

Electronic Casebooks for Criminal Appeals in the Court of Appeal

The Court of Appeal has introduced a new process for criminal appeals and applications for leave to appeal. The Court of Appeal Registry will now provide counsel with casebooks in electronic form rather than in hard copy, and counsel are encouraged to file their submissions and bundles of authorities in electronic form.

An electronic casebook protocol has been developed to explain how electronic documents will be used in court. Casebooks are prepared in searchable PDF format. The PDF versions will contain all the material that would be included in the hard copy of the document and will share the same pagination. Judges will view electronic documents in Court on iPads or PCs. The protocol also explains the process that the registry follows for compiling and indexing electronic documents and sets out how electronic submissions and bundles of authorities should be presented.

The Court believes that counsel will find it more convenient to work with electronic documents. However their use is not mandatory. Counsel who prefer paper may print a copy of the casebook for their own use and the Court will not insist that counsel file submissions and authorities electronically. Where counsel file electronically, they need not file four paper copies of documents. They must file one paper copy and one electronic copy, which must be searchable PDF. Counsel who do not file electronically must comply with the rules of the Court regarding paper filings, including the prescribed number of copies.

The Court expects that most counsel will agree to exchange submissions and authorities electronically. 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 Registry will continue to provide self-represented parties with paper copies.

The protocol is set out below and will be provided to counsel when an appeal is filed.

The new process relates only to criminal appeals, in respect of which the Court has responsibility to prepare the case on appeal. The Court intends to introduce analogous processes for civil appeals later. Until it does so, counsel in civil appeals and applications for leave to appeal should continue to file all documents relating to the appeal or application in hard copy.



COURT OF APPEAL OF NEW ZEALAND – TE KŌTI PĪRA O AOTEAROA

ELECTRONIC CASEBOOKS, SUBMISSIONS AND BUNDLES OF AUTHORITIES IN THE COURT OF APPEAL FOR CRIMINAL APPEALS

Following a trial period the Court of Appeal is now using electronic casebooks (that is, the relevant portion of the trial court record) in all criminal appeals, including applications for leave to appeal.

Counsel will be given copies of the electronic casebooks. They are also encouraged to file their submissions and bundles of authorities in electronic form.

This protocol explains the following:

- (a) How electronic documents are presented and how they will be used in court.
- (b) The process that the registry follows for compiling and indexing electronic documents.
- (c) How electronic submissions and bundles of authorities must be presented. Documents will not be accepted for filing in electronic form unless they comply with this protocol.

Use of electronic documents is not mandatory. Counsel who prefer paper may print a copy of the casebook for their own use. Nor does the Court insist that counsel file submissions and authorities electronically. Rather, the Court believes that counsel find it more convenient to work with electronic documents. This protocol is designed to facilitate that.

Counsel who do not file electronically must comply with rules of the Court regarding paper filings, including the prescribed number of copies.¹ 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.

¹ Court of Appeal (Criminal) Rules 2001, rr 5A, 20, 27, 29.

Presentation and use of electronic documents

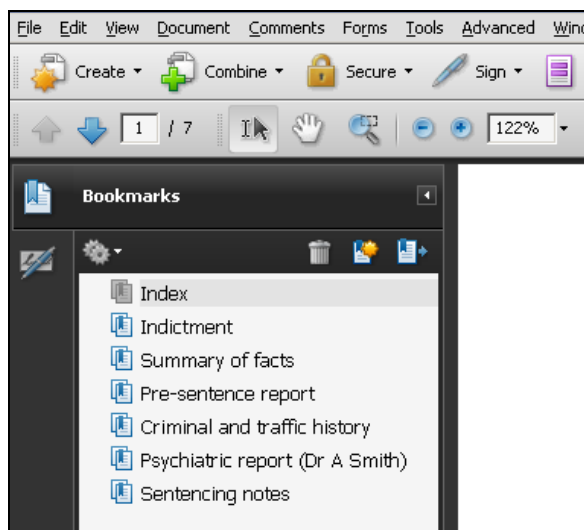
The registry prepares casebooks in searchable portable document format (PDF), using Adobe Acrobat Pro.

Electronic documents must allow users to find information swiftly and annotate it easily. That requirement dictates how documents will be presented and indexed. It also requires that they be prepared in a consistent and predictable way.

