

SENTENCE ADMINISTRATION MANUAL

SECTION 5 – INMATE APPLICATIONS

TABLE OF CONTENTS

- 5.1 APPEALS**
 - 5.1.1 Appeal Register
 - 5.1.2 Inmate Requests
 - 5.1.3 Appeal register
 - 5.1.4 Data Entry in OIMS
- 5.2 PROCESSING APPEALS TO THE DISTRICT COURT**
 - 5.2.1 Forwarding Documents to the Local Court Registry
 - 5.2.1.1 Saving Documents to OIMS
 - 5.2.2 Data Entry in OIMS
 - 5.2.3 Appeals to the District Court lodged outside 28 days
 - 5.2.4 Bail Determination
 - 5.2.5 Withdrawal of Appeals
- 5.3 APPEALS TO THE COURT OF CRIMINAL APPEAL (CCA)**
 - 5.3.1 Notices of Intention to Appeal
 - 5.3.1.1 – Provision of Documents to Appellants by the CCA
 - 5.3.2 Notices of Appeal
 - 5.3.3 Withdrawal or Abandonment of Appeal
 - 5.3.4 Crown Appeals
 - 5.3.5 Forwarding Documents to the Court of Criminal Appeal
 - 5.3.6 Saving Documents to OIMS File
- 5.4 APPEALS TO THE HIGH COURT**
- 5.5 APPEAL FEES**
- 5.6 OIMS DATA ENTRY**
- 5.7 APPEAL LODGEMENT DOES NOT AFFECT CHILD PROTECTION OBLIGATIONS**
- 5.8 BAIL APPLICATIONS**
 - 5.8.1 Bail Application Register
 - 5.8.2 Processing Bail Applications
 - 5.8.2.1 Forwarding Documents to the Supreme Court
 - 5.8.2.2 Saving Documents to OIMS File
 - 5.8.3 Appeal Bail
 - 5.8.3.1 Appeals to District Court
 - 5.8.3.2 Appeals to Court Criminal Appeal (CCA)
 - 5.8.4 Authority to Grant Bail
- 5.9 GRANTING OF BAIL**
 - 5.9.1 Notices of Listing
 - 5.9.2 Results of Hearing
 - 5.9.2.1 Video Link Hearings
 - 5.9.2.2 Appearances in Person
 - 5.9.2.3 Decision in Inmate's absence
- 5.10 SECTION 42 NOTICES RETURNS (BAIL ACT 2013)**
- 5.11 APPLICATIONS FOR JURISDICTIONAL TRANSFER**
 - 5.11.1 Interstate Transfer Applications
 - 5.11.2 International Transfer Applications
- 5.12 APPLICATIONS TO HEAR MATTERS IN OTHER STATES**

- 5.13 CALLING IN OUTSTANDING FINES**
- 5.14 CALLING IN OUTSTANDING WARRANTS**
- 5.15 REQUESTS TO COURTS FOR SECTION 77 ORDERS**
- 5.16 STATE PAROLE AUTHORITY**
 - 5.16.1 Intentions to Make Representations
 - 5.16.2 Appeals against State Parole Authority Decisions
- 5.17 PROCESSING ALL APPLICATIONS**

5.1 APPEALS

Inmates are entitled to appeal against their sentences and / or convictions. A higher court hears the appeal and makes a determination which will over-ride the decision of the lower court.

If convicted/sentenced in the Local Court, the appeal is heard in the District Court.

If convicted/sentenced in the District or Supreme Court, the appeal is heard in the Court of Criminal Appeal.

In all cases appeals are to be lodged within 28 days of the sentence being imposed. If it is later than the 28-day period the applicant must apply to the court for leave to appeal (extension of time).

Documents relating to appeals to both the District Court and Court of Criminal Appeal are on the Corrective Services intranet → Forms & Templates → [Sentence Administration Forms](#).

5.1.1 Appeal Register

Each Sentence Administration unit is to maintain a Register of Appeals to record all related documents lodged by inmates. It should be available to all Sentence Administration staff for reference and updating.

The register should record:

- Inmate's name.
- MIN.
- Date received by Sentence Administration.
- Type of document.
- Date forwarded and to where.
- Other comments (e.g. – if signed by inmate well before being received at office etc).

5.1.2 Inmate Requests

If an inmate seeks to appeal against his/her conviction and/or sentence, he/she is required to complete the correct form. Appeals not on the correct

form will be rejected by the court, so it is a Sentence Administration Officer's responsibility to ensure the correct form is completed.

If an inmate wishes to lodge an appeal, he/she should make a request to his/her Wing Officer or Offender Services & Programs Officer.

