

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,509 of 10th August, 1989.



I ASSENT,
PETER TERRY,
GOVERNOR.

10th August, 1989.



GIBRALTAR

No. 15 of 1989.

AN ACT to amend the Criminal Procedure Act.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Criminal Procedure (Amendment) Act 1989.

New section.

2. The Criminal Procedure Act is amended by inserting after section 171 the following new section –

"Prison sentence partly served and partly suspended.

171. A(1) Where a court passes on an offender a sentence of imprisonment for a term of not less than three months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.

(2) The part of the sentence to be served in prison be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter part unless it is restored under subsection (3); and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.

(3) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then, subject to subsections (4) and (5), the court may restore the part of the sentence held in suspense and order him to serve.

(4) If a court, considering the offender's case with a view to exercising the powers of subsection (3), is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust fully to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.

(5) If an order restoring part of a sentence has been made under subsection (3), no order restoring any further part of it may be made.

(6) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.

(7) In this section "the whole period" of a sentence means the time which the offender would have had to serve in prison if the sentence had been passed without an order under

subsection (1) and he had no remission under section 51 of the Prison Act.

(8) The Governor may by order vary –

(a) the minimum term of imprisonment for the time being specified in subsection (1);

(b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2).

(9) An order made by virtue of subsection 8 (b) may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence."

Passed by the Gibraltar House of Assembly on the 1st day of August, 1989.

C. M. COOM,
Clerk to the Assembly.