

# **THE CRIMINAL APPEAL AND CRIMINAL REVIEW BILL**

(No. XVII of 2025)

## **Explanatory Memorandum**

The main object of this Bill is to clarify, simplify and standardise the procedures for all appeals in criminal matters made –

- (a) to the Court of Criminal Appeal from the final decision of the Supreme Court in the exercise of its original jurisdiction in criminal matters; and
- (b) to the Supreme Court in the exercise of its appellate jurisdiction in criminal matters from the final decision of the subordinate court, such as the District Court, the Intermediate Court, the Industrial Court or the Criminal Division of the Children's Court,

and to bring together such appeal procedures into one consolidated legislation.

**2.** This Bill has been rendered necessary with a view to bringing clarity and certainty in this area of the law, given that the procedures for making appeals in criminal matters are scattered in different pieces of legislation and are not uniform.

**3.** Accordingly, the Bill –

- (a) imposes an obligation on any Court, immediately after it gives judgment in a criminal matter, to notify the convicted party of his right to appeal; and
- (b) clarifies the procedure to make an application for review of the proceedings of the Supreme Court to the Court of Criminal Appeal relating to an acquittal or conviction.

**4.** In addition, the Criminal Appeal Act and the Criminal Appeal Rules 1954 are being repealed, and the Children's Court Act 2020, the Courts Act, the District and Intermediate Courts (Criminal Jurisdiction) Act and the Protection of Human Rights Act are being amended.

5. The Criminal Procedure Act is also being amended in imposing an obligation on any Court to pass sentence on a convicted person not later than 28 days after conviction, thus filling a void in this area of the law.

**G.P.C. GLOVER, S.C.**  
*Attorney-General*

18 July 2025

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## **A BILL**

**To clarify, simplify and standardise the procedures for all  
appeals and reviews in criminal matters**

ENACTED by the Parliament of Mauritius, as follows –

### **PART I – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the Criminal Appeal and Criminal Review Act 2025.

#### **2. Interpretation**

In this Act –

“appeal” means an appeal made under this Act;

“appellant” means a person who makes an appeal or an application for review to the Appellate Court;

“Appellate Court” –

- (a) in so far as it relates to an appeal against the final decision of the Supreme Court in the exercise of its original jurisdiction in criminal matters, means the Court of Criminal Appeal; or
- (b) in so far as it relates to an appeal against the final decision of the District Court, the Intermediate Court, the Industrial Court or the Criminal Division of the Children’s Court, means the Supreme Court in the exercise of its appellate jurisdiction in criminal matters;

“Clerk” means the clerk of the District Court, the Intermediate Court, the Industrial Court or the Criminal Division of the Children’s Court, as the case may be;

“compelling evidence” means evidence which is –

- (a) reliable;

(b) substantial; and

(c) highly probative in the context of the issues in dispute at the trial;

“Court of Criminal Appeal” means the Court of Criminal Appeal referred to in section 4;

“fresh evidence” means evidence which –

(a) was not adduced at the trial of the offence; and

(b) could not, with the exercise of reasonable diligence, have been adduced at the trial;

“Master and Registrar” includes any other officer of the Supreme Court who acts on behalf of the Master and Registrar with the authority of the Chief Justice;

“respondent” means a person who undertakes the defence of an appeal under this Act;

“review” means an application for review made under this Act;

“sentence” includes any order of the subordinate court made on conviction with reference to a person convicted;

“subordinate court” –

(a) in so far as it relates to an appeal to the Court of Criminal Appeal, means the Supreme Court in the exercise of its original jurisdiction in criminal matters; or

(b) in so far as it relates to an appeal to the Supreme Court in the exercise of its appellate jurisdiction in criminal matters, means the District Court, the Intermediate Court, the Industrial Court or the Criminal Division of the Children’s Court;

“Supreme Court”, for the purpose of –

(a) Part II, means the Supreme Court in the exercise of its original jurisdiction in criminal matters;

(b) Part III, means the Supreme Court in the exercise of its appellate jurisdiction in criminal matters;

“time spent in custody” includes the time during which an appellant has been –

- (a) in police detention;
- (b) on remand;
- (c) detained pursuant to the Children’s Act 2020, the Mental Health Care Act or the Reform Institutions Act.

### **3. Notification of right to appeal**

Every subordinate court shall, immediately after judgment is given, notify the convicted party of his right to appeal under this Act.

