



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.08 p.m. – 6.43 p.m.

Gibraltar, Monday, 20th January 2020

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The Gibraltar Parliament

The Parliament met at 3.08 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

PRAYER

Mr Speaker

CONFIRMATION OF MINUTES

Clerk: Meeting of Parliament, Monday, 20th January 2020.

Order of Proceedings: (ii) Confirmation of Minutes – the Minutes of the last meeting of Parliament, which was held on 16th, 18th, 19th and 20th December 2019.

5

Mr Speaker: May I sign the Minutes as correct? (**Members:** Aye.)

Mr Speaker signed the Minutes.

Standing Order 7(1) suspended to proceed with Government Bills

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

10

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

Mr Speaker: Those in favour? (**Members:** Aye.) Those against? Carried.

Order of the Day

BILLS

FIRST AND SECOND READING

European Union (Withdrawal Agreement) Bill 2020 – First Reading approved

15 **Clerk:** A Bill for an Act to implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for Gibraltar's withdrawal from the EU, and for connected purposes.

The Hon. the Deputy Chief Minister.

20 **Mr Speaker:** Before the Hon. the Deputy Chief Minister moves the First Reading of the Bill, I wish to confirm that I have received a letter from the Hon. the Chief Minister certifying the urgency of the Bill.

25 **Deputy Chief Minister (Hon. Dr J J Garcia):** I have the honour to move that a Bill for an Act to implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for Gibraltar's withdrawal from the EU, and for connected purposes be read a first time.

30 **Mr Speaker:** I now put the question, which is that a Bill for an Act to implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for Gibraltar's withdrawal from the EU, and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

35

Clerk: The European Union (Withdrawal Agreement) Act 2020.

European Union (Withdrawal Agreement) Bill 2020 – Second Reading approved

Deputy Chief Minister (Hon. Dr J J Garcia): Mr Speaker, I have the honour to move that the European Union (Withdrawal Agreement) Bill 2020 be read a second time.

40 The House will know and the Hon. Mr Speaker has just said that this Bill has been certified urgent by the Chief Minister. The reason for that is obvious. At midnight of next week Gibraltar will leave the European Union together with the United Kingdom. The withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement will be provisionally applied as from that moment.

45 The United Kingdom needs to ensure that it is compliant with the obligations contained in those agreements at the moment of ratification. Therefore they will only ratify or provisionally apply once they are satisfied that all the implementing legislation has been put in place in the different territories to which the agreements extend. Those territories include Gibraltar.

The Government, through the Attorney General, is expected to provide a formal written assurance to the United Kingdom that this legislation is in place in Gibraltar. The timing of that assurance is the reason why we are taking this Bill today.

In introducing the Bill, I want to formally thank the Attorney General Michael Llamas, Parliamentary Counsel Paul Peralta, and their legal team Nadia Sisarello-Parody and Michelle Garcia.

I know the House will join me also in congratulating the Attorney General for the CMG he received from Her Majesty the Queen in the New Year's Honours List. (*Banging on desks*)

The Government's legal team have excelled in their dedication, their expertise and their skills in putting this legislation together, a task that was often complicated by unrealistic deadlines, an absence of information and a lack of clarity from elsewhere. They have done a magnificent job in a truly professional manner.

Mr Speaker, as I said, at the end of the month the UK and Gibraltar will leave the European Union. We will do so under the terms that were agreed to by former Prime Minister Theresa May in November 2018 as amended by the terms agreed by the current Prime Minister, Boris Johnson, in October 2019. This means that although the Bill was published on 13th January, the text of the withdrawal agreement that it seeks to implement has largely been in the public domain for some 14 months.

It is true that in that period there has been considerable uncertainty in the UK as to the direction that Brexit would take. Members will recall that there were several failed attempts to secure the approval of the Westminster Parliament to the withdrawal agreement. At one point this made the prospect of a no-deal Brexit a realistic outcome. The Government prepared Gibraltar for this eventuality as far as possible and within those areas that are in our control: a Brexit information office opened in Main Street last year; a detailed information booklet, entitled *Preparing for a no-deal Brexit*, was distributed all over Gibraltar; a Brexit command structure has been put in place in the public service. Mr Speaker, that structure will remain in existence. Indeed, the Brexit Strategic Group and the Brexit Executive Group both met on Friday. They are both on notice to continue with no-deal planning. There are a number of outcomes as they move forward and we have to be ready for all of them. We can only continue to prepare, obviously, in the areas that are within our power and within our responsibility.

Mr Speaker, hon. Members will know that Prime Minister Johnson secured a majority of 99 in the House of Commons for his version of the withdrawal agreement. This means we are now set to leave with a deal, and that deal includes Gibraltar. It does so by virtue of Article 3 on the territorial scope of the agreement. Here the term 'United Kingdom' is understood as referring to Gibraltar to the extent that Union law was applicable before the entry into force of the agreement. It does so also through a specific Gibraltar Protocol.

The inclusion of Gibraltar was a considerable achievement. The difficult path towards this outcome and the intensity of the negotiations should not be underestimated. This positive outcome was a product of many months of negotiations, many hundreds of meetings and many thousands of hours of sheer hard work; and it is important to make the point also that the negotiations for Gibraltar were conducted by Gibraltar. The signature of the United Kingdom represents its position as a member state departing the European Union and as a state responsible for our international relations. This was made clear at the time and spelt out in the concordat between the two governments.

Mr Speaker, those Members of the House who served on the Brexit Select Committee during the last Parliament were made aware of the ups and downs of those negotiations. In over 20 briefings the Opposition were given the detail of the wider UK-EU negotiating picture. The Opposition were informed of the state of play of the negotiations as they referred specifically to Gibraltar. They were told about the strategy of the Government in relation to unfolding events and also in relation to the longer term. They were given both a flavour of the personalities involved and a chronological rundown of our meetings with the UK, with the EU, and importantly also of our contact with Spain. Indeed, the Opposition were sometimes briefed

100 before the Cabinet itself. They were shown confidential plans and designs of the Airport area in relation to Cordoba and an enhanced Cordoba proposal at the time that this was on the agenda. They were shown the confidential text of the agreements and the MoUs as soon as it became possible to do so. In relation to no-deal planning alone, Opposition Members were given a briefing, which lasted for nearly two hours, in great detail. An additional lengthy and detailed
105 briefing was also given to the then Leader of the Opposition; and the then leader of the GSD, now the Leader of the Opposition, was also himself briefed at least two times. And above all, the Opposition MPs on the Committee were always, in every meeting, asked to provide their own views and to provide any input or suggestions as the negotiations progressed, and indeed sometimes they did so.

110 It is important to bear in mind that some of the information imparted to them by the Government during this process was confidential or even secret at the time, and I am pleased to say that this confidentiality was fully respected by all concerned. I therefore want to thank both the Hon. Daniel Feetham and the Hon. Marlene Hassan Nahon, who are the only two Members here present who actually attended those meetings, for their constructive and positive
115 approach.

Our policy, Mr Speaker, is that these intergovernmental negotiations are conducted by the Government. This is what happens all over Europe. The Opposition may have a different view – they are entitled to it; however, to belittle the volume and quality of information that has been shared with the Opposition Members on the Committee is ungenerous to say the least.

120 I do not need to remind anyone here that there were those who wanted to exclude Gibraltar from the withdrawal agreement and whose mission in life it became to ensure that its transitional provisions did not apply to us. There were those who made shared sovereignty the price for a deal, those who threatened with closing the border the very moment of our EU exit, and those who made the presence of civil guards in our Airport a precondition for progress. It is
125 easy to forget that the exit process started when Mr Margallo was still the Foreign Minister of Spain and it continued with the Partido Popular in office. That was the degree of the challenge that we faced.

It would have been very dangerous for Gibraltar to have crashed out of the European Union alone on 31st March 2019 before the United Kingdom itself. That was a real danger that we
130 successfully averted, and we did so thanks to the strong working relationship between the UK and Gibraltar governments, in particular the relationship with our core Brexit team, a team ably led from the front by my hon. Friend the Chief Minister and a team which included, and indeed still includes, the Attorney General, the Financial Secretary and myself. The Government is grateful also to the dedicated officials here in Gibraltar led by the Chief Secretary and to our
135 colleagues in Gibraltar House in London and in Brussels, who have all been instrumental in their support of the different parts of this process.

