



## PRACTICE NOTE 1 OF 2023

# Interlocutory proceedings before the Full Bench and its presiding Commissioner, the Commission in Court Session or the Chief Commissioner sitting alone

### Introduction

*This Practice Note 1 of 2023 replaces Practice Note 6 of 2021, issued on 23 March 2021.*

1. Practice Note 1 of 2023 is issued by The Western Australian Industrial Relations Commission (**the Commission**). This Practice Note has application in proceedings before the Commission which are constituted by a Full Bench and its presiding Commissioner; the Commission in Court Session; the Commission constituted to hear and determine appeals under s 106 of the *Prisons Act 1981*; s 11CH of the *Young Offenders Act 1994*; and s 33P and s 33ZI of the *Police Act 1892*; or the Chief Commissioner sitting alone, where the parties are represented by legal practitioners or agents.
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 1 of 2023 is effective 14 days after the date of its publication in the Western Australian Industrial Gazette, being 22 February 2023, and remains in force until such time as it is replaced.

### Interlocutory applications

3. In all interlocutory matters, the parties will file a written outline of submissions, to which their respective arguments will be confined.
4. The applicant must file their outline of submissions at the time of filing their application unless the Commission otherwise directs.
5. The respondent must file its response to the applicant's application within three calendar days.
6. The applicant may file any additional submissions in reply to the respondent's response within a further three calendar days.
7. The Commission, at its discretion, may fix alternative time limits to those set out in pars 4, 5 and 6 above where circumstances require that to occur.
8. The Commission may also, at its discretion, limit oral arguments, conduct interlocutory proceedings by telephone or video-link, or decline to hear oral submissions in cases where written submissions have been filed.

9. In accordance with reg 32A of the Regulations, the Commission may decide in a particular case that it is appropriate for interlocutory proceedings to be determined by conducting a hearing on the papers.

### **Applications to stay the operation of a Commission order**

10. This Practice Note, with any required modifications, also applies to any interlocutory proceedings before the presiding Commissioner of a Full Bench in an application made to stay the operation of a Commission order, pursuant to s 49(11) of the IR Act.

### **Relevant legislation**

*Industrial Relations Act 1979*, ss 27, 28, 49, 55, 66, 67, 71, 71A, 72, 73, 84A, 113.

*Industrial Relations Commission Regulations 2005*, regs 20, 21, 22, 23, 24, 27, 32A, 35, 36, 39.

### **Useful resources**

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

**S J Kenner**  
**CHIEF COMMISSIONER**