

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

20TH MARCH, 1998

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Tenth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly on Friday 20th March, 1998, at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

MR SPEAKER:

Before we start I would like to congratulate the Hon Peter Caruana QC, now the Chief Minister of Gibraltar, for having reached the highwater mark in the legal profession. He is now a leading counsel.

In my younger days when I was on the Bench and Mr Caruana appeared before me as an advocate, I could describe three main characteristics. He always came very well prepared. He was incisive and never attempted to mislead or misdirect the Court or to confuse an issue. Judges greatly appreciated his form of pleading. It enabled them to come to correct decisions.

I would also like to express my well wishes to the Hon Joshua Gabay for the safe return of his wife. We were very concerned about her.

Thank you.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th December, 1997, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for the Environment and Health laid on the table the Report and audited accounts of the Gibraltar Heritage Trust for the year ended 31st March 1997.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the following documents:

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 4 and 5 of 1997/98).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 3 of 1997/98).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.05 pm.

Answers to Questions continued.

The House recessed at 6.00 pm.

The House resumed at 6.10 pm.

Answers to Questions continued.

The House recessed at 7.05 pm.

MONDAY 23RD MARCH, 1998

The House resumed at 3.05 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE ROAD TRAFFIC (WINDSCREEN TRANSPARENCY) ORDINANCE 1997

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to create offences in relation to road vehicle windows of a certain opaqueness be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, at Committee Stage it will be necessary to introduce an amendment to alter the date of the title to 1998.

Mr Speaker, for over a decade the situation regarding tinted windows for motor cars has been unsatisfactory. Hon Members must themselves be fully aware of this in their capacity both as drivers and as pedestrians. Concern has, from time to time been expressed not just by the police but also by the general public about the reality that in many instances it is not possible to see the driver through the tinted windows currently in use in many cars in Gibraltar, or to get a view through the windows of these cars as to what lies beyond. The consequent dangers to both pedestrian and other road users are quite obvious apart from the enforcement difficulties that arise as a result of not being able to easily identify the occupants of motor vehicles. The Government have accordingly decided as a matter of policy to control tinted windows by outlawing the degree of opaqueness beyond certain levels. Although the relevant EC directive which is 92/22/EEC does not have to be

transposed in Gibraltar since it deals with single marketing goods, it is in Article 100A directive and therefore we are under no compulsion to transpose the directive, the Government have chosen to be guided by its provisions in order to create certain offences under our Traffic Regulations for persons who drive with these windscreens. In essence, the new Ordinance will create two offences. In the first place it will make it an offence for a vehicle to be driven with windows of a certain opaqueness. Thus windscreens will have to be more than 75% transparent and other windows more than 70% transparent. These are the percentages provided for in the directive and are tested by reference to British Standards Tests. Clause 3(2), that is, Schedule 1 of the Bill sets out how the percentages will be calculated.

Therefore, Mr Speaker, in summary the Bill in effect transposes a directive which we are not obliged to transpose because we, for reasons of policy different to those of the Community, think that this, as a matter of our own policy domestically driven legislation and policy, should be transposed but given that the reasons for doing it are different, the Bill does go further than the directive. For example, although the levels of opaqueness that we outlaw are the same as outlawed by the directive, the directive limits the prohibition, if you like, to certain windows and not others in the car. Generally the directive deals with those windows which are forward of the driver's field of vision but not behind, whereas in this Bill, and this is the extent to which it differs, we are doing this for a very different reason about which the hon Members are aware. We have extended it to all the windows in the car, not just the ones from the driver's seat, that is the two sides, front passenger windows and the front windscreen which is what is covered by the directive. Mr Speaker, the Bill applies only to cars registered in Gibraltar because of the reasons that I have just explained. If the legislation were applied to all vehicles in Gibraltar it would render illegal in Gibraltar the presence of vehicles driven by bona fide European Union visitors to Gibraltar whose car would cease to be legal the moment they left La Linea and entered Gibraltar because they would have cars that comply in respect of the front windows but may very well have cars that did not comply in respect of the rear windows because the rear window is an invention all of our own in terms of policy. Equipment for such tests has been purchased for the Police. It will also be an offence for windows not to be maintained, in the case of vehicles which have been constructed in accordance with Regulation 25 of the Traffic (Construction Equipment and Maintenance) Regulations. The Bill makes provision in Clause 3(3) for

the exclusion of certain windows of ambulances, omnibuses, goods vehicles, et cetera.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, we are in principle in favour of the Bill although the Chief Minister has said that the exemption for the vehicles that come from outside is for any bona fide car from the European Union that might not comply totally and be complying in their country. We have to take into account that there are many cars driven by Spanish workers living in Spain who come in every day, even by Gibraltarians who have residence in Spain and come and drive Spanish-registered cars here. I think that if we are going to apply the legislation, in order for it to be effective it ought to include those cars that come in regularly. I do not know how that is going to be possible but certainly one could have Gibraltarians with cars with opaque glasses registered in Spain, with a Spanish-registered vehicle coming in every day and this Ordinance does not stop that. The other thing I would like to point out is that although this second Bill is a bit clearer than the first one in that it actually reflects what is in the European Union directive rather than refer to the directive per se, it is still a very complicated thing for a layman to understand and it might be a good idea for the Government to issue some guidelines at the MOT Test Centre for people to be able to understand the object or the practicality of the Bill much clearer. It does seem to be rather complicated. The Chief Minister said that the Police had acquired the equipment. Is it that the MOT Test Centre is going to have equipment in order to examine it there and then there are going to be random tests by the Police? Or is it not part of the MOT to fail the vehicle if it does not comply with the necessary opaqueness of the windscreen or the windows. That is all, Mr Speaker.

