

2012 *West Indies Associated States Supreme Court Act 21 579*
Grenada (Amendment)

ARRANGEMENT OF CLAUSES

1. Short title
2. Insertion of new sections

580 Act 21 West Indies Associated States Supreme Court 2012
Grenada (Amendment)



GRENADA

ACT NO. 21 OF 2012

I assent,



CARLYLE ARNOLD GLEAN
Governor-General.

25th July, 2012.

AN ACT to amend the West Indies Associated States Supreme Court (Grenada) Cap. 336 of the Continuous Revised Edition of the Laws of Grenada 2010 to provide for the Right of Appeal by the Director of Public Prosecution in criminal cases and the Attorney General's reference.

[3rd August, 2012].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives and by the authority of the same as follows—

1. This Act may be cited as the

Short title.

**WEST INDIES ASSOCIATED STATES SUPREME
COURT GRENADA (AMENDMENT) ACT, 2012**

and shall be read as one with the West Indies Associated States Supreme Court (Grenada) Act Cap. 336 of the Continuous Revised Edition of the Laws of Grenada 2010, hereinafter referred to as the principal Act.

Insertion of
new sections.

2. The principal Act is amended by adding after section 40, the following new sections—

“Right of appeal of Director of Public Prosecutions

40A. (1) The Director of Public Prosecutions 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;

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

(2) The Director of Public Prosecutions 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 Director of Public Prosecutions 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 this intention to appeal and inform the Court orally that he intends to appeal against the verdict of the Court.

(4) The Director of Public Prosecutions, after he has notified the Court in accordance with the provisions of subsection (3) of this section, must file with the Court a notice of appeal and the grounds of appeal within fourteen 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 Director of the Public Prosecutions 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, defilement and other sexual offences;
- (e) robbery;
- (f) drug offences;
- (g) burglary;
- (h) housebreaking;
- (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).

Attorney General's Reference

40B. (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 sub-section 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 Parliament;
- (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;
- (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 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 Parliament for expenses of litigation.”

Passed by the House of Representatives on the 26th day of June, 2012.

RAPHAEL DONALD
Acting Clerk to the House of Representatives.

Passed by the Senate on the 10th day of July, 2012.

RAPHAEL DONALD
Acting Clerk to the Senate.

GRENADA
