



Tonga

## COURT OF APPEAL (AMENDMENT) ACT 1997

Act 9 of 1997

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

I assent,  
TAUFA'AHAU TUPOU IV,  
29th October, 1997

[11th September, 1997]

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:—

1.
  - (1) This Act may be cited as The Court of Appeal (Amendment) Act 1997.
  - (2) The Court of Appeal Act, (Cap 9), as amended, is in this Act referred to as the Principal Act.
2. The Principal Act is amended by inserting the following new sections after section 17 thereof—

#### **“17A Point of law stated by the judge**

In addition to his power to do so under section 3 a judge of the Supreme Court before whom any person is tried and convicted on indictment may submit any question of law arising at or in reference to such trial or

conviction to the Court of Appeal for determination, and such submission shall be dealt with as if it were an appeal under section 16.

### **17B Appeal by Crown against sentence**

The Attorney-General, with the leave of the Court of Appeal, may appeal to the Court of Appeal against any sentence pronounced by the Supreme Court in any proceedings in which the Crown was a party and the Court of Appeal shall determine the appeal in accordance with sub-section (3) of section 17.

### **17C Appeal after interlocutory judgement or order**

- (1) Any party to proceedings to which this part applies may appeal to the Court of Appeal against an interlocutory judgement or order given or made in the proceeding—
  - (a) if the judge of first instance certifies that the judgment or order is a proper one for determination on appeal; or
  - (b) if the Court of Appeal gives leave to appeal.
- (2) An appeal under this section shall, unless the Court of Appeal gives leave to adduce fresh, additional or substituted evidence, be determined on the evidence (if any) given in the proceeding to which the appeal relates.
- (3) The Court of Appeal may—
  - (a) affirm or vacate the interlocutory judgment or order appealed against; or
  - (b) give or make an interlocutory judgment or order instead of the interlocutory judgment or order appealed against.
- (4) If leave to appeal under this section is refused by the Court of Appeal the refusal does not preclude any other appeal following a conviction on the matter to which the refused application for leave to appeal related.
- (5) A notice of appeal or notice of application for leave to appeal under this section shall be given within 10 days of the date of the interlocutory judgment or order from which appeal is made.
- (6) The judge of first instance may make any other order or direction regarding the further hearing of the trial pending any determination of the Court of Appeal under this section.”.

3. Section 20(1) of the Principal Act is amended by deleting the first sentence thereof and substituting therefor the following:

“Other than as provided in section 17C, any appeal under this part of the Act to the Court of Appeal, or to obtain leave of that Court to appeal, shall be given by notice of appeal or notice of application for leave to appeal, as may be directed by rules of court, within 42 days of the date of the judgment or order from which appeal is made.”.

Passed by the Legislative Assembly this 1f day of September, 1997.