Therefore the point, Mr Speaker, is that we joined the European Economic Community together with the United Kingdom on 1st January 1973 and we will leave the European Union together with the United Kingdom on 31st January 2020, and Gibraltar will enjoy an orderly
140 departure. That orderly departure was secured precisely as a result of the Gibraltar Protocol to the Withdrawal agreement and with the framework of the four Memoranda of Understanding which hang from it. The alternative would have been a disorderly, disruptive exit without the benefit of a transitional period. That outcome would not have been in the best interests of Gibraltar.

145 Mr Speaker, the transition phase is also referred to as the implementation period (IP). It expires on what is described as the IP completion day. As matters stand today, IP completion is 31st December 2020. There is provision for the extension of this period on a single occasion by either one or two years. The Prime Minister has said that he will not seek such an extension. Indeed, the UK government intends to legislate to expressly prohibit their Ministers from
150 agreeing to it. This provision is made in clause 33 of the UK Bill. We have not reproduced that

here, but I have to say that in general terms the Bill before the House follows the pattern of the Bill in the United Kingdom.

There are nonetheless some areas of difference. These can be grouped in the following way: the first is where the subject matter in the UK is not relevant to Gibraltar; the second, where the difference reflects our constitutional position; the third, where we have decided to proceed differently as a matter of policy; the fourth, that we have followed the practice set by our own European Union (Withdrawal) Act; and the fifth, and importantly, where the Government has taken the approach of maximum flexibility in the light of what may come our way coupled with the need to move quickly. In that respect it should be noted that there are some matters that may be superseded by a future relationship and there could be a need to ensure that we provide for these properly within an already tight timetable.

Members will know that the UK and the EU will seek to arrive at agreements that govern the future relationship during the implementation period. I want to make clear that any agreements that are reached during the implementation period are obviously not covered by the scope of this Bill. Indeed, there may well be no agreements. There are those who say that a future relationship cannot be negotiated in 11 months and there are those who say that it can. However, in the event that such agreements are reached, and depending on their content, consideration will be given to what further legislation would be required.

Mr Speaker, as I said, what this Bill does is to give effect in Gibraltar to the withdrawal agreement as concluded between the UK and the European Union on 17th October 2019. It also gives effect to the EEA EFTA separation agreement between the UK and Norway, Iceland and Liechtenstein; and finally, to the Swiss citizens' rights agreement between the UK and Switzerland.

I want to clarify that this Bill does not deal with the International Tax Treaty that was negotiated between Gibraltar and Spain at the same time as our exit package. The plan is for the Tax Treaty to be implemented through a separate piece of legislation that will be brought to this House in due course. It will therefore be the subject of a separate debate.

Mr Speaker, the Bill before the House today is therefore a key piece of legislation in the withdrawal process. It sits alongside a number of other measures that comprise the legislative work undertaken to date for the purposes of Brexit.

The House will recall that the first legislative item arose in the context of European parliamentary elections. We were originally looking at an exit date of 31st March 2019, with elections due in May – after we had left. As it then stood, our enabling legislation required preparatory work and consequently expenditure to be undertaken for elections that were not actually going to take place. Given that situation, in August 2018 this Parliament passed the European Parliamentary Elections (Amendment) Act. Brexit was then delayed and that delay in turn required further legislation. In effect, we had to put back what we had taken away. The European Parliamentary Elections (Amendment) Act 2019 and also the European Parliamentary Elections Act 2004 (Amendment) Regulations 2019 were adopted to deal with that change. This legal framework provided for our subsequent participation in European elections on 23rd May 2019. On that date we chose our MEPs for the last time. However, one lesson learned from all this was the importance of flexibility and speed in the legislative process when it comes to Brexit, because things change very quickly and we need to react to those changes.

Mr Speaker, a year ago this House also considered and passed the European (Withdrawal) Act 2019. This was and remains another piece of key Brexit legislation. It repealed the European Communities Act and created a new body of law known as 'retained EU law'. It has provided the vires for the making of subsidiary legislation to adjust Gibraltar's body of laws to provide for the proper functioning of the statute book after exit. These powers have been exercised already on a number of occasions. This legislation has covered areas such as data protection, transport, intellectual property, broadcasting, social security, aviation, healthcare, waste shipments and merchant shipping to name but a few. Most of that legislation was drafted to meet the

challenges posed by a no-deal Brexit. It will need to be revisited, depending on what any future agreement might bring.

In addition to this, the House has also considered and passed other Brexit-related measures. The Healthcare (International Agreements) and Social Security Co-ordination Act 2019 followed similar legislative procedures in the UK on these matters. Unique to Gibraltar are the European Union Withdrawal (Application of International Agreements) Act 2019 and the European Union Laws (Voluntary Implementation) Act 2019. The former provides for the implementation in Gibraltar of agreements that the EU entered into with third countries and for which the UK has negotiated a post-Brexit rollover. The latter Act provides a mechanism whereby Gibraltar can implement any EU laws that it considers appropriate after exit, even though we would no longer have an obligation to do so.

Mr Speaker, the Government has also worked to provide an alternative legal framework in different areas to replace our existing EU legal framework. A number of pieces of primary and secondary legislation reflect this objective and are now in the statute books. Gibraltar's participation in these international treaties will provide an alternative approach to EU mechanisms and a buffer to the effects of our departure from the European Union. By way of example, the following fall under the stream of Brexit-inspired work: the Extradition Act 2018; the Transfrontier Television (Council of Europe) Act 2019; the Swiss Carriage of Passengers and Goods by Road Act 2019; and the Imports and Exports (Amendment) Bill 2019. We will continue to do everything in our control to mitigate the effects of our departure from the European Union.

Mr Speaker, I will now focus on the actual Bill itself. The Bill follows the approach taken by the UK European Union (Withdrawal Agreement) Bill that was introduced as a new Bill following the results of the General Election which returned Boris Johnson as Prime Minister. As such, the Bill implements the agreements primarily in three ways; first, it provides for the direct application of the agreements in Gibraltar law; second, it amends the European Union (Withdrawal) Act 2019 in order to make it consistent with the various agreements; third, the Bill contains powers to allow more technical aspects of the agreements to be complied with through secondary legislation.

Mr Speaker, I will now move to a clause by clause explanation of the Bill, which I trust hon. Members will find useful. This will help to clarify any points or answer any questions that they may have. I ask the House to bear with me.

Part 1 of the Bill contains three clauses, which are of an introductory nature.

Clause 1 contains the short title.

Clause 2 sets out the provisions of the Bill that will commence on the day of publication. The remaining provisions will come into force on the day or days appointed by the Chief Minister by notice in the Gazette, and different days may be appointed for different purposes and for different provisions.

Clause 3 defines certain terms used throughout the Bill and makes further provision about the meaning of references to 'IP completion day'.

Subclauses (3) and (4) allow the Chief Minister to amend the definition of IP completion day by regulation. This power may be used in accordance with the withdrawal agreement or to take account of any changes to EU summertime arrangements.

Subclause (5) defines EU summertime arrangements.

Subclause (6) confirms that references to Gibraltar's membership of the EU are to be construed in the context of the UK's membership of the EU and Gibraltar's status as a European territory for whose external relations the UK is responsible.

Subclause (7) clarifies that references to articles of the Treaty on European Union also include references to those articles as applied by the Euratom Treaty.

Part 2 comprises clauses 4 to 6 and relates to the implementation period.

Clause 4 inserts a new section 4A into the European Union (Withdrawal) Act 2019. The new section 4A saves and amends the European Communities Act (ECA) and section 23(g) of the

Interpretation and General Clauses Act (IGCA) for the purposes of giving effect to Part 4 of the withdrawal agreement. The newly inserted subsections are as follows.

Subsection (1) makes clear that the provisions in sections (2) to (5) will have effect despite the repeal of the ECA and section 23(g) of the IGCA on exit day.

Subsection (2) provides for section 23(g) of the IGCA to continue to have effect in Gibraltar law to the extent provided in subsections (3) to (6).

