which have arisen in the course of the hearing;
- (b) the Commission may direct that the statement served, or part of it, is to stand as the evidence, or part of the evidence, in chief of the witness; and

(c) whether or not the statement or any part of it is referred to during the evidence in chief of the witness, any party may put the statement or any part of it in cross-examination of the witness.

(6) A party who fails to comply with a direction given under subrule (1) may not adduce evidence to which the direction related, except with the leave of the Commission.

(7) Where the Commission directs that a statement be filed, then, subject to any direction of the Commission, the statement must not be filed otherwise than in the Commission by handing it up in court on the first occasion after the statement is signed that the proceedings are before the Commission for any purpose or, with the leave of the Commission, on any later occasion.

(8) A statement which has been served must, before it is handed up under subrule (7), bear a note of the time, place and manner of service.

(9) This Rule is not to deprive any party of the right to treat any communications as privileged or make admissible evidence otherwise inadmissible.

(10) An application by a party to the Commission for an order that the party not be required to comply with a direction under subrule (1) in respect of any proposed witness (whether or not the direction has been given) may be made without serving notice of the motion by which the application is made.

Plans, photographs and models

180. (1) Where a party intends to tender any plan, photograph or model at a hearing, the party must, not less than 7 days before the commencement of the hearing, give the other parties an opportunity to inspect it and to agree to its admission without proof.

(2) Non-compliance with subrule (1) does not affect the admissibility of a plan, photograph or model.

Proof of Industrial Relations Commission or former Court and Commission documents

181. (1) In this Rule “Commission” means the Commission, or the former Industrial Court of New South Wales, the former Industrial Relations Commission of New South Wales or the former Industrial Commission of New South Wales.

(2) A document purporting to be marked with the seal or stamp of the Commission is admissible in evidence without further proof.

(3) An office copy of a document filed in or issued out of the Commission is admissible in evidence in all proceedings and between all parties to the same extent as the original document would be admissible.

(4) A document purporting to be marked with the seal of the Commission and to be a copy of a document filed in or issued out of the Commission is admissible in evidence as an office copy of the latter document without further proof.

Unstamped documents: undertaking

182. (1) The “solicitor’s usual undertaking as to stamp duty”, if given to the Commission by a solicitor in relation to an instrument referred to in section 29 of the Stamp Duties Act 1920, or an unexecuted copy referred to in that section, is an undertaking that the solicitor will cause the instrument or copy to be presented to the Chief Commissioner of Stamp Duties for assessment in accordance with that Act and cause any duty and fine to which the instrument or copy is liable to be paid.

(2) The “party’s usual undertaking as to stamp duty”, if given to the Commission by a party in relation to an instrument referred to in section 29 (4) of the Stamp Duties Act 1920, is an undertaking that the party will within 28 days inform the Chief Commissioner of Stamp Duties of the name of the person primarily liable to duty in respect of the instrument and lodge the instrument or a copy of the instrument with the Chief Commissioner.

Consent of trustee etc.

183. (1) A document purporting to contain the written consent of a person to act as tutor, trustee, or receiver, or to act in any other office on appointment by the Commission, and purporting to be executed and authenticated in accordance with subrule (2), is evidence of the consent.

(2) A document is sufficiently executed and authenticated for the purposes of subrule (1):

- (a) where the consenting person is not a corporation, if the document is signed by the consenting person and the signature is verified by some other person; or
- (b) where the consenting person is a corporation, if the seal of the corporation is affixed to the document in the presence of and attested by its clerk, secretary or other permanent officer or deputy of such officer, and a member of the board of directors, council or other governing body of the corporation.

Attendance and production

184. (1) The Commission may make orders for:

- (a) the attendance of any person for the purpose of being examined;
or
- (b) the attendance of any person and production by that person of any document or thing specified or described in the order; or
- (c) production by any corporation of any document or thing specified or described in the order.

(2) An order under subrule (1) may be made for the attendance of any person before, and production by that person to, or for the production by any corporation to, the Commission or any officer of the Commission, examiner, referee, arbitrator, or other person authorised to take evidence, on any hearing or other occasion.

(3) Subrules (1) and (2) apply whether or not the person required by the order to attend or produce any document or thing has been required to do so by summons.

Leading questions to witness

185. Where a person is examined in relation to an investigation, inspection or report made in the course of carrying out public or official duties, the party calling the person may, unless the Commission otherwise directs, examine that person by asking leading questions.

Privilege

186. (1) Where the Commission, by summons or otherwise, orders any person to produce any document or thing, and any person makes and substantiates sufficient lawful objection to production on grounds of privilege, the Commission must not compel production of that document or thing except production to the Commission for the purpose of ruling on the objection.

(2) Where a question is put to a person in the course of examination, and any person makes and substantiates sufficient lawful objection on grounds of privilege to the question being answered, the Commission must not compel an answer to the question.

(3) Subrule (1) applies where an order is made for production to, and subrule (2) applies where a question is put to a person in the course of examination before the Commission or any officer of the Commission, or any examiner, referee, or other person authorised to receive evidence, whether on a hearing or on any other occasion.

(4) Where a party to any proceedings claims privilege from production of any document, the Commission may, if it thinks fit:

- (a) permit evidence in relation to the claim to be given by any other party by affidavit or otherwise; and
- (b) permit cross-examination on any affidavit used in support of the claim.

(5) This Rule does not affect any rule of law which authorises or requires the withholding of any document or thing or the refusal to answer any question on the ground that the disclosure of the document or thing or the answering of the question would be injurious to the public interest.

(6) Subrules (1), (2) and (3) do not apply to an objection to produce any document or thing or to answer any question on the ground mentioned in subrule (5).

(7) The Commission may, on special grounds, allow a claim on grounds of privilege for documents prepared for or by, or communications with, an industrial advocate or an officer or employee of an industrial organisation, if privilege would be accorded those same documents or communications had the advocate, officer or employee been a legal practitioner.

Disclosure of experts' reports and medical and hospital reports

187. (1) Subrules (2)–(5) apply:

- (a) to proceedings in relation to an appeal under section 44 of the Superannuation Administration Act 1991; and
- (b) to any other proceedings in which the Commission may at any time on the application of a party or of its own motion direct that they must apply.

(2) In this Rule:

- (a) **“expert’s report”** means a statement by an expert in writing which sets out the expert’s opinion and the facts on which the opinion is formed and which contains the substance of the expert’s evidence which the party serving the statement intends to adduce in chief at the hearing;
- (b) **“hospital report”** means a statement in writing concerning a patient made by or on behalf of a hospital which the party serving the statement intends to adduce in evidence in chief at the hearing;

(c) **“medical report”** means a statement in writing concerning a patient made by or on behalf of a registered medical practitioner which the party serving the statement intends to adduce in evidence in chief at the hearing.

(3) Unless the Commission otherwise orders, in proceedings to which this Rule applies, each party in the proceedings must, at least 21 days before the date set down for hearing, serve experts’ reports, medical reports and hospital reports on each other party who has an address for service in the proceedings.

(4) An application to the Commission for an order under subrule (3) (other than an order solely for abridgment or extension of time) may be made without serving notice of the motion.

(5) In proceedings to which this Rule applies, except with the leave of the Commission or by consent of the parties:

- (a) the oral expert evidence in chief of any expert is not admissible unless that evidence is covered by the expert’s report served in accordance with this Rule; and
- (b) neither an expert’s report nor a medical or hospital report is admissible when tendered under section 63 or section 64 or section 69 of the Evidence Act 1995, unless it has been served in accordance with this Rule.

(6) For the purpose of subrule (3), evidence is covered by a report if the report contains the substance of the matters sought to be adduced in evidence.

Expert’s report admissible at hearing

188. (1) Where an expert’s report is served in accordance with Rule 187 or an order is made under Rule 187 (3), the report is admissible as evidence of the expert’s opinion and, where the expert’s direct oral evidence of a fact upon which the opinion was formed would be admissible, as evidence of that fact, without further evidence, oral or otherwise.

(2) A party may, unless the Commission otherwise orders, not later than 7 days before the date set down for hearing, require the attendance for cross-examination of the expert.

(3) The parties may not by consent abridge the time fixed by or under subrule (2).

(4) A requirement under subrule (2) must be made to the party who served the report.

(5) Where the attendance of an expert is required under subrule (2), the expert's report must not be tendered under section 63 or section 64 or section 69 of the Evidence Act 1995 or otherwise used unless the person attends or is dead or the Commission grants leave to use it.

(6) Where an expert attends pursuant to a requirement under subrule (2), the party using the report may re-examine that expert.

Notice under section 67 or section 99 of the Evidence Act 1995

189. (1) Notice for the purposes of section 67 or section 99 of the Evidence Act 1995 must, unless the Commission otherwise orders, be given:

- (a) in any case where the Commission has by notice to the parties fixed a date for hearing—not later than 21 days before the date fixed by that notice: or
- (b) in any other case—not later than 21 days before the date on which the Commission determines the date of hearing

(2) Rule 179 (2), (3) and (5) apply to a statement referred to in regulation 5 (5) (a) or (b) of the Evidence Regulation 1995 as if the statement were a statement referred to in Rule 179 (1).

(3) Rule 179 (3) and (5) apply to a document referred to in regulation 5 (5) (a) of the Evidence Regulation 1995 as if the document were a statement referred to in Rule 179 (1).

PART 25—PRELIMINARY DISCOVERY

Application

190. Unless a tribunal otherwise orders, this Part applies only to proceedings before the Commission in Court Session.

Examination and production

191. (1) Where, on application by any person, it appears to the Commission that:

- (a) the applicant, having made reasonable inquiries, is unable to ascertain the identity of a person for the purpose of commencing proceedings against that person or is unable to ascertain the description of any person sufficiently for that purpose; and
- (b) some person has or may have knowledge of facts, or has or may have in that person's possession, custody or power any document

or thing, tending to assist in the ascertainment of the identity or description of the person concerned,

the Commission may order that person:

- (c) to attend before the Commission or the Registrar and be orally examined on any matter relating to the identity or description of the person concerned; and
- (d) to produce any document or thing in that person's possession, custody or power relating to the identity or description of the person concerned.

(2) Where, on the application of any person, the matters mentioned in subrule (1) (a) appear to the Commission and it further appears to the Commission that a corporation has or may have in its possession, custody or power any document or thing tending to assist in the ascertainment of the identity or description of the person concerned, the Commission may order the corporation or any officer of the corporation to produce any document or thing in the possession, custody or power of the corporation relating to the identity or description of the person concerned.

(3) In this Rule:

“**person concerned**” means the person referred to in subrule (1) (a);
and

“**description**” includes the name, place of residence, place of business, occupation and sex of the person concerned.

Procedure

192. (1) An application for an order under Rule 191 must be made by notice of motion joining the person against whom the order is sought as a respondent.

(2) An order under Rule 191 must be served personally on the person ordered to attend or to produce any document or thing.

Expenses and loss

193. Where any person incurs expense or loss in complying with an order under Rule 191, the Commission may order the applicant to pay to that person an amount sufficient to make good the expense or loss.

PART 26—PREHEARING CONFERENCES**Application**

194. Unless a tribunal otherwise orders, this Part applies only to proceedings before the Commission in Court Session.

Holding of prehearing conference

195. A prehearing conference must be held in any proceeding whenever directed by the Commission or the Registrar and must be held at such time and place as the Commission or the Registrar may direct.

Reopening of application for directions

196. Upon a prehearing conference the Commission may reopen and deal with any application for directions in such manner as it sees fit.

Adjournment

197. (1) The Commission or Registrar may adjourn a prehearing conference from time to time, and from place to place, as may be seen fit.

(2) Where a conference is adjourned to a particular date it will not be necessary for any further notice of the adjournment to be given to any party who was represented at the conference when the time of the adjournment was fixed, but the applicant must notify all the other parties forthwith in writing of the adjourned date.

(3) Where a conference is adjourned to a date to be fixed, the Registrar may, on the application of any party, fix a date for the resumption of the conference and must notify the parties thereof.

Considerations listed

198. At a prehearing conference consideration must be given to:

- (a) the desirability of the parties resolving their differences without further resort to litigation; and
- (b) the possibility of the claim being settled by compromise; and
- (c) any further simplification of the issues; and
- (d) the necessity or desirability of amendments to the process filed; and
- (e) obtaining further admissions of facts and of documents that will avoid unnecessary proof; and

- (f) the limitation of the number of witnesses or the issues to be covered by their evidence; and
- (g) the submissions by the parties to the Commission of written arguments on issues of law or on issues of mixed law and fact; and
- (h) any other matters that might facilitate the expeditious conduct and disposition of the proceedings.

Powers of Commission and Registrar

199. Without limiting the powers of the Commission under the Act, on a prehearing conference, the Commission or Registrar may:

- (a) require any party to prove by affidavit or otherwise such matters as the Commission thinks fit; or
- (b) require any party to produce any document provided that such document would be admissible in evidence at the time of the action; or
- (c) modify the general practice prescribed by these Rules; or
- (d) limit the number of expert witnesses or the issues to be covered by their evidence; or
- (e) require the attendance of any party unless in the circumstances it would not be reasonable for that party to attend; or
- (f) where any party is other than a single natural person, require the attendance at the conference of a representative of such party who has authority to enter into a compromise on behalf of that party unless in the circumstances it would be unreasonable to require the attendance of such a representative; or
- (g) give directions about the subsequent course of the proceedings; or
- (h) prepare a prehearing conference report concerning any matter dealt with at the conference, and authorise any party to make such use as is proper of that report.

Disqualification of Judicial Member

200. No Judicial Member, by reason of having conducted a prehearing conference, is to be disqualified from talking any other part in the proceedings unless such Judicial Member thinks it proper in the circumstances to disqualify himself or herself.

Failure to comply with any direction

201. Where any party fails to comply with any requirement or direction made pursuant to Rule 199:

- (a) the Commission may consider any application made by any other party to deal with the party in default; or
- (b) the Commission may strike out any process of the party in default; or
- (c) the Commission or the Registrar may adjourn the proceedings until the party in default has complied with the requirements or directions given; or
- (d) the Commission or the Registrar may take such other action as is considered appropriate.

PART 27—COSTS**Application**

202. (1) Subject to the Act and to subrule (2), in this Part “Commission” means the Commission in Court Session, the Commission generally and any other tribunal which has the power to award costs under the Act.

(2) Rules 213 to 217 apply only to the Commission in Court Session.

Time for dealing with costs

203. (1) The Commission may in any proceedings exercise its powers and discretions as to costs at any stage of the proceedings or after the conclusion of the proceedings.

(2) Where the Commission makes an order in any proceedings for the payment of costs the Commission may require that the costs be paid forthwith notwithstanding that the proceedings are not concluded.

Assessed costs

204. Where by or under these Rules or by any order of the Commission under section 181 (1) (d) costs are to be assessed, the costs are to be dealt with in accordance with the Regulations and the Rules made in respect of the Legal Profession Act 1987.

Assessed costs and other provisions

205. Subject to this Part, where by or under these Rules or any order of the Commission costs are to be paid to any person, that person shall be entitled to assessed costs.

Order for payment

206. Subject to this Part or to the effect of any agreement between the parties, a party to a proceeding in the Commission shall not be entitled to recover any costs of and incidental to the proceedings from any other party to the proceeding except under an order of the Commission.

Costs in other courts or tribunals

207. Where in a proceeding transferred to or removed into the Commission or in a proceeding on an appeal to the Commission, the Commission makes an order as to the costs of a proceeding before any other court or tribunal, the Commission may:

- (a) specify the amount of the costs to be allowed; or
- (b) order that the costs be assessed in accordance with this Part; or
- (c) make orders for the ascertainment of the costs by assessment or otherwise in that other court or tribunal or in such other manner as the Commission may direct.

Unnecessary appearance in Commission

208. Where a party appears upon a proceeding before the Commission or before the Registrar, in which that party is not interested or upon which, according to the practice of the Commission, that party ought not to appear, that party shall not be allowed any costs of appearance unless the Commission or Registrar expressly directs the costs to be allowed.

Barrister or Solicitor or agent to repay costs due to delay, misconduct, etc.

