

No. 9 of 2005. *The Eastern Caribbean Supreme Court
(Amendment) Act, 2005.*

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

13th September, 2005.

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No. 9 of 2005

ANACT to amend the Eastern Caribbean Supreme Court Act.

*[Published in the Official Gazette Vol. XXV
No. 57 dated 15th September, 2005]*

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. This Act may be cited as the Eastern Caribbean Supreme Court. (Amendment) Act, 2005. Short title.

2. The Eastern Caribbean Supreme Court Act, in this Act referred to as “the Principal Act”, is amended by the insertion, immediately after Part II, of the following Part: Insertion of Part II A Cap.143

**“PART IIA—APPEALS BY THE DIRECTOR OF
PUBLIC PROSECUTIONS**

Interpretation
61A.

In this Part, unless the context otherwise requires —

“appeal” means an appeal by the Director of Public Prosecutions;

“court below” means the court from which an appeal is brought to the Court of Appeal;

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Cap.117

“judgment” has the same meaning as in section 50A of the Criminal Procedure Act;

“respondent” means the person in respect of whom an appeal is brought by the Director of Public Prosecutions.

Notice and effect
of appeal by
D.P.P

Cap. 255
Cap. 217

61B (1) Where the Director of Public Prosecutions, in pursuance of Part VIII A of the Magistrate’s Code of Procedure Act or Part VI A of the Criminal Procedure Act, decides to appeal to the Court of Appeal against the judgment of a court below, he shall, before the court discharges the person in respect of whom the appeal is to be brought, notify the court orally of his intention to appeal and shall, within fourteen days after he has so notified the court, file a notice of appeal and the grounds of appeal in the Court of Appeal.

(2) The Court of Appeal or a Judge of the court may, on application by the Director of Public prosecutions, extend the time within which notice of appeal under subsection (1) may be filed.

(3) The notification, under subsection (1), by the Director of Public Prosecutions of his intention to appeal shall have the effect of suspending the judgment of the court below until the final determination of the appeal proceedings or the abandonment of the appeal; and, for the purposes of this subsection, the failure of the Director of Public Prosecutions to file a notice of appeal within the period of fourteen days or such longer period as may be allowed by the Court shall be treated as an abandonment of the appeal.

61C. Where a respondent is in custody, whether under an order of imprisonment or any other order, a Judge of the Court of Appeal may—

- (a) upon an application by the respondent, release him from custody on such terms and conditions as he may consider appropriate pending the determination or abandonment of the appeal; and
- (b) make any other order, either alone or in addition to a decision under paragraph (a), as he considers appropriate.

Powers of Court
of Appeal.

61D (1) In the determination of an appeal the Court of Appeal shall, subject to this Act and the rules of court, have all the powers of the court below.

(2) Without prejudice to the generality of subsection (1) upon the hearing of an appeal the Court of Appeal shall —

- (a) in the case of an appeal against an acquittal or the dismissal of a charge in committal proceedings, allow the appeal if it appears that the acquittal or the dismissal of the charge should be set aside on the ground of a wrong decision in law and may order a new trial by the court below or new committal proceedings, as the case may be;
- (b) in the case of an appeal regarding the nature or extent of a sentence, allow the appeal if it appears that the sentence passed by the court below is manifestly inadequate or is wrong in law, and in substitution, pass such other sentence as it considers appropriate; or
- (c) in any other case, where none of the grounds referred to in paragraph (a) or (b) exist, dismiss the appeal;

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and may make any other order, either alone or in addition to a decision under paragraph (a), (b) or (c), as it considers proper.

(3) The decision of the Court of Appeal may be enforced in the same manner as if it had been made by the court below.

Appearance of 61E The respondent shall, if in custody, be respondent for brought before the court or, if not in custody, judgement. be required by the Court, to attend to hear judgement delivered except where his attendance is dispensed with by the Court.

Amendment of Section 50C of Criminal Procedure Act Cap.117 3. Section 50C of the Criminal Procedure Act is amended by the insertion immediately after the figure 50C of the following words.

“Except as otherwise provided by or under this Act or any other law,”.

Passed by the House of Representatives
 this 15th day of July, 2005.

Passed by the Senate this
 11th day of August, 2005.

D. Giselle Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

Yvonne Henry,
Acting Clerk to the House of Representatives.

Yvonne Henry,
Acting Clerk to the Senate.

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THE EASTERN CARIBBEAN SUPREME COURT ACT, 2005
ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Insertion of Part II A
3. Amendment of section 50 C of the Criminal Procedure Act, Cap 117.