The Sentence Administration Unit should then be advised of the inmate's intention to appeal and the correct form should be prepared and forwarded to the inmate to complete. The form should contain accurate offence details and court dates and locations. The inmate can complete the other details in as much detail as he/she needs but it must be signed by the appellant. A case note should be made of when the application was provided to the inmate.

In some cases, the inmate will have obtained a form independently. In these cases the Sentence Administration Officers are to ensure the form used is correct and the details completed on it are accurate and complete.

If necessary, a correct form may need to be returned to the inmate for completion. Again, a case note to that effect should be made.

Once completed, the forms are to be forwarded to the centre's Sentence Administration unit for processing.

5.1.3 Appeal register

Upon receipt of the inmate's appeal forms, Sentence Administration staff are to update the centre's appeal register with details of the inmate's name, MIN, date the forms were received and details of the appeal, such as against which conviction/sentence and to which court he/she has appealed.

5.1.4 Data Entry in OIMS

The Offender Legal Cases screen in OIMS is to be updated with the relevant details with particular care given to indicate the relevant offences appealed against.

Note that a notice of Intention to Appeal to the CCA is not an appeal and should not be entered in OIMS until a formal Notice of Appeal is submitted and accepted by the CCA.

An entry is also to be placed in 'Case Notes' ([instructions here](#)) once the appeal has been processed indicating that an appeal has been lodged, to which court and the date of lodgement as well as any other relevant information.

Update the 'Imprisonment Status' screen to "appellant" only if the inmate has appealed against all his/her matters. If the appeal is to the CCA, he/she will only become an appellant when and if a Notice of Appeal is subsequently lodged.

Refer to the OIMS Elite Data Entry Guide for [for detailed instructions](#).

5.2 PROCESSING APPEALS TO THE DISTRICT COURT

Upon advice that the inmate seeks to appeal, Sentence Administration staff are to confirm the inmate's convictions and sentences from OIMS and the warrant file.

If the appeal is against a Local Court matter a [Notice of Appeal to the District Court](#) is to be prepared and forwarded to the inmate for signature and to indicate the grounds of appeal (ie conviction, severity or both) and whether bail is sought. The form should also identify all the offences the person is appealing against. Unless the inmate advises otherwise, an appeal should be lodged against all the matters heard at the court on the particular date.

Upon signature by the inmate, the forms should be forwarded to the Local Court where the sentence was imposed. A [cover sheet](#) (also on Intranet) should accompany the forms seeking the Registrar to waive any fees for which the inmate may be liable.

The Local Court will forward that application to the respective District Court Criminal Registry where the appeal will be determined and make a bail decision if sought. Any person who has been convicted or sentenced by a Local Court has a right of appeal to the District Court under [Section 11 of the Crimes \(Appeal and Review\) Act 2001](#).

Confirmation of the appeal will be provided by the court, although in some cases, that may only be sent to the inmate's legal representative.

5.2.1 Forwarding Documents to the Local Court Registry

From 8 July 2013, all documents are to be scanned to a PDF Format and forwarded to the appropriate Local Court Registry by email. Documents are only to be faxed if directed by the Registrar of the court.

A separate PDF Format document is to be created for each set of documents for each inmate, although separate PDF documents may be sent in the same email.

5.2.1.1 Saving Documents to OIMS

The appeal forms and bail documents are to be saved to OIMS as per existing procedures. Instructions on how to do so can be obtained from TRIM [Document D12/373776](#). Once saved to OIMS, the original documents may be disposed of in accordance with Records Management procedures.

5.2.2 Data Entry in OIMS

If the inmate has appealed against all of his/her current matters, update the 'Imprisonment Status' (Case Management > Imprisonment Status) screen in OIMS to "Appellant".

Update the 'Legal Orders' screen in OIMS with the relevant details with particular care given to indicate each particular offence appealed against. Detailed instructions are available from the [OIMS User Guide](#).

An entry is also to be placed in 'Case Notes' ([instructions here](#)) once the appeal has been processed indicating that an appeal has been lodged, to which court and the date of lodgement as well as any other relevant information.

5.2.3 Appeals to the District Court lodged outside 28 days

Under [Section 13 of the Crimes \(Appeal and Review\) Act 2001](#) an appeal to the District Court must be lodged within 28 days of the order appealed against. Processing of these applications must commence within 1 working day of their receipt by the Sentence Administration Unit.

If the appeal is lodged outside 28 days of the order, an [Application for Leave to Appeal](#) is to be submitted with the Notice of Appeal. Space is provided for the inmate to provide a reason why the appeal is being submitted outside the 28 days.

There is generally no avenue of appeal if it is lodged more than 3 months after the order was made. However, any applications lodged must be processed and submitted in the above manner to the relevant court for a determination.

