



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 2.36 p.m. – 5.10 p.m.

Gibraltar, Wednesday, 6th December 2017

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The Gibraltar Parliament

The Parliament met at 2.36 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

INFRASTRUCTURE AND PLANNING

Q701/2017

Fixed penalty notices –

Clarification arising from supplementary questions

Mr Speaker: Arising from supplementaries yesterday in Question 701, the Hon. Paul Balban wishes to clarify some information in connection with the fines that are apparently unpaid.

5 **Minister for Infrastructure and Planning (Hon. P J Balban):** Mr Speaker, thank you for giving me the opportunity to clarify a point raised by the Leader of the Opposition yesterday in one of his supplementaries, where it appeared on the schedule that there were a great number of fines which were unpaid. We went into a debate on why these were left unpaid and obviously my civil servants had told me it was mainly as a result of errors with addresses etc. and we went into
10 discussion on that account.

I chose to look into the figures a little more closely and in fact there are still ... The impression I gave yesterday was that a lot of fines are unpaid because people have perhaps not paid them for whatever reason. The truth is that a lot of them are still stuck within the system in the Magistrates Court. So, for example, the amount of fines that appeared unpaid total ... Around
15 400 fines approximately are still caught up in the referral to the Magistrates Court and that is the reason why they have not been paid, challenged or otherwise.

I thought it was important to clarify that point so that the correct impression is taken from that reply.

20 **Hon. E J Phillips:** Mr Speaker, just one question. I appreciate he cannot identify exactly all of them, but does the Minister know whether they have been responded to positively by the individuals that are clearly being prosecuted for failing to pay, or are these significant numbers of challenges to the Fixed Penalty Notices?

25 **Hon. P J Balban:** I could not tell the hon. Member the exact reason, but of the total amount about 400-odd are in the courts. It could be because a summons has been sent and there has been no reply, and then obviously they need to attend or appear in court, or it could be that they are challenging the legitimacy of the FPN itself. So it could be for a number of reasons but there are quite a number of them caught up in the system as we speak.

ECONOMIC DEVELOPMENT, TELECOMMUNICATIONS AND THE GSB

Q749-750/2017

Young offenders –

Numbers registered as employed; schemes available

30 **Clerk:** We now proceed to Question 749. The Hon. E J Phillips.

Hon. E J Phillips: Mr Speaker, can the Government confirm of those young offenders who have served custodial sentences and/or community punishment in the last 12 months, how many have successfully registered as employed with the Employment Service?

35 Obviously, the Minister will be asked here a question in relation to the previous questions I asked in relation to those young offenders.

Clerk: Answer, the Hon. the Minister for Economic Development and Telecommunications.

40 **Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):** Mr Speaker, I will answer this question with Question 750.

Clerk: Question 750. The Hon. E J Phillips.

45 **Hon. E J Phillips:** Mr Speaker, can the Government confirm what programme schemes are available to young offenders who have completed a term of imprisonment or community punishment to ensure that they are rehabilitated into the community and are assisted in obtaining employment opportunities?

50 **Clerk:** Answer, the Hon. the Minister for Economic Development and Telecommunications.

Hon. J J Bossano: Mr Speaker, persons, including young offenders, submit a terms of engagement form to register as employed with the Employment Services. They do not disclose whether they have served a custodial and/or community punishment in the previous 12 months when they register, and as such the Department of Employment does not hold any such records. However, from the support given by EDEC to such individuals, I can tell the hon. Member that 11 out of the 23 we have dealt with have found employment in the last 12 months.

55 As regards the programmes that currently provide assistance to persons who have served a custodial or other sentence, the position is as previously explained in answer to similar questions. I am happy to repeat the answer if the hon. Member has forgotten the explanation he was given.

Hon. E J Phillips: I am grateful, Mr Speaker, for the clarification that the Minister brings, although with a slightly tainted response in relation to Question 750. What I would say is that clearly the question I asked before was some time ago and I am grateful to understand that the scheme remains the same. I am grateful for that answer.

60 Just in relation to Question 749, if I have accurately got it, it is that the individuals concerned register themselves with the Employment Service. Is it the case that there is any active encouragement by either those in the prison or those who run the programmes or schemes, to encourage those individuals to register so that they can get on? I know it sounds like an obvious question, but given the fact that the Minister did say that it is up to them, is there an active encouragement by the system, effectively, generally speaking, to register?

75 **Hon. J J Bossano:** The counsellor that EDEC employs and sees people in the prison whilst they are serving their sentence and then subsequently, when they are released, keeps contact with

them. Clearly, the ones who respond well to the approaches are the ones who then come and register with us.

As I have explained in the past, what we do – in using the criteria that are being used to encourage employers in the private sector to provide training or to be given a wage subsidy on the basis that there is a need to have the person on a job for a period of time to settle down, where there may be a high level of incentive at the beginning and that kind of thing – we do in the knowledge that the group of people we are referring to, as a matter of reality, although it should not be happening, tend to have greater difficulty in getting employment and we make the incentives more generous to compensate for it. So, normally, if it is somebody who has served a custodial sentence, we would offer an employer 50% of his wages for one year with the commitment that they would keep them on in the year; we monitor their performance during the year, we get reports during that year and the counsellor sees them.

What I am, in effect, saying is that we know of 23 that have come out in the last 12 months. I am assuming that the 'young people' is 25 or less, so that is the category of people. We have seen more people than this, but they were over 25. Even if somebody comes out and he is 50, he still gets the same support as the younger ... But of the people we are seeing in the programme, we have seen 23. There may have been more that have come out, but either they have not expressed any interest when approached to be helped or they have simply not attempted to find employment and they just disappeared. In some cases they are not people who are residents, who have gone.

There is no evidence, for example, that we are doing less well than we have done in the past. I asked whether the figure of the 12 months that the hon. Member asked about gave any indication whether we were being less or more successful and I am told that on an average our success rate is about 50% of those that we are monitoring and assisting, and in this case it was 11 out of 23, so it is just under the 50% but I do not think it is significant.

Also, I think in a way we need to be looking at a rolling average for the period, because in some cases out of the 23 there will be people who have been out for a year and the ones that are out for longer are the ones that are mainly in the 11, and there are people who have only been out, for example, since October and November and probably that is too soon for the scheme to be able to ... although some people get a job as soon as they come out, but there are not many cases like that.

I think probably what we need to do is see how these figures change if we take, for example, a 12 months that begins, instead of from November to November, December to December and then January to January and we see whether the pattern is maintained in the future, and I am happy to share whatever information I have got with the hon. Member.

Hon. E J Phillips: It is certainly interesting to hear further details about the 50% subsidy that the Government utilise to encourage business to take on individuals who have unfortunately fallen ... Insofar as that, can the Government give any indication as to the flavour of the type of work that individuals are doing where this subsidy is available? Is it across the board to any employment opportunity, or is it directed at specific industries or work places?

Hon. J J Bossano: No, it is available to any industry, and unlike, for example, the training that we provide, which is at the national minimum wage, this is 50% of whatever the wage is, and I think it also includes 50% of the Social Security payment of the employer. But in practice the kind of jobs that people are willing to take, people who come out from serving a sentence, are generally not positions of responsibility. That does not mean they will not get a better job later on, but I think that at the beginning they tend to go in at the bottom of the rung in whatever industry they go into. For example, security would be a good place to put them because there are a lot of security jobs, but it is one where they do not get past the vetting. So it is mainly in the construction industry and in things like cleaning companies and in areas like hotel and catering. Those are the three areas where it is easiest to get them in, where there is always a

high turnover of labour and where the incentive is quite attractive because those are labour-intensive areas. So you are cutting the wage cost by half and it is an attractive proposition.

Q751/2017
CPA project re Public Accounts Committees –
Gibraltar participation

130 **Clerk:** Question 751. The Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, further to Question 403/2017 can the Government confirm that it is now to participate and send a delegate in respect of the CPA UK three-year project entitled 'UK Overseas Territories Project: Supporting the Role of Public Accounts Committees and Audit Institutions in Oversight of Public Funds'?

Clerk: Answer, the Hon. the Minister for Economic Development and Telecommunications.

140 **Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):** Yes, Mr Speaker.

Hon. R M Clinton: Mr Speaker, I am delighted to hear that answer from the Government benches. Would the Minister be able to confirm who would be attending on behalf of the Government?

145 **Hon. J J Bossano:** Yes, Mr Speaker, I volunteered to go.

Q752-755/2017
Public finances –
Public debt; liquid reserves; General Sinking Fund balance

Clerk: Question 752. The Hon. R M Clinton.

150 **Hon. R M Clinton:** Mr Speaker, can the Government please advise the total gross debt, aggregate debt after application of the Sinking Fund to gross debt, cash reserves and net debt figures for public debt for the following date, being 1st September 2017?

155 **Clerk:** Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano): Mr Speaker, I will answer this question together with Questions 753 to 755.

160 **Clerk:** Question 753. The Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please advise the total liquid reserves figure and its constituents, namely Consolidated Fund, Improvement and Development Fund, Government-owned companies, deposits, contingencies and other funds for the following date, being 1st September 2017?

Clerk: Question 754. The Hon. R M Clinton.

170 **Hon. R M Clinton:** Mr Speaker, can the Government please advise how total liquid reserves are invested or held, giving details of all bank and savings bank accounts and cash held for the following date, being 1st September 2017?

Clerk: Question 755. The Hon. R M Clinton.

175 **Hon. R M Clinton:** Mr Speaker, can the Government advise the balance on the General Sinking Fund as at 1st September 2017?

180 **Clerk:** Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

Hon. J J Bossano: Mr Speaker, the position as regards the total liquid assets composition, when, where and how these are invested on a particular date chosen by the Member opposite, continues to be as previously stated.

185 The figures requested for 1st September 2017 are: gross debt, £447.7 million; Sinking Fund, £5.2 million; aggregate, £442.5 million; cash, £112.4 million; net, £330.1 million.

Q756-758/2017

Civil Service –

Vacant posts; subcontracted workers; temporary promotions

Clerk: Question 756. The Hon. L F Llamas.

190 **Hon. L F Llamas:** Mr Speaker, can the Government provide a schedule of vacant posts in the Civil Service, including (a) grade, (b) date since when the post has been vacant, and (c) department?

Clerk: Answer, the Hon. the Minister for Economic Development, Telecommunications and the GSB.

195 **Minister for Economic Development, Telecommunications and the GSB (Hon. J J Bossano):** Yes, Mr Speaker, I will answer this question with Questions 757 and 758.

Clerk: Question 757. The Hon. L F Llamas.

200 **Hon. L F Llamas:** Mr Speaker, can the Government provide a schedule with subcontracted workers in the Civil Service, including (a) since when has the person been subcontracted, (b) reason for cover, and (c) department or departments the worker has providing services for?

Clerk: Question 758. The Hon. L F Llamas.