209. (1) Where costs are incurred improperly or without reasonable cause, or are wasted by undue delay or by any other misconduct or default, and it appears to the Commission that a barrister, solicitor or agent is responsible, the Commission may, after giving the barrister, solicitor or agent a reasonable opportunity to be heard:

- (a) disallow the costs as between the solicitor or agent and the solicitor's or the agent's client;
- (b) disallow the costs as between the barrister and that barrister's instructing solicitor or as between the barrister and the client;

(c) direct the barrister, solicitor or agent to repay to the client costs which the client has been ordered to pay to any other party;

(d) direct the barrister, solicitor or agent to indemnify any party other than the client against costs payable by the party indemnified.

(2) Without limiting the generality of subrule (1), a barrister, solicitor or agent is responsible for default for the purposes of that subrule where any proceedings cannot conveniently proceed, or fail or are adjourned without useful progress being made, because of the failure of the barrister, solicitor or agent:

(a) to attend in person or by a proper representative;

(b) to file any document which ought to have been filed;

(c) to deliver any document which ought to have been delivered for the use of the Commission;

(d) to be prepared with any proper evidence or account; or

(e) otherwise to proceed.

(3) The Commission may, before making an order under subrule (1), refer the matter to the Registrar for enquiry and report..

(4) The Commission may order that notice of any proceedings or order under this Rule must be given to the client in such manner as may be specified in the order under this subrule.

(5) The term solicitor in this Rule includes the solicitor's agent,

Costs reserved

210. Where the costs of a motion under Rule 68 are reserved by the Commission, the costs so reserved shall, unless the Commission otherwise orders, be included in the final order for costs.

Costs of application or step within proceedings

211. Subject to this Part, the costs of any application or other step in any proceedings shall, unless the Commission otherwise orders, be deemed to be part of the costs of the cause of the party in whose favour the application or other step is determined and shall be paid and otherwise dealt with in accordance with the provisions of this Part.

Costs of application or step within proceedings where stood over to hearing

212. When a motion, application or other proceeding is ordered to stand over to the hearing and no order is made at the hearing as to the

costs of the motion, application or proceeding, the costs of both parties of the motion, application or proceeding shall be deemed to be part of their costs of the cause.

Extension of time

213. A party applying for an extension of time shall, unless the Commission otherwise orders, pay the costs of and occasioned by the application or any order made on or in consequence of the application.

Non-admission of fact

214. Where a party to any proceeding serves a notice disputing a fact under Rule 154 and afterwards that fact is proved in the proceeding, the party shall, unless the Commission otherwise orders, pay the costs of proof.

Discontinuance

215. Where pursuant to Part 19 a party to any proceeding discontinues the proceeding without leave as to whole or any part of the relief claimed against any other party, the discontinuing party shall, unless the Commission otherwise orders, pay the costs of the party against whom the discontinued claim was made incurred before service of notice of the discontinuance and the latter party may request the Commission or the Registrar to make an order accordingly.

Offer of compromise

216. (1) Upon the making of an order under Rule 168 (9), a party entitled to costs may, unless the Commission otherwise orders, have those costs assessed up to and including the day the offer was accepted.

(2) If a notice of offer contains a term which purports to negative or limit the entitlement to costs, that term shall, unless the Commission otherwise orders, be of no effect for any purpose under Part 23 or this Rule.

(3) Subrules (4)–(7) apply to an offer which has not been accepted at the time prescribed by Rule 168 (8).

(4) Where an offer is made by an applicant and not accepted by the respondent, and the applicant obtains an order on the claim to which the offer relates no less favourable than the terms of the offer, then, unless the Commission otherwise orders, the applicant shall be entitled to an order

against the respondent for costs in respect of the claim from the day on which the offer was made, assessed on an indemnity basis in addition to costs incurred before and on that day, assessed on a party and party basis.

(5) For the purpose of subrule (4), where the offer was made on the first or a later day of the hearing of the proceedings, then, unless the Commission otherwise orders, the applicant shall be entitled to costs in respect of the claim from 11 am. on the day following the day on which the offer was made, assessed on an indemnity basis, in addition to costs incurred before that time, assessed on a party and party basis.

(6) Where an offer is made by a respondent and not accepted by the applicant, and the applicant obtains an order on the claim to which the offer relates not more favourable than the terms of the offer, then, unless the Commission otherwise orders, the applicant shall be entitled to an order against the respondent for costs in respect of the claim up to and including the day the offer was made, assessed on a party and party basis, and the respondent shall be entitled to an order against the applicant for costs in respect of the claim thereafter, assessed on a party and party basis.

(7) For the purpose of subrule (6), where the offer was made on the first or a later day of the hearing of the proceedings, then, unless the Commission otherwise orders, the applicant shall be entitled to costs in respect of the claim up to 11 am. on the day following the day on which the offer was made, assessed on a party and party basis, and the respondent shall be entitled to costs in respect of the claim thereafter, assessed on a party and party basis.

(8) Where an applicant obtains an order for the payment of a remuneration, compensation or damages and:

- (a) the amount payable under the order includes interest or damages in the nature of interest; or
- (b) by or under any Act the Commission awards the applicant interest or damages in the nature of interest in respect of the amount,

then, for the purpose of determining the consequences as to costs referred to in subrules (4) and (6), the Commission shall disregard so much of the interest as relates to the period after the day the offer was made.

(9) For the purpose only of subrule (8), the Commission may be informed of the fact that the offer was made, and of the date on which it was made, but shall not be informed of its terms.

(10) Subrules (4) and (6) shall not apply unless the Commission is satisfied by the party making the offer that the party was at all material times willing and able to carry out what the party offered.

Continuance of interlocutory injunction

217. Where the Commission grants an interlocutory injunction and afterwards grants a further interlocutory injunction continuing the first injunction with or without modification, an order as to costs of the further injunction shall, unless the Commission otherwise orders, include the costs of the first injunction.

PART 28—PROCEEDINGS RELATING TO PROSECUTION AND CIVIL PENALTY

Application

218. (1) This Part applies only to proceedings before the Commission in Court Session.

(2) In this Part, proceedings for an offence include proceedings to recover a civil penalty.

Prosecutions

219. (1) Proceedings before the Commission for an offence (other than contempt) must, unless otherwise provided, be commenced by application for summons, must be accompanied by an affidavit verifying the allegations made in the application and must state:

- (a) the name and address of the person by whom the proceedings are brought (the prosecutor); and
- (b) the capacity in which the prosecutor is taking the proceedings; and
- (c) the name and address of the person against whom the proceedings are brought (the defendant); and
- (d) the Act and the section under which the application is made; and
- (e) the nature of the breach or offence which is alleged; and
- (f) particulars of any payment which it is alleged the defendant has failed to make, and whether an application is to be made pursuant to section 358 for an order in respect of those payments.

(2) The application must also be accompanied by a summons, addressed to the defendant, for signature by or on behalf of the Registrar.

Issue of summons

220. Where an application for a summons has been filed and it appears to the Registrar to be properly filed, the Registrar must issue the summons, commanding the defendant to appear before the Commission on the day and at the place specified.

Service of summons and affidavit verifying

221. (1) The prosecutor must serve the summons and a copy of the affidavit verifying promptly and not later than 5 days before the return day of the summons unless the Commission gives leave for a shorter period of service.

(2) Such service must be effected in the manner specified in Rules 104 (a) or (b), 105 (a), (b) or (c), 106 (2) (a), (b) or (c) or 107 (1) or (2).

(3) An affidavit of service of the summons or a notification of the non-service thereof must be filed not less than 3 days before the return day of the summons.

(4) The Registrar may give directions with regard to service or for substituted service in accordance with these Rules.

(5) Where a summons has not been served before the return date, the Registrar must, upon an application being made to the Registrar by the prosecutor and the lodging of that summons and another form of summons with the Registrar, issue a further summons for the attendance of the person summoned at such place and at such time on such date as may be specified therein.

Dismissal for want of prosecution

222. (1) Where the prosecutor fails to appear or otherwise does not proceed with the matter, the Commission may dismiss the same.

(2) Any matter which has been dismissed under this Rule may be restored to the list by the Commission on such terms as are deemed reasonable where the Commission is satisfied that such failure was due to misunderstanding or that there are other special circumstances.

Discontinuance and withdrawal of proceedings

223. Any proceedings under this Part may, with leave of the Commission, be discontinued or withdrawn in accordance with Part 19.

Amendment of process

224. (1) The Commission may, on the application of any party at any time during the proceedings or made, in writing, to the Registrar, at any time, allow an amendment to be made of any process upon such terms as to adjournment, the times within which any matter or thing may be done in connection with the proceedings, and service of notice of the amendment, as the Commission thinks fit.

(2) This power is additional to the power granted by section 362.

Motion for injunction

225. (1) A motion for an injunction under section 359 must be by motion on notice which must be served as directed by the Commission or the Registrar.

(2) Such motion may be endorsed on or annexed to the originating process and served therewith.

PART 29—CONTEMPT**Division 1—Preliminary****Application**

226. This Part (Rule 237 excepted) applies only to proceedings before the Commission in Court Session.

Interpretation

227. In this Part, “**offender**” means a person guilty or alleged to be guilty of contempt of the Commission.

Division 2—Contempt in the face or hearing of the Commission**Arrest**

228. Where it is alleged, or appears to the Commission on its own view, that a person is guilty of contempt of court, committed in the face of the Commission or within the hearing of the Commission, the Commission may:

- (a) by oral order direct that the offender be brought before the Commission; or
- (b) issue a warrant for the arrest of the offender.

Charge defence and determination

229. Where the offender is brought before the Commission, the Commission must:

- (a) cause the offender to be informed orally of the contempt charged; and
- (b) require the offender to make a defence to the charge; and
- (c) after hearing the offender, determine the matter of the charge; and
- (d) make an order for the punishment or discharge of the offender.

Interim custody

230. (1) The Commission may, pending disposal of the charge:

- (a) direct that the offender be kept in such custody as the Commission may determine; or
- (b) direct that the offender be released.

(2) The Commission may make a direction under subrule (1) (b) on terms, which may include a requirement that the offender give security, in such sum as the Commission directs, for the appearance of the offender in person to answer the charge.

Division 3—Motion or proceedings for punishment**Application**

231. This Division does not apply to a case in which the Commission proceeds under Division 2.

Procedure generally

232. (1) Where contempt is committed in connection with proceedings in the Commission, an application for punishment for the contempt must be made by notice of motion.

(2) Where contempt is committed, but not in connection with proceedings in the Commission, proceedings for punishment of the contempt must be commenced by application.

(3) Proceedings for contempt which have not been commenced in the appropriate manner may nevertheless be continued unless the Commission otherwise orders.

Statement of charge

233. A statement of charge (that is, a statement specifying the contempt of which the offender is alleged to be guilty) must be included or filed with the notice of motion or application.

Evidence

234. (1) Subject to subrule (2), the evidence in support of the charge must be by affidavit.

(2) The Commission may, on terms, permit evidence in support of the charge to be given otherwise than by affidavit.

Service

235. The notice of motion or application, the statement of charge and the affidavits must be served personally on the offender.

Arrest

236. Where:

- (a) notice of a motion for punishment of a contempt has been filed or proceedings have been commenced for punishment of a contempt; and
- (b) it appears to the Commission that the offender is likely to abscond or otherwise withdraw from the jurisdiction of the Commission,

the Commission may issue a warrant for the arrest and detention in custody of the offender until the offender is brought before the Commission to answer the charge, unless, in the meantime, security is given in such manner and in such sum as the Commission directs, for the appearance in person of the offender to answer the charge and to submit to the order of the Commission.

Motion or proceedings by the Registrar

237. (1) Where it is alleged, or appears to the Commission on its own view, that a person is guilty of contempt of the Commission, the Commission may, by order, direct the Registrar to apply by motion for, or to commence proceedings for, punishment of the contempt.

(2) Subrule (1) does not affect such right as any person other than the Registrar may have to commence proceedings for punishment of contempt.

Warrant

238. A warrant for the arrest or detention under this Part of an offender must be addressed to the Sheriff and may be issued under the hand of the Judicial Member or officer presiding in the Commission in Court Session directing the arrest or detention.

PART 30—MATTERS BEFORE THE REGISTRAR**Division 1—Preliminary****Interpretation**

239. In this Part, "**decision**" includes an order, opinion, direction, determination or certificate.

Powers

240. The Registrar may exercise the powers of a tribunal:

- (a) in respect of the matters mentioned in Schedule 3; and
- (b) in respect of any matter arising under the Rules; and
- (c) in respect of any matter remitted to the Registrar by the tribunal.

Decision or order

241. The Registrar must, on the disposal of any matter, give such decision or make such order as the nature of the case requires except where a tribunal or these Rules requires the matter to be disposed of in some other way.

Division 2—Reference and Removal**Reference**

242. Subject to the Act, the Registrar may, with or without an application by a party, refer any proceedings to a tribunal.

Removal

243. Subject to the Act, the tribunal, before the conclusion of any proceedings before the Registrar, may on its own motion or on application by a party, order that the proceedings be removed into a tribunal.

Disposal

244. Upon the reference of any proceedings to a tribunal under Rule 242 or the removal of any proceedings into a tribunal under Rule 243, the tribunal may:

- (a) hear and determine any matter in the proceedings in respect of which matter the proceedings were before the Registrar; or
- (b) determine any question arising in the proceedings and remit the proceedings to the Registrar with such directions as the tribunal thinks fit.

Division 3—General Powers and Duties

Mandatory order

245. The Commission may by order direct the Registrar to do, in any proceedings, any act relating to the duties of the office of Registrar.

Procedure before Registrar

246. (1) The Registrar may, in relation to any matter committed to the Registrar by the Act or referred to the Registrar by a tribunal:

- (a) summon any person to confer, give evidence, produce documents or other things or do all or any combination thereof; or
- (b) adjourn any hearing; or
- (c) amend or give leave to amend any process.

(2) Unless the Registrar otherwise directs, an application to the Registrar for any order or direction relating to procedural requirements under these Rules or for any exemption therefrom must be by notice of motion supported by affidavit and may be made *ex parte*.

Service of appointment before Registrar

247. Notice of an appointment to proceed upon any matter before the Registrar must be in the appropriate form or as the Registrar otherwise directs and, unless otherwise directed by the Registrar, must be issued and served as promptly as possible and at least 3 days before the time appointed.

PART 31—CONCILIATION UNDER SECTION 109

Application

248. This Part applies to proceedings under section 109.

Allocation generally

249. The President may allocate conciliation and judicial hearings separately.

Allocation of matter for conciliation

250. As soon as practicable after the parties have advised the Registrar at call-over that a matter is ready for hearing, or at such earlier time as the Registrar or the Commission may direct, the matter must be allocated to a Member of the Commission for conciliation in accordance with section 109.

Conduct of conciliation conferences

251. (1) A conciliation conference must be conducted:

- (a) as soon as practicable after the matter has been allocated to the Member for conciliation;
- (b) after reasonable notice to the parties; and
- (c) as a structured process in which the Member of the Commission endeavours, by all means the Member considers proper and necessary, to assist the parties so that:
 - (i) they may communicate effectively with each other about the issues in dispute; and
 - (ii) if agreement is reached, the agreement can be included in a consent order to be made in accordance with Rule 253.

Certificate of result of conciliation

252. (1) If at any time during a conciliation conference:

- (a) agreement is reached; or
- (b) the Member of the Commission conducting a conciliation forms the opinion that all reasonable attempts to settle the matter by conciliation have been made but have been unsuccessful,

that Member must issue a certificate to that effect.

(2) A Member must not proceed beyond a conciliation conference unless the matter has also been allocated to that Member for orders or for determination under Rule 253.

Allocation of matter after certificate issued

253. (1) Where a Certificate issued under Rule 251 indicates:

- (a) that agreement has been reached—the matter must be allocated to a Judicial Member for the purpose of making appropriate orders under section 174; or
 - (b) that the Member has formed the opinion that all reasonable attempts to settle the matter by conciliation have been made but have been unsuccessful—the matter must be allocated to a Judicial Member for determination.
-

1996—No. 441**SCHEDULE 1***General Instructions on Forms and Documents for Use Before the Commission, etc.***First page**

1. Form A of this Schedule sets out the way the first page of a document prepared by a party for use in a tribunal must be prepared, unless the Form in Schedule 2 indicates otherwise.

2. Instructions on how to set out the first page and the information it must contain are contained in Form A. You must follow these instructions.

Matter Number

3. Documents in any proceedings before a tribunal must show the serial number of the proceedings. For initiating process, this number will be allocated by the Registry. You must include this number on all subsequent documents filed.

