

**ACT NO. 38 OF 1998**

I assent.

[L.S.]

K. K. T. MARA  
President

[17 September 1998]

**AN ACT****TO AMEND THE COURT OF APPEAL ACT**

ENACTED by the Parliament of the Fiji Islands—

*Short title*

1. This Act may be cited as the Court of Appeal (Amendment) (No.2) Act 1998.

*Interpretation*

2. In this Act, "principal Act" means the Court of Appeal Act (Cap.12).

*Right of appeal in criminal cases*

3. Section 21 of the principal Act is amended by inserting after subsection (2) the following new subsection—

"(3) The Court of Appeal may, if it gives leave, entertain an appeal from the High Court against the grant or refusal of bail, including any conditions or limitations attached to a grant of bail, upon the application either of the person granted or refused bail or of the Director of Public Prosecutions."

*Appeal from High Court in its appellate jurisdiction in criminal cases*

## 4. Section 22 of the principal Act is amended—

- (a) in subsection (1) by deleting “(not including severity of sentence)”;
- (b) by inserting after subsection (1) the following new subsection—
  - “(1A) No appeal under subsection (1) lies in respect of a sentence imposed by the High Court in its appellate jurisdiction unless the appeal is on the ground—
    - (a) that the sentence was an unlawful one or was passed in consequence of an error of law; or
    - (b) that the High Court imposed an immediate custodial sentence in substitution for a non-custodial sentence.”.

*Determination of appeal in ordinary cases*

## 5. Section 23 of the principal Act is amended by inserting after subsection (3) the following new subsection—

- “(4) On an appeal against the grant or refusal of bail, including any conditions or limitations attached to a grant of bail, the Court of Appeal may confirm, reverse or vary the decision of the High Court.”.

*Time for appealing*

## 6. Section 26 of the principal act is amended in subsection (1) by adding “or decision” at the end of the first sentence.

*Judgment in criminal appeals*

## 7. Section 36 of the principal Act is amended by inserting after subsection (3) the following new subsection—

- “(4) Any judgment or decision of the Court or of a judge may be pronounced in such terms as the Court or judge thinks appropriate, but the full contents of the judgment or decision must be written down and a copy of the written judgment or decision made available to the parties as soon as practicable after the judgment or decision has been pronounced.”.

Passed by the House of Representatives this 10th day of August, 1998.

Passed by the Senate this 7th day of September, 1998.