Subsection (3) confirms that any reference to the Treaties in section 23(g) of the Implementation and General Clauses Act is to be read as a reference to those Treaties as defined in the ECA as it has effect under the section.

Subsection (4) provides for the ECA to continue to have effect in Gibraltar law subject to the modifications set out in subsection (5).

Subsection (5) modifies the saved ECA to ensure that it gives effect to EU law in Gibraltar for the purposes of the implementation period at Part 4 of the withdrawal agreement. These modifications are as follows.

Paragraph (a) incorporates Part 4 of the withdrawal agreement into the definition of 'the Treaties' and 'the EU Treaties' in section 2 of the ECA. A Minister is given the power to limit this definition, if necessary.

Paragraphs (b), (c) and (e) remove the provisions of the ECA that ensure EU law predating the EEA agreement is read consistently with that agreement. This is because after the repeal of the ECA these interpretive provisions are provided for by the European Union (Withdrawal) Act 2019.

Paragraph (d) amends section 4(1) of the ECA so that references in that section to the objects of the EU are references to those objects so far as they are applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement.

Paragraph (f) removes section 5 of the ECA, which concerns the payment of amounts required to meet EU obligations.

Paragraph (g) modifies section 6 of the ECA so that references to the Treaties in those sections will be deemed to include references to the withdrawal agreement.

Paragraphs (h) and (i) modify terms used in the schedules to the ECA so that they may apply during the implementation period.

Subsection (6) will implement subsections (1) to (5) at the end of the implementation period.

Subsection (7) defines various terms used in this section, specifically 'the implementation period', 'IP completion day' and 'withdrawal agreement'.

Subsection (8) clarifies that references to the ECA are to be read as references to the ECA as saved by this section, and references to any part of an agreement that includes references to any other part of that agreement so far as it is relevant to the referred part.

Clause 5 inserts a new section 4B into the European Union (Withdrawal) Act 2019. Section 4B saves existing EU-derived Gibraltar law and ensures that EU-related references continue to operate properly during the implementation period. The newly inserted subsections are as follows.

Subsection (1) makes clear that subsections (2) to (5) have effect despite the repeal of both the ECA and section 23(g) of the IGCA on exit day.

Subsection (2) provides that EU-derived domestic legislation continues to have effect in Gibraltar law on and after exit day as it had effect immediately before exit day.

Subsection (3) sets out glosses – that is non-textual amendments – that are to be applied to EU-derived domestic legislation to ensure the proper meaning and functioning of the statute book after Brexit.

Subsection (4) applies the glosses in subsection (3) to EU-derived domestic legislation that is made or passed on or after exit day and before IP completion day. It further disapplies the glosses when legislation is made during the implementation period but is subject to the contrary intent.

305 Subsection (5) makes the saving of EU-derived domestic legislation and its modification by the glosses subject to regulations made under this Bill or the proposed section 11A and section 15 of the European Union (Withdrawal) Act 2019.

Subsection (6) repeals subsections (1) to (5) on IP completion day.

Subsection (7) defines 'EU-derived domestic legislation'.

310 Clause 6 inserts a new section 11A into the European Union (Withdrawal) Act 2019. This new section provides Ministers with a supplementary power in connection with the implementation period.

The new section 11A(1) will allow Ministers to make regulations to add, disapply or modify glosses in EU-derived domestic legislation to ensure the proper functioning of the statute book.
315 This new section also allows different provision to be made in a particular case or descriptions of case and for an enactment to be modified in consequence of the repeals in the new sections 4A and 4B. The Minister may also make such other provision as is considered appropriate in connection with Part 4 of the withdrawal agreement.

The new section 11A(2) provides a power to make regulations under new subsection (1) and includes a power to modify a provision made by or under an enactment.

Part 3 contains two clauses that relate to the general implementation of the withdrawal agreement with the EU and also agreements reached with the EEA EFTA states and Switzerland.

Clause 7 gives effect to Article 4 of the withdrawal agreement by inserting a new section 10A into the European Union (Withdrawal) Act 2019. To give effect to Article 4 the new section
325 makes rights and obligations in the withdrawal agreement available in domestic law.

The new section 10A(1) provides for the rights, powers, liabilities, obligations, restrictions, remedies or procedures that are created or arise under the withdrawal agreement to apply directly in Gibraltar law in accordance with the agreement.

The new section 10A(2) makes clear that the rights and obligations arising from the
330 withdrawal agreement and which apply directly in Gibraltar law by subsection (1) are to be recognised in Gibraltar law and enforced, allowed and followed accordingly.

The new section 10A(3) confirms that all enactments are subject to subsection (2).

The new section 10A(4) makes clear that this section will not apply in relation to Part 4 of the withdrawal agreement so far as section 3(1) of the European Communities Act applies in relation
335 to that Part.

The new section 10A(5) directs the reader to other provisions of the Bill giving effect to the withdrawal agreement.

Clause 8 inserts a new section 10B in the European Union (Withdrawal) Act 2019. The new section concerns a general implementation of the EEA EFTA separation agreement and the Swiss
340 citizens' rights agreement and follows the same approach to implementation as set out in clause 7 to ensure consistency of implementation.

Section 10B(1) provides for the rights, powers, liabilities, obligations, restrictions, remedies or procedures that are created or arise under the EEA EFTA separation agreement or the Swiss citizens' rights agreement to be given legal effect in Gibraltar without the need for further
345 enactment. This will apply to Gibraltar as if Article 4(1) of the withdrawal agreement applied to them and those agreements were part of EU law and the relevant states were member states.

Section 10B(2) makes clear that the rights, powers, liabilities etc. applied by subsection (1) are to be recognised in domestic law and enforced, allowed and followed accordingly.

Section 10B(3) confirms that all enactments except the new section 10A are subject to
350 subsection (2).

Section 10B(4) directs the reader to see specific parts of the Bill that give further legislative effect to other relevant parts of the EEA EFTA separation agreement and the Swiss citizens' rights agreement.

Section 10B(5) defines 'the relevant EEA states' as Norway, Iceland and Liechtenstein.

355 Section 10B(6) signposts definitions of 'EEA separation agreement' and 'Swiss citizens' rights agreement'.

Part 4 contains clauses 9 to 16 and provides for the recognition and monitoring of the rights that have accrued and will continue to accrue during the implementation period to citizens who are covered by the agreements. This applies to the relevant EU, EEA, EFTA and Swiss nationals in the United Kingdom and in Gibraltar. It is relevant to point out that the exit treaty also protects the United Kingdom, including Gibraltar, citizens in the European Union, EEA EFTA countries and in Switzerland. The recognition of rights is therefore reciprocal.

Clause 9 provides a Minister with a power to make regulations implementing provisions of the agreements conferring residence rights. It also enables regulations to be made that ensure that protected persons continue to enjoy residence rights in Gibraltar pending conferral of the new immigration status.

Subclause (1) allows regulations to be made in order to implement Article 18 of the withdrawal agreement, Article 17 of the EEA EFTA separation agreement and Article 16 of the Swiss citizens' rights agreement.

Subclause (2) enables regulations under subclause (1) to apply both to the persons to whom the agreements apply and to any other person prescribed in the regulations. This will enable provision to be made, for example, to protect the position of citizens who currently derive their residence rights from EU law but who are not covered by the agreements.

Subsection (3) states that regulations made under this power may modify any provision made by or under an enactment.

Clause 10 allows a Minister to make regulations to put in place protections to the rights of EU, EEA, EFTA and Swiss frontier workers in Gibraltar at the end of the implementation period. United Kingdom, including Gibraltar, frontier workers are similarly protected in a reciprocal manner in Switzerland, the EU, EEA and EFTA countries.

Subclause (1) provides a Minister with a power to make regulations for the purposes of implementing Articles 24(3) and 25(3) of the withdrawal agreement, Articles 23(3) and 24(3) of the EEA EFTA separation agreement and Article 22 of the Swiss citizens' rights agreement.

Subclause (2) allows a Minister to make regulations for the purpose of implementing Article 26 of the withdrawal agreement, Article 25 of the EEA EFTA separation agreement and Articles 21(1)(a) and 21(2) of the Swiss citizens' rights agreement.

