



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.30 p.m. – 3.50 p.m.

Gibraltar, Friday, 5th April 2019

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The Gibraltar Parliament

The Parliament met at 3.30 p.m.

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

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

Order of the Day

BILLS

FIRST AND SECOND READING

European Parliamentary Elections (Amendment) Bill 2019 – First Reading approved

Clerk: Meeting of Parliament, Friday, 5th April 2019.

(ix) Bills for First and Second Reading.

5 A Bill for an Act to amend the European Parliamentary Elections Act 2004. The Hon. the Deputy Chief Minister.

Mr Speaker: I confirm that I have received indication – certification, in fact – as regards the urgency of this Bill.

Deputy Chief Minister (Hon. Dr J J Garcia): Thank you, Mr Speaker.

10 I have the honour to move that a Bill for an Act to amend the European Parliamentary Elections Act 2004 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the European Parliamentary Elections Act 2004 be read a first time. Those in favour? (**Members:** Aye.) Those
15 against? Carried.

Clerk: The European Parliamentary Elections (Amendment) Act 2019.

European Parliamentary Elections (Amendment) Bill 2019 – Second Reading approved

Deputy Chief Minister (Hon. Dr J J Garcia): I have the honour to move that the Bill be now
20 read a second time.

Mr Speaker, elections to the European Parliament are due to take place across the EU on Thursday, 23rd May or Sunday, 26th May. The United Kingdom and Gibraltar were due to have left the European Union on 29th March. This was the anniversary date of the United Kingdom's

formal notification of its intention to exit the EU. This departure date also avoided the need to take part in European elections. The House is aware of the uncertainty that we face as regards the actual dates when the UK and Gibraltar will exit the European Union. That departure date was extended to next Friday, 12th April, in the face of a no-deal Brexit. It was extended to 22nd May in the event of the approval of the Withdrawal Agreement by the United Kingdom Parliament. The UK Parliament, as we know, has to date not approved the Withdrawal Agreement. The President of the European Council has today said that he will recommend to EU leaders an extension until 31st March 2020. This proposal would also allow for the possibility that the UK leaves before that date. Hon. Members will have heard that the Prime Minister has now sought a second extension until 30th June 2019, again with the possibility that the UK may leave earlier if the Withdrawal Agreement is approved. She has pledged to commence preparations for holding European elections and to cancel those preparations if the UK were to leave before polling day.

Mr Speaker, against this shifting background the Government has issued instructions that Gibraltar prepares to participate in European elections as well. The Clerk, in his capacity as returning officer, has already had discreet contact with his counterparts in the United Kingdom. The Parliamentary Counsel, Paul Peralta, has had contact with the Cabinet Office. The John Mackintosh Hall is now on standby. The Bill before this House today is part of that process. It is a part of our contingency planning in order to prepare for the possible European elections in Gibraltar. The Chief Minister certified the Bill as urgent so that the House can take it today at short notice. Given the circumstances, hon. Members will, I am sure, understand why this is necessary.

Mr Speaker, I am very grateful to the Hon. Mr Phillips, the Leader of the Opposition, who confirmed to me yesterday on behalf of Members opposite that the Opposition had no issue with the Bill.

Paragraph 9 of Schedule 1 to the European Parliamentary Elections Act 2004 requires us to conduct a canvass based on a date to be appointed by the Chief Minister. The purpose of the canvass is to produce a register for European elections. This canvass is normally conducted in October of the year preceding European elections. Clearly, where we are, it will be impossible to comply with such a requirement and therefore we need to adapt Schedule 1 of the Act for this and any other connected purpose.

Mr Speaker, a canvass is already underway for the purpose of preparing a register of electors for the next General Election in Gibraltar. It makes sense to rely on that canvass and for that canvass to form the basis of a register for European parliamentary elections as well. However, there are differences between the two. The European register will include EU nationals resident in Gibraltar as well as qualifying Commonwealth citizens. This is also true of the UK register. These categories of voters would now need to be included in our new Gibraltar register as well. By coincidence, a significant number of EU and Commonwealth citizens responded to the existing canvass despite not being entitled to registration for the Gibraltar elections. These applications will, however, be deemed to have been properly made for the purposes of European elections. This principle has already been agreed to by the Cabinet Office in London.

