



## Supreme Court Amendment Rules 2013

Jerry Mateparae, Governor-General

### Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908 and section 386 of the Criminal Procedure Act 2011, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

### Contents

		Page
1	Title	2
2	Commencement	2
3	Principal rules	2
4	Rule 3 amended (Interpretation)	2
5	Rule 6 amended (Effect of non-compliance with rules)	3
6	Rule 10 amended (Filing and service of documents)	3
7	Rule 17 amended (Documents to be supplied where leave sought for appeal under section 383A(1) of Crimes Act 1961)	3

8	Rule 18 amended (Documents to be supplied where leave sought under section 383(1) of Crimes Act 1961 (direct appeal))	4
9	Rule 19 amended (Documents to be supplied in case of other application for leave for criminal appeal)	4
10	Rule 34 amended (Obligations of parties in preparing draft case on appeal)	4
11	Rule 35 amended (Filing and form of case on appeal)	4
12	New rule 35A inserted (Case on appeal in criminal appeals)	4
	35A Case on appeal in criminal appeals	4
13	Rule 38 amended (Appeal abandoned if not pursued)	5
14	Rule 39 replaced (Abandonment of appeal by party)	5
	39 Abandonment of civil appeal by party	5
15	Rule 40 amended (Application for leave to adduce further evidence)	5
16	Rule 41 revoked (Court may call for exhibits, etc, and request report from court or tribunal of first instance)	6
17	Rule 46 revoked (Successful appellant entitled to return of amount paid under sentence)	6
18	Schedule amended	6

---

## Rules

### 1 Title

These rules are the Supreme Court Amendment Rules 2013.

### 2 Commencement

These rules come into force on the first day on which the Criminal Procedure Act 2011 is fully in force.

### 3 Principal rules

These rules amend the Supreme Court Rules 2004 (the **principal rules**).

### 4 Rule 3 amended (Interpretation)

- (1) In rule 3, definition of **criminal appeal**, after “Bail Act 2000”, insert “and includes a Solicitor-General’s reference under sub-part 11 of Part 6 of the Criminal Procedure Act 2011”.

- (2) In rule 3, insert in its appropriate alphabetical order:  
“**electronic address** includes an email or a fax address”.

**5 Rule 6 amended (Effect of non-compliance with rules)**

After rule 6(4), insert:

- “(5) This rule is subject to section 338 of the Criminal Procedure Act 2011.”

**6 Rule 10 amended (Filing and service of documents)**

- (1) In rule 10(1)(b)(ii),—
- (a) replace “by fax to a fax number” with “electronically to an electronic address”; and
  - (b) delete “; or”.
- (2) Revoke rule 10(1)(b)(iii).
- (3) In rule 10(2)(d),—
- (a) replace “fax to a fax number” with “sending it electronically to an electronic address”; and
  - (b) delete “; or”.
- (4) Revoke rule 10(2)(e).
- (5) In rule 10(4),—
- (a) replace “a fax number or to an email” with “an electronic”; and
  - (b) replace “fax or email” with “electronic”.
- (6) In rule 10(5), replace “fax or email” with “electronic”.

**7 Rule 17 amended (Documents to be supplied where leave sought for appeal under section 383A(1) of Crimes Act 1961)**

- (1) In the heading to rule 17, replace “**section 383A(1) of Crimes Act 1961**” with “**section 237(1) or 253(1) of Criminal Procedure Act 2011**”.
- (2) In rule 17, replace “section 383A(1) of the Crimes Act 1961” with “section 237(1) or 253(1) of the Criminal Procedure Act 2011 (or both)”.

