

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,788 of 7th JULY, 1994.

I ASSENT,
JOHN CHAPPLE,
GOVERNOR
7th July, 1994.



GIBRALTAR
No. 5 of 1994

AN ACT to amend the Criminal Procedure Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1.(1) This Act may be cited as the Criminal Procedure (Amendment) Act 1994, and shall come into effect on such day as the Governor may, by notice in the Gazette, appoint and different days may be so appointed for different purposes.

(2) Any notice made under sub-section (1) may contain such transitional or other incidental or supplementary provisions in respect of the implementation

Criminal Procedure (Amendment) Act, 1994

of any section as shall appear to the Governor, after consultation with the Chief Justice, to be necessary or expedient.

Amendment to section 138.

2. Section 138 of the Criminal Procedure Act (hereinafter called "the principal Act") is amended by -

- (a) inserting after the figure "138" the figure "(1)";
- (b) inserting after sub-section (1), as now so designated, the following new sub-sections -

"(2) Where it appears to the court that the duration of the trial may exceed four weeks, the court may order that no more than three persons (in this part referred to as "additional jurors") shall be chosen in accordance with the provisions of section 139 in addition to the number of jurors specified in sub-section (1).

(3) The provisions of section 143 shall apply in respect of any person chosen as an additional juror."

Amendment to section 139.

3. Section 139 of the principal Act is amended by inserting after the word "jurors" the words "including the number, if any, of any additional jurors ordered by the court under the provisions of section 138 (2),".

Repeal and replacement of section 140.

4. Section 140 of the principal Act is repealed and replaced with the following section -

"140. On the arraignment of any person on an indictment for any offence, it shall not be lawful for the prosecutor or the defendant to challenge any juror or additional juror except for cause."

Amendment to section 141.

5. Section 141 of the principal Act is amended by inserting after the word "jurors" the words "or additional jurors".

Amendment to section 142.

6. Section 142 of the principal Act is amended by omitting the final fullstop and substituting therefor a colon and the following proviso -

"Provided that if an additional juror or additional jurors shall have been chosen, the court may appoint an additional juror to be a member of the jury, subject to the powers of the court contained in this section, and only when no additional juror is available, shall another person be chosen by lot."

Amendment to section 143.

7. Section 143 of the principal Act is amended -

- (a) by redesignating sub-sections (1) and (2) as (2) and (3) respectively;
- (b) by inserting the following new sub-section (1) -

"(1)Where an additional juror has been chosen or additional jurors have been chosen, such a person shall be treated and have obligations as a juror for the period of the trial up to the time that either -

- (a) he is appointed as a juror by reason of sub-section (2) (a); or
- (b) the jury consider their verdict, at which time the court shall discharge the additional juror or additional jurors in respect of that trial, but the court may require such person to attend the court as an additional juror if the same jury tries another issue.";
- (c) in sub-section (2), as now redesignated, by omitting everything after the words "any

Criminal Procedure (Amendment) Act, 1994

other reason" and substituting therefor the following -

"and either -

(a) an additional juror has been chosen or additional jurors have been chosen, the court shall appoint such person or persons, selected in the order in which additional jurors were chosen as juror in place of a juror who has died or was discharged, or

(b) no additional juror has been chosen or any additional juror chosen has been appointed juror or is not otherwise available to be appointed juror, but, subject to sub-section (3), the number of the members of the jury is not reduced below seven,

(c) the jury shall be considered as being and remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly.";

(d) in sub-section (3), as now redesignated, by omitting the figure "(1)" and substituting therefor the figure "(2) (b)".

Repeal and replacement of section 145.

8. Section 145 of the principal Act is repealed and replaced by the following section -

"145. A juror shall be sworn immediately after he has been chosen."

Passed by the Gibraltar House of Assembly on the 28th day of June, 1994

D. FIGUERAS,

Clerk to the Assembly.