Mr Speaker, while the European register will be substantially complete, the Government wants to make it clear that there will be an opportunity for any unregistered entitled person to include the name in it. However, relying on the Gibraltar General Election canvass requires an amendment to paragraph 9 of Schedule 1 to the Act. Other amendments are also necessary to prepare us for participating in European parliamentary elections at very short notice. In fact, draft regulations amending Schedule 1 to the Act are being discussed at a technical level with the UK government at the moment. The intention is that they will be finalised and published on Monday, when this Bill is due to become an Act with the approval of the House. The regulations make the following three amendments to Schedule 1.

75 The first is to deem the applications received for the purposes of the General Election as satisfying the requirement to conduct a canvass for European elections under paragraph 9(1) of Schedule 1.

The second is deeming 31st March 2019 as a canvass date for the purposes of two cross-references in the Schedule. This date obviously needs to come before the publication of the revised register.

80 Thirdly, everyone registered in accordance with the new provisions will be deemed to have opted out of the edited register set out in paragraph 45 of Schedule 1. This is because applicants will not have had an opportunity to opt out of this register. The reason is that the form to be registered in the Gibraltar General Elections Register is different to the form used for European parliamentary elections: the former does not give you a choice to opt out.

85 Mr Speaker, the House will recall that this was also the practice for the referendum of 2016, where again we also relied on the General Election canvass. This Bill therefore allows us to amend that Schedule by regulation in order to be able to react in a quick and timely manner to any amendments that may reasonably be required.

90 Mr Speaker, this mechanism will allow Gibraltar to participate in elections to the European Parliament for what could be the last time. The very notion of participating in these elections just weeks or maybe months before we leave the European Union is bewildering in itself, but this is where we are. This is not where any of us thought we were going to be. Lack of clarity, uncertainty and confusion have sadly become the norm since the UK voted to leave the European Union in June 2016. Extraordinary outcomes and unpredictable situations have become the order of the day. Therefore, the Bill before this House today is precisely to provide
95 for one of those many twists and turns that the Brexit process has thrown up.

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

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

100 The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, it is symptomatic of the chaos that Brexit has become that two years on from the referendum, at the point – indeed, beyond the point at which we were to leave the European Union we are now bringing a Bill to Parliament in order to prepare for a potential election to the European Parliament.
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For our part, as an Opposition, we hope that it is a sign of things to come (**A Member:** Hear, hear.) and that in fact we will not be leaving the European Union after all. I say that in jest, Mr Speaker, but in fact, observing what is going on in the United Kingdom Parliament on almost a daily basis, what appeared to be an impossibility a number of months ago actually does not
110 look like an impossibility today, and some would say a distinct possibility – but we will see what transpires.

Mr Speaker, although it is not the practice of Parliament and certainly it is not the practice of an opposition to allow a government to amend primary legislation by way of regulation, we understand entirely what the purpose of this Bill is and the Government has the support of the
115 Opposition. (*Banging on desks*)

Mr Speaker: Does any other hon. Member wish to speak on the Second Reading of this Bill?
I call on the mover to reply, the Hon. the Chief Minister.

120 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government is very pleased to find itself in the difficult situation of having to bring a Bill to ensure that European parliamentary elections can be held in Gibraltar at least once again. (**A Member:** Hear, hear.) I know that perhaps the returning officer and Clerk in his heart may be pleased but in his mind may be concerned about all of the work which will now have to be done in Gibraltar, as it will in the United Kingdom, in

125 this short period of time. Indeed, the Electoral Commission in the United Kingdom has today issued guidance in respect of European parliamentary elections to be held on 23rd May 2019 – again, something we will all be very pleased to see here but others outside of this place, in the United Kingdom and indeed some in Gibraltar, will be displeased to see.

