



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

CRIMINAL ELECTRONIC DOCUMENT PROTOCOL

Version date: 17 April 2016

1 Introduction

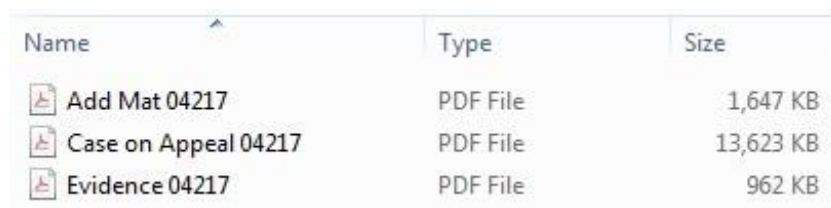
- 1.1** This protocol is a guideline to be used by counsel and the Courts. It is intended to encourage and facilitate the use of electronic documents for criminal cases in the Court of Appeal. It updates the version dated [14 February 2014] and allows counsel to file electronic submissions and authorities that are hyperlinked to the case on appeal prepared by the Registry.
- 1.2** This protocol will discuss:
- (a) What counsel will receive from the court; 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 Court of Appeal (Criminal) Rules 2001. However, the court may modify the requirements relating to the number of hard copies of documents that must be filed in the event that a document is filed in compliant electronic format.¹
- 1.4** 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. 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, “casebook” means the case on appeal referred to in rr 13 and 14 of the Court of Appeal (Criminal) Rules 2001 together with other documents filed in accordance with protocol, including submissions.




¹ See Court of Appeal (Criminal) Rules 2001, rr 20(3)(a), 20(3)(b), 27(5), 27(6), and 29(8).

What counsel will receive from the Court

2 Format

- 2.1** An electronic case on appeal is prepared by the registry and supplied to counsel.
- a) The registry will normally email the case on appeal 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 memory stick
 - c) 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.
- 2.2** The Registry prepares cases on appeal in searchable portable format (PDF), using Adobe Acrobat Pro. cases on appeal follow the file structure set out in Appendix 3.
- 2.3** The case on appeal 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 case on appeal if they do not wish to use electronic media in court.
- 2.4** The case on appeal is divided into volumes, each being a separate electronic file. The screen shot below shows the volumes which counsel can usually expect to receive for a typical conviction appeal. Depending on the size of the case, there may be multiple volumes of each document.



Name	Type	Size
 Add Mat 04217	PDF File	1,647 KB
 Case on Appeal 04217	PDF File	13,623 KB
 Evidence 04217	PDF File	962 KB

- 2.5** Each volume is paginated from the cover page. These page numbers should be included in submissions (written and oral) when referencing the record. Hyperlinking to the casebook is also encouraged.
- 2.6** Each volume 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.

3 Case on Appeal

- 3.1** Each case on appeal will begin with an index page, which forms part of the PDF. Page numbering will start with the index page (the first page of the index will form page 1 of the casebook)
- 3.2** Each document in the case on appeal will have a bookmark. These bookmarks will correspond to the documents listed in the index (charging

documents, summary of facts, etc). These will appear in the “bookmarks” or “outline” tab on the left pane when viewed in Adobe or iAnnotate respectively.

3.3 Where additional volumes are created after the main volume has been prepared (“Additional Materials”), the same indexing process in that volume will be used as for a normal case on appeal.

3.4 Additional Materials will be numbered sequentially in the order they are issued (ie Add Mat 1 (Wilson, D) and Add Mat 2 (Wilson, D)

4 Notes of Evidence

4.1 Notes of evidence are placed in a separate volume of the case on appeal.

4.2 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 will be retained but the Court will also create its own set of page numbers. This will result in two sets of numbers being at the top of the page.

4.3 The smaller font number will be the original pagination whereas the larger font will be the Court of Appeal pagination. The index at the front of the volume will relate to the larger font numbers only.

