

## OBJECTS AND REASONS

This Bill seeks to amend the *Criminal Appeal Act*, Cap. 113A and certain other enactments in order to

- (a) make express provision for the bringing of that Act in line with the law that abolished the right of appeal to Her Majesty in Council;
- (b) repeal and replace those provisions of the law that allow, in certain circumstances, the detention of persons during Her Majesty's pleasure; and
- (c) make provision for the granting of legal aid in respect of certain appeals.

### *Arrangement of Sections*

#### *Section*

1. Short title.
2. Amendment of long title of Cap. 113A.
3. Amendment of section 8 of Cap. 113A.
4. Repeal of Part II of Cap. 113A.
5. Amendment to enactments.
6. Commencement.

#### SCHEDULE

**BARBADOS**

**A Bill entitled**

**An Act to amend the *Criminal Appeal Act*.**

**ENACTED** by the Parliament of Barbados as follows:

- 1.** This Act may be cited as the *Criminal Appeal (Amendment and Miscellaneous Provisions) Act, 2009*. Short title.

Amendment of long title of Cap. 113A.      **2.** The long title to the *Criminal Appeal Act*, in this Act referred to as the principal Act, is amended by deleting the words "and to Her Majesty in Council".

Amendment of section 8 of Cap. 113A.      **3.** Section 8 of the principal Act is amended in subsection (1), by deleting paragraph (b) and all the words following thereafter and substituting the following:

"(b) quash the sentence passed at the trial, and shall order him to be detained in a mental hospital during the Court's pleasure

and thereupon the Court may give such directions for the safe keeping of the appellant during the detention as the Court thinks fit."

Repeal of Part II of Cap. 113A.      **4.** Part II of the principal Act is repealed.

Amendment to enactments.      **5.** The enactments set out in Column 1 of the Schedule are amended to the extent set out opposite thereto in Column 2.

Commencement. Schedule.      **6.** Sections 2 and 4 of this Act and paragraphs 3 and 4 of the *Schedule* to this Act shall be deemed to have come into operation on the 14<sup>th</sup> April, 2005.

## SCHEDULE

*(section 5)*

Column 1

Column 2

*Enactments**Amendments*1. *Mental Health Act,*  
Cap. 45

Delete section 13 and substitute the following:

**13.** (1) Notwithstanding section 7(1), where a person on trial before the High Court

(a) is found unfit to plead;

(b) is found not guilty by reason of insanity; or

(c) is found guilty but is suffering from diminished responsibility,

that Court shall order him to be detained in a mental hospital during the Court's pleasure and thereupon the Court may give such directions for the safe keeping of the appellant during the detention as the Court thinks fit.

(2) Where the Court has ordered a person to be detained pursuant to subsection (1) and the period of detention served by that person as a result of the Order is in excess of 4 years, the Court

## SCHEDULE (Cont'd)

| Column 1   | Column 2  |
|--|---|
| <i>Enactments</i>  | <i>Amendments</i>   |
| <p><i>1. Mental Health Act,<br/>Cap. 45 (cont'd)</i></p> | <p>(a) shall as soon as possible after 4 years of the period of detention has been served, review that sentence and issue further directions; and</p> <p>(b) where the period of detention is ordered by the Court to continue under paragraph (a), shall review the sentence every 4 years thereafter.</p> <p>(3) The Court may by warrant either absolutely or conditionally discharge any person detained under subsection (1)."</p> |
| <p><i>2. Income Tax Act,<br/>Cap. 73</i></p>             | <p>In section 61, delete</p> <p>(a) the words "Privy Council" appearing therein; and</p> <p>(b) subsection (2) and substitute the following:</p> <p>"(2) An appeal on a point of law shall lie as of right to the Caribbean Court of Justice from any decision of the Court of Appeal under this section."</p>  |

## SCHEDULE (Cont'd)

| Column 1  | Column 2   |
|---|--|
| <i>Enactments</i>                                 | <i>Amendments</i>  |
| 3. <i>Community Legal Services Act, Cap. 112A</i> | <p>In</p> <p>(a) section 18, delete the words "Her Majesty in Council" appearing in paragraph (c) and substitute the words "the Caribbean Court of Justice"; and</p> <p>(b) the <i>First Schedule</i>, delete in paragraph (h) of Part I, the words "or the Court of Appeal" and substitute the words ", the Court of Appeal or the Caribbean Court of Justice".</p>   |
| 4. <i>Supreme Court of Judicature, Cap. 117A</i>  | <p>In section 57, delete the words "Her Majesty in Council, appearing in paragraph (b) of subsection (3) and substitute the words "The Caribbean Court of Justice".</p>  |
| 5. <i>Juvenile Offenders Act, Cap. 138</i>        | <p>1. In section 14, delete the words "during Her Majesty's pleasure" and all the words following thereafter and substitute the following:</p> <p style="padding-left: 40px;">"during the Court's pleasure and if so sentenced, he shall be liable to be detained in such place and under such conditions as the court may direct to give effect to this provision and whilst so detained shall be deemed to be in legal custody".</p> |

## SCHEDULE (Concl'd)

| <i>Column 1</i>                                     | <i>Column 2</i>  |
|---|--|
| <i>Enactments</i>                                   | <i>Amendments</i>  |
| 5. <i>Juvenile Offenders Act, Cap. 138 (Cont'd)</i> | 2. In section 15(2), delete the words "Governor-General" and substitute the word "court".  |
| 6. <i>Offences Against the Person Act, Cap. 141</i> | <p>In section 4, delete</p> <p>(a) the words "until Her Majesty's pleasure is known, and thereupon the Governor-General on behalf of Her Majesty may give such order for the safe custody of the person during Her Majesty's pleasure as the Governor-General thinks fit" appearing in subsection (6) and substitute the following:</p> <p style="padding-left: 40px;">"until the Court's pleasure is known, and thereupon the court may give such order for the safe custody of the person during the Court's pleasure as the court thinks fit"; and</p> <p>(b) the words "Governor-General" in subsection (7) and substitute the word "court".</p> |

## SCHEDULE (Concl'd)

| Column 1  | Column 2  |
|---|---|
| <i>Enactments</i>   | <i>Amendments</i>   |
| 7. <i>Defence Act,<br/>Cap. 159</i>                               | <p>In</p> <p>(a) section 145, delete the words "Her Majesty in Council" and substitute the words "the Caribbean Court of Justice";</p> <p>(b) section 148, delete the words "Her Majesty in Council" and substitute the words "the Caribbean Court of Justice".</p> |
| 8. <i>Land Valuation Act,<br/>Cap. 229A</i>                       | In section 23, delete the words "Her Majesty in Council" and substitute the words "the Caribbean Court of Justice".   |
| 9. <i>Criminal Appeal<br/>Rules, 1983<br/>(S.I. 1983 No. 102)</i> | Delete rules 25 and 31.   |