Headings

4. Documents in any proceedings must have a heading, showing the proper name of the tribunal. These headings are:

For matters before:	Use
the Commission	“Before the Industrial Relations Commission of New South Wales”
the Commission in Court Session	“Before the Industrial Relations Commission of New South Wales in Court Session”
an Industrial Committee	“Before the” together with the full name of the Industrial Committee
the Contract of Carriage Tribunal	“Before the Contract of Carriage Tribunal”
the Industrial Registrar	“Before the Industrial Registrar**

Title

5. Documents in any proceedings should have a title which identifies the matter. The form of the titles are:

Type of Proceedings:	Form of Title
proceedings in relation to an award	“Re” together with the name of the award, the name of the applicant and an abridged statement of the nature of the proceedings
proceedings between parties	use the names of the parties, described as applicant or appellant and respondent or as the case may be (or as informant and defendant in prosecutions), together with an abridged statement of the nature of the proceedings

Type of Proceedings:	Form of Title
proceedings in which there is no other party and which does not relate to an award	"The application of" together with the name of the applicant and an abridged statement of the nature of the proceedings
proceedings which are initiated by the Commission	as directed by the Commission, or in the absence of such a direction, as directed by the Registrar
in any other case	as directed by the Registrar

6. You may use an abbreviation of the title of the proceedings (provided it is sufficient to identify the proceedings) but you must use the full title on any originating process or on any document to be served on a person who is not a party to the proceedings.

7. The Registrar may add to or alter the title of any document, filed or lodged in any proceedings. You will be advised if this happens and you should use the changed title thereafter.

Paper

8. You must use A4 size paper of durable quality and capable of receiving ink writing, unless the type of document renders this impracticable. If this is the case you should alert the Registrar before attempting to file the document.

Setting out

9. You must use one side of the paper only.

10. You must have a margin of not less than 25 millimetres on the left of the page.

11. You must leave a space of not less than 3 millimetres between the lines of writing.

12. Printing on the paper must be clear, sharp, legible and permanent. Documents which contain any blotting, erasure, or such other alteration may not be accepted if the alterations make it difficult to read.

13. You must not use carbon copies.

Address for service to be included

14. On any documents you file, you must include an address (including a daytime telephone number) where contact can be made with our and where material can be served on you. Form 1 shows where this information must go.

15. If you have a solicitor or agent acting for you, you must show the name, address, telephone number and facsimile number (if any) of the solicitor or agent, and where the address for service is the office of a solicitor or an agent who has an exchange box in a document exchange of Australian Document Exchange Pty Limited, the number of that box.

16. The address you show on the document as your address for service will continue to be used until notice of change of address is given. The form of that notice is set out in Schedule 2.

Signing documents

17. You, your solicitor or your agent must sign the documents you file unless otherwise the Form indicates or requires otherwise. Form B shows the style of signature, unless the Form in Schedule 2 indicates otherwise.

Other formal parts

18. Form C shows the style of Notice to the respondent calling for the filing of an appearance. Form D shows the style of the Appointment for Hearing.

Copies of documents to be filed

19. You will need copies of all documents you intend to file. The Registry will require the original, signed, document, and a number of copies. Unless the Registrar specifies or subsequently directs a different number of copies, the number of copies required will be set out below:

Type of Proceedings:	Number of Copies
General Application	one copy, unless the Form otherwise requires
Application for Award, Contract Determination or Enterprise Agreement	two copies
Application for Relief From Unfair Dismissal	two copies
Dispute Notice	original only
Prosecution	one copy
Appeals	three copies
Matters before a Full Bench	three copies, unless it is known that the Bench consists of more than three, in which case, the same number of copies as there are members of the Bench
Proceedings before the Contract of Carriage Tribunal	three copies

other parties, enough copies to serve every party and an additional one to attach to an affidavit of service.

1996—No. 441**Form A***(First page of a document)**(Leave clear a space of about 50 millimetres from the top of the page)***BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *(or other Heading as required by Schedule 1)***No** **of 1996***(Add title as required by
Schedule 1)**Describe the document,
eg***APPLICATION**
*(or. in the care of an
Affidavit)***AFFIDAVIT**
*(and show the name of
the deponent date of
swearing and for whom
filed)***J Smith**
31 March 1996
Filed for Applicant*(and in every document
continue)***Filed by** *(Name of
person, corporation,
organisation or other
body filing the document)***Contact name** *(Name of
person conducting the
matter)***Address**
Telephone
Facsimile
DX*(and if solicitors or
agents are acting, add)
by their agents***Name**
Address
Telephone
Facsimile
DX*(Do not describe the document here. The substance of the documents shall be written within this space. A margin of not less than 25 millimetres shall be kept clear on the left hand side of the page. The dividing line to the left hand side shall be about 75 millimetres from the left hand edge of the page.)**(Note: Documents should Be signed in accordance with Form B)*

Form B

Conclusion of documents for use by a party

(signature)

(Capacity in which signed, eg. applicant, respondent, Industrial Registrar).

Filed (dated, if not filed): (date) 19

(On originating process or notice of appearance add the full name of the solicitor or agent.)

Form C

Form of Notice to Respondent requiring Notice of Appearance to be filed

TO THE RESPONDENT (S):

(name each party affected by the application, order sought, etc).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

or

(1) The respondent is (*and/or, in an award application or where appropriate, or any other person interested in or affected who desires to take part in the proceeding are*) required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is not attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

1996—No. 441

- (3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (number).

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on *(date)* 19 .

Form D*Appointment for hearing*

TO: *(Name and address of persons affected)*

The Industrial Relations Commission of New South Wales* appoints

(date and time) 19 .

at *(address)* for *(mention/hearing)*

of this of this application *(or as the case may be)*.

†The parties who have entered an appearance will be advised orally if the date, time or place is altered. Any enquiries requiring the listing should be made from the Industrial Relations Commission's List Clerk in the Registry.

‡If there is no attendance by you or your agent, counsel or solicitor at the time and place specified in this Appointment or as notified to you subsequently, the proceedings may be heard and an order may be made in your absence.

(Where the time for service has been abridged, add:

The time before which the summons *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on 19 , *or as the case may require*).

Dated:

Industrial Registrar

* If Committee, insert full name of Committee

†—these paragraphs may be deleted if this notice is endorsed and completed on the originating document.

SCHEDULE 2
*Forms***General Note on Use of Forms**

1. You should also refer to, and follow, the General Instructions in Schedule 1. Note that Form A in Schedule 1 deals with the setting out of the first page, and Form B deals with the signature and conclusion of documents.

2. A reference in the Rules to an Application, Notice of Motion or Summons to Show Cause is a reference to the Forms referred to in the Table below, and set out in this Schedule.

3. Where the Table in this Part nominates a particular Form to be used, you must use that Form.

4. If the Rules and this list do not make a reference to a particular Form, use the Application form.

5. If the application Form does not appear appropriate, you should seek the guidance of the Registrar.

FORM NO.	DESCRIPTION	REFERENCE:	
		RULE	SECTION
1	Application—General Form	14	
2	Notice Of Motion	68	
3	Notice To Show Cause	15	
4	Notification Of Industrial Dispute	24	130, 332
5	Particulars Of Small Claim Made During Other Proceedings	20, 25	380
6	Application For Recovery Of Money	19	365, 366, 368
7	Application For Recovery Of Payments Not Fixed By Industrial Instrument	19	367
8	Claim For Relief From Alleged Unfair Dismissal—Form For Use By Unrepresented Individual		84
9	Claim For Relief From Alleged Unfair Dismissal—Form For Use By Registered Organisation		84
10	Claim For Relief From Alleged Unfair Dismissal—Form For Use By Individual Represented By Solicitor Or Agent		84
11	Undertaking Not To Proceed With Other Redress Relating To Dismissal		90
12	Summons For Relief—Unfair Contract	18	106 to 108
13	Summons For Relief—Unfair Building, Etc Contracts	18	111
14	Application For Approval Of Enterprise Agreement	41	34
15	Notification Of Proposed Enterprise Agreement		36
16	Application For Summons—Prosecution Or Recovery Of Civil Penalty	219, 220	357
17	Summons—Prosecution Or Recovery Of Civil Penalty	219, 220	357

18	Writ of Injunction	225	359
19	Application For Relief From Victimisation		213
20	Application For Recovery From An Officer Of A State Organisation		270
21	Application For An Inquiry Into An Election		252
22	Application To Establish An Industrial Committee		198
23	Application For Dissolution Of Committee Or For An Extension Of The Term Of A Committee	65	200
24	Agreement To Be A Member Of A Committee		
25	Notice Convening Sitting Of A Committee		Schedule 3. clause 9
26	Superannuation Appeal		153
27	Form Of Application For Leave		
28	Application For Leave To Appeal And Appeal	42	187, 188
29	Appeal Where Leave Not Required	42	
30	Application To Extend Time To Appeal	42 (2)	189
31	Application To State A Case	48	
32	Form Of Stated Case	50	197
33	Application To Industrial Registrar Re Procedural Requirements		
34	Application For Directions Or Orders	85	
35	Application To Waive Compliance With Procedural Requirements	88	
36	Notice In Reply	22	
37	Notice Of Appearance	75, 78	
38	Notice Of Discontinuance	141	
39	Summons To Confer	29, 90	165 (3) (a)
40	Summons To Give Evidence	90	165 (3) (b)
41	Summons For Production	90	165 (3) (c)
42	Summons To Produce And Give Evidence	90	165 (3) (b) and (c)
43	General Form Of Affidavit	115	
44	Affidavit Of Service	109	
45	Appointment Or Change Of Solicitor Or Agent	124, 126 to 130	
46	Notice To Produce	86	
47	Notice To Admit Facts Or The Authenticity Of Documents	154, 157	
48	Notice Disputing Facts Or The Authenticity Of Documents	154, 157	
49	Certificate Of Result Of Conciliation Conference	248	109
50	Certificate Of Attempted Conciliation		135
51	Reference To Full Bench Of The Industrial Relations Commission	21	193
52	Reference By Industrial Registrar To President	21, 242	195 (1)
53	Reference Of Matter From Industrial Registrar To Commission	21	195 (4)

54	Reference Of Function To Committee		199 (2) (a)
55	Direction To Committee To Discontinue Proceedings	145	199 (4)
56	Reference By Committee To Commission	21	201; Schedule 3, clause 9 (6)
57	Request To Australian Industrial Relations Commission		204
58	Delegation By Full Bench To Single Member		
59	Application For Reinstatement By Injured Worker		93
60	Application For Certificate Of Conscientious Objection To Membership Of An Organisation		212
61	Notification Of A Claim For Compensation		348
62	Answer To A Claim For Compensation		348
63	Notice of Appointment Before the Registrar	247	

(NOTE: FOR CONVENIENCE, THE FORMS FOLLOW SCHEDULE 3)

SCHEDULE 3

ADDITIONAL POWERS OF REGISTRAR

Powers of the Registrar, in addition to powers referred to in the Rules:

1. The following powers of a tribunal under the Rules set out in Column 1, subject to any restriction in Column 2:

Column 1: Powers	Column 2: Restrictions
Rule 12, Searches	
Rule 46, Appeal Books	
Rule 99, Service of Process	
Rule 85, Directions	Only where remitted to the Registrar by the tribunal
Rule 108, Time of Service	Only where remitted to the Registrar by the tribunal
Rule 110, Substituted Service	
Rules 111 and 112, Service outside State	Restricted to the giving of leave to serve summons under Service And Execution of Process Act, order under that Act
Rule 134, Extension and Abridgment	
Rule 162, 163, Orders for Discovery	Only where remitted by the Commission

2. On any matter remitted by the Commission, where the only question for hearing is the amount to be recovered and costs.

3. The hearing of any matter remitted by the Commission, where the only matter in question is the matter of costs.

4. Call-overs, directions hearings, readiness hearings, pre-hearing conferences, the recording of pleas and setting matters down before the Commission.

5. The return of summonses for production, where the matter is remitted by the Commission.
6. The making of consent judgments.
7. Accepting undertakings to the Commission, including undertakings to pay.
8. Certifying copies to be true copies.
9. The making of orders under the Evidence Act 1995.

1996—No. 441

Form 1
ApplicationBEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

APPLICATION For

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*Contact name *(Name of
person conducting the
matter)*Address
Telephone
Facsimile
DX*(and if solicitors or
agents are acting, add
by their agents)*Name
Address
Telephone
Facsimile
DX

A. The applicant claims:

1. *(state the nature of the claim or relief sought)*
2. *etc*

eg. M award, variation or rescission of an award, etc, as the case may be.

B. under:

*(state the section and name of the Act under which the Application is brought)*C. in the following terms: *(or. in terms stated in the attached schedule, as the case may be)*D. Award affected: *(state the name of the award. if any affected)*

E. Grounds and reasons:

1. { *state briefly but specifically the reasons for the application*
 2. {
- etc*

F. Particulars:

1. { *state briefly but specifically the matters. etc, on which reliance will be placed.*
2. {

G. Applicant:

1. Name
(state full name of applicant).
2. Capacity in which applicant applies
(eg. as an industrial organisation. etc. as the case may be).
3. Address (if corporation, registered office).
4. Solicitor or agent *(if any)*.
5. Address for service.

H. Respondents:

*(Name and address of those respondent to the application).**OR, as appropriate*H. The persons *(including corporations, organisations. etc)* who are interested in or may be affected by the application *(other than those included in the record maintained by the registrar pursuant to Rule 40(c))* are:*(state the names and addresses of such persons (if any) the applicant believes are so affected).**(signature)**(Capacity, in which signed. eg. applicant. respondent. Industrial Registrar).*

Filed (dated. if not filed): (dote) 19

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) The respondent is *(and/or; in an award application or where appropriate, or any other person interested in or affected who desires to take part in the proceeding are)* required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

1996—No. 441

Form 2 <i>Notice of Motion</i>
--

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC **of 1996**
*(Add Title as required
by Schedule 1)*

NOTICE OF MOTION
by

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
manner)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add
by their agents)*

Name
Address
Telephone
Facsimile
DX

A. The applicant will on *(date)* 199 at *(time)* am move the Commission at
(address) for:

set our motions to be made. eg. for directions, etc

1. {

B. Grounds and reasons:

state briefly but specifically the reasons for the application.

1. {

C. Application:

I. *Name*

*(state name of applicant, including capacity in which applicant
applies (eg. as an industrial organisation, etc. as the case may
be).*

2. *Address (if corporation, registered office).*

3. *Solicitor or agent.*

4. *Address for service.*

D. Respondent:

(Name and address of those respondent to the application).

I. *Name*

(state full name of applicant).

2. *Capacity in which applicant applies*

(eg. as an industrial organisation, etc as the case may be).

3. *Address (if corporation, registered office).*

4. *Solicitor or agent (if any).*

5. *Address for service.*

(signature)

*(Capacity in which signed. eg. applicant, respondent,
industrial Registrar).*

Filed (dated. if not filed): *(date)* 19

TO THE RESPONDENT(S):

(name each party affected by the above order sought).

IMPORTANT NOTICE:

(1) You are required to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice on you. See Part 12 of the Industrial Relations Commission Rules.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this motion. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add—

The time before which this motion is to be served has been abridged by the Court to 5.00 pm on (*date*) 19

(Add, where necessary form of Appointment for Hearing)

1996—No. 441

Form 3 <i>Summons to Show Cause</i>

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
 by Schedule 1)*

**SUMMONS TO SHOW
CAUSE**

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
 agents are acting, add
 by their agents)*

Name
Address
Telephone
Facsimile
DX

To:
 (name)

You are hereby summoned to appear before the Industrial Relations Commission at *(state address at which attendance required)* on *(date)* 19 at *(time)* am/pm to show cause why:

(State briefly but specifically the nature of the application to be made).

This summons is issued on:

- * the application of ... *(insert name and address of applicant for summons)*
- * the direction of the Commission

Dated:

Industrial Registrar

IMPORTANT NOTICE:

(1) You are required to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this summons on you. See Part 12 of the Industrial Relations Commission Rules.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this application or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Commission List Clerk, telephone (number)

(where the time for service has been abridged, add—

The time before which this summons is to be served has been abridged by the Commission to 5.00 pm on *(date)* 19),

*—delete as appropriate

1996—No. 441

Form 4
Notification to Industrial Registrar of Industrial dispute Pursuant to section 132

Note: (1) This form sets out the minimum information required by a Notification of an Industrial Dispute. You need not follow the form set out below, but you **MUST** give the information required by this form.
 (2) This notification may, but need not, be in the form required by Form A of Schedule 1. It may also be given in the form of a letter (preferably on letterhead identifying the notifier).
 (3) Rule 27 allows Notifications to be given to the Registrar in a variety of ways. Where the Notification is not given in writing, however, you are required to confirm the Notification in writing as soon as possible.
 (4) You need to serve a copy of the notification (or its confirmation) on the other parties to the dispute.
 (5) Part 5 of the Industrial Commission Rules (Rules 24 to 29) deals with Dispute notifications, and you should refer to those Rules.