4.4 Please note all references should be made to the larger font numbers.

4.5 The reason for this is when briefs of evidence are read, they are not usually transcribed in to the notes of evidence. As cross-examination will sometimes occur after a brief of evidence is read, it makes sense to insert the brief in to the notes where it was read. Adding in these additional pages puts the original pagination out and necessitates the inclusion of a new numbering system.

4.6 As with the case on appeal, 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.

What the Court requires from Counsel

5 Filing and Service

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

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

- a) file one set of the electronic documents using a method that will be identified by the Registrar (such as email attachment or an encrypted USB flash drive);
- b) serve one set of the 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. These must be filed 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.

6 Format

6.1 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.

6.2 All electronic documents prepared by counsel must:

- a) be in searchable PDF format. Scanned text documents must be put through a text recognition process; and
- b) use portrait orientation, with each page of an original document or case authority occupying a full A4 page in the PDF format (but the hard copy version of submissions and authorities may be printed double-sided).

6.3 The above format is intended to be technology neutral so that an electronic casebook is usable in that electronic format, able to be printed to produce a hard copy set, and also suitable for importing into software or applications that the parties may separately choose to use.

6.4 Electronic documents should be a reasonable size. In general, PDFs consisting of printed, searchable text should average less than 50kB per page. Files containing pictures and diagrams may end up being larger than this. Alternatively, ensuring that documents are at a resolution of 300 dpi usually ensures that they are the appropriate size.²

² Where exact duplication is necessary, the Adobe PDF output style should be "Searchable Image (Exact)", which requires higher resolution of 600dpi.

- 6.5** The case on appeal and all documents filed with the Registry are stored in the file structure described in Appendix 3. It is essential that counsel use this structure so that hyperlinks between documents are maintained once they are filed with the Court.
- 6.6** The top level folder, in which all other folders are located, is named with the title of the case. Each folder will be named with an appropriate description. If there is more than one volume of a particular bundle of electronic documents, the folder for that bundle will include subfolders for each volume. (See Appendix #3). The case on appeal supplied by the registry will follow this structure.
- 6.7** To avoid compatibility issues, folder or file names must not use the following characters: ' ! @ # \$ % ^ & * () + = [] { } : ; , ? " / - _

7 Hyperlinking

- 7.1** Counsels written submissions must contain hyperlinks to relevant passages in the case on appeal and to relevant passages in the authorities referred to.
- 7.2** 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.
- 7.3** The table of contents in the Bundle of Authorities must contain hyperlinks to the documents referred to.
- 7.4** 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.
- 7.5** If the Multiple PDF Format (see below) is used for the Bundle of Authorities, the authorities will need to be filed on USB with the Registry. Due to the file structure required for the hyperlinking, they are unable to be emailed.
- 7.6** How to create a hyperlink to a specific page in Adobe Professional is included at Appendix 2

8 Document Names

- 8.1** The file names assigned to electronic documents should be as succinct as possible and must not exceed 150 characters. This is so because the path provided by the Court's file structure is part of the file name and Microsoft limits file names to 250 characters in total.
- 8.2** The summary table attached to this protocol at Appendix 1 contains the naming conventions for most of the documents that will be used for criminal appeals.
- 8.3** To assist with the identification of individual documents, each document either produced by the Registry or filed by counsel will be required to

include a number specific to that particular case at the end of its name. The number will be based upon the 'CA' number that the Registry assigns when an appeal is first filed. It will always be five digits long and end with the year it was filed. For example CA126/2017 will have the reference number 12617; CA48/2017 will be 04817; and CA6/2017 will be 00617.

9 Submissions-

- 9.1** Submissions should be filed as a single PDF. It must contain hyperlinks to any references made to the case on appeal and bundle of authorities. They should be titled "App Subs" or "Resp Subs" etc, as appropriate.
- 9.2** Where counsel file electronically, they need not file four physical copies of their documents. They must file one physical copy and an electronic 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.
- 9.3** Depending on the file structure used by counsel, submissions and authorities are able to be filed either electronically via email or, if necessary, by USB. This is explained below.