## **PART II – APPEAL AND REVIEW BEFORE COURT OF CRIMINAL APPEAL**

### **Sub-Part A – Court of Criminal Appeal**

### **4. Composition of Court of Criminal Appeal**

- (1) The Court of Criminal Appeal shall be a superior court of record.

(2) (a) The Chief Justice and the Puisne Judges shall be Judges of the Court of Criminal Appeal, and the Chief Justice shall be the President of the Court of Criminal Appeal and, in the absence of the Chief Justice, the Senior Puisne Judge shall be the President of the Court of Criminal Appeal.

(b) Any direction which may be given by the Chief Justice under this section may, in case of any vacancy in that office or the incapacity of the Chief Justice to act for any reason, be given by the Senior Puisne Judge.

(3) (a) An appeal before the Court of Criminal Appeal shall be heard by at least 3 Judges, but shall not include the Judge from whose decision the appeal is made.

(b) The Chief Justice may, either *proprio motu* or on an application in writing made to him by any party to an appeal stating the reasons for such application, direct that the appeal be heard by more than 3 Judges, having regard to the magnitude of the interests at stake or the importance or intricacy of the questions of fact or law involved.

(c) An appeal before the Court of Criminal Appeal shall be decided by the unanimous opinion of the Judges and, in case there is no unanimity, in accordance with the opinion of the majority of the Judges.

(d) Where the Court of Criminal Appeal is constituted by an even number of Judges and the opinion of the majority of the Judges cannot be reached, their decision shall be suspended until the Court of Criminal Appeal is reconstituted with an additional Judge.

(e) Where the Court of Criminal Appeal is reconstituted under paragraph (d), the opinion of the majority of the Judges shall be taken to be the decision of the Court of Criminal Appeal.

## **5. Jurisdiction and powers of Court of Criminal Appeal**

(1) Subject to subsection (2) and any other enactment, the Court of Criminal Appeal shall have unlimited jurisdiction and powers to hear and determine appeals in criminal matters –

- (a) against the final decision of the Supreme Court or a verdict by the jury, by the person convicted against his sentence or conviction;
- (b) against the final decision of the Supreme Court or a verdict of the jury, by the Director of Public Prosecutions where –
  - (i) a charge is dismissed by the Supreme Court or a person is acquitted by the jury;
  - (ii) a person is convicted of a lesser offence than the one with which he was charged; or
  - (iii) he is of opinion that the sentence passed by the Supreme Court is wrong in law or unduly lenient.

(2) No appeal shall lie to the Court of Criminal Appeal against an acquittal following a verdict of not guilty by the jury, except on the ground that –

- (a) the trial Judge gave a substantial misdirection, including a limited direction or a non-direction, in the course of his summing up to the jury;
- (b) the verdict is unreasonable or cannot be supported having regard to the evidence; or
- (c) a serious irregularity occurred in the course of or in relation to the trial, or the acquittal is otherwise tainted.

(3) Without prejudice to the right of appeal conferred under this section

and any other enactment, the Court of Criminal Appeal shall have jurisdiction and powers to hear and determine an application for review made pursuant to Sub-part C.

(4) The Court of Criminal Appeal may, in relation to its proceedings, exercise any other powers not inconsistent with this Act which may, for the time being, be exercised by the Supreme Court in the exercise of its appellate jurisdiction in civil matters, and issue any warrant necessary for enforcing the orders or sentences of the Court of Criminal Appeal.

### **Sub-Part B – Appeal before Court of Criminal Appeal**

#### **6. Procedure to appeal to Court of Criminal Appeal**

(1) A person who, pursuant to section 5(1)(a), intends to appeal against his sentence or conviction, or against both his sentence and conviction, to the Court of Criminal Appeal shall –

- (a) in the case of his sentence, give written notice of appeal to the Master and Registrar not later than 21 days after the date he is sentenced by the Supreme Court;
- (b) in the case of his conviction, give written notice of appeal to the Master and Registrar not later than 21 days after the date he is sentenced by the Supreme Court; or
- (c) in the case of both his sentence and conviction, give written notice of appeal to the Master and Registrar not later than 21 days after the date he is sentenced by the Supreme Court.

