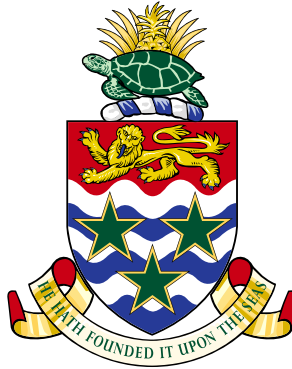


CAYMAN ISLANDS



COURT OF APPEAL ACT

(2023 Revision)

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Note (not forming part of this Act): This revision replaces the 2011 Revision which should now be discarded.



CAYMAN ISLANDS

COURT OF APPEAL ACT

(2023 Revision)

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CAYMAN ISLANDS



COURT OF APPEAL ACT

(2023 Revision)

PART I - Introductory

Short title

1. This Act may be cited as the *Court of Appeal Act (2023 Revision)*.

Definitions

2. In this Act —

“**appeal**” includes cross-appeal;

“**appellant**” includes a person who has been convicted and who desires to appeal to the Court;

“**Court**” means the Cayman Islands Court of Appeal;

“**Grand Court**” means the Grand Court for the Cayman Islands;

“**Judge**” means a Judge of the Court and includes the President;

“**judgment**” includes any sentence, decree, order or declaration of any court;

“**law**” means any enactment having effect in the Islands and includes any subsidiary legislation made under any law;

“**President**” means the President of the Court;

“**Registrar**” means the Registrar of the Court;

“**rules of court**” means rules of the Court made under section 35; and

“**sentence**” includes any order of any court made consequent upon or in connection with a conviction which is subject to the jurisdiction of the Court.

Judges of the Court

3. (1) The President shall be the senior Judge of the Court.
- (2) Subject to subsection (1), the Judges shall hold seniority in the order of their appointments or, if two or more Judges are appointed on the same day, then in the order of their seniority of first appointment to high judicial office.
- (3) In the absence of the President the senior Judge present at any sitting of the Court shall preside at that sitting.
- (4) Subject to subsections (7) and (8), for the purpose of hearing and determining an appeal or any other matter, the Court shall be duly constituted if it consists of three Judges.
- (5) Subject to subsections (7) and (8), the determination of any matter before the Court shall be according to the opinion of the majority of the Judges hearing the matter.
- (6) Except as otherwise provided in this Act, all Judges shall have and enjoy in all respects equal power, authority and jurisdiction.
- (7) In civil proceedings, where a Judge of a Court which has partly heard proceedings is unable to continue —
- (a) the parties to the case shall be consulted and their agreement sought as to whether the case can proceed to judgment with two Justices of Appeal; or
- (b) if the agreement of the parties cannot be reached or the matter cannot otherwise proceed with two Judges, because the President does not think the case suitable, then the case shall be re-heard by a differently constituted panel of three Judges.
- (8) Where pursuant to subsection (7)(a) —
- (a) an appeal has been heard by a Court consisting of two Judges; and
- (b) the Judges of the Court are equally divided,
- the case shall, on the application of any party to the appeal, be reargued before and determined by three Judges, before any appeal to His Majesty in Council or before an application for leave to appeal to His Majesty in Council is made.

Registrar and other officers

4. (1) The Governor shall appoint a public officer to be the Registrar.
- (2) The Registrar shall take all necessary steps for obtaining a hearing under this Act of all appeals and applications made to the Court and shall obtain and lay before the Court in proper form all documents, exhibits and other things relating



to the proceedings in respect of which the appeal or application has been brought and which appear necessary for the proper determination thereof by the Court.

- (3) The Registrar shall have such other power and authority and perform such other duties as are necessary for the due conduct and discharge of the business of the Court .
- (4) There shall be attached to the Court such other officers as may, from time to time, be required and as may be authorised by any law relating to the public services.
- (5) An officer attached to the Court as a marshal under subsection (4) shall, in addition to the powers and duties conferred on or to be performed by that officer as directed by the Court or a Judge or as may be provided by any rules of court, have —
 - (a) the power to administer oaths to witnesses in all matters before the Court or in connection with any proceedings pending before the Court;
 - (b) within the precincts of the Court and on the order or direction of the Court or a Judge, the power without warrant to take into custody and detain any person until the rising of the Court.