Each electronic document will contain all of the material that would be included in the hard copy of the document, and will share the same pagination. It will thus mirror the hard copy, which some people in court will be relying upon, at least initially.

Each volume is paginated from the cover page, which facilitates electronic searching. Counsel are encouraged to include the casebook page number when referencing the record in their submissions, or when referring to the record in oral argument.

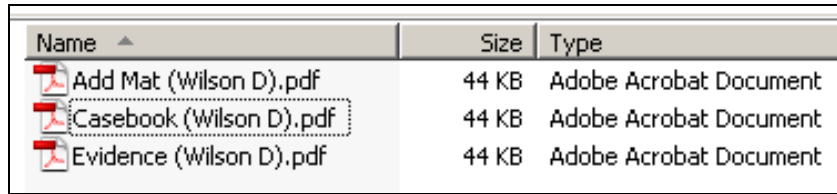
The bookmarks within each volume are hyperlinked to the relevant passage in the volume, so that by tapping or clicking a given bookmark counsel and Judges may go directly to the relevant part of the document. The screen shot below illustrates the list of bookmarks within the casebook for a typical sentence appeal.



Electronic documents may be searched using a PDF reader. Counsel may choose their own hardware and software. The Judges may use iPads equipped with iAnnotate, or PCs with Adobe Acrobat Pro, but counsel need not equip themselves in the same way. As with any electronic equipment used in court, normal etiquette must be observed. Machines must be kept in silent mode and may not be used to record sound or images without express permission. Power outlets are normally available for counsel.

The casebook is divided into volumes, each being a separate electronic file. Notes of evidence from the trial court comprise a separate volume, in order to retain the

same pagination as the original notes of evidence. The screen shot below shows the volumes which counsel can usually expect to receive for a typical conviction appeal.



Name	Size	Type
Add Mat (Wilson D).pdf	44 KB	Adobe Acrobat Document
Casebook (Wilson D).pdf	44 KB	Adobe Acrobat Document
Evidence (Wilson D).pdf	44 KB	Adobe Acrobat Document

A naming convention has been developed for electronic documents. It covers both documents prepared by the Registry and those filed by counsel. The names are succinct, so that they are viewable within small tabs. The summary table appended to this protocol contains the naming conventions for most of the documents that will be used for criminal appeals.

Electronic documents prepared by the Registry

As with paper casebooks, electronic casebooks are prepared by the registry and supplied to counsel. The registry will normally email the casebooks to an address nominated by counsel. 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.

Self-represented parties will not normally be provided with an electronic casebook, although that may be arranged with the registry in appropriate cases. The registry will supply them with a paper copy.

1 Casebook

Each casebook will begin with an index page, which forms part of the PDF. Page numbering must start with the index page (that is, the first page of the index will form page 1 of the casebook), to ensure consistency with the page numbers in the PDF when viewed on the iPad.

In addition, each document that makes up the casebook will have a bookmark, which will appear in the “bookmarks” or “outline” tab on the left pane when viewed in Adobe or iAnnotate respectively.

- (a) These bookmarks will correspond to the documents listed in the index (that is, indictment, summary of facts and so on).
- (b) Note that when documents are combined in Adobe to create the casebook, bookmarks will be generated automatically for each combined document. These can be modified if necessary.

Where volumes are created after the main casebook has been prepared, as happens when additional materials are requested, the same indexing process will be used as for a normal casebook.

2 *Notes of evidence*

Notes of evidence will be placed in a separate hard copy volume and electronic volume. This is a departure from previous practice.

Notes of evidence are usually accompanied by an index prepared by the National Transcription Service (NTS), and they have their own internal pagination. That existing pagination and index will be retained. This avoids confusion in court and when preparing submissions.

NTS places the index at the end of the transcript, and this format will be retained by the Registry.

As with the casebook, the notes of evidence will contain bookmarks, which will correspond to each witness. These will be inserted manually by the Registry in Adobe, and will follow the order that the witnesses gave evidence. However, there will not be separate bookmarks for cross-examination, re-examination, and so on.

Sometimes NTS pagination is problematic because evidence was read to a jury and not transcribed; rather, a copy of the brief of evidence is placed on the trial court record.