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Hon. L F Llamas: Mr Speaker, without disclosing the identity of the officer, can the Government provide a schedule of officers in the Civil Service who are temporary promoted, including (a) the grade the officer holds, (b) the grade the officer has been temporary promoted to (c) the date temporary promoted, and finally (d) the department?

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Clerk: Answer, the Minister for Economic Development, Telecommunications and the GSB.

Hon. J J Bossano: Mr Speaker, according to the Human Resources Department, the following posts were vacant last month.

There were, from March 2017 one AO and one AA post vacant in Civil Status.

215 Since March, July, August, September and October 2017 there are two Executive and eight Customs Officer posts vacant.

In Vehicle Licensing there is an HEO post vacant since January 2017.

220 In Education we have seven industrials, one technologist, one technician, one senior technician, one head and two deputy head posts vacant and they date from March, June, August, September, October and November this year; they are all from this year.

In my Department there are an SEO, an HEO, one manager, two AOs and two AA posts vacant; these date from April and May 2015 and July 2017.

In Employment there are two HSOs, from January 2015 and January 2016, vacant.

225 In Environment the vacancies are one environmental monitor, four assistants and one AA from January and April 2015 and July 2016.

In the Finance Centre there are two EO posts vacant from April and August 2016.

In the Financial Secretary's Office there is one SEO, one HEO, one AO and one AA from April 2012 and April, June and July of 2017.

The Fire Service has a fire control officer post vacant in November 2017.

230 In Gaming there is one HEO vacant since August 17.

In Audit, an assistant principal auditor since April 17.

In the Law Courts and Office there are one EO, five AOs, one AA and one word processor post from January, April, May and October 2016 and June, August and October 2017.

235 In Housing there is a principal housing officer, an EO, a personal secretary, two AOs and one AA from July 2012, October 2015, September and November 2016 and February 2017.

HR has one HEO, one legal assistant, two EOs, two AOs, one AA and one industrial vacant post; these date from November 2015, March 2016, October and November 2016 and March 2017.

240 Income Tax has vacant the positions of Commissioner of Income Tax, one SEO, four AOs, one AA from January, May, August and November 2016, and August and October 2017.

The Maritime Department has one senior surveyor post since May 2017.

Culture has one SEO, one HPTO, one messenger and one AO from August 2010, January 2015, January 2016 and May and August 2017.

245 Housing and Equality has one HEO and one equalities officer vacant from December 2015 and August 2016.

Tourism has one law draftsman, two EOs and one personal secretary from February 2014, November 2015 and October 2017.

No. 6 has a senior administrator, one personal secretary, three AOs and three AAs vacant from April and November 2014, August and December 2016, and January and June 2017.

250 The Deputy Chief Minister has one AA vacant from October 2015.

Parliament, one usher from June 2012.

The RGP has eight constables, one crime scene officer and one-word processor vacant from February, May, July, September, October and November 2017.

The Prison has two prison officers from April and May 2017.

255 Procurement, one part-time AO from October 2017.

Postal Services, one ML4, two SOGs and one AO from March 2015 and May 2016.

Statistics, one SO1 and one SO2 from January 2015 and June 2017.

Technical Services have three SPTOs, two HPTOs and one PTO vacancy from February, September and October 2015, November 2016 and November 2017.

260 Town Planning has one SPTO and two PTOs from September 2015 and July and August 2017.

Treasury has the Accountant General, one computer consultant, one SEO, four AOs and seven AAs from October and November 2015, January, May, June and October 2016, and March, April, September and November 2017. That is all the vacancies.

There are no subcontracted workers in the Civil Service.

265 Temporary promotions in the Civil Service are as follows.

The Environment Department has a works supervisor promoted to PTO from October 2012 and a TG1 to environmental monitor from November 2016.

Education has an SEA promoted to director and an AA as AO from September 2016 to January 2017.

270 Licensing has an AO as EO and an EO as HEO December 2016.

Audit has an assistant auditor as auditor from January 2015.

Courts have an AA as an AO from March 2017.

Housing has an SEO as senior officer from December 2012, an AA as AO from January 2017, a HEO as SEO February 2017 and two AOs as EOs from February and June 2017.

275 HR has an AA as AO from February 2016.

Commerce has a senior officer as Chief Officer from April 2017.

Income Tax has an SEO and an EO as Commissioner from January 2016, two HEOs as SEOs January and November 2016, and an EO as HEO in July 2017.

280 Culture has an environmental monitor as HEO since May 2012, an AO as EO since September 2015 and an AA as AO since January 2017.

Housing and Equality has an AO as EO since December 2014.

Tourism has an AO as EO since December 2016.

No. 6 has the Director of Education as Senior Administrator and a typist as AO from September 2016 and May 2013.

285 The Post Office has an AO as EO from May 2017.

Technical Services has three HPTOs as SPTOS from February 2015, November 2016 and January 2008, a PTO as HPTO from September 2009 and a TG1 as PTO from March 2017.

The Tourist Board has an EO as HEO from August 2015.

Town Planning has an HPTO as SPTO since July 2017.

290 Treasury has two AOs as EOs from June 2016 and May 2017, an IT officer 2 as IT officer 3 from October 16, an IT officer 3 as computer consultant from October 2016, an HEO as SEO from September 2016 and an SEO as Accountant General from June 2016. That is all the temporary promotions.

295 **Hon. L F Llamas:** Thank you very much for that answer.

Mr Speaker, with your leave, I would like to ask to study the answer that has been given and come back the following month with any supplementaries, given that it is a very long list that the Hon. Minister has read.

300 I would just like to ask the Hon. Minister: if subcontracted workers do not exist in the Civil Service, what do you call the temporary staff that are employed, so that I can bring this question back in the following month?

305 **Hon. J J Bossano:** Well, the terminology that has been used in all the other questions in this meeting and previously is supply workers. Subcontract workers are when you subcontract the work out to somebody – for example, if we give work to JBS and JBS subcontract it to somebody else and there is a contract. The supply workers are people who are being supplied and are deployed as and when, but they are not there for a particular contract and a particular job; they are sent wherever they are needed.

310 **Hon. L F Llamas:** I would just like to clarify that the confusion arose because in the Care Agency I had been told that there was nothing called supply workers and that they were called subcontracted. That was before the Hon. Mr Costa's time. That has been the confusion and obviously I referred to them as subcontractors rather than supply. I had always been advised that they are called supply workers.

315 Thank you.

320 **Hon. E J Reyes:** Mr Speaker, may I ask the Hon. Minister for a small clarification? When he was giving us the list, he mentioned that in No. 6 there is a Director of Education working there since September 2016. However, prior to that, when he had given us the list with the Department of Education, I may have it wrong but I noted that an SEA – being a senior education adviser, I take it – is in an acting capacity as Director of Education from September 2016 and I think the Minister said up to January 2017. Is that correct?

325 **Hon. J J Bossano:** [*Inaudible*] that date is that in that Department there are two people who have been promoted, one in September and one in January.

Hon. E J Reyes: So, for clarification purposes, as from September 2016 when the Director of Education goes to No. 6, we have a senior education adviser covering that post from September 2016 to date. Am I correct in that assumption?

330 Thank you, Mr Speaker, that clarifies it.

Hon. T N Hammond: I apologise to the Minister if he did capture this in his extensive answer, but is it the case that the current Captain of the Port is in an acting capacity as well? I understand he is, but I did not hear that in the answer and I wonder if the Minister could clarify that.

335 **Hon. J J Bossano:** I have not been asked about acting capacities; I have been asked for temporary promotions, and temporary promotion is something that happens after you have been acting for a period of time. When it is a very short period of cover it is called ‘acting’, and after a certain period of cover there are rules that say you are now temporarily promoted in that post, which carries different benefits.

Hon. R M Clinton: Sorry, Mr Speaker, I apologise in advance if I got the dates wrong: if the Minister could just confirm the Accountant General position was vacant from October 2015 and there is an SEO acting from June 2016. Is that correct?

345 **Hon. J J Bossano:** No, Mr Speaker, none of the dates are until; all the dates are the starting dates. All the people concerned are still doing whatever it is they were doing when they were temporarily promoted, because the question is asking who was temporarily promoted yesterday. They might have been temporarily promoted the day before yesterday or they might have been temporarily promoted 10 years ago, but it is still temporarily promoted as of now. So the answer that has been prepared for Parliament by Human Resources is on the basis that all the people on this list are still temporarily promoted in the posts that I have indicated, which shows what they were before they were temporarily promoted and what they are now as temporarily promoted. There is no end date anywhere in the answer.

355 **Hon. R M Clinton:** Mr Speaker, I thank the Minister for his answer.

In terms of the position of Accountant General, and given the importance of the position, how or at what point does he envisage that the individual undertaking that role at present will be made permanent and that position will be confirmed? It is a very important position to be left acting or temporary or for a short period. It is a pretty critical function to perform and I would expect that to be filled, pretty much the same as the Commissioner of Income Tax to be filled. Does he have a view as to when these positions will be made permanent?

365 **Hon. J J Bossano:** We do not actually get involved in these things of promoting them or deciding how long they stay there. I do not think the Accountant General has been as long as some of the others, but temporarily promoted is the terminology that is used, which the hon. Member is familiar with, which is more than just a short-term thing. You are deemed to be

temporarily promoted when you have been acting continuously in a post, which is different, for example, from what happens where people are acting whilst others are on annual leave or sick leave, which happens all the time in many Departments, but when there is temporary promotion it normally means that the occupant has now left the service and probably the next person, the deputy, as it were ... In a situation like the Accountant General, it would normally be the person who has regularly been acting in previous absences who steps in immediately until the machinery of the Civil Service gets round to advertising the vacancy and promoting, selecting and all the things that happen before the jobs are cleared. Clearly, in some cases, some of these temporary promotions have been there for a very long time; in other cases, it has happened in November. But I think generally, in an area like the Accountant General, I would have thought there cannot be a detriment to the quality of the work that is done, because as a general rule the person that steps in may have been doing the stepping in for many years every time the person at the top went away on annual leave or sick leave. Normally, we are talking about a situation where in the Civil Service people have something like 30 days, which is six weeks, and then you have the public holidays, so for three months of the year the actor is acting, so by the time he becomes temporarily promoted he is probably fairly accustomed to doing the job, I would have thought.

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Hon. L F Llamas: Mr Speaker, I have a question for the Government. I understand that the Government is undertaking an efficiency review and therefore many vacancies are on hold, even though some have been promised in previous sessions that they would have been covered, especially head of department posts. Given that the Government is still undergoing this review and vacant posts or long-term acting are allowed, would it be a policy of this Government to pass those temporary promotion applications through a PSC board and give a bit of fair competition rather than crowning somebody with a temporary promotion?