Subclause (3) confirms that the power to make regulations in this clause may be exercised by modifying any provision made by or under primary legislation.

Clause 11 allows a Minister to make regulations to implement articles of the agreements that relate to restrictions on rights of entry and residence.

Subclause (1) provides a regulation-making power to implement Articles 21(3) and (4) of the withdrawal agreement and the corresponding Article 19(1), (3) and (4) of the EEA EFTA separation agreement and Article 17(1), (3) and (23) of the Swiss citizens' rights agreement. These Articles provide rules on the restriction to a person to a protected person's entry or residence rights on the grounds of conduct and the power to remove protected persons because of fraud or abuse of rights.

Subclause (2) provides that regulations under subclause (1) can be applied both to persons to whom the agreements apply and persons to whom they do not apply but who are prescribed under the regulations.

Subclause (3) states that the power to make regulations under this clause may be made by modifying any provision made under primary legislation.

Clause 12 provides a Minister with a power to make regulations to implement parts of the agreement as it relates to recognition of professional qualifications. The provisions of the agreement ensure that professional qualifications held by EU citizens and EEA, EFTA or Swiss nationals who are resident or frontier workers in Gibraltar by the end of the implementation period and whose professional qualifications are recognised before the end of the implementation period will continue to be so recognised. The same applies to United Kingdom and Gibraltar nationals in the European Union, in the EEA EFTA area or in Switzerland.

Subclause (1) empowers a Minister to make regulations in order to implement Chapter 3 of Title I of Part 2 of the withdrawal agreement to supplement the effect of section 10A of the European Union (Withdrawal) Act 2019 in relation to that Chapter and deal with matters arising out of or relating to that Chapter.

Subclauses (2) and (3) allow regulations to be made to implement Chapter 3 of Title II of Part 2 of the EEA EFTA separation agreement to implement the professional qualification provisions of the Swiss citizens' rights agreement, to supplement the effect of 10B in relation to the relevant provisions of those agreements and deal with matters arising out of or relating to those provisions.

Subclause (4) outlines that the professional qualification provisions of the Swiss citizens' rights agreements are Part 4 and Article 23(4) so far as it relates to the recognition of professional qualifications.

Subclause (5) confirms that, where the Minister considers appropriate, regulations made under this clause may apply not only to persons within the scope of the withdrawal agreement or EEA EFTA separation agreement, but also to other persons prescribed in the regulations.

Subclause (6) provides that powers in subclauses (1), (2) or (3) may be used to modify any provision made by or under an enactment.

Clause 13 empowers a Minister to make regulations to implement the articles of the agreement that protect the entitlement of EU, EEA, EFTA and Swiss citizens to social security benefits. I should add that United Kingdom and Gibraltar citizens are similarly protected in the EU, EEA EFTA area and in Switzerland. This entitlement is protected under Title III of Part 2 of the withdrawal agreement and the EEA EFTA separation agreement as well as Article 23(4) and Part 3 of the Swiss citizens' rights agreement.

Subclauses (1), (2) and (3) also allow the Minister to make regulations to supplement the effect of sections 10A or 10B of the European Union (Withdrawal) Act 2019 in relation to the relevant Titles or Parts. Regulations under this clause may also deal with matters arising out of those Titles or Parts.

Subclause (4) defines the 'social security coordination provisions' of the Swiss citizens' rights agreement.

Subclause (5) states that the power to make regulations may be used to modify any provision made by or under an enactment.

Clause 14 allows a Minister to make regulations to implement the provisions in the agreements as they relate to the protection of the rights to equal treatment and non-discrimination for EU, EEA, EFTA and Swiss citizens falling within the scope of the agreements.

Subclause (1) empowers a Minister to make regulations to implement Articles 12, 23, 24(1), 25(1), 24(3) and 25(3) of the withdrawal agreement.

Subclause (2) provides that regulations may be made to implement Articles 11, 22, 23(1), 24(1), 23(3) and 24(3) of the EEA EFTA separation agreement.

Subclause (3) provides that regulations may be made to implement Articles 7, 18, 19, 20(1) and 23(1) in the Swiss citizens' rights agreement.

Subclause (4) provides that regulations made under this clause may be made so as to apply both to the persons who are covered by the relevant Articles as well as other persons prescribed by the Minister under regulations.

Subclause (5) states that the power to make regulations may be used to modify any provision made by or under an enactment.

Clause 15 confirms that the Independent Monitoring Authority (IMA) is to be established by the United Kingdom's EU withdrawal agreement legislation.

Subclause (2) allows a Minister to make regulations to prescribe the functions of the IMA in Gibraltar, provide powers incidental to those functions and provide for related matters. The Minister may also make regulations in consequence of regulations made under Schedule 2 to the UK legislation.

Subclause (3) allows a power under subclause (2) to be used in respect of a body to whom the UK Secretary of State has transferred the IMA's functions.

Subclause (4) confirms that the power to make regulations may modify any provision made by or under an enactment.

Clause 16 provides interpretive provisions for Part 3 of the Bill.

Subclause (1) states that a reference to a Chapter, Title, Part or other provision of the withdrawal agreement, of the EEA EFTA separation agreement or the Swiss citizens' rights agreement in Part 3 of the Bill includes a reference to any other provision of those agreements or EU law that is applied by or referred to in that Chapter, Title, Part or other provision.

Subclause (2) provides that in clauses 9, 10, 11 and 14 a power to make provision to implement an Article or Chapter or Part of the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement includes a power to make provision to supplement the effects of sections 10A or 10B of the Act in relation to that Article, Chapter or Part.

Part 5 contains clauses 17 to 23 and provides a power in connection with other separation issues and with the Gibraltar Protocol. It also contains clauses on the relationship of the Bill to the European Union (Withdrawal) Act 2019 and on other matters.

Clause 17 inserts a new section 11B into the European Union (Withdrawal) Agreement Act 2019. This new section provides a Minister with a power to implement the separation issues which form Part 3 of the withdrawal agreement and Part 3 of the EEA EFTA separation agreement.

Section 11B(1) allows a Minister to make legislative changes considered appropriate for the purposes of implementing Part 3 of the withdrawal agreement. This includes supplementing the effect of the new section 10A of the Act or dealing with matters arising out of or related to Part 3.

Section 11B(2) gives equivalent powers to make legislative changes in relation to Part 3 of the EEA EFTA separation agreement.

Section 11B(3) provides that secondary legislation made under this power is capable of doing anything an Act of Parliament can do.

Section 11B(4) clarifies that regulations under subsection (1) may be used to restate elements of Part 3 of the withdrawal agreement and the EEA EFTA separation agreement that automatically become Gibraltar law under sections 10A and 10B of the Act.

Section 11B(5) defines references to Part 3 of the withdrawal agreement and of the EEA EFTA separation agreement.

Clause 18 inserts a new section 11C into the European Union (Withdrawal) Act 2019. This new section confers a power on a Minister to make the regulations considered appropriate for the purposes of implementing the Protocol on Gibraltar in the withdrawal agreement. This includes supplementing the effect of the new section 10A of the European Union (Withdrawal) Act 2019 in relation to the Protocol or dealing with matters arising out of or related to the Protocol.

Sections 11C(2) and (3) confirm that regulations made under the section may make any provision that could be made by an Act of Parliament and may restate anything that forms part of domestic law by virtue of the new section 10A and the Protocol.

Section 11C(4) defines 'the Protocol' for the purposes of the section.

Clause 19 amends the European Union (Withdrawal) Act 2019 so that the conversion of EU law into retained EU law and the domestication of CJEU case law does not take place until the end of the implementation period.

Subclause (1) amends section 5 so that the preservation of EU-derived domestic legislation takes effect on IP completion day rather than on exit day. It deletes a definition of 'EU-derived domestic legislation' from section 5(2). It also inserts further words into section 5(3) providing that the preservation of EU-derived legislation is subject to the new section 8A.