130 Ironically, Mr Speaker, the Electoral Commission's guidance says that as a result of a bank holiday in Gibraltar on 29th April and on 1st May 2019, some electoral deadlines in the South West electoral region are different to the deadlines elsewhere in Great Britain. I think it is worth pointing out that this official guidance of the Electoral Commission in the United Kingdom in respect of European parliamentary elections arises as a result of the election of my Government, for a simple reason: 29th April is Workers' Memorial Day, a day that we declared a bank holiday
135 when we were elected in order to ensure that we remember all those who lost their lives or were injured at work; (**A Member:** Hear, hear.) (*Banging on desks*) and 1st May is a bank holiday in Gibraltar on 1st May every year – and it will be whilst there is a socialist Government in Gibraltar – although it is not in the United Kingdom and it has not been under all other Governments in Gibraltar. So, Gibraltarian socialism and liberalism is having a seminal and
140 important effect even on the dates on which this European election is, we all hope, going to be held in the different deadlines that are going to be complied with. That is almost a by the by, but politically important to me as a socialist.

What is more important than that, Mr Speaker, is that the Electoral Commission of the United Kingdom is issuing guidelines which refer to the elections in Gibraltar. The Deputy Chief
145 Minister of Gibraltar is seeking the support of the Parliament to pass legislation to enable us to form part of those European elections. Of course, seminally important is that those elections continue because we will then vote to the European Parliament representatives of the people of Gibraltar. That is as a result of *Matthews v United Kingdom*, a case brought in the name of Denise Matthews, where the now Attorney General of Gibraltar, with the support, amongst
150 others, of Rafael Bensaquen etc., were able to persuade (*Interjections*) – a point I have made repeatedly in this House, Mr Speaker –

Hon. D A Feetham: We now share a best friend!

155 **Hon. Chief Minister:** – even when only others claimed him as a friend, and if the hon. Gentleman cares to look back at *Hansard* he will see that is the case.

But there is a very important point here, Mr Speaker, and we must not enliven it with levity. It is this: that all of us in this House will want to send a message to Madrid and to the fools in Brussels who felt that they were right to include a footnote that referred to Gibraltar as a colony
160 in a measure –

Mr Speaker: Normally I would regard 'fools' as unparliamentary; on this occasion I am even prepared to endorse it. (**Members:** Hear, hear.) (*Banging on desks and laughter*)

165 **Hon. Chief Minister:** Mr Speaker, I am delighted to support your ruling. (*Laughter*) Indeed, your ruling would usually be if I was referring to a Member of this Parliament in that way, which I am not on this occasion.

The European Parliament in particular, which is a Parliament that is known as a legislature now in international law, thanks to the finding of the European Court of Human Rights in the
170 *Matthews* case – in other words, the European Parliament is recognised as a full-blown legislature as a result of the action of a Gibraltarian – should not, for one moment, have allowed itself to have been persuaded by the national interests of only one member state to have permitted the inclusion of a reference to Gibraltar as a colony when the Gibraltarians have voted for that European Parliament. We may not vote for the next one, but we voted for that
175 European Parliament. If anybody in the Parliament had paused to think, other than those who rightly took the side of the people of Gibraltar – not all of them British – they would have

180 realised that, by any definition of colonialism, colonials do not vote for the Parliament that defines them as colonials. You cannot be a colonial in respect of a parliament which you elect by way of universal franchise and where your vote counts as much as everybody else's; you can only be a colonial if there is a parliament that determines things for you and you do not vote for it. And so, in particular in the context of European parliamentary elections to the European Parliament – elected *inter alia* by the people of Gibraltar – by direct universal suffrage of all the peoples of the European Union, it is absolutely ridiculous for anybody to have thought that it made any meaningful sense for that Parliament to agree to the inclusion of the reference to Gibraltar as a colony. A different thing might have been relevant before *Matthews* when the Territory of Gibraltar suspended the right to vote because of the wrong decisions made in the United Kingdom as to the extent of the franchise, which was the right reason for having challenged that decision as to what the franchise should be.