1. Name:
(State full name of notifier)
2. Address:
(Give full address details, including your postal address, telephone number; facsimile number and DX number if applicable.)
3. Capacity of notifier:
(State whether notifier is an industrial organisation, an employer; a person who is or is likely to be the subject of a secondary boycott in connection with the dispute or a State peak council, or, in the case of a dispute falling under section 332, an association of contract carriers, an association of contract drivers, a bailor of a public vehicle or a principal contractor)
4. The question, dispute or difficulty concerns the following industrial matters:
(set out briefly but specifically, in numbered paragraphs, particulars of the question, dispute or difficulty).
5. The award, agreement or determination which applies to the employees, etc is:
(State any industrial instrument which covers those involved in the dispute or which might be relevant to the determination of the dispute).
6. The person to contact on behalf of the notifier is:
(Give name, address (if different to that of the notifier) and telephone numbers of the person to contact about this dispute.)
7. The other persons affected by or involved in this question, dispute or difficulty are:
(name and address (including telephone numbers and contact names, if known) of all other persons who are or may be affected by the question, dispute or difficulty).
(Add if appropriate)
8. This notification involves the dismissal or threatened dismissal of an employee and
 - * an application will be made separately under "section 84 / *section 93, or
 - *† the notifier will be seeking orders in the dispute hearing that *(set out orders sought)*

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Form 4 *continued*

*— *delete as appropriate*

†— *where the notifier intends to seek a reinstatement order, Rule 26 requires that particulars of the claim be served promptly after notification of the dispute, unless an application under the relevant section is filed.*

9. An application under section 380 for an order against (*state which party to the dispute*) in respect of a small claim will be made during the hearing‡.

‡— *where the notifier intends to seek such an order; Rules 20 and 25 require that particulars of the claim in Form S be filed and served promptly after notification of the dispute.*

Dated:

Signed:

Notifier

To the Industrial Registrar,
Sydney.

Form 5
Particulars of small Claim Under Section 379 Made During Other Proceedings

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. WC of 1%
If you have already commenced other proceedings, this number and title is the same as the number of those proceedings (Add Title as required by Schedule 1)

**PARTICULARS OF
SMALL CLAIM**

Filed by *(Name of person, corporation, organisation or other body filing the document)*

Contact name *(Name of person conducting the matter)*

**Address
Telephone
Facsimile
DX**

(and if solicitors or agents are acting, add by their agents)

**Name
address
Telephone
Facsimile
DX**

- A.** The applicant
Full name, and, if not already given, address
- B.** claims that
(Name of party alleged to be liable to pay)
- C.** is liable to pay to
(the applicant, or if not the applicant, the name of the person or persons on whose behalf the claim is made. If necessary, attach a schedule of names.)
- D.** the amount of \$
(State full amount claimed. If more than one individual, set out a schedule showing total amount claimed for each person)
- E.** under the following industrial instruments:
(State the Acts, awards, agreements or determinations or contracts under which it is claimed the money is due. Include section or clause numbers where relevant.)
- F.** the amount claimed is calculated as follows:
(Set out how the amount claimed was calculated. If more than one individual, set out a schedule showing those details for each person.)
Include, where relevant, the dates between which underpayment is alleged to have occurred and any relevant award classification for the employees covered by the claim)
(signature)
(Capacity in which signed, eg. applicant).

Filed (dated, if not filed): (date) 19

1996—No. 441

Form 6

Application for Recovery of Money Under Section 365, 366 or 368

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES

No. IRC of 1996

*(Add Title as required
by Schedule 1)*APPLICATION For
RECOVERY OF
MONEY**Filed by** *(Name of
person, corporation,
organisation or other
body filing the document)***Contact name** *(Name of
person conducting the
matter)***Address
Telephone
Facsimile
DX***(and if solicitors or
agents are acting, add)
by their agents***Name
Address
Telephone
Facsimile
DX**

A. The applicant

- I. Name *(name of person on whose behalf the order is sought)*
2. Address
3. Solicitor or agent *(include details of any solicitor or agent acting, including where an individual organisation is acting, the name of the secretary or other authorised officer taking action)*
4. Address for service

B. Claims an order that:

(FULL Name and address of person liable to pay the amount claimed)
here called "the respondent"C. Is liable to pay the applicant the sum of \$ *(amount claimed)*.

D. The particulars of the claim are:

- 1.
2. *(State briefly but specifically the particulars of the claim etc.)*

including:

- (a) the award, agreement or other industrial instrument under which it is claimed the amount became due (section 365);*
- (b) details of how it is alleged the amounts became due;*
- (c) details of how the amount is calculated;*
- (d) details of any contract related to the claim (section 366);*
- (e) details of superannuation funds. etc (section 368.)*

***E** The applicant *elects / *does not elect to have this application dealt with as a small claims application under section 379.

* delete as appropriate

*(signature)
(Capacity, in which signed, eg. applicant, respondent,
Industrial Registrar).*

Filed (dated, if not filed): (date) 19

1996—No. 441

Form 6 *continued*

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) The respondent is *(and/or, in an award application or where appropriate, or any other person interested in or affected who desires to take part in the proceeding are)* required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 7

Application for Recovery of Payments Not Fixed by Industrial Instrument Under Section 367

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION

No. IRC of 1996

*(Add Title as required
by Schedule 1)*APPLICATION For
RECOVERY OF
PAYMENTS UNDER
SECTION 367 of the
Industrial Relations Act
1996Filed by (Name of
person, corporation,
organisation or other
body filing the document)Contact name (Name of
person conducting the
matter)Address
Telephone
Facsimile
DX*(and if solicitors or
agents are acting, add)
by their agents*Name
address
Telephone
Facsimile
DX

A. The applicant

1. Name *(name of person on whose behalf the order is sought)*
2. Address
3. Solicitor or agent *(include details of any solicitor or agent acting, including where an industrial organisation is acting, the name of the secretary or other authorised officer taking action)*
4. Address for service

B. Applies for an order to recover as remuneration for work done the sum of \$
(amount claimed):

C. From:

*(FULL Name and address of person liable to pay the amount claimed) here
called "the respondent"*

D. The particulars of the claim are:

*(State briefly but specifically the particulars of the claim
etc.)**including:*

- (a) details of the work to which the application relates;*
- (b) the price or rate which is argued should apply to the work;*
- (c) the award, agreement, determination or other industrial instrument applicable to other work done by the employee;*
- (d) details of how it is alleged the amounts became due,*
- (e) details of how the amount is calculated.)*

E. Reasons why it is just and equitable for the employer to remunerate the
person for the work concerned:*(Set out the reasons briefly but specifically.)**F. The applicant elects / *does not elect to have this application dealt with as a
small claims application under section 379.

* delete as appropriate

*(signature)**(Capacity in which signed. eg. applicant. applicant's
solicitor)*

Filed (dated. if not filed): (date) 19

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) The respondent is *(and/or, in an award application or where appropriate, or any other person interested in or affected who desires to take part in the proceeding are)* required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form continued 8

C. ABOUT YOUR WORK

C1] When did you commence work for this employer? _____ / _____ /19		
C2] What NSW industrial award or registered agreement do you/did you work under? Award/Agreement _____		
C3] What is/was your award or agreement classification? _____		
C4] What is/was your actual occupation (if different to C2 above)? _____		
C5] What was your average weekly rate of pay over the six months prior to the date of dismissal/threatened dismissal? \$ _____ per week		
C6] Were you employed:	Full time <input type="checkbox"/>	Part time <input type="checkbox"/>
	Casual <input type="checkbox"/>	
	as an adult employee <input type="checkbox"/>	as a junior employee <input type="checkbox"/>
C7] Are you a member of an industrial union registered in New South Wales?		No <input type="checkbox"/> (Go to Part D)
Yes <input type="checkbox"/>	Name of union: _____	
C8] Is the union representing you?		Yes <input type="checkbox"/> No <input type="checkbox"/>

D. ABOUT YOUR CLAIMS AND ABOUT POSSIBLE COMPENSATION

D1] Have you asked your employer to reinstate you?	Yes <input type="checkbox"/> (Go to Question D2)	No <input type="checkbox"/> (Go to Question D3)
D2] Date of request(s)	_____ / _____ /19	
D3] Will you be asking for orders:	(a) that a threatened dismissal should not take place <input type="checkbox"/>	(b) for reinstatement or re-employment? <input type="checkbox"/> (See Question D4)

Form 8 *continued*

If you have been dismissed, but the Member of the Industrial Relations Commission hearing your claim considers that it would be impracticable to reinstate you or to order your re-employment, you **MAY** be eligible to seek compensation. Section 89 of the *Industrial Relations Act* limits this to “an amount of compensation not exceeding the amount of remuneration of the applicant during the period of 6 months immediately before being dismissed”.

D4] If the Commission considers that it would not be practicable for you to return to your former employment, will you be seeking compensation from your former employer?	Yes <input type="checkbox"/> (see Note 1)	No <input type="checkbox"/>
D5] Do you claim that your former employer owes you any further money, for example, for work done, under the award, for Annual Holidays, or for Long Service Leave?	Yes <input type="checkbox"/> (see Note 2)	No <input type="checkbox"/>

NOTE:

(1) If you answered Yes to this last question, you should attach a separate sheet setting out, as best you can, the amount of compensation (limited as above) you would be seeking and the way in which you have calculated that amount. You should also set out the reasons why you think you should be awarded compensation.

(2) If there are payments owing under industrial instruments (which includes awards, agreements, the Annual Holidays Act, and the Long Service Leave Act) and for work done in some other circumstances, you may be able to claim that money by making a small claim under section 379 of the Act in the hearing. If you think this will apply to you, you should get some advice. You will also need to obtain from the Registry the Form “**Particulars of Small Claim under section 379 made during other proceedings**” (Form 5) and to complete that form and serve it on your employer.

E. LATE CLAIMS:

E1] Have more than 21 days passed since you were dismissed, OR, will it be more than 21 days since you were dismissed by the time this form reaches the Industrial Registry?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
---	------------------------------	-----------------------------

NOTE: If you answered **Yes** to this last question, you should attach a separate sheet setting out:

- 1: The reasons why you were late in asking for relief from unfair dismissal
- 2: If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)
- 3: Details of any hardship that would be caused to you if this application were rejected
- 4: Any conduct by the employer that you think should be taken into account
- 5: Any other matters you think should be taken into account.

F. WHAT YOU MUST ATTACH:

1. A statement of the circumstances of your dismissal, setting out as best you can remember:

(i) What was said when you were dismissed (or threatened with being dismissed)

and

(ii) any reasons given for your dismissal either on the day of the dismissal or at any other time.

and

2. If reasons for your dismissal were given in writing, a copy of those written reasons.

and

3. A statement setting out:

(i) all the grounds on which you say the dismissal is (or the threatened dismissal would be) harsh, unreasonable or unjust.

(ii) a brief explanation of the above grounds.

and

4. If you answered "Yes" to questions **D4** (compensation), **D5** (small claims) or **E1** (late application), the Statements or Forms required by those parts.

NOTE: An application must comply with the above requirements in order to be filed

G. WHERE YOU CAN BE CONTACTED:**(1) WHERE DOCUMENTS CAN BE SERVED ON YOU:**

You will need to supply an address where documents and telephone advice about the hearing can easily reach you. If you have a solicitor acting for you, or a union is representing you, that address can be the address of the solicitor or the union. Set out the address below.

Address		
	Postcode	Telephone ()

(2) WHERE YOU CAN BE REACHED BY TELEPHONE:**Daytime Telephone Number where you may be contacted: ()**

Note: The Industrial Registry has trained officers available to help applicants (especially those not represented by a solicitor, agent or organisation) in completing the form and ensuring that the information is sufficient. For applicants filing in person, this will be done when you attend the Registry to lodge your application. If you are outside the metropolitan area, or for any other reason you cannot attend the Registry to file your application, this advice will be given over the telephone. For this reason, if you are not intending to lodge the documents in person, please give a daytime telephone contact number where you may be reached. Failure to provide this may mean that if there are any problems with your documents they will have to be returned by post, which may result in your application being out of time. If this occurs, you will need to also lodge the Statement required by Part E.

H. WHAT YOU MUST DO

1. Complete this form (typing or printing clearly in ink), making sure that all questions are answered.
2. Attach the documents required by Part F
3. Consider whether you should complete the Form called “Undertaking Not to Proceed With Other Remedies Relating to Dismissal”, which should be attached to this Form. THIS IS IMPORTANT AND YOU SHOULD READ THE INFORMATION ATTACHED TO THAT FORM.
4. Complete the following Affidavit. You will require the services of a Justice of the Peace. Both you and the Justice of the Peace should sign each page of this form and each page of any documents you are including.

Form 8 *continued*

On
Date

I,
Full Name

of
Full Address

say on oath that:

- 1. I am the applicant for relief from an unfair, unreasonable or unjust dismissal.
- 2. The information given by me in this application and in the attached * pages is, to the best of my knowledge and belief, true in every detail.

* — insert number of pages of documents attached.

SWORN at

.....
(City, Suburb etc)

.....
(Your Signature)

Before Me:

.....
(Signature of Justice of the Peace)

Justice of the Peace

Printed Name of Justice:

Note: Each page of this application and of all the attachments must be signed and witnessed

5. Lodge this form and all attachments (plus four copies) at the Ground Floor Counter at the Office of the Industrial Registrar, 50 Phillip Street Sydney. You must do this within 21 days of your dismissal.

6. You will be given two copies of this form back—one copy for you to keep and one copy which you MUST give to your employer/former employer (personally or by post) as soon as possible.

7. You and the employer will be told later by the Industrial Registry of the time and the place where this matter will be heard. (If you settle the matter or wish to withdraw it before this happens **you must** notify the Industrial Registry **in writing.**)

Form 8 *continued*

8. YOU MUST SERVE A COPY OF THIS FORM AND ALL ATTACHMENTS ON YOUR EMPLOYER OR FORMER EMPLOYER AS SOON AS POSSIBLE AFTER FILING THIS FORM AT THE REGISTRY

TO THE RESPONDENT(S):

(name the employer or former employer)

.....

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry, 50 Phillip Street Sydney, within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission Registry, telephone *(number)*

PLEASE DO NOT DETACH THIS PAGE

Filed: 19

Signature:

for

Industrial Registrar

Form 9
Claim for Relief from Alleged Unfair Dismissal Under Section 84
(REGISTERED ORGANISATION)

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

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

**APPLICATION (By
Organisation) For Relief
From Alleged Unfair
Dismissal**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add
by their agents)*

**Name
Address
Telephone
Facsimile
DX**

- A.** Name of Organisation:
(State full registered name)
- B.** seeks
(State either an order that the employee not be dismissed, if dismissal has not yet taken place, or relief from unfair dismissal, if dismissal has taken place. If the application is on behalf of a group of employees, some of whom fall into both categories, attach a Schedule distinguishing the two groups)
- C.** on behalf of the employee(s) set out below *(or, in the attached Schedule marked " ")*
(Give Full name, address, telephone number and date of birth)
- D.** who were threatened with *dismissal / *dismissed on *(date)*
- E.** The employer* is / *was:
(Give Full name and registered address)
- F.** The workplace address *is / *was:
(Give address where work was carried out)
- G.** The nature of the employers business is:
(Give a description of the industry)
- H.** The Organisation will rely on the particulars in the attached Statement of Particulars.
(The particulars listed below MUST be included or the application may not be accepted for filing)
Add I only where appropriate
- I.** An application under section 380 for an order against the employer in respect of a small claim will be made during the hearing.
(Rule 20 requires particulars to be given and served in Form 5. These particulars could instead be added to the Statement of Particulars.)
- J.** The Contact Officer for the Organisation making this application is:
(State Name and contact details, including daytime and out-of-hours telephone number)
- K.** Address for service is:
(This should be the registered office of the organisation or the address of its solicitor.)

(signature)
(Capacity in which signed, eg. union secretary, solicitor for union, etc.)

