



New South Wales

# **Criminal Appeal Rules (Amendment No 1) 2005**

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 17 October 2005.

Steven Jupp  
Secretary of the Rule Committee

## **Explanatory note**

The object of these rules is to regulate the use of the CourtLinkNSW electronic case management system in relation to matters before the Court of Criminal Appeal.

## **2005 No 689**

Rule 1 Criminal Appeal Rules (Amendment No 1) 2005

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under the

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### **1 Name of Rules**

These Rules are the *Criminal Appeal Rules (Amendment No 1) 2005*.

### **2 Amendment of Criminal Appeal Rules**

The *Criminal Appeal Rules* are amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Rule 2)

### [1] Rules 2A–2G and heading

Insert after rule 2:

## Electronic case management

### 2A Definitions

- (1) In this Part:  
*ECM system* means an electronic case management system established under section 14B of the *Electronic Transactions Act 2000*.  
*registered user* means a person who is registered as a user of the ECM system under rule 2B.
- (2) In this Part, a reference to *filing* a document in the Court includes a reference to any other method of sending a document to the Court.

### 2B Registration of users

- (1) The Registrar of the Court may register any person as a user of the ECM system in relation to the Court, either generally or for particular proceedings, and may specify the level of access to which the person is entitled, and the conditions of use applicable to the person, as a registered user of the system.
- (2) Subject to any order of the court, a person may not be registered as a user of the ECM system for particular proceedings unless the person is:
  - (a) a party to the proceedings, or
  - (b) a legal practitioner representing a party to the proceedings, or
  - (c) a person authorised to use the ECM system in relation to the proceedings by a legal practitioner representing a party to the proceedings.
- (3) The Chief Justice may establish a protocol for the registration of persons as users of the ECM system, either generally or for particular proceedings.
- (4) Such a protocol may provide for the automatic registration of particular classes of persons as users of the ECM system, and for the automatic specification of the level of access to which

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persons of such a class are entitled and the conditions of use applicable to persons of such a class as registered users of the system.

- (5) In relation to any proceedings before the Court, the level of access to the ECM system to which a registered user is entitled, and the conditions of use applicable to a registered user, are subject to any order of the Court.

#### **2C Electronic filing of documents**

- (1) This rule applies to the following documents:
- (a) a notice of intention to appeal,
  - (b) a notice of appeal,
  - (c) a notice of application for leave to appeal,
  - (d) a notice of application for extension of time to appeal,
  - (e) a notice of application for extension of time to file notice of application for leave to appeal,
  - (f) a written submission,
  - (g) a notice of abandonment,
  - (h) any other notice.
- (2) In any proceedings, a document referred to in subrule (1) may be filed in the Court on behalf of a party, by means of the ECM system, by any registered user for the proceedings who is:
- (a) the party's solicitor or authorised agent, or
  - (b) a person who has been directed to file the document by the party's solicitor or authorised agent.
- (3) When filed by means of the ECM system, a document that is required to be signed by a person is taken:
- (a) to have been duly signed for the purposes of rule 5, and
  - (b) to have been duly authenticated for the purposes of section 14E of the *Electronic Transactions Act 2000*,  
if the person's name is printed where his or her signature would otherwise appear.
- (4) A document that is filed by means of the ECM system is to be given initial acceptance as soon as it is received by the Court, and is to be given final acceptance as soon as it is validated by the Court.
- (5) Without limiting any other ground on which it may be refused, validation is to be refused if any fee payable with respect to the

filing of a document is not received by the Court within 24 hours after the document's initial acceptance.

- (6) A document that is filed by means of the ECM system is taken to have been filed when it is given final acceptance and, when given final acceptance, is taken to have been filed at the time it was given initial acceptance.
- (7) Notice of the initial and final acceptance of a document, and of the dates of those acceptances, is to be given, by means of the ECM system, to the registered user by whom the document was filed.
- (8) The date and time at which initial or final acceptance was given must be set out in the notice referred to in subrule (7).

#### **2D Written record to be kept of direction to e-file document**

- (1) A person who directs that a document be filed as referred to in rule 2C (2) (b) must make a written record of the fact that he or she has given such a direction.
- (2) If the person by whom the direction was given is a legal practitioner, the legal practitioner is taken:
  - (a) to have affirmed to the Court that he or she has given the direction, and
  - (b) to have undertaken to the Court that, if the Court so directs, he or she will produce to the Court the written record referred to in subrule (1).
- (3) A written direction for the purposes of rule 2C (2) (b) is taken to be a written record for the purposes of this rule.

#### **2E Electronic issuing of a document**

- (1) The Court may, by means of the ECM system, issue a document to any party who is a registered user for the proceedings.
- (2) The date and time at which the document was issued must be set out in the document.

#### **2F Electronic service of a document**

A party to any proceedings before the Court may use electronic mail to serve a document on any other party to the proceedings, whether by means of the ECM system or otherwise, but only with the consent of the other party.

**2G Use of ECM system in business conducted in the absence of the public**

- (1) Any business that may, by law, be conducted in the absence of the public may be conducted by electronic communication sent and received by means of the ECM system, as provided by section 14I of the *Electronic Transactions Act 2000*.
- (2) A legal practitioner who is a registered user for any proceedings may participate in any such business:
  - (a) directly (the legal practitioner sends a communication in his or her own name), or
  - (b) indirectly (someone authorised by the legal practitioner sends a communication in the legal practitioner's name).
- (3) A legal practitioner who authorises someone else to send a communication, as referred to in subrule (2) (b), is taken to have affirmed to the Court that he or she has actual knowledge of the contents of the communication.

**[2] Form IV Notice of appeal or notice of application for leave to appeal**

Insert immediately above the word "**Signed:**":

**Preferred hearing date:** .....  
*[Selected from available dates notified by the Court]*

**Estimated length of hearing:** .....  
*[Specified in hours]*