



THE LAW SOCIETY
OF NEW SOUTH WALES

Our Ref: 671643

23 November 2012

The Hon. Greg Smith SC MP
Attorney General and Minister for Justice
Level 31
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney ^{Greg} General,

Courts and Other Legislation Further Amendment Bill 2012

The Law Society's Juvenile Justice Committee and Criminal Law Committee (Committees) have reviewed the *Courts and Other Legislation Further Amendment Bill 2012*. The Committees are concerned about the amendment to the *Court Security Act 2005* prohibiting the use of a device (including a telephone) to transmit sounds, images, or "information that forms part of the proceedings of a court" from a courtroom to any person or place outside the court.

The explanatory note suggests that the amendment is aimed at situations such as using a phone to "simultaneously transmit court proceedings" to a witness who is waiting outside to give evidence.

However, the definition of the term "information that forms part of the proceedings" is problematic. A legal practitioner may be in breach of proposed section 9A if he or she is in the courtroom and emails a colleague who is assisting with the preparation of the case and provides information on the progress of the proceedings.

The amendment is too broad and will prohibit legal practitioners from taking necessary action while in court. It may lead to legal practitioners being forced to make applications to the court for permission to email or text colleagues or clients which will result in a waste of the court's time.

The Committees submit that proposed section 9A should be amended to provide that all legal practitioners are exempt from the operation of the section. Legal practitioners should be entitled to communicate information outside of the courtroom consistent with their ethical obligations.

Yours sincerely,

Justin Dowd
President