



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.06 p.m. – 4.40 p.m.

Gibraltar, Thursday, 30th March 2017

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The Gibraltar Parliament

The Parliament met at 3.06 p.m.

[MR SPEAKER: Hon. A J Canepa GMH OBE *in the Chair*]

[CLERK TO THE PARLIAMENT: P E Martinez Esq *in attendance*]

Questions for Oral Answer

CHIEF MINISTER

Q306 and 307/2017

Housing Works Agency –

Future role and manning levels; Early retirement and exit packages

Clerk: Meeting of Parliament, Thursday, 30th March 2017.

We continue with answers to Oral Questions. We commence with Question 306. The questioner is the Hon. Roy Clinton on behalf of the Hon. E J Reyes.

5

Hon. R M Clinton: Mr Speaker, can the Government provide details of its intentions for the future role and manning levels of the Housing Works Agency?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Question 307.

Clerk: Question 307. The Hon. R M Clinton on behalf of the Hon. E J Reyes.

15

Hon. R M Clinton: Mr Speaker, can the Government provide details of any early retirement or exit packages it is offering employees of the Housing Works Agency?

Clerk: Answer, the Hon. the Chief Minister.

20

Hon. Chief Minister: Mr Speaker, a review is currently being undertaken to identify the Housing Works Agency's requirements looking towards determining its future resources, roles, staffing levels and responsibilities.

25

Hon. R M Clinton: Mr Speaker, I thank the Chief Minister for his response. I seem to recall that he made an announcement or pronouncement on I think it was *Viewpoint* about a new exciting maintenance programme for housing estates. Would he care to elaborate on that; and if so, how might that interface with the Housing Works Agency?

30

Hon. Chief Minister: No, Mr Speaker.

Hon. R M Clinton: Mr Speaker, no he does not care to elaborate, or is it no there is no new exciting maintenance project for the housing estates?

Hon. Chief Minister: No, I would not care to elaborate, Mr Speaker.

**Q308 and 309/2017
Eastside reclamation –
Beautification works; Blue Water Project**

35 **Clerk:** Question 308, the Hon. T N Hammond.

Hon. T N Hammond: Mr Speaker, can the Government say what beautification works have taken place in the Eastside reclamation since the start of 2012?

40 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Question 309.

45 **Clerk:** Question 309, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government provide an update in respect of the Blue Water Project announced in June 2015; specifically, is it still intended to build a superyacht luxury marina and a five-star hotel?

50 **Clerk:** Answer, the Hon. the Chief Minister.

Hon. Chief Minister: Mr Speaker, since the start of 2012 the Eastside reclamation has seen many changes. It was a plot of 78,500 m² when we took over; it is now a plot of 95,000 m². We grew it in part by pushing a lot of the rubble mountain into the sea and adding an additional revetment. That served to level part of the plot out for a time.

The position in respect of the Blue Water Project remains as set out already repeatedly each month to the hon. Gentleman.

60 **Hon. T N Hammond:** Mr Speaker, I thank the Chief Minister for his response and note that clearly the reclamation area has been expanded in terms of square metreage, but the question was what beautification works have taken place – I wonder if he could elaborate on whether any actual beautification of the area has taken place since 2012.

65 **Hon. Chief Minister:** Well, Mr Speaker, I would swear I have seen some candytuft there. (**A Member:** Yes, good.)

The answer I gave set out to the hon. Gentleman the fact that what was at one stage a higher mountain was flattened out, and in that respect I think we changed the aspect of it. Beauty, however, remains a matter that is in the eye of the beholder. I think every time Mr Bossano passes it and sees the opportunities for further expansion of plot and reclamations elsewhere in Gibraltar using the builders rubble, he sees something quite beautiful to behold. Others of us might think that if we are not careful and candytuft takes hold there, then the Hon. the Minister for the Environment is never going to allow us to flatten the plot again.

75 So the hon. Gentleman has seen what we have done in respect of the plot. Part of what we intended was to see how quickly we could flatten that plot. We flattened part of it for a while.

The builders' rubble has built up again. The builders' rubble is actually an asset in the hands of the Government because it does lead to potential reclamation, so he will see some movement in respect of that plot both in relation to the reclamation and material that is there in the future.

Q310/2017
Coaling Island –
Update re reclamation project

Clerk: Question 310, the Hon. R M Clinton.

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Hon. R M Clinton: Mr Speaker, can the Government provide an update in respect of the Coaling Island major reclamation project referred to by the Chief Minister in his 2016 Budget speech, and can he also advise if this is to be purely residential, industrial or commercial in nature?

85

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, no, sir. Negotiations on finalising this project are currently ongoing. The Government will make a public announcement on this when these negotiations have been concluded.

90

Hon. R M Clinton: Mr Speaker, I am grateful to the Chief Minister for his answer, but is he able to provide any specific answer in respect of whether it is anticipated the project would be residential, industrial or commercial in nature in terms of what will be built on it?

95

Hon. Chief Minister: Well, Mr Speaker, I do not envisage it is going to include any industrial activity being located on that site, but there may be some element of work done there which is not industrial. There is an industrial facility there at the moment in respect of yacht repair, but I do not envisage any industrial activity on such a plot.

Q311/2017
Private property developments –
Waiver of import duty

Clerk: Question 311, the Hon. R M Clinton.

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Hon. R M Clinton: Mr Speaker, can the Government advise if it has waived import duty in respect of the construction, fitting out of and equipping any private property developments; and if so, for which?

105

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, yes, but without a relevant time period designated in the question it is, however, impossible to provide any further detail in answer to this question.

110

Hon. R M Clinton: Mr Speaker, if I may address you – if I were to table a rephrased question in future, would you allow it if I put in a timeframe? Thank you.

Q312/2017
Universal Credit Scheme –
Rollout to pensioners on low income

Clerk: Question 312, the Hon. R M Clinton.

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Hon. R M Clinton: Mr Speaker, can the Government provide an update in respect of the Universal Credit Scheme rollout to pensioners on low income?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, the Government expects to make a statement in respect of assistance to be provided to private sector pensioners on low incomes in the context of the new financial year.

This class of pensioners has been ignored for many years. This Government has repeatedly met with them and has worked on proposals to assist. We have been the only Government to listen and we are expecting to be able to assist those in need.

Given that this group were ignored by the GSD when they were in Government, it is quite something to see the party opposite do a volte-face in their apparent engagement with this group now. Perhaps they would have the courtesy to explicitly condemn the Government in which the current Leader of the Opposition sat as a Minister, for ignoring these pensioners. They might also congratulate us for having engaged with them.

Hon. R M Clinton: Mr Speaker, may I ask the Chief Minister if it is still the intention that this Universal Credit Scheme would involve the assistance or participation of Community Care?

135

Hon. Chief Minister: Mr Speaker, I think it is fair to say that a full statement will be made of the detail of the provision that will be made for pensioners on low incomes who are in need of further assistance in the context of the new financial year, and that will contain details of who it will be that will be engaging in providing that assistance.

Q313-314 and 318/2017
Occupational pension schemes –
Private sector workers

Clerk: Question 313, the Hon. R M Clinton.

140

Hon. R M Clinton: Mr Speaker, can the Government advise if it is to conduct a consultation on the introduction of compulsory pension schemes in the private sector?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Questions 314 and 318.

Clerk: Question 314, the Hon. D A Feetham.

150

Hon. D A Feetham: Mr Speaker, does the Government intend to introduce legislation making occupational pension schemes compulsory in the private sector?

155 **Clerk:** Question 318, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: What is the Government's policy in relation to private sector workers' pensions?

160 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I am surprised to receive two almost identical questions from the Leader of the Opposition and the Deputy Leader of the Opposition. It is almost as if they are not talking to each other.