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Chief Minister (Hon. F R Picardo): Mr Speaker, yes, we have a view and the view is not a million miles from what the hon. Gentleman has set out, but it is not our role. The hon. Gentleman has to understand that we do not decide who acts or who does not act. This is entirely a Civil Service matter, at least since the day I was elected, and therefore when these promotion posts will be advertised, in particular senior promotion posts, and whether the PSC has a role in the context of approving a secondment – which has never been the case before; it has always been an issue, really, for the Head of the Civil Service – is a matter on which the Government will not interfere. But we believe that the Public Service Commission has an important role to play in ensuring that there is a level playing field for all civil servants in the context of any promotions that they may aspire to and we believe that the manner in which things are handled now is no different to the way in which they were handled previously in the context of the structure. In other words, the PSC has never approved temporary promotions. But it should also be clear that the Government is not involved in making temporary promotions in the same way as we are not involved in making full promotions or employment decisions. All of those go through the independent and very rigorous Civil Service and Public Service Commission process.

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Hon. J J Bossano: Can I just add, Mr Speaker, that in terms of the numbers, the number of vacancies is more or less at the level that it was in 2011, except that they are not the same vacancies as they were in 2011. That is to say the service is much bigger than it was in numbers – the party that he joined and then left disapproved of the increase in numbers of civil servants from 2012 on – and we have got, of course, as well, the supplies that provide support while the vacancies are there, which did not exist before. So in fact there are two issues here that need to be taken into account if you are comparing what there is now with what there was before: it is a bigger Civil Service and the number of vacancies is more or less the same, and there are supplies involved which did not exist before.

415

CHIEF MINISTER

Q760/2017

**Ministerial Code –
Date of introduction**

420 **Clerk:** Question 760. The Hon. T N Hammond.

Hon. T N Hammond: Mr Speaker, when does Government believe that it will introduce the Ministerial Code?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the Code for Ministers and the separate Code for all Members of Parliament will be introduced together after they have been discussed in the Select Committee on Parliamentary Reform.

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Hon. T N Hammond: Mr Speaker, does the Government envisage calling that Select Committee together in the next three months? I do not believe it has met during this parliamentary term so far, so progress would appear to be fairly slow in that regard.

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Hon. Chief Minister: Mr Speaker, the hon. Gentleman is right. It has not met in this parliamentary term for a reason. We have had to change the composition of that Select Committee already on one occasion as a result of one splinter group from the official Opposition and there has since been another splinter group from the official Opposition. We want everyone to be properly represented in respect of that Select Committee, which will affect Members of political parties in this place as much as it will affect Members of this House who are independent, and so we envisage once again bringing a motion to change the composition of that Select Committee. I do not know whether between now and then there might be other splinter groups or how things will play out. I am not pressing anything that I am concerned about on this side of the House, but that has been an issue.

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I do not know whether the hon. Member remembers the history of this, but we came to the House with the Ministerial Code, ready to implement it. It was the former, former, former, former Leader of the Opposition, my predecessor as Chief Minister, who said from the position on the opposite benches that we should not go down the route of implementing the Ministerial Code. He had the support of what was then the GSD, aka all of the seats on the Opposition benches at the time, and I said, in accepting that advice, that as a result of the fact that this was something for the whole Parliament and not just for the Government side we would agree to go into a Select Committee. So we did not want this to go into a Select Committee; we were ready to make this parliamentary code binding immediately. We have gone down that road because it was suggested by the GSD. The GSD splintered once, then it splintered again, and so we are going to have to change the composition of the Select Committee.

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But I think there is very little for us to argue about in the context of what is proposed in respect of that Code, because it is very much in keeping with the UK code, so we very much hope that it is going to become a binding instrument very soon.

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Hon. T N Hammond: Well, goodness me, the Chief Minister listening to the GSD – not something that happens particularly often.

It is absolutely the case that presumably there will be nothing contentious, and of course I bring the question simply to understand what the timelines might be. I understand the reasons the Chief Minister has given, though I do believe there has been ample opportunity to call that particular sub-committee while it has been correctly embodied. That has not happened,

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regrettably. I do hope and would ask whether the Chief Minister is able to provide any information as to when they may be updating or requesting that the composition of the sub-committee is updated in order to provide appropriate representation, or whether even the Chief Minister would consider just discussing with various Members of the Opposition, pertinent
470 Members of the Opposition, what the Code would look like, providing drafts so there can be maybe a pre-agreement with respect to that particular Code, which, as you say, I do not believe will be contentious, particularly if it is following already-established lines.

Hon. Chief Minister: Well, Mr Speaker, it is not that I was listening to the GSD. The hon. the
475 former, former, former, former Leader of the Opposition was then a backbencher who was representing that his views were views that he put for the good of Gibraltar and for the good of the whole Parliament; and I was not approaching this on the basis of Government and Opposition, because this is a Code for the whole House so I was approaching it really more as
480 Leader of the House, listening to a Member with considerable experience who was putting a point that I thought was worth taking into consideration.

In terms of providing a copy of the Code, there it is behind the hon. Gentleman. *(Laughter)* It has been there for two years, Mr Speaker. Like all the best magic tricks, they are not really magic, they are there. I am told by the Minister for modern technology that it is actually already online, so we could not do more, other than send him an audio book with me reading it to him,
485 *(Laughter)* in case he wishes to fall into his nightly slumber listening to my dulcet tones putting him to sleep. All the information is there. I am surprised he is asking us for things which he has already and he did not know that.

In terms of the timetable, as I told him, we were ready to move on this immediately that we brought the Code to the House. It is a Code that comes from a Parliamentary Commission that
490 Mr Speaker chaired, that had a number of former GSD Members, a number of independents, some of whom have since decided that they want to throw their lot in with the GSD; some of the independent Members have taken another view. So I do not think that this is contentious at all, but I think it would be unfair to Mr Llamas that he should not be represented formally in that Committee, although he is now an independent Member, although Mrs Nahon is going to be
495 represented in that Committee. Because this is a House issue and the House and those in it are the representatives of the people, I think it is important that all of us have been properly represented in that Select Committee.

I would hope that we will be able to deal with this during the context of the first quarter of next year, but I must say that the hon. Gentleman knows that estimating timings of things since
500 the United Kingdom took the decision it did, with us voting in the process, in the referendum in respect of leaving the European Union, it has become very difficult to stick even to one's own best instincts of what the right timing of things should be – and I will deal with another question now which will raise even that again.

505 **Mr Speaker:** Next question.

Q761/2017
Eastside tunnel –
Routing of pedestrians

Clerk: Has Government made a decision on the routing of pedestrians once the ... Sorry. I beg your pardon. Sorry. **(Several Members:** Hear, hear.) *(Laughter and banging on desks)* I am sorry! *(Laughter and interjections)*

510 **Mr Speaker:** For once, the Clerk of the House has transported himself to the Opposition benches! *(Laughter and interjection)*

Clerk: Question 761. The Hon. T N Hammond. *(Interjection)*

515 **Hon. T N Hammond:** Yes, if I may take a moment to compose myself ... *(Laughter)* Mr Speaker, has Government made a decision on the routing of pedestrians once the Eastside tunnel project is complete?

Clerk: Answer, the Hon. the Chief Minister.

520 **Chief Minister (Hon. F R Picardo):** Mr Speaker, there am I, fighting those who say that the Opposition is in the Civil Service and not on the benches opposite!

The decision taken regarding the routing of pedestrians once the new runway tunnel is operational was presented to us upon our election into Government in 2011 as a fait accompli left over from the former administration. The decision was that pedestrians would use the pedestrian tunnel. We nevertheless continue to explore other options.

Mr Speaker: Next question.

Q762/2017
General Orders –
Publication of Government review

Clerk: Question 762. The Hon. T N Hammond.

530 **Hon. T N Hammond:** Mr Speaker, has Government completed its review of General Orders and does it intend to publish the results?

Clerk: Answer, the Hon. the Chief Minister.

535 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the review of General Orders is ongoing. A working group composed of members of the Human Resources department, the CEO of the Public Service Human Resources Business Support Unit and representatives from the three main unions – that is to say the GGCA the GTA (NASUWT and Unite) – have been working towards the new Public Service Code, which will replace General Orders.

540 The draft document is in its advanced stages and most chapters have been completed. We will be officially submitting the document to the trade unions in the New Year for a final consultation period prior to implementation.

545 On its introduction, the new Public Service Code will be published internally to all Departments and will be made available online to all public servants via HM Government's intranet. Training will be provided at all levels to ensure a smooth transition from General Orders to the new Public Service Code.

Q763-764/2017

**Referendum Anniversary Eve concert –
Contract and lack of Gibraltar performers**

Clerk: Question 763. The Hon. E J Reyes.

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Hon. E J Reyes: Mr Speaker, can Government say if the concert held at Victoria Stadium on Saturday, 9th September 2017 was awarded to the Royal Philharmonic Concert Orchestra by a tender process or by what other means?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer the question together with Question 764.

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Clerk: Question 764. The Hon. E J Reyes.

Hon. E J Reyes: Can Government say why neither a Gibraltar orchestra conductor nor Gibraltar musicians nor any Gibraltar soloist singers were offered the opportunity to perform at the National Day Eve Concert held at the Victoria Stadium on Saturday, 9th September 2017?

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Clerk: Answer, the Hon. the Chief Minister.

Hon. Chief Minister: Mr Speaker, the contract to perform at the Referendum Anniversary Eve concert was awarded to a British orchestra, the Royal Philharmonic Concert Orchestra, that was available on 9th September to provide a Last Night of the Proms style repertoire. Additionally, it is the orchestra with royal patronage from the British Royal Family. The BBC Concert Orchestra was not available as the date clashed with their Proms dates.

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The Government sought that the soloists that performed on the evening should have been Gibraltarians. Additionally, the Government sought that a Gibraltar conductor of international renown should have conducted the Orchestra. Unfortunately, we were informed that it would have cost £20,000 per day for rehearsals required for the Philharmonic to perform with soloists or a conductor that it had not performed with before. That amount does not include the expenses of associated travel and accommodation that would have been incurred. A minimum of three days of rehearsals was required. In addition, no suitable studio for such rehearsals was available in the period and the orchestra itself was not available for rehearsals due to its heavy performance schedule.

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The event was a magnificent celebration of the 50th anniversary of the 1967 Referendum and a fitting tribute to the Referendum Generation. The members of the Opposition who were present and who joyously joined in the flag waving will no doubt want to congratulate the Government on the organisation and planning of the event.

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The Government itself would, in particular, wish to express its gratitude to Mrs Joyce Diaz and her team for their work in delivering the event and to the Gibraltar Choir Collective, who did us all proud. Additional thanks must also go to the Commanding Officer of the Royal Gibraltar Regiment for allowing the Corps of Drums and the Band of the Regiment to perform on the night, and in particular to their musicians for their magnificent rendition of the Gibraltar Anthem. Their contribution was tremendous.

