

## **Amendment to the Rules of Court - Transcript**

1. Rule 57.01 of the *Rules of the Supreme Court, 1986* is amended by adding immediately after clause (e) the following:

(e.1) “electronic version” means an electronic version in a format acceptable to the Court;

2. Rule 57.01 of the *Rules of the Supreme Court, 1986* is amended by deleting the word “and” at the end of clause (l), by deleting the period at the end of clause (m) and substituting a semi-colon and the word “and”, and by adding immediately after clause (m) the following:

(n) “written transcript” means a printed transcript of the evidence but does not include submissions to the Court made by a party unless those submissions are necessary to enable an issue raised on appeal to be determined.

3. Rule 57.03(5) of the *Rules of the Supreme Court, 1986* is repealed.

4. Rule 57.03(6) of the *Rules of the Supreme Court, 1986* is repealed.

5. Rule 57.03(7) of the *Rules of the Supreme Court, 1986* is repealed.

6. Rule 57.06 of the *Rules of the Supreme Court, 1986* is repealed and the following substituted:

(1) An appellant shall not file the written transcript in its entirety unless the whole of the transcript is necessary to enable the issues on appeal to be determined.

(2) Together with the factum, the appellant, or the first appellant where there is more than one appellant, shall file with the Court

(a) four copies of the portion of the written transcript that is necessary to enable the issues on appeal to be determined; and

(b) a certificate in Form 57.06A

(i) stating that the appellant is satisfied that the portions of the written transcript being filed are necessary to enable the issues on appeal to be determined, or

(ii) if the appellant is satisfied, upon careful review, that the whole of the written transcript is necessary to enable the issues on appeal to be determined, stating, with particulars, the reasons for drawing that conclusion.

(3) Where there is more than one appellant, and an appellant other than the first appellant is satisfied that a portion of the written transcript has not been filed that is necessary to enable the issues on appeal to be determined, that appellant may file additional portions of the transcript, and the requirements of rule 57.06(2) shall apply with the necessary changes.

(4) Where a respondent is satisfied that an appellant has not filed a portion of the written transcript that is necessary to enable the issues on appeal or on a cross-appeal to be

determined, the respondent may file additional portions of the transcript, and the requirements of rule 57.06(2) shall apply with the necessary changes.

(5) Not later than five clear days before the hearing of the appeal, additional portions of the written transcript may be filed where a party determines it to be necessary to enable the issues on appeal or cross-appeal to be determined, and the requirements of rule 57.06(2) shall apply with the necessary changes.

(6) Upon filing a notice of appeal, the appellant, or the first appellant where there is more than one appellant, shall forthwith obtain a copy of the audio recording of the evidence from the court appealed from and shall deliver a copy to each party.

(7) The appellant, or the first appellant where there is more than one appellant, shall,

(i) without delay, arrange for preparation of a written transcript of the portion of evidence necessary for preparation of the factum, and

(ii) forthwith advise each party what arrangement has been made and the date when the written transcript is expected to be completed.

(8) If the appellant fails to comply with rule 57.06(7), the respondent may make an application to the Court for directions, and the Court may give such directions and make such order as to costs as may be appropriate.

(9) In addition to the portion of the written transcript required to be filed under paragraphs 57.06(1) to (4), the appellant, or the first appellant where there is more than one appellant, shall file with the Court

(a) where the entire written transcript of the evidence has been prepared, one electronic version of the transcript; or

(b) where the entire written transcript of the evidence has not been prepared,

(i) one electronic version of the portion of the written transcript that has been prepared, and

(ii) one electronic version of the entire audio recording of the evidence.

(10) The Court may at any time, upon application or of its own motion, order the filing of all or part of the written transcript.

(11) A written transcript shall be prepared in accordance with the *Recording of Evidence Act* and the Transcript Standards Manual of the Court Reporters' Office.

(12) Where possible a key word index shall be included at the end of the written transcript.

(13) A party disputing the accuracy of a transcript may make an application to the Court for directions.

(14) A Court determining the issues on appeal or cross-appeal may make an appropriate order as to costs if it is of the opinion that an appellant or respondent failed to comply with this rule.

(15) Together with a factum, one copy of each document filed with the Court shall be delivered to each party to the appeal.

(16) The cover of the written transcript shall be grey, and the transcript may be filed

(a) in a format in which four pages of the transcript are printed on a single page; and

(b) with the pages double-sided.

(17) Where the portion of the written transcript considered to be necessary to enable the issues on appeal or on cross-appeal to be determined is voluminous, a party may provide, or the Court may require a party to provide, a book of excerpts where that would be convenient for presentation of submissions at the oral hearing.

(18) The parties may, by agreement, apply to the Court for an order and directions to permit the use of an electronic rather than a paper version of the written transcript.

(19) Upon application, or of its own motion, the Court may at any time dispense with the preparation and filing of a written transcript and order that the appeal proceed using an audio recording of the proceedings in the court or tribunal from which the appeal is taken, and the Court may give such directions as may be appropriate.

7. The *Rules of the Supreme Court, 1986* are amended by adding the following immediately after rule 57.06:

57.06.1

In lieu of the written transcript, an agreed statement of facts may be filed with the appellant's factum along with a certificate signed on behalf of all parties indicating their agreement.

8. Rule 57.14(2) of the *Rules of the Supreme Court, 1986* is repealed.

9. Rule 57.14(3)(b)(iv) of the *Rules of the Supreme Court, 1986* is repealed.

10. Rule 57.14(3)(b)(vi) of the *Rules of the Supreme Court, 1986* is repealed.

11. Rule 57.14(4) of the *Rules of the Supreme Court, 1986* is repealed and the following substituted:

(4) In a tribunal appeal an appeal book shall be prepared so far as possible as prescribed by rule 57.14(3) but, if necessary, the appellant may apply to the Court for directions regarding the form and content of the appeal book.

12. Rule 57.14(5) of the *Rules of the Supreme Court, 1986* is repealed and the following substituted:

(5) The parties may by agreement omit any exhibits or documents which would normally be included in an appeal book in order to avoid the filing of material not necessary to enable the issues raised on appeal to be determined.

(5.1) Where the matter under appeal proceeded by way of an agreed statement of facts, the agreed statement of facts shall be filed as part of the appeal book.

13. Rule 57.14(7) of the *Rules of the Supreme Court, 1986* is repealed.

14. These amendments to the *Rules of the Supreme Court, 1986* shall

(1) come into force upon publication in the Gazette, and

(2) apply where the order under appeal was made after these amendments come into force.

Approved by Resolution of  
The Rules Committee of the  
Newfoundland and Labrador  
Court of Appeal on April 24, 2014:

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J. Derek Green  
Chief Justice