

1958/107



THE PENAL INSTITUTIONS (APPELLANTS)
REGULATIONS 1958

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of July 1958

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Penal Institutions Act 1954, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Penal Institutions (Appellants) Regulations 1958, and shall be read together with and deemed part of the Prisons Regulations 1925 to 1950* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

2. (1) Subject to the provisions of this regulation, where to the knowledge of the Superintendent of any penal institution any inmate has appealed or applied for leave to appeal against any conviction or order, and that inmate is in custody only under the conviction or order to which the appeal or application relates, the inmate shall, pending the determination of his appeal or application, be specially treated in the same manner as an inmate awaiting trial.

(2) As soon as it comes to the knowledge of the Superintendent that any inmate to whom subclause (1) of this regulation applies has appealed or applied for leave to appeal, he shall cause the inmate to be informed that he may, if he wishes, elect not to be specially treated as an inmate awaiting trial.

**Gazette*, 1925, Vol. III, p. 2623

Amendments: *Gazette*, 1932, Vol. II, p. 1894

S.R. 1937/175

S.R. 1940/129

S.R. 1940/232

S.R. 1946/100

S.R. 1946/138

S.R. 1950/198

(3) If the inmate so elects, he shall be treated in the manner required by his sentence, and while he is so treated the term of his detention under his sentence shall continue to run.

(4) Any inmate who has so elected as aforesaid may at any time revoke his election by informing the Superintendent that he wishes to do so; and thereafter he shall, pending the determination of his appeal or application, be specially treated as an inmate awaiting trial, and shall not be entitled to make any further election.

(5) Nothing in this regulation shall apply to any inmate who—

(a) Is under sentence of death; or

(b) Has applied for leave to appeal under the Courts Martial Appeals Act 1953.

(6) For the purposes of this regulation, an inmate shall not be deemed to be in custody only under the conviction or order to which the appeal or application relates if any other sentence or term of imprisonment is cumulative on the sentence imposed on that conviction or order and he has not appealed or applied for leave to appeal against the conviction or order in respect of which the cumulative sentence or term was imposed.

3. The principal regulations are hereby amended by revoking regulation 348A (as inserted by regulation 2 of the Prisons Regulations 1946*).

T. J. SHERRARD,
Clerk of the Executive Council.

*S.R. 1946/100

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide that an inmate of a penal institution who has appealed against a conviction or order is to be treated in the same manner as an inmate awaiting trial, unless he is also in custody under some cumulative sentence imposed under another conviction or order against which he has not appealed. The inmate may elect not to be specially treated, in which case he will continue to serve his sentence. If however, he is specially treated as an inmate awaiting trial, the running of his sentence is suspended (under s. 127 of the Summary Proceedings Act 1957 or s. 14 of the Criminal Appeal Act 1945, as the case may be).

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 July 1958.

These regulations are administered in the Department of Justice.