Subclause (2) amends section 6 so that the incorporation of direct EU legislation into domestic law takes effect on IP completion day instead of on exit day. It inserts two conditions into the definition of 'direct EU legislation'. The first condition states that to be retained, EU law or relevant parts of the EEA agreement must have been applicable to Gibraltar by virtue of Part 4 of the withdrawal agreement, which relates to the implementation period. The second condition excludes any EU law so far as it has effect or is to have effect by virtue of the new section 10A or 10B. These amendments also make clear that section 5 of the European Union (Withdrawal) Act 2019 is subject to the new section 8A as well as section 8 of the Act.

Subclause (3) amends section 7 of the European Union (Withdrawal) Act 2019 so that remaining EU rights and obligations are preserved as they had effect immediately before IP completion day rather than exit day.

A new paragraph (aa) is inserted in section 7(2) so as to make an exception to the saving of the remaining rights and obligations where they will continue to be recognised and available under sections 10A or 10B of the Act.

Section 7(2)(b) is amended so that remaining EU rights and obligations are not preserved so far as they arise under an EU directive and are not recognised by the CJEU or any court or tribunal in Gibraltar in a case decided before IP completion day. It is further made clear that section 7 is subject to the new section 8A.

Subclause (4) amends section 8 so that the exceptions to savings and incorporation operate on IP completion day rather than on exit day. A new subsection (7) is inserted to ensure that exceptions to the savings and incorporation do not apply in relation to relevant separation agreement law.

Subclause (5) inserts a new section 8A into the European Union (Withdrawal) Act 2019. This new section makes clear that where retained EU law converted on IP completion day is limited by reference to the implementation period it may continue to have effect after IP completion day as domestic law.

Subclause (6) amends Schedule 1 to the European Union (Withdrawal) Act 2019 so that the exceptions to the preservation of retained EU law take effect on IP completion day rather than on exit day. The amendment made by subclause (6)(b) further ensures that references to the principle of the supremacy of EU law, the Charter of Fundamental Rights, any general principle of EU law or the rule in *Francovich* are to be read as references to that principle, charter or rule so far as it forms part of Gibraltar law on or after IP completion day.

Clause 20 defines the term 'relevant separation agreement law' and provides for rules of interpretation to ensure that this body of law is interpreted in accordance with the withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement.

Subclause (1) amends section 9 of the European Union (Withdrawal) Act 2019. These amendments substitute references to 'exit day' to 'IP completion day', so that rules of interpretation on retained EU law come into force on IP completion day.

A new paragraph (aa) is inserted into section 9(4) confirming that a relevant court or tribunal is only bound by retained EU law to the extent that this is provided for in regulations made under the new subsection (5A).

New subsections (5A) to (5C) are inserted into section 9.

Subsection (5A) gives a Minister the power to make regulations to set out the extent to which a particular court or tribunal is not to be bound by retained EU law, to set out the test that the court or tribunal must apply when deciding to depart from retained EU case law and provide for any considerations which are relevant to the tests applied by the courts under section 9 of the European Union (Withdrawal) Act 2019.

Subsection (5B) provides a non-exhaustive list of what those regulations may include.

Subsection (5C) places an obligation on a Minister, when making regulations, to consult with the Chief Justice and any other such persons as the Minister considers appropriate.

A new subsection (6A) is also inserted into the European Union (Withdrawal) Act 2019. This new subsection provides that the rules on interpretation set out in sections 9(1) to (6) of the European Union (Withdrawal) Act 2019 are subject to relevant separation agreement law.

Subclause (2) inserts a new section 10C into the European Union (Withdrawal) Act 2019.

Section 10C(1) states that any question concerning the validity, meaning or effect of relevant separation agreement law is to be decided in accordance with the withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement. Regard should be had to the desirability of ensuring that the agreements are interpreted consistently with each other.

Section 10C(2) is a signpost to the relevant provisions of each of the agreements regarding the interpretation of relevant separation agreement law.

Section 10C(3) defines 'relevant separation agreement law'.

Clause 21 amends the power at section 11 of the European Union (Withdrawal) Act 2019 to extend it so it can operate on deficiencies that result from Part 4 of the withdrawal agreement or the end of the implementation period.

Subclause (1) establishes that this clause amends section 11 of the European Union (Withdrawal) Act 2019.

Subclause (2) amends section 11(2) of the European Union (Withdrawal) Act 2019 so that the power is available to correct deficiencies arising from withdrawal and the end of the implementation period. The powers as amended may be used to correct deficiencies that arise from arrangements dependent on Part 4 of the withdrawal agreement that no longer exist at the end of the implementation period, or where retained EU law is no longer clear, or where elements of directives have not been implemented into Gibraltar law but which should nonetheless be retained.

Subclause (3) amends section 11(4) of the European Union (Withdrawal) Act 2019 to substitute the reference 'exit day' to 'IP completion day'.

Subclause (4) provides that the meaning of 'deficiency' can cover a deficiency that arises out of withdrawal taken together with the operation of or interaction between provisions of the European Union (Withdrawal) Act 2019.

Clause 22 inserts a new section 12A into the European Union (Withdrawal) Act 2019. This new section requires that a Minister provide Parliament with a statement where a request has been made under Article 170 of the withdrawal agreement. This Article provides for international arbitration in the event that a dispute between the European Union and the United Kingdom cannot be resolved by consensus in the joint committee. The Minister must also make such a statement if the European Court has given a ruling which relates to Gibraltar. The statement must be made as soon as practicable after the Government has been informed of the request or of the ruling.

Clause 23 provides for the repeal of unnecessary enactments under the European Union (Withdrawal) Act 2019.

Paragraph (a) repeals section 12 of the European Union (Withdrawal) Act 2019, which gives Ministers a power to make secondary legislation to implement the withdrawal agreement. This power is no longer necessary in the light of this Bill. Hon. Members who were here will recall the assurances given by the Government at this time last year that these were only emergency powers. The preference of the Government, the House was told last year, was to introduce a Bill for that purpose, to give effect to the withdrawal agreement. This, Mr Speaker, is what we are doing today.

Paragraph (b) repeals section 16 of the European Union (Withdrawal) Act 2019. This section makes clear that nothing in that Act prevents Gibraltar from replicating EU law made on or after exit day or continuing to participate in or having a formal relationship with the agencies of the European Union. The Government has been advised that this section has no legal effect in practice and is therefore unnecessary.

Part 6 contains two clauses that provide regulation-making powers and for consequential and transitional provision.

Clause 24 gives effect to Schedule 1 on how powers to make regulations in the Bill are exercisable.

615 Clause 25 Subclause (1) allows a Minister to make regulations that are appropriate as a consequence of the Bill.

Subclause (2) clarifies that consequential provision might include modifying such as amending, repealing or revoking either primary or secondary legislation.

Subclause (3) gives effect to Parts 1 and 2 of Schedule 2, which contain consequential provisions.

620 Subclause (4) contains a power to provide for transitional, transitory or saving provisions by regulation.

Subclause (5) gives effect to Part 3 of Schedule 2, which contains transitional, transitory and savings provisions.

625 Schedule 1 makes general provision in respect of the scope and nature of regulation-making powers in the Bill.

Paragraph 1 clarifies the scope of the powers in the Bill by providing that all the powers in the Bill can be used to make different provisions for different cases or different descriptions of case, in different areas or for different circumstances and include the power to make supplementary provision.

630 Paragraph 2 provides that the extent of the powers in the Bill may overlap without that overlap impacting the scope of each of the powers.

Paragraph 3 provides that powers in the Bill regarding the agreement can be exercised before the agreements are ratified so that the regulations can come into force on or after ... or the day after the agreement is ratified.

635 Paragraph 4 clarifies that the power of the Chief Minister to commence certain parts of the Bill as provided for by section 2(2) includes a power to specify the time of day these parts of the Bill come into force.

Schedule 2 makes general and specific consequential and transitional provisions.

640 Paragraph 1(1) provides a gloss to the commencement dates for subsidiary legislation made before exit day under the European Union (Withdrawal) Act 2019 or any other enactment. That gloss applies to subsidiary legislation that commences by reference to exit day. The subsidiary legislation will instead come into force by reference to IP completion day.

Paragraph 1(2) allows subsidiary legislation to expressly disapply this gloss where required.