165 Mr Speaker, our policy in relation to pensions in the private sector is set out in our manifesto at page 51 and provides as follows:

PENSIONS FOR THE PRIVATE SECTOR Pensions will be introduced for employees in the private sector. This will not, however, be done without a thorough consultation with the business representative organisations, namely the Chamber of Commerce and the Federation of Small Businesses and the relevant trade unions, in particular Unite the Union which has led on this policy area. We acknowledge that there are some sectors which have a very high turnover of staff, for which pensions may not be appropriate for their workers. We also acknowledge that this is an additional cost to business, which many small businesses may not be able to bear and which we have to ensure is ameliorated in order to keep Gibraltar attractive as a place to do international business. Working together with all sectors, we believe we can get the balance right.

Mr Speaker, as I told the House in my Budget address of last year at paragraph 325 under the heading 'Pensions in the Private Sector', I said this:

We have commenced the process of consultation with Unite the Union and the Federation of Small Businesses and the Chamber of Commerce in respect of the potential introduction in Gibraltar of pensions in the private sector. Given the BREXIT decision, we will not be progressing this process in this financial year whilst we observe the effects on the economy of the result of the vote of the British people.

170 Mr Speaker, Mr Clinton's question was therefore unnecessary, unless he was not listening to my Budget address; Ms Hassan Nahon's question was therefore unnecessary, unless she had not read our manifesto, although I do note that she did not have responsibility for those matters at the time of the election when she was in the other party; and Mr Feetham's question was obviously entirely unnecessary, unless he is not aware that Government can only implement such a policy by compulsion by legislation.

175

Hon. R M Clinton: Mr Speaker, I am grateful for the Chief Minister's reading of the GSLP manifesto, which sounds sweeter in his voice than in mine.

180 Yes, I have read the Chief Minister's Budget address and the manifesto. My question was really ... and you did state quite clearly in your Budget address that you would effectively suspend the process due to Brexit. My question was aimed at are you going to now conduct this consultation, given the time period that has elapsed. So, to perhaps clarify my question, my question to the Chief Minister is: are you now going to continue with that consultation process, and if so ... have you or have you not recommenced that process?

185 **Hon. Chief Minister:** Well, Mr Speaker, his question does require a lot of clarification, because if you read his question you do not see that it is about recommencing any process. His question is 'Can the Government advise if it is to conduct a consultation on the introduction of the compulsory schemes in the private sector?'

190 He says he has read my speech – at least that is what I thought I heard him say from a sedentary position – well, he obviously also heard my speech, because he was here in this House to hear it. He says he enjoys hearing me read him the GSLP manifesto. Well, Mr Speaker, I commend to him the fact that we have our manifestos available for those who might not be able to read on ... we had it on our website, but you can even get your iPad to read it to you, given

195 the technology these days. He may then find that if he listens to it often enough the policies might commend themselves to him in a more favourable way.

Mr Speaker, we conducted a consultation. We will go back to the process of continuing that consultation during the course of the financial year that starts on 1st April, because the effects on the economy that we have observed do not suggest that we should not continue to pursue this important policy area, which I hasten to add was only a policy defended by the parties
200 represented on this side of the House at the last General Election.

Hon. Ms M D Hassan Nahon: Mr Speaker, if I may, I am grateful to the Chief Minister for his information.

I just want to say that, to be perfectly clear, my argument or my question does not stem from actually the merits of the pension itself. It stems from the fact that I have met with the Pensioners Association a few times and I have attended meetings, and they are deeply aggrieved and let down because they claim, a body of at least a hundred people, that they were going to be dealt with much sooner and in a much more personal way. They claim that they also have been trying to reach the Chief Minister and have not managed to meet with him until they have
210 meetings, when they are promised something on the eve of the meeting and then they do not hear from them again for nine months.

So perhaps there are merits – and I would not doubt it, especially in this economic climate – but the problem I have is that they seem very, very let down and they feel like they are being passed around like a football with no clarity at all. So this is what I would ask the Chief Minister
215 to address.

Hon. Chief Minister: Well, Mr Speaker, the hon. Lady raises a more human problem than just the issue of policy. If I may say so to her, we interpreted her question to be about pensions in the private sector, i.e. for people who are working now. So I apologise to her if I have answered
220 her in respect of that policy proposal and not in respect of those who are currently pensioners already, who do not have the benefit of a private sector pension income.

In that respect, if I may say so with respect to the hon. Lady, she does have to factor in – as I think she generously has in the way that she has postulated her question, but far too early on for it to sting by the time that she sat down – that these are difficult times. There are only 24 hours
225 in a day and there is a lot to do in the context of the international issues facing Gibraltar, and it is not just the Private Sector Pensioners Association that is having difficulty getting the Chief Minister's time; it is the Chief Minister himself who sometimes has difficulty finding time to do some of the most basic necessities, not that those necessities are necessarily interfered with because I do, sometimes, some of my best reading as I am doing some of my most basic
230 necessities, but let us ... A bit too much detail there. And then they say we are not transparent, Mr Speaker! But if I may put it this way, Mr Speaker, we have ... In the question I answered earlier I did say to the House that we were the – *(Interjection and laughter)* Don't tempt me, I'll just keep talking about the same *(Laughter)*

Mr Speaker, what I said before was that *(Interjections and laughter)* we have met with that association more than anybody has. We have committed ourselves to deliver something to pensioners who are in need. We have not been able to do so yet, that is absolutely true. They wish we had done so already. We wish we had done so already. Nobody else gave them the time of day before 2011. We have given them the time of day, we have given them the time to understand their issues and we have not yet been able to deliver in respect of those who most
240 need us to deliver in that sector. But we will, and what we are trying to do is deliver in this financial year. We said we would ensure we finished all of our considerations before the end of this financial year – I believe we have, and therefore we will deliver to them.

What I would just say to those pensioners who the hon. Lady brings to my attention is that many of them are very good friends of mine, from the time that we have been dealing with this
245 issue and from before. They are not far from our thoughts, but it is very difficult because there

are just 24 hours in a day and there is a lot to be done at the moment to determine what is a greater priority than dealing with the future international issues affecting Gibraltar today, but we are going to deal with them and deliver for those most in need. And then I think I should also seek to indulge their generosity, because I know they are people who by dint of their age have lived through some of the challenges Gibraltar has already surmounted that we are at such a stage of challenge that getting time with me and with other Ministers who are relevant is slightly harder than any of us might wish it to be – for them, for family and everything else – because of this moment in our history.

But we are on it. We will deliver on our promise to ensure that those most in need have additional resources available to them. They are far from forgotten – and look, it may be that we have not had the chance to sit down and give them the warmth that they not just obviously crave, given what the hon. Lady has said, but they deserve because they are people who have worked in our economy for many years and I am always very keen to recognise that the Gibraltar that I lead today is the Gibraltar built on the backs of those who have worked in our economy for years. So they will have an opportunity to meet with us and they will have an opportunity to see what we are proposing will be what delivers for those most in need and they are far from forgotten. I thank her for raising the human aspect of this rather than the policy aspect of this, which is what I dealt with in the context of my answer.

Hon. Ms M D Hassan Nahon: Mr Speaker, I thank the Chief Minister for his very detailed answer. Could I commit the Chief Minister to a timeline for when this Association will have their attention and their commitment?

Hon. Chief Minister: They have had our commitment, Mr Speaker; they have had our attention. The implementation of the work that we are going to do, which I think is what she wants to see me committed to, is something that will be envisaged as from the beginning of the new financial year. The new financial year starts over this weekend. I think we will be in a position to make announcements in respect of this new financial year when we usually do, which is in the context of the Budget – but I am not going to say ‘in the Budget’, I am going to say ‘in the context of the Budget’, because as she has heard me say before, this may not be something that the Government becomes involved in, for reasons that I would rather not ventilate across the floor of the House.

Hon. D A Feetham: Mr Speaker, may I drill down in relation to Government policy on the consultation side. Is it the case that the Government is still committed in principle to the introduction of this piece of legislation – occupational pension schemes – and that the consultation exercise may concentrate on the mechanics and, for example, the scope? Just to give the Hon. the Chief Minister an example, perhaps extending it to larger companies exempting smaller companies, or is it all in the air? In other words, is it also in the air that the Government might in fact take the view that it will not introduce any kind of legislation in relation to occupational pension schemes across the board?