HON J J BOSSANO:

I just want to make a point in addition to what has been made. In fact, although the mover made a distinction that the reason why we are limiting it to Gibraltar cars is because it goes beyond the directive, in fact, we are exempting non-Gibraltar cars from all of it, including what is in the directive.

HON CHIEF MINISTER:

Yes, if I can start with that point, it follows that that is the case. We do not have to comply with the directive at all, at this stage. The infraction proceedings that have been commenced in order to try and establish that Article 100A - there are hundreds and hundreds of them that we have not with the consent of the Commission transposed because everyone has hitherto thought that Article 100A directives do not apply to Gibraltar - then this matter would have to be revisited. I take the point that the hon Member makes that whereas what we want to do is to exclude from this the bona fide visitor, that by doing it by reference to Gibraltar-registered plate we are excluding also people who are very frequent commuters. I am not sure that Gibraltarians driving Spanish-registered cars is so much the problem because they ought to have import duty problems with that practice. Certainly, if they are resident for income tax purposes in Gibraltar they ought not to be driving Spanish-registered cars in Gibraltar. However, I take his point in relation to the frequent Spanish visitor mainly the commuting worker but we have not been able to formulate any basis on the Gibraltar registration or non-Gibraltar registration because we immediately get into the realm of a bona fide visitor. What is a bona fide visitor? And the whole thing would become unpoliceable but I do recognise that it does mean that some people whom we would have liked to prevent are not prevented. That is absolutely true. This Bill is not going to be 100 per cent effective in that sense but I have to admit that for the Government it was not clear how that could be done by any other means. The practicality is actually very clear. I know it looks as complicated to the hon Member as it does to me. I know what the Bill says but I could not demonstrate from all the hieroglyphics in the Schedule that it actually says what I am told that it says. But I think it is very clear to those that sell the sticky paper and the window tinting material. It is perfectly clear to them. Basically what it means is that the range of vision which is basically a section of the windscreen and the side windows and the middle section of the back screen has got to let in more than 75 per cent of light in terms of the front and back and 70 per cent of light in terms of the side windows. The reason why the diagram that attaches to the Bill has the band around the outside, leaving only the centre part of the windscreen subject to that rule is because I am sure hon Members will have noticed that cars are manufactured with a sunproof band, normally dark green or something like that, which normally occupies a few inches at the top and sometimes a few inches at the bottom to protect things that are left there behind on the rear passenger seat from the sunlight. I am told that it is quite

straightforward that those that fit cars with these things will know immediately what is permissible and what is not but I accept what the hon Member said. Guidelines should be issued and I will certainly make that recommendation to the Commissioner of Police so that people in layman's terms understand what it is they are allowed to do and what it is that they are not. Nor had I addressed my mind to whether this would form part of the MOT, as far as I am concerned this is part of the law of the land and needs to be complied with. I do not know whether the MOT requirements include anything which is required by the law. If that is so then it may well be that we will have to buy another one of these little pistols that basically is a hand-held gun that you point and it measures the amount of light that has passed, you put something behind that reflects back and it just shows a reading. It may be necessary to buy the equipment for the MOT as well if as the hon Member is really insinuating this would also be a reason for failing the MOT. Obviously the MOT Centre has got to have the means for them to establish that.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third reading of the Bill be taken later today.

Question put. Agreed to.

THE COMPANIES (MERGERS AND DIVISIONS) ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directives 78/855/EEC and 82/891/EEC be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of the Bill is to transpose the 3rd and 6th Company Law directives into Gibraltar law. Both these directives have been outstanding for some time. The directives and therefore the Bill deal essentially with the protection of shareholders in a company on a merger or division of that

company. The circumstances envisaged by the Bill are unlikely to occur frequently in Gibraltar but in order to implement EU obligations properly, this is a necessary addition to our statute book. The Bill, Mr Speaker, deals only with public companies and therefore will have no impact whatsoever on the large number of private incorporated and managed companies in Gibraltar. Section 2 of Clause 2 adds a new section to the Companies Ordinance providing for three cases which may be considered by the Court to take over mergers and divisions. In each case a member or a creditor of the company concerned may apply to the Court for an order to hold a meeting in respect of the proposed scheme. Clause 3 adds a new Schedule 17 to the Companies Ordinance. This provides that the Court will not approve any scheme for re-arrangement of the company unless various conditions have been complied with. Those conditions are, in essence, that the terms of the scheme are published in advance; a director's and an expert's report on the scheme are available; and the accounts are published. Clause 4 provides that the terms of the scheme and any order made by the Court should also be delivered to the Registrar of Companies. Mr Speaker, this Bill is important in transposing a long outstanding directive, but as I mentioned, it is unlikely to have great effect in Gibraltar but what effects it does have is surely entirely beneficial and desirable since it is obviously appropriate that the shareholders of a public company should have information about any merger or division of that company before it takes place. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the view of the Opposition on all Financial Services legislation which imposes and transposes European Union directives is as was stated at the last meeting of this House. For those reasons, Mr Speaker, not to restate them once more, we will not be supporting this Bill through its passage in the House.