PART II - Appellate Civil Jurisdiction

Appeals from the Grand Court in civil proceedings

5. Subject to this Act, the Court shall have jurisdiction to hear and determine appeals from any judgment of the Grand Court given or made in civil proceedings, or to order a new trial if the Court thinks fit, and, for all purposes of and incidental to the hearing and determination of any such appeal and the amendment, execution and enforcement of any judgment made thereon, the Court shall, subject as aforesaid, have all the powers, authority and jurisdiction of the Grand Court:

Provided that no judgment of the Grand Court shall be altered or reversed in any case in which the Court is satisfied that the effect of the judgment is to do substantial justice between the parties.

Restrictions on civil appeals

6. No appeal shall lie —
 - (a) from any order allowing an extension of time for appealing from a judgment;
 - (b) from an order of a Judge of the Grand Court giving unconditional leave to defend an action;
 - (c) from any decision of the Grand Court in respect of which it is provided by any law in force in the Islands that such decision is to be final;

- (d) from any order absolute for the dissolution or nullity of marriage in favour of any party who, having had time and opportunity to appeal from the decree *nisi* on which the order was founded, has not appealed from that decree, except upon some point which would not have been available to such party on such appeal;
- (e) without the leave of the Grand Court, or of the Court, from an order made with the consent of the parties or as to costs only where costs are by law left to the discretion of the Grand Court;
- (f) without the leave of the Grand Court, or of the Court, from an interlocutory judgment made or given by the Judge of the Grand Court except —
 - (i) where the liberty of the subject or the custody of an infant is in question;
 - (ii) where an injunction or the appointment of a receiver is granted or refused;
 - (iii) in the case of a decree *nisi* in a matrimonial cause or a judgment in an Admiralty action determining liability;
 - (iv) in the case of an order made in any arbitration proceedings; or
 - (v) in the case of a decision determining the claim of any creditor, the liability of any contributory or the liability of any director or other officer of any company, under any law for the time being in force relating to companies, in respect of misfeasance or otherwise;
- (g) in any case in which, before the decision of the Grand Court, the parties have agreed in writing that such decision shall be final; or
- (h) in such other cases as may be prescribed by rules of court as, in the opinion of the authority having power to make such rules, are of the nature of final decisions.

PART III - Appellate Criminal Jurisdiction

Appeals against conviction in the Grand Court

7. Subject to this Act, the Court shall have jurisdiction to hear and determine appeals from the Grand Court by a convicted person —
- (a) against the conviction on any ground of appeal which involves a question of law alone;
 - (b) with the leave of the Court, or upon the certificate of the Judge of the Grand Court before whom the person was tried that it is a case fit for appeal, against that person's conviction on any ground of appeal which involves a question of fact alone or a question of mixed law and fact or upon any



- other ground which appears to the Court or the Judge aforesaid to be a sufficient ground of appeal; and
- (c) with the leave of the Court, against the sentence passed on that person's conviction unless the sentence is one fixed by law.

Appeals against certain orders

8. Subject to this Act, the Court shall have jurisdiction to hear and determine appeals from the Grand Court against any order of the Grand Court made under section 13, 20, 21 or 22 of the *Youth Justice Act (2021 Revision)*.

Determination of criminal appeals

9. (1) Subject to section 12, the Court shall allow an appeal against conviction if it thinks —
- (a) that the verdict of the jury should be set aside on the ground that under all the circumstances of the case it is unsafe or unsatisfactory;
- (b) that the judgment of the Court before which the appellant was convicted should be set aside on the ground of a wrong decision on any question of law; or
- (c) that there was a material irregularity in the course of the trial,
- and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if the Court considers that no substantial miscarriage of justice has actually occurred.