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190 And so, Mr Speaker, I am, as a result of the events of this week, doubly pleased that we are going to continue the legislation at least to be able to vote in European parliamentary elections to that Parliament. I sincerely hope, despite the work that it will entail for hon. Members or officials of this House, that we do get the opportunity to vote for that European Parliament because in that way also that measure which includes the reference that the European Parliament has allowed, would be not just irrelevant because of its erroneous reference to Gibraltar as a colony and therefore to the people of Gibraltar as colonials, but because it would never have come into effect, because it is only a measure that comes into effect as a no-deal measure.

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200 And so all the crowing that we hear beyond this place should be put in its proper place, especially if there is a deal, or indeed hopefully even no Brexit – although I do know, Mr Speaker, that that would disappoint some Members of the hon. Members' opposite executive who have been calling in public for a hard Brexit. (**A Member:** Shame!)

205 Mr Speaker, I therefore sincerely hope that all of the hard work that we have done in the past couple of years on Brexit will be wasted time and that we can forget about leaving the European Union and we can continue about voting for the European Parliament in European parliamentary elections, and in that way continue to enjoy the benefits of the findings of *Matthews*.

210 But the hon. Gentleman opposite, in giving his support to this Bill, has said something which is important and with which I agree, which is that we are seeing a great measure of political chaos in the United Kingdom; and in endorsing some of the work that he has done in the past months, in which he and I have had occasion to agree publicly and privately, I would say that I do certainly hope that these European elections are held, that the effort is worth it and that that should be only the first people's vote and the first opportunity for people to vote in a way that demonstrates the view, I think now of the majority of the British people, that the European project is a good one, not a bad one. These European elections, if they are held, can be a referendum on Europe. They can be an opportunity for those of us who believe in the importance of Britain's continued participation in the European project to put that in the context of the votes that are cast, and I sincerely believe that this is a great chance that we are being presented with.

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220 Mr Speaker, hon. Members have heard the Deputy Chief Minister relate to us the letter that the Prime Minister has sent to the President of the European Council, Donald Tusk. I will tell Members of the House today that Donald Tusk said something which I thought was very apposite last week when he said that the European Union did not forget and would not turn its back on the six million people who have signed the petition to revoke the Article 50 notification or indeed the million-plus – at one stage the authorities in the United Kingdom thought it might have been up to two million – who demonstrated in favour of a second referendum. I know that included the hon. and learned Member opposite and included members of the executive committee of my party and other Gibraltarians also who were counted in that number.

225 As a result, Mr Speaker, I have written to the President of the European Council and told him that the people of Gibraltar take heart from those words but that it does not help that in the

230 context of the negotiations the President of the European Council and others have at different
times said that on the issue of Gibraltar post Brexit they take the side of Spain, because we
continue to be the region that most supported remaining in the European Union and I think it is
important that I should make that point.

I have one or two more points to make, but the hon. Gentleman is asking me to give way and
I will.

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Hon. D A Feetham: Mr Speaker, we have strayed into the territory of the people's vote and I
just wanted to ask the Chief Minister to perhaps elaborate or comment on this. We have seen in
recent months that ... In fact, the question of the people's vote has gathered momentum over
the last six, seven, eight months and we have seen in the last few weeks Nicola Sturgeon, the
240 First Minister in Scotland, point out quite rightly that the Scottish people voted to remain and
that in fact there is a distinction between a vote which went against remain at the referendum,
which was a vote to leave the European Union in principle ... People were asked, 'Do you want to
leave the European Union?': 'Yes, we want to leave the European Union.' But there is a
distinction between that and the actual terms on which you leave the European Union, because
245 of course if you ask some of the people who voted to leave, 'Are you willing to leave under any
conditions and any terms?' those people will say, 'Well, I'm prepared to leave but not under a
bad deal and not under any terms.' Therefore, there is a fundamental distinction between the
decision to leave and the terms upon which you leave, and those terms ought to be put to the
people in a confirmatory referendum; and absent the revocation of Article 50 – which of course
250 everybody would prefer, but it does not seem that it is likely – the position of the Gibraltar
Government is going to be to urge Theresa May, and whoever if somebody takes over from
Theresa May but in any event a British government, to put any terms that ultimately might be
agreed to the people in a confirmatory referendum, which in our view, certainly in the view of
the Opposition, is reflective of the will of the people in Gibraltar.