645 Paragraph 1(3) contains a power for a Minister to make exceptions to the mass deferral provided in subparagraph (1). These regulations may disapply or make different provision from the mass deferral in particular cases.

Paragraph 2(1) clarifies that the consequential power in section 15(1) of the European Union (Withdrawal) Act 2019 is capable of making consequential provision on the Act as amended by or under the Bill.

650 Subparagraph (2) clarifies that subparagraph (1) does not limit the scope of the consequential power in clause 25(1) of this Bill.

Subparagraph (3) makes clear that this paragraph applies to amendments to the European Union (Withdrawal) Act 2019 that further amend other legislation.

655 Subparagraphs (3) to (7) make specific amendments to the Interpretation and General Clauses Act.

Paragraph 3 confirms that the amendments are made to the Interpretation and General Clauses Act.

660 Paragraph 4 amends the definition of 'subsidiary legislation' and 'rules'. The European Union (Withdrawal) Act 2019 amended this definition to include instruments made under retained direct EU legislation after exit day. Given that direct EU legislation will be retained on IP completion day, the reference to 'exit day' in this definition has been changed to 'IP completion day'.

Paragraph 5 inserts definitions for ‘the EU withdrawal agreement’ and ‘IP completion day’ into section 2. It further amends the definitions for ‘EU exit day’, ‘retained EU law’, ‘retained direct minor EU legislation’, ‘retained direct principal EU legislation’, ‘retained direct EU legislation’ and ‘retained EU obligation’. It also amends the definition of ‘EU Treaties’ or of ‘the EU Treaties’ so that it refers to the Treaties which apply under the saved ECA immediately before IP completion day.

Paragraph 6 amends section 17(2), which will be inserted by the European Union (Withdrawal) Act 2019 (Consequential Modifications) (EU Exit) Regulations 2020. This action will also make interpretive provision for reference to EU instruments ‘on or after exit day’. The amendment changes this to references ‘on or after IP completion day’.

Paragraph 7 makes consequential amendments to section 23(h) and (i) in light of the saving of the European Communities Act.

Paragraphs 8 to 17 make specific amendments to the European Union (Withdrawal) Act 2019.

Paragraph 8 confirms that the amendments are made to the European Union (Withdrawal) Act 2019.

Paragraph 9(1) introduces the amendments to section 3.

Paragraph 9(2) amends definitions in section 3 to account for the application of EU law until IP completion day. This paragraph also deletes the definition of ‘withdrawal agreement’.

Paragraph 9(3) inserts a new subsection (6)(a) into section 3. This new subsection makes clear that any references to anything that continues to be law by virtue of section 4B(2) includes modifications to that legislation, including where the saved legislation may survive the repeal of the European Communities Act in any event. This subsection also provides that references in the Bill to things that continue to be domestic law include things that continue to exist regardless of the saving in new section 4B(2). This makes clear that it is not necessary to consider whether an enactment might have been subject to implied repeal or revocation on exit day.

Paragraph 9(4) amends section 3(7) so as to amend the reference to ‘exit day’ to read ‘IP completion day’. This confirms that it is not necessary to consider whether an enactment might be subject to implied repeal on IP completion day when bringing it within the ambit of the defined term ‘retained EU law’.

Paragraph 9(5) amends the index of defined terms in section 3(11) to update and incorporate pointers to various definitions used throughout the European Union (Withdrawal) Act 2019.

Paragraph 10 amends the heading above section 5 of the European Union (Withdrawal) Act 2019 from existing EU law to saved EU law at the end of the implementation period.

Paragraph 11 amends section 10 of that Act with the amendments being introduced by subparagraph (1).

Subparagraph (2) amends section 10(1)(b) of the Act so that it refers to the savings made on exit day by sections 4A(2) or 4B(2) of the amended Act.

Section 7(1) thereby clarifies that the ECA- and EU-derived domestic legislation continues as legislation of the same type as they were before exit day.

Subparagraph (3) inserts a new section 10A(1), which clarifies that EU-derived domestic legislation that is saved by section 5 of the Act will continue as legislation of the same type as it was before IP completion day.

Subparagraph (4) amends section 10(5) to reflect other amendments to the Act. This subsection signposts provisions about the status of retained EU law.

Subparagraph (5) amends references to ‘exit day’ to ‘IP completion day’ to reflect the direct retained EU legislation will be retained on IP completion day instead of on exit day.

Paragraph 12 amends section 15(4) so that the transitional, transitory and saving power can make provision in connection with the coming into force of any provision of the Act, including its operation in connection with IP completion day.

Paragraph 13 amends Schedule 2 as introduced by paragraph 13(1).

Paragraph 13(2) amends paragraph 1 of Schedule 2 so that judges may determine the meaning or effect of EU law in legal proceedings as questions of law rather than as questions of fact, and so the definition of 'interpreting retained EU law' is deleted.

Paragraph 13(3) amends paragraph 2 of Schedule 2 so that regulations providing for evidential rules may modify legislation which is passed or made before IP completion day. The amendments under paragraph 13(3) also ensure that the agreements and anything in regulations relating to the agreements are included in the definition of 'relevant matter'.

Paragraph 14 amends Schedule 3 as introduced by paragraph 14(1).

Paragraph 14(2) amends paragraph 1 so that powers to make regulations under the European Union (Withdrawal) Act 2019 can be used to modify or restate anything which continues to be domestic law by virtue of the saving of EU-derived domestic legislation under section 4B(2).

Paragraph 14(3) amends paragraph 3 to clarify how the consequential, transitional and transitory and saving powers in the European Union (Withdrawal) Act 2019 may be used in light of the amendments made in this Bill and in particular the savings in the new sections 4A and 4B.

Paragraph 14(4) inserts a new paragraph 3A into Schedule 3. This new paragraph allows for the anticipatory use of delegated powers in the Act in relation to anything which continues to be domestic law by virtue of the saving of EU-derived domestic legislation for the implementation period.

Paragraph 14(5) amends references to 'exit day' in paragraph 4 to 'IP completion day'. This means that the power to make regulations may be exercised before IP completion day to modify retained EU law.

Paragraph 14(6) inserts a new paragraph 4A into Schedule 3. This new paragraph allows for the anticipatory use of regulation-making powers in relation to the withdrawal agreement.

Paragraph 15 amends Part 1 of Schedule 4 as introduced in paragraph 15(1).

Paragraphs 15(2) and (3) substitute references to 'exit day' in paragraphs 1 and 2 of Schedule 4 to the European Union (Withdrawal) Act 2019. This ensures that existing ambulatory references continue to update until IP completion day. This will not apply to references to relevant separation agreement law.

Paragraph 15(4) replaces paragraph 5 of Schedule 4. The new paragraph 5 lifts any implied restriction to act compatibly with EU law on exit day and IP completion day so far as that restriction does not continue to apply under the withdrawal agreement. Any implied EU law restriction that continues by virtue of Part 4 of the withdrawal agreement will not be lifted until IP completion day. Any restriction that arises by virtue of parts of the withdrawal agreement will remain after IP completion day.

Paragraph 15(5) amends paragraph 6 to allow powers in Acts before the end of the implementation period to be used to modify retained EU law before IP completion day if they come into force after IP completion day.

Paragraph 15(6) amends paragraph 7 so that persons will not be required to have regard to former EU obligations implemented outside Gibraltar when reviewing subsidiary legislation after IP completion day.

Paragraph 15(7) amends paragraph 10(3) to allow anticipatory use of future powers so that they may be exercised before IP completion day to amend retained EU law if they come into force on or after IP completion day.

Paragraph 16 amends Part 3 of Schedule 4 as introduced by paragraph 16(1).

Paragraph 16(2) inserts a new paragraph 11A into Schedule 4. This new paragraph preserves anything done, in the process of being done, or in force before exit day which relates to the saving of the European Communities Act or EU-derived domestic legislation. This provision is subject to the withdrawal of Gibraltar from the EU and any savings under section 4A and 4B and any implementing or consequential regulations.

Paragraph 16(3) amends paragraph 12 so that it provides for the continuation of existing Acts in relation to retained EU law on IP completion day and incorporates other related amendments to the European Union (Withdrawal) Act 2019.