- (2) Subject to this Act, the Court shall, if it allows an appeal against conviction, quash the conviction and direct that a judgment and verdict of acquittal be entered, or, if the interests of justice so require, may order a new trial in accordance with such directions as the Court may give.
- (3) On an appeal against sentence the Court shall, if it considers that a different sentence ought to have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as the Court considers ought to have been passed, and in any other case shall dismiss the appeal.
- (4) Where, on the conviction of the appellant, the jury has found a special verdict, and the Court considers that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

Legal aid for poor appellants in criminal cases

10. (1) The Court may, at any time, assign counsel to an appellant in an appeal under this Part where it appears to the Court that the appellant has not sufficient means wherewith to retain counsel and that it is necessary in the interests of justice that the appellant should have legal aid in the preparation and conduct of the appellant's appeal.
- (2) The cost of the provision of counsel for a poor appellant in any case in which counsel is assigned to such appellant by the Court in accordance this section shall be defrayed from the general revenue of the Islands up to an amount allowed by the Court.

Right of appellant to be present and to state the appellant's case in writing

11. (1) Every appellant, notwithstanding that that person is in custody, shall be entitled to be present if that person so desires at the hearing of that person's appeal, but, on an application for leave to appeal or on any proceedings preliminary or incidental to an appeal the appellant shall not be entitled to be present unless rules of court provide to the contrary:
- Provided that the Court may, in any proceedings had before the Court, grant leave for, or order the appellant to be present at, the hearing.
- (2) Every appellant permitted to be present during the hearing of that person's appeal, in a case in which that person has not been released on bail, shall be deemed to be in lawful custody when being brought to or from the place at which that person is entitled to be present for that purpose.
- (3) The power of the Court to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

Powers of the Court in special cases

12. (1) If it appears to the Court that an appellant, though not properly convicted on some count of an indictment, information or charge, has been properly convicted on some other count thereof, the Court may either affirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as the Court thinks proper and as may be warranted in law by the judgment or verdict on the count or part of the indictment, information or charge on which the Court considers that the appellant has been properly convicted.
- (2) Where the appellant has been convicted of an offence and the court of trial or the jury could have found the appellant guilty of some other offence, and on the finding or verdict of such court or jury it appears to the Court that the court of trial or jury must have been satisfied of facts which proved the appellant guilty of that other offence, the Court, instead of allowing or dismissing the appeal, may substitute for the judgment passed or verdict given by the court of trial or jury a judgment or verdict of guilty of that other offence and pass such sentence



in substitution for the sentence passed at the trial as may be warranted in law for that offence, not being a sentence of greater severity.

- (3) If, on an appeal, it appears to the Court that, although the appellant committed the act or omission charged against that person, the appellant was insane at the time the act was done or the omission made so as not to be responsible according to law for the appellant's actions, the Court may quash the sentence passed at the trial and order the appellant to be dealt with in accordance with section 159 of the *Criminal Procedure Code (2021 Revision)*, in all respects as if a special verdict had been found against the appellant in accordance with section 158 of that law.

PART IV - Supplementary Provisions

Time for appealing in criminal proceedings

13. (1) Where a convicted person desires to appeal to the Court or to obtain the leave of the Court to appeal under this Act that person shall, within fourteen days of the date of conviction, give to the Registrar and the Clerk of the Grand Court notice in writing of that person's appeal or of that person's application for leave to appeal in such manner as the rules of court direct.
- (2) Such rules shall enable any convicted person, if that person so desires, to present that person's case in writing instead of by oral argument and any case so presented shall be considered by the Court.
- (3) The time within which notice of appeal or notice of an application for leave to appeal may be given may, at any time, be extended by a Judge of the Grand Court or by the Court.
- (4) For the purpose of this section the date of conviction shall be deemed to be the date on which the court has sentenced or otherwise dealt with the appellant.

