

# Proclamation - Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024

Explanatory notes for SL 2024 No. 177

made under the

*Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024*

## General Outline

### Short title

*Proclamation commencing the Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024*

### Authorising law

Section 2 of the *Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024*

### Policy objectives and the reasons for them

The objective of the proclamation is to commence the *Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024* (Amendment Act). The Amendment Act:

- expands the fresh and compelling evidence double jeopardy exception to 10 prescribed offences in addition to murder;
- establishes a subsequent appeal framework, allowing a person convicted on indictment, or of a summary offence under section 651 of the Criminal Code, to make a subsequent appeal against the conviction; and
- provides that if the Court of Appeal allows a subsequent appeal and orders a new trial, the appellant is entitled to be paid from the appeal costs fund, costs that the board considers were thrown away or partly thrown away in the proceedings.

### Achievement of policy objectives

The policy objective is achieved by fixing a commencement date of 1 September 2024 for the Amendment Act.

## **Consistency with policy objectives of authorising law**

The proclamation is consistent with the policy objectives of the authorising law.

## **Inconsistency with policy objectives of other legislation**

The proclamation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

Commencing the Amendment Act expands the fresh and compelling evidence double jeopardy exception to additional prescribed offences, establishes a subsequent appeal framework, and provides access to the appeal costs fund in relation to subsequent appeals.

Any costs arising from commencement of the Amendment Act will be met from existing resources.

## **Consistency with fundamental legislative principles**

The proclamation is consistent with fundamental legislative principles.

## **Consultation**

Consultation with legal stakeholders, victim support services, First Nations stakeholders, Chief Justice, Chief Judge, Chief Magistrate, President of the Court of Appeal, and other interested stakeholders was undertaken as part of the development of the Amendment Act. No consultation was undertaken on the proclamation as it is of a machinery nature.