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Mr Speaker, I am particularly pleased that we were able to make the event truly affordable for all and that the £5 ticket price will be donated to that most worthy of Gibraltar's charities, namely Calpe House. I should add that the Government extends its gracious thanks on behalf of the people of Gibraltar to all of the sponsors who enabled us to have the orchestra in Gibraltar without public expense.

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Mr Speaker, I am able to announce today that the Government will be donating £12,665 to Calpe House from ticket sales. I am also able to announce today that a DVD and a digital download of the Referendum 50 Concert by the Royal Philharmonic Concert Orchestra will be available in coming months as a perfect recording of the event for all to enjoy.

Hon. E J Reyes: Mr Speaker, thank you for that answer.

The Chief Minister did say about the non-availability of the BBC Orchestra and so on. I could deduce some things from there, but could he perhaps be a little bit clearer for the record: was it awarded to the Royal Philharmonic Orchestra via a tender process, or rather am I deducing it ...? If the Chief Minister can clarify any doubts I have – how did it end up going to this entity?

Hon. Chief Minister: Mr Speaker, perhaps I should start by saying that the night before, we had a magnificent concert at Casemates where all of the performers were Gibraltarians: Gibraltarian musicians and Gibraltarian dancers. I know all Members of this side of the House were present and deeply enjoyed the event, and I am sure, although I cannot recall, that most if not all of the Members opposite were also present.

Although in my most fanciful of moments I see myself as a Simon Cowell style character, auditioning people and being remarkably affectionate to them in the context of their performances, we did not hold an *X-Factor* style attempt to choose the best orchestra. We were in contact with a number of British orchestras. There is no Gibraltar orchestra yet of the size of the Philharmonic and this was the Referendum 50 anniversary concert, so it was important to us that it should be a British orchestra because we were celebrating that choice made 50 years ago. Scheduling meant that actually there was no beauty parade to be had – there was one orchestra that was available that could do it on the day, and that is the orchestra that we had. If the hon. Gentleman wants to see it in terms of the three quotes system, for example, I think we looked at more than three orchestras, we were in touch with more than three orchestras and there was one that was available, so it was not an issue of tendering.

In any event, there was, as I said, no public expense in respect of the event because the sponsors – and hon. Members will have seen who the sponsors were; I cannot refer to one without referring to the many others, and I think there were approximately 50 sponsors – meant that this was an event that did not cost the public purse, and when there was a ticket price it was to ensure that we could allocate seating to everyone but with a very clear indication that the amounts collected would be donated to charity.

So I do not think it is the sort of event that is a tenderable event, but I was very keen to see Gibraltarians appear on the day on the big stage conducting – we know that we have at least one conductor of international renown in Gibraltar and a soloist, and we know that we have more than one magnificent voice in Gibraltar. Unfortunately, for the reasons I have given, although we pursued that quite vigorously, it was impossible to achieve that. Mr Speaker, I must say that the event, I think, was a magnificent one and that the soloists, despite the fact that they were not Gibraltarian, were not bad either.

Hon. E J Reyes: I am grateful, Mr Speaker.

Yes, it does clarify and put to rest what I had thought, and may I offer a few more supportive words to the Chief Minister.

I think it was particularly pleasing for those of us – and I can confirm that I was definitely there on the evening – where we could introduce an element of Gibraltarian participation, not only through the magnificent performance of the Royal Gibraltar Regiment Corps of Drums but also in the Collective Choir which helped to lead the chorus. I must admit I am tone deaf and although one tries to contribute in the animation of the singing, knowing that the choir was there and would certainly over drown my bad singing habit ... Therefore, I am really pleased that we succeeded in a fantastic concert with, to whatever degree or level possible, Gibraltarian

participation, and the Chief Minister and his team can rest assured of my continued support in that respect.

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Hon. Chief Minister: Mr Speaker, I am very grateful on behalf of the Government for those kind words, and perhaps we should end this part of the questioning in the same way as the concert ended, by remembering always that we stick with Britain because it is the land of hope and glory. We hope that it continues to rule the waves a bit more than it has until now, and God Save the Queen, Mr Speaker.

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Hon. T N Hammond: If I may, Mr Speaker, not quite ending the questions, I would certainly like to congratulate all those involved in both events because they were fantastic events on both occasions, particularly I thought in the Casemates event the Hon. Mr Bossano's speech was superb and for me it really did crown the evening.

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If I could just ask whether the Government is considering running a similar event next year, not necessary associated with the Referendum anniversary because clearly that will have passed, but certainly the event at Victoria Stadium has on the one hand not cost the public any money, has actually raised money for charity and was very well attended and clearly appreciated by all who were there. I just wondered whether the Government has any thoughts in respect of next year.

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Hon. Chief Minister: Mr Speaker, delighted to offer an encore to my speech of a moment ago.

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The Hon. Mr Bossano is superb, as far as we on this side of the House are concerned, on every occasion, in particular in his Budget addresses. I am sure that probably the only person on the opposite side who has done this exercise is Mr Clinton but I commend to all Members that they should start with his Budget address of 1973 and see the consistency that there is there right up until 2017. But everything that Mr Bossano said on that stage at Casemates translates entirely to everything that Mr Bossano does in politics and I think it is an important point to make.

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Sponsors were very generous in the context of the 50th anniversary of the Referendum; I do not know whether they would be so generous every year.

The hon. Gentleman should know that there is a plot afoot to continue to enjoy cultural events of that sort, but I am unable to say more at this stage for want of scuppering it.

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Mr Speaker: Next question.

Q765/2017

Supplementary Appropriation (2015/2016) Bill 2016 – Reason for delay

Clerk: Question 765. The Hon. R M Clinton.

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Hon. R M Clinton: Mr Speaker, can the Government explain why it has not yet proceeded with the Bill for an Act to appropriate further sums of money to the service of the year ended 31st March 2016, being B26/2016, which was published on 22nd December 2016?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, this has resulted simply from the exigencies prevalent upon the Executive this year as a result of the Brexit process.

Hon. R M Clinton: Mr Speaker, I have no wish to engage in a debate, (*Interjection and laughter*) but perhaps I could ask Mr Speaker's indulgence. The Appropriation Bill for 2015 –

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Hon. Chief Minister: Will the hon. Gentleman give way?

Hon. R M Clinton: Yes.

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Hon. Chief Minister: If it is of any assistance to him, I intend to take the Bill in about 50 minutes.

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Hon. R M Clinton: Well, Mr Speaker, I am enormously grateful to the Chief Minister – it will save us all a lot of time. All I would say is that I am grateful that the Bill is being taken today, but obviously, given his comments last year and obviously it is nonsensical to have a supplementary appropriation after we have passed this year's Budget, I would be grateful if in next year's we try and keep to what he originally intended last year.

Thank you.

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Hon. Chief Minister: Mr Speaker, yes, indeed. He is referring to my own logic, it is something that I am very keen to see, but unfortunately the time of the Executive has been taken almost entirely, as he knows, in respect of the Brexit process. We have had fewer meetings of the House, they have had to be shorter and legislation has built up – this is one of the issues that has built up – but he knows, because I have said so and it is on the record, that it is my intention that these Bills be dealt with and with greater alacrity than has been the case until now, and unfortunately this year, having set that high bar for myself, I have not been able to surmount it because of the circumstances which have prevailed.

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Mr Speaker: Next question.

Q766/2017
Three quotes system –
Works and supplies procured

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Clerk: Question 766. The Hon. L F Llamas.

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Hon. L F Llamas: Mr Speaker, for the periods 1st April 2014 to 31st March 2016, can the Government provide a schedule of works or supplies procured by the Government using the three quotes system, including (a) the company or entity awarded; (b) brief detail of work or supply and (c) whether the award was the cheapest?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo) Mr Speaker, this data is not centrally held. A schedule of all contracts awarded by Government by quotation for sums over £2,000 is readily available online on the Government website.

Q767/2017
Mons Calpe Mews and Beach View Terraces –
Losses incurred to date

Clerk: Question 767. The Hon. L F Llamas.

Hon. L F Llamas: Mr Speaker, can the Government disclose the losses incurred to date as a result of the development of Mons Calpe Mews and Beach View Terraces?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Government made a profit of £1,039,204 arising from the development of the housing estates that sold for £108 million.

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Hon. L F Llamas: Mr Speaker, I would just like to clarify this question arose as a result from I think it was Direct Democracy, where the Chief Minister I believe said that they had made a loss due to not having taken into account the foundation work of those projects and the infrastructural work of those projects. Is that correct or did I misunderstand?

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Hon. Chief Minister: Well, Mr Speaker, it depends how you look at it, if you look at it in terms of the development or you look at it in terms of wider Government expenditure. If you include every infrastructure upgrade that is required, then it is very likely that you would have a very long piece of string; but if you look at it as a developer, then that is the provision that I have given him.

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A developer does not pay for every single aspect of the infrastructure update that may be required throughout Gibraltar as a result of a development. A developer pays a premium and then he develops, so that is not included in the context of the calculation; neither is the cost of the land included. So, for example, if you were to say we might have sold that land for £10 million, that is not factored in there because one of the principles of affordable housing in Gibraltar has been, since the concept was introduced by the GSLP Government and Mr Bossano, that you do not charge for the land but you are adding value to Gibraltar by having those homes for Gibraltarians. These are the issues that I was saying may need to be taken into consideration in the future and might tip that balance into loss.

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But there are a number of examples of housing developments which have given rise to a loss. For example, on Waterport Terraces there was a direct loss – applying the same criteria, not involving infrastructure or the cost of land – of £7 million, also excluding the cost of infrastructure and the land. And in fact there is a claim against the Government of Gibraltar of €26 million presently being adjudicated in the Spanish courts in Madrid by Gibralcón, formerly Bruesa. The hon. Gentleman might remember that this is what I told Mr Bossino was the real legacy of the GSD when he told me that it was a golden legacy that we had inherited.

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There was a loss of £19 million in respect of the development of Cumberland, Bayview and Nelson's, which was also a project they developed when they were in Government. That includes £4 million which was a loan that the former administration... the taxpayer directly gave to OEM, which has had to be written off. Just so that we understand that, the taxpayer has lost £4 million because the GSD Government gave OEM a loan which has been written off – not like the *Sunborn* loan, which has been fully repaid, as hon. Members will know, to Credit Finance Company Ltd. And there is additionally a £7 million claim against the Government – or there was – by Barclays Bank Plc through the liquidators of OEM.

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So, Mr Speaker, there have been direct losses, even when you do the calculations the same way as I have done them, but not in the estates developed by this administration.

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Hon. R M Clinton: Mr Speaker, I am grateful to the Chief Minister for the answer to that question from my hon. colleague.

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If I may ask, the £1,039 million profit on those two developments, he quoted a sale price – I may be wrong and have misheard him, and I am sure he will correct me – of £180 million. (**Hon. Chief Minister:** *Eight* million.) £108 million. Does that sale proceed include Government 50-50 or is that excluding Government 50-50? Is it all lumped together?