Time and procedure for appeals against certain orders

14. For the purposes of the application of this Part to appeals against any order referred to in section 8, the appellant shall be treated as if that appellant were a convicted person.

Transmission of the record of the trial to the Court

15. (1) The Clerk of the Grand Court, upon receipt of a notice of appeal or of an application for leave to appeal given under section 13, shall, if requested by the appellant, give the appellant such assistance as may be necessary in setting out in writing in accordance with any rules of court the grounds of the appeal, and shall forward the same as soon as practical thereafter to the Registrar.

- (2) In the case of an appeal to which subsection (1) applies, the Judge of the Grand Court before whom the appellant was convicted shall give the Clerk of the Grand Court that Judge's notes of the trial and summing up and the Clerk of the Grand Court shall procure the transcript of the proceedings at the trial and of the evidence received therein, if any, together with the Judge's notes and summing up aforesaid and shall transmit the same and four copies thereof to the Registrar and shall also furnish one copy thereof to the appellant and to the prosecutor.
- (3) The Court may, at any time, require production of the original notes of evidence.

Supplemental powers of the Court

- 16.** For the purposes of an appeal under Part III the Court may, if it appears to the Court to be necessary or expedient in the interests of justice —
- (a) order the production of any document, exhibit or other thing connected with the proceedings;
 - (b) order any witness, who would have been a compellable witness at the trial, to attend and be examined before the Court, whether such witness was or was not called at the trial, or order the examination of any such witness to be conducted in a manner provided by rules of court before any Judge or any officer of the Court or other person appointed by the Court for the purpose, and may allow the admission of any depositions so taken as evidence before the Court;
 - (c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not a compellable witness, and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in any case in which the evidence of such husband or wife could not have been given at the trial except on such an application;
 - (d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which, in the opinion of the Court, cannot conveniently be conducted before the Court, order the reference of the question in manner provided by the rules of court for inquiry and report to a special commissioner appointed by the Court, and may act on the report of such commissioner appointed by the Court, and may act on the report of such commissioner so far as the Court thinks fit;
 - (e) appoint any person with specialist or expert knowledge to act as assessor to the Court in any case where it appears to the Court that such special knowledge is required for the proper determination of the case; and
 - (f) exercise in relation to the proceedings any other powers which may for the time being be exercised by the Court on appeals in civil matters, and issue any warrant necessary for enforcing any orders or sentences of the Court:



Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence which was not given at the trial.

Admission of appellant to bail

- 17.** (1) The Court may, upon the application of an appellant, admit that person to bail in accordance with the *Bail Act (2015 Revision)* pending the determination of that person's appeal.
- (2) An appellant who is not admitted to bail shall, pending the determination of that appellant's appeal, be treated in such manner as may be provided by any law for the time being in force relating to prisons.
- (3) The time during which an appellant is admitted to bail and, subject to any directions which the Court may give to the contrary, the time during which an appellant is specially treated while in custody under this section, shall not count as part of the term of imprisonment to which the appellant may have been sentenced, and any such term of imprisonment whether passed by the court of trial or by the Court under this Act shall, subject to any directions given by the Court aforesaid, be deemed to begin to run or to be resumed as from the date when the appeal is determined or application for leave to appeal is refused, or if the appellant is not in custody as from the day on which the appellant is received into prison under that sentence.

Costs of appeal in criminal cases

- 18.** (1) On the hearing and determination of an appeal, or any proceeding preliminary or incidental thereto under Part III, no costs shall be allowed on either side.
- (2) The expenses of any witness attending on the order of the Court or examined in any proceedings incidental to the appeal, and of the appearance of any appellant on the hearing of that appellant's appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the Court for the purpose of any reference of a question to a special commissioner appointed by the Court, or of any person appointed as assessor to the Court, shall be defrayed from the general revenue of the Islands up to an amount allowed by the Court, but subject to any rules of court as to rates and scales of payment and in the manner expressed by such rules.