HON P C MONTEGRIFFO:

I shall only say two points, one that I repeat the fact that in the Government's view the Opposition's position is shortsighted and fundamentally flawed but more to the point in the context of this debate Mr Speaker, the Opposition Member describes this as a Financial Services Bill and I suppose it is in one respect because companies are used for financial services but, frankly, this is as much a commercial Bill, it is much a Bill that has to do

with general business as opposed to financial services. The Opposition's view extends as far as to say that anything that affects Financial Services that comes from Brussels they will oppose, then potentially that includes virtually everything. It will include health and safety at work, it will include environmental issues and in fact on the way machines are used, but it is a matter entirely for the Opposition. This is not a Financial Services Bill in the context of those Bills that liberalise the financial market which whilst I disagree with the Opposition they might take the view that until we have those rights respected and therefore in practice seen they might wish to block any further transposition. This is a Bill which is a matter of company law generally, a matter of commercial and business law which I would have thought should not fall within the strict confines that the Opposition Members have previously defined as Bills that they are going to object to. Nonetheless, I take further note of the extension of their ban on EU legislation and perhaps I will make no speeches at all when it comes to the second readings in the future.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to move that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

THE COMPANIES (SHARE ALLOTMENT AND CAPITAL MAINTENANCE) ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directives 77/91 and 92/101 on the formation of public limited liability companies and the maintenance and alteration of their capital be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill transposes into the Gibraltar law the provisions of the 2nd Company directive as amended. It has also been outstanding for some time. It deals with the formation of public companies and changes in the capital value of such companies. The purpose of the directive is to ensure transparency in such operations so that shareholders or the prospective shareholders can be fully informed. The Bill as a whole is unlikely to affect Gibraltar since the huge majority of Gibraltar companies are private and the Bill again only relates to public companies but again in the case of public incorporated companies it is surely desirable that there should be transparency in the allotment of shares on formation. I will spare the House, Mr Speaker, any comment on the clauses and their effect. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the position is as stated in the previous Bill, what I would add is that in our view these do impact on the financial services sector. As the Minister has said himself, the extent of this Bill and the previous Bill having any real effect in Gibraltar are very, very limited and to that extent I would not agree that they are basic company or commercial practices. The position is that these new Bills which provide more regulation in certain areas with long pending directives, as indeed the other directives, do not take us any further until the position that we have at the moment has been established. For that reason Mr Speaker we will not be supporting this Bill either.

HON P C MONTEGRIFFO:

Mr Speaker, I repeat my view that I am not entirely sure what position the hon Member speaking requires clarification on before we should lift this moratorium on transposing EU legislation. The position has always been the case that company law applies to Gibraltar, the position of this House has always been that Gibraltar is an integral part of the EU when it comes to the transposition of directives of which this forms part and therefore I really do not see what clarification is sought by the Opposition which has any implication on the transposition of this Bill. Mr Speaker, I did fail to mention that I will be moving a set of minor amendments at Committee Stage. Those amendments have been circulated but I would just like to make clear that the amendments are purely in respect of public companies. There were a couple of typographical amendments that required correction to make sure that was the case.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

THE MOTOR FUEL (COMPOSITION AND CONTENT) ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 85/210/EEC as amended by Council Directives 85/581/EEC and 87/416/EEC for the purpose of regulating the maximum permitted lead and benzene content of motor fuel be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the main purpose of this Bill is to transpose into Gibraltar law the Lead in Petrol directive 85/210 thereby regulating the maximum permitted lead and benzene content of motor fuel. The Bill makes provision in Clause 4 for the method to be used in measuring the content of the fuel and the Schedule deals with the interpretation of the result. Clause 6 requires that the Licensing Authority provided for in the Petroleum Ordinance shall have regard to the need to maintain a balanced distribution for the sale by way of retail of leaded and unleaded petrol. Powers of derogation are given to the Minister under Clause 8, should the situation arise which restricts or prevents supplies of petroleum or crude oil entering Gibraltar. Mr Speaker, at Committee Stage I will introduce a minor amendment of which the House has been given notice. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Yes, Mr Speaker, we support the Bill except to find out whether the equipment that is necessary is available in Gibraltar and which Department it is in Government that is going to do the monitoring. I am not sure that there has been such equipment here before and that such monitoring has taken place. I believe it is a new thing and perhaps the Minister can say the cost of the equipment as well if he has got details on it.

HON P C MONTEGRIFFO:

My understanding is that Gibraltar de facto is complying with the directive already. In our consultations with

the industry the fuels imported into Gibraltar already meet the standards. This is very much a matter driven through simple EU compliance requirements.

HON J C PEREZ:

If the Minister would give way. My understanding of it is that it has been self-regulatory up to now. The legislation provides for the measurement method of the content of the petrol and I presume if it provides for that, it provides for an authority to do it or it would say here that it would be self-regulatory?

HON P C MONTEGRIFFO:

I think the hon Member assumes too much. The law sets out a minimum standard, you would normally expect suppliers to have to maintain that. There is a Licensing Authority which will generally issue regulations in the future with regard to petroleum matters. As hon Members may know the various improvements to the regulations affecting petroleum that have to be introduced but I do not envisage there will be a specific monitoring of these levels by the Licensing Authority. This will be a matter which each supplier will regulate in accordance with the legislation itself.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