- 8 Rule 18 amended (Documents to be supplied where leave sought under section 383(1) of Crimes Act 1961 (direct appeal))**
- (1) In the heading to rule 18, replace “**section 383(1) of Crimes Act 1961**” with “**section 229(1) or 244(1) of Criminal Procedure Act 2011**”.
  - (2) In rule 18,—
    - (a) replace “section 383(1) of the Crimes Act 1961” with “section 229(1) or 244(1) of the Criminal Procedure Act 2011 (or both)”; and
    - (b) replace “section 392(1A)” with “section 323(2)”.
- 9 Rule 19 amended (Documents to be supplied in case of other application for leave for criminal appeal)**  
In rule 19, replace “section 383(1) or section 383A(1) of the Crimes Act 1961” with “section 229(1), 237(1), 244(1), or 253(1) of the Criminal Procedure Act 2011”.
- 10 Rule 34 amended (Obligations of parties in preparing draft case on appeal)**
- (1) In the heading to rule 34, after “**appeal**”, insert “**in civil appeals**”.
  - (2) In rule 34(1), after “appellant”, insert “in a civil appeal”.
- 11 Rule 35 amended (Filing and form of case on appeal)**  
In the heading to rule 35, after “**appeal**”, insert “**in civil appeals**”.
- 12 New rule 35A inserted (Case on appeal in criminal appeals)**  
After rule 35, insert:
- “35A Case on appeal in criminal appeals**
- “(1) The Registrar must prepare a draft index for the case on appeal in a criminal appeal.
  - “(2) The Registrar must provide a copy of the draft index to each party.
  - “(3) The parties must check the draft index and endeavour to agree whether any additional documents should be included.

- “(4) Within 20 working days after the date on which the Registrar has provided the draft index to the parties, each party must advise the Registrar of—
- “(a) any proposed changes to the draft index; and
  - “(b) any additional documents to be included in the draft index; and
  - “(c) any objection to the inclusion of a document in the draft index.
- “(5) After considering the parties’ advice, the Registrar must prepare the case on appeal.
- “(6) The case on appeal must not include any document that is irrelevant to the grounds to be argued in accordance with the leave given by the Court.”

**13 Rule 38 amended (Appeal abandoned if not pursued)**

Revoke rule 38(4).

**14 Rule 39 replaced (Abandonment of appeal by party)**

Replace rule 39 with:

**“39 Abandonment of civil appeal by party**

- “(1) A party may, at any time, abandon a civil appeal brought by the party by filing in the Registry a notice advising that the party—
- “(a) does not intend further to prosecute the appeal; and
  - “(b) abandons all further proceedings concerning that appeal.
- “(2) The notice must be authenticated by—
- “(a) the party personally; or
  - “(b) the party’s lawyer.
- “(3) The abandonment of the appeal does not affect the power of the Court to make any order as to costs in respect of the appeal.”

**15 Rule 40 amended (Application for leave to adduce further evidence)**

In rule 40(1)(c), replace “rules 369 to 376” with “rules 9.17 to 9.26”.

- 16 Rule 41 revoked (Court may call for exhibits, etc, and request report from court or tribunal of first instance)**  
Revoke rule 41.
- 17 Rule 46 revoked (Successful appellant entitled to return of amount paid under sentence)**  
Revoke rule 46.
- 18 Schedule amended**
- (1) In the Schedule, form 2, question 6(b), replace “fax number” with “electronic address, if any (such as an email address, or a fax address, or both)”.
  - (2) In the Schedule, form 2, question 6(c), replace “Legal Services Agency” with “Legal Services Commissioner”.
  - (3) In the Schedule, form 2, question 7, replace “penal institution” with “prison”.
  - (4) In the Schedule, form 2, question 8, replace “fax number (if any)” with “electronic address, if any (such as an email address, or a fax address, or both)”.
  - (5) In the Schedule, revoke form 3.

Rebecca Kitteridge,  
Clerk of the Executive Council.

---

### **Explanatory note**

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules, which come into force on the first day on which the Criminal Procedure Act 2011 (the **Act**) is fully in force, amend the Supreme Court Rules 2004 (the **principal rules**). The amendments are required to bring the principal rules into line with the new law contained in the Act and the Criminal Procedure Rules 2012, and to update references to provisions that the Act replaces.

---

2013/185

**Supreme Court Amendment Rules 2013**

---

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 23 May 2013.

These rules are administered by the Ministry of Justice.

---