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Hon. Chief Minister: Thank you, Mr Speaker.

Well, I do not know about the view of the Opposition; it must be the view of the elected
Opposition, because I am just reading something from one of their executive members, who is
indeed an office holder of their executive, who is saying that he hopes that there is no extension
260 granted and that it is only long enough to remove Theresa May from the leadership of the
Conservative Party. (*Interjection by Hon. D A Feetham*)

But assuming that he is talking only about the elected Opposition, or at least that part of the
elected Opposition with which he sits – I do not want to impute any of that to the hon. Lady –
then certainly I would commend to him a reading of my article in today's *The New European* and
indeed I would commend to him the statements I made in this House and outside of this House
265 in July 2016, which he sharply chastised me for and I therefore immediately knew I was onto
something good, where I made the distinction, as he will recall, that I did not believe that there
should be a second referendum which was simply a re-running of the referendum question, but
that I thought it was perfectly democratically legitimate and indeed proper, if not necessary,
270 that whatever option was finally negotiated should be put to the British people in the
referendum and that that had democratic legitimacy. Indeed, that is the position that we have
taken consistently in our discussions with the United Kingdom and it is also something which the
hon. Gentleman will have seen me say a lot recently when I have said, 'Revoke, Referendum,
Remain,' with revoke being necessary if a long extension is not agreed in order to allow for that
275 referendum.

So, Mr Speaker, in a context where I think we now all agree – because again he also chastised
me for this some years ago –

Hon. D A Feetham: *No perdona!*

280 **Hon. Chief Minister:** *No me olvido! (Laughter and interjection)*

Mr Speaker, when I said that the referendum result had been obtained on the basis of a false prospectus and I was told off for in that way annoying those whom we most had to rely on – that was the chastisement at the time – I also made the point that I have now made: that if that false prospectus had related to the securities or financial services, the people who had sold it would be in jail. I do note that the Electoral Commission has now opened an investigation in that respect, which it has concluded they do not have sufficient power to deal with and they have referred the matter to the Metropolitan Police. That is something which emerged yesterday, so there may yet be matters relating to how the engineering of the result came about, for which people have to account in keeping with the UK electoral law.

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290 So, Mr Speaker, having obtained the result as a result of telling the electorate a tissue of lies, I think it is very difficult now to see, if there were what the hon. Gentleman is now calling a confirmatory referendum – it has been called many things but I call it whatever the hon. Gentleman would like, except a second referendum; I think a ‘new’ referendum is a better way of expressing that – then the result would be very different.

295 One of the things that everyone was told was that whatever Article 50 said, in other words whatever the Treaty says, we will negotiate our exit from the European Union and our future deal at the same time, and when the first Brexit Secretary, David Davis, was to start the negotiations, in June 2017, he said, ‘Well, if Michel Barnier is saying that he won’t engage with me in a discussion on the future relationship, we shall have the row over the summer but we will win it by the end of the summer.’ July had not started by the time David Davis had folded on that, and that is to a very great extent why the United Kingdom is where it is today – with a political declaration in relation to the future which is non-binding and a Withdrawal Agreement which is binding – and this should inform some of the criticism that hon. Members sometimes make of the issue for the Government.

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305 But anyway, coming back to the point I was making before I sat down to give way to the hon. Gentleman, of course it is unusual to come to this Parliament to ask for a vast power to amend primary legislation by subsidiary legislation. These are circumstances which make that essential and I think the hon. Gentleman has understood that because of what is happening at Westminster.