THE MERCHANT SHIPPING ORDINANCE (AMENDMENT) ORDINANCE 1998

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping Ordinance in order to make further provision in relation to marine salvage and marine pollution; and for purposes connected therewith be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is essentially to give the force of law in Gibraltar to the 1989 Salvage Convention. This Convention was ratified by the United Kingdom on the 14th July 1996. It has been extended to Gibraltar but is not yet in force internationally. The full text of the Convention is reproduced in its entirety in this Bill and will become Schedule 5 of the Merchant Shipping Ordinance. The rights or liabilities arising out of any salvage operations started before the day on which this legislation comes into force are being safeguarded. Provision is also being made so that in the event of the UK agreeing to any revision of the Convention the Minister with responsibility for transport may make the necessary modifications to Part I and Part II of Schedule 5 by notice in the Gazette. The Convention does not apply to platform and drilling units, warships or other non-commercial vehicles owned or operated by the State. Article 8 of the Convention sets out the duties of the salvor and of the owner and the master whilst Article 9 safeguards the right of the coastal state to protect its coastline particularly from pollution. Article 10 sets the duty to render assistance. Chapter 3 of the Convention deals with the rights of the salvors particularly the conditions for reward and the criteria for fixing the reward. Without affecting the provisions of international law on this subject, Article 16 provides that no remuneration is due from persons whose lives are saved. Chapter 4 deals with the question of claims and actions. Article 23 provides for judicial or arbitral proceedings to be instituted within a period of two years. Article 25 covers the case of state-owned cargoes and in particular those entitled to sovereign immunity under international law, whilst Article 26 covers humanitarian cargoes. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, although we will be supporting the Bill, there are a number of items we would like some clarification on. The first question would be whether we have in fact been consulted in having the Convention extended to Gibraltar by the United Kingdom? There is provision in the Bill that in the event of there being a change to the Convention the Minister with responsibility for Transport may make such modifications of Parts I and II of Schedule 5 of the Merchant Shipping Ordinance. My question being, Mr Speaker, in the event of a change to

the Convention, however unlikely that may be, and which would not particularly suit Gibraltar, would we be able at that stage not to extend that amendment to the Convention or would we be forced to accept it? Another point, Mr Speaker, would be to ask which are the other signatories of the Convention, even though the Convention is not yet in force and it has only been ratified by the UK in 1996, what other countries have signed up to the Convention? And a final question, Mr Speaker, would be to what other Dependent Territories has this been extended? Are there any other Dependent Territories that this has been extended to?

HON CHIEF MINISTER:

Mr Speaker, if I could just deal with the more legalistic of the three questions, which was the first one. I think it follows that if the United Kingdom has extended a Convention to Gibraltar and there is an amendment to that Convention prior to implementation, prior to the Convention coming into force, I think it follows that we would be obliged to implement the Convention as amended. That would be my immediate assessment of the point that the hon Member highlights. I think it is highly unlikely, I think he has some experience in shipping matters. He knows that in this kind of Convention it is very difficult to obtain international agreement on these issues. The principal thing that this Convention does is that it authorises the master of a ship to enter into salvage agreements in an emergency not only with the owner of the ship but indeed the owners of the cargo on the ship, one would have thought that that was a relatively simple matter upon which to obtain international agreement. The position is that this Convention has not yet come into force because insufficient countries have ratified it and therefore this is an area of law in which the chances of there being international agreement on any matter that might be prejudicial to a seafaring jurisdiction like Gibraltar, in terms of our sophistication, or our Admiralty and shipping laws, is highly unlikely. But yet the danger that he highlights I believe, subject to being corrected by the Attorney-General when he has finished pondering the point, is that I am sure that we would be covered by it.

HON J J HOLLIDAY:

I wanted to clarify the point made by the hon Member in respect of the exemption of this agreement to other Dependent Territories. The provisions of this agreement were adopted by the UK, by their Merchant Shipping Act in 1995 and the Convention has been extended to the Falkland Islands, Monserrat, Jersey and the Isle of Man and the UK

is strongly recommending all overseas territories to enact this Convention into their laws.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

THE MEDICAL AND HEALTH (COMPLAINTS PROCEDURE) ORDINANCE

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to provide for the establishment of a complaints procedure for patients or users of the Gibraltar Health Authority and to draw such a procedure to the attention of patients and users to be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government have a manifesto commitment to introduce an effective complaints procedure and indeed the Health Authority at one of its monthly meetings back in August 1996 set up a sub-committee to look into that area and to make recommendations to the Authority on that. Subsequently, during the course of last year, working drafts of that procedure were prepared and discussed at Authority level. Indeed, one of the members of that sub-committee had been working within the Authority at the time that some guidelines had been produced some years ago for the staff to work a complaints process but that complaints process, I think, lapsed and the general consensus within the Authority was that there was a need to review the procedures as they were working.

The intention with this Bill is to create a statute which enables the Minister, or rather obliges the Minister, to give directions to establish a procedure and for the procedure guidelines to be issued subsequently. The working drafts, Mr Speaker, of the procedure itself have gone through several consultative stages. They have been sent to the different representative unions for

discussion and comment. As I mentioned just now the Bill itself is not the procedure, it is an enabling Bill, or rather an obliging Bill. It is in very similar form to the Hospital Complaints Procedure Act 1985 that obliged the Secretary of State for Health in the United Kingdom to give directions for the establishment of that procedure. The current situation is, and I speak from the experience I have acquired over the last couple of years being Health Minister, we had, as I say, that manifesto commitment to introduce a procedure. But that desire and need has been reinforced to me by the experience that I have acquired over the last 24 months to the extent that I feel, when patients come to me, that they come to me as a step of last resort. There is a degree of frustration with the process because I think the process is unclear at the moment. People do not really know where to turn. There is attempts made by the Hospital Administration Officer and by other officers within the Authority to deal with the matter as efficiently as possible and indeed they often do resolve matters but because they do not really know patients, do not really know where to turn to, after that there is a certain lack of clarity which then frustrates the whole process and frustrates the patients themselves and often there is nothing more than a need and a desire of the patients to know what has gone wrong or what is the explanation or what is the communication that they require in relation to a specific treatment or a specific reason for the delay in being surgically treated and so on.

