

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,466 of 15th December, 1988.



I ASSENT,
PETER TERRY,
GOVERNOR.

15th December, 1988.



GIBRALTAR

No. 35 of 1988.

AN ORDINANCE to amend several provisions of the Criminal Procedure Ordinance, the Supreme Court Ordinance, the Magistrates' Court Ordinance and the Court of Appeal Ordinance.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Ordinance may be cited as the Administration of Justice (Miscellaneous Provisions) Ordinance, 1988.

Amendment of the Criminal Procedure Ordinance.

2. The Criminal Procedure Ordinance is amended in section 53(3) by inserting after " magistrates' court" the words "or the juvenile court".

Amendment to section 17 of the Supreme Court Ordinance.

3. Section 17 of the Supreme Court Ordinance is amended by inserting at the end thereof the following new subsections, the existing provisions of section 17 thereby becoming subsection (1) of that section, namely-

"(2) Without prejudice to the generality of subsection (1), the court may upon application by or on behalf of the Attorney-General, order any inferior court to send to the Registrar the record of proceedings in any criminal case or matter, and may also require in addition to such record a statement showing in detail the proceedings taken with reference to the whole case or any particular matter, and if it appears to the court that there has been any material error in the proceedings of the inferior court, it may, after hearing the defendant or counsel on his behalf, set aside or vary any judgment or order of the inferior court and pass such judgment or make such order, or remit the case or matter to the inferior court with such directions, if any, as justice may require:

Provided that no application under this subsection may be made with regard to a sentence passed on conviction by an inferior court.

(3) The application by or on behalf of the Attorney-General referred to in subsection (2) may be made only within a period of thirty days of the date of the judgment or order of the inferior court to which it relates."

New sections.

4. The Supreme Court Ordinance is amended by inserting after section 17 the following sections-

"Orders of mandamus, prohibition and certiorari.

17A. The court shall have jurisdiction to make orders of mandamus, prohibition and certiorari in those classes of cases in which it had power to do so immediately before the commencement of this section.

Application for judicial review.

17B.(1) An application to the court for one or more of the following forms of relief, namely-

- (a) an order of mandamus, prohibition or certiorari; or
- (b) a declaration or injunction under subsection (2).

shall be made in accordance with rules of court by a procedure to be known as an application for judicial review.

(2) A declaration may be made or, subject to the provisions of the Crown Proceedings Ordinance, an injunction granted under this subsection in any case where an application for judicial review, seeking that relief, has been made and the court considers that, having regard to-

- (a) the nature of the matters in respect of which relief may be granted by orders of mandamus, prohibition or certiorari;
- (b) the nature of the persons and bodies against whom relief may be granted by such orders; and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration to be made or of the injunction to be granted, as the case may be.

(3) No application for judicial review shall be made unless the leave of the court has been obtained in accordance with rules of court; and the court shall not grant leave to make such an application unless it considers that the applicant has a sufficient interest in the matter to which the application relates.

(4) On an application for judicial review the court may award damages to the applicant if -

(a) he has joined with his application a claim for damages arising from any matter to which the application relates; and

(b) the court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making his application, he would have been awarded damages.

(5) If, on an application for judicial review seeking an order of certiorari, the court quashes the decision to which the application relates, the court may remit the matter to the court, tribunal or authority concerned, with a direction to reconsider it and reach a decision in accordance with the findings of the court.

(6) Where the court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant-

(a) leave for the making of the application; and

(b) any relief sought on the application,

if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

(7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made."

Amendment to section 20 of the Supreme Court Ordinance.

Administration of Justice (Miscellaneous Provisions) Ordinance, 1988.
[No.35 of 1988.]

5. Section 20 of the Supreme Court Ordinance is amended-

(a) in paragraph (o) by substituting semicolon for full stop at the end thereof, and

(b) by inserting after paragraph (o) the following new paragraph-

"(p) members of the Public Service Commission."

Amendment to section 21 of the Supreme Court Ordinance.

6. Section 21 of the Supreme Court Ordinance is amended by repealing paragraphs (c) and (d) thereof and substituting therefor the following new paragraphs-

"(c) any person who has at any time in the last ten years been convicted by a court of law in any country of a criminal offence punishable by a term of imprisonment of three months or more;

(d) any person who has at any time been convicted by a court of law in any country of a criminal offence and

(i) sentenced to a term of imprisonment of five years or more;

(ii) had passed on him an order of detention during Her Majesty's pleasure or an order corresponding thereto under the law of any other country;"

New section.