785 **Hon. Chief Minister:** Mr Speaker, from the information that I have and from my knowledge of the estates, I think that would include the Government's 50-50 because of course, as the hon. Gentleman knows, that is value.

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Questions for Written Answer

Clerk: We now move to answers to Written Questions. The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the answers to Written Questions W194/2017 to W215/2017 be now laid on the table.

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Clerk: Bills – First and Second Reading.

Hon. Chief Minister: Mr Speaker, I move that the House should now recess for 15 minutes before we continue with the business.

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Mr Speaker: The House will now recess for 15 minutes.

The house recessed at 3.44 p.m. and resumed its sitting at 4.03 p.m.

Order of the Day

BILLS

FIRST AND SECOND READING

Supplementary Appropriation (2015/2016) Bill 2016 – First Reading approved

Clerk: A Bill for an Act to appropriate further sums of money to the service of the year ended 31st day of March 2016. The Hon. the Chief Minister.

805 **Chief Minister (Hon. F R Picardo)** Mr Speaker, it was not even half an hour, let alone 50 minutes.

I have the honour to move that a Bill for an Act to appropriate further sums of money to the service of the year ended 31st day of March 2016 be read a first time.

810 **Mr Speaker:** I now put the question, which is that a Bill for an Act to appropriate further sums of money to the service of the year ended 31st day of March 2016 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Supplementary Appropriation (2015/2016) Act 2016.

**Supplementary Appropriation (2015/2016) Bill 2016 –
Second Reading approved**

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

The purpose of this Bill is to appropriate further sums of money to meet Government expenditure incurred during the year ended 31st March 2016.

820 Hon. Members will know that last year approval of supplementary appropriation was brought to this House in March 2016 ahead of the main Appropriation Bill for the following year. As I mentioned last year during the session of this House dealing with the Supplementary Appropriation Bill 2015, in order to enable the Principal Auditor to complete his audit of the annual audited accounts earlier and for these annual accounts to be laid in the House on a more timely basis, the Government decided to revert to the earlier practice of presenting the
825 Supplementary Appropriation Bills separately and earlier on in the annual parliamentary calendar. This was and remains our policy, and indeed I have confirmed that to the hon. Gentleman in the context of his question earlier in today's session. Indeed, the fact that the Supplementary Appropriation Bill for the year ended 31st March 2016 was actually published on
22nd December 2016, almost a year ago, shows our commitment to this.

830 Regrettably, due to the exigencies of Brexit, it has not been possible to find the ministerial and parliamentary time to deal with this important matter. Nonetheless, Members of the Opposition have been able to identify the supplementary adjustments required well ahead of the debate of the actual Appropriation Bill for 2017-18. They have also had the benefit of being in possession of the Actual figures for 2015-16 as disclosed within the Estimates Book for 2017-
835 18.

To a large extent, the detail of this matter was in fact debated at some length during the course of the 2017-18 Appropriation debate in June this year. Mr Speaker will recall that the Opposition then took the unprecedented stance of voting against the Appropriation Bill, or at least some Members of the Opposition – the official Opposition, if I can call it that, Mr Speaker –
840 took that step, something which we had not experienced before. If they are to be consistent with that approach, the GSD Members of Opposition will no doubt therefore vote against this Supplementary Appropriation Bill too. It would really not make any sense to vote against a Budget for 2017-18 on grounds of lack of transparency but then vote for an amount spent in excess of an earlier year's Budget which has also been compiled and presented in the same
845 apparently objectionable manner that gave rise to the negative vote.

This Bill is therefore the annual Supplementary Appropriation Bill required to provide appropriation cover retrospectively for the actual figures for the year ended 31st March 2016.

850 Hon. Members should note that in the case of the £11.38 million required to cover the additional expenditure incurred under the Consolidated Fund, this represents the amount required in addition to the supplementary provision of £9 million that is already included in the approved Estimates Book under head 44, the supplementary provision head. As has always been the case, a full breakdown of the £20 million – that is to say the £11.38 million and the £9 million – of reallocations to be made from head 44 will be tabled in the House at the next session of Parliament. This will provide hon. Members with a full and detailed breakdown of the heads and
855 subheads for which this supplementary provision has been applied, although a simple deduction of estimate 2015-16 against the actual disclosed in the Estimates Book for 2017-18 for that year, for 2015-16, will identify the adjustments required.

860 Mr Speaker, I commend the Bill to the House and I will just note that I will be moving an amendment at the Committee Stage in relation to the date of reference of the Act.

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

865 **Hon. R M Clinton:** Mr Speaker, whereas I recognise what the Chief Minister has said in terms of his intention for bringing this Bill earlier and that it is indeed going to be a Government policy to do so in future, nevertheless the fact remains that here we are a year later debating the Bill that was published in December last year.

870 It is a requirement of our Constitution under section 69.3 that the Minister with responsibility for finance come to this House to seek Parliament's approval for any departmental overspends in respect of the Consolidated Fund or project overspends in the Improvement and Development Fund as compared to the approved appropriation for that particular year. Section 69.3 of the Constitution reads as follows, and I quote:

(3) If in any financial year it is found –

(a) that the amount appropriated by the appropriation law for the purposes included in any head of expenditure is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the appropriation law; or

(b) that any moneys have been expended on any head of expenditure in excess of the amount appropriated for the purposes included in that head by the appropriation law or for a purpose for which no amount has been appropriated by the appropriation law, the Minister with responsibility for finance shall cause a supplementary estimate showing the sums required or spent to be prepared and laid before the Parliament and the heads of expenditure shall be included in a supplementary appropriation bill introduced in the Parliament to provide for the appropriation of those sums.

875 Today, in this Bill, Parliament is being asked to approve overspends in respect of the financial year 2015-16, being the Budget approved in July 2015. There are exceptions within the financial year to this requirement which I have just outlined, which I will explain as follows.

In respect of Consolidated Fund Expenditure, there are two exceptions, one in the Public Finance (Control and Audit) Act and the other under section 6 of the Appropriation Act 2015 in respect of the application of sums voted for supplementary provision.

880 Under section 45(1) of the Public Finance (Control and Audit) Act, the Minister responsible for finance may, in respect of Consolidated Fund expenditure heads, allow a reallocation between purposes within a head provided that there is no increase in establishment of staff. The Act provides under section 45(2) that:

Any warrant issued under the provisions of this section shall be laid before the Parliament at the earliest opportunity.

Section 6 of the Appropriation Act 2015 reads as follows:

Notwithstanding anything contained in the Public Finance (Control and Audit) Act, the Minister responsible for finance may direct by means of a warrant that the whole or any part of the sums appropriated under Head 44 Supplementary Provision shall be applied to any of the other Heads specified in Parts 1, 2 and 3 of the Schedule.

885 As the Chief Minister has already pointed out, the amount approved for head 44, Supplementary Provision, was £9 million under the Appropriation Act 2015. The description of the purpose of this head 44 in the Estimates Book for 2015-16 was as follows, and I quote:

A provision for the year ending 31st March 2016 for the funding of pay settlements and supplementary expenditure which can be reallocated to other departmental heads of expenditure, the controlling office being the Financial Secretary and the Minister being the Minister for Finance.

And now, Mr Speaker, as regards the Improvement and Development Fund:

Under section 33(2) of the Public Finance (Audit and Control) Act, but subject to any moneys provided by external agencies for specific projects, the Minister may similarly reallocate project moneys but without restriction as follows ...

Section 33(2) reads, I quote:

Subject to the provisions of subsection (1) the Minister responsible for finance, if it appears to him to be necessary to do so, may by means of a warrant under his hand re-allocate moneys between one development project and another of the same head of expenditure if he is satisfied that further provision is needed for the development project to which moneys are to be re-allocated and that there is, or is likely to be, a surplus in respect of the development project from which the moneys are to be allocated.

890 The total approved appropriation 2015 under head 102 projects within the Improvement and Development Fund was £78,891,000. As in the case of the Consolidated Fund, reallocation in section 33(3) in respect of the Improvement and Development Fund provides that 'Any warrant issued in accordance with subsection (2) shall be laid before the Parliament at the earliest opportunity.'

895 Thus I have now outlined the various legal requirements and exceptions so as to provide the framework within which this Supplementary Appropriation Bill for 2015-16 needs to be considered.

Let me say at the outset that I really do have great difficulty in supporting this Bill in the manner it has been presented to this House, and of course I also have taken issue with the timing of it coming to this House.

900 Let me deal with the latter point first. The Bill was published on 22nd December 2016, and despite being on the Agenda of this House for almost a year it is only now that we are able to debate it. Last year, the Supplementary Appropriation Bill for 2014-15 was published in December 2015 and debated in Parliament on 2nd March 2016. The Chief Minister, during that
905 debate on 2nd March 2016 – and he has acknowledged that – explained a change in the policy in the manner of presenting supplemental appropriations and the reason for it as follows, and I quote:

Hon. Members will take note that in past years requests for approval of supplementary appropriations have been brought to this House as part of the main Appropriation Bill for the year. For example, the supplementary funding requirements for the financial year 2013-14 were included as part of the main Appropriation Bill for the year 2014-15 and the supplementary funding requirements for the financial year 2012-13 were included as part of the main Appropriation Bill for the year 2013-14.

Because the main Appropriation Bills for the year are normally now debated in this House at around June or July of each year as part of the Budget session, this has meant that the annual audited accounts for the previous year have necessarily been delayed until the approval of these supplementary appropriations and the Principal Auditor has not been able to complete his audit of the annual public accounts until then.

In order to enable the Principal Auditor to complete his audit of the annual audited accounts earlier and for these annual accounts to be laid in the House on a more timely basis –something I am sure will be welcomed by some, Mr Speaker –the Government has decided to revert to the earlier practice of presenting the Supplementary Appropriation Bills separately. These will therefore no longer be included within the main Appropriation Bill for the year. The practice in future will be that the Supplementary Appropriation Bills will be published earlier and within the statutory nine months after the close of each financial year prescribed for the submission of the annual accounts to the Principal Auditor under section 52 of the Public Finance Control and Audit Act.

I welcomed the Chief Minister's statement at the time, and in fact his confirmation that it is still his intention today, but we have seen many Bills come to this House since December 2016
910 and, despite Brexit, I cannot see there has been a lack of time available for this House to debate it. It is particularly of concern to me since it causes a knock-on delay in the Principal Auditor being able to complete his audit of the annual public accounts. Delaying of the annual accounts in this House on a more timely basis is, as the Chief Minister will surely appreciate, a matter close to my colonial book-keeper's heart. More so, Mr Speaker, since the Minister for the
915 Savings Bank will not gazette the audited accounts of the Savings Bank that are already in his possession until of course the annual public accounts of the Government as a whole for that particular year are laid in this House.