10 Authorities

- 10.1** There are two different format options for counsel to choose from when preparing bundles of authorities. These are referred to as the 'Single PDF Format' – which is the usual format – and the 'Multiple PDF Format.' Counsel can choose whichever method is easier for them provided that the requirements of this protocol are followed.
- 10.2** Bundles of Authorities prepared in Single PDF Format will take a similar form to the casebook prepared by the Registry. By choosing this format to prepare the bundle of authorities, counsel will still be able to email their submissions and authorities for filing. This may be the preferred option if not many authorities are required.
 - a) All authorities referenced in a case need to be compiled in to a single PDF, or, where appropriate, multiple PDF volumes
 - b) Each volume needs to have an index page which has hyperlinks to the relevant page. It also needs to be an exact replica of the hard copy filed.
 - c) Each volume also needs to have the page numbers clearly displayed at the top of each page. The numbering will start at the first page of the electronic document, which should be either the index or a covering page.
 - d) The file name for this PDF should follow the standard naming convention, as set out in the Summary Table at the end of this document.
 - e) Submissions filed by counsel should be hyperlinked to the appropriate authority. This means that the hyperlinks in the submissions will need to link to a specific page in the bundle of authorities PDF. There are far too

many different programs that counsel might use to prepare their documents to give detailed instructions on how to achieve this in this document. However, as it is one of the more popular programs, attached is an appendix giving instructions in Adobe Acrobat X Pro. (Appendix #2).

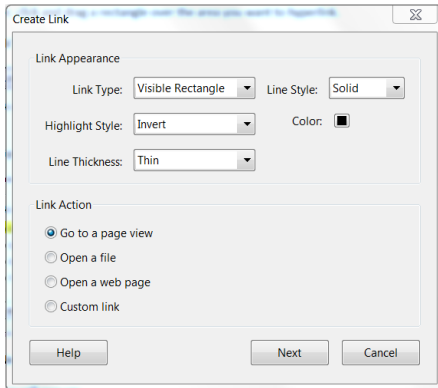
- 10.3** Bundles of Authorities prepared in Multiple PDF Format will have documents contained in electronic folders equivalent to the physical volumes and within those folders each separate document will be an individual PDF file. (Appendix #3)
- 10.4** An electronic folder for Bundles of Authorities prepared in Multiple PDF Format will be called "Auth."
- a) If parties have filed bundles of authorities, the "Auth" folder will contain subfolders call "App Auth" or "Resp Auth"
 - b) If a given bundle of authorities contains more than one volume, the folder for that bundle will include subfolders called "Auth v1", "Auth v2", etc
- 10.5** Document within Bundles of Authorities prepared in Multiple PDF Format will be named with a description that begins with the relevant bundle page or tab number (so that the documents within the folder can be sorted in page or tab order).
- a) The name of each document within a bundle of authorities folder must start with the tab number of the document in the hard copy casebook and be followed by a very brief description of the document. For example, "001 Sentencing Notes of Bloggs J 28-02-14". When numbering, three digits need to be used for the tab numbers. This will ensure the tabs do not go out of order if the case happens to have more than 10 tabs.
 - b) If tabs are not used in the hard copy bundle of authorities, then the name of each document within a casebook folder must start with the page number of the document in the hard copy bundle of authorities and be followed by a very brief description of the document. For example: "234 Sentencing Notes of Bloggs J 28-02-14". When numbering, three digits need to be used for page numbers.
- 10.6** The Bundles of Authorities folder when prepared in Multiple PDF Format must include a table of contents in searchable PDF format, with that table of contents located at the highest relevant folder level for that bundle type. This table should have the names of all the documents referenced written out in full.