Filed (dated, if not filed): (date) 19

* delete as appropriate

TO THE RESPONDENT(S):

(name the employer or former employer).

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry, 50 Phillip Street Sydney, within 7 days of service of this notice *(or as the case may be)* on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission Registry, telephone *(number)*

STATEMENT OF PARTICULARS

You MUST include the following particulars in the application. Where numbers of employees are involved, it may be more convenient to give the particulars in the form of Schedules)

Part 1: About the Work

- (1) Date individual commenced employment?
- (2) What NSW industrial award or registered agreement is / was applicable?
- (3) The correct award or agreement classification?
- (4) The actual occupation (if different to (3))?
- (5) The average weekly rate of pay over the six months prior to dismissal?
- (6) Was employment full time, part-time, or casual?
- (7) Was the individual an adult or junior?

Part 2: About the Dismissal

- (1) Were reasons given for the dismissal or threat of dismissal?
(*set out the reasons given. If given in writing, add, A copy of the reasons is attached marked " "*)
- (2) The circumstances of the dismissal or threatened dismissal?
 1. { (*set out, in numbered paragraphs, the circumstances of the dismissal, including what was said at the time and any background information*)
 2. { (*which will assist in understanding the dismissal*)

Part 3: About Grounds for Relief

- (1) The grounds on which it is contended that the dismissal or threatened dismissal is unfair?
 1. { (*set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc, on which*)
 2. { (*reliance will be placed*)

Part 4: About the Orders sought

- (1) What orders are you seeking?
(*State the orders sought*)
- (2) If the Commission considers that it would not be practicable for the individual to be reinstated will compensation be sought?
(*If Yes, set out (i) the amount of compensation that will be sought, (ii) how that amount was calculated and (iii) briefly but specifically the grounds on which compensation will be sought*)

Part 5: If This Application Is Late

If more than 21 days passed since the dismissed, OR, it will be more than 21 days since the dismissal by the time this application is filed

- (1) The reasons why you were late in asking for relief from unfair dismissal
- (2) If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)
- (3) Details of any hardship that would be caused to the individual if this application were rejected
- (4) Any conduct by the employer that should be taken into account
- (5) Any matters that should be taken into account.

Part 6: If there is more than one remedy

Consider whether the employee should complete the Form called “Undertaking Not to Proceed With Other Remedies Relating to Dismissal”, which should be attached to this Form. If necessary, file that form with this application

Part 7: Small Claims

(If appropriate, the particulars of any small claim under section 379 (in the form required by Rule 20 and Form 5) can be added here)

Form 10
Claim for Relief from Alleged Unfair Dismissal Under Section 84
(INDIVIDUAL REPRESENTED BY SOLICITOR OR AGENT)

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

No. IRC of 1996

*(Add Title as required
 by Schedule 1)*

**APPLICATION (By
 Represented Individual)
 For Relief From
 Alleged Unfair
 Dismissal**

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

**Address
 Telephone
 Facsimile
 DX**

*(and if solicitors or
 agents are acting. add)
 by their agents*

**Name
 Address
 Telephone
 Facsimile
 DX**

A. Name of Applicant:

(Give Full name, address, telephone number and date of birth)

B. seeks

(State either an order that I not be dismissed, if dismissal has not yet taken place, or relief from unfair dismissal, if dismissal has taken place.)

C. I was threatened with *dismissal /* dismissed on

(date)

D. The employer* is / * was:

(Give Full name and registered address)

E. The workplace address * is / * was:

(Give address where work was carried out)

F. The nature of the employers business is:

(Give a description of the industry)

G. I will rely on the particulars in the attached Statement of Particulars.

(The particulars listed below MUST be included or the application may not be accepted for filing)

Add H only where appropriate

H. An application under section 380 for an order against the employer in respect of a small claim will be made during the hearing.

(Rule 20 requires particulars to be given and served in Form 5. These particulars could instead be added to the Statement of Particulars.)

I. The Solicitor or Agent acting for me is:

(State Name and contact details)

J. Address for service is:

(The address of the solicitor, etc.)

(signature)

(Capacity in which signed. eg. solicitor, etc.)

Filed (dated, if not filed): (date) 19

*delete as appropriate

TO THE RESPONDENT(S):

(name the employer or former employer)

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry, 50 Phillip Street Sydney, within 7 days of service of this notice *(or as the case may be)* on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission Registry, telephone *(number)*

STATEMENT OF PARTICULARS

You MUST include the following particulars in the application.

Part 1: About the Work

- (1) Bate applicant commenced employment?
- (2) What NSW industrial award or registered agreement is / was applicable?
- (3) The correct award or agreement classification?
- (4) The actual occupation (if different to (3))?
- (5) The average weekly rate of pay over the six months prior to dismissal?
- (6) Was employment full time, part-time, or .casual?
- (7) Was the individual an adult or junior?

Part 2: About the Dismissal

- (1) Were reasons given for the dismissal or threat of dismissal?
(*set out the reasons given. If given in writing, add, A copy of the reasons is attached marked " "*)
- (2) The circumstances of the dismissal or threatened dismissal?
 1. { (*set out, in numbered paragraphs, the circumstances of the dismissal, including what was said at the time and any background information*)
 2. { (*which will assist in understanding the dismissal*)

Part 3: About Grounds for Relief

- (1) The grounds on which it is contended that the dismissal or threatened dismissal is unfair?
 1. { (*set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc, on which*)
 2. { (*reliance will be placed*)

Part 4: About the Orders sought

- (1) What orders are you seeking?
(*State the orders sought*)
- (2) If the Commission considers that it would not be practicable for the applicant to be reinstated will compensation be sought?
(*If Yes, set out (i) the amount of compensation that will be sought, (ii) how that amount was calculated and (iii) briefly but specifically the grounds on which compensation will be sought*)

Part 5: If This Application Is Late

If more than 21 days passed since the dismissed, OR, it will be more than 21 days since the dismissal by the time this application is filed

- (1) The reasons why you were late in asking for relief from unfair dismissal
- (2) If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)
- (3) Details of any hardship that would be caused to the applicant if this application were rejected.
- (4) Any conduct by the employer that should be taken into account
- (5) Any other matters that should be taken into account.

Part 6: If there is more than one remedy

Consider whether the applicant should complete the Form called “Undertaking Not to Proceed With Other Remedies Relating to Dismissal”, which should be attached to this Form. If necessary, file that form with this application

Part 7: Small Claims

(If appropriate, the particulars of any small claim under section 379 (in the form required by Rule 20 and Form S) can be added here)

Form 11 <i>Undertaking not to proceed with other redress relating to Dismissal</i>
--

Industrial Relations Act 1996

s.90

**UNDERTAKING NOT TO PROCEED WITH OTHER REDRESS RELATING
TO DISMISSAL**

WHEN YOU NEED THE ATTACHED FORM:

Some employees are covered by more than one law relating to their employment. If you are making a claim for relief relating to unfair dismissal, **AND** you are covered by some other Act or statutory instrument which also provides for redress in relation to the dismissal or threatened dismissal or which provides for the holding of an inquiry relating to such dismissal, s.90 of the *Industrial Relations Act 1996* provides that your claim for relief under the Industrial Relations Act must be rejected if you have already commenced proceedings under that other Act or statutory instrument. Also, even if you have not commenced proceedings under that other Act, **the Claim for Relief must be rejected if you have not lodged a written undertaking not to proceed under that Act or instrument.** Typically, people in Government or semi-government employment (including Local Government) may have such rights but there may well be others.

If you believe you may be covered by such an Act or statutory instrument you should complete this form and file it with your Claim For Relief Form.

If you are unsure, please check with the Industrial Registry on (02) 9258 0008.

You only need to file the original of this form although you may wish to keep an extra copy for your own records. Inquiries should be made to the Industrial Registry on (02) 9258 0008).

The form should be typed or completed in clear printing in ink.

Form 11 continued

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

No. IRC of 1996

(Add Title as required by Schedule 1)

I Name

undertake not to proceed for redress under, or seek an inquiry under, the

State name of Act or statutory, instrument giving you the alternative rights) relating to my dismissal or threatened dismissal on

date of dismissal)

SIGNED:

(Signature of Applicant for Relief from Unfair Dismissal)

DATE: 19

UNDERTAKING Not to Proceed With Other Redress Relating to Dismissal

Filed by (Name of person,corporation, organisation or other bodyfiling rhe document)

Contact name (Name of person conducting rhe matter)

Address Telephone Facsimile DX

(and if solocirors or agents are acting, add by their agents

Name Address Telephone Facsimile DX

Form 12
(Summons For Relief Under Section 106 (Unfair Contract))

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**SUMMONS FOR
RELIEF
Under Section 106**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant

(name, address and occupation)

Whose address for service is

(address)

Claims:

- (1) An order declaring void in whole ab initio *(or as may be claimed)* the contract or arrangement *(specify the contract or arrangement or condition or collateral arrangement in respect of which the application is made)*
- (2) An order that *(specify any other orders claimed)*

B. Grounds:

- 1. { *(A brief but specific statement of the grounds of the application)*
- 2. {

C. The award, agreement or determination (if any) by reference to which the claim or any part of it is based:

D. Particulars of the manner in which any amount claimed is calculated:

E. The persons against whom relief is claimed (the Respondents):

(names and addresses)

(signature)

(Capacity in which signed, eg. applicant, applicant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT (S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 13
(Summons For Relief Under Section III—Unfair Building, etc Contacts)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**SUMMONS FOR
RELIEF
Under Section 111**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

- A. Applicant *(name, address and occupation)*
- B. Secretary of *(name of industrial organisation)*
- C. Address for service
- D. Industry or calling in which the members of the union are employed:
- E. Work to which the application relates:
- F. Contract under or in pursuance of which it is alleged the work is being or is likely to be carried out or performed:
- G. Grounds
1. { *(A brief but specific statement of the grounds of the application, including the respects in which it is alleged the contract is unfair or is harsh or unconscionable or is against the public interest)*
 2. {
- H. Persons or bodies against whom an order is sought or other persons or bodies who or which have an interest in the matters to which the proposed order relates:
- (names and addresses)*
- (signature)*
(Capacity in which signed. eg. applicant. applicant's solicitor).

Filed (dated, if not filed): (date) 19

Form 13 *continued*

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) You *(and, where appropriate, or any other person interested in or affected who desires to take part in the proceeding are)* are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on *(date)* 19 *()*.

(Add, where necessary): form of Appointment for Hearing)

Form 14
Application for Approval of Enterprise Agreement

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

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

**APPLICATION FOR
APPROVAL OF
ENTERPRISE
AGREEMENT**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add
by their agents)*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant seeks the approval of the Industrial Relations Commission for the Enterprise Agreement entitled:

(name of Agreement)

(a copy of which is attached)

B. Made Between the following Parties *(or, the Parties in the attached Schedule):*

(1) The employer(s)

(name, and address of employer parties)

and

(2) The organisation(s)

(name, and address of industrial organisation parties)

or

(2) The employees

(name, and address of employee parties)

In each case, include a contact name and address so that Notice of the hearing can be given to all parties

C. The attached Statement of Particulars sets out details of this agreement.

(The application may not be accepted if this Statement is not completed fully)

D. The applicant

1. Name *(Full name)*

2. Capacity in which applicant applies *(eg, employer, organisation, peak council)*

3. Address

4. Solicitor or agent *(include details of any solicitor or agent acting, including where an industrial organisation is the applicant the name of the secretary or other authorised officer acting as contact officer for the agreement)*

5. Address for service

(signature)

(Capacity, in which signed, eg, applicant, secretary of State peak council, etc).

Dated: (date) 19

NOTE: A copy of this application, the Statement of Particulars and the Affidavit required by Rule 41 should be served on any parties to the agreement who are not signatories to this application.

TO THE PARTIES:

(name each party to the agreement).

(1) Application has been made to the Commission for approval of the attached enterprise agreement. You are listed as a party to that agreement. Please ensure that your address and contact details are correct, as these will be used to notify you of the hearing.

(2) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(Add, where necessary, form of Appointment for Hearing)

STATEMENT OF PARTICULARS

- (1) The nominal term of the agreement is:
- (2) Does the agreement vary an earlier enterprise agreement? If so
 - (a) What is that agreement number?
 - (b) When does that agreement expire?
- (3) What awards, former industrial agreements or other instruments apply to the work covered by the proposed agreement? (*Set out names in full*)
- (4) Does the agreement cover:
 - (a) employees of a single employer?
 - (b) employees of two or more associated employers? (if so, give details of association)
 - (c) employees engaged in a project? (if so, give details of the project, including its expected life)
 - (d) public sector employees?
- (5) Does the agreement cover all employees?
- (6) If the agreement is with individual employees:
 - (a) When was notice given to the Industrial Registrar that an agreement was proposed or under negotiation? Give Registration Number, if known.
 - (b) Give details of the secret ballot to approve the agreement, including the date of the ballot, the method of voting, the name and address of the returning officer and the results of the ballot.
- (7) (*For statistical purposes only. An estimate is acceptable*)
 - (a) What percentage of employees covered by the Enterprise Agreement are female?
 - (b) What percentage of employees covered by the Enterprise Agreement are from a Non English Speaking background?

NOTE: Rule 41 provides:

41. (1) An application for approval of an enterprise agreement must be accompanied by an affidavit shortly stating:

- (a) the award or awards, if any, over which the agreement will prevail if approved, or any agreement which will be rescinded and replaced by the agreement, if approved;
- (b) the basis upon which it is contended that:
 - (i) the agreement complies with relevant statutory requirements, including the Anti-Discrimination Act 1977, and
 - (ii) the agreement does not, on balance, provide a net detriment to employees covered by the agreement when compared with the aggregate package of conditions of employment which would otherwise apply under applicable awards, and

Form 14 <i>continued</i>

- (iii) the parties understand the effect of the agreement, and
 - (iv) the parties did not enter into the agreement under duress, and
 - (v) the agreement complies with any principles set by the Commission under section 33, or, if the agreement does not meet those requirements, that any departure from those principles does not prejudice the interest of any of the parties to the agreement; and
- (c) a comparison of conditions of employment under the agreement and those which would otherwise apply under relevant awards, or if there are no such awards, under the relevant employment conditions.
- (2) Where the agreement does not cover all employees of the employer, the affidavit must also state the basis on which it is contended that the Commission may approve the agreement under section 35 (2).

1996—No. 441

Form 15 <i>(Notification of Proposed Enterprise Agreement)</i>
--

To: The Industrial Registrar:

Notice is hereby given, pursuant to section 36 of the *Industrial Relations Act 1996* that an enterprise agreement is proposed or is under negotiation. Details of the agreement are as follows:

- (1) Parties to the proposed agreement
(Full names and addresses)
- (2) Awards or enterprise agreements that then apply to the employees
- (3) Classifications and/or type of work intended to be covered
- (4) Whether the agreement is intended to cover all of the conditions of employment, and if not, what areas are intended to be covered
- (5) Bate formal negotiations began / are intended to begin
- (6) When are negotiations likely to be completed
- (7) Whether any employees are members of a union, and if so, the name(s) of the union(s), if known

This notice is given by:

1. Name *(Full name)*
2. Address
3. Solicitor or agent *(include details of any solicitor or agent acting)*
4. Address for service of notices, etc, on you

(signature)

Dated: *(date)* 19

1996—No. 441

Form 16
(Application for summons: Prosecution or Recovery of Civil Penalty)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

(Add Title as required
by Schedule 1)

**APPLICATION FOR
SUMMONS—
PROSECUTION and
RECOVERY OF CIVIL
PENALTY**

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add)
by their agents

Name
Address
Telephone
Facsimile

I (name of prosecutor) of (address of prosecutor) in the State of New South Wales (add capacity in which prosecutor acts—eg. inspector. etc) allege that

(name and address of defendant)
("the defendant"),
on (dare) at (place of offence)
DID (or failed to)

(set out details of offence(s) or contravention(s) and specific description of legislation creating the offence or of the other industrial instrument) alleged to have been breached

AND I hereby apply for the issue of a summons requiring the said (defendant) to appear before the Industrial Relations Commission in Court Session in answer to the said charge(s)*.

My affidavit dated (dare) verifying the allegations made In this application is attached.

(signature)
(signature of prosecutor)

Dated: (date) 19

* Where application for an order for the recovery of remuneration or other payment against the defendant will also be made add:

At the hearing of the charge, I intend to also seek an order directing the defendant to pay to (name of employee or worker) the full amount of any remuneration or payment which has become due to that person by virtue of (section and title of Act or name of award, agreement or other industrial instrument). being an amount of \$ (amount), (set out details of amount and how claim is based).

