

CAYMAN ISLANDS



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A BILL FOR A LAW TO AMEND THE COURT OF APPEAL LAW (2006 REVISION) IN ORDER TO PROVIDE FOR AN APPEAL FROM THE DECISION OF THE GRAND COURT TO ACQUIT WHERE A NO CASE SUBMISSION IS UPHELD OR WHERE THE CASE IS WITHDRAWN FROM THE JURY; THE INSTITUTION OF CRIMINAL APPEALS BY THE DIRECTOR OF PUBLIC PROSECUTIONS RATHER THAN BY THE ATTORNEY GENERAL; AND FOR INCIDENTAL AND CONNECTED PURPOSES

THE COURT OF APPEAL (AMENDMENT) BILL, 2010

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Court of Appeal Law (2006 Revision) in order to provide for an appeal from a decision of the Grand Court to acquit where a no case submission is upheld or where the case is withdrawn from the jury.

Clause 1 provides the short title.

Clause 2 provides for the amendment of section 28 of the principal Law to make it clear that the Director of Public Prosecutions or a complainant may appeal against a judgment or verdict to acquit, that is as a result of a decision by the trial judge to uphold a no case submission or withdraw the case from the jury, on grounds that the decision of the trial judge was erroneous on a point of law.

Clause 3 amends the principal Law by providing for all references to the office of the Attorney General to be substituted by references to the office of the Director of Public Prosecutions in order to bring the principal Law in line with section 57 of the Constitution which provides for the Director of Public Prosecutions to institute and undertake criminal proceedings.

Clause 4 contains savings and transitional provisions.

THE COURT OF APPEAL (AMENDMENT) BILL, 2010

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 28 of the Court of Appeal Law (2006 Revision) - appeal by Attorney General or complainant
3. Amendment of principal Law to substitute the office of Director of Public Prosecutions for the office of Attorney General
4. Savings and transitional

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Court of Appeal (Amendment) Law, 2010.
2. The Court of Appeal Law (2006 Revision), in this Law referred to as the “principal Law”, is amended in section 28 by repealing subsection (1) and substituting the following subsection -
 - “ (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

Short title

Amendment of section 28 of the Court of Appeal Law (2006 Revision) - appeal by Attorney General or complainant

(b) convicted of an offence other than the one with which he 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.”.

Amendment of principal Law to substitute the office of Director of Public Prosecutions for the office of Attorney General

3. The principal Law is amended by deleting the words “Attorney General” wherever they appear and substituting the words “Director of Public Prosecutions”.

Savings and transitional provisions

4. (1) Every proceeding commenced under the former Law and partly dealt with by the Court of Appeal when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.

(2) Every proceeding commenced under the former Law and not wholly or partly dealt with by the Court of Appeal when the new Law comes into force, is to be taken to be a proceeding commenced under the new Law and the provisions of the new Law are to apply accordingly.

(3) In this section -

(2006 Revision)

“former Law” means the Court of Appeal Law (2006 Revision) in force immediately before the date of commencement of this Law; and

“new Law” means the Court of Appeal Law (2006 Revision) as amended by this Law.

Passed by the Legislative Assembly the day of , 2010.

Speaker.

Clerk of the Legislative Assembly.