Appeals in civil proceedings

- 19.** (1) In the case of an appeal from any judgment of the Grand Court in the exercise of its civil jurisdiction, the appeal shall be brought by the appellant, within fourteen days after the date of the judgment, lodging with the Registrar and the Clerk of the Grand Court a written notice of appeal and serving personally, or at the place of that person's dwelling or upon that person's attorney-at-law a copy of such notice upon the opposite party.

- (2) The appellant shall, at the time of lodging the notice of appeal required by subsection (1), deposit in the Grand Court the sum of fifty dollars as security for the due prosecution of the appeal together with such further sum as security for costs of the appeal as a Judge of the Grand Court may direct, and such security for costs may be given by the appellant entering into a bond by themselves and such sureties and in such sum as the Judge of the Grand Court may direct, conditioned for the payment of any costs which may be awarded against the appellant and for the due performance of the judgment of the Court.
- (3) No stay of execution or other proceedings shall be granted upon any judgment appealed against save upon payment by the appellant into the Grand Court of the whole sum, if any, found due upon such judgment and the amount of any costs awarded to the other party or parties to the action, or upon good cause shown to the Court or to the Grand Court.
- (4) Upon the appellant complying with subsections (1) and (2), the Judge of the Grand Court shall draw up, for the information of the Court, a statement of the reasons for the judgment appealed against and such statement shall be lodged with the Registrar who shall give notice thereof to the parties and allow them to peruse and take copies of the same.
- (5) The appellant shall, within twenty-one days of receiving the notice provided for in subsection (4), draw up and serve upon the respondent and file with the Registrar a memorandum of the grounds of appeal and, should the appellant fail timeously so to do, the appellant's right of appeal shall, subject to section 25, cease and determine.
- (6) Should the appellant, having given notice of appeal as required by subsection (1) and security as required by subsection (2), fail duly to prosecute the appeal, the appellant shall forfeit as a court fee the sum of fifty dollars deposited thereunder but, if the appellant appears in person or by the appellant's attorney-at-law in support of the appellant's appeal, the appellant shall be entitled to the return of the said fifty dollars in any event.
- (7) The appellant shall furnish an address for service, and the Registrar shall refuse to accept notice or any memorandum of grounds of appeal which does not disclose such address for service.

Provisions relating to grounds of appeal

- 20.** (1) The memorandum of the grounds of appeal shall set out concisely the facts and points of law, if any, upon which the appellant intends to rely in support of the appellant's appeal and shall conclude with a statement of the relief for which the appellant prays.
- (2) The Court may dismiss without a hearing any appeal which fails to comply with subsection (1).



- (3) It shall not be competent for the appellant at the hearing of the appeal to argue or produce evidence of any ground of appeal other than the grounds of appeal served upon the respondent and filed with the Registrar in accordance with section 19(5) unless the Court otherwise orders upon such terms as it deems fit.

Transmission of documents in case of appeal

21. The Clerk of the Grand Court shall transmit to the Registrar as soon as practicable four certified copies of the statement lodged in accordance with section 19(4) and of the relevant notes of evidence of the Judge of the Grand Court and (in original) all the other proceedings in the cause.

Appeal by way of a special case

22. Notwithstanding sections 19, 20 and 21, the parties to an appeal may, by mutual consent, submit an appeal in the form of a special case for the consideration of the Court.

Application of money deposited or secured

23. Any sum deposited or secured by virtue of section 19 (2) shall be subject to any order which the Court deems fit:

Provided that, where the Court orders costs to be awarded to any party upon taxation or otherwise, such costs shall be irrespective of and may be in excess of the amount so deposited or secured.

Power to extend time

24. Notwithstanding any other provision of this Act, the Court may, at any time, upon application made in such manner as may be prescribed by the rules of court, extend the time within which —
- (a) notice of appeal may be given or served;
 - (b) security for the costs of an appeal may be given;
 - (c) a memorandum of the grounds of an appeal may be filed or served; or
 - (d) security for the due prosecution of an appeal may be given.

