



NEW SOUTH WALES

THE CHIEF MAGISTRATE OF THE LOCAL COURT

17 July 2014

The Director, Justice Policy
Department of Justice
GPO Box 31
SYDNEY NSW 2001

Dear Ms Lo

Re: Consultation on the proposed Crimes (Administration of Sentences) Regulation 2014

I am writing in response to Commissioner Severin's letter of 4 July 2014 inviting my submission in relation to the remaking of the Crimes (Administration of Sentences) Regulation.

Having viewed the draft Regulation, I do not have any comments to make on the proposed amendments.

However, I wish to raise for consideration a further matter where amendment is desirable. Clause 169 of the current Regulation (replicated in clause 180 of the draft Regulation) sets out the procedure for an inmate to lodge an appeal or application for leave to appeal with the District Court from the decision of a Visiting Magistrate in relation to a correctional centre offence. It relevantly provides:

- (1) An inmate must cause any notice of appeal, or application for leave to appeal, pursuant to section 62 of the Act to be lodged with the general manager.
- (2) On receiving such a notice or application from an inmate, the general manager must immediately forward a copy of it to the Visiting Magistrate by whom the relevant penalty was imposed on the inmate.
- (3) On receiving the notice or application from the general manager, the Visiting Magistrate must send it, together with all other relevant papers held by the Visiting Magistrate, to a registrar of the District Court.

The process set out in the clause is unusual insofar as rather than requiring the general manager to send an inmate's notice or application directly to the District Court, it involves an intermediate step of the notice or application being sent to and then forwarded on by the Visiting Magistrate.

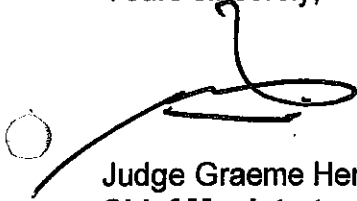
The reason is presumably to ensure that if any further relevant material is held by the Visiting Magistrate, it is included with the material sent to the District Court. However, in practice there is no reason for a Visiting Magistrate (or the registry at the courthouse at which they are based) to retain possession or control of any relevant papers having dealt with the matter at the correctional centre.

As a result, I am concerned that the current process is apt to be confusing and unnecessarily creates double handling of the notice or application before it reaches the District Court.

In my view a preferable approach would be to simply require the general manager of a correctional centre to forward an inmate's notice of appeal or application for leave to appeal to a registrar of the District Court.

Thank you for the opportunity to make a submission. Should you require further details in respect of the above issue, please do not hesitate to contact my office.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke that extends to the left.

Judge Graeme Henson
Chief Magistrate