

Criminal Practice (Fees and Allowances) Amendment Regulation 2024

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Criminal Practice (Fees and Allowances) Amendment Regulation 2024* (Amendment Regulation) made under the *Supreme Court of Queensland Act 1991*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

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, 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. 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.

The Amendment Regulation supports the introduction of the subsequent appeal framework by amending the *Criminal Practice (Fees and Allowances) Regulation 2021* to prescribe fees for subsequent appeal record books consistent with the fees prescribed for original appeal record books.

Human Rights Issues

The Amendment Regulation does not engage or limit human rights protected under the HR Act.

Conclusion

I consider that the Amendment Regulation is compatible with the HR Act because it does not raise a human rights issue.

YVETTE D'ATH MP
Attorney-General and Minister for Justice and
Minister for the Prevention of Domestic and Family Violence

© The State of Queensland 2024