Powers of the Court

25. The provisions of this Act conferring a right of appeal in civil causes and matters shall be construed liberally in favour of such right; and in case any provision of this Act shall have been inadvertently, or from ignorance or necessity omitted to be observed, the Court may, if the justice of the case so requires, with or without terms, admit the appellant to impeach the judgment or proceeding appealed from despite such omission.

Court may make orders for the preservation or disposal of property

26. (1) The Court, of its own volition, or upon the application of any party, may make such orders as it considers desirable for the protection and preservation of any property concerned in any proceedings, whether civil or criminal, which are the subject of an application or appeal under this Act, pending the determination of such application or appeal and thereafter for the disposal of the same in accordance with the justice of the case or as to the revesting of the property in any stolen goods in any case in which, in the opinion of the Court, the title is not in dispute.
- (2) In the exercise of the powers conferred by subsection (1), the Court may set aside any order made by the Grand Court in the same proceedings, or may direct that any such order be suspended until the final determination of the application or appeal.

Reservation of questions of law for the Court

27. (1) Upon the conviction of any person before the Grand Court, the Judge, in the Judge's discretion, may reserve any question of law which has arisen at the trial for the consideration of the Court, and thereupon, if the Judge thinks fit, may respite execution of the judgment until such question has been decided or may commit the person convicted to prison, in which case the person shall be treated as an appellant for the purposes of section 17(2) and (3), or may authorise that person's release on bail.
- (2) The Judge shall thereupon state, in a case signed by that Judge, the question of law which has been so reserved with the special circumstances upon which the same has arisen and shall transmit such case to the Registrar, and the Court shall thereupon have power to hear and finally determine such question and to reverse, affirm or amend any judgment which shall have been given on the trial of the indictment or information upon which such question arose, or to make such other order as the justice of the case may require.
- (3) The Court, when a case has been reserved for its opinion under this section, may, if it thinks fit, cause the same to be sent back for amendment, and thereupon the same shall be amended accordingly and the judgment of the Court given after such amendment has been made.

Appeal by Director of Public Prosecutions or complainant

28. (1) Where an accused person tried on indictment is —
- (a) discharged or acquitted by a trial judge sitting alone or by a jury (where such a jury has been directed to do so by the trial judge) including where the judgment or verdict of acquittal is as a result of a decision by the trial judge to uphold a no case submission or withdraw the case from the jury; or



(b) convicted of an offence other than the one with which the person is charged,

the Director of Public Prosecutions or the complainant may appeal to the Court of Appeal against the judgment of the Grand Court on any ground of appeal that the decision of the trial judge is erroneous on a point of law.

- (2) A complainant shall not appeal under subsection (1) without the permission of the Director of Public Prosecutions.
- (3) Upon the hearing of an appeal brought by the Director of Public Prosecutions or a complainant under subsection (1), the Court of Appeal may allow the appeal if it appears that the discharge or acquittal of the accused should be set aside on a ground of a wrong decision of law and, in any other case, shall dismiss the appeal.
- (4) Where the court allows an appeal under subsection (1), it shall set aside the discharge or acquittal of the accused person and remit the case to the court of original jurisdiction to be retried.

Further appeals

- 29.** (1) Any person, including the prosecutor, aggrieved by any judgment given or made by the Grand Court in the exercise of its appellate or revisional jurisdiction, whether such judgment has been given or made upon appeal or revision from a court of summary jurisdiction or any other court, board committee or authority exercising judicial powers, and whether or not the proceedings are civil or criminal in nature, may appeal, subject to this Act, to the Court on any ground of appeal which involves a point of law alone, or against sentence but not upon any question of fact.
- (2) In any case in which any matter, whether civil or criminal in nature, is pending before the Grand Court in the exercise of its appellate or revisional jurisdiction, and a Judge of the Grand Court is unable to hear the case by reason of absence or any incapacity, or considers that for any sufficient reason that Judge ought not to hear the case, the Judge, or the Clerk of the Grand Court in the absence of the Judge, shall report the facts to the Governor who, acting in the Governor's discretion, if the Governor considers that it is not convenient or, for any reason, desirable to appoint another person to act as the Judge of the Grand Court, the Governor may so certify and shall direct that such case shall be transferred to the Court and thereupon the Court shall have jurisdiction in the case in all respects as if it had been an appeal under this Act from a decision of the Grand Court in its appellate jurisdiction.
 - (3) Upon the giving of a direction, under subsection (2), for the transfer of a case to the Court, the Clerk of the Grand Court, subject to and in accordance with any rules of court, shall arrange for all relevant documents in the case, together with

