

## PRACTICE NOTE 7

### Lodgement of video surveillance footage

#### Introduction

1. Parties before the Arbitration Service often rely on video surveillance footage as evidence in arbitration proceedings.
2. Unless defined as exempt under rule 3A(1) or declared to be exempt under rule 3A(3) of the *Workers' Compensation and Injury Management Arbitration Rules 2011* ("the Rules") all parties to a proceeding are required to lodge documents via the electronic document system ("EDS").
3. The EDS does not presently support lodgement of video surveillance footage. The Arbitration Service is exploring avenues to allow parties to lodge video surveillance footage via the EDS.
4. In the interim period, this practice note clarifies the practices adopted by the Arbitration Service in regard to the lodgement of video surveillance footage.

#### Exemption from lodgement via EDS in regard to video surveillance footage

5. It is the Registrar's view that in the present circumstances it is unreasonable to require parties wishing to rely on video surveillance footage to lodge that material via the EDS.
6. Pursuant to rule 3A(3) of the Rules all parties wishing to rely on video surveillance footage in arbitration proceedings are granted an exemption from the requirement to use the EDS for the lodgement of video surveillance only.

#### Practice of the Arbitration Service in regard to video surveillance footage

7. The Arbitration Service will accept for lodgement video surveillance footage contained on a DVD or USB in accordance with rule 9(2)(a) and 9(2)(b) of the Rules.
8. Pursuant to rule 9(2) and 9(5) of the Rules the manner of lodgement directed by the Registrar in relation the lodgement of video surveillance footage contained on DVD or USB is that it:
  - a. only be lodged in person or by post; and,
  - b. be lodged under cover of letter identifying the:
    - i. matter the footage relates to;
    - ii. who the lodging party is; and
    - iii. the dates and duration of the video surveillance footage contained on the DVD or USB.
9. All video surveillance footage lodged with the Arbitration Service will be security scanned by the Arbitration Service.
10. Pursuant to rules 8(b), 8(c) and 13(2)(a) of the Rules:
  - a. DVDs and USBs (or files on that media) that cannot be security scanned (for example due to encryption, password protection or compatibility issues) or that are identified as containing viruses or malware; or
  - b. DVDs and USBs that are not lodged with an accompanying cover letter

will not be considered to have been properly or completely lodged and may not be accepted by the Registrar.

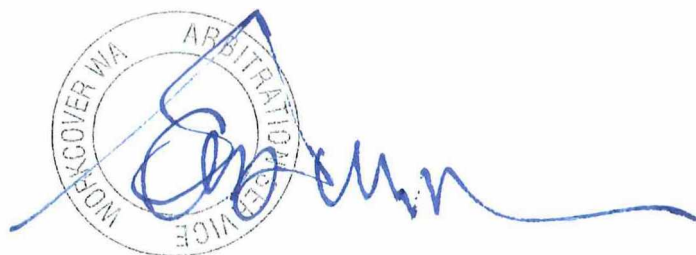
11. As it is not possible to affix the seal of the Arbitration Service to video surveillance footage or a DVD or USB the Arbitration Service will seal a copy of the cover letter accompanying the DVD or USB.

### Clarifications

12. For the avoidance of doubt parties should note the following.
- a. Unless some other exemption applies, this exemption is only from the requirement to use the EDS in respect of video surveillance footage.
  - b. The Arbitration Service's security scan of video surveillance footage is for the Arbitration Service's purposes only. Parties are encouraged to apply their own electronic data and internet security protocols.
  - c. Timelines for the lodgement of material apply (as required by the Rules or as ordered by an Arbitrator). The Arbitration Service is not responsible for any delay in security scanning of video surveillance footage.
  - d. Rule 9(4) of the Rules requires lodgement of multiple copies of documents lodged in person or by post for the purposes of sealing and service. The Registrar only requires a party to lodge one copy of the DVD or USB containing the video surveillance footage with the Arbitration Service, pursuant to rule 9(5) of the Rules. This is the copy to be lodged with the Arbitration Service.
  - e. Service of identical copies of the video surveillance footage lodged with the Arbitration Service remains the obligation of the lodging party.

### Commencement

13. This practice note takes effect from the date of its publication.



Sam Nunn  
Registrar  
Workers' Compensation Arbitration Service  
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