



New South Wales

Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009 No 65

Contents

| | Page |
|---|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| Schedule 1 Amendment of Crimes (Appeal and Review) Act 2001 No 120 | 3 |



New South Wales

Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009 No 65

Act No 65, 2009

An Act to amend the *Crimes (Appeal and Review) Act 2001* to make further provision in relation to the principle of double jeopardy in criminal proceedings. [Assented to 24 September 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes (Appeal and Review) Act 2001 No 120

[1] Section 68A

Insert after section 68:

68A Double jeopardy not to be taken into account in prosecution appeals against sentence

- (1) An appeal court must not:
 - (a) dismiss a prosecution appeal against sentence, or
 - (b) impose a less severe sentence on any such appeal than the court would otherwise consider appropriate,because of any element of double jeopardy involved in the respondent being sentenced again.
- (2) This section extends to an appeal under the *Criminal Appeal Act 1912* and accordingly a reference in this section to an appeal court includes a reference to the Court of Criminal Appeal.

[2] Section 105 Application for retrial—procedure

Omit section 105 (1). Insert instead:

- (1) Not more than one application for the retrial of an acquitted person may be made under this Division in relation to an acquittal.
- (1A) An application may be made for a further retrial of a person acquitted in a retrial under this Part but only if it is made on the basis that the acquittal at the retrial was tainted.

[3] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009

Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009
No 65

Schedule 1 Amendment of Crimes (Appeal and Review) Act 2001 No 120

[4] Schedule 1, Part 8

Insert after clause 15:

**Part 8 Provision consequent on enactment of
Crimes (Appeal and Review) Amendment
(Double Jeopardy) Act 2009**

16 Application of amendment

Section 68A, as inserted by the *Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2009*, extends to an appeal that was commenced but not finally determined before the insertion of the section.

[Agreement in principle speech made in Legislative Assembly on 2 September 2009
Second reading speech made in Legislative Council on 22 September 2009]

BY AUTHORITY