Form 17
(Summons: Prosecution or Recovery of Civil Penalty)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

(Add Title as required
by Schedule 1)

**SUMMONS—
PROSECUTION or
RECOVERY OF CIVIL
PENALTY**

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add)
by their agents

Name
Address
Telephone
Facsimile
DX

TO THE DEFENDANT:

(Full name)

You are required to appear before the Industrial Relations Commission of New South Wales in Court Session at the time and place specified below to answer the charge(s) the prosecutor makes against you, viz:

1. {
2. { (State offence(s))
3. {

The particulars of the charge(s) are

1. {
 2. { (State particulars of the offence(s))
 3. {
- etc. {

Further details of those allegations against you are contained in the affidavit of (name) dated (date) a copy of which is attached.

TAKE NOTICE:

This matter has been listed for hearing/mention† on (date and time) at (place). If you do not appear before the Commission in Court Session at that time and place, a warrant may be issued for your arrest.*

The prosecutor's name and address for service is (specify address for service)

Date:

Industrial Registrar

†—delete as appropriate.

* Where an application for the recovery of remuneration is also to be made, add: TAKE FURTHER NOTICE that at the hearing of this charge, the prosecutor will also seek a further order that you pay the sum of \$ (amount) to (name) being (set out details on which claim is based).

Form 18
(Writ of Injunction—Section 359)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC **of 1996**
*(Add Title as required
by Schedule 1)*

To *(name and address of the person restrained)*

The Industrial Relations Commission in Court Session *(or the name of another industrial court, the case may be)*, having imposed a civil liberty upon you following the hearing of the application by *(state name and address of the applicant)* alleging that you had committed a breach of the *(specify the industrial instrument concerned)* in that you did, contrary to the provisions of that industrial instrument *(state the act complained of)*,

AND now, being of the opinion that your act or default justifies the granting of injunction pursuant to section 359 of the *Industrial Relations Act 1996*

INJUNCTION

I therefore order that you are perpetually restrained from committing any further or other breaches of the said *(specify the industrial instrument)*,

Dated at (place),
(date) 19

(Signature of Judicial Member)

Filed by *(Name of person, corporation, organisation or other body filing the document)*

Contact name *(Name of person conducting the matter)*

Address
Telephone
Facsimile
DX

(and if solicitors or agents are acting, add by their agents)

Name
Address
Telephone
Facsimile
DX

1996—No. 441

Form 19
(Application for Relief from Victimisation/Section 213)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. WC of 1996

(Add Title as required
by Schedule 1)

**APPLICATION FOR
RELIEF FROM
VICTIMISATION—
section 213**

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add
by their agents)

Name
Address
Telephone
Facsimile
DX

A. The applicant claims an order for:

2. { state the orders by way of relief sought.
(These orders should be set out in terms of section 213 (2))

and claims an order for payment of the sum of \$ (amount) being for:

2. { state the grounds upon which such payment is sought
(These grounds should include details of how each amount
claimed was calculated).

B. Particulars of victimisation:

2. 1. { state briefly but specifically details of the victimisation on
which reliance will be placed.

C. (Add if filing out of time) The Commission should accept this claim because:

2. 1. { state briefly but specifically the reasons why the Commission
should accept the claim out of time.

D. Applicant:

1. Name (Full name of applicant).
2. Address (if corporation, registered office).
3. Solicitor or agent.
4. Address for service.

E. Respondent(s):

(Full name and address of the employer or organisation respondent to the
application).

(signature)

(Capacity in which signed, eg. applicant, applicant's
solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each party affected by this appeal).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 20
(Application for Recovery from an Officer of a State Organisation—Section 270)

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**APPLICATION FOR
RECOVERY FROM
AN OFFICER OF A
STATE
ORGANISATION—
SECTION 270**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

- A.** The applicant claims from the respondent the sum of \$ *(amount)*.
- B.** The applicant claims that the respondent, being an officer of the organisation known as *(name of registered organisation)*, did contravene a provision of Division 5 of Part 4 of Chapter 5 of the Act, viz *(state section alleged to be contravened)*;
- C.** Particulars of that contravention are:
(state briefly, but specifically details of the contravention alleged. Include, where applicable, details of any conviction of the respondent in relation to such contravention).
- D.** The sum claimed is the amount equal to the profit made by the respondent as a result of that contravention* and the amount equal to the loss or damage suffered by the organisation as a result of the contravention*. *(*delete as appropriate)*.
- E.** Particulars of how the profit or loss and damage have been calculated are as follows:
(state briefly but specifically details of how the amount claimed has been calculated).
- F.** Applicant:
1. Name *(state name of applicant, including capacity in which applicant applies (eg. as an industrial organisation, etc. as the case may be))*.
 2. Address *(if corporation, registered office)*.
 3. Solicitor or agent.
 4. Address for service.
- G.** Respondent(s):
(Name and address of the officer(s) respondent to the application)
- (signature)*
(Capacity in which signed, eg. applicant, applicant's solicitor)

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each officer and any other party affected by the above application).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 21
(Application for an Inquiry into an Election—section 252)

BEFORE THE INDUSTRIAL REGISTRAR

No. R of 1996

*(Add Title as required
by Schedule 1)***APPLICATION FOR
INQUIRY INTO
ELECTION—
section 252**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant seeks an inquiry into the following election for office:

(specify the election in respect of which the application is made, including the name of the organisation, the office or offices for which the election is being held, the dates of the election and whether or not the election has been completed)

B. Particulars of irregularity

1. {
2. { *(state, briefly but specifically, the matters on which reliance*
3. { *will be placed.)*
- etc.

C. Applicant:

1. Name *(state name of applicant, including capacity in which applicant applies (eg. as an industrial organisation, etc. as the case be).*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

D. My statutory declaration dated *(date)*, declaring the facts stated in this application to be true is attached.

E. Respondents:

(Names and addresses of the organisation holding the election, the persons affected by the election under challenge, the returning officer and any other person who is or may be affected by the application).

*(signature)**(Capacity in which signed, eg. applicant, applicant's solicitor).*Filed (dated, if not filed): *(date)* 19

Form 21 *continued*

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) Application has been made to the Industrial Registrar to refer to the Industrial Relations Commission of New South Wales the above application for an inquiry into an election. If you wish to put any submissions to the Industrial Registrar, you should file a notice of appearance with the Industrial Registrar within 7 days *(or such shorter time as the Registrar directs)* of service of this application on you.

(2) If you do not enter an appearance the application may be granted in your absence and the matter referred to the Industrial Commission.

(where the time for service has been abridged, add

The time before which this notice (or as the case may be) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 22
(Application to Establish Committee—Section 198)

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

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**APPLICATION TO
ESTABLISH
COMMITTEE—section
198**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant

1. Name *(state full name of appellant)*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

B. Applies to establish an Industrial Committee

C. To be known as

(name of proposed committee).

D. Covering the following identifiable industry or enterprise, or in respect of the following class of contracts.

(state proposed industry, etc.)

E. The membership of the Committee and the persons who it is proposed would have nominating rights are as follows:

(state the proposed numbers of members, deputy member and alternate members, and those entitled to nominate them).

F. The nature of the applicant's interest in the matter is as follows:

(state briefly but specifically the applicant's interest in the matter, in numbered paragraphs).

G. The reasons for the application are as follows:

(state briefly but specifically the reasons, in numbered paragraphs).

H. This application is supported by the affidavit of *(state name of deponent)* filed herewith.

I. Respondent(s):

(The persons (including companies, organisations and associations) who are interested in or may be affected by the application)

(signature)

(Capacity in which signed, eg. applicant, applicant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

1996—No. 441

Form 23

(Application Dissolution of Committee or Extension of Term—section 200)

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES

No. IRC of 1996

*(Add Title as required
by Schedule I)*APPLICATION FOR
DISSOLUTION
or
EXTENSION OF
TERM OF A
COMMITTEE—
SECTION 200Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*Contact name *(Name of
person conducting the
matter)*Address
Telephone
Facsimile
DX*(and if solicitors or
agents are acting. add)
by their agents*Name
Address
Telephone
Facsimile
DX

A. The applicant

1. Name *(state full name of appellant)*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

B. Applies to *dissolve / *extend the term of the Industrial Committee known as
(name of committee).

C. On the following grounds

(state briefly but specifically the grounds. in numbered paragraphs).

D. The nature of the applicant's interest in the matter is as follows:

*(state briefly but specifically the applicant's interest in the matter. in
numbered paragraphs).*E. This application is supported by the affidavit of *(state name of deponent)*
filed herewith.

F. Respondent(s):

*(The persons (including companies, organisations and associations) who are
interested in or may be affected by the application)**(signature)**(Capacity, in which signed. eg. applicant. applicant's
solicitor).*Filed (dated. *if not filed*): (date) 19

* delete as appropriate

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

1996—No. 441

Form 24
Agreement to be Member of Committee

AGREEMENT TO BE MEMBER OF COMMITTEE

I, _____ (*full name and residential address*), (*occupation*)
do hereby state and agree:

- (1) I support the establishment of the (*name of Committee*).
- (2) I am a person who is qualified for appointment to that Committee by (*state qualifications, eg. acquainted with the working of the industry for which the Committee was established*).
- (3) I shall comply with all the provisions of the *Industrial Relations Act 1996*, and shall at all times endeavour to achieve its objects.

Signed:

Witness (JP):

Dated:

Form 25
Notice Convening Sitting of Committee—Schedule 3, clause 9

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

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**NOTICE OF SITTING
OF A COMMITTEE—
Schedule 3 clause 9**

A sitting of the *(full name)* Industrial Committee will be held at 10.00
am. on *(date)* 19 , at *(place)*,

which sitting you are hereby requested to attend.

Dated:

Chairperson

To:

Form 26
Superannuation Appeal

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**SUPERANNUATION
APPEAL**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add)
by their agents*

Name
Address
Telephone
Facsimile
DX

A. I, *(name of person appealing against Superannuation decision)* of *(address)*
whose solicitor or agent is *(include details of any solicitor or agent acting)*
and whose address for service is *(set out address at which documents can be
served on you)*

hereby appeal, pursuant to *(section, Act etc. under which appeal is brought):*
to the Industrial Relations Commission of New South Wales from a decision
of

(Name and address of person or tribunal appealed against)

here called "the respondent"

dated *(date of decision appealed against)*, a copy of which is attached
marked "A".

B. I am appealing against

(set out those parts of the decision that you are appealing against)

C. The reasons why I am appealing are:

1. {
2. { *(State briefly but specifically the grounds and reasons for
your appeal).*
- etc. }

D. The orders I am seeking are as follows:

1. {
2. { *(State the orders you are asking the Industrial Relations
Commission to make).*
- etc. }

(signature)

*(Capacity in which signed, eg. applicant, applicant's
solicitor).*

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each party affected by this appeal).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 27
Form of Application for Leave

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

**APPLICATION FOR
LEAVE to**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add
by their agents)*

Name
Address
Telephone
Facsimile
DX

A. Application is made for leave

(state the nature of the leave sought, eg. to commence, or to take the following step)

B. in the following terms: *(or, in terms stated in the attached schedule, as the case may be)*

(Where leave relates to commencing action, state: The (appropriate initiating process, eg., Application) which the applicant wishes to file is attached.)

C. Grounds:

1. { *state briefly but specifically the reasons for the application for leave.*
2. {

D. Applicant:

1. Name *(Full name of applicant).*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

E. *(state the names and addresses of such persons (if any) the applicant believes are so affected).*

F. Respondent(s):

The persons (including corporations, organisations, etc) who are interested in or may be affected by the applications (other than those included in the record maintained by the registrar pursuant to Rule 40 (c)) are:

(signature)
(Capacity in which signed, eg. applicant, applicant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each party affected by the application).

IMPORTANT NOTICE:

(1) You are *(and/or, in an application relating to or affecting an award or where appropriate, or any other person interested in or affected who desires to take part in the proceeding are)* required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 28
Application for Leave to Appeal and Appeal—Section 187

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION** *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule II)*

**APPLICATION FOR
LEAVE TO APPEAL
AND APPEAL**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

- A. The appellant seeks leave to appeal and appeals pursuant to
(section and title of Act. etc.. under which appeal is brought)
- B. From a *(state whether a decision, determination, order, refusal, etc., as the case may be)*
- C. Of *(name of person or tribunal appealed against)*
- D. On *(date of decision. etc.. appealed against)*
- E. Matters appealed against are:
(set out brief description of matter(s) complained of. including whether the appeal is against the whole or a part, and if a part, which part or parts, of any decision, etc.).
- F. The questions raised by the appeal are:
(set out any questions of law for determination by the Commission on appeal. should leave be granted).
- G. Reasons why leave to appeal should be granted:
(set out with particularity the reasons. in numbered paragraphs. including reasons why it is claimed that the matter is of such importance that, in the public interest, leave should be granted)
- H. Grounds of the appeal are:
(set out briefly but specifically the grounds of appeal in numbered paragraphs).
- I. Relief claimed:
(set out the orders sought on appeal, or in which way it is claimed the matter appealed against should be varied).
- J. *(Where a stay of the order or decision under appeal is sought) A stay is sought because:*
(set out briefly but specifically the reason why the Commission should grant a stay of proceedings)
- K. Appellant:
- I. Name *(state full name of appellant)*
 2. Address *(if corporation. registered office).*
 3. Solicitor or agent.
 4. Address for service.
- L. Respondent(s):
(Full name and address of the respondents. including all persons who were parties to the proceedings in which the decision, etc.. under appeal was made).

*(signature
(Capacity in which signed. eg. appellant, appellant's solicitor).*

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 29
Appeal where Leave Not Required

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION** *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

APPEAL

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add)
by their agents*

Name
Address
Telephone
Facsimile
DX

- A. The appellant appeals pursuant to
(section and title of Act, etc., under which appeal is brought)
- B. From a *(state whether a decision, determination, order, refusal, etc., as the case may be)*
- C. Of *(name of person or tribunal appealed against)*
- D. On *(date of decision, etc., appealed against)*
- E. Matters appealed against are:
(set out brief description of matter(s) complained of, including whether the appeal is against the whole or a part, and if a part, which part or parts, of any decision, etc.).
- F. The questions raised by the appeal are:
(set out any questions of law for determination by the Commission on appeal).
- G. Grounds of the appeal are:
(set out briefly but specifically the grounds of appeal in numbered paragraphs).
- H. Relief claimed:
(set out the orders sought on appeal, or in which way it is claimed the matter appealed against should be varied).
- I. *(Where a stay of the order or decision under appeal is sought) A stay is sought because:*
(set out briefly but specifically the reason why the Commission should grant a stay of proceedings)
- J. Appellant:
1. Name *(state full name of appellant)*
 2. Address *(if corporation, registered office).*
 3. Solicitor or agent.
 4. Address for service.
- K. Respondent(s):
(Full name and address of the respondents, including all persons who were parties to the proceedings in which the decision, etc., under appeal was made).
- (signature)*
(Capacity in which signed, eg. appellant, appellant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry *(address and telephone number)* within 7 days of service of this notice *(or as the case may be)* on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 30
Application to Extend Time to Appeal—Section 189

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION** *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

**APPLICATION TO
EXTEND TIME TO
APPEAL**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

- A. The applicant seeks an order extending time to appeal until
(set out details of order sought).
- B. Appeal brought under
(section and title of Act, etc., under which appeal is to be brought)
- C. From a *(state whether a decision, determination, order, refusal, etc., as the case may be)*
- D. Of *(name of person or tribunal appealed against)*
- E. On *(date of decision, etc., appealed against)*
- F. Reasons why the appeal was not or cannot be filed within time:
(set out briefly but specifically the reasons why the appeal was not filed within time).
- G. Grounds for claiming an extension of time:
(set out briefly but specifically the grounds and reasons why time should be extended).
- H. The form of the proposed appeal (including supporting affidavits) is attached.
- I. Appellant:
1. Name *(state full name of appellant)*
 2. Address *(if corporation, registered office).*
 3. Solicitor or agent.
 4. Address for service.
- J. Respondent(s):
(Full name and address of the respondents, including all persons who were parties to the proceedings in which the decision, etc., under appeal was made).
- (signature)*
(Capacity in which signed, eg. applicant, applicant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 31 <i>Application to State A Case</i>
--

APPLICATION TO STATE A CASE

To: *(name)* Magistrate:

The appellant requests you to state and sign a case setting forth the facts and grounds of your determination made on *(date)* for the opinion thereon of the Industrial Relations Commission of New South Wales in Court Session.