5.2.4 Bail Determination

If an inmate seeks bail as indicated on the appeal form, the Local Court will make a determination after it has received the application and notify the centre (and inmate) of the decision. If bail is granted and the inmate has appealed against all his/her current matters, he/she is eligible for release to appeal bail if the conditions can be met.

If an appeal is subsequently dismissed, an inmate released to appeal bail is required to return to custody to serve the remaining part of the sentence not served. The court is required to issue a new warrant to commit the offender to custody because the previous warrant is considered "dead" once bail has been entered. This sometimes creates anomalous warrants which require clarification or amendment with the court. Refer to Section 3 of this Manual (Orders and Detainers) for more details.

5.2.5 Withdrawal of Appeals

Should the inmate wish to withdraw the appeal it is necessary for him/her to advise the Court. There is no prescribed form for this but the inmate may submit an Inmate Application Form to indicate his/her wishes.

Once received by Sentence Administration staff, it should be forwarded to the Local Court if there has been no listing date set. If a date has been set, it should be sent to the Criminal Registry responsible for the District Court where the appeal is to be heard.

Despite the intention to withdraw the appeal, the court is still required to consider it and the hearing will go ahead, even if just to note the withdrawn appeal.

An entry should be made in the Case Notes screen ([instructions here](#)) but the Appeal screen and Imprisonment Status screen should not be altered until the matter has been formally dismissed by the court.

5.3 APPEALS TO THE COURT OF CRIMINAL APPEAL (CCA)

Inmates convicted or sentenced in either the District or Supreme Court may appeal to the Court of Criminal Appeal. This applies to both NSW and Commonwealth offences.

An inmate is required to complete a Notice of Intention to Appeal to the CCA (Form IVA).

Upon advice that the inmate wishes to appeal, Sentence Administration staff are to confirm the inmate's convictions and sentences from OIMS and the warrant file to determine the court to send the application.

If a person has been convicted by the District Court or Supreme Court, an appeal is lodged with the Court of Criminal Appeal. Appeals against Local Court matters are sent to the District Court.

5.3.1 Notices of Intention to Appeal

Upon confirmation that the inmate's appeal is to be heard by the CCA, Sentence Administration staff are to prepare a [Form IVA Notice Of Intention To Appeal Or Notice Of Intention To Apply For Leave To Appeal](#) . This form should be completed in as much detail as possible by Sentence Administration staff with reference to OIMS, the warrant file and forwarded for the inmate's signature and additional information as he/she requires. The inmate is to complete and sign the document and return it to the Sentence Administration Unit.

If the appeal is being lodged after 28 days from the court's order, a further [Form VE Notice of application for extension of time for notice of intention to appeal or to apply for leave to appeal](#) is to be prepared and submitted with the

IVA Form. The reasons why it is being lodged outside the 28 days should be provided by the inmate.

These forms are to be submitted by email to the Court of Criminal Appeal see 5.3.4 below.

At this stage, the inmate has expressed only an intention to appeal and a formal notice of appeal must be lodged subsequently by the inmate's legal representative. The inmate should contact his/her legal representative or apply for Legal Aid to arrange lodgement of the formal notice of appeal.

After processing these forms, Sentence Administration staff must update the centre's Appeal Register and enter a Case Note indicating that an intention to appeal has been lodged ([instructions here](#)). Do not make an entry in the Appeals screen or change the inmate's imprisonment status until a formal notice of Appeal is lodged.

5.3.1.1 Provision of Documents to Appellants by the CCA

The Court of Criminal Appeal will provide documents to inmates relating to Notices of Intention to Appeal by email to the Sentence Administration email address of the inmate's location.

The documents should be printed and forwarded to the inmate's housing location. There is no requirement to receive any acknowledgment of receipt from the inmate.

5.3.2 Notices of Appeal

Following submission of the Notice of Intention to Appeal, a formal notice of appeal is to be lodged with the CCA using [Form IV Notice of appeal or notice of application for leave to appeal](#) .

These are generally lodged by the inmate's legal representative directly with the CCA. The Form IV must be lodged within 6 months of lodging the Form IVA. If the inmate is unrepresented, he/she must complete this form him/herself. Sentence Administration staff must submit the form to the CCA on his/her behalf.

If the formal notice of appeal is lodged more than 6 months after the Notice of Intention to Appeal, [Form VF Notice Of Application For Extension Of Period Within Which Notice Of Intention To Appeal Or To Apply For Leave To Appeal Has Effect](#) must be lodged to explain why the Form IVA or Form IV was not lodged in time. This should be lodged by the inmate's legal representative but if submitted by the inmate directly, should be processed by Sentence Administration staff and sent to the CCA.

