

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,969 of 27th March, 1997



I ASSENT,

RICHARD LUCE,

GOVERNOR

27th March, 1997



GIBRALTAR

No. 11 of 1997

AN ORDINANCE to amend the Criminal Offences Ordinance.

ENACTED by the Legislature of Gibraltar.

Title.

This Ordinance may be cited as the Criminal Offences (Amendment) Ordinance 1997.

Insertion of new Part.

2. The Criminal Offences Ordinance is amended by the insertion of the following new Part -

“PART XXVI

Intimidation, etc., of witnesses, jurors and others.

283. (1) A person who does to another person -

- (a) an act which intimidates, and is intended to intimidate, that other person;
- (b) knowing or believing that the other person is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence; and
- (c) intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with,

commits an offence.

(2) A person who does or threatens to do to another person -

- (a) an act which harms or would harm, and is intended to harm, that other person;
- (b) knowing or believing that the other person, or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence; and
- (c) does or threatens to do the act because of what (within paragraph (b)) he knows or believes,

commits an offence.

(3) A person does an act “to” another person with the intention of intimidating, or (as the case may be) harming, that other person not only where the act is done in the presence of that other and directed at him

directly, but also where the act is done to a third person and is intended, in the circumstances, to intimidate or (as the case may be) harm the person at whom the act is directed.

(4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person's property) and similarly as respect an intimidatory act which consists of threats.

(5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) above need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.

(6) A person guilty of an offence under this section shall be liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine at level 4 on the standard scale or both.

(7) If, in proceedings against a person for an offence under subsection (1) above, it is proved that he did an act falling within paragraph (a) with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c) of that subsection.

(8) If, in proceedings against a person for an offence under subsection (2) above, it is proved that he did or threatened to do an act falling within paragraph (a) within the relevant period with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the motive required by paragraph (c) of that subsection.

(9) In this section -

“investigation into an offence” means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders;

“offence” includes an alleged or suspected offence;

“potential”, in relation to a juror, means a person who has been summoned for jury service at the court at which proceedings for the offence are pending; and

“the relevant period” -

- (a) in relation to a witness or juror in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial;
- (b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation into an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his or any act believed by the accused to be an act of his, assisting in the investigation; and
- (c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation into an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a) above.

(10) For the purpose of the definition of the relevant period in subsection (9) above -

- (a) proceedings for an offence are instituted at the earliest of the following times -
 - (i) when a justice of the peace issues a summons or warrant under section 100 of the Criminal Procedure Ordinance in respect of the offence;
 - (ii) when a person is charged with the offence after being taken into custody without a warrant;
 - (iii) when a bill of indictment is preferred by virtue of section 130(2)(b) of the Criminal Procedure Ordinance;
- (b) proceedings at a trial of an offence are concluded with the occurrence of any of the following, the discontinuance of the prosecution, the discharge of the jury without a finding, the

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acquittal of the accused or the sentencing of or other dealing with the accused for the offence of which he was convicted; and

- (c) proceedings on an appeal are concluded on the determination of the appeal or the abandonment of the appeal.

(11) This section is in addition to, and not in derogation of, any offence subsisting at common law.”.

Passed by the Gibraltar House of Assembly on the 17th day of March, 1997.

D. J. REYES,

Clerk to the Assembly.

