

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations (Tribunals) Rules 2000 – r. 80 – issue of practice note

**ADMISSIBILITY OF EVIDENCE OF MATTERS
RAISED IN SECTION 75 CONFERENCE (No. 1 of 2001)**

[BY NOTICE OF THE VICE PRESIDENT ON 22 JULY 2003, THIS PRACTICE NOTE WAS RE-NUMBERED
AND IS NOW PN 3]

PRACTICE NOTE

This practice note operates to clarify the position with regard to the admissibility into evidence in s. 76 proceedings of the *Industrial Relations Act 1999* (the Act) of communications made and/or documents produced in a conciliation conference required to be held by the Commission under s. 75 of the Act.

1. Evidence is not to be adduced of:

- (a) a communication that is made between parties in connection with an attempt to negotiate a settlement of a s. 74 application; or
- (b) a document that has been prepared in connection with an attempt to negotiate a settlement of the s. 74 application.

2. Paragraph 1 hereof does not apply:

- (a) to communications made during the course of a s. 75 conference or documents produced and/or referred to in that conference which outlines the positions of the parties' in respect of either the dismissal or the s. 74 application; or
- (b) if evidence that has been adduced in the s. 76 proceeding, or an inference from evidence that has been adduced, is likely to mislead the court or commission unless evidence of the communication or document is adduced to contradict or qualify that evidence; or
- (c) if the communication or document is relevant to determining whether a party caused costs to be incurred by the other party because of an unreasonable act or omission connected with the conduct of the s. 74 application; or
- (d) if the parties to the application consent to the evidence being adduced in the s. 76 proceeding; or
- (e) if the communication or document included a statement to the effect that it was not to be treated as confidential; or
- (f) if the evidence tends to contradict or to qualify evidence that has already been admitted; or
- (g) if the proceeding is a proceeding to enforce an agreement between the parties to settle the application, or the making of such a settlement is in issue.

3. In paragraphs 1 and 2 hereof:

- (a) a reference to a communication made by a party to the application includes a reference to a communication made by an employee or agent of such party; and
- (b) a reference to the consent of a party includes a reference to the consent of an employee or agent of such party, being an employee or agent who is authorised so to consent; and
- (c) a reference to the commission of an act includes a reference to a failure to act.

Dated this twelfth day of March, 2001.

D. M. LINNANE, Vice President.

Operative Date:

Practice Note—Admissibility into Evidence of Matters Raised in s. 75 Conciliation Conference