Upon lodgement and submission of each form, the Appeal Register should be updated and a relevant Case Note entered in OIMS ([instructions here](#)).

The inmate's imprisonment status is not changed until advice is received from the CCA that the appeal will be considered. Once advised by the CCA, change the Imprisonment Status in OIMS to "Appellant" only if he has no other current sentence matters.

Upon submission to the court, the papers are to be saved to OIMS and the original may be placed in an archive box for disposal – see 5.3.5 below.

5.3.3 Withdrawal or Abandonment of Appeal

If an inmate wishes to abandon an appeal to the CCA he/she should complete an Inmate Application Form and indicate on it that he/she wishes to withdraw their application. The application together with a covering letter should then be forwarded to the Registrar of the CCA.

The Appeal Register should be updated and a Case Note entered in OIMS ([instructions here](#)). The Imprisonment Status can be changed to Sentenced, unlike abandoned appeals to the District Court.

5.3.4 Crown Appeals

In a similar way that an inmate may appeal against the severity of a sentence, the Crown (prosecution) may also appeal against the inadequacy of a sentence. The Crown may not appeal against a finding of "not guilty".

It is not uncommon for an appeal against severity by the inmate and inadequacy by the Crown to be lodged at the same time.

If the Crown decides to consider an appeal, the inmate may be advised in writing. Documents may need to be provided to the inmate which should be coordinated by Sentence Administration staff in conjunction with the Offender Services & Programs staff. An appeal may not necessarily proceed at this stage. Copies of any such documents are to be placed on the warrant file on the right hand side (dead side) or the TRIM file using the relevant naming convention.

Sentence Administration staff should also advise the centre's Classification Coordinator of the possibility of a Crown Appeal.

Upon formal lodgement of an appeal, the CCA will send a notice to the centre and to the inmate.

The Legal Orders screen in OIMS should be updated to reflect the appeal. There is provision to enter when the Crown and inmate appeal at the same time if applicable.

The Imprisonment Status of the inmate does not vary upon lodgement of a Crown appeal.

Advice should be provided to Classification staff to indicate the appeal has been lodged so they may review the inmate's classification.

All documents relating to the formal lodgement of a Crown Appeal should be placed on the left side ("live") of the warrant file.

5.3.5 Forwarding Documents to the Court of Criminal Appeal

From 30 July 2012, all documents are to be scanned to a PDF Format and forwarded to the Court of Criminal Appeal by email. Documents are only to be faxed if directed by the Registrar of the court.

A separate PDF Format document is to be created for each set of documents for each inmate, although separate PDF documents may be sent in the same email.

The email address for all appeal documents is:-
courtofcriminalappeal@agd.nsw.gov.au

This includes:-

- Notices of intention to appeal
- Criminal Appeals
- Notices of Extension of time to appeal
- Any CCA enquiry

5.3.6 Saving Documents to OIMS File

Once the documents have been forwarded to the CCA, they are to be saved to the OIMS eOffender file. The hardcopy may be placed into an archive box for destruction in accordance with the IC&T disposal schedule. They are not retained on the warrant file.

Instructions for saving documents to the eOffender file are available [here](#).

5.4 APPEALS TO THE HIGH COURT

There is a further avenue of appeal to the High Court of Australia against a decision of the CCA. However, such appeals are only permissible by leave of the Court; there is no right of appeal.

In practice, appeals to the High Court are rare and inmates should seek legal advice before lodging such appeals.

There are no prescribed forms to be used when appealing to the High Court.

In hearing an appeal, the High Court will not amend a judgement of the lower court but refer the matter back to the lower court to re-hear it.

5.5 APPEAL FEES

Appeal fees only apply to appeals from the Local Court to the District Court.

When sending the inmate's application to the court, a request should be made to the Registrar of the Court to waive any appeal fees for which the inmate may be liable. Refer to [Clause 14 of the Criminal Procedure Regulation 2010](#).

A [cover sheet](#) (also on Intranet) should accompany the appeal forms to the court forms seeking the Registrar to waive any fees for which the inmate may be liable.

Do not deduct any money from an inmate's account or request payment of any amount from the inmate, unless requested to do so from the court.

5.6 OIMS DATA ENTRY

For OIMS data entry instructions refer to the [OIMS User Guide](#).

5.7 APPEAL LODGEMENT DOES NOT AFFECT CHILD PROTECTION OBLIGATIONS

Lodgement of an appeal and subsequent release to appeal bail while it is pending does not affect an inmate's obligation to comply with an existing Child Protection order. This applies even if the appeal is against the conviction which resulted in the Child Protection Order in the first place.

