



PRACTICE NOTE 5 OF 2021

Appeals and applications before the Full Bench and the Commission in Court Session – want of prosecution

Introduction

This Practice Note 5 of 2021 replaces Practice Note 1 of 2005, issued on 18 November 2005.

1. Practice Note 5 of 2021 is issued by The Western Australian Industrial Relations Commission (**the Commission**) and is to be applied in circumstances where appeals or applications have been filed in the Commission's Registry but not actively progressed by the appellant/applicant, their legal practitioner or agent.
2. In accordance with s 113(1) of the *Industrial Relations Act 1979* (**the IR Act**) and reg 39(3) of the *Industrial Relations Commission Regulations 2005* (**the Regulations**), Practice Note 5 of 2021 is effective 14 days after the date of its publication in the Western Australian Industrial Gazette, being 23 March 2021, and remains in force until such time as it is replaced.

Referring inactive matters to the Full Bench and the Commission in Court Session

3. The Registrar or Deputy Registrar must bring before the Full Bench an appeal or an application within the jurisdiction of the Commission in Court Session, which has not been progressed by an appellant/applicant, their legal practitioner or agent, for a period of more than six months from the date of the previous action having been taken with respect to that matter.
4. In accordance with par 3 above, before referring the matter to the Chief Commissioner or Senior Commissioner on behalf of the Full Bench, or the presiding Commissioner of the Commission in Court Session, the Registrar must first have served, in accordance with the Regulations, a Form 17 – Notice of Hearing upon all relevant and/or interested parties to the matter.
5. On the date of the hearing, the Full Bench, or the Commission in Court Session as the case may be, will allow parties, interveners, objectors, or s 72A(5) IR Act participants an opportunity to be heard in relation to:
 - (a) any interlocutory orders or directions that ought to be made;
 - (b) whether the appeal or application, or any part of it, should be dismissed or otherwise dealt with in accordance with s 27 of the IR Act; and



(c) whether any, and if so what, other orders or directions should be made.

Relevant legislation

Industrial Relations Act 1979, ss 27, 28, 49, 55, 66, 67, 72, 72A, 73, 82, 84, 84A, 113.

Industrial Relations Commission Regulations 2005, regs 39, 59, 60, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 102, 103

Useful resources

6. The Commission's website contains additional [resources](#).

S J Kenner
SENIOR COMMISSIONER