

ABILL

ENTITLED

**AN ACT to Amend the Judicature (Appellate
Jurisdiction) Act.**

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

1. This Act may be cited as the Judicature (Appellate Jurisdiction) (Amendment) Act, 2012, and shall be read and construed as one with the Judicature (Appellate Jurisdiction) Act (hereinafter referred to as the principal Act) and all amendments thereto and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title,
construction
and com-
mencement.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended by inserting in the appropriate alphabetical sequence the following definitions—

“Agreement” means the Agreement Establishing the Caribbean Court of Justice, that was signed at Bridgetown, Barbados on the 14th day of February, 2001 (as amended by the Protocol to the Agreement Establishing the Caribbean Court of Justice Relating to the Juridical Personality and Legal Capacity of the Court signed at Montego Bay, Jamaica on the 4th day of July, 2003, and any further amendments) as is in force in relation to Jamaica as at the date of commencement of the Judicature (Appellate Jurisdiction) (Amendment) Act, 2012;

“Caribbean Court of Justice” means the Caribbean Court of Justice established under the Agreement;”.

Amendment
of Part VIII
of principal
Act.

3. Part VIII of the principal Act is amended—

- (a) by deleting from the heading thereto the words “Her Majesty in Council” and substituting therefor the words “The Caribbean Court of Justice”;
- (b) in section 35 and the marginal note thereto by deleting the words “Her Majesty in Council” and substituting therefor, in each case the words “the Caribbean Court of Justice”.

Transitional

4.—(1) The provisions of this Act shall not affect any proceedings pursuant to the principal Act that are pending before Her Majesty in Council immediately before the commencement date.

(2) For the purposes of subsection (1), proceedings shall be treated as pending where an appeal to Her Majesty in Council has been instituted before the commencement date or where leave to appeal to Her Majesty in Council has been granted or applied for before the commencement date.

(3) Any judgment of Her Majesty in Council which at the commencement date has been given, but has not been satisfied, may be enforced after the commencement date as if it had been a judgment of the Caribbean Court of Justice.

(4) In this section “commencement date” means the day appointed pursuant to section 1.

MEMORANDUM OF OBJECTS AND REASONS

This Bill is a companion measure to the Caribbean Court of Justice Bill and the Constitution Amendment (Caribbean Court of Justice) Bill, which seek, respectively to—

- (a) establish the Caribbean Court of Justice as Jamaica's final appellate court in place of the Judicial Committee of the Privy Council;
- (b) among other things, repeal the provisions of section 110 of the Constitution which provides for appeals to Her Majesty in Council and replace those provisions with provisions for appeals to the Caribbean Court of Justice.

This Bill therefore seeks to amend the Judicature (Appellate Jurisdiction) Act in order to repeal the provisions for appeals to Her Majesty in Council and to replace those provisions with provisions for appeals to the Caribbean Court of Justice.

This Bill also contains transitional provisions to exclude from the application of the provisions of the Bill, any appeals to Her Majesty in Council which were instituted before the date of commencement of the amending provisions, or in respect of which leave was granted, or application for leave was made, before that date.

PORTIA SIMPSON MILLER, O.N.
Prime Minister.

PART VIII OF THE PRINCIPAL ACT WHICH IT IS
PROPOSED TO AMEND

PART VIII. *Appeals to Her Majesty in Council*
(*Criminal Jurisdiction*)

Appeals
to Her
Majesty in
Council in
Criminal
cases.

35. The Director of Public Prosecutions, the prosecutor or the defendant may, with the leave of the Court appeal to Her Majesty in Council from any decision of the Court given by virtue of the provisions of Part IV, V or VI where in the opinion of the Court, the decision involves a point of law or exceptional public importance and it is desirable in the public interest that a further appeal should be brought.