



ANGUILLA

A BILL FOR

**EASTERN CARIBBEAN SUPREME COURT (ANGUILLA)
(AMENDMENT) ACT, 2021**

Published by Authority

I Assent

Dileeni Daniel-Selvaratnam
Governor

Date

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No. /2021

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**EASTERN CARIBBEAN SUPREME COURT (ANGUILLA)
(AMENDMENT) ACT, 2021**

AN ACT to amend the Eastern Caribbean Supreme Court (Anguilla) Act, R.S.A. c. E15.

[Gazette Dated: , 2021] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act “the principal Act” means the Eastern Caribbean Supreme Court (Anguilla) Act, R.S.A. c. E 15.

Insertion of new sections 35A and 35B

2. The principal Act is amended by inserting the following sections after section 35—

“Right of appeal of the Attorney-General

35A. (1) The Attorney-General may, without leave of the Court, appeal to the Court of Appeal or if the Appeal is unsuccessful to the Privy Council against the acquittal of an accused person, where the accused has been acquitted by reason of—

- (a) a submission upheld by the trial judge that there is a defect in depositions, the committal of the accused for trial, or indictment;
- (b) a submission upheld by the trial judge that there is no case for the accused to answer;
- (c) material evidence sought to be adduced by the prosecution having been excluded at the trial;

(d) there having been a substantial misdirection of the jury—

(i) on the law or facts, or

(ii) on a mixed question of law and fact;

by the trial judge in the course of his summation; or

(e) a material irregularity in the course of the trial.

(2) The Attorney-General may also appeal against any sentence on the ground—

(a) that the sentence is one which the court has no power to pass;

(b) that the sentence is manifestly inadequate; or

(c) that the sentence is wrong in principle.

(3) Where the Attorney-General elects to exercise the right conferred upon him under this section he shall, before the trial judge discharges the accused or orders otherwise, serve on the Court notice of his intention to appeal and inform the Court orally that he intends to appeal against the verdict of the Court.

(4) The Attorney-General, after he has notified the Court in accordance with the provisions of this section, must file with the Court a notice of appeal and the grounds of appeal within 14 days.

(5) An appeal made under this section shall have the effect of suspending the execution of the decision, judgment, or other order appealed from until the final determination by the appeal proceedings, except that the court may, having regard to the gravity of the offence, release the accused on bail upon conditions that shall ensure that he attends the appeal proceedings and abide by the results of the proceedings.

(6) The right of appeal conferred on the Attorney-General by subsections (1) and (2) of this section shall be limited to the following offences, that is to say—

(a) murder;

(b) treason;

(c) manslaughter;

(d) rape and other sexual offences;

(e) robbery;

(f) drug offences;

(g) burglary;

(h) housebreaking and offences of stealing;

- (i) theft;
- (j) offences involving dishonesty;
- (k) firearms offences;
- (l) conspiracies and attempts to commit the offences referred to in paragraphs (a) to (k);
- (m) aiding and abetting a person who commits the offences referred to in paragraphs (a) to (k); or
- (o) financial crimes and money laundering offences.

Attorney-General's reference

35B. (1) Where a person tried on indictment has been acquitted whether in respect of the whole or part of the indictment, the Attorney-General may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to the Court, provided that a point of reference under this subsection shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

(2) The Attorney-General may refer to the Court of Appeal important questions of law or fact concerning—

- (a) the interpretation of the Constitution;
- (b) the constitutionality or interpretation of any legislation enacted by the House of Assembly as the Legislature for Anguilla; or
- (c) any matter, whether or not in the opinion of the Court *ejusdem generis* with the matters contained in paragraphs (a) and (b) submitted by the Attorney-General as an important question;

and any question so referred shall be deemed to be an important question.

(3) Where a reference is made to the Court of Appeal under this section, the Court of Appeal shall—

- (a) hear and consider it;
- (b) answer each question so referred; and
- (c) certify to the Attorney-General its opinion on each question, with the reasons for each answer, and the opinion shall be pronounced in like manner as in the case of a judgment on appeal to the Court.

(4) The Court of Appeal has power to give general directions for the management of the hearing of the Attorney-General's reference to the Court, including power to direct that any person interested or, where there is a class of persons interested, any one or more persons as representatives of that class, shall be notified of the hearing on a reference under this Act and those persons are entitled to be heard thereon.

(5) The Court of Appeal may, in its discretion, request any counsel to argue the case with respect to any interest that is affected and with respect to which counsel does not appear, and the reasonable expenses thereby occasioned may be paid by the Minister responsible for Finance out of monies appropriated by the Legislature for expenses of litigation.”.

Citation

3. This Act may be cited as the Eastern Caribbean Supreme Court (Anguilla) (Amendment) Act, 2021.

Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this day of , 2021

Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(The Objects and Reasons do not form part of the Bill)

This Bill amends the Eastern Caribbean Supreme Court (Anguilla) Act, 2021 to insert two new provisions. The first new provision provides that the Attorney General, may appeal to the Court of appeal or the Privy Council against an acquittal of an accused person or a sentence imposed by the court. This new section details the grounds under which such appeal may be made by the Attorney General. The second new insertion provides that where a person has been acquitted of an indictable offence, the Attorney General may seek the opinion of the Court of Appeal on a point of law which has arisen in the case. This new section lists the types of questions of law or fact that may be referred to the Court of Appeal and sets out how the Court of Appeal will deal with questions referred to it.