- (a) In this case, the brief of evidence should be placed at the end of the notes of evidence (but before the index).
- (b) The pagination will be extended to cover the briefs of evidence.
- (c) An internal hyperlink will be set up from the page of the Notes of Evidence that refers to the brief (that is, the page that reads "Brief of Evidence of Ann Smith read by consent") to take the user to the brief itself.
- (d) A footer, giving the page number at which the brief is located, will be placed at the bottom of the page of the Notes of Evidence that refers to the brief. This is to ensure ease of use for parties using a hard copy of the document.
- (e) The bookmark (on the left pane) will lead directly to the brief of evidence itself.

As the transcript from NTS does not include the CA number, this will be added as a header on the first page of the notes of evidence.

Electronic filing of submissions and authorities

This section explains the standard format that should be followed when counsel are filing electronic documents. The registry uses Adobe Acrobat Pro to prepare documents, and the following instructions and screenshots are taken from this programme.

Where counsel file electronically, they need not file four physical copies of their documents. They must file *one* physical copy and one electronic copy, which must be a *searchable* PDF.

The electronic copy should be emailed to courtofappeal@justice.govt.nz. Occasionally, files may be too large to be emailed. If this is the case, please contact the Registry to discuss options for filing.

1 *Electronic submissions*

Submissions must be filed as searchable PDFs which must be identical to the physical copy.

At this time submissions should *not* be hyperlinked to casebook passages or authorities. It is not presently feasible to preserve the hyperlinks when downloading submissions from the server used by the Court.

Page numbering should start from the *cover page* of the document (this is a change from some counsel's current practice). So the cover page should be page 1, and the next page (on which the argument or index begins) should be page 2.

Counsel may prepare a PDF in searchable form as follows:

- (a) If the PDF has been created by converting it from a Word document, text should be automatically searchable. In this case nothing has to be done.
- (b) If the PDF is a scan of a physical document, then use text recognition software, such as "OCR Text Recognition" in Adobe Acrobat Pro, to make the words searchable.

The PDF should be named according to the Court's naming convention, outlined in the attached summary table. Use the abbreviations "App" for appellant, and "Resp" for respondent.

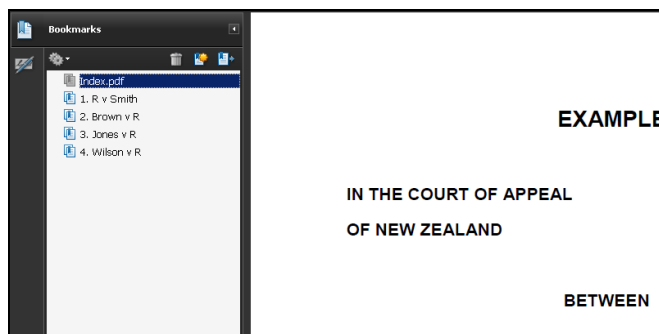
2 *Electronic bundles of authorities*

Bundles of authorities should be filed as a single PDF, separate from counsel's submissions.

In a departure from existing practice, the bundle of authorities should include *continuous pagination* throughout. Page numbering should start from the *cover page* of the document (that is, the cover page should be page 1). Submissions should include references to bundle page numbers.

Otherwise, the format will be largely identical to the current format used by counsel to file physical bundles of authorities. There will be a cover/index page that lists each authority in the bundle.

Each authority must be marked by a tab (in the physical bundle) and a corresponding bookmark (in the PDF). PDF bookmarks can be viewed in the “Bookmarks” pane on the left-hand side of the screen on Adobe Acrobat Pro.



These bookmarks should be named according to the following format:

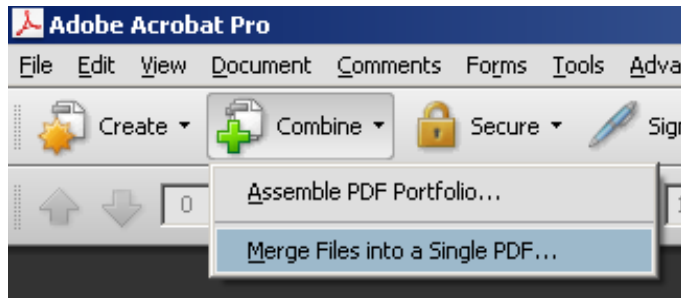
[Tab number (same as tab number in the physical bundle)]. [Authority case name]