Hon. Chief Minister: Mr Speaker, page 51 of the GSLP manifesto for the election provides all of the answers that the hon. Gentleman needs. I will read him again the paragraph I read a few moments ago – Mr Clinton might quite enjoy it:

PENSIONS FOR THE PRIVATE SECTOR Pensions will be introduced for employees in the private sector. This will not, however, be done without a thorough consultation with the business representative organisations, namely the Chamber of Commerce and the Federation of Small Businesses and the relevant trade unions, in particular Unite the Union which has led on this policy area. We acknowledge that there are some sectors which have a very high turnover of staff, for which pensions may not be appropriate for their workers. We also acknowledge that this is an additional cost to business, which many small businesses may not be able to bear and which we may

have to ensure is ameliorated in order to keep Gibraltar attractive as a place to do international business. Working together with all sectors, we believe we can get the balance right.

Mr Speaker, that covers all of the issues that the hon. Gentleman has asked me in his supplementary.

295 **Hon. D A Feetham:** Mr Speaker, unfortunately the way that the hon. Gentleman chooses to answer questions and the acerbic nature in which he responds then leaves us both to enter into what the Hon. the Speaker of the House calls a debate, and I have no wish to do so.

300 The position then – and this is the reason why I have asked the question – is that there is no change from the position as expressed in the GSLP manifesto in 2015, because of course my understanding is that that commitment and that wide commitment in the way that the hon. Gentleman has just now read it, has in fact been superseded by the Brexit vote and that therefore the Government’s thinking may have changed. But if the answer is actually the Government’s thinking has not changed, because it is exactly the same consultation as we would have undertaken in any event because we won the election, it was a manifesto commitment, well, so be it, but I was just simply trying to drill down as to how the policy has changed as a consequence of the Brexit referendum. But it appears, from what he is saying to me, is that really it has not changed, because it was always envisaged that there would be a consultation exercise and that consultation exercise is going to be on everything ... principle ... as the hon. Gentleman has just read in the manifesto, which I am not going to repeat.

310 **Hon. Chief Minister:** Well, Mr Speaker, the hon. Gentleman seems not to read the questions that his newly elevated Deputy files and does not seem to listen to the supplementaries that his newly elevated Deputy puts, because the Hon. Mr Clinton has just asked me, ‘So what’s going to happen – are you going to continue with the policy, or not?’ and I said to him, I said to the House, we were going to observe the effects, we have observed the effects, we are going to continue next year with the consultation and implementation. So, asked and answered, Mr Speaker.

Mr Speaker: Next question.

Q315 and 316/2017

Tax rebates –

Entitlement, overall value and number of payments

320 **Clerk:** Question 315, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many individuals or entities are currently entitled to tax rebates, and what is the overall value of rebates due?

325 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Question 316.

330 **Clerk:** Question 316, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many tax rebates have been paid out to individuals and entities entitled to the same since 1st April 2016?

Clerk: Answer, the Hon. the Chief Minister.

335 **Chief Minister (Hon. F R Picardo):** Mr Speaker, as the hon. Member has not provided a date on his question seeking overall rebates due. It is not possible to answer his question accurately where the only parameter of time is 'currently'. In the past he has rightly asked for the figures as at 31st March, a figure which is obviously not yet available for this year.

340 Since 31st March 2016, which is the parameter in respect of Question 316/2017, the total value of rebates paid in this financial year amounts to £9,635,381.54 paid to 10,399 individuals and 65 entities.

Hon. D A Feetham: Mr Speaker, in relation to Question 315, in the absence of a specific date it is the latest date that is available to the Government. Does he have the figure therefore the latest date available to the Government?

Hon. Chief Minister: No, Mr Speaker, it is not, in the absence of a date in a question, that it is the latest date available to the Government. Questions are for a particular date; they are not simply to be assumed to be the latest figure available to the Government, because even the latest figure available to the Government is something that moves all of the time. The latest figure available when I receive a question, the latest figure available when I deliver an answer to a question. That is why most questioners in any Parliament will know to give a date for when they are asking for a particular set of information. And it is something that he has done in the past. Last time he asked this question he asked as at 31st March 2016. Well, the next 31st March is coming up now and he can ask about the information as at 31st March 2017. He can ask for it broken down by quarters – he may want to ask every quarter about it – but if he says 'currently' ... Well, Mr Speaker, 'currently' means something in his head when he writes a question, something else to somebody who is preparing an answer and something else when I stand up in this House and I answer.

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Mr Speaker: Rather than have a debate on the matter, could I just suggest to the Hon. the Leader of the Opposition that he puts in a question for the next meeting and I will have no problem in allowing it, and then I think we can get on with business.

365 **Hon. D A Feetham:** Mr Speaker, of course I have no wish to raise temperatures, but if I ask how many individuals or entities are currently entitled to tax rebates it means now, and the reasonable thing for the Government to do is to provide me with the most recent figures, because I am asking about now.

370 But of course I will, Mr Speaker, (*Interjection by Mr Speaker*) ask the question next time round, and then I will just simply add a particular date if that is what the Chief Minister wants me to do.

Hon. Chief Minister: Mr Speaker, because 'now' is the same as 'currently', and now is one thing when he files the question, another thing when we are answering the question and quite another when I am answering. Whilst if we have a particular date, then I can confirm to the House the accuracy of the figure that is provided, because if then there is a discrepancy in the figure he comes back and tells me that I have got it wrong. So I very much welcome Mr Speaker's suggestion that a question is put with a particular date. It would then be able to be provided with information which is accurate.

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Mr Speaker: Before the next question is called, I would like to draw the attention of hon. Members to 'Rules governing right to ask questions', 17(3):

a question must not publish any name or statement not strictly necessary to make the question intelligible;

385 Arising from that, could I therefore ask both the Leader of the Opposition and the Chief Minister, who is answering the next question, not to name any person in the course of supplementaries.

The Hon. the Leader of the Opposition.

Q317/2016

**Former General Secretary of GGCA –
Assistance to Government**

Clerk: Question 317, the Hon. D A Feetham.

390 **Hon. D A Feetham:** Mr Speaker, of course.
What does the former General Secretary of the GGCA do for the Government?

Clerk: Answer, the Hon. the Chief Minister.

395 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the former General Secretary of the GGCA assists the Central Human Resources Department and the Chief Secretary's Office in matters relating to industrial relations – e.g. historical claims both individual and collective, job descriptions, pensions issues and grievances.

400 **Hon. D A Feetham:** Mr Speaker, is he a consultant for the Government?

Hon. Chief Minister: I do not believe so, Mr Speaker.

405 **Hon. D A Feetham:** Mr Speaker, he certainly describes himself as a consultant for the Government in his LinkedIn profile, and the reason why I ask this question is, of course, because he does not appear in the list of consultants that the Government of Gibraltar publishes.

If he is not a consultant, is he then employed by the Government directly on a fixed-term contract or any other kind of contract, or is he employed by the GDC or any other Government-owned company? Does he have that information?

410 **Hon. Chief Minister:** Mr Speaker, he has a services agreement with the Government of Gibraltar. Frankly, I do not think I am answerable for what somebody may or may not have said in their LinkedIn profile, that is for sure.

415 **Hon. D A Feetham:** Mr Speaker, I am just concerned about the accuracy of information that has been posted and I have asked in the past about consultants working for the Government. Whilst in the past I have also agreed not to ask the Government and push the Government in relation to any consultant whose appointment may be sensitive to Gibraltar plc as a whole, this is not such a case. Therefore, having seen that he does not appear on the list, having seen that he describes himself as a consultant in his LinkedIn profile, and indeed, from the answer that the
420 hon. Gentleman is in fact giving me, that he has got a services agreement, well, a services agreement is perhaps not incommensurate with this particular gentleman being a consultant.