(2) The Director of Public Prosecutions who, pursuant to section 5(1)(b), intends to appeal against the final decision of the Supreme Court or a verdict of the jury shall –

- (a) in case the charge against a person is dismissed or a person is acquitted, give written notice of appeal to the Master and Registrar not later than 21 days after the date on which the charge is dismissed by the Supreme Court or the person is acquitted by the jury;
- (b) in case a person is convicted of a lesser offence than the one with which he was charged, give written notice of appeal to the Master and Registrar not later than 21 days after the date he is sentenced by the Supreme Court; or
- (c) in case he is of opinion that the sentence passed on a person



is wrong in law or unduly lenient, give written notice of appeal to the Master and Registrar not later than 21 days after the date he is sentenced by the Supreme Court.

(3) The notice of appeal referred to in subsection (1) or (2) shall set out the grounds of the appeal and, except with leave of the Court of Criminal Appeal, no other grounds than those specified in that notice shall be brought forward when the appeal is heard.

(4) (a) Subject to paragraph (b), the Master and Registrar shall, on receipt of the notice of appeal under subsection (1), immediately bind the appellant, together with one or more sureties, by recognisance in favour of the respondent.

(b) Where the Director of Public Prosecutions gives notice of appeal under subsection (2), he shall not be required to give any surety.

(5) An appellant shall, not later than 14 days after giving notice of appeal under subsection (1) or (2) –

- (a) lodge the appeal in the Registry of the Supreme Court and pay the costs and fees necessary for drawing up the record of the appeal; and
- (b) after lodging the appeal pursuant to paragraph (a), serve the notice of appeal on the respondent and any other party to the appeal, and file return of service in the Registry of the Supreme Court.

(6) Where an appellant fails to prosecute his appeal not later than 7 days after –

- (a) the 14-day period specified in subsection (5); or
- (b) the end of any extended period for prosecuting the appeal under subsection (5),

the Master and Registrar shall have the right to issue execution upon the final decision appealed against and proceed to estreat and recover the recognisance.

(7) The period within which –

- (a) notice of appeal may be given under subsection (1) or (2); or

(b) an appeal may be prosecuted under subsection (5),  
may, in accordance with section 36, be extended.

(8) Notwithstanding section 3, failure to notify the convicted party of his right to appeal under this Act shall not constitute a ground of appeal.

## **7. Notice to resist appeal before Court of Criminal Appeal**

(1) A notice of appeal served under section 6(5)(b) shall contain a warning to the party on whom it is served to the effect that he shall, if he intends to resist the appeal before the Court of Criminal Appeal, comply with subsection (2).

(2) Every person who is served with a notice of appeal and who intends to resist the appeal before the Court of Criminal Appeal shall, not later than 28 days after the date of service of the notice of appeal, serve on the appellant and file in the Registry of the Supreme Court a notice of his intention to resist the appeal.

(3) Any person on whom notice of appeal is served and who fails to comply with subsection (2) shall be deemed to have elected not to resist the appeal before the Court of Criminal Appeal.

## **8. Appeal proceedings before Court of Criminal Appeal**

(1) For the purpose of this Sub-part, the Court of Criminal Appeal may, where it so determines it necessary or expedient in the interest of justice –

- (a) order the production of any document, exhibit or other thing connected with the proceedings, whether produced at the trial before the Supreme Court or not, where the production appears necessary for the determination of the case;
- (b) order any witness who would have been a compellable witness at the trial before the Supreme Court to attend and be examined before the Court of Criminal Appeal, whether they were or were not called at the trial, or order the examination of any such witness to be conducted in such manner as may be prescribed or before any officer of the Supreme Court or before any Magistrate or other person appointed by the Court of Criminal Appeal for the purpose, and allow the admission of any depositions so taken as evidence before the Court of Criminal Appeal; and
- (c) receive the evidence, if tendered, of any witness, including

the appellant, who is a competent but not compellable witness and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial before the Supreme Court except on such an application.

(2) The expenses of any witnesses attending on the order of the Court of Criminal Appeal or examined in any proceedings incidental to any examination of witnesses conducted by any person appointed by the Court of Criminal Appeal for that purpose shall be defrayed in accordance with the Witnesses' Attendance Allowances Act and the Legal Costs and Fees Rules 2000, or in accordance with any other enactment.

### **Sub-Part C – Criminal Review before Court of Criminal Appeal**

#### **9. Application for review to Court of Criminal Appeal**

(1) Where a person is acquitted by the jury, or the charge against a person is dismissed, following a trial before the Supreme Court and –

- (a) on appeal by the Director of Public Prosecutions before the Court of Criminal Appeal, the appeal is dismissed; or
- (b) the Director of Public Prosecutions does not appeal against such acquittal or dismissal,

the Director of Public Prosecutions may, where there is fresh and compelling evidence in relation to the offence or a lesser offence which was not available during the trial, apply to the Court of Criminal Appeal for a review of the proceedings relating to such acquittal or dismissal.