And so, Mr Speaker, in the interests of transparency ... and again I am grateful to the Chief Minister for confirming that he will stick to this timetable that he announced last year and that
920 in future we will be debating the Supplementary Appropriation Bill on a more timely basis,

because of course it is entirely illogical to have passed the Budget already for 2017-18 and yet not passed the supplementary for 2015-16.

925 Last year, Parliament was asked to approve a supplemental appropriation for £16.2 million for Consolidated Fund expenditure in the financial year 2014-15 in respect of what was head 43, Supplementary Provision. During the debate in March last, I pointed out to the Chief Minister that Parliament had not yet been provided with an analysis of the £16.2 million appropriation, despite my letter to him on 17th February 2016. In his response on 29th February 2016 the Chief Minister stated:

As regards the Supplementary Appropriation Act, I will be providing to Parliament in the normal way a breakdown by departmental heads of the £16.2 million required to meet additional departmental Consolidated Fund expenditure.

930 This information was not provided prior to the March 2016 debate, and in fact it was the Hon. Dr John Cortes, as Acting Chief Minister, who tabled the following documents in Parliament in June – in fact on 29th June 2016 – being the Consolidated Fund Pay Settlement Statement 1/2014-15, the Consolidated Fund Supplementary Funding Statement Number 2/2014-15, the Consolidated Fund Reallocation Statement 3/2014-15 and the Improvement Development Reallocation Statement 1/2014-15. I find it hard to believe that this was the earliest opportunity
935 to present these schedules to Parliament, as envisaged by the Public Finance (Audit and Control) Act, well after we debated the Supplementary Appropriation Bill.

Mr Speaker, I have now since studied in depth how the head called ‘Supplementary Provision’ is utilised and I have come to the conclusion – and I have not come to this conclusion easily – that it really is contrary to the intentions and not the spirit of our Constitution.

940 In this year’s Supplementary Appropriation Bill for 2015-16 the House is being asked to approve an additional amount of £11,380,000 to head 44, Supplementary Provision, bringing it to a total of £20,380,000, given the original £9 million approved estimate. It is clear to me that head 44 is being used as a miscellaneous suspense account by the Government to fund Government departmental overspends, using the reallocation method under section 6 of the
945 Appropriation Act. That cannot have been the intention of section 69(3) of the Constitution, which requires specific heads of expenditure to be identified where additional funding is required for parliamentary approval. Furthermore, head 44 is clearly identified as a provision in the Estimates Book for 2015-16, and as the Financial Secretary will know, it is not possible to overspend the provision: it is either utilised or not.

950 Mr Speaker, what the Government is inviting Parliament to do is to top up its general provision for departmental expenditure without identifying its purpose in the Bill. This is hardly a transparent way of conducting public finances and in my view it is entirely contrary to what is envisaged by our Constitution. Taken to its absolute extreme, if we follow the same logic, the Government need only allocate £1 to each head of expenditure in its Estimate Book and put
955 £453 million into head 44, Supplementary Provision, to allocate it as it sees fit during the year. *(Interjection)* And before the Chief Minister states the supplemental head was used by a GSD Government for the first time, let me point out that specific heads of expenditure were always identified when requiring a supplementary appropriation, as was the case in the Supplementary Appropriation Act 2012 and earlier.

960 Mr Speaker, whereas in the past I objected to a lack of information presented with the Supplementary Appropriation Bill, I now also object to the way head 44 is being used as a general suspense account for Government departmental overspending. I thus invite the Chief Minister in his role as Finance Minister to discuss this matter with the Financial Secretary and come back to this House with a redrafted Bill with the information in respect of Department
965 overspends by head, as envisaged by the Constitution in this Bill.

In addition, Mr Speaker, I will be grateful if the appropriation of £5,107,000 for the Improvement and Development Fund, which is only identified under Part 3 as being for head 102, Projects, could be expanded upon as in previous years.

970 In the schedules provided to the Opposition under Standing Order 43(1), this additional expenditure is identified as being in respect of tunnels and roads to the North Front with the explanation as follows:

Expenditure higher than budgeted. Parts of the budgetary overrun will be met through the reallocation of savings identified elsewhere within head 102.

975 Mr Speaker, I would also be grateful if the Bill could be amended so that head 102 will show the project being additionally funded. Let us be under no illusion that these are merely internal reallocations. The request for funding in the Improvement and Development Fund is a real additional expense, having exhausted any surpluses as provided by section 33(2) of the Public Finance (Audit and Control) Act.

Last year the Chief Minister went to great pains to underline that, in his view:

The hon. Gentleman has said something that I think is important I should deal with, which is that this is an overspend. I do not want anybody to go away with the idea that this is additional money. This is money that is moving from one part of the book to another part of the book.

980 Any supplemental appropriation by definition must represent an overspend when compared to the original estimate, even if there are departmental reorganisations. The Government's saving grace is that there may be compensating underspends in other heads that neutralise the overspend, but that cannot always be assumed, which is why Parliament needs to have full and detailed information in any Supplementary Appropriation Bill.

985 So, Mr Speaker, unless the Government considers redrafting the Bill, I am of the view that the Bill is defective as presented and it is certainly contrary to the spirit of our Constitution, and as such I will not support it and cannot support it and I will not recommend the Bill to my colleagues on this side of the House. And we can do without the Chief Minister's histrionics about hospitals shutting down and people dying, because this is obviously in respect of expenditure almost two years ago.

990 Finally, I again urge the Chief Minister to keep to the timetable he announced last year for the supplementary appropriations so that the Principal Auditor's work is not delayed unnecessarily in tabling the Government's annual accounts.

Thank you, Mr Speaker.

995 **Mr Speaker:** Does any other hon. Member wish to speak on the Second Reading of this Bill? Otherwise, I will call upon the mover to reply.

The Hon. the Chief Minister.

1000 **Hon. Chief Minister:** Mr Speaker, it is good to see the Hon. Mr Clinton come back into his own and into his area of comfort.

1005 He started his address dealing with the issue of the delay in Parliament dealing with the Bill. I thought I had dealt with that, but it is becoming a characteristic of his time in this place that he delivers the speech that he arrives to deliver regardless of what may be said in this place, although I am grateful that he at least acknowledged, in an element of parenthesis in what he was saying, that I had already given the commitment that he was suggesting that he was seeking to extract. He also said that he recognised that we have the intention to move in the way that he suggested. This is a Government that is seeking to act in a way that is most transparent, which is now what Members opposite would also like us to do, despite the fact that they represent a regime which might not exactly have been doing the same.

1010 Taking us through the Constitutional requirement of section 69(3) on authorisation of expenditure, the Public Finance (Control and Audit) Act, both the sections on relocations 45 and 33 for the I&D and the recurrent account, was no doubt riveting to accountants listening, but I do not think it took us much further. The Bill is based on an interpretation of those sections and

of, in particular, the constitutional requirements, which is accepted in the context of the practice of this Parliament stretching back many years – indeed, even before I was here, let alone his recent arrival. So the Government is advised and considers it is acting in full compliance with the constitutional provisions and the provisions of the Public Finance (Control and Audit) Act.

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He said that he would find it very difficult, as he started his peroration through the Bill, to support the Bill, but indeed I would have thought he should have started somewhere else. I would have thought he should have started by telling us that he would find it very difficult not to vote against the Bill if he had wanted to, because of course part of what we are dealing with is in the book that they voted against in July, so I would have thought that it was now very difficult indeed for the hon. Gentleman to come to this House and perform the utter volte-face he would have had to perform to advise his colleagues to vote in favour of this supplementary provision. As he develops in politics he may be becoming more adept at the volte-face, but it is not something that fits in the logic of the way that he introduced his party's position on the Estimates in July; and indeed I am grateful to see that he has stuck consistently and doggedly to that approach, although it was in effect political hara-kiri for the former, former Leader of the Opposition to have taken his advice, but at least I applaud him as the former Leader of the Opposition in taking that position and advising the Leader of the Opposition that he should follow in the footsteps of those he had taken to the edge of political suicide.

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So, Mr Speaker, in respect of the delay of the audited accounts, that is understood by this side of the House; it is why we moved to move more quickly in the context of these Bills. The Bill was published in keeping with the commitment that we gave; we have just not been able to deal with it in the time that we expected.

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He says many Bills have come to this House and we have been able to deal with much. We have, Mr Speaker, but he might care to look at the fact that apart from the Appropriation Bill, which requires a lot of specific preparation and we did toy with the possibility of dealing with the issue then, a lot of the Bills that have been dealt with in this House this year have not been Bills on which I have led as Minister for Public Finance – because of the unfortunate distraction upon which we are all embarked, which is called leaving the European Union.

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But he said something, Mr Speaker, which I think I must deal with head on. He said that, as a result of all of this inability to move in respect of the audited accounts, we have not yet seen the accounts of the Savings Bank, which are traditionally – not because of Mr Bossano wishing it to be that case, but traditionally – published once the audited accounts are published. Well, I agree with him. It is a pity we have not yet seen those audited accounts, because I think when we see them we will once again see why it is that this community looks to Joe Bossano as a magnificent manager of the funds that are the responsibility of those of us on this side of the House who manage savings money in the Savings Bank, or indeed taxpayers' money more generally. I do not think that the Government is dreading the day that the audited accounts of the Savings Bank are published; indeed we are very much looking forward to that day, but perhaps Members opposite might wish to rue that day a little, given some of the things that they have said in the past about the Savings Bank.

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Mr Speaker, there is no breakdown in the normal way of laying on the table the follow-up requirements. Indeed, they can only be laid once the approval of this House has been given. There is nothing, therefore, that is contrary to the Constitution in what is being done. This action is in keeping with the advice the Government has as to how it must act and indeed with the practice in the past and entirely in keeping with the provisions of the Public Finance (Control and Audit) Act – if I may say so, Mr Speaker, in keeping with the practice not just under this Government but, as the hon. Gentleman ventured to suggest I might be saying, also in keeping with the practice of former Governments, even those led by the former, former, former, former Leader of the Opposition and the current Leader of the GSD when he was Deputy Chief Minister.

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So, Mr Speaker, I commend him on his return to the role of colonial book-keeper. So often the colonial book-keepers got it wrong in respect of Gibraltar, and I think part of the most important history of Gibraltar starts when the Chief Minister of Gibraltar starts to deliver the

1065 speech on the Budget for Gibraltar, which happened in 1988 under the first Bossano Budget. I
cannot resist but tell him that it was good to see him deploy in this place the riveting charisma
and ability to persuade which led him to the results he had in his leadership election last week
and to tell him that he need not fret about hospitals closing down or civil servants not being
1070 the Budget which would have had that affect, sensible heads prevailed on that side and sensible
heads prevailed on this side and our hospitals stayed open, our law enforcement agents
remained paid and Gibraltar did not fall into the bear trap that he sought to lay for our
community.

