

ANTIGUA AND BARBUDA



CRIMINAL PROSECUTIONS SERVICE (AMENDMENT) BILL, 2023

No. of 2023

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NO. OF 2023

AN ACT to amend the Criminal Prosecutions Service Act, 2017, No. 28 of 2017 and for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short Title

This Act may be cited as the Criminal Prosecutions Service (Amendment) Act, 2023

2. Interpretation

In this Act-

“principal Act” means the Criminal Prosecutions Service Act 2017, No. 28 of 2017

3. Amendment of section 2 of the principal Act - Interpretation

Section 2 of the principal Act is amended in the definition of the word “Office” by deleting the word “clause” and replacing this with the word “section”.

4. Amendment of section 3 – Purpose of the Act

Section 3 of the principal Act is amended by deleting the word “all” appearing before the words “criminal proceedings”.

5. Amendment of section 12 – Powers and the Functions of the Director of Public Prosecutions

Section 12 of the principal Act is amended in subsection (1) as follows –

- (a) by inserting after the words “subject to subsection (2),” the words “and in any case in which he or she considers it proper to do so ”
- (b) by repealing paragraph (a) of subsection(1);
- (c) by lettering the remaining paragraphs from (a) to (f) accordingly.

6. Amendment of section 23 – Oath or affirmation of office

Section 23 of the principal Act is repealed.

7. Amendment of section 27 – Transitional Provisions

Section 27 of the principal Act is amended as follows –

- (a) by removing the subsection designation “(1)” from the start of subsection (1);
- (b) by deleting subsection (2) in its entirety;
- (c) by inserting after the word “Act” in the chapeau, the words “and subject to section 27A;”

8. Insertion of new section 27A – Power to institute criminal proceedings

The principal Act is amended by inserting after section 27 the following new section –

“27A. Power to institute criminal proceedings

With the exception of the officers of the Royal Police Force of Antigua and Barbuda and officers of the ONDCP, no public officer, other than an officer of the Criminal Prosecutions Service shall institute any criminal proceedings unless authorised so to do by the DPP.”

9. Amendment of the principal Act

The principal Act is amended by repealing the schedule thereto.

Passed the House of Representatives on
the day of , 2023.

Passed the Senate on the day of
 , 2023.

.....
Speaker.

.....
President.

.....
Clerk to the House of Representatives.

.....
Clerk to the Senate.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Criminal Prosecutions Act 2017. The amendment is occasioned by certain recent developments which show that it is not practical for the police to always obtain the written authority of the DPP to charge an individual.

The Bill contains 9 clauses.

Clauses 1 - Short title. This is a Bill for an Act to be called the Criminal Prosecutions Service (Amendment) Act, 2023;

Clause 2 – Interpretation. This identifies the principal Act to which this amendment refers.

Clause 3 –Amendment of section 2 of the principal Act (Interpretation). This is a minor amendment to the definition of the word “Office”. The principal Act, defines the word “Office” to mean “the Office of the Criminal Prosecutions Service established by clause 4 of this Act;” This amendment corrects the minor error by removing the word “clause” and replacing this with the word “section”.

Clause 4 - Amendment of section 3 (Purpose of the Act). The deletion of the word “all” brings the section in line with the wording in the Constitution.

Clause 5 – Amendment of section 12 (Powers and the Functions of Director of Public Prosecutions). This amendment is to give the DPP added flexibility in the carrying out of the functions of the DPP. The deletion of paragraph (a) allows for consistency with the rest of the legislation.

Clause 6 – Amendment of section 23 (Oath or affirmation of Office). This section is repealed.

Clause 7 – Amendment of section 27. (Transitional Provisions). This amendment removes subsection (2).

Clause 8 – Insertion of a new section into the principal Act (section 27A). This section addresses the matter recently ruled upon by the High Court. It is not practical in every situation for the police to await the consent of the DPP to charge a person for criminal conduct. Hence, the amendment is to remove that requirement. However, in keeping with the Constitution and other legislation, the authorisation of the DPP will continue for ANY officer to prosecute a matter.

Clause 9 – Amendment of the principal Act. This amendment is to remove the Schedule to the Act which relates to the form of the oath or affirmation repealed under clause 6 (section 23).

Hon. Steadroy Benjamin
Minister of Justice and Legal Affairs

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