

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE COURT OF APPEAL LAW (1996  
REVISION) IN ORDER TO IMPLEMENT WIDER GROUNDS OF  
APPEALS FROM DECISIONS OF THE GRAND COURT; AND FOR  
INCIDENTAL AND CONNECTED PURPOSES**



**THE COURT OF APPEAL (AMENDMENT) BILL, 2005**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill amends the Court of Appeal Law (1996 Revision) to widen the grounds of appeal from decisions of the Grand Court.

Clause 2 inserts a new section 28A which provides for an appeal where an accused person tried on indictment is discharged or acquitted by a trial judge sitting alone or by a jury (where such jury has been directed to do so by the judge) or is convicted of an offence other than the one with which he is charged.

Either the Attorney-General or the complainant may appeal to the Court of Appeal against the judgement of the Grand Court on any ground of appeal which involves a question of law alone.

Clause 3 inserts a new section 29A which provides for a sentence to be reviewed where it appears to the Attorney-General that it is unduly lenient.

For the purpose of the Court's consideration of a point referred to it under section 28A and 29A the Court shall hear argument-

- (a) by, or by counsel on behalf of, the Attorney-General; and
- (b) if the acquitted person desires to present any argument to the court, by counsel on his behalf, with the leave of the court, by the acquitted person himself.

Clause 4 inserts a Schedule into the principal Law which makes supplementary provisions in relation to the new sections 28A and 29A.

**ARRANGEMENT OF CLAUSES**

1. Short title.
2. Amendment of the Court of Appeal Law (1996 Revision)- insertion of section 28A ( reference to Court on point of law following acquittal on indictment)
3. Insertion of section 29A-unduly lenient sentence.
4. Insertion of Schedule to the principal Law.

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**A BILL FOR A LAW TO AMEND THE COURT OF APPEAL LAW (1996 REVISION) IN ORDER TO IMPLEMENT WIDER GROUNDS OF APPEALS FROM DECISIONS OF THE GRAND COURT; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Court of Appeal (Amendment) Law, 2005.

Short title

2. The Court of Appeal Law (1996 Revision), in this Law referred to as “the principal Law” is amended by inserting the following section after section 28-

Amendment of the Court of Appeal Law (1996 Revision)- insertion of section 28A ( reference to Court on point of law following acquittal on indictment)

“Appeal by Attorney-General or complainant

28A. (1) Where an accused person tried on indictment is discharged or acquitted by a trial judge sitting alone or by a jury (where such jury has been directed to do so by the trial judge) or is convicted of an offence other than the one with which he is charged the Attorney-General or the complainant may appeal to the Court of Appeal against the judgement of the Grand Court on any ground of appeal which involves a question of law alone.

(2) A complainant shall not appeal under subsection (1) without the permission of the Attorney- General.

(3) Upon the hearing of an appeal brought by the Attorney-General 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.”.

Insertion of section 29A-  
unduly lenient sentence

3. The principal Law is amended by inserting the following section after section 29 -

“Unduly  
lenient  
sentence.

29A (1) If it appears to the Attorney-General-

- (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,

he may, with the leave of the Court, refer the case to them 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 they think 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 28A.”.

Insertion of Schedule to  
the principal Law

4. The principal Law is amended by inserting the following Schedule-

**“SCHEDULE**

Section 29A

Supplementary provisions

1. Notice of an application for leave to refer a case to the Court under section 28A or 29A shall be given to the Court within 14 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 sections 28A and 29A, he 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 29A 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 he is for the time being subject.
5. A person in custody shall not be entitled to be present-
  - (a) on an application by the Attorney-General for leave to refer a case;
  - (b) on any proceedings preliminary or incidental to reference,unless the Court gives him leave to be present.

6. The term of any sentence passed by the Court under section 29A 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.”.

Passed by the Legislative Assembly the    day of    , 2005.

Speaker.

Clerk of the Legislative Assembly.