Appendix 1: Electronics Documents – Summary Table

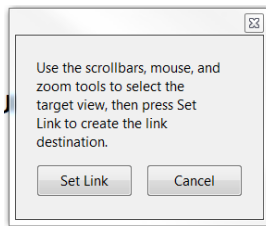
Document	PDF Document Name	Bookmark/tab names	Notes
Case on Appeal	Case on Appeal 04217.pdf	Notice of Appeal Charging Documents Summary of Facts	<i>This is prepared by the Registry.</i> Each document within the PDF casebook is marked by a separate bookmark.
Additional Materials	Add Mat 04217.pdf Add Mat 04217.pdf	Victim Impact Statement – Patrick SMITH Victim Impact Statement – Terry JONES	<i>This is prepared by the Registry.</i> Additional materials volumes contain sensitive materials, or materials received or requested after completion of the main casebook.
Notes of Evidence	Evidence 04217.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 04217.pdf Resp Subs 04217.pdf	N/A	
Bundle of Authorities	App Auth 04217.pdf Resp Auth 04217.pdf	1. Smith v R 2. Jones v R	<i>To be prepared in either the Single PDF or Multiple PDF Formats.</i>
Affidavits	Afdvt Smith 04217.pdf	If there are attachments: Attachment 1 Attachment A, etc.	The PDF should be named “Afdvt [Deponent Name] (Case Name).pdf”. Any attachments to the affidavit should be marked by a bookmark.
Notice of Cross-Examination	Notice XXN Smith 04217.pdf	N/A	The PDF should be named “Notice XXN [Witness Name] (Case Name).pdf”
Memorandum of Counsel	Memo App 01-01-2014 04217.pdf	N/A	The PDF should be named “Memo [party] [date] (Case Name).pdf”

Appendix 2: To create a hyperlink to a specific page in Adobe Professional:

1. Open both the source and destination documents in Adobe.
2. In the source document, click “Tools” (top right), “Content”, then “Link”.
3. Select and highlight the word(s) you want to hyperlink. This box will appear:



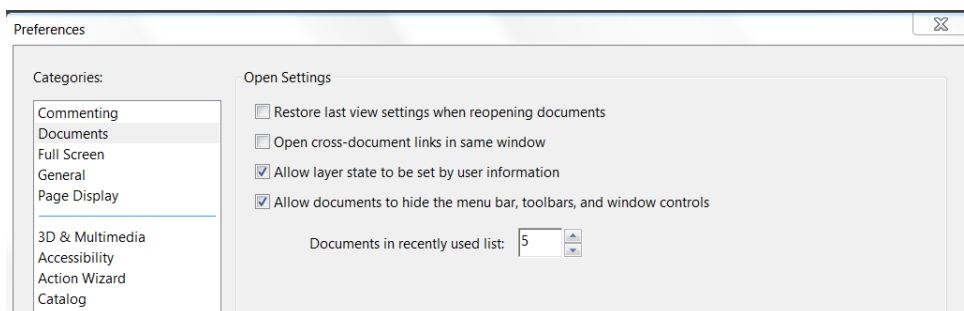
4. Ensure that “Go to a page view” is checked under “Link Action”. Click “Next”. This box will appear.



