

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4452 of 5th April, 2018

B. 06/18

BILL

FOR

AN ACT to establish the office of Director of Public Prosecutions under the direction of the Attorney-General and for matters connected thereto.

ENACTED by the Legislature of Gibraltar.

Short title and commencement.

1. This Act may be cited as the Director of Public Prosecutions Act 2018 and comes into operation on the day of publication.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Attorney-General” means the Attorney-General for Gibraltar established under section 59 of the Gibraltar Constitution Order 2006; and

“Director of Public Prosecutions” and “DPP” means the person who holds the office of Director of Public Prosecutions.

Establishment of the office of DPP.

3.(1) There is established the office of Director of Public Prosecutions.

(2) The DPP is responsible to the Attorney-General for the discharge of his duties and functions under this Act.

Appointment.

4.(1) The Government shall in consultation with the Attorney-General appoint a person by notice in the Gazette to hold the office of DPP.

(2) The person must-

- (a) have adequate relevant experience and expertise in criminal law and litigation; and
- (b) be a fit and proper person,

to hold the office of DPP.

(3) An appointment under subsection (1) shall be for such a period, and subject to such terms and conditions, as may be specified in the instrument of appointment.

(4) A person appointed to hold the office of DPP may at any time resign by delivering a letter to that effect to the Government.

(5) The Government may only remove a person from the office of DPP on the following grounds-

- (a) for misbehaviour;
- (b) for neglect of duty;
- (c) for material breach of any term, condition or provision of any applicable contract of employment including any term or condition contained in the instrument of appointment;
- (d) for incapacity;
- (e) for incompetence; or
- (f) if the person becomes bankrupt.

(6) The Government may only suspend a person from the office of DPP pending an investigation or inquiry relating to a ground or grounds under subsection (5).

(7) A person whose appointment to hold the office of DPP has expired may be eligible for re-appointment except where-

- (a) the appointment has been terminated by virtue of subsection (5); or
- (b) the appointment would have expired but for his resignation.

Duties and functions.

5.(1) The DPP shall carry out such functions and exercise such powers as may be bestowed upon him under general or special instructions issued by the Attorney-General pursuant to section 59(3) of the Gibraltar Constitution Order 2006.

(2) Subject to subsection (1), the DPP may do anything that appears to him to be incidental or conducive to the carrying out of his duties.

(3) The DPP shall not exercise any of the powers bestowed on him pursuant to subsection (1) where-

- (a) the Attorney-General exercises those powers himself; or
- (b) the Attorney-General instructs the DPP, in writing, to exercise or not to exercise those powers in a particular manner, in any manner contrary to such instructions.

Consequential amendments.

6. The Government may by regulations make such modifications or adaptations of any enactment as appear to it necessary or expedient in consequence of the provisions of this Act.

EXPLANATORY MEMORANDUM

This Bill establishes the office of Director of Public Prosecutions (DPP).

The DPP shall undertake day to day criminal work bestowed on him by the Attorney-General, but remains subject to any instructions issued by the Attorney-General.

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