

FIRST SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5330

GIBRALTAR Thursday 23rd July 2026

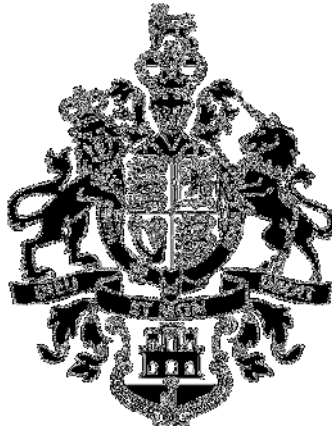


I ASSENT,

LIEUTENANT GENERAL
SIR BEN BATHURST
KCVO CBE

GOVERNOR.

22nd July 2026.



GIBRALTAR

No. 30 of 2026

AN ACT to amend the Prison Act 2011, to amend the Crimes Act 2011 and to amend the Criminal Procedure and Evidence Act 2011.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Criminal Justice (Amendment) Act 2026.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Prison Act 2011.

- 3.(1) The Prison Act 2011 is amended in accordance with this section.

- (2) In section 2(1) after the definition of “prison officer” insert-

““specified offence” means an offence listed in Schedule 3;”.

- (3) In section 51A, after subsection (3) insert-

“(4) Subsection (1) shall not apply to a person-

- (a) serving a sentence of imprisonment or detention for a determinate period exceeding 12 months for a specified offence; and
 - (b) who was aged 18 or over at the time of the offence (see section 54(1)(za)).”.

- (4) In section 51B-

- (a) in the heading, for the “and” substitute a comma; and after “51A” insert “and 54”;
 - (b) in subsection (1)(b) after “section 51A” insert “and section 54”.

- (5) In section 54,

- (a) in subsection (1), before paragraph (a) insert-

“(za) a person serving a sentence of imprisonment or detention for a determinate period exceeding 12 months-

- (i) for a specified offence; and
 - (ii) who was aged 18 or over at the time of the offence,

after such person has served not less than three-quarters of his sentence;”;

- (b) in subsection (1), in paragraph (a) after “4 years” insert “, not falling within paragraph (za)”;

(c) delete subsection (1A);

(d) after subsection (8) insert-

“(9) For the purposes of subsection (1)(za) and section 51A(4), where a person has been sentenced to two or more sentences of imprisonment and at least one of the sentences is for a specified offence, subsection (1)(za) shall apply to that person.”.

(6) For section 55 substitute-

“Determination of sentence.

55. For the purposes of determining whether-

(a) under sections 51A(1) and 54(1)(a) a person has served one half of his sentence; or

(b) under section 54(1)(za), a person has served three-quarters of his sentence, any period spent in custody under an order of a court made in connection with the proceedings for the offence to which the sentence relates is to be treated as if he had served that period as part of the sentence.”.

(7) In section 56, after subsection (1B) insert-

“(1C) Where a person is released on licence under section 54(1)(za), the licence shall, subject to any revocation under section 59, remain in force for the remainder of his sentence.”.

(8) After section 61 insert-

“Consecutive and concurrent terms.

61ZA. For the purposes of section 51A(1) and 54(1), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if-

(a) the sentences were passed on the same occasion; or

(b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.”.

(9) In section 71, for the full stop at the end of paragraph (n) substitute a semi-colon; and insert the following after that paragraph-

“(o) in consultation with the Parole Board, the proceedings of the Parole Board .”.

(10) Renumber section 72 as section “72.(1)” and insert the following subsection after the newly renumbered subsection (1)-

“(2) The Minister may, after consultation with the Leader of the Opposition, make regulations amending Schedule 3.”.

(11) In Schedule 1 paragraph 1-

(a) for subparagraph (1) substitute-

“(1) The Parole Board cannot advise the Minister to release a person serving a sentence for a determinate period on licence unless it is satisfied that it is no longer necessary for the protection of the public that the prisoner be confined.

