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MAJOR CHANGES IN CRIMINAL JUSTICE LEGISLATION IMPLEMENTED

The Criminal Procedure and Evidence Act 2011 and the Crimes Act 2011 will come into force as from Friday 23 November 2012. The two Acts will strengthen the powers of the RGP and other law enforcement agencies to combat crime and anti-social behaviour and provide codes of practice for the exercise of those powers.

When the legislation was presented to Parliament in 2011 by the then GSD administration, the changes were stated to represent the single most important reforms in the area of criminal law for decades.

Although some sections of the Criminal Procedure and Evidence Act were brought into force earlier this year, notably the Rehabilitation of Offenders provisions, most of the legislation has not been commenced until now.

The Criminal Procedure and Evidence Act 2011 is a wide ranging piece of legislation. It includes provisions for an investigating officer's power to search a person or a vehicle without first making an arrest, the power to search premises and to seize and retain property found on premises and persons and the procedures to be followed for the detention, treatment and questioning of people in police custody. The Act also imposes obligations on the manner in which records are kept and provides for the tape recording of interviews with suspects in the police station.

The new legislation is applicable not only to police officers but to anyone conducting a criminal investigation, including officers of HM Customs. Any person with a duty of investigating criminal offences or charging offenders is also required to follow the provisions of the codes of practice as far as it is practical and relevant.

The only provision of the Criminal Procedure and Evidence Act which will not be commenced at this stage is section 85 which deals with access to legal advice by detained persons. The commencement of this section depends on a duty solicitor scheme being in place. Government is unable to introduce this now due to an insufficient number of lawyers

putting their names on the duty solicitor list. This meant that it was not feasible to introduce the scheme now. It is nevertheless the Government's intention that a duty solicitor scheme should be introduced. The Government will be considering ways of doing so and will consult on this with the Bar Council. In the meantime, persons who are detained will continue to have the right to obtain legal advice at their own expense.

A second act, the Crimes Act 2011, replaces and modernises existing legislation. It introduces Anti-Social Behaviour Orders (ASBO's) which can be imposed without a conviction and Criminal Ant-Social Behaviour Orders (CRASBOs) which can be imposed as a consequence of a conviction. The Act includes new offences regarding offensive weapons, including new definitions and powers of search to counter the potential for knife crime. It also restricts the sale of knives to persons over 18 years of age.

In addition, the Crimes Act 2011 covers the aggravation of offences regarding drugs on or near schools and new offences and powers relating to public order offences and the prohibition of raves ('botellon'). The new legislation gives greater sentencing powers to the Magistrates Court and it provides greater protection for people who feel that they are being subjected to harassment.

The Crimes Act creates what is commonly known as a "sex offenders' register" and targets 'hate crimes' relating to race or religion. As already announced, the Government will be extending the hate crimes provisions to other areas such as sexual orientation.

The Minister for Justice, Gilbert Licudi, said:

"The two Acts bring about a major change in the criminal justice legislation. New procedures and rights for suspects are introduced as well as new criminal offences. The Acts strengthen the ability of our law enforcement agencies to combat crime.

I would like to thank the Police, Customs, the Courts Service and all those who have been involved in making sure that the necessary training, manuals and procedures have been put in place to meet these new challenges".

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