



NEW SOUTH WALES  
BAR ASSOCIATION

14/159

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

Dear Director

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

Thank you for your letter dated 4 July 2014 inviting submissions from the Association on these proposed regulations.

The Association generally agrees with Option 4 of the Regulatory Impact Statement (RIS): re-making the existing regulations with amendment. The Association agrees, for the reasons set out in the RIS, that regulations are a more appropriate mechanism than Commissioner's instructions for regulating this subject matter.

However, the Association has two concerns which relate to monetary impositions upon prisoners and remandees. The first is charging inmates for making telephone calls and sending/receiving faxes, and the second is effectively fining them for misconduct. Inmates have very limited access to money and those from disadvantaged backgrounds even less so.

*Telephone calls and faxes*

It is recognised that inmates may, for a variety of reasons, need to be housed far from their families. While a number of appropriate amendments have been suggested in recognition of changing technology, the regulations about telephone calls have not kept up. The cost of calls to landlines, whether local or long distance within Australia, is now almost negligible.

The cost of calls to mobile telephones (which is the only telephone service many people, especially the economically disadvantaged, now have) have also decreased dramatically in recent years.

Inmates need to maintain their family contacts in the community to facilitate their reintegration and rehabilitation. They also have a need to have contact with their lawyers, whether those lawyers are close to the place of detention or not, and whether those lawyers are from the Legal Aid Commission, the Aboriginal Legal Service or private practice.

The Association therefore suggests that inmates have the following services free of charge, before being required to pay for telephone calls and/or receiving faxes:

1. Up to one telephone call to a landline daily.
2. If family do not have a landline, up to 2 telephone calls to family on a mobile telephone weekly.
3. Up to 2 telephone calls to lawyers on a landline weekly.
4. Sending of faxes of up to 10 pages to lawyers or courts up to once per week, or up to 50 pages upon a written request by a lawyer, subject to fair use.
5. Receipt of faxes under 10 pages, subject to fair use.
6. Receipt of faxes under 50 pages from lawyers, subject to fair use.

Obviously any of these privileges would be subject to practical and security considerations and a 'fair use' policy in relation to faxes.

#### *Pecuniary penalties*

The Association's second concern relates to the introduction of pecuniary penalties for correctional centre offences. These can be found throughout the regulations, as discussed at p16 of the RIS. There are sufficient rights and privileges which can be curtailed as punishment for misconduct (eg: segregation, time off visits, restricted type of visits, time off 'buy ups') without the need to resort to monetary penalties upon those who have very little money.

Apart from these specific concerns, the Bar Association supports the re-making of the existing regulations with the amendments suggested in the public consultation draft. Should you have any questions in relation to this submission, please do not hesitate to get in touch with me or the Association's Executive Director, Mr Philip Selth at [pselth@nswbar.asn.au](mailto:pselth@nswbar.asn.au) or on 9232 4055.

Kind regards



Jane Needham SC  
President