425 Would the hon. Gentleman go back and have a look at this and perhaps clarify whether he is a consultant – and if he is not a consultant, what is he: is he a fixed-term employee of the Government – so that we understand the nature of the obligations of the Government in relation to this individual and the individual to the Government.

Hon. Chief Minister: Well, Mr Speaker, I do not think there is anything to go back to. It is a services agreement with the Government of Gibraltar; it is not a consultancy agreement. He provides services to the Government. Those services are not described as consultancy services; they are services which are provided when required.

If the individual in question has decided that he wants to describe himself as a consultant, well, okay, that is a matter for him, but he is certainly not a consultant as far as the Government is concerned. He is somebody who has a services agreement with the Government. He is a service provider. We have many of them and I do not think anybody could stretch the definition of consultant to include those people who provide services to the Government within that definition.

Hon. D A Feetham: Well, Mr Speaker, unfortunately I disagree. There is a distinction between a contract for the provision of services or a services contract, which is akin to an employment contract, and this is why I am attempting to drill down here – and not in relation to this particular gentleman necessarily, although of course I noted, having seen his LinkedIn profile, that he was not on the list of consultants. It is in relation to perhaps others who may have a contract for the provision of services to the Government that may be akin to a consultancy agreement and do not appear on the Government website in relation to the list of consultants. Because of course it is a matter of interest to the Opposition as to what services are being provided and by whom to the Government in particular areas and whether people are being left out of that particular list.

Hon. Chief Minister: Well, Mr Speaker, I still have to tell the hon. Gentleman that I disagree with him – I disagree with his disagreement with me – because by his attempt to extend the definition of consultancy we should be putting Master Services on the list of consultants to the Government because Master Services has a services agreement with the Government. The hon. Gentleman knows that there is a contract for service and contracts for services, and Master Services has a contract for services and Michael Tampin has a contract for services. Neither of them, Mr Speaker, have a consultancy agreement with the Government of Gibraltar, so neither of them are consultants.

Hon. D A Feetham: Mr Speaker, next time round I will ask a question about individuals and services agreements with the Government.

Hon. Chief Minister: Next time round, Mr Speaker, I will provide the answer to that question. *(Laughter)*

Hon. D A Feetham: I doubt that very much! I have to say!

Hon. Chief Minister: With everything else, however ridiculous the question may be with everything else that is going on in Gibraltar.

Q319 and 320/2017
Registered charities –
Timely filing of accounts; Charities Commissioner

Clerk: Question 319, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: What policy and procedures do Government have in place to ensure that the accounts of registered charities are filed on time?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with
475 Question 320.

Clerk: Question 320, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: What is the role of the Gibraltar Charities Commissioner and to
480 whom is he or she answerable and accountable to?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon F R Picardo): Mr Speaker, charities are registered with the Board of
485 Charity Commissioners for Gibraltar and are answerable to that said board, not to the
Government. The Board of Charity Commissioners for Gibraltar is an independent regulatory
body governed by the Charities Act.

Hon. Ms M D Hassan Nahon: Thank you for that answer.
490 If I had any queries as to why ... For example, if I had written to the Charities Commissioner
and had received no reply, would the Government be able to point me in the right direction as
to whom I should take this up with, or has it got nothing to do with that at all? Or can it
understand perhaps why either a Member of Parliament or a member of the public would want
to have some kind of ability to reach the Charities Commissioner?

495
Hon. Chief Minister: Mr Speaker, for 'Charities Commissioner' read Financial Services
Commissioner in the old nomenclature. These are independent statutory bodies – for example,
the Data Commissioner – and if one of them fails to answer correspondence ... Well, look, I am
the Leader of the House – the House funds these organisations, so of course it would be
500 something I could follow up with them, but it would be very unusual, in my view, to see that
correspondence is not eventually followed up, even if it might not be followed up as quickly as
an hon. Member might like, but I think she should persevere in seeking engagement from the
Charity Commission and from the Gibraltar Charities Commissioner. We are not, in my view, the
port of call with responsibility for the Charity Commissioner to answer correspondence or
505 otherwise.

My advice – and I do not think I am being asked for more than that in the context of the
supplementary – is to seek engagement with the Board of the Charity Commission or to
persevere in correspondence with the Chairman of the Board of the Charity Commission.

510 **Hon. Ms M D Hassan Nahon:** Thank you for that answer; I am grateful. If, for example, I had
bumped into the Charities Commissioner down the street and asked him why he had not
answered my email and he directed me to a civil servant for more information, where would the
Government fit in if the Government says that it has nothing to do with it?

515 **Hon. Chief Minister:** Well, because I think in the architecture of the Board of Charity
Commissioners their day to day is handled by civil servants who are provided almost on
secondment to them for the purposes of that part of their work.

It is a little like Mr Speaker's other role as Mayor, where he is supported in his functions by
civil servants, but when they are with the Mayor's office they are acting independently and for
520 the Mayor's office in the discharge of his functions, which are non-partisan and non-
governmental – they are municipal.

So I would take up the offer of the Charities Commissioner to liaise with those civil servants he may have been directing her to in their capacity as those who are seconded to him for the purposes of the service that he provides, I assume, as Secretary to the Board.

Q321/2017

**Government charitable contributions –
Safeguards to ensure efficient spending**

525 **Clerk:** Question 321, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: What procedures and safeguards does Government have in place for when Government itself makes contributions to charities, to ensure that moneys are spent efficiently and correctly?

530

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Government relies on the Charities Commissioner to oversee the operation of charities.

535

Mr Speaker: Does he reply to the letters? (*Laughter*)

**Suspension of Standing Order 7(1)
to proceed with Government motion and Bills**

Clerk: Suspension of Standing Orders. The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with Government motions and Bills.

Mr Speaker: I put the question in the terms moved by the Chief Minister under Standing Order 7(3) in order to suspend Standing Order 7(1) and enable the House to proceed with a Government motion and Bills. Those in favour? (**Members:** Aye.) Those against? Carried.

**Mayor and Deputy Mayor of Gibraltar –
Mrs Kaiane Lopez GMH
and Mr John Gonçalves MBE, GMD appointed**

545

Clerk: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move the motion standing in my name, which reads as follows:

This House:

Appoints Mrs Kaiane Lopez GMH to be Mayor of Gibraltar, and Mr John Gonçalves MBE, GMD to be her deputy as from Tuesday 4th April 2017.

550 Mr Speaker, I think it is true to say that in the context of Kaiane Aldorino, as she was known, and her trajectory through the Miss World contest, every Gibraltarian will remember where they were when she, Kaiane Aldorino, was crowned Miss World.

555 It was a propulsion of the name of Gibraltar into the consciousness of everybody, the many millions of people who might have been watching the Miss World show, and in Kaiane Aldorino we saw appointed to that position a Gibraltarian who really embodied the best of what Gibraltarians represent. She was not just a young Gibraltarian woman; she was a young Gibraltarian woman who is known for her generosity, who is known for her kindness and who, on the occasion that she won Miss World, managed to do so also because she brought great dancing attributes to the role that she discharged and also great sporting aptitude to the role that she was undertaking while competing in Miss World.

560 That was some time ago now and I think the welcome that Gibraltar gave Kaiane when she returned to Gibraltar – then under the former administration, who flew her to Gibraltar on a private aircraft to ensure that she was here at the time that the celebrations were fixed to go on – I think the welcome was so rapturous that it demonstrated how Gibraltar had taken Miss Gibraltar, who had left the Rock, and Miss World, who came back to the Rock, into our collective heart for the way that she had managed to propel Gibraltar's name around the world.

570 Mr Speaker, when it was proposed in the context of a Cabinet meeting that she might be a fitting person to appoint as Mayor of Gibraltar, there was a unanimous view across the Cabinet table that she represented somebody who young people would be able to associate with and therefore that the mayoralty would be associated not just with distinguished Gibraltarians like yourself, who are now discharging that role, but also with young Gibraltarians of distinction, like Kaiane, who might now assume the role and bring something to it which is different to the things that other mayors have brought.

