

Overview of the Factum
Civil Rules 14.23 – 14.26
Criminal Rules 16.16 – 16.18

General

1. The court requires 5 copies of the Factum. This does not include any copies required for the filing party or for service.
2. Factums do not need to be signed.
3. A sample Factum is available on the Court's website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.
4. See also the Mandatory Requirements & Check/Return Form for a Factum for a list of the minimum requirements that Registry staff will watch for when documents are filed. This form is located on the Court's website under Court of Appeal > Registry > Filing Information > Mandatory Requirements & Check/Return Forms.

Deadlines - Appellant

5. The deadline for filing an Appellant Factum in a **Standard appeal** is 2 months after the Appeal Record is filed or 6 months after the Notice of Appeal is filed, whichever comes first. In most cases, the 2 months will come first.
6. The deadline for filing an Appellant Factum in a **Fast Track appeal** is 20 days after the Appeal Record is filed or 2 months after the Notice of Appeal is filed, whichever comes first. In most cases, the 20 days will come first.
7. The deadline for filing an Appellant Factum in a **Conviction appeal** (includes acquittal and decision appeals) is 2 months after the Appeal Record is filed or 6 months after the Notice of Appeal is filed, whichever comes first. In most cases, the 2 months will come first.
8. The deadline for filing an Appellant Factum in a **Sentence appeal** is:
 - where the appeal is as to sentence only, 2 months after the Appeal Record is filed or 4 months after the Notice of Appeal is filed, whichever comes first. In most cases, the 2 months will come first, and
 - where the appeal is as to conviction and sentence, 3 months after the date on which the conviction appeal was dismissed, struck or abandoned.
9. If the deadline for filing an Appellant Factum in a Standard or Fast Track appeal is missed, the appeal will be struck.
10. If the deadline for filing the Appellant Factum in a Conviction or Sentence appeal is missed:

- the appeal will be struck if the appellant is represented by counsel or is self-represented and not in custody, or
- the Registrar may refer the appeal to a single appeal judge for directions if the appellant is self-represented and in custody.

11. If a cross appeal has been filed (civil only), the Appellant's Reply Factum must be filed within 10 days of service of the Respondent Factum. If a cross appeal has not been filed, there is no right of written reply for the Appellant.

Deadlines - Respondent

12. The deadline for filing a Respondent Factum (or letter of intention not to file a factum) in a **Standard appeal** is 2 months after service of the Appellant's Factum.

13. The deadline for filing a Respondent Factum (or letter of intention not to file a factum) in a **Fast Track appeal** is either one month after service of the Appellant's Factum or 10 days before the opening day of the sittings at which the appeal is scheduled to be heard, whichever comes first.

14. The deadline for filing a Respondent Factum in a **Conviction appeal** (includes acquittal and decision appeals) (or letter of intention not to file a factum) is 2 months after service of the Appellant's Factum.

15. The deadline for filing a Respondent Factum (or letter of intention not to file a factum) in a **Sentence appeal** is either one month after service of the Appellant's Factum or 10 days before the opening day of the sittings at which the appeal is scheduled to be heard, whichever comes first.

16. If the deadline for filing the Respondent Factum is missed, the Respondent will not be permitted to present oral argument unless the panel otherwise orders.

17. If the Respondent fails to file a Factum, the appeal may proceed in the absence of that Factum.

Content

18. Civil rule 14.25(1) and criminal rule 16.17(1) lists what a Factum must include. A Factum must include:

- **Table of Contents**, including page numbers
- **Part 1 – Facts**: in the Appellant's Factum, a statement of facts (including, if desired, a concise introductory statement of the legal issues raised), and in the Respondent's Factum, its position on the facts as stated by the Appellant, and any other facts considered relevant
- **Part 2 – Grounds of Appeal**: in the Appellant's Factum, a concise statement of the grounds for appeal, and in the Respondent's Factum, its position in regards to the stated grounds, and any other points that may properly be put in issue

- **Part 3 – Standard of Review:** a statement on the relevant standard of review
- **Part 4 – Argument:** a discussion addressing the questions of law or fact raised by the appeal
- **Part 5 – Relief Sought:** a statement of the relief sought (including for civil appeals any special direction with respect to costs)
- The **estimated time** required for the oral argument (maximum 45 minutes)
- **Table of Authorities:** a list of the legal authorities referred to in the factum
- An **Appendix** containing extracts from any statute, enactment or rule necessary for the disposition of the appeal (unless they are reproduced elsewhere).

19. A Factum in a sentence appeal must include a Sentence Appeal Questionnaire in Form CRA-E immediately following the table of contents:

- in the appellant’s sentence factum, or
- in the respondent’s sentence factum if the appellant is self-represented and has not included the questionnaire in his or her factum.

This form is located on the Court’s website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms.

20. A Factum can also include any document that should have been included in the Appeal Record but was not (e.g., the order under appeal). It may also include the Extracts of Key Evidence and Authorities if the Extracts and Authorities together do not exceed approximately 30 pages.

21. Where a Cross Appeal has been filed (civil only), the Respondent’s Factum must consist of two sections, each with the five parts listed above, entitled “Factum on the Appeal” and “Factum on the Cross Appeal”.

Format

22. The Factum has a prescribed cover page (Form AP-5 for **civil** appeals and Form CRA-K for **criminal** appeals). These forms are available on the Court’s website under Court of Appeal > Registry > Filing Information > Filing, Fees and Forms. The forms for civil matters and criminal matters are grouped separately on the website. Ensure that you use the correct one.

23. Factums must have coloured cardstock covers, front and back, as follows:

- Appellant (including appellants who are cross respondents): beige or ivory
- Respondent (including respondents who are cross appellants): green
- Intervenors: blue

24. Factums must be printed single-sided and bound so that the writing is on the left hand side of the page and the right hand side of the page is blank.

25. Factums must be formatted using at least 12 point font, one-inch margins and at least 1.5 line spacing, except for quotations (which should ordinarily be no less than 10 point font).

26. Page limits apply. Parts 1 to 5 of a Factum (i.e., excluding the Table of Contents, Table of Authorities and any appendices) must not exceed:

- 30 pages for the parties in a standard, conviction or sentence appeal
- 40 pages for a respondent who has filed a cross appeal in a standard appeal (if a cross appeal has been filed in a fast track appeal, the case management officer will set page limits)
- 10 pages for an appellant's factum in response to a cross appeal
- 30 pages for an intervenor
- 12 pages for the parties in a fast track appeal.