310 I am going to adjourn the House later today, Mr Speaker, until next Thursday in case we do have to do anything else before a cliff edge – because that accidental potential no-deal Brexit is still there. There is, as yet, no agreement. There will be a European Council meeting on the Wednesday, the 10th, and that is going to mean that all eyes again are going to have to be on Westminster during the course of the next week. One does wonder whether Westminster is now getting more viewers than *Dallas* used to get in the old days, because it is almost more exciting –
315 unfortunately, I hasten to say – and the plot does thicken as we get to the end of every episode.
(A Member: Hear, hear.)

Mr Speaker, with that, I think it is fair for me to say that I have found the work done by the Hon. Deputy Chief Minister, in relation to this and all the other matters on which we have worked together in respect of our withdrawal from the European Union, universally depressing and sad for both of us, as we are very much pro the continuation of the European project, despite the many warts that the European Union has and despite the many slaps in the face that the European Union has given to the people of Gibraltar gratuitously and which I sincerely believe they will regret in the future when they reflect on the way in which they conducted the negotiations with the United Kingdom. But I, of course, fully endorse the Bill that he brings to
325 this House and I commend it to the House. (*Banging on desks*)

Mr Speaker: The Hon. Roy Clinton.

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

330 First of all, I would like to echo the sentiments of my colleague the Hon. Daniel Feetham in that obviously the Official Opposition will certainly be supporting this Bill for the reasons he has outlined, but I would just like to make two points.

335 First of all, I would like to ask the Deputy Chief Minister: given he has so much granular detail as to the contents of these regulations, why he did not see fit to put it into the Bill itself? Why the need for wide regulatory powers? Why didn't he just put in the amendments as he read out, and then we would not have this situation where we are giving the Government wide powers, albeit we all understand why? Does the Deputy Chief Minister envisage something beyond what he has already read out? And to what extent will he exercise that discretion or flexibility? How far does he think he may have to go? Or is he just going to be limited to what he read out by regulation?
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And secondly, Mr Speaker, in respect to the Chief Minister's contribution, in my view it is regrettable that he has chosen to choose this Bill to do a bit of petty electioneering. *(Interjection)* I would remind him that *everybody* in this House, on a cross-party basis, backed the Remain campaign – everybody – and so for him to be making petty remarks on this Bill at a point in time when not just this Parliament but the Parliament in the UK is having a very hard time as to the question of Brexit and how we are going to manage the situation ... I find that his opportunism in bringing up what can only be ill-timed electioneering is regrettable. We on this side of the House in good faith are supporting this Bill, and this is how we are repaid.
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Thank you, Mr Speaker.

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Mr Speaker: The Hon. Dr Joseph Garcia. *(Interjections)*

Minister for Health, Care and Justice (Hon. N F Costa): We have not mentioned the name. *(Interjections)* Danny knows for sure!
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Hon. Deputy Chief Minister: Mr Speaker, to answer the hon. Member's questions: first, why is the text of the regulations not in the Bill? I think I explained that that is in draft and it is in discussion between the Parliamentary Counsel and the Cabinet Office of the United Kingdom. In fact, I am told that the UK is holding up the publication of their notice of election until we have passed the Bill and it has gone through the different stages in this House. I think that is going to happen on Tuesday, if I am not mistaken, and we intend to have it all go through the stages by Monday. So, that is the reason.
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Obviously the regulation-making powers are connected to the Bill and to the European parliamentary elections. It is not that we are talking about anything more major or more dramatic than that. And I explained in brief what the three areas were. One is recognising the canvass for the Gibraltar General Election as being the canvass for the register for the European elections. The other one was this question of people opting out of an edited register – in other words, recognising basically that in this set up and in this timescale that cannot happen and secondly the date of 31st March 2019 as a date we have to include because of the references that are made in the Schedule to dates, and that date has to be before today and before the register is published. So, the short answer is that it is still in draft and in discussion with the UK. It will happen over the weekend but we expect to have everything ready by Monday and this will give us the flexibility to pass a law and deal with it quickly.
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Mr Speaker, can I just add that the reference my hon. Friend the Chief Minister was making was to the same individual who recently published online calling for a motion of no confidence in yourself, the Speaker, something which we consider is really inappropriate – totally inappropriate.
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I commend the Bill to the House. *(Banging on desks)*

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the European Parliamentary Elections Act 2004 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The European Parliamentary Elections (Amendment) Act 2019.