The complaints procedure itself as I indicated as the Bill does not actually set out, the principles of the complaints procedure are, for the assistance of the House I shall give the House a flavour of the key principles that we intend to adopt as part of the complaints procedure. It will involve two principal avenues of complaints for clinical and non-clinical complaints. Each avenue will have different stages, an informal first avenue, where people can report verbally and then a more formal process in writing. There will be different people involved during this process from the member of staff specifically to the Clinical Manager, involving also a specific officer who will be designated as someone who will be responsible to be the patients' friend in that process. Then, of course, in the more clinical aspects to complaints there will be the ability to rope in the Director of Public Health to assist in a separate clinicians review of matters which substantively require that process and with ultimately the matter landing on the desk of the Chief Executive if there is no satisfactory resolution. That will be the end of the internal process but of course we do see the final recourse of the patients, if they are not satisfied with

the whole internal process, to the Ombudsman who will be empowered to act in these matters. That legislation will come before the House at some other stage during this year as indicated by the Chief Minister in his New Year's message. That methodology itself will be relatively simple for the complainant to follow. Initially they need not make the complain in writing, it can be verbally and hopefully we can sort things out with personal meetings. If not, there will be more record in writing taken of the issue and as the process moves along through the different stages, if the Authority is required to take more serious action, then of course, the process will become a bit more formal. The procedure will envisage that in very serious matters there will be an ability to have internal enquiries and for the Chief Executive himself to personally review matters. We will expect, turning my mind now to issues of time limits for example, to be able to deal with complaints almost immediately or within a few days if the complaints relate to fairly simple and straightforward matters that can be addressed, or if they are involving serious matters, not longer certainly at the other end of the scale when dealing with very substantive issues, not longer than 12 to 16 weeks, in the more complicated cases. The procedure itself will also envisage a supervisory body which we call a Complaints Board which will be made up of independent members who will have a general supervisory duty to monitor the workings of the complaints procedure itself. It will not have any investigative powers, as I say, it will only supervise, monitor and receive the statistics to assist us in ensuring that the procedure works and works efficiently.

The intention of the Authority certainly is to review the procedure and review how the procedure is working. The intention is for there to be statistics compiled and submitted both to me, the Ombudsman and the Authority every six months and I would hope after 12 months to take a long hard look at how the procedure has been working and remedy any defects that we come across in the process once it is introduced. By way of time scale I would indicate to the House that we expect some final amendments to the procedure internally as we move towards the final version and we would expect the procedure to be able to be introduced within the next two to three months once the final version has been tinkered with. I should indicate to the House that this is a far more rapid timescale than was adopted by the United Kingdom itself because the Complaints Procedure Act in the United Kingdom was introduced in 1985 but the Secretary of State for Health did not issue guidelines until July 1989 and so I think we are moving rather more expeditiously towards launching a procedure. The Chief Executive is looking at ways and means of making the staff aware of

the procedure that we shall adopt so that we can effectively administer it and to assist in the comprehension publicly of the comprehensive document that I intend to issue. By way of a complaints procedure we also intend to launch an Explanatory Booklet that, hopefully, will make things clearer to patients when they want to use the procedure, the newly-revamped procedure that we intend to produce. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON MISS M I MONTEGRIFFO:

Mr Speaker, it is surprising to the Opposition that the Government should have brought this Bill to the House because under the existing legislation of the Medical (Gibraltar Health Authority) Ordinance 1987, namely section 6(f), it states, "to ensure that all complaints made against the Authority or any employee or contractor of the Authority are properly investigated without delay". Then Section 7(1) on the Powers of the Authority it continues by saying, "subject to the provisions of this or any other Ordinance, the Authority shall have the power to do all things necessary for the carrying out of its duties under this or any other Ordinance". We find it odd that the Minister as Chairman of the Gibraltar Health Authority has decided not to use this avenue open to him. The Gibraltar Health Authority with him as Chairman could very well have decided to implement a complaints procedure. The Minister has referred to the 1985 Act which provides for the Secretary of State to give directions but he does not give it to a Health Authority of which he is the Chairman and we find it quite odd that we could find ourselves in a situation where the Minister could be giving instructions to the Health Authority as Minister and he would be receiving those instructions as Chairman of the Gibraltar Health Authority. The Bill before the House gives powers to the Minister to give instructions to the Gibraltar Health Authority as he sees fit. We do not know as the Minister has said, when the time comes what exactly he will be instructing them to implement and so in the absence of not knowing how the complaints procedure will actually function, the Opposition will abstain on this Bill.