575 If I may say so with respect to you, because you are here in your role as Speaker but you have also discharged the role of Mayor on two occasions, you have done, of course, a magnificent job in the role and you have brought your own style to the role of Mayor. Every Mayor brings their own style, brings their own aptitude to the role. Every Mayor we have had, I think, without singling anybody out, has done Gibraltar proud in the time that they have been Mayor, and I think appointing a person who is likely younger than other Mayors have been in the past will bring also something which is different to the mayoralty and something that will perhaps ensure that younger people associate themselves with the work of the mayoralty. And that work, Mr Speaker, I think is so hugely important in the context of Gibraltar today, because the mayoralty represents municipal Gibraltar, represents all Gibraltarians – it represents civic Gibraltar in a way that perhaps politicians might not be able to do because politicians represent the people of Gibraltar politically and internationally but we do not represent that civic municipal Gibraltar which is reserved to the mayoralty.

585 So I think that Kaiane Aldorino was absolutely a good proposal as Mayor of Gibraltar. I think she will serve, if the House agrees, with great distinction in the role of Mayor of Gibraltar and that by the time she leaves the role she will have been a great Mayor of Gibraltar and she will have perhaps lit in other young people, and other young women in particular, an understanding of what the civic and municipal role of Mayor is and what involvement in Gibraltar's civic affairs is all about, and perhaps even kindle in some young people a better understanding of the political hierarchy of Gibraltar – something that I think would be a very good thing indeed.

590 Mr Speaker, to appoint somebody as a Deputy to Kaiane who will in future assume the role of Mayor, we are proposing John Gonçalves, a man who has been known not just for his service in the Civil Service – I remember in the old days when I started my career in the law, he had been a man who had served with great distinction in the Supreme Court – but also somebody who has served in the private sector in Gibraltar and who has represented Gibraltar internationally in his role in basketball. He has been one of the members of the board of the International Basketball Federation, one of the movers and shakers of Gibraltar sport, and I hope he is not listening when I describe him as a person who is advanced in years compared to Kaiane. So there is, I think, a

balance also of John's age versus Kaiane's age and he will be able to bring, in support of Kaiane, all of the experience that he has had of representing Gibraltar internationally in the sport of basketball.

605 Mr Speaker, both John and Kaiane are people who have represented Gibraltar already, as I have said, in their respected fields internationally with great distinction. John is well known as 'Mr Basketball' in Gibraltar and he is 'Mr Gibraltar' in basketball internationally, so we thought Miss Gibraltar and Mr Basketball might not make a bad combination for the mayoralty. I think they will bring something different to the mayoralty and I very much look forward to seeing them impress their own style on the mayoralty. I think that they are choices which can be
610 commended to the House and I am sure that all Members of the House will then enjoy the benefit of seeing Kaiane and John discharge their respective functions and will welcome the work that they will do. No doubt they will make us feel welcome in the many civic functions to which Members of this House often find themselves invited at the behest of Mayor and Deputy Mayor.

615 Mr Speaker, it would be remiss of me to sit down without thanking you, and in particular your wife Julie, for the work that you have done when you have once again assumed the mantle of the role of Mayor. Having done so during the course of your political life, you agreed to step in when I asked you to return also to that civic role. I think you have done so much for Gibraltar in the time that you have discharged that function. As Speaker you do so much for us in this
620 House. At the same time as you have been Speaker you have also generously assumed the role of Mayor and you have brought to that role your usual kindness and your gentlemanly self, and I could not think of a better way to have seen Gibraltar represented at a municipal and civic level in the past years than by yourself, and of course by Julie. Although we shall miss you in the robes and with the chain of office, as Speaker you will no doubt continue to be an important feature of
625 all the functions that the Mayor organises, so you are not going to get away from us quite as quickly as you might have wished.

I think the House will want to join me, not just, I hope, by acclamation of appointing Kaiane and John, but also by acclamation thanking you and Julie for the service you have rendered on the second occasion that you have held the distinguished role of Mayor. *(Banging on desks)*

630

Mr Speaker: I now propose a question in the terms of the motion moved by the Hon. the Chief Minister.

The Hon. the Leader of the Opposition.

635 **Hon. D A Feetham:** Mr Speaker, it is convention on these occasions, unless of course there is a particular controversy in relation to the appointment, for the Opposition to support the Government and the Government's judgement in relation to these particular issues. On the last occasion that we were here with a mayorship, unfortunately there was disagreement because of Tony Lombard at the time, but I have no hesitation, on behalf of the Opposition, in supporting
640 the appointment of Kaiane Aldorino and Mr Gonçalves in relation to Deputy Mayor.

The Hon. the Chief Minister is absolutely right: the mayorship has to be, as indeed any other aspect of public and civil life, representative of society. I cannot, on my feet, think about any other Mayor that has been appointed – that has actually been appointed certainly in modern times – who has been less than 50 years old, and therefore the appointment of somebody who
645 is young, somebody who brings a fresh image – with respect to Mr Speaker – to the role of mayor is likely to be beneficial and is likely, in my view, to attract and perhaps engage with young people, which is so difficult in civil life nowadays.

Her achievements, Mr Speaker, are there for everybody to see. Kaiane Aldorino winning Miss World is a moment that everybody will remember, and everybody will probably remember
650 where they were at the time when she was appointed Miss World. I certainly do and it was a magnificent achievement, and therefore it is not only because she is young that this

appointment and this honour is bestowed upon her, but it is also because of her achievements and what she has done in order to bring Gibraltar and place Gibraltar on the map.

655 Mr Speaker, in relation to Mr Gonçalves, I think the Hon. the Chief Minister is also right: Mr Gonçalves is somebody who has done a lot in order to put Gibraltar on the international map as far as basketball is concerned and I have no hesitation, on behalf of the Opposition again, to support the Government in relation to his appointment as Deputy Mayor.

660 All that remains, Mr Speaker, is for me to thank Mr Speaker and his wife Julie, as the Hon. the Chief Minister has done, for their service and for the distinction that he has brought to this particular role. He knows that there was some disagreement at the beginning in relation to the appointment, but I have to say that in relation to the way that the Hon. Mr Speaker has discharged his role as Mayor he has always been exemplary, as far as I am concerned, and I echo the words of the Chief Minister in that regard and I thank Mr Speaker for everything that he has done in that role as Mayor on behalf of Gibraltar. *(Banging on desks)*

665

Mr Speaker: Before I put the question, does any other hon. Member wish to add to the debate? Yes, the Hon. Ms Marlene Hassan Nahon.

670 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I am very happy to see that somebody like Kaiane is going to have the opportunity to be Mayor of Gibraltar.

There has been some controversy which I have seen around in social media, talking about whether it is justified for the winner of an international beauty pageant to take this job, and I have to say that perhaps on the outset, as a woman, my feminine streak would have coldly been minded to go with that. But we have to remember that this appointment does not come as a result directly of winning a beauty contest, it is what it represents, and when Kaiane won Miss World what she showed Gibraltar was so many things – that we could aim high, that we could pitch above our weight and that we could do great things. And as the Leader of the Opposition and the Chief Minister have said, we all remember where we were when Kaiane won and we all remember how it unified us and how elated and proud we all felt, and how we felt that we could aim high, and Kaiane did this for all of us. Since then, she has continued her good work in the charities field and she has always been giving of her time. She is a generous and lovely lady who is always willing to serve the community, and these are exactly the types of people we need to perform these civic roles. So it does not matter whether she won a beauty contest, a chess tournament or the opportunity to train with the NASA space centre; it is what she did for Gibraltar, how she unified us and how she has become a worthy ambassador for Gibraltar. This is why I think she will do her job with distinction and I am grateful for my part in advance that she has taken this task, which as you know is a big ask.

680 I take this opportunity to thank you, and your wife as well, for all the commitment that you have shown, and also of course I endorse the appointment of John Gonçalves as Deputy Mayor – again, another man who has served the community in many capacities and I am sure will perform his duties with distinction.