6A. The Supreme Court Ordinance is further amended by inserting after section 36 the following new section-

"Fees to betaken in the Supreme Court.

36A. Without prejudice to the provisions of sections 37 and 38, the Chief Justice has, and is deemed always to have had,

the power by rules to prescribe, vary or abolish the fees to be taken in the Supreme Court."

Amendment to Magistrates Court Ordinance.

7. The Magistrates' Court Ordinance is amended by inserting after section 64 the following heading:

"PART VII.-MISCELLANEOUS".

New section for Magistrates' Court Ordinance

8. The Magistrates' Court Ordinance is further amended by inserting after section 68 the following new section-

"Offences of contempt of Magistrates' Court.

68A (1) The court has jurisdiction under this section to deal with any person who-

(a) wilfully insults the justice or justices, any witness before or officer of the court or any solicitor or counsel having business in the court, during his or their sitting or attendance in court or in going to or returning from the court; or

(b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court.

(2) In any such case the court may order any officer of the court, or any police officer, to take the offender into custody and detain him until the rising of the court or the court may, if it thinks fit, commit the offender to custody for a specified period not exceeding one month or impose on him a fine not exceeding £ 1 000 or both.

(3) The court may at any time revoke an order of committal made under subsection (2) and, if the offender is in custody, order his discharge.

(4) A person against whom an order has been made under this section may appeal against that order to the Supreme Court in the like manner as a person may appeal against conviction or sentence in accordance with the provisions of Part XIII of the Criminal Procedure Ordinance."

Amendment of the Court of Appeal Ordinance.

9. The Court of Appeal Ordinance is amended by inserting in their appropriate numerical positions the following new sections, namely-

"Fees to be taken in Court of Appeal.

8A. The President has, and is deemed always to have had, the power by rules to prescribe, vary or abolish the fees to be taken in the Court of Appeal."

"Appeals against judgment, etc of Supreme Court exercising powers of review.

10A.(1) Appeal shall lie to the Court of Appeal at the instance of a defendant or the AttorneyGeneral against any judgment or order (including an order to remit a case or matter to an inferior court with or without directions) passed or made by the Supreme Court in exercise of its jurisdiction under section 17 of the Supreme Court Ordinance.

(2) The Court of Appeal may reverse or vary the judgment or order of the Supreme Court or pass or make such other judgment or order as may be just."

Further amendments to the Court of Appeal Ordinance.

10. The Court of Appeal Ordinance is further amended as follows-

(a) in section 9 by deleting from subsection (1)(b) the words-

"or on any ground which appears to the Court of Appeal to be a sufficient ground of appeal; and"

and substituting-

"or with the leave of the Court of Appeal on any other ground which appears to that court to be a sufficient ground of appeal; and",

(b) in section 11-

(i) in subsection (1), be deleting the words "or of application for leave to appeal, as the case may be,";

(ii) by deleting subsection (2) and substituting the following-

"(2) Where an appeal lies only with leave or on a certificate that the case is a fit case for appeal, it shall not be necessary to obtain such leave or certificate before giving notice of appeal.";

(c) in section 12 by deleting the words "or of application for leave to appeal" from subsection (1);

(d) in section 13 by deleting the words "or of an application for leave to appeal".

Amendment of the Court of First Instance Ordinance.

11. The Court of First Instance Ordinance is amended –

(a) by repealing paragraph (f) of section 55, and

(b) by inserting after section 55 the following new section –

"Fees to be taken in the court.

55A. The Chief Justice, has and is deemed always to have had, the power by rules to prescribe, vary or abolish the fees to be taken in the court."

Amendment of the Coroner Ordinance.

Administration of Justice (Miscellaneous Provisions) Ordinance, 1988.
[No.35 of 1988.]

12.(1) The Coroner Ordinance is amended by inserting after section 21 the following new section-

"Payment in respect of jury service.

21A. The Chief Justice may make rules to provide for payment of compensation for loss of earnings suffered by a person in consequence of his attendance as a juror at an inquest."

(2) The said Ordinance is further amended by inserting after section 25 the following new section-

"Fees.

26. The Chief Justice has, and is deemed always to have had, the power by rules to prescribe, vary or abolish the fees to be taken by the Coroner for copies of any documents put in evidence at an inquest and for the certification of any such copy as a true copy of the original."

Passed by the Gibraltar House of Assembly on the 29th day of November, 1988.

C. M. COOM,
Clerk to the Assembly.