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

1075

Mr Speaker: I now put the question, which is that a Bill for an Act to appropriate further
sums of money to the service of the year ended 31st day of March 2016 be read a second time.

Hon. Chief Minister: Mr Speaker, I will call a division in respect of this Bill.

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Mr Speaker: A division is required.

Voting resulted as follows:

FOR	AGAINST	ABSTAIN	ABSENT
Hon. P J Balban	Hon. R M Clinton	None	Hon. Dr J E Cortes
Hon. J J Bossano	Hon. T N Hammond		Hon. D A Feetham
Hon. N F Costa	Hon. E J Phillips		Hon. Miss S J Sacramento
Hon. Dr J J Garcia	Hon. E J Reyes		
Hon. Ms M D Hassan Nahon			
Hon. A J Isola			
Hon. G H Licudi			
Hon. S E Linares			
Hon. L F Llamas			
Hon. F R Picardo			

1085 **Mr Speaker:** There are 3 Members absent, 8 votes in favour of the Second Reading of the Bill,
four against. The Bill is carried. The Second Reading of the Bill is carried by a majority.
(*Interjections*) (**A Member:** You said eight.) I said eight? I should have added the other two, sorry
my mistake. I have got them here – I am getting old! – 10 in favour, 4 against and 3 Members
absent.

Clerk: The Supplementary Appropriation (2015/2016) Act 2016.

**Supplementary Appropriation (2015/2016) Bill 2016 –
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 today, if all hon. Members agree – and, Mr Speaker, I do
hope I get old like you and Mr Bossano, because I would give money now to get there like you
have!

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

**Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 –
First Reading approved**

1090 **Clerk:** A Bill for an act to amend the Public Finance (Statutory Benefits Fund) Act 2008.
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 Public Finance (Statutory Benefits Fund) Act 2008 be read a first time.

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Mr Speaker: I put the question that a Bill for an Act to amend the Public Finance (Statutory Benefits Fund) Act 2008 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

1100 **Clerk:** The Public Finance (Statutory Benefits Fund) (Amendment) Act 2017.

**Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 –
Second Reading approved**

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

The purpose of this Act is to correct an error within the original Public Finance (Statutory Benefits Fund) Act 2008. The amendment is in fact a technical correction of a drafting error which was noticed by officials recently and which inadvertently altered the position which existed in 2008, and in fact as drafted does not make sense.

The Public Finance (Statutory Benefits Fund) Act 2008 was introduced to replace existing funds as defined by the Statutory Benefits Fund. There exists a lot of legislation that refers to existing funds individually. Where other legislation designates moneys as receivable by existing funds, the purpose of the Public Finance (Statutory Benefits Fund) Act 2008 was to re-designate these such that they should be credited to the Statutory Benefits Fund.

Under the present wording of the Public Finance (Statutory Benefits Fund) Act 2008, section 4(1) reads:

There shall be credited to the Statutory Benefits Fund and not to the Existing Funds–

and then there is a list that follows, Mr Speaker. That list currently includes as a last point:

any moneys specified in any other law as being payable into the Statutory Benefits Funds.

1115 This section can only be intended to act as a catch-all to ensure that anything receivable by the existing funds is actually redirected by virtue of the Public Finance (Statutory Benefits Fund) Act 2008 to the then newly established Statutory Benefits Fund. By using the words ‘Statutory Benefits Fund’, all this section achieves is a circular approach, thereby defeating its original objective.

1120 There can be no need for a separate provision with the Public Finance (Statutory Benefits Fund) Act 2008 to credit moneys to the Statutory Benefits Fund where other laws refer to the Statutory Benefits Fund as the fund to be credited. The section only makes sense where other laws refer to the existing funds receiving money which should as from 2008 be receivable, by virtue of this Act, by the Statutory Benefits Fund.

1125 Mr Speaker, the amendment Act corrects a historical error and I commend the Bill to the House.

Mr Speaker: Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill? No.

1130 I now put the question, which is that a Bill for an Act to amend the Public Finance (Statutory Benefits Fund) Act 2008 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Public Finance (Statutory Benefits Fund) (Amendment) Act 2017.

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**Public Finance (Statutory Benefits Fund) (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 today, if all hon. Members agree.

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

**Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 –
First Reading approved**

Clerk: The Financial Services (Investment and Fiduciary Services) (Amendment) Act 2017.
The Hon. the Minister for Commerce.

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Minister for Commerce (Hon. A J Isola): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Financial Services (Investment and Fiduciary Services) Act be read a first time.

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

Clerk: The Financial Services (Investment and Fiduciary Services) (Amendment) Act 2017.

**Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 –
Second Reading approved**

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

1160 As its title indicates, this Bill would amend the Financial Services (Investment and Fiduciary Services) Act. The amendments are required to support the Government's proposals for the regulation of distributed ledger technology (DLT), the technology which underpins decentralised virtual currencies but which also has a wide range of other applications in the financial services sector, such as clearing, settlement and other post-trade activities or claims or portfolio management.

Members will be aware of the work Government has been carrying out these past three years through three different consultation processes with the sector and the community more widely,

1165 both in Gibraltar and outside Gibraltar, to focus and explore the opportunities in DLT. Those consultations have led Government to believe that we should be one of the first jurisdictions in the world to introduce a regulatory framework for DLT businesses and providing the regulatory certainty that so many of them have asked for and we will now be delivering with effect from 1st January.

1170 Regulations have already been published and we know of a list of businesses waiting to file their applications with the Financial Services Commission on 1st January.

I would like to just briefly thank the working group – David Parody, Paul Astengo and Joey Garcia – for their work these past three years at no cost to Government, and of course the Financial Services Commission for their work, and Sian Jones, as well the rest of the private sector who have contributed and worked hard. We will be publishing, I expect next week, guidance notes on the nine core principles of the regulations that have already been published with the full support of the entire private sector, and I am grateful to all of them for making this happen.

1175 The Financial Services (Investment and Fiduciary Services) Act provides for the regulation of both investment services and a range of controlled activities. The Government proposes that DLT services will be regulated by being made a controlled activity under that Act. For that purpose, this Bill makes some relatively minor but nonetheless important amendments to the Act.

1180 Many of the Act's regulatory powers provide that they may be exercised where doing so is for the protection of investors. As the provision of DLT services is in essence the transmission or storage of value belonging to others, service users will be customers of a DLT provider but will not necessarily be investors within the meaning of the Act. Accordingly, clause 2 inserts appropriate references to customers into the relevant provisions, a term which is already used in the Act – for example, under section 12(2)(f), which refers to making for the protection of investors or customers. The term 'customer' is not defined in the Act and so is used in its ordinary sense to mean a user of goods or services purchased from a business. It is deliberately wider than 'consumer', which would exclude business consumer.

I commend the Bill to the House.

1195 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of this Bill?

The Hon. Roy Clinton, the Leader of the Opposition.

Hon. Roy Clinton: Former. Thank you, Mr Speaker.

1200 As the Minister will be aware, I have been following quite closely the development of DLT and block chain and the underlying technology. I, of course, welcome anything that will enhance the product offering that Gibraltar has in financial services and other services, and this is certainly an area in which we are really at the very beginning of this type of business. Indeed, the SEC and certainly the FCA in the UK are still getting to grips with concepts such as initial coin offering and how on earth that should or should not be regulated and even what it is that it represents, whether an ICO is a security or not a security.

1205 I appreciate and no doubt the Minister will emphasise that this particular Bill is not necessarily covering that type of financial ... or, not financial, the ICO concept, but I would be grateful if the Minister could clarify for the benefit of Members, certainly on this side of the House, when he talks about it being a Bill to protect investors, or rather extend the protection of investors to customers of licensees, what protection that would be.

1210 Is the Minister saying by extension that any customers of DLT-type licensees will be able to access the Investor Compensation Fund or some other type of fund? How will customers be effectively protected? Is it purely by way of regulation, or is it that these customers will be able to make a claim for compensation in respect of any losses? If so, on whom would that claim fall and how is it that the Minister would envisage that the potential new licensees would contribute

1220 to such a fund, if at all that is the intention, or is there some other intention by way a fund would be established for any potential claims – or is it to be completely unfunded and a call made on licensees individually or collectively? I would welcome any comment from the Minister in that respect. And, of course, if there is to be no compensation available to investors or customers, to what extent are we actually protecting them? Is there a risk to the jurisdiction, if anything does go wrong, that there would be a complaint that ‘we thought we were protected and we are not’?

1225 **Hon. A J Isola:** If the hon. Member will give way it might help him.

Hon. R M Clinton: Yes, certainly.

1230 **Hon. A J Isola:** When we talk about protection of investors we talk about what the financial services legislation does, and the regulatory powers that the FSC have, both in terms of licensing, regulation and supervision, are all focused on the protection of the investors. What we are doing in this Bill is simply saying that that regulatory oversight will now extend not just to investors but customers.

1235 So we are not talking about a compensation scheme. We are not going to compensate – nobody is. There is no fund, they do not have any access to the current compensatory schemes. We are simply extending the regulatory powers to cover not just investors but also customers. And why are we doing that? Because somebody who sets up a DLT business in order for it to be a controlled activity, they are not investors; these are shareholders, so they are customers. Somebody that a DLT firm holds or transfers an item of store or value, which is for example
1240 where a cryptocurrency could be – not only, but it could be a whole host of things – as customers of the firm that is licensed, the regulatory powers will extend to looking after them to make sure that the company they are customers of is regulated fully like any other financial services firm would be.

1245 So you must not confuse customers in the sense that what we are doing is offering compensation. What we are doing is expanding the power of the FSC to cover not just investors in a financial services firm but customers of a financial services firm. That is what we are doing by bringing it under the ambit of a controlled activity. If it is not a controlled activity it cannot be regulated. So the very small change we are doing here is by making DLT businesses which hold or transfer something of value as a controlled activity, it now becomes regulated – if that helps.

1250 **Hon. R M Clinton:** Mr Speaker, I am grateful for the Minister’s intervention, and certainly it does illuminate what it is that the Government is thinking in this respect.

1255 Having heard what he just said, of course I am conscious that there are all sorts of different types of licensees within financial services – for example, trust company managers may have a certain class of licence but are obviously not entitled to claim compensation from certain funds – but given that we are dealing with what are some very new concepts and that people may have not fully understood all these concepts, certainly not customers, or customers will understand what it is they are signing up to as this is new stuff and I think even the law is still being written on this, just perhaps a word of caution in future to make sure that there is a health warning that,
1260 although you may be licensed by the FSC, it does not necessarily mean that you are going to get any compensation, there is no safety net. *(Interjection)* Again, only a suggestion to the Minister. I am not saying he should do it; I am just saying given that ...

1265 Certainly from the contributors to the cryptocurrency conference in the summer – which was very interesting, having come from a highly regulated banking background myself – they have a rather, dare I say it, ‘wild west’ view of what it is that they think they can do with things like initial coin offerings: ‘Isn’t it great your grandmother can invest her life savings in this and they do not have to have a minimum \$100,000 wealth to do so.’