copies of the record of the proceedings in the lower court or other authority or tribunal, to be forwarded to the Registrar.

Unduly lenient sentence

- 30.** (1) If it appears to the Director of Public Prosecutions —
- (a) that the sentencing of a person in a proceeding in the Grand Court has been unduly lenient or is wrong in law; and
 - (b) that the case is a case in which sentence is passed on a person for an offence triable on indictment,
- the Director of Public Prosecutions may, with the leave of the Court, refer the case to it to review the sentencing of that person; and on such reference the Court may —
- (c) quash any sentence passed on the person in the proceeding; and
 - (d) in place of it, pass such sentence as the Court thinks appropriate for the case and that the court below had power to pass when dealing with the accused.
- (2) The supplementary provisions contained in the Schedule shall have effect for the purposes of this section and section 28

PART V - Miscellaneous

Powers which may be exercised by a single Judge

- 31.** (1) The powers of the Court under this Act in criminal cases to —
- (a) extend the time within which notice of appeal or application for leave to appeal may be given;
 - (b) assign counsel to an appellant;
 - (c) grant leave for an appellant to be present at any proceedings of the Court;
 - (d) admit an appellant to bail; or
 - (e) in any case make any order for the preservation of any property pending the determination of an appeal,
- may be exercised by a single Judge in the same manner as they may be exercised by the Court and subject to the same provisions.
- (2) Any jurisdiction exercisable in any proceedings incidental to any civil case and not involving the hearing or determination of an appeal may, so far as may be prescribed by rules of court, be exercised by a single Judge in the same manner as it may be exercised by the Court and subject to the same provisions.



- (3) The powers of the Court under this Act in criminal cases referred to in subsection (1) may be exercised by a single Judge in any case relating to an appeal against an order referred to in section 8.
- (4) Any single Judge may deliver in open court the judgment or judgments, of the Court in any appeal or other matter heard and determined by the Court, notwithstanding that some or all the Judges who heard and determined such appeal or other matter may be absent when such judgments are read.

Appeal from a single Judge

- 32.** On the application of a party aggrieved by a decision of a single Judge made in the exercise of any of the powers conferred by this Act, any other law or rules of court, the Court, as duly constituted for the hearing and determination of appeals under this Act, may review and discharge or vary that decision.

Powers exercisable by a Judge of the Grand Court

- 33.** All the powers conferred by this Act, any other law or rules of court on a single Judge may, for all purposes, be exercised by a judge of the Grand Court in the same manner as they may be exercised by a single Judge and subject to the same provisions and such exercise shall, for all purposes, be as valid as if that power had been exercised by a single Judge:

Provided that, on the application of a party aggrieved by it, the Court, as duly constituted for the hearing and determination of appeals under this Act, may review and discharge or vary any exercise of any of such powers by a judge of the Grand Court under this section.

Certificate of judgment of Court

- 34.** Every judgment of the Court shall be certified by the Registrar, under the seal of the Court, to the Clerk of the Grand Court, who shall enter the same on the original record in proper form; and a certificate of such entry under the hand of the Clerk of the Grand Court, in such form as may be prescribed by the Judge of the Grand Court, with any necessary alterations to adapt it to the circumstances of any particular case, shall be delivered or transmitted by the Clerk of the Grand Court to the gaoler or officer in whose custody any person convicted may be. Such certificate shall be a sufficient warrant to such gaoler or officer and all other persons for the execution of the judgment, as the same is so certified to have been affirmed or amended, and execution shall be thereupon executed upon such judgment, and for the discharge of the person convicted from imprisonment if the judgment is reversed, avoided or arrested, and in such case the gaoler or officer shall forthwith discharge the person, and any recognisance of bail shall be vacated and the Grand Court, if directed to give any judgment, shall proceed to give judgment at the next session.