Refer to [Section 3A\(4\) of the Child Protection \(Offenders Registration\) Act 2000](#).

5.8 BAIL APPLICATIONS

Definition of Bail ([Bail Act 2013](#))

“The release of an arrested person between adjournment or sentencing dates on the provision that they (the inmate) can meet the conditions outlined by the Court.”

All unsentenced and appellant inmates are entitled to apply for bail or a variation of their existing conditions. They may be made by the inmate or his/her legal representative.

Sentence Administration staff are required to ensure applications made by inmates are processed and forwarded to the appropriate court as quickly as possible.

If an inmate wishes to apply for bail, he/she should complete a [Release Application](#) and forward it to the centre's Sentence Administration Unit.

Upon receipt, Sentence Administration staff must record the details in the Bail Application register prior to processing it.

5.8.1 Bail Application Register

All Sentence Administration Units are to maintain a Bail Application Register to record details of bail applications made by inmates.

They should be available for reference and maintenance by all Sentence Administration staff and record the following details:

- Inmate Name.
- MIN.
- Date of receipt of Bail App in Sentence Administration office.
- Date of forwarding to court.
- Court forwarded to (usually Supreme Court).
- Other comments.

5.8.2 Processing Bail Applications

The Release Application form is to be reviewed and checked by Sentence Administration staff with reference to OIMS, the Warrant file and the Inmate's Application for bail.

All relevant details are to be completed to allow full consideration by the court.

Once completed, the form is to be forwarded to the Supreme Court Registry by email or to another court if specifically requested by the inmate. For example, an inmate may seek a review to be made by the court which made the original decision.

The application should include the JusticeLink case no for all matters for which bail is being sought.

The completed application is to be scanned and saved to OIMS - instructions for doing so are available [here](#). The hard copy may be placed in bulk archive for disposal.

A Case Note should be entered in OIMS ([instructions here](#)) and the Bail Application Register updated.

[Section 74 of the Bail Act 2014](#) allows a court to refuse to entertain a bail application for a person if an application has already been heard by the court, unless the person was originally unrepresented or the court is satisfied that circumstances have since changed.

Despite the restriction, Sentence Administration staff are to forward all inmate bail applications to the court. The court does have the discretion to hear such matters in any case.

The Supreme Court will if necessary refer the matter back to the Local/ District Court if that court should be dealing with the matter.

It is necessary to ensure that case notes are completed ([instructions here](#)) as well as the Bail Register in relation to all action completed in regard to bail applications.

5.8.2.1 Forwarding Documents to the Supreme Court

All documents are to be scanned to a PDF Format and forwarded to the Supreme Court by email. Documents are only to be faxed if directed by the Registrar of the court.

A separate PDF Format document is to be created for each set of documents for each inmate, although separate PDF documents may be sent in the same email.

The email address for all bail applications to the Supreme Court is:-
sco_bails@agd.nsw.gov.au

This includes:-

- Bail applications (new)
- Withdrawal notification
- Bail enquiries in relation to results or listings or clarification
- Any result enquiry for Crime or any clarification sought

5.8.2.2 Saving Documents to OIMS File

Once the documents have been forwarded to the Supreme Court, they are to be saved to the OIMS eOffender file. The hardcopy may be placed into an archive box for destruction in accordance with the IC&T disposal schedule. They are not retained on the warrant file.

Instructions for saving documents to the OIMS eOffender file are available [here](#).

5.8.3 Appeal Bail

5.8.3.1 Appeals to District Court

In lodging an appeal against a Local Court conviction, an inmate is required to indicate if he/she wishes to apply for bail. If he/she does seek bail, the Local Court will make a determination, often in the inmate's absence, and advise the centre of the decision.

If the inmate seeks a further review, he/she may make an application to the Supreme Court in the above manner.

5.8.3.2 Appeals to Court Criminal Appeal (CCA)

If an inmate seeks bail in relation to an appeal to the CCA, the application should be referred to the Supreme Court in the above manner.

5.8.4 Authority to Grant Bail

The [Bail Act 2013](#) specifies the authority of certain levels of court to grant bail to matters currently in their jurisdiction.

There are certain exceptions to this rule and the table below outlines all the courts which can grant bail in certain circumstances.

Adjournment Type	Authority to Grant Bail
Adjournment from Local Court to Local Court	Local Court, Supreme Court
Committal for trial/sentence to District Court from Local Court.	Local Court (provided hearing has not commenced), District Court, Supreme Court
Committal for trial/sentence to Supreme Court from Local Court.	Local Court (provided hearing has not commenced), Supreme Court
Adjournment from District Court to District Court	District Court, Supreme Court.
Adjournment from Supreme Court to Supreme Court	Supreme Court
Retrial ordered from CCA to District Court	CCA (Provided hearing has not commenced), Supreme Court, District Court.
CCA Hearing	Supreme Court, CCA
Appeal against Local Court Sentence	Local Court (provided hearing has not commenced), District Court, Supreme Court.