(2) (a) Where a person is convicted by the jury or by the Supreme Court and –

- (i) on appeal by that person before the Court of Criminal Appeal, the appeal is dismissed; or
- (ii) that person does not appeal against such conviction,

that person or his representative may, where there is fresh and compelling evidence which was not available during the trial, make an application to the Human Rights Division under section 4A of the Protection of Human Rights Act.

(b) The Human Rights Division may, having regard to any fresh and compelling evidence, refer the conviction to the Court of Criminal Appeal for a review of the proceedings relating to the conviction.

(3) Subsection (1) shall not apply to a person who has been acquitted following a retrial ordered pursuant to section 34(b).

(4) Sections 8, 17 and 18 shall apply mutatis mutandis to an application for review under this section.

### **PART III – APPEAL BEFORE APPELLATE JURISDICTION (CRIMINAL) OF SUPREME COURT**

#### **10. Composition of Supreme Court**

(1) An appeal before the Supreme Court shall be heard by at least 2 Judges.

(2) The Chief Justice may, either *proprio motu* or on an application in writing made to him by any party to an appeal stating the reasons for such application, direct that the appeal be heard by more than 2 Judges, having regard to the magnitude of the interests at stake or the importance or intricacy of the questions of fact or law involved.

(3) An appeal before the Supreme Court shall be decided by the unanimous opinion of the Judges and, in case there is no unanimity, in accordance with the opinion of the majority of the Judges.

(4) Where the Supreme Court is constituted by an even number of Judges and the opinion of the majority of the Judges cannot be reached, their decision shall be suspended until the Supreme Court is reconstituted with an additional Judge.

(5) Where the Supreme Court is reconstituted under subsection (4), the opinion of the majority of the Judges shall be taken to be the decision of the Supreme Court.

#### **11. Jurisdiction and powers of Supreme Court**

(1) The Supreme Court shall have unlimited jurisdiction and powers to hear and determine appeals in criminal matters against the final decision of the subordinate court.

(2) Where a person is convicted of an offence before, or a charge is dismissed by, the subordinate court, an appeal shall lie to the Supreme Court against the final decision of the subordinate court –

- (a) by the person convicted, against his conviction or sentence, where he is sentenced to undergo penal servitude or imprisonment with or without payment of a fine, or to pay a fine of 1,000 rupees or more; or
- (b) by the Director of Public Prosecutions or, in the case of a private prosecution, by the prosecutor –
  - (i) against any dismissal of a charge;
  - (ii) against the conviction of a lesser offence than the one with which the person was charged; or
  - (iii) against the sentence imposed on the person.

## **12. Procedure to appeal to Supreme Court**

(1) A person who, pursuant to section 11(2)(a), intends to appeal against his sentence or conviction, or against both his sentence and conviction, to the Supreme Court shall –

- (a) in the case of his sentence, give written notice of appeal to the Clerk not later than 21 days after the date he is sentenced by the subordinate court;
- (b) in the case of his conviction, give written notice of appeal to the Clerk not later than 21 days after the date he is sentenced by the subordinate court; or
- (c) in the case of both his sentence and conviction, give written notice of appeal to the Clerk not later than 21 days after the date he is sentenced by the subordinate court.

(2) The Director of Public Prosecutions or a private prosecutor who, pursuant to section 11(2)(b), intends to appeal against the final decision of the subordinate court shall –

- (a) in case the charge against a person is dismissed, give written notice of appeal to the Clerk not later than 21 days after the date on which the charge is dismissed by the subordinate court;

- (b) in case a person is convicted of a lesser offence than the one with which he was charged, give written notice of appeal to the Clerk not later than 21 days after the date he is sentenced by the subordinate court; or
- (c) in case he is of opinion that the sentence passed on a person is wrong in law or unduly lenient, give written notice of appeal to the Clerk not later than 21 days after the date he is sentenced by the subordinate court.

(3) The notice of appeal referred to in subsection (1) or (2) shall set out the grounds of the appeal and, except with leave of the Supreme Court, no other grounds than those specified in that notice shall be brought forward when the appeal is heard.