HON K AZOPARDI:

Just very briefly. In the first place we do not consider the power which was embodied in the Medical (Gibraltar Health Authority) Ordinance 1987, was specific enough to deal with this matter. The purpose of this Bill is to reiterate the importance of the complaints procedure to

the Government and certainly to the Authority. The statutory power we do not think was extensive enough or specific enough and certainly if the view was taken by the Opposition Member that the power in the 1987 Ordinance was specific enough, perhaps she should have directed her mind towards the introduction of a more specific complaints procedure when they were in office. But certainly we think that the Bill is important to be introduced. The Secretary of State for Health indeed has general powers to issue directions to Health Authorities in the United Kingdom but the same legal view was taken in the United Kingdom that a specific Bill, the Hospital Complaints Procedure Act 1985 was still required, so on advice, I would have to disagree with the view of the hon Member that this is not a necessary Bill legally. Politically it is an important Bill because patients and representatives of patients are certainly clamouring for a procedure to be enacted, for a procedure to be directed to the Authority so that there is clarity in the process and so that matters can be determined and investigated and so that their frustrating process can be clarified once and for all. The giving of directions is a usual procedure and not something that is strange by any means for the reasons that I have explained. The Opposition Member makes the point that by the directions process the Minister, it is strange she remarks that the Minister would be giving directions to the Authority, that is, himself and one of the Opposition Members muttered that the Minister may disagree as Chairman. Well, I would be a manic schizophrenic if I gave directions to myself with which I disagree. If I did that I would move rapidly from being Minister to Chairman to being sanctioned under the Mental Health Ordinance to a patient and complainant under the Ordinance.

Mr Speaker, this is a matter of patients' right. The Opposition Members are free, of course, to disagree with the enactment of this Bill and are free to vote against it if they so wish but everyone who has come to see me certainly I see the frustration that they have in having the matters clarified. Patient groups are quite clear in their aspiration. The Government support that aspiration. The Government see the need for this procedure and will introduce it as a matter of clarity and accountability for the Authority. We are not scared of introducing this procedure. A lot of the things can be clarified because they are matters which purely arise because of lack of communication and this will be in fulfilment of the manifesto commitment that the Government have which we take rather seriously.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

The House recessed at 5.00 pm.

The House resumed at 5.25 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:

1. The Companies (Mergers and Divisions) Bill 1998;
2. The Companies (Share Allotment and Capital Maintenance) Bill 1998;
3. The Motor Fuel (Composition and Content) Bill 1998;
4. The Road Traffic (Windscreen Transparency) Bill 1998;
5. The Merchant Shipping Ordinance (Amendment) Bill 1998;

6. The Statistical (Carriage of Goods and Passengers by Sea) Bill;
7. The Medical and Health (Complaints Procedure) Bill.

THE COMPANIES (MERGERS AND DIVISIONS) BILL 1998

Clauses 1 to 4 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 4 and the Long Title stood part of the Bill.

THE COMPANIES (SHARE ALLOTMENT AND CAPITAL MAINTENANCE) BILL 1998

Clauses 1 to 11

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 11 stood part of the Bill.

Clause 12

HON P C MONTEGRIFFO:

I have given notice of various amendments, the first of which is in section 12 which is the section that adds a new section 147A before the word "company" in line 1 of sub-section 1 and before the word "company" in sub-section 3, the addition of the word "public" in each of those two sub-sections and then Mr Chairman in the same section 12 but in what will be the new section 147C(1) also before the word "company" add "public", in other words the addition of the word "public" in three different spaces.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clause 12, as amended, stood part of the Bill.

Clauses 13 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clause 13 and the Long Title stood part of the Bill.

THE MOTOR FUEL (COMPOSITION AND CONTENT) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, as I have indicated, in the definition of "Licensing Authority" the reference to section 5(3) should be substituted with a reference to section 5(2).

Clause 2, as amended, was agreed to and stood part of the Bill.

Clauses 3 to 8, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE ROAD TRAFFIC (WINDSCREEN TRANSPARENCY) BILL 1997

Clause 1

HON CHIEF MINISTER:

Mr Chairman, I did indicate that we should amend the date to 1998.

Clause 1, as amended, was agreed to and stood part of the Bill.

Clauses 2 and 3, Schedule 1 and the Long Title were agreed to and stood part of the Bill.

THE MERCHANT SHIPPING ORDINANCE (AMENDMENT) BILL 1998

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

THE STATISTICAL RETURNS (CARRIAGE OF GOODS AND PASSENGERS BY SEA) BILL

Clause 1

HON CHIEF MINISTER:

Mr Chairman, I wonder if you would indulge me and rather than have to raise these points on the occasion that they arise, the Leader of the Opposition will recall that we did not take this Bill at Committee Stage last time because he made a series of observations which I thought were worthy of being looked into. Unfortunately, I have the list of the points and the answers but I would not be able to raise them clause by clause so if perhaps you would just indulge us for a few moments, whilst we have that discussion.

MR CHAIRMAN:

A tete-a-tete, certainly.

HON CHIEF MINISTER:

That is very good of you, Mr Chairman.

The Leader of the Opposition raised six points. His first one was, he asked whether this directive was applicable to Gibraltar at all given that we were outside the Customs Union. The answer to that point is that in the view of the United Kingdom Government, a view shared by our own advisers here, this is not a directive of the sort that would not apply for that reason, that is, an Article 100A directive. It is in fact a directive made under Article 213 and is directed at the Common Maritime Transport Policy as opposed to the Common Customs Union and therefore there is no relevance between this and Common Customs Union as such. It is a common transport policy measure and not a single marketing goods measure.

