

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

[2009-65]



New South Wales

Status Information

Currency of version

Repealed version for 24 September 2009 to 24 September 2009 (accessed 17 July 2024 at 22:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 25.9.2009.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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.

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

[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.