The appellant contends that your determination was erroneous in point of law on the grounds that

1. {
2. { *(set out the grounds, briefly but specifically, in numbered paragraphs.)*
3. {
etc. }

Applicant for Case:

1. Name
2. Address *(if corporation, registered office)*.
3. Solicitor or agent.
4. Address for service.

(signature)

(Capacity in which signed, eg. applicant, applicant's solicitor).

Dated: *(date)* 19

1996—No. 441

Form 32 <i>Form of Stated Case</i>

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION**

No. IRC of 1996
*(Add Title as required
 by Schedule 1)*

STATED CASE

STATED CASE

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

**Address
 Telephone
 Facsimile
 DX**

*(and if solicitors or
 agents are acting, add)
 by their agents*

**Name
 Address
 Telephone
 Facsimile
 DX**

A. DETERMINATION *(State the determination and the date on which it was made)*

B. FACTS:

- 1. {
- 2. { *(State the facts)*
- 3. {

etc.

(Where one of the questions stated is whether there was any evidence upon which the justice could make the determination, state that a copy of the evidence is annexed or describe any evidence which is omitted)

C. GROUNDS OF DETERMINATION:

- 1. {
- 2. { *(State the grounds)*
- 3. {

etc.

D. APPELLANT'S CONTENTION

The appellant contends that my determination was erroneous in point of law upon the grounds

- 1. {
- 2. { *(State the grounds)*
- 3. {

etc.

E. The matter to be determined by the Commission in Court Session is whether my determination was erroneous in point of law.

Dated:

Signed:

Magistrate

(This form should be altered appropriately where the case is stated under section 104A of the Justices Act 1902.)

Form 33 <i>Application to Industrial Registrar re Procedural Requirements</i>

BEFORE THE INDUSTRIAL REGISTRAR

No. IRC **of 1996**
*(Add Title as required
 by Schedule I)*

Application is made to the Industrial Registrar for:—
 an order or direction that
(specify the order or direction relating to procedural requirements sought)
 (OR)
 an exemption from the requirement that
(specify the requirements, exemption from which is sought)
 The grounds of the application are specified in the affidavit of *(state the name of
 the deponent)* filed herewith.

(signature)
*(Capacity in which signed, eg. applicant, applicant's
 solicitor).*

Filed (dated. *if not filed*): (date) 19

APPLICATION For

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
 agents are acting, add)
 by their agents*

Name
Address
Telephone
Facsimile
DX

1996—No. 441

Form 34 <i>Application for Directions or Orders</i>

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

APPLICATION For

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant:

1. Name *(state full name of appellant)*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

B. Seeks *directions/*orders that *(set out nature of directions or orders sought):*

C. The grounds on which such *directions/*orders are sought are *(state briefly but specifically, in numbered paragraphs the grounds relied on):*

D. Particulars of those grounds are as follows *(set out briefly the facts and circumstances relied upon):*

E. Other persons interested in or affected by this application are *(set out the names and addresses of all persons who are or may be interested in or affected by the directions or orders sought):*

F. Those persons *have/ *have not been served with a copy of this application.

*delete as appropriate

(signature)

*(Capacity in which signed, eg. applicant, applicant's
solicitor).*

Filed (dated, if not filed); (date) 19

Where required to be served, add

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 35
Application to Waive Compliance With Procedural Requirements

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**APPLICATION TO
WAIVE STRICT
COMPLIANCE WITH**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add
by their agents)*

**Name
Address
Telephone
Facsimile
DX**

A. The applicant:

1. Name *(state full name of appellant)*
2. Address *(if corporation, registered office).*
3. Solicitor or agent.
4. Address for service.

B. Applies to waive strict compliance with the requirements of the rules prescribing the procedure to be adopted or followed in the above proceedings in the following respects:

(specify the requirements, compliance with which are sought to be waived).

C. The grounds of the application are specified in the affidavit of *(state the name of the deponent)* filed herewith.

D. Other persons interested in or affected by this application are *(set out the names and addresses of all persons who are or may be interested in or affected by the directions or orders sought)*:

E. Those persons *have/ *have not been served with a copy of this application.

* delete as appropriate.

(signature)

(Capacity in which signed, eg. applicant, applicant's solicitor).

Filed (dated, if not filed): (date) 19

Where required to be served, add

TO THE RESPONDENT(S):

(name each respondent).

IMPORTANT NOTICE:

(1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (*address and telephone number*) within 7 days of service of this notice (*or as the case may be*) on you.

(2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

(3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone (*number*).

(where the time for service has been abridged, add

The time before which this notice (*or as the case may be*) is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

1996—No. 441

Form 36
Notice in Reply

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES or as required by Schedule 1

No. IRC of 1996
(Add Title as required
by Schedule 1)

NOTICE IN REPLY

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add)
by their agents

Name
Address
Telephone
Facsimile
DX

- A. The respondent
(Name of Respondent)
- B. Appears and Replies as follows:
- C. The Respondent admits:
(State matters admitted)
- D. The Respondent denies:
(State matters denied.)
- E. The Respondent further states:
(State any further matters the Respondent desires to put by way of defence or otherwise.)
- G. The Respondent's address for service is:
 - 1. Name (Full name of applicant).
 - 2. Address (if corporation, registered office).
 - 3. Solicitor or agent.
 - 4. Address for service.

(signature)
(Capacity in which signed, eg. respondent,
respondent's solicitor).

Filed (dated, if not filed): (date) 19

IMPORTANT NOTE:
A copy of this Notice must be served on the applicant.

1996—No. 441

Form 37
Notice of Appearance

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES or as required by Schedule 1

No. IRC of 1996
(Add Title as required
by Schedule 1)

NOTICE OF
APPEARANCE

1. Name
2. Of (address and occupation)
Appears
(where it applies add and submits 10 the orders of the Commission, save as to costs).
3. Address for service: (the office of the respondent's solicitors, or as the case may be)

(signature)
(Capacity in which signed. eg. respondent).

Filed (dated, if not filed): (date) 19

IMPORTANT NOTE:
A copy of this Notice must be served on the applicant.

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add)
by their agents

Name
Address
Telephone
Facsimile
DX

Form 38
Notice of Discontinuance

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

NOTICE OF
DISCONTINUANCE

*Filed by (Name of
person, corporation,
organisation or other
body filing the document)*

*Contact name (Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add)
by their agents*

Name
Address
Telephone
Facsimile
DX

The *(applicant/respondent)* (by consent, *if consent is required*; or pursuant to the leave of the Commission granted on (date) 19 , *if leave is obtained*) discontinues the proceedings (in respect of claims numbered , *or as the case may be*).

(signature)
(Capacity in which signed, eg. applicant respondent).

Filed (dated, *if not filed*): (date) 19

Where discontinuance or withdrawal is by consent, each party or that party's solicitor or agent must sign the notice.

Form 39.
Summons to Confer

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. _____ of 199
*(Add Title as required
by Schedule 1)*

TO:

Postcode

**SUMMONS TO
CONFER**
section 165 (3) (a)

**YOU ARE ORDERED TO ATTEND A CONFERENCE
INFORMATION ABOUT THE CONFERENCE**

WHERE YOU MUST GO:	<i>(name of tribunal)</i>
ADDRESS:	<i>(address where conference is to take place, including contact number in Registry)</i>
WHEN:	TIME DAY MONTH YEAR

Filed by

WHAT THE CONFERENCE IS ABOUT *(brief description, eg. to settle a dispute between)*

Contact name

Address

Telephone
Facsimile
DX

INFORMATION ABOUT THIS SUMMONS

by agent

1. THIS SUMMONS WAS ISSUED AT THE DIRECTION OF THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES:	
ADDRESS:	
2. WHAT YOU MUST DO:	You must attend the conference at the time and place listed above. You must not leave the conference before it is finished, and you must attend each day, unless you are excused by the person hearing the conference.

Name
Address
Telephone
Facsimile
DX

IF YOU DO NOT OBEY THIS SUMMONS YOU MAY BE FINED OR ARRESTED

Issued by
(Signature)

for Industrial Registrar

Form 41 Summons to Produce

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. _____ of 199
*(Add Title as required
by Schedule 1)*

TO:

Postcode

**SUMMONS FOR
PRODUCTION**
section 165 (3) (c)

YOU ARE ORDERED TO ATTEND AND PRODUCE
the documents or things listed overleaf
INFORMATION ABOUT WHERE YOU MUST BRING DOCUMENTS OR THINGS
YOU MUST EITHER
A. Deliver the documents or things and this summons

Filed by

Contact name

Address

Telephone
Facsimile
DX

by agent

Name
Address
Telephone
Facsimile
DX

WHERE YOU MUST DELIVER DOCUMENTS:	The Industrial Registry
ADDRESS:	<i>(address of Registry, including contact number in Registry)</i>
ON OR BEFORE:	TIME DAY MONTH YEAR

OR

B. Attend with the documents or things and this summons

WHERE YOU MUST GO:	<i>(name of tribunal)</i>
ADDRESS:	<i>(address where hearing is to take place, including contact number in Registry)</i>
WHEN:	TIME DAY MONTH YEAR

INFORMATION ABOUT THIS SUMMONS

1. WHO ASKED FOR THIS SUMMONS:	<i>(name)</i>
ADDRESS:	<i>(address for service) Phone</i>
<small>(This person is required to give you enough money to enable you to produce the documents or things)</small>	
2. WHAT YOU MUST DO:	You must EITHER deliver those documents, etc. to the Industrial Registry on or before the date set out in "A" above OR attend with the documents, etc. at the time and place set out in "B" above.

IF YOU DO NOT OBEY THIS SUMMONS YOU MAY BE FINED OR ARRESTED

Issued by *(date)*
(Signature)

for Industrial Registrar

(Reverse side of Form 41)

THESE ARE THE DOCUMENTS OR THINGS YOU MUST BRING

- 1.
 - 2.
 - 3.
- etc

Form 42
Summons to produce and Give Evidence

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. _____ of 199
*(Add Title as required
by Schedule 1)*

**SUMMONS FOR
PRODUCTION AND TO
GIVE EVIDENCE**
section 165 (3) (b) and (c)

Filed by

Contact name

Address

Telephone
Facsimile
DX

by agent

Name
Address
Telephone
Facsimile
DX

TO:

Postcode

YOU ARE ORDERED TO ATTEND AND GIVE EVIDENCE AND TO PRODUCE the documents or things listed overleaf

INFORMATION ABOUT THE HEARING AND WHERE YOU MUST BRING DOCUMENTS

WHERE YOU MUST GO:	<i>(name of tribunal)</i>				
ADDRESS:	<i>(address where hearing is to take place, including contact number in Registry)</i>				
WHEN:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">TIME</td> <td style="width: 25%;">DAY</td> <td style="width: 25%;">MONTH</td> <td style="width: 25%;">YEAR</td> </tr> </table>	TIME	DAY	MONTH	YEAR
TIME	DAY	MONTH	YEAR		

INFORMATION ABOUT THIS SUMMONS

1. WHO ASKED FOR THIS SUMMONS:	<i>(name)</i>
ADDRESS:	<i>(address for service)</i>
	<i>Phone)</i>
<small>(This person is required to give you enough money to enable you to attend to give evidence and to produce the documents or things)</small>	
2. WHAT YOU MUST DO:	<p>(a) You must attend the hearing to give evidence at the time and place listed above. You must continue to attend until you are excused by the person conducting the hearing.</p> <p>(b) You must EITHER bring those documents, etc. with you when you attend the hearing OR deliver them at least 2 days before the hearing to the Industrial Registry at 50 Phillip Street Sydney.</p>
ALSO:	

IF YOU DO NOT OBEY THIS SUMMONS YOU MAY BE FINED OR ARRESTED

Issued by *(date)*
(Signature)

for Industrial Registrar

(Reverse side of Form 42)

THESE ARE THE DOCUMENTS OR THINGS YOU MUST BRING

- 1.
 - 2.
 - 3.
- etc

Form 43
General Form of Affidavit

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

On (date) 19, I, (name, address and occupation) say on oath—
1.
2.

Sworn by the deponent
at (place) }
Before me: }

AFFIDAVIT:
Deponent:
Date:
Filed on Behalf of:
*(Application or
Respondent, etc)*

Justice of the Peace

(or)

On (date) 19, I, (name, address and occupation) and on (date) 19
I, (name, address and occupation) say on oath—

- 1. We are the directors of etc.
- 2. I the said (name) am a director of etc.

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Sworn by the deponent
at (place) }
Before me: }

Contact name *(Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

Justice of the Peace

(where relevant, add:

*(and if solicitors or
agents are acting, add)
by their agents*

It appearing to me that the deponent is blind, (or as the case may be) I certify
that this affidavit was read to him in my presence and that he seemed to
understand it.)

Name
Address
Telephone
Facsimile
DX

1996—No. 441

Form 44
Affidavit of Service

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
by Schedule 1)*

On (date) 19, I, (name, address and occupation of deponent) say on oath:
1. I am (state occupation or position).
2. On (date) 19, I served (insert description of documents served) on
(name the person or party served) by (state method of service) at
(state place of service or, in case of service by post, address to which
the document was posted).

Sworn by the deponent
at (place) }

Before me:

**AFFIDAVIT OF
SERVICE:**
Deponent:
Date:
Filed on Behalf of:
*(Application or
Respondent, etc)*

Justice of the Peace

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add)
by their agents*

Name
Address
Telephone
Facsimile
DX

Form 45 <i>Appointment or Change of Solicitor or Agent</i>
--

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC **of 1996**

*(Add Title as required
by Schedule 1)*

**NOTICE OF CHANGE
OF SOLICITOR**

Filed by *(Name of
person, corporation,
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
agents are acting, add
by their agents)*

Name
Address
Telephone
Facsimile
DX

(Use or adapt the appropriate form of Notice of Change)

(Name), whose office is at (address), has been appointed to act as the solicitor for the (applicant/respondent, or as the case may be), in these proceedings in the place of (name of former solicitor).

(Where the solicitor has M agent:) (Name), whose office is at (address), is the agent of (name of principal solicitor).

(OR)

(Name), whose office is at (address), has been appointed by the solicitor for the (applicant/respondent, or as the case may be), to act as agent in the place of (name of former agent).

[OR]

(Name), whose office is at (address), has been appointed to act as solicitor for the (applicant/respondent, or as the case may be), in these proceedings. Where the solicitor has an agent:) (Name), whose office is at (address), is the agent of (name of principal solicitor).

(OR)

I, (name), have determined the authority of (name of solicitor) to act as solicitor for me in these proceedings. My address for service of documents is (address).

(OR)

I (name), have ceased to act as solicitor for the (applicant/respondent, or as the case may be). I have served on the (applicant/respondent, or as the case may be) notice of my intention to file this notice. The (applicant's/respondent's or as the case may be), place of business (or abode) last known to me is (address) (or: if known, state place of business and of abode).

(In each case, follow the form of conclusion of documents, viz:

*(signature)
(Capacity in which signed, eg. applicant, respondent,
solicitor).*

Filed (dated, if not filed): (date) 19

Form 46
Notice to Produce

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996

*(Add Title as required
by Schedule 1)*

**NOTICE TO
PRODUCE**

Filed by *(Name of
person, corporation
organisation or other
body filing the document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agent: are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

To the (applicant/respondent)

The *(respondent/applicant)* requires you to produce at the hearing *(or otherwise specify the occasion or place)* the following documents *(or things)* for the purpose of evidence—

Enumerate the documents or things)

*(signature)
(Capacity in which signed. eg. applicant, applicant's
solicitor).*

Dated: (date:) 19

1996—No. 441

Form 47
Notice to Admit Facts or Authenticity of Documents

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
 NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC of 1996
*(Add Title as required
 by Schedule 1)*

**NOTICE TO ADMIT
 FACTS OR THE
 AUTHENTICITY OF
 DOCUMENTS**

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

**Address
 Telephone
 Facsimile
 DX**

*(and if solicitors or
 agents are acting, add
 by their agents)*

**Name
 Address
 Telephone
 Facsimile
 DX**

To the respondent:

The applicant requires you to admit for the purpose of these proceedings only—

1. { *(state each fact)*
2. {

The applicant requires you to admit for the purpose of these proceedings only the authenticity of the following documents—

1. { *(describe each document)*
2. {

If you do not, within 14 days after service of this notice upon you, serve a notice upon the applicant disputing any fact *(and/or the authenticity of any document)* above specified, that fact *(and/or the authenticity of that document)* shall, for the purpose of these proceedings, be admitted by you in favour of the applicant.