Paragraph 17 amends Part 4 of Schedule 4 as introduced by paragraph 17(1).

Paragraph 17(2) substitutes a new paragraph 12A and 13 for the existing paragraph 13 of schedule 4.

The new paragraph 12A makes clear that the automatic repeal in sections 4A and 4B on IP completion day will not prevent the glosses applied by section 4B from applying to the legislation as saved by section 5.

Subparagraph 13 as substituted confirms that rights which arise under EU directives are recognised by courts or tribunals in Gibraltar in cases begun before IP completion day but decided on after IP completion day are preserved by section 7 of the European Union (Withdrawal) Act 2019.

Paragraph 17(3) amends references to 'exit day' to 'IP completion day' in paragraph 14. Further amendments are made to confirm that transitional and savings provisions for exceptions to the preservation of EU law take effect from IP completion day.

Paragraph 17(4) deletes a reference to section 11 in paragraph 15.

Paragraphs 17(5), (6) and (7) amend paragraphs 16, 17 and 18 of the European Union (Withdrawal) Act 2019. These amendments ensure that domestic law in force prior to the entry into force of the EEA agreement in 1993 continues to be read consistently with the provisions of that agreement and in light of the implementation period.

Paragraph 18(1) provides that powers inserted into the European Union (Withdrawal) Act 2019 by this Bill do not affect the scope and powers in the other Acts.

Paragraph 18(2) makes clear that modifications made by the Bill to regulation-making powers under the European Union (Withdrawal) Act 2019 do not affect the validity of regulations made under those powers before the coming into force of those modifications.

Paragraph 18(3) makes clear that this is subject to transitional, transitory or savings provisions made under clause 25 of this Act or section 15 of the European Union (Withdrawal) Act 2019.

Paragraph 19(1) provides the power to make transitional, transitory or saving provision under section 15(4) of the European Union (Withdrawal) Act 2019 includes the power to make provision as a Minister considers appropriate in connection with the coming into force of any provision of that Act as modified by this Bill. This includes modifications to provisions of the Act which make amendments to other legislation.

Paragraph 19(2) clarifies that subparagraph (1) does not limit the power to make transitional, transitory or savings provisions under clause 25 of this Bill and that the power of the Chief Minister under section 2(2) of the European Union (Withdrawal) Act 2019 does not apply to modifications made to that Act by this Bill.

Mr Speaker, this Bill gives effect to the withdrawal agreement in Gibraltar law. It provides for our orderly, safe and secure departure from the European Union and Gibraltar will benefit from the transition until the implementation period comes to an end.

The lowering of the EU flag on 31st January will be an emotional moment for many of us, a painful moment too, and that moment draws closer now. This time it is all happening for real, the end of an era.

But we must draw a line under the past and look forward to the future. As we leave the European Union we must look to those new doors that will open, to new possibilities and new opportunities, to the wider world beyond. We must look also to our continued partnership with the United Kingdom, to developing closer links with different parts of the Commonwealth family, to trading relationships in new markets and with new countries, including our neighbour to the south. The Government will encourage and support this work.

On 1st February, formal negotiations will open to carve out the future relationship between the United Kingdom and the European Union. The United Kingdom has made it clear that it will

815 negotiate for the entire British family of nations, including Gibraltar. This was the position also for withdrawal. But we know that there are several possible outcomes. The Chief Minister has made it clear that no deal would be better than a bad deal; that we must be prepared to walk away from those negotiations if we have to. But we will face those decisions with Gibraltar safely a part of the withdrawal agreement and safely with the benefit of the period of transition.

820 Therefore, Mr Speaker, the Bill before the House today provides the architecture to give effect to our orderly departure from the European Union. I commend the Bill to the House.
(*Banging on desks*)

Mr Speaker: Before I put the question, does any other hon. Member wish to speak on the
825 general principles and merits of the Bill? The Hon. the Leader of the Opposition.

Hon. K Azopardi: Mr Speaker, first of all, I am grateful for the hon. Member's long explanation on the detail of the clauses. When he asked the House to bear with him he was not joking, it was long; but we understand that in respect of this Bill there is an element of detail
830 that needs to be gone into – technical detail in many respects – so we certainly are appreciative of his long explanation in respect of that.

When I come to the tail end of what I intend to say, there are certain issues which he did not really answer, which are at the heart of some of our concerns and perhaps he could consider the points that I am about to make when it comes to making his reply – and some of the points
835 might be also relevant in terms of the Committee Stage itself. I am not sure when the hon. Member or the Government intend to take the Committee Stage. I imagine they want to do so soon – if not today, very quickly. We are happy for that to be the case, but perhaps he can take on board some of the points that I make when he hears them.

I say at the outset, of course, before I dive into all of this, that the Opposition – certainly the
840 Members on this side that I speak for – join him in congratulating the Attorney General on his well-deserved CMG in the New Year's Honours list. (*Banging on desks*)

We understand on this side of the House why this Bill needs to be taken in the way that it does, with the speed that it must be taken. It is a complex piece of legislation. Just picking it up, it is hardly a page turner when it comes to trying to digest its contents because of the sheer
845 number of cross references it makes to Article numbers of the withdrawal agreement, or indeed to the Withdrawal Act or indeed to the EFTA provisions or the Swiss provisions and so on and so forth, so it is not an easy Bill to read.

I just make these procedural observations which struck me when I first read this – first of all, and he should understand that when I make these observations I do so in the context of hoping
850 that this Parliament of ours can work better in the future; and they are not intended to be criticisms of the way this is taken today but to be taken on board by the drafts people, because at the end of the day the hon. Member made the point that, in his view, there has been a magnificent effort conducted by those drafting it. I am sure that they have worked under difficult constraints, and we understand that, but I would say that when you put our Bill side by
855 side with the English legislation, the one thing that strikes me when you go through it is that when there are cross references in the English legislation to different Articles, actually in brackets the English legislation tells you what those Articles say in paraphrase, and I think that makes it easier for the reader. At the end of the day, this is not a symposium for lawyers. This law has to be digested by the wider public and it would make it easier for the wider public to
860 understand broadly speaking, without getting into the technicalities, if future legislation, when it comes to something similar to this, were to take on board the fact that they are dealing with a difficult subject matter.

Secondly, we understand the timing and of course the certification of urgency of the Chief Minister, which I was informed about on Friday. We have no issues with that, but in the context
865 of the timing issues and the need of this House to act quickly, and that very long explanation that the hon. Member has given of a very technical nature, perhaps it could have been that

some of that could have found its way to the explanatory memorandum, which was relatively brief in the context of things.

870 I do not know whether that was because there was a rush to legislate; this Bill was published last Monday. The English Bill, I believe, was published on 19th December. I understand that there has been an intervening Christmas and New Year period, but to a very large extent a lot of the provisions in our Bill follow the format – although there are differences, as the hon. Member has said in his contribution, which I will address. There are differences but the general format is similar, so again perhaps things could have been done slightly differently.

875 I am going to speak to the general principles of this Bill, of course, and in doing so there will be one issue that the hon. Member will see does concern us on this side of the House, which is that under the guise of the category of differences that the hon. Member has pointed to, the effect and consequence of the Act in many respects is to give very huge powers to Ministers to make regulations to bypass the functions of Parliament. The fact that Ministers can make
880 regulations is not uncommon, but what is uncommon is that Ministers may make regulations to amend primary pieces of legislation. We understand that we are in different territory and I will speak to that in a bit more detail, but we are concerned about the way that is being done because it is being done in a way different to that of the English Act. I will explain a bit later why I say that that is and why I would ask the hon. Member to reflect on that when he comes to his
885 reply, and indeed as we go forward, perhaps even at Committee Stage.

I also do say that I share the hon. Member's sentiments towards the end – perhaps not shared by everyone in this House – that it will be a moment at least to reflect on when we leave the EU. For those of us who are political anoraks enough to have read the *Hansard*, not recently but some time ago, of the contributions made by Members of our predecessor Parliament in
890 1972 when they came to contemplate accession to the EU, certainly the hopes of previous generations were placed in a different direction and it strikes me that it is certainly a moment for reflection, the moment that we leave the EU.