(4) (a) Subject to paragraph (b), the Clerk shall, on receipt of the notice of appeal under subsection (1) or (2), immediately bind the appellant, together with one or more sureties, by recognisance in favour of the respondent and the appellant shall pay such sum as the Clerk may deem sufficient to cover the costs of the appeal.

(b) Where the Director of Public Prosecutions gives notice of appeal under subsection (2), he shall not be required to give any surety.

(5) An appellant shall, not later than 14 days after giving notice of appeal under subsection (1) or (2) –

- (a) lodge the appeal in the Registry of the Supreme Court and pay the costs and fees necessary for drawing up the record of the appeal; and
- (b) after lodging the appeal pursuant to paragraph (a), serve the notice of appeal on the respondent and any other party to the appeal, and file return of service in the Registry of the Supreme Court.

(6) Where an appellant fails to prosecute his appeal not later than 7 days after –

- (a) the 14-day period specified in subsection (5); or
- (b) the end of any extended period for prosecuting the appeal under subsection (5),

the Clerk shall have the right to issue execution upon the final decision appealed against and proceed to estreat and recover the recognisance.

(7) The period within which –

(a) notice of appeal may be given under subsection (1) or (2); or

(b) an appeal may be prosecuted under subsection (5),

may, in accordance with section 36, be extended.

(8) Notwithstanding section 3, failure to notify the convicted party of his right to appeal under this Act shall not constitute a ground of appeal.

### **13. Notice to resist appeal before Supreme Court**

(1) A notice of appeal served under section 12(5)(b) shall contain a warning to the party on whom it is served to the effect that he shall, if he intends to resist the appeal before the Supreme Court, comply with subsection (2).

(2) Every person who is served with a notice of appeal and who intends to resist the appeal before the Supreme Court shall, not later than 28 days after the date of service of the notice of appeal, serve on the appellant and file in the Registry of the Supreme Court a notice of his intention to resist the appeal.

(3) Any person on whom notice of appeal is served and who fails to comply with subsection (2) shall be deemed to have elected not to resist the appeal before the Supreme Court.

### **14. Appeal proceedings before Supreme Court**

On hearing an appeal before the Supreme Court, no new evidence shall be admitted, and the information, depositions and other evidence and conviction before the subordinate court shall, in accordance with Part V, be reviewed by the Supreme Court.

## **PART IV – MATTERS PENDING CRIMINAL APPEAL**

### **15. Stay of proceedings**

Subject to sections 6(6) and 12(6), an appeal made under this Act to the Appellate Court shall operate as a stay of execution of proceedings of the final decision appealed from.

### **16. Suspension of restitution of property pending appeal**

(1) The operation of any writ or order for the restitution of any property to any person made on a conviction before the subordinate court under section

183 or 184 of the Criminal Procedure Act shall (unless the subordinate court before which the conviction takes place directs to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended –

- (a) in any case, until the expiration of 21 days after the date he is sentenced by the subordinate court; and
- (b) in cases where notice of appeal is given not later than 21 days after the date he is sentenced by the subordinate court, until the determination of the appeal by the Appellate Court,

and in cases where the operation of any such order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal.

(2) The Appellate Court may, by order, annul or vary any order made on a trial before the subordinate court for the restitution of any property to any person, although the conviction is not quashed, and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

#### **17. Bail and custody of appellant**

(1) Where a person who is convicted and sentenced to a term of imprisonment or penal servitude gives notice of appeal against his conviction or sentence, the subordinate court before which he is convicted may order the person to be remanded in custody pending the determination of his appeal and give reasons for such decision.

(2) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated as a prisoner awaiting trial.

(3) On the application of an appellant, the Appellate Court may, in accordance with the Bail Act, admit the appellant to bail pending the determination of his appeal.

#### **18. Custody of documents and exhibits**

(1) Any document, exhibit or other thing connected with the proceedings on the trial before the subordinate court of any person who, if convicted, is entitled or may be authorised to appeal under this Act, shall be kept in the custody of the subordinate court before which he has been convicted in accordance with such rules as may be prescribed.

(2) The Master and Registrar shall obtain and lay before the Appellate Court in proper form all documents, exhibits and other things relating to the proceedings in the subordinate court before which a person has been convicted,



which appear necessary for the proper determination of the appeal.

## **19. Skeleton arguments and submissions**

(1) Every appellant shall, not less than 30 days before the date of the hearing of the appeal, serve on the other parties to the appeal and lodge in the Registry of the Supreme Court skeleton arguments and submissions on the grounds of appeal.

