



New South Wales

Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes (Appeal and Review) Act 2001* to extend an exception to the rule against double jeopardy in relation to an acquitted person where previously inadmissible evidence becomes admissible.

The Bill provides that, when the Director of Public Prosecutions applies to the Court of Criminal Appeal for an order that an acquitted person be retried for an offence punishable by life imprisonment, evidence against the acquitted person is to be considered fresh (for the purpose of determining whether it is “fresh and compelling” in the sense required for a retrial) if it was inadmissible in the proceedings in which the person was acquitted and, as a result of a substantive legislative change in the law of evidence since the acquittal, it would now be admissible if the acquitted person were to be retried.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

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

Schedule 1 [1] gives effect to the object described in the Overview above. **Schedule 1 [2]** makes a consequential amendment.

Schedule 1 [3] extends the application of the provision inserted by Schedule 1 [1] to a person acquitted before the commencement of the proposed Act.



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Contents

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



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No. , 2015

A Bill for

An Act to amend the *Crimes (Appeal and Review) Act 2001* to extend an exception to the rule against double jeopardy in relation to an acquitted person where previously inadmissible evidence becomes admissible.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2015*.

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4

2 Commencement

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

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Schedule 1	Amendment of Crimes (Appeal and Review) Act 2001 No 120	1
		2
[1]	Section 102 Fresh and compelling evidence—meaning	3
	Insert after section 102 (2):	4
	(2A) Evidence is also <i>fresh</i> if:	5
	(a) it was inadmissible in the proceedings in which the person was acquitted, and	6
		7
	(b) as a result of a substantive legislative change in the law of evidence since the acquittal, it would now be admissible if the acquitted person were to be retried.	8
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		10
[2]	Section 102 (4)	11
	Omit the subsection.	12
[3]	Schedule 1 Savings, transitional and other provisions	13
	Insert at the end of the Schedule with appropriate Part and clause numbering:	14
Part	Provision consequent on enactment of Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2015	15
		16
		17
	Application of amendment	18
	Section 102 (2A), as inserted by the <i>Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2015</i> , extends to a person acquitted before the commencement of that Act.	19
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		21