Rules of Court

- 35.** (1) There is hereby established a Committee to be known as the Rules Committee of the Court which shall consist of the President and any two judges of the Court.
- (2) The President shall be the chairman of the Committee, the quorum of which shall be two.
- (3) It shall be the function of the Committee to make rules of court for the purpose of regulating appeals to the Court.

English rules to apply where no other provision made

- 36.** Where, in any case, there is no special provision contained in this or any other Act, or in rules of court, which relate to that case, any jurisdiction in relation to appeals in criminal and civil matters shall be exercised by the Court as nearly as may be in conformity with the law and practice for the time being observed by the Court of Appeal which has equivalent jurisdiction in England and Wales.



SCHEDULE

(section 30)

Supplementary provisions

1. Notice of an application for leave to refer a case to the Court under section 28 or 30 shall be given to the Court within fourteen days from the day on which the sentence, or the last of the sentences was passed.
2. If the Registrar is given notice of an application to the Court under section 28 or 30, the Registrar shall —
 - (a) take all necessary steps for obtaining a hearing of the application; and
 - (b) obtain and lay before the court in proper form all documents, exhibits and any other material which appear necessary for the proper determination of the application.
3. Rules of Court may enable a person, to whose sentencing such an application relates, to obtain from the registrar any documents or exhibits including copies or reproductions of documents required for the application and may authorise the registrar to make charges for them in accordance with the scales and rates fixed, from time to time, by the Government.
4. The time during which a person whose case has been referred for review under section 30 is in custody pending its review and pending any reference to the Court shall be reckoned as part of the term of any sentence to which the person is for the time being subject.
5. A person in custody shall not be entitled to be present —
 - (a) on an application by the Director of Public Prosecutions for leave to refer a case; or
 - (b) on any proceedings preliminary or incidental to reference, unless the Court gives that person leave to be present.
6. The term of any sentence passed by the Court under section 30 shall, unless the Court otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings in relation to which the reference was made.

Publication in consolidated and revised form authorised by the Cabinet this 10th day of January, 2023.

Kim Bullings
Clerk of Cabinet



ENDNOTES

Table of Legislation history:

SL#	Law/Act#	Legislation	Commencement	Gazette
29/2022		Court of Appeal (Amendment) Act, 2022 (Commencement) Order, 2022	03-Aug-2022	LG28/2022/s1
	2/2022	Court of Appeal (Amendment) Act, 2022	15-Aug-2022	LG24/2022/s2
	56/2020	Citation of Acts of Parliament Act, 2022	3-Dec-2020	LG89/2020/s1
		Court of Appeal Law (2011 Revision)	24-Oct-2011	G22/2011/s5
	35/2010	Court of Appeal (Amendment) Law, 2010	11-Oct-10	G21/2010/s2
		Court of Appeal Law (2006 Revision)	26-Jun-2006	G13/2006/s3
	19/2005	Court of Appeal (Amendment) Law, 2005	15-Nov-05	G23/2005/s4
		Court of Appeal Law (1996 Revision)	24-Jun-1996	G13/1996/s1
	8/1985	Liquor Licensing Law, 1985	15-Apr-85	G18/1985/s8
	7/1992	Bail Law, 1992	1-Oct-92	G19/1992/s1
	25/1985	Court of Appeal (Amendment) Law, 1985	14-Oct-85	G21/1985/s2
	10/1984	Court of Appeal (Amendment) Law, 1984	1-Sep-84	G15/1984/s8
	9/1975	Court of Appeal Law, 1975	1-Oct-76	G22/1975/s2

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