



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

Criminal Electronic Document Protocol 2020

Date: 23 October 2020

1 Introduction

1.1 This Protocol is a guideline to be used by counsel and the Supreme Court. It is intended to encourage and facilitate the use of electronic documents for criminal cases in the Supreme Court. It allows counsel to file electronic submissions and authorities that are hyperlinked to the case on appeal prepared by the Registry. For convenience, it is designed to provide for the use of the same conventions as are used in relation to electronic documents for criminal appeals to the Court of Appeal as set out in the Court of Appeal Criminal Electronic Protocol, published on the Courts of New Zealand website (www.courtsofnz.govt.nz) (the CA Protocol), with any necessary modifications.

1.2 This Protocol addresses:

- a) what counsel will receive from the Court in relation to an appeal; and
- b) what the Court requires from counsel who choose to file in electronic form.

1.3 This Protocol is not intended to effect any change to the requirements of the Supreme Court Rules 2004 (the Rules), with one exception. If the bundle of authorities for the hearing of an application for leave to bring a criminal appeal or a criminal appeal is filed in compliant electronic format, then only one hard copy is required to be filed with the Registry, instead of three or six copies (rr 23(1) and (2) and 37(1) and (2)).

1.4 Opposing parties or counsel are entitled to service of paper copies of submissions and authorities. Counsel should bear in mind that some parties, notably self-represented parties who are in custody, may not have ready access to computers. The Court expects that in practice most counsel will agree to exchange electronically. Those who opt to exchange and file electronically must comply with this Protocol.

1.5 This Protocol is subject to modification in particular cases, and as technology evolves and experience is gained in the use of electronic document management.

1.6 A party must advise the Registrar if directions are sought to modify, or add to, the default directions set out below.

1.7 In this Protocol, “SC case” means the case on appeal referred to in r 35A of the Rules and “casebook” means the SC case together with other documents filed in accordance with this Protocol, including submissions.

1.8 Any document that is filed by email should be sent to supremecourt@justice.govt.nz.

What counsel will receive from the Court

2 The SC case

2.1 The SC case is prepared in electronic format by the Registry and supplied to counsel.

2.2 The SC case will be provided to counsel as follows:

a) The Registry will normally email the SC case to an address nominated by counsel.

b) If counsel do not supply an email address, or if the file is too large to be emailed, the Registry will contact counsel to arrange an alternative means of transfer, most likely by way of USB drive.

c) Self-represented parties will not normally be provided with an electronic version of the SC case, although that may be arranged with the Registry in appropriate cases. The Registry will supply them with a paper copy.

2.3 The Registry prepares the SC case in searchable portable document format (PDF) using Adobe Acrobat Pro.

2.4 The SC case will contain all of the material that would be included in the hard copy of the document and will share the same pagination. This gives counsel the option of printing the SC case if they do not wish to use an electronic device in court.

2.5 The SC case consists of the case on appeal prepared by the Court of Appeal for the appeal to that Court (including any additional materials volumes) (the CA case) and one or more additional volumes of documents generated after the Court of Appeal hearing (including the Court of Appeal's judgment and the Supreme Court's leave judgment) and any other relevant documents that do not appear in the CA case.

2.6 The SC case will be prepared using the same format and other features used by the Court of Appeal in preparing the CA case, as set out in the CA Protocol.

2.7 Each volume of the SC case is paginated from the cover page. These page numbers should be included in submissions (written and oral) when referencing a document in the SC case.

2.8 Each volume of the SC case contains bookmarks which are hyperlinked to the relevant passage in the volume. By tabbing or clicking a given bookmark, counsel and judges may go directly to the relevant passage.

What the Court requires from counsel

3 Filing and service

3.1 The Court encourages parties to file electronic versions of all documents.

3.2 If electronic versions of documents are to be filed, parties must:

a) File one set of electronic documents using a method that will be identified by the Registrar (such as email attachment or a USB drive). These must be filed by the filing deadline.

b) Serve one set of electronic documents on each other party by email or in such other manner as may be agreed in advance between the parties. It is noted opposing parties or counsel are entitled to service of paper copies of submissions and authorities, and counsel should bear in mind that some parties, notably self-represented parties who are in custody, may not have ready access to computers. The Court expects that in practice most counsel will agree to exchange electronically. Electronic or hard copy documents must be served by the filing deadline.

c) File one hard copy with the Court, by post or by hand. These may be filed up to three working days after the filing deadline. This requirement does not apply to submissions, chronologies and outlines of oral argument: see paragraph 7 below.

4 Format

The electronic version of any document must be in the same format as is required for electronic documents for criminal appeals to the Court of Appeal as set out in paragraph 6 of the CA Protocol.

5 Hyperlinking

5.1 Counsel's written submissions for an appeal must contain hyperlinks to relevant passages in the case on appeal and to relevant passages in the authorities referred to.

5.2 Hyperlinks may be created in the body of the submissions or in footnotes. It is not usually necessary or appropriate to hyperlink every reference. The Court encourages counsel to focus only on those that matter.

5.3 The table of contents in the bundle of authorities must contain hyperlinks to the authorities referred to.

5.4 Each hyperlink must be relative, meaning that it uses a path starting from the folder where the hyperlinked document is located rather than starting from a specified hard drive. Absolute hyperlinks will not work with the electronic casebook.

5.5 If the Multiple PDF Format is used for the bundle of authorities, the authorities will need to be filed with the Registry on a USB drive. Due to the file structure required for the hyperlinking, they are unable to be emailed.

5.6 A guide to creating a hyperlink to a specific page in Adobe Acrobat Pro is included at Appendix 2 to the CA Protocol.

6 Document names

The file names assigned to electronic documents should conform to the requirements of the CA Protocol as set out in paragraph 8 of, and Appendix 1 to, the CA Protocol, adapted to reflect the appeal is to the Supreme Court, not the Court of Appeal.

7 Submissions

7.1 Submissions for appeals should be filed as a single PDF. They must contain hyperlinks to any references made to the case on appeal and bundle of authorities in accordance with paragraph 5 above. They should be titled “App Subs” or “Resp Subs” or similar, as appropriate.

7.2 Where counsel file electronically, it is not necessary to file a paper copy. The electronic version of any document must be the direct equivalent of the hard copy version. An exception to this is large Excel spreadsheets. Converting these to PDFs can make them unwieldy and incomprehensible.

7.3 Depending on the file structure used by counsel, submissions and authorities are able to be filed either by email or, if necessary, on a USB drive.

7.4 Submissions for applications for leave to appeal should be filed as a single PDF. They are not required to be hyperlinked. It is not necessary to file a paper copy.

7.5 The chronology and any outline of oral argument for an appeal should also be filed as a single PDF. They are not required to be hyperlinked. It is not necessary to file a paper copy.

8 Authorities

Under the CA Protocol, there are two different format options for counsel to choose from when preparing bundles of authorities, the Single PDF Format and the Multiple PDF Format. These are described in paragraph 10 of the CA Protocol. Either option may be used (but one of them must be used) for bundles of authorities for criminal hearings in the Supreme Court.