685 Thank you. *(Banging on desks)*

Mr Speaker: Anybody else before I ask the mover to reply? The Hon. the Chief Minister.

695

Hon. Chief Minister: Thank you, Mr Speaker.

I think it is important to reflect on some of the things that the hon. Lady has said.

I have not detected any of that reference that the hon. Lady has referred to in social media, but if it is there it is right that we should address it in this House.

700 Not only do I remember where I was when Kaiane won Miss World, Mr Speaker, I remember what I did, because I almost broke my ankle! I whooped and I jumped out of the chair I was sitting in at home at Willis's Road. I could not quite believe that Gibraltar had won through all of what appears to be the politics of a competition like that. I think the hon. Lady has reflected it

705 properly: she made us realise that we could win and I think she did that beyond the ambit of a
simple competition like Miss World. We have seen UEFA since then, we have seen FIFA since
then both recognise Gibraltar. All of these things are linked in different ways, and if there is one
thing that I might ungenerously have thought at the time that Kaiane Aldorino won Miss World,
it was that Spain had never won it before Gibraltar had won it. They have won it since and I am
710 very pleased that they did, for them, but Gibraltar took a crown that had not been taken by
those who deny us our own existence.

I think, therefore, that it is absolutely right that we should reflect on that and also on who
Kaiane is today, because Kaiane today is not the girl who won Miss World: she is a mother. She is
a much more mature Gibraltarian woman than she was on the day that she won Miss World, but
715 when she won Miss World, as a very young Gibraltarian woman then, she did a magnificent job
of representing Gibraltar internationally and we were all so proud in that year to see Kaiane
representing Gibraltar as she carried the crown of Miss World. In the past period she not only
has become a Gibraltarian mother, she has also been your Deputy Mayor, so she has been
exposed to the mayoralty and, if I may say so, on occasions you have had a need to ask Kaiane to
720 discharge some of your functions and she has done so with great distinction. I think anybody
who thinks that she might not be up to it has failed to follow the growth that Kaiane has
demonstrated and the work she has already done as Deputy Mayor.

Mr Speaker, I think she is a magnificent representation of what Gibraltarian women can
achieve. She is taking on the mantle of the mayoralty at a time when she has also just had a
magnificent, beautiful child, so it will be onerous for her in that way. Mr Speaker, I think, will
725 recall that when you had taken the mayoralty before, you had young children on that first
occasion. It is not going to be easy. The mayoralty requires functions at times during the day
when one would perhaps prefer to be or be required to be home with the children, so there will
be an element of sacrifice on her part as well, as there is always in public life.

So I think it is right for the hon. Lady to raise these issues which may have been raised in
730 social media, if they have been, and that we should confront them head on and tell those people
who are making those assertions that they are wrong and that we are sure in this House that
Kaiane Aldorino – or Kaiane Lopez, as she is now – will do an excellent job. As the motion sets
out clearly, she is the holder of Gibraltar’s Medallion of Honour, which was bestowed upon her, I
believe, by the former administration – not the Medallion of Distinction but the Medallion of
735 Honour, which is the highest civic honour, short of the Freedom, that this House can bestow –
and so the Mayoralty is, in my view, absolutely appropriately passing into her hands.

Mr Speaker: Before I put the question, may I thank hon. Members – the Chief Minister, the
740 Leader of the Opposition and Miss Hassan Nahon – for their very kind words in respect of myself
and my wife.

May I ask leave of the House also to say, if I may – I should not, but I cannot help it (*Laughter*)
– Kaiane is already an institution. When you speak of Winston, everybody knows it is Churchill.
When you speak of Federico, people know it is García Lorca. When you speak of Kaiane, all
745 Gibraltarians know whom you are speaking of.

All in favour? (**Members:** Aye.) All against? Carried.

Order of the Day

BILLS

FIRST AND SECOND READING

Private Foundations Bill 2017 – First Reading approved

Clerk: Bills, First and Second Reading.

750 A Bill for an Act to permit the establishment of private foundations in Gibraltar, to determine the legal status of such foundations, to restrict the purposes for which such foundations may be used, to regulate the creation, operation and management thereof and to provide for the winding up of any foundation so created and for matters incidental thereto including but not limited to the establishment and conduct of a register of private foundations.

The Hon. the Minister for Commerce.

755 **Minister for Commerce (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to permit the establishment of private foundations in Gibraltar, to determine the legal status of such foundations, to restrict the purposes for which such foundations may be used, to regulate the creation, operation and management thereof and to provide for the winding up of any foundation so created and for matters incidental thereto including but not limited to the establishment and conduct of a register of private foundations be read a first time.

760 **Mr Speaker:** I now put the question, which is that a Bill for an Act to permit the establishment of private foundations in Gibraltar, to determine the legal status of such foundations, to restrict the purposes for which such foundations may be used, to regulate the creation, operation and management thereof and to provide for the winding up of any foundation so created and for matters incidental thereto including but not limited to the establishment and conduct of a register of private foundations be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Private Foundations Bill 2017 – Second Reading approved

Clerk: Private Foundations Act 2017.

770 **Minister for Commerce (Hon. A J Isola):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

In 2012 the Gibraltar Society for Trusts and Estate Practitioners proposed a number of legislative reforms to the Ministry of Financial Services in the area of trusts and family offices. *Inter alia*, these proposals included a recommendation for the introduction of foundations legislation providing for the establishment of private foundations in Gibraltar.

775 The introduction of foundations legislation provides additional choice and flexibility for the fiduciary sector of the financial services industry and its clients whilst allowing Gibraltar to continue to meet international standards through high standards of transparency and compliance. The Ministry resolved in principle that foundations should be introduced and directed STEP to prepare the relevant legislation with the help of the Government law officers.

780

Private foundations have existed in Europe since at least 1926 and were introduced to provide a civil law equivalent to common law trusts. Foundations are structures that can be used in similar circumstances to traditional family trusts, but are familiar to clients and intermediaries with a civil law background. As foundations, unlike trusts, are legal entities, they will, in accordance with Gibraltar's legal tradition, be entered onto a public register which will be administered by the Gibraltar Registry.

The demand for foundations appears to arise primarily from a need for structures that can be used in similar circumstances to traditional family trusts but are familiar to clients and intermediaries with a civil law background, as I mentioned earlier. There is demand for foundations which are domiciled in a well-regulated, co-operative and transparent jurisdiction.

Mr Speaker, I commend the Bill to the House.

Mr Speaker: Before I put the question, does any hon. Member wish – (*Interjection*) I am sorry, Minister, I think this was switched on. I think it will have gone into *Hansard*, though. He may have been off screen, that is all.

Before I put the question, does any Hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Mr Clinton.

Hon. R M Clinton: Thank you, Mr Speaker.

Having spent a substantial part of my former career in the private sector in financial services, I can only too readily understand the need as a jurisdiction to provide new products for potential clients. We have to constantly keep on reinventing ourselves and making sure that what our product offering is, is up to date and is what the market is demanding.

Seeing as this legislation is actually a product of what I imagine is quite extensive private sector consultation – and I am sure the Minister has taken on board all aspects of any concerns that may or may not be had – we on the official Opposition have no problem supporting this Bill, and I welcome the fact that there is going to be a publicly searchable register of foundations, which in this day and age I think is important.

So, on that basis, as I say, it will be a welcome addition to our financial services product offering, and on the side of the official Opposition we have no problem in supporting it.

Mr Speaker: Does the hon. mover wish to reply?

Hon. A J Isola: No, Mr Speaker. I am grateful to the hon. Members opposite for their support. I think it is a product that we do need to, as you said, in terms of products, need to keep reinventing ourselves and making sure we are ahead of the time. In that respect and with this product in particular we have been rather tardy because of the amount of work that has gone into its preparation by the private sector, to whom of course I am extremely grateful, in particular to STEP.