**European Parliamentary Elections (Amendment) Bill 2019 –
Committee Stage and Third Reading to be taken at this sitting**

Deputy Chief Minister (Hon. Dr J J Garcia): 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.)

**Swiss Carriage of Passengers and Goods by Road Bill 2019 –
First Reading approved**

Clerk: A Bill for an Act to implement in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council.
The Hon. the Minister for Infrastructure and Planning.

Minister for Infrastructure and Planning (Hon. P J Balban): Mr Speaker, I have the honour to move that a Bill for an Act to implement in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to implement in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the International Carriage of Passengers and Goods by Road, and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Swiss Carriage of Passengers and Goods by Road Act 2019.

**Swiss Carriage of Passengers and Goods by Road Bill 2019 –
Second Reading approved**

Minister for Infrastructure and Planning (Hon. P J Balban): Mr Speaker, I have the honour to move that the Bill be now read a second time.

This Bill implements in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the International Carriage of Passengers and Goods by Road.

The agreement replicates the current regime in place for carriers under the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and

Passengers by Rail and Road signed in Luxembourg on 21st June 1999, which would cease to apply on exit day.

415 The Bill, through implementation of the agreement, ensures continuity in the road transport relationship between Gibraltar and Switzerland in the event that Gibraltar leaves the European Union. Replicating the current effects of the EU-Swiss agreement ensures the continued liberalised access for road transport carriers of goods and passengers with valid licences to operate in each other's markets.

420 Mr Speaker, the Bill does not provide for cabotage rights but does provide for liberalised, permit-free international road haulage rights bilaterally, with transit and cross-trade provided for Swiss and Gibraltar hauliers. It includes provisions on passenger and goods transport, taxation and customs formalities, application of national laws and regulations, infringement and special permits for oversized vehicles. The fines are set at level 3 – that is £1,000 – on the standard scale, thus equating to the fines under the Transport Act 1998 for equivalent offences.

425 Mr Speaker, I will now move on to the particular clauses of the Bill.

430 Clause 5 of the Bill allows for exemption from authorisations for Swiss carriers for the occasional transport of passengers in Gibraltar for certain journeys, provided the carriers ensure a waybill and a list of passengers are available upon inspection. Where this information is not available for the journey or the journey is not exempted, the carriers are not exempt from requiring an authorisation for the journey, and unless said carriers have an authorisation they commit an offence and are liable to a fine at level 3.

435 Clause 6 operates in the same manner but for the transport of goods. In addition, the competent authority in Gibraltar may grant a special permit where the weight of indivisible goods exceeds the weight or dimension limits under the Transport Act 1998. Such a permit may have a condition attached to it indicating a certain route be followed. Carriers who do not adhere to the special permit or do not adhere to the route indicated commit an offence and are liable to a fine at level 3.

Clause 7 prohibits cabotage.

Clause 8 creates an offence of exceeding the guaranteed manufacturer's weight.

440 Clause 9 creates a dispensation in relation to import duty which would otherwise be due on importation of the vehicle and the fuel carried and used by the vehicle itself. It also provides, in the event of a breakdown of the vehicle, for spares to be brought into Gibraltar free of import duty to repair the vehicle. Import duty would be payable on any spares used to repair the vehicle.

445 Clause 10 sets out that the Bill would prevail over any other legislation relating to transport of goods by persons by Swiss carriers.

