

FACT SHEET

Criminal Code Amendment (Second or Subsequent Appeal for Fresh and Compelling Evidence) Bill 2015

The *Criminal Code Amendment (Second or Subsequent Appeal for Fresh and Compelling Evidence) Bill 2015* (the Bill) makes amendments to the *Criminal Code Act 1924* (Criminal Code) to provide a convicted person the right to make a further appeal on the basis of fresh and compelling evidence, even after ordinary appeal rights have been exhausted.

In Tasmania the only avenue open to a convicted person, if fresh and compelling evidence comes to light after general appeal rights have been exercised, is to petition the Governor to exercise the royal prerogative of mercy.

This Bill gives a convicted person a legal right to have the conviction reviewed by the Court of Criminal Appeal in specific circumstances.

The Bill amends the Criminal Code to provide that –

- a person convicted of a serious crime may seek leave to appeal on a new ground of fresh and compelling evidence;
- if a convicted person satisfies the Court of Criminal Appeal that there is “fresh and compelling evidence” and that as a result there has been a substantial miscarriage of justice, the Court may enter an order of acquittal or order a retrial; and
- the existing time limits relating to criminal appeals do not apply.

This Bill provides for similar, but not identical to, amendments as those introduced in South Australia in 2013.

The Bill gives a convicted person rights similar to those the Director of Public Prosecutions has had since the insertion of amendments to Chapter XLIV in the *Criminal Code 1924* in 2008. To enhance this consistency, the Bill contains an amendment to existing section 393(1)(a) to mirror new section 402A(6)(a) in requiring that the Court find that there is fresh and compelling evidence.