

**COURT OF APPEAL RULES
PRACTICE NOTE – CIVIL PROCEEDINGS**

CAPN No. 2018-13

FORMAL ORDERS

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RULES AFFECTED: Rule 57
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The following Practice Note was filed with the registrar of the Court of Appeal and is published under rule 4 of the *Court of Appeal Rules*.

Background

It is important to avoid delays in filing formal orders. Rule 57 places the responsibility on the successful party to prepare a draft order which is to be provided to the other parties. The other parties are required to respond to the draft without delay. The parties have 30 days within which to provide a draft to the Court. If there are special circumstances making compliance with the rule difficult or inappropriate, the parties may make a request or an application under rule 57(8).

It should not fall to the Court to ensure compliance with rule 57. Nor should it be necessary for the registrar to remind the parties of their responsibility to provide a draft formal order.

Rule 57(6) provides that the Court shall determine and approve the final formal order. Undue and unexplained delay by the parties in filing a draft formal order may result in the Court proceeding to draft and file the order.

Practice Note

1. In accordance with the Code of Professional Conduct and their general duty to act in a timely way under the Rules, counsel are reminded that they are expected to

comply with rule 57 without undue delay in the preparation and submission of a draft formal order reflecting the disposition of an appeal.

2. It is expected that a draft formal order will be submitted within 30 days after the Court's judgment is filed unless a written request or application is made under rule 57(8) to extend the time for submitting the draft or to clarify a point of contention.

3. Reference to the nature of a dissent in a judgment is to be included in the order.

4. Where the parties fail to comply with their responsibilities under rule 57, the Court may proceed to prepare and file the formal order.

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