(1A) The test to be applied by the Parole Board in satisfying itself that it is no longer necessary for the protection of the public that the prisoner should be confined, is whether the risk to the public of a further offence being committed at a time when the prisoner would otherwise be in prison is considered to be more than minimal.”;

(b) in subparagraph (2)(a) delete “unacceptably”;

(c) in subparagraph (2)(b) after “committed” add “taking into consideration the potential benefit, both to the public and the prisoner, of early release back into the community under a degree of supervision which might help rehabilitation and so lessen the risk of re-offending in the future”.

(12) In Schedule 2 for “Care Agency” substitute “probation officer”.

(13) After Schedule 2 insert-

“SCHEDULE 3

SPECIFIED OFFENCES

Section 2

Crimes Act 2011

1. Any offence under any of the following provisions of the Crimes Act 2011-

section 167A (Strangulation or suffocation);

section 213 (Rape);

section 214 (Assault by penetration);

section 215 (Sexual assault);

section 216 (Causing a person to engage in sexual activity without consent);
section 217 (Rape of a child under 13);
section 218 (Assault of a child under 13 by penetration);
section 219 (Sexual assault of a child under 13);
section 220 (Causing or encouraging or assisting a child under 13 to engage in sexual activity);
section 221 (Sexual activity with a child);
section 222 (Causing or encouraging or assisting a child to engage in sexual activity);
section 223 (Engaging in sexual activity in the presence of a child);
section 224 (Causing a child to watch a sexual act);
section 226 (Arranging or facilitating commission of a child sex offence);
section 227 (Meeting a child following sexual grooming etc.);
section 227A (Sexual communication with a child);
section 228 (Abuse of position of trust: Sexual activity with a child);
section 229 (Abuse of position of trust: Causing or encouraging or assisting a child to engage in sexual activity);
section 230 (Abuse of position of trust: Sexual activity in the presence of a child);
section 231 (Abuse of position of trust: Causing a child to watch a sexual act);
section 236 (Sexual activity with a child family member);
section 237 (Encouraging or assisting a child family member to engage in sexual activity);
section 241 (Sexual activity with a person with a mental disorder impeding choice);
section 242 (Causing or encouraging or assisting a person with a mental disorder impeding choice to engage in sexual activity);
section 243 (Engaging in sexual activity in the presence of a person with a mental disorder impeding choice);
section 244 (Causing a person with a mental disorder impeding choice to watch a sexual act);
section 245 (Inducement etc. to procure sexual activity with a person with a mental disorder);
section 246 (Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement etc.);
section 247 (Engaging in sexual activity in the presence, procured by inducement etc., of a person with a mental disorder);
section 248 (Causing a person with a mental disorder to watch a sexual act by inducement, etc.);
section 249 (Care workers: Sexual activity with a person with a mental disorder);
section 250 (Care workers: Causing or encouraging or assisting sexual activity);
section 251 (Care workers: Sexual activity in the presence of a person with a mental disorder);
section 252 (Care workers: Causing a person with a mental disorder to watch a sexual act);
section 256 (Simple possession of indecent photograph of a child);
section 257 (Taking and publishing indecent photographs of children);
section 262 (Paying for sexual services of a child);
section 263 (Causing or encouraging or assisting child prostitution or pornography);
section 264 (Controlling a child prostitute or a child involved in pornography);
section 265 (Arranging or facilitating child prostitution or pornography);
section 266A (Pornographic performances involving children);
section 267 (Causing or encouraging or assisting prostitution or gain);
section 275 (Keeping a brothel);

section 292A (Sending etc. photograph or film of genitals);
section 287 (Administering a substance with intent);
section 288 (Committing an offence with intent to commit a sexual offence);
section 289 (Trespass with intent to commit a sexual offence);
section 290 (Sex with an adult relative: Penetration);
section 291 (Sex with an adult relative: Consenting to penetration);
section 292 (Genital exposure);
section 293 (voyeurism);
section 293A (Voyeurism: additional offences);
section 295 (Intercourse with an animal);
section 296 (Sexual penetration with a corpse);
section 499A (possession of extreme pornographic images).

Imports and Exports Act, 1986

2. Section 14(1)(b) of the Imports and Exports Act, 1986 (Prohibited imports) in relation to indecent or obscene articles), if the prohibited articles included indecent photographs of persons under 16.