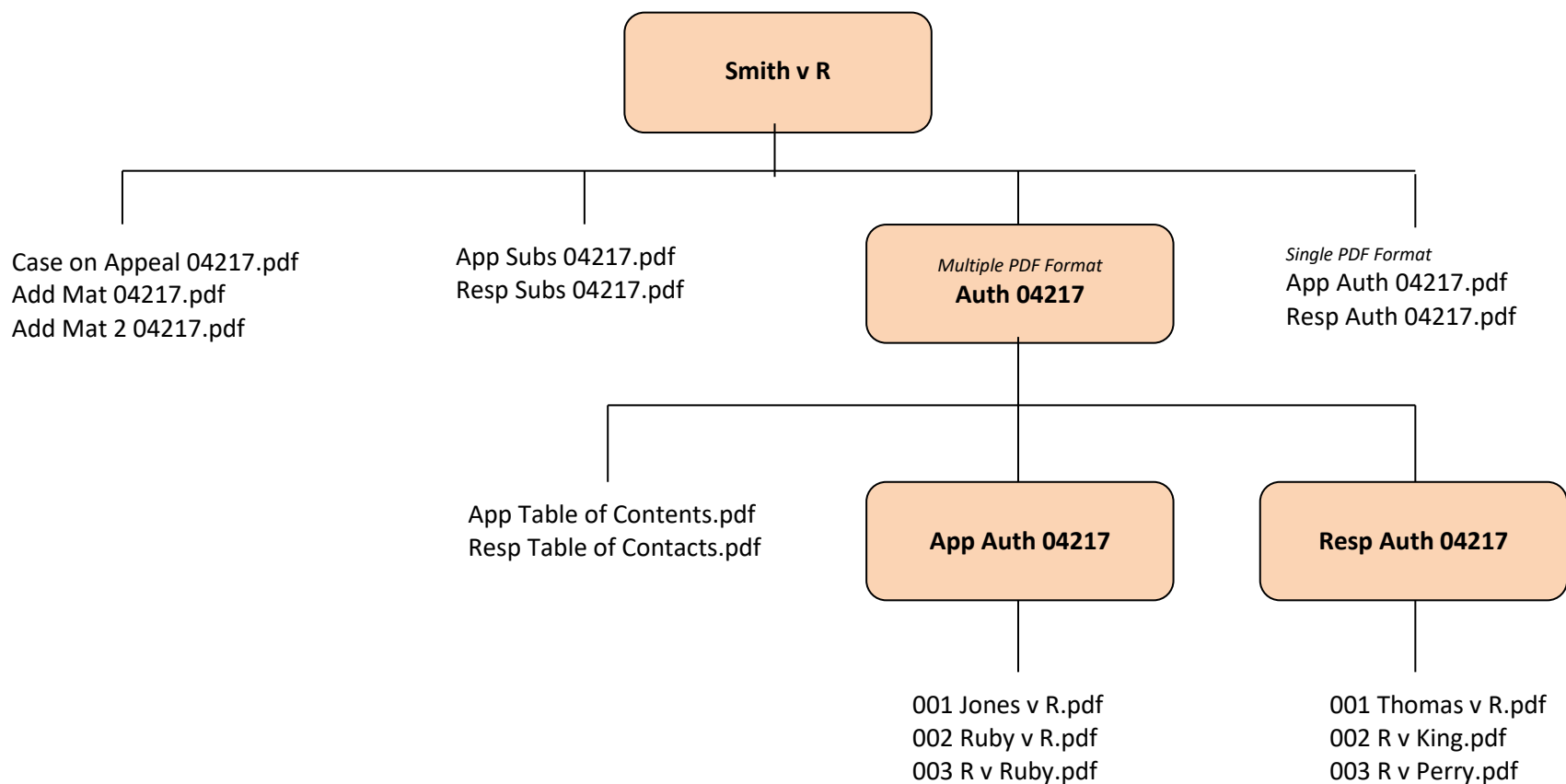
5. Navigate to the page in the destination document that you want the hyperlink to open and highlight the first few words of the relevant paragraph (if there is not a specific relevant paragraph, highlight something near the top of the page). Then click “Set Link”.

Notes:

- These instructions are written for Adobe Acrobat X Pro (version 10). If you are using an earlier version of Adobe, the Tools menu may be on the top menu bar.
- Most users prefer that the destination document opens in a new window (rather than in the same window as the source document). It is possible to build this into each hyperlink. However, it is also possible to change the “Preference” settings in Adobe (in the “Edit” menu) so that all hyperlinks open in a new window. The picture below shows the “Preference” settings in Adobe Acrobat X Pro (version 10). If the second box “Open cross-document links in same window” is left unchecked, the destination documents will open in a new window, irrespective of how the hyperlink is set up.



Appendix 3: Folders and Document Structure



1. The coloured boxes represent folders.
2. Both the Multiple PDF and Single PDF Format have been shown here. However, only one will be used in an appeal.
3. Note that “.pdf” has been used in this diagram for the purpose of clarification only and are not required in the title of the electronic document.
4. For the purposes of this example, it has been assumed that the case number for this appeal is CA42/2017.