(2) Every other party to an appeal shall, not less than 15 days before the date of the hearing of the appeal, serve on the other parties to the appeal and lodge in the Registry of the Supreme Court skeleton arguments and submissions on the grounds of appeal.

(3) Where an appellant or a party to the appeal does not comply with subsection (1) or (2), the Appellate Court may make –

- (a) a wasted costs order or any other costs order; or
- (b) any other order as it may, in the circumstances, determine.

## **PART V – DETERMINATION ON CRIMINAL APPEAL AND CRIMINAL REVIEW**

### **Sub-Part A – Determination of Appellate Court in Criminal Appeal**

## **20. General powers of Appellate Court on appeal**

(1) The Appellate Court may –

- (a) affirm or reverse the final decision of the subordinate court;
- (b) subject to subsection (2), amend or alter the final decision of the subordinate court; or
- (c) order a new trial before the subordinate court.

(2) Subsection (1)(b) shall not apply to a verdict of the jury.

(3) The Appellate Court may, where it determines that the order made or sentence passed is one which the subordinate court had no power to make or pass, as the case may be, amend the judgment by substituting for the order or sentence such order or sentence as the subordinate court had power to make or pass, as the case may be.

(4) The Appellate Court shall, where it determines that a different sentence should have been passed by the subordinate court, quash the sentence

and substitute therefor such other sentence as it may determine.

(5) The power of the Appellate Court to pass any sentence includes a power to make any order that the subordinate court could make on conviction with reference to the person convicted.

(6) The Appellate Court shall, in any other case, allow or dismiss an appeal.

## **21. Wrong decision or miscarriage of justice**

(1) Where the Appellate Court determines that the judgment of the subordinate court is based on a wrong decision of any question of law or that there has been a miscarriage of justice before the subordinate court, the Appellate Court may set aside the judgment of the subordinate court and allow the appeal.

(2) The Appellate Court may, notwithstanding that it makes a determination that a point raised in the appeal may be decided in favour of the appellant, dismiss the appeal where it considers that no substantial miscarriage of justice has occurred before the subordinate court.

## **22. Defect in information, warrant or summons**

(1) No objection to a conviction shall be allowed or taken by the Appellate Court on the ground that there was some –

- (a) defect in substance or in form in the information, warrant or summons; or
- (b) variance between the information, warrant or summons and the evidence,

unless the objection was taken before the subordinate court.

(2) No conviction shall be quashed on the ground of any defect in substance or in form in the information, warrant or summons, or for any variance unless –

- (a) the subordinate court has refused to amend the information and to adjourn the hearing; and
- (b) the Appellate Court is satisfied that the appellant had thereby been misled or deceived and prejudiced in his defence.

### **23. Omission or mistake**

Where an objection is made on account of an omission or a mistake in the drawing up of the conviction or judgment and it is shown to the satisfaction of the Appellate Court that sufficient grounds were in proof before the subordinate court to have authorised the drawing up free from that omission or mistake, the Appellate Court may, if it so determines, amend the conviction or judgment and adjudicate on it as if no omission or mistake had existed.

### **24. Incompetent or improper evidence**

(1) No objection to a conviction shall be allowed or taken on the ground that incompetent or improper evidence has been admitted, unless the admission of such evidence was objected to before the subordinate court.

(2) No conviction shall be quashed on the ground that such evidence has been admitted where the Appellate Court is satisfied that there was before the subordinate court sufficient evidence to support the conviction exclusive of the evidence objected to.

### **25. Serious irregularity**

Where the Appellate Court is of the opinion that a serious irregularity has occurred before the subordinate court, it may declare the trial before the subordinate court to be a nullity and order a fresh hearing before a differently constituted bench.

### **26. Unreasonable verdict of jury**

Where the Court of Criminal Appeal determines that the verdict of the jury is unreasonable or cannot be supported having regard to the evidence before the Supreme Court, the Court of Criminal Appeal shall set aside the verdict of the jury and allow the appeal.

### **27. Special verdict by jury**

Where, on the conviction of the appellant, the jury has found a special verdict, and the Court of Criminal Appeal considers that a wrong conclusion has been arrived at by the Judge before whom the appellant has been convicted on the effect of that verdict, the Court of Criminal Appeal may, instead of allowing the appeal, order such conclusion to be recorded as it appears to the Court of Criminal Appeal to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial.