(signature)
(Capacity in which signed, eg. applicant, applicant's solicitor).

Dated: (date) 19

<p>Form 48 <i>Notice Disputing Facts or Authenticity of Documents</i></p>

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
 NEW SOUTH WALES** *or as required by Schedule 1*

No. IRC **of 1996**
*(Add Title as required
 by Schedule 1)*

**NOTICE DISPUTING
 FACTS OR THE
 AUTHENTICITY OF
 DOCUMENTS**

Filed by *(Name of
 person, corporation,
 organisation or other
 body filing the document)*

Contact name *(Name of
 person conducting the
 matter)*

Address
Telephone
Facsimile
DX

*(and if solicitors or
 agents are acting, add)
 by their agents*

Name
Address
Telephone
Facsimile
DX

The respondent disputes the following facts specified in the applicant's notice dated (date) 19

1. { *(state each fact)*
2. {

The respondent disputes the authenticity of the following documents which were specified in the applicant's notice *(or list of documents)* dated (date) 19

1. { *(describe each document)*
2. {

The respondent admits—

1. { *(state each fact or describe each document)*
2. {

(signature)
(Capacity in which signed, eg. respondent, respondent's solicitor).

Dated: (date) 19

Form 49
Certificate of Result of Conciliation Conference—section 109

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

No. _____ of 1996

*(Add Title as required
by Schedule 1)*

**CERTIFICATE OF
RESULT OF
CONCILIATION
CONFERENCE
(section 109)**

I certify that in this matter I have conducted a Conciliation Conference and that:

*(a) agreement has been reached, the terms of which are *set out below/*are attached:

(set out or attach the terms of the agreement reached)

*(b) I have formed the opinion that all reasonable attempts to settle the matter by conciliation have been made but have been unsuccessful.

Dated at (place),
(date) 19 .

(Signature of Member)
Dated: *(date)* 19

* delete as appropriate

**Filed by the Industrial
Registrar**

Form 50
Certificate of Attempted Conciliation—section 135

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

No. of 1996

*(Add Title as required
by Schedule 1)*

**CERTIFICATE OF
ATTEMPTED
CONCILIATION
(section 135)**

**Filed by the Industrial
Registrar**

I certify that reasonable attempts have been made to resolve the industrial dispute in this matter by conciliation.

(if necessary, set out any relevant details of attempted conciliation—eg. conduct of the parties and results of the attempt(s), etc.)

Dated at (place),
(date) 19 .

(Signature of Member)

Form 51
Reference to Full Bench of the Industrial Relations Commission—section 193

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

No. of 1996

*(Add Title as required
by Schedule 1)*

I have formed the opinion that the following (*matter, part of a matter or question, as the case may be*) before me ought to be referred to the Resident for decision by a Full Bench of the Commission, pursuant to section 193 of the *Industrial Relations Act 1996*.

(Matters referred)

Dated:

(Signature of Member)

**REFERENCE TO
FULL
BENCH OF THE
COMMISSION
(section 193)**

**Filed by the Industrial
Registrar**

Form 52
Reference by Industrial Registrar to President—section 195 (1)

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

No. of 1996

*(Add Title as required
by Schedule 1)*

**REFERENCE BY
INDUSTRIAL
REGISTRAR TO
PRESIDENT
(section 195 (1))**

I hereby refer to the President, pursuant to section 195 (1) of the *Industrial Relations Act 1996* for decision by the Industrial Relations Commission of New South Wales the following (*matter, part of a matter or question, as the case may be*):

(State the matter or question)

Dated:

Industrial Registrar

**Filed by the Industrial
Registrar**

Form 53
Reference of Matter From Industrial Registrar to Commission—Section 195 (4)

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

No. _____ of 1996

*(Add Title as required
by Schedule 1)*

I refer for hearing and determination by the Industrial Relations Commission of
New South Wales the following matter before the Industrial Registrar:

(Matters referred)

Dated:

President

**REFERENCE OF
MATTER FROM
INDUSTRIAL
REGISTRAR TO THE
COMMISSION
(section 195 (4))**

**Filed by the Industrial
Registrar**

1996—No. 441

Form 54
Reference of Function to Committee—section 199 (2) (a)

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

No. of 1996

*(Add Title as required
by Schedule 1)*

**REFERENCE OF
FUNCTION TO
COMMITTEE
(section 199 (2) (a))**

In pursuance of section 199 (2) (a) of the Industrial Relations Act 1996 I refer to the *(name)* Committee the following function of the Industrial Relations Commission of New South Wales:
(set out function referred)

Dated:

President

**Filed by the Industrial
Registrar**

Form 56
Reference by Committee to Commission—section 201 clause 9 (6) of Schedule 3

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

No. of 1996
*(Add Title as required
by Schedule 1)*

In pursuance of section 201 and clause 9 (6) of Schedule 3 of the *Industrial Relations Act 1996*, I refer to the Industrial Relations Commission of New South Wales for determination (*or directions*) the following matter (or, question) arising at a meeting of the Committee on (*dare*) out of the application (*or as the care may be*) by

Dated:

**REFERENCE FROM
COMMITTEE TO
COMMISSION**
(section 201, Clause 9
(6) of Schedule 1)

Chairperson

**Field by the Industrial
Registrar**

Form 57
Request to Australian Industrial Relations Commission—section 204

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

No. of 1996

*(Add Title as required
by Schedule 1)*

**REQUEST TO
AUSTRALIAN
INDUSTRIAL
RELATIONS
COMMISSION
(section 204)**

I request that the Australian Industrial Relations Commission deal with the following matter in accordance with section 204 of the *Industrial Relations Act 1996*:

(State the matter)

Dated: 19 .

President.
Industrial Relations Commission of New South Wales

Filed by the Industrial
Registrar

Form 58 <i>Delegation By Full Bench to Single Member</i>
--

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

No. _____ of 1996

(Add Title as required
by Schedule I)

**DELEGATION OF
FULL BENCH TO A
SINGLE MEMBER**

The Full Bench of the Industrial Relations Commission of New South Wales
hereby delegates
(specify functions, matter or part or extent of matter delegated)

to (specify member).

Dated:
Signed:

Filed by the Industrial
Registrar

1996—No. 441

Form 59
Application for Reinstalment of Injured Worker—Section 93

BEFORE THE INDUSTRIAL RELATIONS COMMISSION OF
NEW SOUTH WALES IN COURT SESSION

No. IRC of 1996

(Add Title as required
by Schedule 1)

APPLICATION For
REINSTATEMENT OF
INJURED WORKER

Filed by (Name of
person, corporation,
organisation or other
body filing the document)

Contact name (Name of
person conducting the
matter)

Address
Telephone
Facsimile
DX

(and if solicitors or
agents are acting, add
by their agents

Name
Address
Telephone
Facsimile
DX

A. The applicant

1. Name (name of person on whose behalf the order is sought)
2. Address
3. Solicitor or agent (include details of any solicitor or agent acting, including where an industrial organisation is acting, the name of the secretary or other authorised officer taking action)
4. Address for service

B. Being an injured worker, applies for a reinstatement order under section 93 of the Industrial Relations Act 1996.

C. The employer was

1. Name (name of former employer)
2. Address (here called "the Respondent")

D. The date of the injury was (date)

E. A medical certificate from (name of Doctor) dated (date of certificate), stating that I/the applicant was fit for employment, was given to the employer on (date certificate was produced to the employer). A copy of that certificate is attached (or, state why a copy cannot be attached).

F. I/the applicant asked the employer to reinstate me/the applicant as a (state type of employment you asked your employer for) on (date) but the employer did not do so.

G. (Where relevant) This application is brought on behalf of the injured worker by (Name of Registered Organisation).

H. Other particulars in support of my/the applicant's claim are:

1. {
2. { (State briefly but specifically any additional particulars
etc.

(signature)

(Capacity in which signed, eg. applicant,
applicant's solicitor).

Filed (dated, if not filed): (date) 19

TO THE RESPONDENT

(name the former employer)

IMPORTANT NOTICE:

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry (address and telephone number) within 7 days of service of this notice *(or as the case may be)* on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone *(number)*.

(where the time for service has been abridged, add

The time before which this notice *(or as the case may be)* is to be served has been abridged by the Commission to 5.00 pm on (date) 19).

(Add, where necessary, form of Appointment for Hearing)

Form 60 <i>(Application for Certificate of Conscientious Objection to membership of an Organisation—Section 212)</i>
--

APPLICATION FOR CERTIFICATE OF CONSCIENTIOUS OBJECTION TO MEMBERSHIP OF AN ORGANISATION

Section 212 of the *Industrial Relations Act 1996*

I,
(Full Name)

of
(Address and Telephone Number)

hereby apply for a certificate of conscientious exemption to becoming a member of an industrial organisation of * employees / * employers.

I am employed as a
(trade, occupation or profession)

by of
(name) (address)

whose business or industry is
(describe type of work).

or

I am not an employee and work as
(describe nature of trade occupation or business)

My reasons for holding a belief that prevents me in conscience from joining any industrial organisation of * employees / * employers are as set out on page 2.

I * am / * am not a practising member of a religious society or order whose tenets or beliefs preclude membership of any organisation or body other than that society or order. * The society or order is known as

.....
(name or description)

and the name of an official of that society or order who can vouch for my practising membership is
(name)

.....
(address and telephone number)

Form 60 continued

(signature of applicant)

(signature of Justice of the Peace or
official of society or order)

Dated: 19

*—delete as appropriate

†—“official includes Minister of Religion, Priest, Pastor, Elder, etc, however described,
and a Marriage Celebrant recognised by that society or order.

My reasons for holding a belief that prevents me in conscience from joining any
industrial organisation of employees/employers are:

Dotted lines for text entry

1996—No. 441

Form 60 <i>continued</i>

.....
.....
.....
.....

.....
(signature of applicant)

.....
*(signature of Justice of the Peace or
official of society or order)*

Dated:

19

Form 61
Notification of Claim for Compensation pursuant to section 348

BEFORE THE CONTRACT OF CARRIAGE TRIBUNAL

No. T of 1996

*(Add Title as required
by Schedule 1)*

**NOTIFICATION
of Claim For
Compensation
pursuant to section 348
by**

Filed by *(Name of person,
corporation, organisation,
association or other body
filing the document)*

Contract name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or agents
are acting, add
by their agents)*

**Name
Address
Telephone
Facsimile
DX**

A. THE CLAIM

- I. The Applicant hereby notifies the Industrial Registrar of a claim for compensation in respect of the termination of a head contract of carriage.
2. The Applicant claims:
(state what orders the Applicant wishes the Tribunal to make. In particular state:
 - (i) the name of any carrier; previous carrier; principal contractor or previous principal contractor whom the applicant claims should be joined as a party*
 - (ii) the amount of compensation claimed.*
 - (iii) against whom the orders(s) for compensation is or am sought)*

B. DETAILS OF THE REASONS FOR THE CLAIM

- I. The grounds and reasons in support of this claim are:
(state briefly but specifically, in numbered paragraphs, the grounds and reasons to be relied on in support of this Claim)

C. DETAILS OF THE APPLICANT

- I. The Applicant is *(Name and address of applicant)*
2. The name and address of the contract carrier is: *(where not the same as the applicant)*
3. The capacity in which applicant applies is: *(State whether applicant is:*
 - (a) a contract carrier; or*
 - (b) the secretary or other officer of an association of contract carriers registered under the Industrial Relations Act 1991, or*
 - (c) if the carrier is a partnership, a partner in that partnership for the benefit of the partnership. or*
 - (d) if the carrier is a corporation, a director of that corporation, or*
 - (e) if the carrier is a corporation, a shareholder in that corporation authorised by the corporation to take the proceedings)*
4. The address for service is: *(this should be on address (including a telephone number) where documents and telephone advice about the hearing of this application can reach the applicant or the applicant's professional advisors. if a solicitor or registered organisation will be acting in this matter, that address can be the address of the solicitor or registered organisation.)*
5. A contact name for this application is: *(person handling this application for the applicant, including after hours telephone number):*

D. DETAILS OF THE CONTRACT OF CARRIAGE

- I. The name and address of the Principal Contractor is:
2. The name and address of the previous carrier whose provision of services to the principal contractor was replaced by the carrier is:
3. The sum of money paid to the previous carrier as a premium or fee in connection with the entry into the head contract was: S (amount) . This sum was paid on (date) .
4. The name of any contract determination applicable is:
5. The head contract of carriage was entered into on *(date)*
6. The head contract of carriage was terminated on date in the following circumstances *(state briefly but specifically in numbered paragraphs, details of how the termination occurred. Where it is alleged that termination was by the conduct of the principal contractor that imposed serious financial disadvantage on the carrier, full details of that conduct and how it is alleged that the conduct resulted from factors within the control of the principal contractor, should be given).*

7. The amount paid by the principal contractor (including any redundancy payments) in respect of the termination of the contract of carriage was: \$ (amount) . This sum was designated as *(state, if any amount paid was designated by the principal contractor as payment for a particular purpose, what that amount(s) and stated purpose(s) was or were.)*
8. The truck involved is a *(state make, model and year of truck)* which was purchased *(state whether new or second-hand)* on *(date)* . The estimated resale value of the motor vehicle is: \$ (amount) .
9. The contract carrier *(has/hasnot)* been offered a guaranteed flow of work by the principal contractor for a period of *(state period, if any)*.
10. The compensation claimed was calculated in the following manner:
(state details of how the compensation claimed has been calculated)
11. Other relevant facts:
(state briefly but specifically, in numbered paragraphs, details of any other relevant material the Tribunal should be aware of before listing the application)

E. DETAILS OF THE RESPONDENTS

1. The name and address of the principal contractor is:
2. The name(s) and address(es) of the other persons (if any) the applicant claims should be joined as respondents are:

(Note: A copy of this application must be given to the Respondents listed above as soon as possible after filing the application at the Industrial Registry, 50 Phillip Street, Sydney).

F. SIGNATURE OF APPLICANT

Dated:

Signed:

Full name

Capacity in which signed *(for example, Applicant, Solicitor for Applicant, etc)*

TO THE RESPONDENT(S):

(name each Respondent's listed in Part E).

IMPORTANT NOTICE:

1. You should file a Notice of Appearance at the Industrial Registry, 50 Phillip Street Sydney, Telephone (02) 258 0010) within 7 days of service of this Notification on you.
2. You should also file an Answer to the Claim for Compensation at the Industrial Registry within 21 days of service of this Notification on you. The form of Notice of Appearance and the Answer are available from the Industrial Registry.

Form 61 *continued*

3. Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Tribunal will hear this application. Any enquiries should be made to the Industrial Relations Commission of New South Wales List Clerk, telephone (02) (number).

4. If you do not enter an appearance or file a Defence, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.

Form 62
Answer to Claim for Compensation pursuant to section 348

BEFORE THE CONTRACT OF CARRIAGE TRIBUNAL

No. T of 1996

*(Add Title as required
by Schedule 1)*

**ANSWER
to Claim For
Compensation
pursuant to section 348
by**

Filed by *(Name of
person, corporation,
organisation, association
or other body filing the
document)*

Contact name *(Name of
person conducting the
matter)*

**Address
Telephone
Facsimile
DX**

*(and if solicitors or
agents are acting, add)
by their agents*

**Name
Address
Telephone
Facsimile
DX**

The Respondent hereby:

1. Admits the following points of the Notification of Claim For Compensation:
(state what parts of the Claim are admitted)
2. Denies, on the grounds set out below, the following points of the Notification of Claim For Compensation:
(state what parts of the Claim are denied, and, briefly but specifically, in numbered paragraphs, the basis for any denial.)

Name and Address of the Respondent is:

The address for service is:

Dated:

Signed:
Full name
Position

A copy of this Answer should be filed at the Industrial Registry, 50 Phillip Street Sydney within 21 days of service of the Notification of the Claim. A copy must be served on the Applicant and other Respondents.)

Form 63 <i>Appointment before the Industrial Registrar</i>
--

The Industrial Registrar appoints (*date*) 19 , at 10.00 am. at (*address of the hearing*)
for hearing of (*state the nature of the matter to be heard*).
