

Criminal Practice (Subsequent Appeals) Amendment Rule 2024

Explanatory notes for SL 2024 No. 178

made under the

Supreme Court of Queensland Act 1991

General Outline

Short title

Criminal Practice (Subsequent Appeals) Amendment Rule 2024

Authorising law

Section 85 of the *Supreme Court of Queensland Act 1991*

Policy objectives and the reasons for them

The Criminal Code provides an exception to the double jeopardy rule that allows for a person to be retried following an acquittal of murder or a lesser offence to be retried for murder if there is fresh and compelling evidence against the person and it is in the interests of justice. The Criminal Code also provides for appeals to the Court of Appeal following conviction on indictment, or after conviction of a summary offence under section 651 of the Criminal Code. Once the Court of Appeal has heard and decided an appeal against conviction, it has no jurisdiction to entertain a further appeal against the same conviction. If the Court of Appeal allows an appeal against conviction and orders a new trial, the appellant is entitled under the *Appeal Costs Fund Act 1973* (ACF Act) to be paid from the fund, costs that the board considers were thrown away or partly thrown away in the proceedings.

The *Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals) Amendment Act 2024* (Amendment Act) amends the Criminal Code to expand the offences to which the fresh and compelling evidence double jeopardy exception applies and to establish a subsequent appeal framework. The Amendment Act also amends the ACF Act to provide 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.

Under section 85 of the *Supreme Court of Queensland Act 1991* the Governor in Council may make rules of the court with the consent and approval of the Rules Committee. The *Criminal Practice Rules 1999* (CP Rules) provide the practice and procedure rules for the criminal jurisdiction of the courts.

The policy objective of the *Criminal Practice (Subsequent Appeals) Amendment Rule 2024* (Amendment Rule) is to support the introduction of the subsequent appeal framework by

amending the CP Rules to prescribe practice and procedure rules for the courts in relation to subsequent appeals. The Amendment Rule generally expands the application of existing rules for original appeals to apply to subsequent appeals.

Achievement of policy objectives

The Amendment Rule amends the CP Rules to provide the practices and procedures of the court for subsequent appeals.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Rule amends the CP Rules to support the introduction of the subsequent appeal framework.

Any costs arising from implementation of the Amendment Rule will be met from existing resources.

Consistency with fundamental legislative principles

The Amendment Rule is consistent with fundamental legislative principles.

Consultation

The Rules Committee and key legal stakeholders were consulted during drafting of the Amendment Rule.