Clauses 11 and 12 set out the arrangements for monitoring of the agreement by the competent authority – that is the Driver, Vehicle and Licensing Department in Gibraltar.

450 Clause 13 allows for the Bill to be amended or repealed in accordance with agreements or for the proper functioning of the agreement.

Mr Speaker, lastly, at Committee Stage I shall be moving an amendment to the definition of 'competent authority' at clause 3 of the Bill to substitute the reference to section 11 with section 12 to correct a typographical error.

I commend this Bill to the House. *(Banging on desks)*

455

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

460 I therefore put the question, which is that a Bill for an Act to implement in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the International Carriage of Passengers and Goods by Road, and for connected purposes be read a second time. Those in favour? **(Members: Aye.)** Those against? Carried.

Clerk: The Swiss Carriage of Passengers and Goods by Road Act 2019.

**Swiss Carriage of Passengers and Goods by Road Act 2019 –
Committee Stage and Third Reading to be taken at this sitting**

465 **Minister for Infrastructure and Planning (Hon. P J Balban):** 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.

470 **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

Clerk: Committee Stage and Third Reading. The Hon. the Chief Minister.

475 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House
should resolve itself into Committee to consider the following Bills clause by clause, namely the
European Parliamentary Elections (Amendment) Bill 2019 and the Swiss Carriage of Passengers
and Goods by Road Bill 2019.

In Committee of the whole Parliament

**European Parliamentary Elections (Amendment) Bill 2019 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the European Parliamentary Elections Act 2004.
Clauses 1 to 3.

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

Clerk: The long title.

Mr Chairman: Stands part of the Bill.

**Swiss Carriage of Passengers and Goods by Road Bill 2019 –
Clauses considered and approved**

485 **Clerk:** A Bill for an Act to implement in Gibraltar the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the International Carriage of Passengers and Goods by Road, and for connected purposes.
Clauses 1 and 2.

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

Clerk: Clause 3 as amended.

495 **Mr Speaker:** The Hon. Minister has given an indication that there is a typographical error: section 11 should be substituted by section 12 in the definition of 'competent authority'.
So, clause 3 as amended stands part of the Bill.

Clerk: Clauses 4 to 13.

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

Clerk: The long title.

Mr Speaker: Stands part of the Bill.

**European Parliamentary Elections (Amendment) Bill 2019 –
Swiss Carriage of Passengers and Goods by Road Bill 2019 –
Third Reading approved: Bills passed**

505 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the European Parliamentary Elections (Amendment) Bill 2019 and the Swiss Carriage of Passengers and Goods by Road Bill 2019 have been considered in committee and agreed to with one amendment, and I now move that they be read a third time and passed.

510 **Mr Speaker:** I now put the question, which is that the European Parliamentary Elections (Amendment) Bill 2019 and the Swiss Carriage of Passengers and Goods by Road Bill 2019 be read a third time and carried. Those in favour? (**Members:** Aye.) Those against? Carried.

ADJOURNMENT

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the House should now adjourn –

515

Hon. D A Feetham: We will adjourn?

Hon. Chief Minister: I will give way, if that is what the hon. Gentleman is asking me to do.

520 **Hon. D A Feetham:** Mr Speaker, I have just received news that my brother, Nigel Feetham, has been appointed as one of Her Majesty's Counsel for Gibraltar and I would like to, from here,

offer him my sincerest congratulations and to say that our grandfather, Walter, would be truly proud, as indeed will be the rest of the family.

525 I also extend my congratulations, I am sure from everybody, to Christian Rocca, the new Director of Public Prosecutions, who has also been appointed.

Hon. Chief Minister: Well, Mr Speaker, blood runs thicker than water and I have no doubt that the House will join in those congratulations.

530 Mr Speaker, I now move that the House should adjourn to next Thursday, 11th April at three in the afternoon.

Mr Speaker: The House will now adjourn to next Thursday, 11th April at three in the afternoon.

The House adjourned at 3.50 p.m.