

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,135 of 18th December, 2014

B. 34/14

BILL

FOR

AN ACT to amend the Criminal Procedure and Evidence Act 2011.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Criminal Procedure and Evidence (Amendment No. 2) Act 2014 and shall come into operation on the date of publication.

Amendment of the Criminal Procedure and Evidence Act 2011.

2.(1) The Criminal Procedure and Evidence Act 2011 is amended as follows.

(2) For section 497 substitute—

“Duration of terms of imprisonment.

497.(1) This section applies where—

- (a) a person is serving a term of imprisonment or detention in respect of an offence, and
- (b) he has been remanded in custody in connection with the offence or a related offence.

(2) Subject to subsection (5), it is immaterial for that purpose whether, for all or part of the period during which the person was

remanded in custody, the person was also remanded in custody in connection with other offences.

(3) Subject to subsections (4) and (5), the number of days for which the person

- (a) was remanded in custody; or
- (b) was in police detention

in connection with the offence or a related offence is to count as time served by the person as part of the sentence.

(4) If, on any day on which the person was remanded in custody, the person was also detained in connection with any other matter, that day is not to count as time served.

(5) A day counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(6) For the purposes of this section a suspended sentence is to be treated as a sentence of imprisonment when it takes effect under section 509 and as being imposed by the order under which it takes effect.

(7) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the person was charged and the charge for which was founded on the same facts or evidence as offence A.

(8) For the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the person’s “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if—

- (a) the sentences were passed on the same occasion, or
- (b) where they were passed on different occasions, the person has not been released at any time during the

period beginning with the first and ending with the last of those occasions.

(9) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—

- (a) detention pursuant to any custodial sentence;
- (b) committal in default of payment of any sum of money;
- (c) committal for want of sufficient distress to satisfy any sum of money;
- (d) committal for failure to do or abstain from doing anything required to be done or left undone.

(10) A reference in this Act or any other enactment to the length of any sentence of imprisonment is, unless the context otherwise requires, a reference to the sentence pronounced by the court and not the sentence as reduced by this section.

(11) For the purposes of this section references to a remand in custody are references to a person being—

- (a) remanded in or committed to custody by order of a court,
- (b) remanded, admitted or removed to hospital or a place of safety under section 664, 666, 669 or 672 of the Criminal Procedure and Evidence Act 2011.”.

EXPLANATORY MEMORANDUM

This Bill amends the Criminal Procedure and Evidence Act 2011 so as to ensure that, when calculating the length of a sentence to be served, time spent on remand counts towards just one sentence of imprisonment.

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