Adjournment Type	Authority to Grant Bail
Appeal against District Court/Supreme Court Sentence.	Supreme Court, CCA
Appeal against Drug Court conviction whether sitting as Local or District Court	Supreme Court, CCA
Appearance at Local Court after revocation of bail by Supreme Court.	Local Court, Supreme Court.
Appearance at District Court after revocation of bail by Supreme Court.	District Court, Supreme Court.
Appeal to High Court.	Supreme Court, CCA

5.9 GRANTING OF BAIL

5.9.1 Notices of Listing

Upon receipt of an application for bail or a review of bail, the Supreme Court will take immediate action to list the matter for hearing by AVL. A notice of listing will be forwarded to the centre or centrally to MRRC. These orders are the authority for CSNSW to arrange the inmate's attendance at court by AVL (Supreme Court does not issue S77's for these AVL appearances).

If the inmate applies to a different court, that court will issue a Section 77 order for his/her appearance.

The details are to be entered in the OIMS Legal Orders screen.

5.9.2 Results of Hearing

5.9.2.1 Video Link Hearings

The vast majority of bail applications are heard before the Supreme Court by way of AVL. The result will be emailed to the correctional centre shortly after the bail conditions have been granted in the form of Court Order Notice. The Court Order Notice constitutes the official bail conditions. Click [here](#) for an example of an order of the Supreme Court.

5.9.2.2 Appearances in Person

Advice to the Centre when an inmate appears before a court is conveyed in a similar manner. Often a new warrant is issued instead of a Court Order Notice but no indication may appear on it that it is to replace or supersede a warrant already held. Officers should check with the court if these details over-ride

previous bail conditions or whether any new bail granted is in relation to detainers for which the inmate is in custody.

Contact should be made with the court making the decision if there is any doubt whatsoever.

5.9.2.3 Decision in Inmate's absence

When a bail decision or review has been made in the inmate's absence advice is generally conveyed to the Correctional Centre on a Court Order Notice. It outlines all the conditions imposed, if any, in respect of the alleged offence and the reasons for the decision. This document is the official record of the bail decision and is to be used in conjunction with the warrant in respect of which the review/decision was made. Some courts may prefer to issue an advice on their own letterhead. This is acceptable, provided it is signed by an officer of the court.

5.9.2 Stay of Bail (Section 40 of the Bail Act 2013)

If a magistrate or justice grants bail to a person during proceedings for the offence, the police or Crown (eg Office of the Director of Public Prosecutions) may request a review of the decision by the Supreme Court.

An application may only be made for offences of murder or others punishable by life imprisonment or offences involving sexual intercourse (including attempted) with a person under the age of 16 years

Provision to do so exists under [section 40](#) of the Bail Act 2013. The effect of making a review stays the decision until

- the Supreme Court affirms, varies or substitutes the request for review or refuses to entertain it.
- The police or Crown advise that it no longer intends to proceed with the request
- 4pm on the day that is 3 business days after the day the decision was made.

The Crown or police will inform the court of their intention to seek a review by the Supreme Court and the court will make a notation on the warrant it issues. Sentence Administration staff must still enter the adjournment and bail details in OIMS but make a clear notation on the file that a stay of bail applies.

A stay of bail means that bail cannot be entered until the matter has been dealt with by the Supreme Court or withdrawn. Any person applying to act as surety in the matter should be advised that a stay applies. No action is to be made to enter anyone into bail in anticipation the matter is not varied.

Any decision made by the Supreme Court after its review will override the decision of the original court and advice will be forward to the centre for recording.

Click [here](#) for an example of a stay of bail notation on a warrant.

5.10 SECTION 42 NOTICES ([S42 OF THE BAIL ACT 2013](#))

On a daily basis Sentence Administration Staff in Correctional Centres are required to generate a Section 42 Notice return. Refer to Section 4 of this Manual (Movements and Schedules) for more details.

Section 42 Notices are a return to a Court advising the Court that an inmate has been granted bail, but for some reason is unable to enter the bail.

Corrective Services NSW is required to advise the Court which granted bail that bail has not been entered and the reason(s) why. (Refer to [Section 42 of the Bail Act 2013](#)). It acts as a type of bail application/review on behalf of the inmate but does not need the inmate's consent to do so.

