

APPLICATION FOR PUBLIC SECTOR DISCIPLINARY APPEAL

COMMISSION DETAILS

Industrial Relations Commission of New South Wales

Case number

TITLE OF PROCEEDINGS

Appellant **[Appellant's name]**

Respondent (Employer) **[Respondent's name]**

FILING DETAILS

Filed for **Appellant**

Address [address]

Contact number [telephone no]

Contact email [email no]

#Representative [Name of representative] [industrial organisation or firm]

Contact number [representative's telephone no]

Contact email [representative's email address]

Respondent contact name, telephone and email [Name of contact] [telephone] [email]

LISTING DETAILS

The matter at the first instance will be listed for conciliation, and parties will be advised of the date, time and place of the conciliation. Any enquiries should be made to the Industrial Relations Commission Registry, telephone 02 8688 3516.

If the respondent does not enter an appearance when this matter is listed before the Commission, or if there is no attendance by a party or their counsel, solicitor or agent at the time and place as notified to the parties, the proceedings may be heard in their absence and an order may be made against the party who fails to appear.

DETAILS OF EMPLOYMENT

Employer's name [name]

Place of work [address]

Position/occupation [job/type of work performed for employer]

Award or enterprise agreement applying to your employment [name of award or enterprise agreement]

Type of employment Permanent
 Temporary
 Casual

Date employment commenced [date]

Date you received notice of the decision being appealed against [date]

Indicate the type of disciplinary decision being appealed against

<input type="checkbox"/> Dismissal	<input type="checkbox"/> Annulment
<input type="checkbox"/> Suspension	<input type="checkbox"/> Fine
<input type="checkbox"/> Refuse increment	<input type="checkbox"/> Reduction in grade, pay, etc
<input type="checkbox"/> Direction to resign	

Last day worked (if your employment has been terminated) [date]

RELIEF SOUGHT

What are you seeking by way of outcome of this appeal? [relief sought, eg reinstatement, reversal of the decision to impose a fine]

REASONS FOR APPLICATION

Why do you say the decision you are appealing against should not have been made? Please **be brief** – you will have the opportunity to provide more details to the Commission at the conciliation conference and during any hearing.

- 1 []
- 2 []

Note: You should attach to this application a copy of any letter or other relevant document that sets out the decision you are appealing against and/or the reasons for that decision.

SIGNATURE

#Signature of or on behalf of Appellant

Capacity [eg solicitor, authorised officer of industrial organisation]

Date of signature [date]

NOTES

- 1. Public Service senior executives are excluded from the public sector disciplinary appeal provisions of the *Industrial Relations Act 1996* pursuant to s 58 of the *Government Sector Employment Act 2013*.

2. Under s 91 of the *Industrial Relations Act 1996* a public sector employee is defined as a person who is:
 - (a) employed in the Public Service, or
 - (b) employed under Ch 9 Pt 1 of the *Health Services Act 1997* in the NSW Health Service, or
 - (c) an officer, or a temporary employee, within the meaning of the *Teaching Service Act 1980*, or
 - (d) employed under Pt 7A of the *Transport Administration Act 1988* in the Transport Service, or
 - (e) employed, whether permanently or otherwise:
 - (i) as an officer of either House of Parliament, or
 - (ii) in any position under the separate control of the President of the Legislative Council or Speaker of the Legislative Assembly, or under their joint control, or
 - (f) otherwise employed in the service of the Crown.
3. Public sector employees (other than senior executives) have a right of appeal against the following types of decision made by their employer (per s 97 of the *Industrial Relations Act 1996*):
 - (a) a decision to defer, for a period in excess of 6 months, the payment of an increment to the employee,
 - (b) a decision to reduce the rank, classification, position, grade or pay of the employee,
 - (c) a decision to impose a fine or forfeit pay,
 - (d) a decision to annul the appointment of an employee appointed on probation,
 - (e) a decision to suspend the employee as a punishment where the employee is held to be guilty of misconduct or contravention of any law or any rule or direction of the employer,
 - (f) a decision to dismiss the employee,
 - (g) a decision to direct or to require the employee to resign.
4. Per s 98 of the *Industrial Relations Act 1996*, employees of the following classes cannot appeal to the Commission against an appealable decision referred to at (d), (f) or (g) above:
 - (a) employees engaged under a contract of employment for:
 - (i) a specified period of time that is less than 6 months, or
 - (ii) a specified task that is of less than 6 months duration,

- (b) employees serving a period of probation or qualifying period, if the duration of the period, or the maximum duration of the period, is determined in advance and either:
 - (i) the period, or the maximum duration, is 3 months or less, or
 - (ii) if the period, or the maximum duration, is more than 3 months—the period, or the maximum duration, is reasonable having regard to the nature and circumstances of the employment and the statutory provisions relating to the probationary appointment of the employee concerned,
 - (c) employees engaged on a casual basis for a short period except those who:
 - (i) are engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 6 months, and
 - (ii) would, but for the decision of the employer, have had a reasonable expectation of continuing employment with the employer.
5. Employees may appeal against an appealable decision referred to at 3(d), (f) or (g) above regardless of whether the appealable decision was made for disciplinary reasons.
 6. You must file your application within 28 days of the date when you were notified of the decision you wish to appeal against. The Commission has no discretion to accept an application for public sector disciplinary appeal which is filed outside of this timeframe.
 7. Please ensure that you have completed all of the details in this appeal form carefully. The information you provide in this form must be true and correct to the best of your knowledge and belief.
 8. You will be advised of a date for a conciliation conference before a member of the Commission. You should personally attend the conciliation conference. If you are unable to attend in person you may apply to have the conciliation conducted by videoconference or teleconference.
 9. Please ensure that when you attend for the conciliation conference you are prepared to discuss the matter and the question of settlement (see Practice Note 23A). You should bring with you all relevant documents that you have concerning your appeal, together with a copy of this form.
 10. For more information on the overall process of a public sector disciplinary appeal, please see Practice Note 23A. The Commission also has guides available to assist you in preparing for the conciliation conference which can be found on the Commission's [webpage](#).

COMPLIANCE WITH PRACTICE NOTES

Parties must comply with the Practice Notes of the Commission. The Practice Notes may be found at the following website: <https://www.irc.nsw.gov.au/irc/practice-and-procedures/practice-notes.html>.

REGISTRY ADDRESS

Street address	Industrial Relations Commission Level 10, 10 Smith Street Parramatta NSW 2150
Postal address	PO Box 927 Parramatta NSW 2124
Telephone	02 8688 3516