1270 I am just a bit conscious that this is something new, this is something that we are all learning about and there may be some customers out there who may not fully understand what it is that they are covered for or not covered for, and this is something that ... I think it would be wise to make sure that whoever does have a licence does not put out on their main banner on whatever website saying 'Licenced by the Gibraltar Financial Services Commission' and there is an assumption that somehow we are on the hook for it. Again, only a suggestion. I am not saying that this is something that he has to do, but this is something new, this is something that we ...

1275 Again, I welcome the initiative of the Government to look into this, but as I said at the beginning, caution would be wise and I am sure that the Minister has taken advice on this and will continue to take advice on it, because this is obviously something that will change literally by the day in terms of how regulatory authorities around the world view this.

1280 Other than that, and given the Minister's intervention already, I have no further comments on the Bill.

Thank you, Mr Speaker.

Mr Speaker: Does any other hon. Member wish to speak on the Second Reading of the Bill? Yes, the Hon. the Leader of the Opposition.

1285 **Hon. E J Phillips:** Mr Speaker, we on this side of the House welcome any action taken by the Minister for Financial Services in relation to the extension of the regulatory framework to DLT and, as the Minister said, in relation to underpinning decentralised currencies in relation to extending it for supervision, regulation and indeed enforcement.

1290 We would also welcome the focus and the exploration of opportunities that is being conducted by the Government in this field. I have been fortunate enough to speak to many law firms in London recently, particularly very large London law firms with American outfits, and their view is that Gibraltar really is trailblazing in DLT and this is a very welcome piece of legislation that extends the framework to DLT.

1295 And of course this House should also recognise, as the Minister has done, the work that has been done by David Parody, Paul Astengo, the FSC generally and also Joey Garcia as well.

1300 Therefore, we agree with the comments that the Minister has made in relation to DLT and the regulated controlled activities. From my perspective, in terms of wearing my other hat outside this House, I have had a lot of exposure to DLT insofar as the risk strategy, KYC and the many questions that people have in relation to this aspect of DLT, and many of those questions have been answered by the consultation that the Government has conducted.

1305 I take it from the Minister and what he is saying about DLT generally that as with gaming, although I do not link the two, that the Government is looking to attract blue-chip business to our community because that is what works here and our experience has shown that encouraging blue chip will only increase the reputation of our jurisdiction to attract good business into Gibraltar – and also we welcome it from this side of the House.

Mr Speaker: The Hon. the Chief Minister.

1310 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I rise simply to, I think, highlight importantly the work that has gone into this, the amount of travel that has been involved to get out the message that Gibraltar is, as the Hon. the Leader of the Opposition has put it, trailblazing in DLT. That reflects the amount of industry that this has required on the part of the hon. Member for Financial Services, Gaming and Commerce and his team.

1315 The hon. Members have mentioned Parody, Astengo, Garcia, Sian Jones, and in particular it is right to mention also Isola. I think the work that the hon. Member has done is recognised as having got the Gibraltar message out there, and that message is producing an understanding of the exciting opportunities that Gibraltar now offers – especially once the Act is on our statute book – that has not been lost on the international business community.

1320 I think that our prudence, our understanding of cutting-edge technology and industry produce the opportunities that Gibraltar is now poised to take advantage of and I commend the hon. Member for the work that he has done and the importance it will have for Gibraltar, not just now but I think in the future.

1325 Mr Speaker, I say nothing more than that I think I heard two slightly different speeches from the other side, but I am pleased that they both concluded in commending the hon. Member for the work done and suggesting that they are going to be supporting the Bill. One was from the current Leader of the Opposition and one from the former Leader of the Opposition, but I did detect a slightly different approach in each of them.

1330 **Mr Speaker:** Does the mover wish to reply?

Hon. A J Isola: Yes, Mr Speaker.

1335 I am grateful to the Chief Minister for his kind words, and indeed the Leader of the Opposition for his clear and categorical support for the work that has gone in and what we are doing. If I can just deal with the points that he has made first, the philosophy behind this is to attract long-term sustainable business to our community. That, by definition, requires us to ensure that we set the bar at a high post where we will attract those quality operators, because what we have learned from the gaming experience is that if you attract quality operators they themselves attract new business. That is what has worked so well for us in gaming and we hope
1340 will work for us similarly in this space.

Like in the previous example, we are insisting that DLT firms have their mind and management in Gibraltar. There is no question of a firm having a shelf company with a licence operating from somewhere else. They will have to have their mind and management here in Gibraltar and the care that the FSC will take in reviewing these applications is a part of that blue-
1345 chip process in ensuring that we attract the kind of firms that we want to be here and partnering up with us. That is a very important part of the work that will now start as we sift through the applications that are pending and will come in in the coming months and years.

1350 It is an exciting time. We are trailblazing and we are doing so in the same way that we have done before, which is with enormous caution and with great care. However, when you start talking about ICOs, as the former Leader of the Opposition just did, we are talking about a totally different space and I would urge him not to confuse the two. What we are doing today is dealing with a block chain technology. Only last week the House of Lords issued a report in which they revealed that the UK government should consider adopting block chain for its own systems internally. There is a group of 40 banks with IBM, called R3, that are considering the further
1355 expansion and use of block chain, and every day in *The Telegraph*, in *The Times* and in the *FT* and all the business journals and newspapers they are reflecting an increased interest and investment in the technology – and that is what we are doing today. We are not talking about tokens; we are simply talking about DLT block chain technology and how that can be operated, and by definition it includes the holding of value in whatever form that may take.

1360 Now, tokens, I have to say that the extent of the number of token sales being done through Gibraltar is something that is causing us some concern. We are moving as quickly as we possibly can to regulate token sales too in order to ensure that those people who are dealing initially in token sales have a minimum level of corporate governance, have a minimum level of transparency of information with all the health warnings the hon. Member has referred to, in
1365 order that customers and consumers are absolutely clearly aware of the risks they are undertaking in investing in tokens.

I hope that we will be able to issue very early in 2018 the new proposed regulations for coin offerings, which will, I think, to some extent replicate what you have when you have an IPO either on the FTSE or on AIM, a Nomad or a sponsor, so somebody is going to take responsibility
1370 for the filing of that documentation which will have to confirm that it complies with the regulations that we will publish as to how we expect token sales to be made.

1375 That is the risk area. We are fully aware of that and we are working very hard to try and get there as quickly as we can, but it is complicated and it requires some significant drafting to be able to deal with that. But in respect of this, we are dealing with a very different kind of business and the two must not be confused with each other.

1380 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Financial Services (Investment and Fiduciary Services) Act be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Financial Services (Investment and Fiduciary Services) (Amendment) Act 2017.

**Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 –
Committee Stage and Third Reading to be taken at this sitting**

1385 **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.)

COMMITTEE STAGE AND THIRD READING

1390 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should now resolve itself into Committee to consider the following Bills clause by clause: the Supplementary Appropriation 2015/2016 Bill 2006, the Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 and the Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017.

1395

In Committee of the whole Parliament

**Supplementary Appropriation (2015/2016) Bill 2016 –
Clauses considered and approved**

1400 **Clerk:** A Bill for an Act to appropriate further sums of money to the service of the year ended 31st March 2016.

1405

Chief Minister (Hon. F R Picardo): Mr Speaker, as I indicated in the context.

1405 **Mr Speaker:** Clause 1: the date 2016 appearing after the word Act should be amended to read 2017. Do all Members agree with that amendment? Carried.

1410

Clerk: Clauses 2 to 6.

Mr Speaker: Stand part of the Bill.

1410

Clerk: The schedule.

Mr Speaker: Stands part of the Bill.

Clerk: The long title.

1415 **Mr Speaker:** Stands part of the Bill.

**Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 –
Clauses considered and approved**

1420 **Clerk:** A Bill for an Act to amend the Public Finance (Statutory Benefits Fund) Act 2008.
Clauses 1 to 3.

Mr Speaker: Stand part of the Bill.

Clerk: The long title.

1425 **Mr Speaker:** Stands part of the Bill.

**Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the Financial Services (Investment and Fiduciary Services) (Amendment) Act 2017.
Clauses 1 and 2.

1430 **Mr Speaker:** Stand part of the Bill.

Clerk: The long title.

1435 **Mr Speaker:** Stands part of the Bill.

**Supplementary Appropriation (2015/2016) Bill 2016;
Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017;
Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 –
Third Readings approved: Bills passed**

Mr Speaker: The Hon. Chief Minister.

1440 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Supplementary Appropriation (2015/2016) Act 2016, the Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 and the Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 have been considered in Committee and agreed to with an amendment and I now move that they be read a third time and passed.

Mr Speaker: I will now put these Bills to Members separately.

1445 I now put the question, which is that the Supplementary Appropriation (2015/2016) Bill 2017 be read a third time and carried. Those in favour? (**Several Members:** Aye.) Those against? (**A Member:** Nay.) The official Opposition, I take it, are voting against. The two independent Members are voting in favour. That has been read a third time and passed.

1450 Next, I put the question, which is that the Public Finance (Statutory Benefits Fund) (Amendment) Bill 2017 be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried unanimously.

1455 Thirdly, I put the question, which is that the Financial Services (Investment and Fiduciary Services) (Amendment) Bill 2017 be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried.

Hon. Chief Minister: Mr Speaker, it has been the longest year in many respects. Not only have we happily together celebrated the 50th anniversary of the Referendum, we have celebrated the 200th anniversary of this building.

1460 We come now towards the end of the year and I am about to move that the House should adjourn *sine die*. Before I do that, I want to wish hon. Members a happy Hanukkah and Festival of Light – I think it comes first – a happy Christmas to all on all sides of the House and a very happy, healthy and prosperous New Year to all Members of the House and all those watching in this community, and indeed to the whole of this community.

1465 Two thousand and eighteen will be as testing a year, no doubt, as 2017 has been, but with industry and with hard work Gibraltar will see us through. Mr Speaker, I hope to return here in January to see all hon. Members prospering in every way – except politically, as far as I am concerned, for those opposite – and having done my bit to increase the population of this place so that Gibraltarians keep on growing. (**A Member:** Hear, hear.)

I move that the House should now adjourn *sine die*.

1470 **Mr Speaker:** The Hon. the Leader of the Opposition.

1475 **Hon. E J Phillips:** Mr Speaker, I echo the comments, save for the last one in relation to whether we will flourish in Opposition; but I echo the comments insofar as wishing our community and Members opposite a very happy Christmas, a happy New Year and a happy Hanukkah to my hon. Friend to the left.

Mr Speaker: May I add my best wishes to all hon. Members and all other persons present here, including the staff of Parliament, for a very Happy Christmas and a peaceful 2018.

1480 The House will now adjourn *sine die*.

The House adjourned at 5.10 p.m.