A copy of the Form13 is to be faxed to the Court and copies placed on the Warrant file and the Form 13 Register in TRIM.

The procedure to generate a Section 42 Notice is included in the Best Practice Manual.

5.11 APPLICATIONS FOR JURISDICTIONAL TRANSFER

5.11.1 Interstate Transfer Applications

Inmates may apply to transfer to another state under the provisions of the [Prisoners \(Interstate Transfers\) Act 1982](#).

Applications may be made on trial grounds or on welfare grounds.

“Trial grounds” refers to an inmate seeking a transfer to another state to face charges pending in that state. This [application form](#) is to be used.

“Welfare grounds” refers to an inmate seeking a transfer to be closer to family etc in the other state. This [application form](#) is to be used.

Upon receipt of the application form (including required supporting letters or documents), they should be sent either by email to: ExecutiveServices@dcs.nsw.gov.au or by post to: The Director, Executive Services Unit, GPO Box 31 SYDNEY 2001”. A copy is to be placed on the inactive side of the warrant file and case note entry made ([instructions here](#)).

When received by the Executive Services Unit, Jurisdictional Transfers will process applications for transfer on welfare grounds, coordinate and liaise

with the intra-state and interstate agencies. Upon receipt by the Executive Services Unit, Justice Legal will process applications for transfer on trial/law grounds, coordinate and liaise with the intra-state and interstate agencies.

Progress of the application can be checked with reference to the Jurisdictional Transfers screen in OIMS.

5.11.2 International Transfer Applications

[The International Transfer of Prisoners \(New South Wales\) Act, 1997](#) provides a framework for the International Transfer of Prisoner's Scheme, which is administered by the Federal Attorney-General's Department.

The scheme, which applies to New South Wales inmates, allows for Australian citizens or are permanent residents under the Migration Act, 1958 who are imprisoned in other countries, providing that they have community ties in New South Wales, to apply to return to this state to serve the remainder of their sentence(s) in New South Wales.

The scheme also allows for foreign nationals, or those having community ties to a foreign country and are imprisoned in New South Wales to apply to serve the remainder of their sentence(s) in that foreign country provided that that country is a participant in the scheme

Applicants should be aware that the inmate or their family maybe required pay the full cost of escorting the inmate back to Australia.

Upon receipt of the application form, it should be referred to Federal Attorney General's Department in Canberra. A copy is to be placed on the inactive side of the warrant file and case note entry made ([instructions here](#)).

The Federal Attorney General's Office will coordinate and liaise with Sentence Administration, Jurisdictional Transfers staff and other agencies to process the application.

The only role that Sentence Administration staff in the correctional centre have to undertake is to forward the application for transfer to the Federal Attorney General's Department in Canberra for processing.

Once the application has been approved Sentence Administration staff in the centre will receive a request for a copy of any commitment warrants to be sent to Sentence Administration Corporate in Head office. Then, when the inmate is due to be transferred to the other country Sentence Administration staff will be asked to request a section 23 order so the inmate can be transferred to the Metropolitan Remand and Reception Centre for removal from Australia.

Progress of the application can be checked with reference to the Jurisdictional Transfers screen in OIMS.

Application forms for International Transfers can be found on the Departments Intranet, under Forms/Templates Sentence Administration Forms/International Transfer of Inmates.

For further information in regard to International Transfers refer to

<http://www.ag.gov.au/Internationalrelations/Internationalcrimecooperationarrangements/TransferOfPrisoners/Pages/default.aspx>

5.12 APPLICATIONS TO HEAR MATTERS IN OTHER STATES

On some occasions, an inmate may advise that he/she is required to appear at court in another state.

The request should be forwarded to the Registrar of the court at the other state. It should be noted that there are no provisions to formally order the appearance of an inmate at an interstate court, except under certain provisions of the Commonwealth Service and Execution of Process Act and then only if appearing as a witness.

However, if an inmate consents, the matter may be heard by AVL at the request of the interstate court. No enforceable orders can be made to facilitate the appearance and as a result, should the inmate refuse to appear, he/she cannot be forced to do so.

Further, priority is to be afforded to orders for other inmates at the centre to appear by AVL for NSW proceedings.

5.13 CALLING IN OUTSTANDING FINES

Prior to 1997, inmates were entitled to call in outstanding fines and serve a period in custody in default of payment. The commencement of the [Fines Act 1996](#), in 1997, effectively removed this provision and fine default warrants are no longer issued.

Sentence Administration staff may still receive applications from inmates to call in outstanding fines, despite there being no avenue to serve them in custody.

In any case, the application should be forwarded to the Warrant Index Unit of the NSW Police Force for formal processing.

As there is no formal form in use to make application to call in outstanding fines, a signed inmate application form will suffice.