He then wondered why Gibraltar had a code number in respect of Annex 5 of the directive relating to national registries. In Annex 5 Gibraltar has got the code 0064 and he observed that for the purposes of Annex 4 dealing with maritime coastal areas Gibraltar suddenly ceased to appear there under the United Kingdom, Isle of Man and Channel Islands and thereby suggesting that Gibraltar might not have a maritime coastal area code. I have not

had a satisfactory, or indeed, any response to this point and I believe that the point is well made. It is clear from the fact that Jersey's code for nationality registration purposes which is approved for the purposes of the 1993 Commission Regulation No. 208/93 is the same, in other words the United Kingdom's code is 0061 for both purposes; Isle of Man's code is 0062 for both purposes; Channel Islands code is 0063 for both purposes and since Gibraltar's code is 0064 for nationality of registration of vessels purposes, I think it is logical and safe to assume that it is also our code for maritime coastal area purposes. Whilst I am not in a position to amend the directive which is something that was passed at the time that the Leader of the Opposition was responsible for stewardship of Gibraltar's affairs, I will not ask him how he left that one slip his view but whilst therefore it is too late for me to ensure that the directive was properly drawn up I can and indeed propose to move an amendment to the Bill transposing the directive. The hon Members have it in front of them, I propose to add a new clause 5 to the Bill, under a heading "Maritime Coastal Area Nomenclature" which should read, "For the purposes of the Directive, and especially Annex 4 thereof, the nomenclature to be used for the Maritime Coastal Area shall be the code 0064". It is the best that we can do at this stage to make it clear that when making these returns Gibraltar will expect owners and operators to use our own code 0064 rather than the United Kingdom's code 0061 which is, presumably, what would have to be used in the absence of our own when describing the maritime coastal area. I hope hon Members will recognise that that is the best that can be done at this stage and support the amendment. The third point that he raised was what he perceived as an inconsistency between the statistical variables in Annex 1 and the items mentioned in the Schedule of the Bill and he took the view that there were differences. The explanation that we have had from the United Kingdom on this is that these differences exist also in the United Kingdom legislation and the reason for that is that the annexes in the directive set out the way in which the Member State has got to report the information to the Commission. It does not impose an obligation as to how the Member State obtains the information from the operators. In order to minimise the cost of compliance to ship owners and port operators of this directive the United Kingdom Government decided to seek the information, that the reporting of the information should be on a simplified basis which enabled then, the Department of Transport in the United Kingdom, to glean for itself the information and put it into form that it needed to be reported on. So that, for example, by asking for the Lloyds Register number of the vessel, paragraph 1.3 of the Schedule, the Department of Transport in England was able to obtain the nationality

of registration of the vessel, the kind of vessel and the tonnage of the vessel simply by looking the information up itself in Lloyds Register of Shipping. In other words, the explanation for the hon Member's observation is that the directive does not require the information to be provided by the operator to the Member State in the form set out in the Annex. The Annex sets out the form in which the Member State is required to report onwards to the Commission. The United Kingdom decided to seek the information from the ship owners in a way which minimised compliance costs, realising and fully in the knowledge that there would then be information to be cobbled together by the Member State itself before passing it on to the Commission in the required form. That is the reason why there is not a coincidence between the annexes to the directive and the schedule to the Bill, because whereas the Annex to the directive stipulates the way in which the information has to be provided by the Member State to the Commission, the schedule to the Bill specifies the information in the form that it has to be reported by the owner to the Member State. I am not sure whether I have made myself clear to the Opposition Members.

HON J J BOSSANO:

I am clear with the explanation that he has been given, Mr Chairman, except that one of the things that I pointed out was that there were a number of instances where we were asking for more not for less. If the directive says under 1.3, which he has quoted, that the Member State has to tell the Commission about the vessels using the Port either by listing the dead weight of the vessels or the gross tonnage of the vessels, we are not simplifying the task by requiring that both the gross tonnage and the dead weight should be provided. I can see the logic of the explanation that he has given but it does not fit the facts. It is not a big issue whether we ask ship owners to give us the weight and the tonnage of a vessel, it just struck me that if we were looking at this on the basis of transposition then, logically we looked in the directive to see what was required to be transposed. The explanation that he has given us, in fact what is here is not a reflection of what needs to be transposed, it is a reflection of what the United Kingdom thinks it requires in order to be able to give the Member State the information that they need. In looking at the list of information for example in 1.3 one would have thought that if the Lloyds Register number of the vessel is provided then one would need also the name of the vessel, the type of vessel, the dead weight of the vessel and the gross tonnage of the vessel. If it was one or the other then we could understand that the explanation fits well but it does not seem to be like that.

HON CHIEF MINISTER:

Well, Mr Chairman, as I say, I am not willing to dedicate the resources to this to go word by word on something which I think the hon Member will agree is not that important. What I have been told is, that all the information that has been sought which is not required by the Annexes to the directive is for one reason or other, and I am not in a position to personally assert each one to the hon Member, to obtain other information which is required but which the legislation does not require the operator to provide. I cannot say in respect of each instance of difference that the hon Member has not tested each difference to see whether that is true and what source it enables one to access, for what information that has not been required to be provided by the owner, and I am sure the hon Member will agree, it is just not important enough to dedicate that degree of resource to.

The other point which the hon Member raised was whether the directive applied at all, given that it appeared to establish thresholds which were below the size of the port of Gibraltar and I have to say that on the first several occasions that I read the directive, I read it in the same way as the hon Member has misread it and indeed we were both misreading it. The directive does not say what the reporting requirement is limited only to ports which either handle one million tons of goods or record more than two hundred thousand passenger movements annually as it appears to say on a first and quick reading. What the directive says in Part 1 of Article 4 is that, "For the purpose of this directive a list of ports, that is to say all ports, not ports of a certain size, coded and classified according to countries and maritime coastal areas shall be drawn up in accordance with the procedure specified in Article 13". The first requirement is to draw up a list of all your ports, regardless of size. Then, in Part 2 it says, "Each Member State shall select from this list any port above the threshold". Let us forget the next paragraph because it deals with the transition period which in any case is passed. The final paragraph then says, "For each port selected..." that is to say for each port selected under the first paragraph 2, "For each port selected bigger than the threshold, detailed data are to be provided in conformity with Annex 8....". Then paragraph 3 says, "For the ports which are not selected from the list, summary data are to be provided to conform with Annex 8 data set in A3". In other words, in respect of the ports above the threshold which one has selected from ones list of all ports, one has to provide the information in conformity with Annex 8 but in respect of all the other ports in the list, that is, the ports that one has not so