## **28. Conviction on other count or part of information**

Where it appears to the Appellate Court that an appellant, though not properly convicted on some count or part of the information, has been properly convicted on some other count or part of the information, the Appellate Court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as it may determine and as may be warranted in law by the verdict on the count or part of the information on which the Appellate Court considers that the appellant has been properly convicted.

## **29. Conviction for other offence**

Where an appellant is convicted of an offence and the jury or the subordinate court, as the case may be, that tried him could, on the information, have found him guilty of some other offence, and on the finding of the jury or of the subordinate court, as the case may be, it appears to the Appellate Court that the jury or the subordinate court, as the case may be, was satisfied of facts which proved him guilty of that other offence, the Appellate Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury or the subordinate court, as the case may be, a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial for that other offence, not being a sentence of greater severity, as it deems appropriate.

## **30. No record of subordinate court**

Where the subordinate court which has the custody of the record certifies in writing to the Appellate Court that the record, relating to the appeal, has disappeared and cannot be reconstituted, the Appellate Court may order a new trial before the subordinate court.

## **31. Acquittal on account of insanity**

Where, on any appeal, it appears to the Appellate Court that the appellant should have been acquitted on account of his insanity at the time he did the act or made the omission charged against him, the Appellate Court may quash the sentence passed at the trial and order the appellant to be kept in strict custody in such place as may be prescribed.

## **32. Bar to subsequent prosecution on dismissal of charge**

(1) The Appellate Court shall, where it allows an appeal against conviction, quash the conviction and direct a judgment of acquittal to be entered.

(2) The Appellate Court may, on quashing a conviction, rule that the information be dismissed and thereupon that ruling shall, subject to section

34(b), be a bar to a subsequent prosecution of the appellant for the same offence in the same manner as the dismissal by a Magistrate under section 76 of the District and Intermediate Courts (Criminal Jurisdiction) Act.

(3) Where an appeal is dismissed, the judgment of the subordinate court shall be carried into execution as provided in this Act and the District and Intermediate Courts (Criminal Jurisdiction) Act.

### **33. Other powers of Supreme Court on appeal**

Where, on an appeal made, the Supreme Court in the exercise of its appellate jurisdiction in criminal matters is of the opinion that the District or Intermediate Court has –

- (a) made an erroneous exercise of the powers conferred by section 127, 128 or 129 of the District and Intermediate Courts (Criminal Jurisdiction) Act; or
- (b) in the case of a person charged on alternative counts of simple or aggravated larceny and reception or possession of stolen property, erroneously dismissed one of the charges and convicted on the other,

the Supreme Court may reverse or alter the conviction, or dismissal, as the case may be, and substitute therefor the appropriate determination.

### **Sub-Part B – Determination of Court of Criminal Appeal in Criminal Review**

### **34. General powers of Court of Criminal Appeal on review**

Where, on an application for review under section 9, the Court of Criminal Appeal is satisfied that there is fresh and compelling evidence and that it is likely that a retrial will be fair, it may –

- (a) quash the acquittal or conviction;
- (b) order that the person be retried for the offence with which he was originally charged or of a lesser offence; and
- (c) make such other order as it may, in the circumstances, determine.

### **Sub-Part C – Credit for Time Spent in Custody**

### **35. Deduction of time spent in custody**

- (1) This section shall apply to a person –

- (a) who makes an appeal to the Appellate Court; and
- (b) whose case is referred for review before the Court of Criminal Appeal pursuant to section 9.

(2) Subject to subsections (3) and (4), the Appellate Court shall, in reviewing the term of imprisonment or penal servitude to be served by an appellant, give him full credit for the time he spent in custody by deducting that time from the term of imprisonment or penal servitude imposed.

(3) The time spent in custody by an appellant shall –

- (a) in the case of terms of imprisonment or penal servitude imposed under different counts of an information and ordered to run concurrently, be deducted from the highest term of imprisonment or penal servitude imposed;
- (b) in the case of terms of imprisonment or penal servitude imposed under different counts of an information and ordered to run consecutively, be deducted from the aggregate of the terms of imprisonment and penal servitude imposed;
- (c) in case the appellant was, during that time, serving sentence for another offence, not be deducted from the term of imprisonment or penal servitude imposed;
- (d) in case the appellant was, during that time, in custody for more than one offence, be deducted from the term of imprisonment or penal servitude imposed for only one sentence and only once in relation to that sentence.