Mr Speaker: I now put the question, which is that a Bill for an Act to permit the establishment of private foundations in Gibraltar, to determine the legal status of such foundations, to restrict the purposes for which such foundations may be used, to regulate the creation, operation and management thereof and to provide for the winding up of any foundation so created and for matters incidental thereto including but not limited to the establishment and conduct of a register of private foundations be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Private Foundations Act 2017.

**Private Foundations Bill 2017 –
Committee Stage and Third Reading to be taken at this sitting**

830 **Minister for Commerce (Hon. A J Isola):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today if all hon. Members agree.

Mr Speaker: Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Income Tax (Amendment) Bill 2017 –
First Reading approved**

835 **Clerk:** A Bill for an Act to amend the Income Tax Act 2010. The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Income Tax Act 2010 be read a first time.

840 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Income Tax (Amendment) Act 2017.

**Income Tax (Amendment) Bill 2017 –
Second Reading approved**

845 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

In parallel with the Private Foundations Bill 2017, which has today been presented – in fact, a moment ago – by the Hon. Minister for Commerce, Mr Isola, I am pleased to present this Income Tax (Amendment) Bill 2017.

850 What this Bill aims to do is to regulate the taxation of Gibraltar private foundations which are established and registered under that very Private Foundations Act 2017 and sets out the required changes for the Income Tax Act 2010 that establishes the parameters for that taxation of foundations, the beneficiaries and the taxation of the foundations themselves.

Mr Speaker, I commend the Bill to the House.

855 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the merits and principles of this Bill?

I will now therefore put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

860 **Clerk:** The Income Tax Amendment Act 2017.

**Income Tax (Amendment) Bill 2017 –
Committee Stage and Third Reading to be taken at this sitting**

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today if all hon. Members agree.

865 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

**Crimes (Amendment) Bill 2017 –
First Reading approved**

Clerk: A Bill for an Act to amend the Crimes Act 2011. The Hon. the Minister for Health, Care and Justice.

870 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Crimes Act 2011 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Crimes Act 2011 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

875

Clerk: The Crimes (Amendment) Act 2017.

**Crimes (Amendment) Bill 2017 –
Second Reading approved**

Minister for Health, Care and Justice (Hon. N F Costa): Mr Speaker, I have the honour to move that the Bill be now read a second time.

880 This Bill as originally published contained two amendments to the Crimes Act 2011. The main amendment is the fulfilment of a GSLP Liberal manifesto commitment to introduce a new and specific offence dealing with the problem of so-called revenge porn. The second amendment in the Bill as published is the offence of grooming.

885 At Committee Stage, Mr Speaker, I will be moving amendments to the Bill following representations made to me by the Gibraltar Women's Association. These amendments create a new specific offence of sexual communication with a child.

890 The new revenge porn offence is based on the equivalent UK offence of disclosing private sexual photographs and films with intent to cause distress, which was introduced in the United Kingdom in 2015. Legislating for such a separate and distinct offence is not just a manifesto commitment but also, in our view, particularly important given the rise of social media in Gibraltar as elsewhere. Gibraltar must make it absolutely clear that as a society we will not tolerate this behaviour. The message we send is that no one should feel free to inflict the distress and humiliation that this particularly invasive and hurtful crime causes on its victims.

895 Mr Speaker, moving on to the specifics of the offence, it is committed if private sexual photographs or films are shown to other persons without the consent of an individual who appears in the photograph or film and with the intention of causing that victim distress.

There are, of course, a number of defences. These include the disclosure being necessary to prevent, detect or investigate crime; the disclosure being made in specific journalistic

circumstances; or where the defendant shows that he or she reasonably believed that the photograph or film in question had been shown for profit.

900 The maximum sentence for this offence is of two years' imprisonment. The fact that the offence will exist does not mean that other current offences may not also be charged in appropriate circumstances. Rather, Mr Speaker, it increases the range of options available to our law enforcement agencies when dealing with such cases. There are already offences under Part 6 of the Crimes Act that may be relevant if the facts show a pattern of harassment and also
905 offences under the Communication Act of 2006 which prohibit the sending through a public electronic communications network of a certain type of message. Of course, should the images be of a victim under the age of 18 or the publication be intended to be used to coerce victims into further sexual activity, other offences under the Crimes Act will also be relevant and engaged.

910 Mr Speaker, the second amendment included in the published Bill is to the offence of grooming in Gibraltar to bring this offence in line with the equivalent offence in the UK. The grooming offence as currently enacted applies to an adult who communicates on at least two occasions and who subsequently meets or arranges to meet a child to commit a sexual offence. The proposed amendment will reduce to one the number of occasions on which the defendant
915 must initially meet or communicate with a child with the intention of committing a sexual offence.

The reduction in the number of meetings or communications was legislated for in the UK in 2015. The amendment was made there as a result of a cross-party inquiry, undertaken together with Barnardo's, into child sexual exploitation. That inquiry recommended the change following
920 evidence sessions at which advocates and the Police reported that the existing legislation was too weak and that making the grooming offence easier to use would make it a more effective prevention tool. The support for this change was unanimous in the inquiry's oral evidence sessions.

Mr Speaker, it is arguable that our legislation's current requirement for prior communications on two occasions is there to demonstrate without question the intent to commit the crime. From a police point of view, however, and especially that of the child, this is at best an unnecessary burden and at worst will lead to a child being abused before the Police can actually act. The UK recognised the concern but considered that it is the content and the context of communications that are key to proving the offence rather than the number of communications.
925 There is a clear possibility that a particularly skilled paedophile could in one communication arrange a meeting with a vulnerable child. We agree with this argument; this is why the amendment is included in the Bill.

Mr Speaker, as I stated earlier, I will be moving a number of amendments to the Bill at Committee Stage, following representation by the Gibraltar Women's Association. It is right to say that the GWA welcomed the changes in the Bill and offered their support for it. However, they also suggested that this would be an excellent opportunity to go even further by including a new offence to target paedophiles who communicate sexually with a child. After consideration, we agreed. In England and Wales such an offence was introduced by the Serious Crime Act 2015 and it is an equivalent of that offence which will be proposed as an amendment to the Bill at
930 Committee Stage. The amendment will make it a criminal offence for a person aged 18 or over to communicate with a child under 16 years if the communication is sexual or if it is intended to elicit from the child a communication which is sexual. The offence applies only where the defendant can be shown to have acted for the purpose of obtaining sexual gratification. Ordinary social or educational interactions between children and adults, or communications
940 between young people themselves, will of course not be caught by the offence.

945 The offence is also subject to a two-year maximum prison sentence and will lead to notification requirements.

950 Mr Speaker, I would like to take the opportunity to once again thank the Gibraltar Women's Association for their support in this area, and indeed for actively coming forward with their proposals.

955 Mr Speaker, we are all agreed that sexual offences against children and the deliberate infliction of distress and humiliation on persons by means of publication of private sexual images are terrible crimes and that it is vital that we do everything that we can to prevent such abhorrent behaviour. It is important that we continue to adapt our laws, particularly to reflect changes in technology and communications which have given potential offenders new ways of offending.

Mr Speaker, I commend the Bill to the House. (*Banging on desks*)

960 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Elliott Phillips.

965 **Hon. E J Phillips:** Mr Speaker, we on this side of the House will support the Bill. It is right that the law in this area should be strengthened, given the changing circumstances and the increasing use of technology and social media. These are, Mr Speaker, despicable crimes and we are pleased that the Government are legislating in this field.

970 I, in my other professional capacity, have had the opportunity of looking at some types of these cases in 2007, which horrified me to see cases like these in terms of images, whether they be photo, film, or in fact transfer of data, which was one of the cases that I had to deal with, and thereafter the Government of the day changed the law to incorporate electronic transmission of data where images were transferred through the wire.

This Bill will enjoy the full support of this side of the House.

Mr Speaker: Does any other hon. Member wish to contribute to the debate?

I call upon the mover to reply.

975

Hon. N F Costa: Mr Speaker, only to thank the Hon. Mr Phillips for his remarks and for the support that he brings with the Opposition.

980 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Crimes Act 2011 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Crimes Amendment Act 2017.

