



## Court of Appeal of New Zealand

### Te Kōti Pira o Aotearoa

#### **ELECTRONIC DOCUMENT PRACTICE NOTE 2017**

The President and Judges of the Court of Appeal make the following Practice Note:

#### **1. Title**

This Practice Note is the Electronic Document Practice Note 2017.

#### **2. Commencement date and application**

This Practice Note:

- (1) Comes into effect on 1 October 2017;
- (2) Applies to civil appeals filed after the commencement date; and
- (3) Does not apply to applications for leave to appeal or other interlocutory applications (unless the Court directs otherwise in a particular case).

#### **3. Overview**

- (1) This Practice Note is a guideline to be used by counsel and the Court. It is intended to encourage and facilitate the use of electronic documents for civil cases in the Court of Appeal.
- (2) The Electronic Document Protocol (the Protocol) is intended to assist the parties by specifying an acceptable method for preparing electronic documents to be filed in the Courts. The Protocol is found on the Courts' website: [www.courtsfnz.govt.nz](http://www.courtsfnz.govt.nz). 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 Electronic Document Protocol.
- (4) The Court of Appeal (Civil) Rules 2005 (the Rules) require that the parties co-ordinate when preparing the case on appeal; see r 39. This obligation is especially important for electronic records, the collation and indexing of which demand active co-operation.

#### **4. Application of Court of Appeal (Civil) Rules 2005**

This Practice Note is not intended to effect any change to the requirements of the Rules, with the following exceptions: if a document is filed in compliant electronic format, then only one hard copy is required to be filed with the Registry, instead of four copies (see rr 40(1)(a), 41(1), 42(1)(a) and 42(2)(a)); and an electronic document may satisfy filing deadlines (paragraph 8 below).

#### **5. Process for considering whether electronic documents should be used**

- (1) After a notice of appeal is filed, the Registrar will enquire of the parties whether it is appropriate for the case on appeal, written submissions and bundle of authorities to be filed as electronic documents, having regard to r 5(1) of the Rules.
- (2) The use of electronic documents will usually be appropriate where the case on appeal or the bundle of authorities is likely to exceed 500 pages.
- (3) A judge may convene a teleconference to address the issue of electronic documents and may make such directions at or after the conference as may be considered appropriate.

#### **6. Decision of a judge on use of electronic documents**

- (1) A judge will decide on a case-by-case basis whether electronic documents should be used.
- (2) In doing so the judge will have regard to:
  - (a) The length of the proposed bundle;
  - (b) The estimated cost of preparation;
  - (c) The likely extent of reference to the bundle; and
  - (d) Any other matter that the judge considers relevant.

#### **7. Filing and Service where electronic documents used**

- (1) One set of the electronic documents must be filed using a method to be identified by the Registrar (ordinarily, a USB flash drive);
- (2) One set of the electronic documents must be served on each other party through the use of 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.

## **8. Date of filing**

- (1) The date of filing of a Case on Appeal or other document is the day on which the paper or electronic copy is filed in the Registry, whichever is the earlier. Counsel are reminded of the strict time limits in r 40(2) and (6) Court of Appeal (Civil) Rules 2005.
- (2) Where electronic copies follow paper, the electronic copies may be filed up to three working days after the deadline. This recognises that additional time is sometimes required to insert hyperlinks into electronic documents, notably submissions.
- (3) Where paper copies follow electronic, the paper copies may be filed up to two working days after the deadline. This allows for copying and binding.

## **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. 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.

**Stephen Kós P**  
30 August 2017