

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5298 GIBRALTAR Tuesday 14<sup>th</sup> April 2026

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B. 16/26

## BILL

FOR

AN ACT to amend the Prison Act 2011.

ENACTED by the Legislature of Gibraltar.

### Title.

1. This Act may be cited as the Prison (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 225 (Child sex offences committed by children or young persons);  
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 292A (sending etc. photograph of film or genitals);  
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 decent 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 persons convicted of an offence after the commencement of this Act.

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**EXPLANATORY MEMORANDUM**

This Bill amends the Prison Act so that where a prisoner is serving a sentence of imprisonment of more than 12 months in respect of an offence specified in Schedule 3 (specified sexual offences) that person must serve at least three quarters of the sentence before being eligible for parole.