selected, there is still a reporting requirement even though the ports are not above the threshold of a slightly different variety, data set A3 and therefore on a proper reading of the directive, it is not true that the directive only applies to ports above the threshold. Ports above the threshold if selected from the list have to have the information in respect of them provided in a certain format and the rest of the ports on the list which one does not select for that treatment including ports below the threshold have still have to have a reporting requirement under the directive. Therefore, Mr Chairman, it is not true to say that the directive only applies to ports above the threshold mentioned in the first part of Article 4.

HON J J BOSSANO:

Mr Chairman, the point that I made and I believe I drew attention to the reference of A3 of Annex 8 at the time in the Second Reading of the Bill, I think the point that I was making was that the information we were providing in the Bill in the House appeared to be greater than what was required under the limited reporting requirement for ports not on the list because as I read A3 the only thing that is required is the gross weight of goods in tons and the number of passengers and nothing else. That is what it says in A3 of Annex 8. What he has read out in fact says, that for ports not on the selected list the only thing we have to do is give the weight of the goods landed which we can get by getting the Abstract of Statistics for any year and we will see, goods landed in Gibraltar so many tons.

HON CHIEF MINISTER:

Yes, Mr Chairman, that may be true, the Bill could limit the transposition of the directive to whatever regime applies to ports the size of Gibraltar's and, indeed, we could do that and it may be possible to find just a few words to put in Clause 3 of the Bill to say, "In accordance with Article..... the Minister shall require.....", it would then be necessary of course to make it clear that the Schedule was subject to that. It could say that, "The Minister shall require if satisfied that the port handles more than one million tons of goods or records more than two hundred thousand passenger movements annually, the information required in the Schedule otherwise he shall only require the information in accordance with Part A3 of Annex 8 of the directive". We could add that if the Member will sleep more comfortably at night.

HON J J BOSSANO:

I know that he is constantly trying to send me to sleep, he does it in all the Bills. The point that I was making is that having looked at the original Bill it seemed to me that a lot of work had been done into making provisions in the laws of Gibraltar for obtaining information to make returns which were not required. We have done it and it is there and in fact if the Chief Minister will remember when I raised it in the Committee Stage he pointed out that it said "may" and therefore we do not have to do it. I know that but we might as well also save ourselves having to put it all down and print it and legislate it when we are not going to do it anyway and it seems to me from the explanation that he has given us that really what has happened is that people perhaps have followed fairly closely the transposition into the UK without really working out that in our case nine-tenths of it was not really applicable and perhaps only one-tenth was. That is the whole point.

HON CHIEF MINISTER:

Mr Chairman, I think it is almost unquestionable that that is what has happened. As the Leader of the Opposition himself has now mentioned the Minister for Tourism and Transport is most unlikely to choose to require information beyond that which he is required to report on. So we can do it two ways, we can either trust the common sense of the Minister for Tourism and Transport in the administration of this Bill or if hon Members are lacking sufficient confidence in that we can always amend the Bill. Could I urge them to leave it to the good sense of the Minister in question? But I entirely agree that if this legislation had been drafted starting here with a clean sheet of paper and not basing themselves on the UK, it is unlikely that it would have been done in this way. I accept that point.

Clause 1 was agreed to and stood part of the Bill.

Clauses 2 to 4 were agreed to and stood part of the Bill.

New Clause 5

HON CHIEF MINISTER:

Mr Chairman, I move to add a new heading, Maritime Coastal Area Nomenclature, and then the addition of a substantive new clause under clause 5 of the Bill with the following text: "For the purposes of the Directive and especially Annex IV thereof, the nomenclature to be used for the Maritime Coastal Area shall be the code '0064'".

New Clause 5 was agreed to and stood part of the Bill.

The Schedule and Long Title were agreed to and stood part of the Bill.

THE MEDICAL AND HEALTH (COMPLAINTS PROCEDURE) BILL

Clauses 1 to 5 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 5 and the Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that:

The Companies (Mergers and Divisions) Bill 1998;
The Companies (Share Allotment and Capital
Maintenance) Bill 1998;
The Motor Fuel (Composition and Content) Bill 1998;
The Road Traffic (Windscreen Transparency) Bill
1998;
The Merchant Shipping Ordinance (Amendment) Bill
1998;
The Statistical Returns (Carriage of Goods and
Passengers by Sea) Bill; and
The Medical and Health (Complaints Procedure) Bill,

have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Motor Fuel (Composition and Content) Bill 1998; the Road Traffic (Windscreen Transparency) Bill 1998; the Merchant Shipping Ordinance (Amendment) Bill 1998; the Statistical Returns (Carriage of Goods and Passengers by Sea) Bill, were agreed to and read a third time and passed.

The Companies (Mergers and Divisions) Bill 1998 and the Companies (Share Allotment and Capital Maintenance) Bill 1998.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bills were read a third time and passed.

The Medical and Health (Complaints Procedure) Bill.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn sine die.

Question put. Agreed to.

The adjournment of the House was taken at 6.10 pm on Monday 23rd March, 1998.