Inchoate Offences

3. A reference to an offence in the preceding paragraphs includes-

- (a) a reference to an attempt, conspiracy or encouraging or assisting to commit that offence; and
- (b) a reference to aiding, abetting, counselling or procuring the commission of that offence.”.

Saving and transitional provision.

4. The amendments made to the Prison Act 2011 by this Act apply only to sentences imposed by a court on a person after the commencement of this Act.

Amendment of the Criminal Procedure and Evidence Act 2011.

5. The Criminal Procedure and Evidence Act 2011 is amended by inserting the following section before 693 (and after the heading to Part 30)-

“Restrictions on use of cautions.

692A.(1) This section applies where a person aged 18 or over admits that he has committed an offence.

- (2) If the offence is an offence specified by Order made by the Minister, a police officer may not give the person a caution except-

- (a) in exceptional circumstances relating to the person or offence; and
- (b) with the consent of the Director of Public Prosecutions.
- (3) It is for a police officer not below the rank of Superintendent to determine whether there are exceptional circumstances for the purposes of subsection (2).
- (4) The Minister may issue guidance as to how a determination under subsection (2)(a) is to be made which may include guidance on when and how the views of the victim should be taken into account.
- (5) This section applies whether the offence admitted was committed before or after the time when this section comes into force.”

5A. The Criminal Procedure and Evidence Act 2011 is further amended in accordance with this section.

(1) In section 110(5) after “section 129 (Bail in cases of treason etc.)” insert “, section 129A (Detention following conviction for specified offence)”.

(2) In section 129(4) after “a court in Gibraltar,” insert “the United Kingdom,”.

(3) After section 129 insert-

“Detention following conviction for a specified offence.

129A.(1) This section applies where-

- (a) a person who was aged 18 or over at the time of the offence has been convicted of a specified offence;
- (b) the court adjourns the proceedings before sentence is imposed; and
- (c) the person is not otherwise required to be detained in custody.
- (2) The person must not be granted bail unless the court is satisfied that-
 - (a) there is no real prospect that a sentence of imprisonment or detention (other than a suspended sentence) will be imposed; or
 - (b) there are exceptional circumstances which justify it.
- (3) For the purposes of subsection (2)-
 - (a) the burden of satisfying the court lies on the person convicted;

- (b) the need to put personal, family, employment, business or financial affairs in order does not, of itself, constitute exceptional circumstances.
- (4) Where the court determines that the test in subsection (2)(a) or (b) is satisfied-
 - (a) it must state in open court its reasons for such determination; and
 - (b) it shall determine whether to grant or continue bail in accordance with the other provisions of this Part.
- (5) In this section “specified offence” means
 - (a) an offence under any of sections 217 to 224, 226 to 231, 236, 237, 256, 257, 262, 263, 264, 265 and 266A of the Crimes Act 2011;
 - (b) an offence under any of sections 213 to 216, 241 to 252, 267, 275, 287 to 289, 292, 292A, 293 or 293A of the Crimes Act 2011 where a person under the age of 18 was the victim or subject of the conduct constituting the offence; or
 - (c) an offence under section 14(1)(b) of the Imports and Exports Act, 1986 in relation to prohibited articles which included an indecent photograph of a person under the age of 16.
- (6) A reference to an offence in subsection (5) includes-
 - (a) a reference to an attempt, conspiracy or encouraging or assisting to commit that offence; and
 - (b) a reference to aiding, abetting, counselling or procuring the commission of that offence.
- (7) The Minister may, after consultation with the Leader of the Opposition, make regulations amending the definition of “specified offence” in subsection (5).
- (8) This section applies whether or not an appeal is pending against conviction or sentence.”.”.

Amendment of the Crimes Act 2011.

6. In section 256 of the Crimes Act 2011 (Indecent photographs of children), in subsection (3)(b), for “5 years” substitute “7 years”.

Passed by the Gibraltar Parliament on the 17th day of July 2026.

P A Borge McCarthy,
Clerk to the Parliament.