(4) No appellant shall qualify for credit for the time he spent in custody where, in default of payment of any fine or costs imposed, he is sentenced to imprisonment.

## **PART VI – MISCELLANEOUS MATTERS**

### **36. Extension of time**

- (1) An application to extend the period under –
  - (a) section 6(1), (2) or (5) shall be made to the Court of Criminal Appeal; or

(b) section 12(1), (2) or (5) shall be made to the Supreme Court, by way of motion and affidavit.

(2) The Court of Criminal Appeal or Supreme Court may, on good cause shown, grant the application made under subsection (1).

(3) Failure to notify a convicted party of his right to appeal under this Act may be a ground for extension of time.

### **37. Legal aid**

(1) The Master and Registrar shall report to the Chief Justice any case in respect of which it appears to him that legal aid for the purpose of an appeal or review under this Act should be granted, although no application has been made for legal aid.

(2) The Chief Justice or a Judge designated by him may, pursuant to subsection (1), grant legal aid to an appellant.

### **38. Director of Public Prosecutions for State**

The Director of Public Prosecutions shall appear or cause some other law officer to appear for the State on –

(a) every appeal to the Appellate Court, except in so far as a private prosecutor in the case of a private prosecution undertakes the defence of the appeal; and

(b) every review before the Court of Criminal Appeal.

### **39. Costs on appeal**

(1) On the hearing and determination of any appeal or review or any proceedings preliminary or incidental thereto by the Court of Criminal Appeal under this Act, no costs shall be allowed on either side.

(2) (a) Subject to section 168(2) of the Courts Act, the Supreme Court in the exercise of its appellate jurisdiction in criminal matters may make such order as to the whole or any part of the costs of appeal and, if it so determines, the costs of the subordinate court.

(b) Subject to any enactment, where an appeal is dismissed, the subordinate court may, on production of a certificate signed by the Master and Registrar that such appeal has been dismissed and on production of a taxed bill of the costs of such appeal, forthwith issue execution against the appellant for

recovery of the judgment and all costs, or against the surety for recovery of the costs of appeal.

#### **40. Rules**

The Chief Justice may make such rules as may be necessary for the purposes of this Act.

#### **41. Repeal**

- (1) The Criminal Appeal Act is repealed.
- (2) The Criminal Appeal Rules 1954 are revoked.

#### **42. Consequential amendments**

(1) The Children's Court Act 2020 is amended, in section 11(1), by deleting the words "in the same manner as specified in section 92 of the District and Intermediate Court (Criminal Jurisdiction) Act" and replacing them by the words "in accordance with the Criminal Appeal and Criminal Review Act 2025".

(2) The Courts Act is amended by repealing sections 69 and 70.

(3) The Criminal Procedure Act is amended, in section 132A –

- (a) by numbering the existing provision as subsection (1);
- (b) in the newly numbered subsection (1), by deleting the words "After convicting an accused, the Court shall" and replacing them by the words "The Court shall, not later than 14 days after convicting an accused";
- (c) by adding the following new subsection –

(2) The Court shall, not later than 14 days after affording an opportunity to the accused to adduce evidence in mitigation and hearing such other matter as may be relevant to the facts and circumstances of the offence, impose sentence on the accused.

(4) The District and Intermediate Courts (Criminal Jurisdiction) Act is amended by repealing sections 92 to 100.

(5) The Protection of Human Rights Act is amended, in section 4A –

- (a) in the heading, by deleting the words "**Criminal Appeal Act**"



and replacing them by the words "**Criminal Appeal and Criminal Review Act 2025**";

- (b) in subsection (1), by deleting the words "section 19A(4) of the Criminal Appeal Act" and replacing them by the words "section 9(2)(b) of the Criminal Appeal and Criminal Review Act 2025";
- (c) in subsection (4)(a), by deleting the words "section 19A(4) of the Criminal Appeal Act" and replacing them by the words "section 9(2)(b) of the Criminal Appeal and Criminal Review Act 2025".

#### **43. Savings**

(1) Any appeal made to the Court of Criminal Appeal under the repealed Criminal Appeal Act and which is pending on the commencement of this Act shall be dealt with as if this Act had not come into operation.

(2) Any appeal made to the Supreme Court in the exercise of its appellate jurisdiction in criminal matters and which is pending on the commencement of this Act shall be dealt with as if this Act had not come into operation.

#### **44. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

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