

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

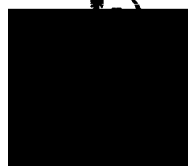
No. 2,580 of 15th NOVEMBER, 1990.

I ASSENT,

ANDREW CARTER,

ACTING GOVERNOR.

15th November. 1990.



GIBRALTAR

No. 41 of 1990.

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) (No. 2) Act, 1990.

New sections 57A, 57B, 57C and 57D.

2. The Criminal Procedure Act is hereby amended by inserting immediately after section 57 the following new sections—

“Duty to surrender.

57A (1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody in accordance with the provisions of this Act.

(2) For the purposes of subsection (1) and sections 57B and 57C, the expression "surrender to custody" means in relation to a person released on bail, surrendering himself in accordance with the requirements of that person's bail into the custody of either

(a) the Police, or

(b) the Court

at the time and place appointed for him so to do when he was granted bail.

Offence of absconding by person released on bail.

57B (1) If a person who has been released on bail in criminal proceedings fails without reasonable cause to surrender to custody, he shall be guilty of an offence.

(2) If a person who—

(a) has been released on bail in criminal proceedings, and

(b) having reasonable cause therefor has failed to surrender to custody, .

fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable, he shall be guilty of an offence.

(3) It shall be for the accused to prove that he had reasonable cause for his failure to surrender to custody or, that having reasonable cause therefore, he surrendered to custody as soon as reasonably practicable.

(4) Subject to sub-section (5) of this section an offence under subsection (1) or (2) shall be punishable either on summary conviction or as if it were a criminal contempt of court.

(5) Where a Magistrates' Court convicts a person of an offence under subsection (1) or (2), such Court may if it thinks—

- (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than such Court has power to inflict, or
- (b) in a case where it commits that person for trial to the Supreme Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) or (2) by the Supreme Court,

commit him in custody or on bail to the Supreme Court for sentence.

(6) A person who is convicted summarily of an offence under subsection (1) or (2) shall be liable—

- (a) if not committed to the Supreme Court for sentence, to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both; and
- (b) is committed for sentence to or is dealt with by the Supreme Court as for such a contempt, to imprisonment for a term not exceeding twelve months or to a fine of £2,000 or to both.

(7) In any proceedings for an offence under subsections (1) or (2)—

- (a) in a case of a person granted bail under section 41, a copy of the record kept under section 42 and certified by a police officer not below the rank of sergeant, or
- (b) in the case of a person granted bail under any other provisions of this Act, a document certified by the appropriate officer of the Court to be a record which relates to the time and place appointed for the person specified in the record to surrender to custody,

shall be deemed to be conclusive evidence of the time and place appointed for that person to surrender to custody.

(8) For the purpose of subsection (7)(b), "the appropriate officer" of the Court is—

- (a) in the case of the Magistrates' Court, the Clerk to the Justices or such other officer as may be authorised by him to act for that purpose;
- (b) in the case of the Supreme Court such officer as may be authorised for that purpose by the Registrar of the Court.

Liability to arrest by absconding or breaking conditions of bail.

57C (1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of the Police fails to surrender to custody at the place and time appointed for him to do so, a police officer may apply to the Magistrates' Court for a warrant for his arrest.

(2) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court fails to surrender to custody at the the place and time appointed for him to do so, such court may issue a warrant for his arrest.

(3) If a person who has been released on bail in criminal proceedings absents himself from a police station or such other place as has been appointed under section 41 after he has surrendered into the custody of the Police and before he is permitted by a police officer not below the rank of sergeant so to do, a police officer may apply to the Magistrates' Court for a warrant for his arrest.

(4) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume hearing of those proceedings, the court may issue a warrant for his arrest: but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by an officer of the Court.

(5) A person who has been released on bail in criminal proceedings and is under a duty to surrender into custody, may be arrested without warrant by a police officer

- (a) if the police officer has reasonable grounds for believing that such person is not likely to surrender to custody;
- (b) if the police officer has reasonable grounds for believing that such person is likely to break any of the conditions of his bail or has reasonable grounds to suspect that such person has broken any of those conditions; or
- (c) in any case where that person is released on bail with one or more surety or sureties, if a surety notifies the police officer in writing that such person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as surety.

(6) A person arrested in pursuance of subsection (5) shall be brought as soon as practicable, and in any event within twentyfour hours after his arrest before the Magistrates' Court, and in reckoning for the purposes of this subsection any period of twenty-four hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(7) A Magistrate before whom a person is brought under subsection (6) may, if of the opinion that the person—

- (a) is not likely to surrender to custody or,
- (b) has broken or is likely to break any conditions of his bail,

remand him in custody or commit him to custody as the case may require or alternatively grant him bail subject to the same or to different conditions, but, if not of that opinion, shall grant him bail subject to the same conditions (if any) as were originally imposed.

Offence of agreeing to indemnify sureties in criminal proceedings.

57D (1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person granted bail, he and that other person shall be guilty of an offence.

(2) An offence under subsection (1) is committed whether the agreement is made before or after the person being indemnified becomes a surety and whether or not he becomes a surety and

whether the agreement contemplates compensation in money or money's worth.

(3) Where a Magistrates' Court convicts a person for an offence under subsection (1) above, the Court may, if it thinks—

- (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than such Court has power to inflict, or
- (b) in a case where it commits that person for trial to the Supreme Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) by the Supreme Court,

commit him in custody or on bail to the Supreme Court for sentence.

(4) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both; or
- (b) on conviction on indictment or if sentenced by the Supreme Court on committal for sentence under subsection (3), to imprisonment for a term not exceeding twelve months or to a fine of £2,000 or to both."

Passed by the Gibraltar House of Assembly on the 8th day of November, 1990.

C. M. COOM,

Clerk to the Assembly.