**Crimes (Amendment) Bill 2017 –
Committee Stage and Third Reading to be taken at this sitting**

985 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today if all hon. Members agree.

Mr Speaker: Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

COMMITTEE STAGE AND THIRD READING

Mr Speaker: The Hon. the Chief Minister.

990 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause – that is to say the Private Foundations Bill 2017, the Crimes (Amendment) Bill 2017 and the Income Tax (Amendment) Bill 2017.

In Committee of the whole Parliament

995

**Private Foundations Bill 2017 –
Clauses considered and approved**

Clerk: A Bill for an Act to permit the establishment of private foundations in Gibraltar, to determine the legal status of such foundations, to restrict the purposes for which such foundations may be used, to regulate the creation, operation and management thereof and to provide for the winding up of any foundation so created and for matters incidental thereto including but not limited to the establishment and conduct of a register of private foundations.
1000 Part 1, clauses 1 and 2.

Mr Chairman: Stand part of the Bill.

1005 **Clerk:** Part 2, clauses 3 to 10.

Mr Chairman: Stand part of the Bill.

Clerk: Part 3, clauses 11 to 22.

1010 **Mr Chairman:** Stand part of the Bill.

Clerk: Part 4, clauses 23 to 36.

1015 **Mr Chairman:** Stand part of the Bill.

Clerk: Part 5, clauses 37 to 42.

Mr Chairman: Stand part of the Bill.

1020 **Clerk:** Part 6, clauses 43 to 55.

Mr Chairman: Stand part of the Bill.

1025 **Clerk:** Part 7, clauses 56 to 59.

Mr Chairman: Stand part of the Bill.

Clerk: Part 8, clauses 60 to 79.

1030 **Mr Chairman:** Stand part of the Bill.

Clerk: Part 9, clauses 80 to 82.

Mr Chairman: Stand part of the Bill.

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Clerk: Part 10, clauses 83 to 87.

Mr Chairman: Stand part of the Bill.

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Clerk: Part 11, clauses 88 to 89.

Mr Chairman: Stand part of the Bill.

Clerk: Schedule 1.

1045

Mr Chairman: Stands part of the Bill.

Clerk: Schedule 2 as amended.

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Mr Chairman: Schedule 2: two amendments have been circulated to all hon. Members. Do all hon. Members agree that they be incorporated into the Schedule? Those in favour? (**Members:** Aye.) Those against? Carried. The amendments are therefore carried.

Clerk: The long title.

1055

Mr Chairman: Stands part of the Bill.

**Income Tax (Amendment) Bill 2017 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the Income Tax Act 2010.
Clauses 1 and 2.

1060

Mr Chairman: Stand part of the Bill.

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Crimes (Amendment) Bill 2017 –
Clauses considered and approved**

1065

Clerk: A Bill for an Act to amend the Crimes Act 2011.
Clause 1 as amended.

Mr Chairman: If all hon. Members are agreed – again, notice has been given of the amendments that are proposed to this Bill – clause 1 as amended stands part of the Bill.

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Clerk: Clause 2.

Mr Chairman: Stands part of the Bill.

1075 **Clerk:** Clause 3 as amended.

Mr Chairman: Again, there is an amendment to clause 3. If all Members are agreed stand part of the Bill ... Clause 3, as amended, stands part of the Bill.

1080 **Clerk:** The long title.

Mr Chairman: Stands part of the Bill.

1085 **Hon. T N Hammond:** Mr Speaker, if I may, on the last Bill we have looked at, I just want to assure myself – and not being a lawyer I cannot say with any certainty, so I am seeking advice on this really – whether the definitions ... Sorry, Mr Chairman, of course ... whether the definitions under the meaning of ‘private’ and ‘sexual’ are sufficiently robust to capture everything we might desire to be captured within a Bill such as this, or whether there are potentially any loopholes there. I am thinking really in terms of the references specifically to genitalia and pubic
1090 areas, whereas of course in the case of females there are other areas which may be pertinent and a woman would not wish to have shared in public without consent, even though the photos may have been taken in a public context.

I am, I appreciate, treading rather delicately on this subject, but I just want to assure myself that we are definitely passing a Bill here which does capture all of those potential areas where a
1095 situation may arise where there is a non-consensual publication or disclosure, and I just wonder whether we are doing that successfully here.

Minister for Health, Care and Justice (Hon. N F Costa): Yes, Mr Speaker, I am satisfied to the extent that 97D(1) says:

The following apply for the purposes of section 97B.

(2) A photograph or film is “private” if it shows something that is not of a kind ordinarily seen in public.

1100 – which would cover the top part.

Hon. T N Hammond: That is not covered.

Hon. N F Costa: That is not ordinarily made public, or one would assume not.

1105 **Hon. T N Hammond:** And hence my reason for raising that particular issue, because of course there are contexts in which such parts are exposed in public – beaches to name but one example, and one of the more common of the examples – so I just wonder whether we are definitely covering this area. An analogy, face to face, I would say I am choosing my words as
1110 carefully as possible, but I notice that we ... I just wish to ensure that this area is covered with respect to non-consensual release of material onto perhaps social media. *(Interjection by Hon. Chief Minister)* It is not my intention to do so, I assure you.

1115 **Hon. N F Costa:** Yes, Mr Chairman, I am persuaded that it is. I will revert back to the senior draftsman who drafted the Bill. He is a senior draftsman with the Government, he has been now for quite a long number of years and has a lot of experience in drafting Bills.

I am satisfied, given the wording of 97D(2), which specifically says ‘that is not of a kind ordinarily seen in public’.

1120 **Hon. T N Hammond:** I thank the Minister for that response and certainly for his consideration of the matter also.

Hon. R M Clinton: Mr Chairman, I just have one point.
I would be grateful if the Minister could clarify for me – clause 97E(2) says:

Section 97B applies to a Gibraltar service provider who-
(a) discloses a photograph or film in an EEA state outside Gibraltar, and
(b) does so in the course of providing information society services ...

1125 This is under the general heading ‘ ... extension of liability’. I am just wondering why is there a restriction just to an EEA state and not worldwide.

Hon. N F Costa: Mr Chairman, I do recall discussing this provision with Mr Warwick and asking him that question. Unfortunately, in the supplementary information that he has provided for me that particular answer is not provided, but I can give him a guarantee right now that after we resume I will call Mr Warwick and I will be able to provide him with the answer. There was, I remember, a good reason why it had to be drafted in those terms but I will give him the answer shortly.

**Income Tax (Amendment) Bill 2017 –
Crimes (Amendment) Bill 2017 –
Private Foundations Bill 2017 –
Third Readings approved: Bills passed**

1135 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Income Tax (Amendment) Bill 2017, the Crimes (Amendment) Bill 2017 and the Private Foundations Bill 2017 have been considered in Committee and agreed to with some amendments and I now move that they be read a third time and passed.

1140 **Mr Speaker:** I now put the question, namely that the Private Foundations Bill 2017 be read a third time and carried. All in favour? (**Member:** Aye.) Those against? Carried.

I now put the question that the Bill for an Act to amend the Income Tax Act 2010 be read a third time and carried. Those in favour? (**Members:** Aye.) Those against? Carried.

I also put the question that a Bill to amend the Crimes Act 2011 be read a third time. Those in favour? (**Members:** Aye.) Those against? Carried.

1145 **Clerk:** We now come back to answers to Oral Questions.

ADJOURNMENT

Chief Minister (Hon. F R Picardo): Mr Speaker, I move that the House do now adjourn to Wednesday, 21st June at 10.30 a.m.

1150 **Mr Speaker:** I now propose the question that the House do now adjourn to Wednesday, 21st June at 10.30 a.m.

I now put the question that the House do now adjourn to Wednesday, 21st June at 10.30 a.m. Those in favour? (**Members:** Aye.) Those against? Carried.

The House will now adjourn to Wednesday, 21st June at 10.30 in the morning.

1155

The House adjourned at 4.40 p.m.