

Thursday, 31 July 2008

NO GETTING AWAY WITH MURDER

The Attorney-General Michael Atkinson has declared that new exceptions to double jeopardy laws will come into force today, allowing alleged offenders to be tried a second time for the same offence.

“These laws mean that a person can no longer get away with a major crime by hiding behind the shield of double jeopardy, if good reason exists for them to face a second trial,” Mr Atkinson said.

The double jeopardy principle is aimed at giving certainty to acquitted people, but until now it has also prevented the re-trial of some accused where a second prosecution is in the interests of justice.

“Advances in technology are providing fresh evidence in cases that have previously been before the courts, sometimes many years earlier,” Mr Atkinson said.

“These reforms close a potentially dangerous loophole which, in the past, may have let some offenders get away with murder,” he said.

The double jeopardy exclusions will apply only in certain circumstances where:

There is fresh and compelling evidence

For example, D.N.A. evidence. This must be material that couldn't have been adduced in the original trial with reasonable diligence. This exception will only apply to the most serious offences such as murder, manslaughter, major drug offences, and aggravated rape and armed robbery.

The acquittal is tainted

For example, through corruption of the trial by the acquitted person or another person. This allows for a re-trial on the original offence. This will deter administration-of-justice offences in cases of organised crime, in particular outlaw motorcycle gang members who threaten witnesses.

There is an administration of justice offence

For example, in the case of the accused corrupting the trial. A person can now face an administration of justice offence where the offending is connected to the original trial, even if they were acquitted.

Under the first two exceptions the alleged offender would face a new trial on the original charge. For the third exception, there would be a new trial on a different charge such as perjury, perverting the course of justice or bribing a juror, witness or judge.

“This is a major change to a long-standing legal principle. We've taken great care amending these laws. We've adapted a model COAG bill to suit South Australian needs,” Mr Atkinson said.

“This ensures justice is served in South Australia, but still protects those who are legitimately acquitted of a crime.”