Sentence Administration staff should ensure the inmate's details are included on the form, including his/her:

- Full name and aliases.

- Date of Birth.
- MIN.
- Release Date.
- Correctional Centre location.

A copy should be retained on the warrant file (inactive side) for reference.

5.14 CALLING IN OUTSTANDING WARRANTS

Separate to fine default warrants, inmates may apply to the police to call in outstanding warrants. For example, an arrest warrant for an inmate may be in existence but not executed.

An application may be made by the inmate seeking to have the warrants served upon him/her.

As there is no formal form to use a signed inmate application form will suffice.

Sentence Administration staff should ensure the inmate's details are included on the form, including his/her:

- Full name and aliases.
- Date of Birth.
- MIN.
- Release Date.
- Correctional Centre location.

A copy should be retained on the warrant file (inactive side) for reference.

5.15 REQUESTS TO COURTS FOR [SECTION 77 ORDERS](#)

If an inmate has an upcoming court appearance for any matter separate to which he/she is currently held, he/she may notify Sentence Administration staff who will refer the matter to the court for information.

A common example of this is when an inmate is on bail for a particular matter and is subsequently arrested in relation to a separate offence.

In making application, the inmate should use an inmate application form and indicate the court he is next to appear.

Sentence Administration staff should initially assess the request. If an order is already in existence for that particular date, no further action is necessary. If no order has been issued, the matter is to be referred to the relevant court and advise it that a [Section 77](#) Order should be issued if the inmate's attendance is required.

If an inmate's solicitor makes a request, he/she should be advised to make a direct request to the court.

Information on upcoming court appearances is readily available through JusticeLink and provides a very convenient method of confirming if an inmate is required on a particular date.

5.16 STATE PAROLE AUTHORITY

5.16.1 Intentions to Make Representations

Upon scheduling a review hearing, inmates are often required to reply to the State Parole Authority to indicate their intention to make representations at the hearing on a Form 6.

The provision and return of such documents is coordinated by officers in the respective centre's Parole Unit and is not a Sentence Administration function.

5.16.2 Appeals against State Parole Authority Decisions

There is no formal avenue of appeal to the Supreme Court or Court of Criminal Appeal against a decision of the State Parole Authority.

However, an offender may apply to the Supreme Court for a Direction to Parole Authority in relation to a decision the SPA has made.

The inmate should complete [Form 161](#) outlining the basis of his/her application. The application is to be forwarded to the Registrar of the Supreme Court and a copy retained on the inactive side of the warrant file.

(Example – [completed Form 161](#)).

Upon hearing the application, the Supreme Court may direct the State Parole Authority to reconsider its decision. The Supreme Court cannot overrule a SPA decision.

5.17 PROCESSING ALL APPLICATIONS

ALL INMATE APPLICATIONS MUST BE PROCESSED BY SENTENCE ADMINISTRATION STAFF REGARDLESS OF THE APPARENT MERIT OR INELIGIBILITY OF THE APPLICATION

Regardless of the application and whether the inmate can make it, Sentence Administration staff are to forward the application to the relevant Court or agency.

DOCUMENT HISTORY

Version	Date	Reference
1.0	26-11-09	First issue
1.1	22-11-10	Whole document updated to include instructions on how to enter Sentence Admin Case Notes
1.2	22-10-11	5.1 Updated to include instructions for generating Form 13s 5.1.4 Included updated instructions on entering Appeal details in OIMS 5.8.2 Updated instructions on processing bail applications to Supreme Court - copies of all current remand warrants are to accompany all applications 5.9.1 updated to include instructions on entering Bail Application Notices in OIMS 5.9.2 – Updated to include information on S25A of Bail Act (Stay of Bail)
1.3	26-7-12	5.3.4, 5.3.5, 5.38.3.1 & 5.8.3.2 Added to detail that documents will be transmitted by email between CCA & Supreme Court and CSNSW
1.4	21-8-12	5.2 Included a template cover sheet to accompany appeal notices to LC seeking Registrar to waive fees.
1.5	5-7-13	5.2 Updated procedures so that all appeals against LC convictions are emailed to the court and documents saved to OIMS
1.6	17-10-14	5.9 & 5.10 – Updated to reflect changes introduced with Bail Act 2013.
1.7	9-12-14	5.11 Updated to reflect new procedures for Interstate Transfers and links to forms.
1.8	22-7-15	Updated document links to TRIM following new Intranet. Also updated procedures to submit applications to the Supreme Court
1.9	24-8-15	Updated to reflect Sentence Admin Branch becoming Sentence Admin Corporate

NEXT REVIEW DATE

Ongoing