



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

Civil Electronic Document Practice Note 2020

Date: 23 October 2020

The Chief Justice and the Judges of the Supreme Court issue the following Practice Note:

1. Title

This Practice Note is the Supreme Court Civil Electronic Document Practice Note 2020.

2. Commencement date and application

This Practice Note:

- (1) comes into effect on 2 November 2020 (the commencement date);
- (2) is a practice note about electronic format for the purposes of r 10A of the Supreme Court Rules 2004 (the Rules)
- (3) applies to all civil applications for leave to appeal filed after the commencement date and all civil appeals for which leave to appeal is granted after the commencement date; and
- (4) is to be read and interpreted consistently with the Senior Courts Civil Electronic Document Protocol (the Protocol), published on the Courts of New Zealand website (www.courtsofnz.govt.nz).

3. Overview

- (1) This Practice Note is a guide for counsel and the Court. It is intended to encourage and facilitate the use of electronic documents for civil cases in the Supreme Court.
- (2) The Protocol is intended to assist the parties by specifying an acceptable method for preparing electronic documents to be filed in the Courts. It may change as technology evolves and experience is gained in the use of electronic document management.
- (3) A party must advise the Registrar if directions are sought to modify, or add to, the default directions set out in the Protocol.
- (4) The Rules require that the parties co-ordinate when preparing the case on appeal for a civil appeal: see r 34(1). This obligation is especially important for electronic records, the collation and indexing of which demand active co-operation.

4. Electronic documents

(1) An electronic case on appeal, bundle of authorities, submissions and chronology will be required in all civil appeals unless a judge directs otherwise. If an outline of oral argument is provided under r 36A of the Rules, an electronic version should be provided.

(2) If an electronic case on appeal was used for the appeal to the Court of Appeal, then this can be used as the case on appeal in the Supreme Court, with necessary modifications, and subject to the Court's directions.

(3) Applicants for leave to appeal may file an electronic copy of the documents required to accompany an application for leave to bring a civil appeal under r 16 of the Rules and, if the Court directs that the application for leave is to be heard orally, the parties must file electronic copies of the bundles of authorities required by r 23 of the Rules unless a judge directs otherwise.

(4) Submissions for applications for leave to appeal may be filed in compliant electronic format. They are not required to be hyperlinked.

5. Application of the Rules

This Practice Note is not intended to effect any change to the requirements of the Rules, with the following exceptions:

(1) If the case on appeal is filed for an appeal in compliant electronic format, then only two hard copies are required to be filed with the Registry, instead of six copies (r 35(1)).

(2) If the bundle of authorities is filed for an appeal in compliant electronic format, then only one hard copy is required to be filed with the Registry, instead of six copies (r 37).

(3) If a document referred to in paragraph 4(3) above is filed for an application for leave to appeal in compliant electronic format, then only one hard copy is required to be filed with the Registry, instead of three copies (rr 16(1) and 23(1) and (2) of the Rules).

6. Default directions

For an electronic case on appeal or electronic documents the following directions will apply unless an order varies them:

(1) The parties are to collaborate in the preparation of an electronic case on appeal including:

(a) an obligation, if requested, to provide electronic copies (multi-page images in searchable PDF format) of any documents to be included in the case on appeal relevant to that party's grounds to be argued on appeal (see r 34(1) of the Rules); and

(b) an obligation, where it is fair and cost efficient to do so, to agree a format for an electronic case on appeal and indexes that will be compatible with any litigation support or other software intended to be used by any party.

- (2) The appellant who is to file and serve the electronic case on appeal will:
- (a) prepare the case on appeal in consultation with the respondent;
 - (b) prepare it in accordance with the Protocol (format, folders, names, indices and hyperlinking);
 - (c) file and serve it in accordance with paragraph 9 of the Protocol; and
 - (d) comply with the requirements of the Rules for the filing of hard copies, as modified by paragraph 5 above.

7. Filing and Service

- (1) One set of electronic documents must be filed on a USB drive in accordance with paragraph 9 of the Protocol unless the Registrar approves filing in another manner.
- (2) One set of electronic documents must be served on each party on a suitable portable media device, or in such other manner as may be agreed in advance between the parties or, failing agreement, directed by the Court.
- (3) The submissions, chronology and outline of oral argument for an appeal may be filed and served by email. Any document that is filed by email should be sent to supremecourt@justice.govt.nz.

8. Date of filing

- (1) The date of filing of a case on appeal, bundle of authorities or documents referred to in paragraph 4(3) above is the day on which the paper or electronic copy is filed in the Registry, whichever is earlier (see rr 10(4) and (5) of the Rules).
- (2) Two hard copies of the case on appeal must be filed at the same time as the electronic case on appeal unless the Court has directed otherwise in a particular case.

9. Refusal of electronic documents for filing

- (1) All electronic documents filed in the Registry must be prepared in substantial compliance with this Practice Notice and the Protocol. If they are not in substantial compliance, they will not be accepted for filing.
- (2) If a Registrar considers that an electronic document is an abuse of the process of the Court or is frivolous or scandalous or vexatious on its face or by reference to other documents already filed or submitted, that electronic document may be refused.

10. Access to Court documents

Access to Court documents, whether electronic or paper, is managed according to the Senior Courts (Access to Court Documents) Rules 2017.