

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,072 of 10th April, 2014

B. 16/14

BILL

FOR

AN ACT to amend the Prison Act 2011.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Prison (Amendment) Act 2014 and comes into operation on the day of publication.

Amendment of section 25 of the Prison Act 2011.

2.(1) Section 25 of the Prison Act 2011 (classification of prisoners) is amended in accordance with this section.

(2) For subsection (1)(a) substitute—

“(a) prisoners aged below 18 years from prisoners aged 18 years and over;”.

Amendment of section 50 of the Prison Act 2011.

3.(1) Section 50 of the Prison Act 2011 (work) is amended in accordance with this section.

(2) In subsection (1) for “seventeen” substitute “eighteen”.

Amendment of section 54 of the Prison Act 2011.

4.(1) Section 54 of the Prison Act 2011 (release on licence) is amended in accordance with this section.

(2) After subsection (1) insert–

“(1A) For the purposes of subsection (1)–

- (a) a person committed to prison in default of payment of a sum adjudged to be paid by a conviction shall be treated as serving a sentence of imprisonment;
- (b) consecutive terms of imprisonment shall be treated as one term.”.

Amendment of section 64 of the Prison Act 2011.

5.(1) Section 64 of the Prison Act 2011 (other offences relating to prison security) is amended in accordance with this section.

(2) In subsection (1)(b) for “or any sound” substitute “, sound or information”.

(3) Delete subsection (2)(b) and the preceding “or”.

(4) After subsection (3) insert–

“(3A) A person who, without lawful authority or excuse, is in possession of any of the items specified in subsection (3B) inside a prison is guilty of an offence.

(3B) The items referred to in subsection (3A) are–

- (a) a device capable of transmitting or receiving images, sounds or information by electronic communications (including a mobile telephone);
- (b) a component part of such a device;
- (c) an article designed or adapted for use with such a device (including any disk, film or other separate article on which images, sounds or information may be recorded).

(3C) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.

(3D) In proceedings for an offence under this section it is a defence for the accused to show that he reasonably believed that he had lawful authority or excuse to do the act in respect of which the proceedings are brought.”

(5) In subsection (5) insert—

(a) before the definition of “personal record”-

““document” means anything in which information is recorded (by whatever means);”

(b) after the definition of “personal record”-

““photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced;”

(c) after the definition of “relevant individual”-

““sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.”.

EXPLANATORY MEMORANDUM

Sections 2 and 3 of this Bill amend the Prison Act 2011 so as to clarify the position of prisoners aged 17 years.

Section 4 clarifies the way in which “a sentence of imprisonment” is defined for the purpose of release on licence.

Section 5 of this Bill amends section 64 of the Prison Act 2011 to create a new offence of possession, without authorisation, of a device capable of transmitting or receiving images, sounds or information by electronic communications in a prison. This includes mobile telephones as well as other devices which are capable of accessing the internet or are otherwise capable of sending or receiving data. The new offence will also extend to the possession of any component part or article designed or adapted for use with such a device, such as a SIM card or a charger for a mobile telephone.

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