For example:

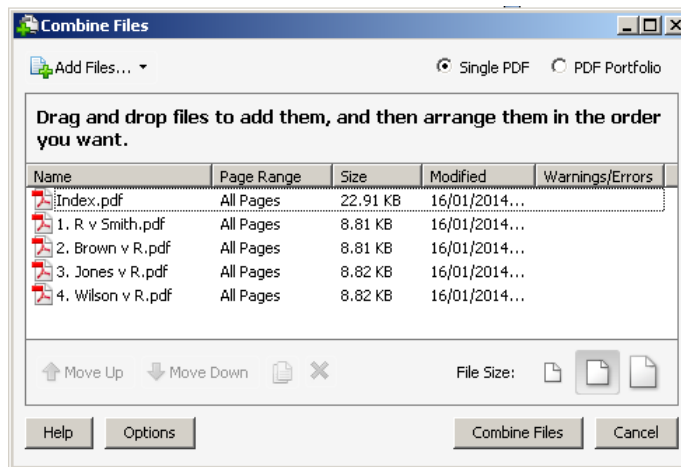
1. R v Smith
2. Jones v R

Bookmarks can be inserted manually using Adobe Acrobat Pro. They can also be generated automatically using the following method:

- (a) Save each authority as a separate PDF, using the naming set out above.
- (b) Open Adobe Acrobat Pro, and click on “Combine”. Select “Merge Files into a Single PDF”.



- (c) In the box that appears, click on “Add Files” and select the authorities required from the computer, plus the index. Arrange the documents in the correct order (with the index first), and then click “Combine Files”.



PDFs should contain searchable text. The process for doing this is the same as set out above.

As mentioned above, the bundle of authorities should have continuous pagination throughout. The process for doing this is as follows:

- (d) In Adobe Acrobat, click on the dropdown menu titled “Document”, and select “Header and Footer” / “Add”.
- (e) Select the “Insert Page Number” function.

The PDF bundle of authorities should now be complete. The document should be named according to the Court’s naming convention, outlined in the attached summary table. Use the abbreviations “App” for appellant, and “Resp” for respondent.

3 *Date-stamping of electronic submissions*

The registry “date-stamps” all documents received by email.

This is done by inserting a footer on the first page as follows:

RECEIVED BY EMAIL

22 NOV 2013

COURT OF APPEAL

APPENDIX: Electronic Documents – Summary Table

Document	PDF document name	Bookmark/tab names	Notes
Case on Appeal	Casebook (Wilson D).pdf	Notice of appeal Indictment Summary of facts	<i>This is prepared by the Registry.</i> Each document within the PDF casebook is marked by a separate bookmark.
Additional Materials	Add Mat (Wilson D).pdf Add Mat 2 (Wilson D).pdf	Victim impact statement – Smith P Victim impact statement – Jones T	<i>This is prepared by the Registry.</i> Additional materials volumes contain sensitive materials, or materials received after completion of the main casebook.
Notes of Evidence	Evidence (Wilson D).pdf	Smith P Jones T Brown A	<i>This is prepared by the Registry.</i> The Notes of Evidence is now a separate volume from the main casebook. The index is located at the back of the document.
Submissions of counsel	App subs (Wilson D).pdf Resp subs (Wilson D).pdf	N/A	
Bundle of authorities	App authorities (Wilson D).pdf Resp authorities (Wilson D).pdf	1. Smith v R 2. Jones v R	Each authority must be marked by a separate bookmark (which corresponds to the tab number in the physical bundle).
Affidavits	Afdvt Smith (Wilson D).pdf	If there are attachments: Attachment 1 Attachment A, etc.	The PDF should be named “Afdvt [<i>Deponent Name</i>] (<i>Case name</i>).pdf”. Any attachments to the affidavit should be marked by a bookmark.
Notice of cross-examination	Notice XXN Smith (Wilson D).pdf	N/A	The PDF should be named “Notice XXN [<i>Witness Name</i>] (<i>Case name</i>).pdf”
Memorandum of counsel	Memo app 1-1-2014 (Wilson D).pdf	N/A	The PDF should be named “Memo [<i>party</i>] [<i>date</i>] (<i>Case name</i>).pdf”