But I do share the hon. Member's statement towards the end and I am sure other Members of the Opposition that I speak for also share it. When he says that the time has come to look
895 forward and that there is a necessity, now that we know that as a result of the UK General Election there has been a return of the Conservatives with a sizable majority, there is a need for this community, for this country of ours, to now grapple with the basic political reality that the UK is going to leave the EU; that there are, to put it in Mr Johnson's words, no ifs or buts; that there is that basic reality to work with; that there is not going to be a second referendum or any
900 type of derailment of the policy of the UK government. In those circumstances it is necessary to look forward and I agree with the hon. Member that in doing so we must look to new markets and to old friendships and to foster those in different ways.

So, certainly from this side of the House we share the understanding of the new reality, the desire that Gibraltar should reposition itself, should do so confidently and should not do so
905 looking back on what might have been but simply accept what is and make the best of our future relationship with the EU and indeed the future development of different markets and old friendships.

Having said all that, Mr Speaker, I will say also that in reflecting on the moment, the moment that we are engaged in, it seems to me ... again it takes me back to the understanding that ... The
910 hon. Member and I, I think, share the same year of birthday, which is different to that of the Chief Minister, but the hon. Member and I, and the Chief Minister, were all born in two significant years for Gibraltar: 1967, a date when we were given the right to choose – qualified self-determination as it was, but an important year when we were given the right to choose; and 1972, when not the people but certainly this Parliament was given the right to choose whether
915 to accede into the EU or not.

I reflect that yes, we participated in the Brexit referendum, but our country has not really been given the right to choose in terms of there being basic recognition of the desire of our people to remain in the EU, as indeed has been the case with Scotland and other parts of the

wider British family. But that does give rise to the concern that I have voiced before, and it is not a new concern and it is not a concern that I voice on my own but rather a concern that other people in other parts of the British family have voiced, that the voices of those peoples in Scotland or indeed in Gibraltar have not been properly taken into account in terms of the shaping of their own respective futures. But I do understand again the basic political reality of being submerged into a referendum where we could do little to influence the outcome. I regret that the outcome was what it was and that we were unable thereafter to address issues of our unique circumstances in a better way.

Mr Speaker, indeed, I have said before, certainly before re-entering this Parliament, that it was a source of regret, certainly for me and for Members on this side, that our unique arrangements have not been as protected, in our view on this side of the House, as they have been for the people of Northern Ireland. Indeed, the withdrawal agreement that was entered into with the EU contains, of the nearly 600 pages, over 150 pages are all about Northern Ireland, whereas a mere six refer to Gibraltar. I know we have got the MoUs, which I will turn to, but it has been our view that our unique features have not been as protected as they have been in the case of Northern Ireland and indeed that we have not been seen by the wider British people to be as high on the list of things to protect, as has been the issue over Northern Ireland. That is clear for everyone to see, or everyone who sees the British media, when there are constant references to the border between Northern Ireland and Ireland as being the only British border with an EU territory. It seems to us that from time to time we have been forgotten in this place of ours and that it is important to remind those who negotiate on our behalf to do so without forgetting our priorities.

But this Bill, of course, Mr Speaker, is not about the withdrawal from the EU itself, it is about the withdrawal agreement, and in setting out the position that the Opposition take in respect of these general principles I want to take a step to one side and analyse that precisely and our differences in respect of the withdrawal agreement, only very briefly, so that we all understand each other as we look forward in respect of this particular Bill.

I want to make clear, and I do so immediately, that we will support this Bill at general principles on the Second Reading and I hope to persuade the hon. Member to take into account some of the points that we intend to raise at Committee Stage – there is one very fundamental one and I hope that I will have his support in that on proper reflection.

I want to explain why we will support this Bill. In doing so, let me say that we do not resile at any moment from the disagreement with the Members opposite about the deficiencies of the MoUs that they negotiated. We do not resile from the view that we take on this side of the House that the Tax Treaty is harmful and intrusive. We do not resile from the view that we take on this side of the House that the MoUs and the package in the withdrawal agreement were a lost opportunity for Gibraltar because we could have got a better deal. We do not resile from those points. We do not resile from the observations we have made that we regret the contents of the MoUs and their constant references to fraud and smuggling which were accepted by the Members opposite. We do not resile from the fact that we have said that the MoUs have the effect of giving frontier workers enduring rights and we have not obtained anything permanent in return. We do not resile from our disagreement with the Members opposite as to what we view would have been a better way forward which could have been delivered if the Members opposite had negotiated better deals for Gibraltar.

Having said all that, Mr Speaker, I have also said on a number of occasions ... I was asked the question during the election campaign as to what we would do if we were in government, and I said that despite the deficiencies it was clear to me that if we were to have found ourselves in government after the last election it was important to accept the MoUs despite the deficiencies and then we would have a period of 11 months to negotiate a beneficial permanent arrangement with the EU because some access to a transitional period, even on the back of a defective set of MoUs, was better than no deal. That is our position and that is why we are going to support this Bill at Second Reading on the general principles.

I should say on an aside, Mr Speaker, that I was surprised to see comments from the Governor this morning in the press expressing views on the MoUs and on whether the agreement was good or bad for Gibraltar. The Governor is, of course, a representative of the Crown – he is the Queen in Gibraltar – and he has been a good Governor. He is a popular and good Governor, but he should not be immersing himself in matters of local political controversy. It would have been as strange as if Her Majesty had expressed a view at the height of the differences between the Labour Party and the Conservative Party as to whether the withdrawal agreement negotiated by Theresa May was good for the UK. It was inappropriate for His Excellency to express views on matters of local political controversy. He is the Crown in Gibraltar, he fulfils a ceremonial function, he is the Queen in Gibraltar and on the eve of his departure expressing views on issues of controversy such as the MoUs and the Tax Treaty crossed the customary line and was a matter of dismay for all of us on this side of this House I speak for, at least the GSD.

Mr Speaker, as I say, we are going to support this Bill in its general principles although we have some concerns. Before I get to those concerns, I have also said – and I note what the hon. Member says about, that they intend to negotiate this in the way that ... It is their prerogative, of course, to negotiate this on an intergovernmental basis without involving the Opposition. He expresses his views of the briefings and we take a different view as to the selective nature of those briefings and as to whether the negotiations should be handled in that way or not. It is a matter, of course, for the Government how it handles it, but it is not always the case, of course that matters are handled intergovernmentally only.

The hon. Member was on this side of the House when I was on that side of the House and we involved the Opposition in the negotiations on the Constitution. That issue, in my view at least, was not as dramatic a moment for Gibraltar as this issue, where we are negotiating a possible permanent future arrangement and relationship with the EU. We may disagree. They were both important moments for Gibraltar. We were trying to get as much as we could from the British government in constitutional negotiations, but this is also an important moment. A lot of people in Gibraltar would expect the Government and Opposition to work together in the public interest.

It is, of course, as I repeatedly say, a matter for the Members opposite and the Chief Minister in particular. It is his prerogative – he has been re-elected – to go about it as he wishes. All I can do as Leader of the Opposition is to tell the hon. Members that the offer to assist is there. It is a matter for them if they wish to accept that or not, but we are willing to participate in a joint negotiating team at least for the next 11 months if at any moment they reflect on it further and they consider that that is in the interests of Gibraltar, or if indeed they wish to follow a hybrid course, which is not the briefings that they followed but perhaps give us a better awareness of the documents and share the documents that they are considering on a private basis if they wish us to have a bit more influence or wish us to assist in any observations we may make.

Of course I accept that the Members on this side do not have a monopoly on good ideas, but I hope that the Members opposite also accept that they do not have a monopoly on good ideas either.

Mr Speaker, the next 11 months is an important moment for Gibraltar which we must use in a twofold way. We must negotiate – or try to negotiate – a beneficial permanent deal, but we must also make Gibraltar ready for the possibility that we might either not have a deal or not be included in a deal. I know the hon. Members will have that foremost in their minds when considering the next 11 months and the twin track that they must skilfully glide over while they try to prepare Gibraltar for all of that.

Mr Speaker, if I may – and not in the detail of the hon. Member, of course, but if I may just go through some of the issues on the parts of the Bill that he went through to see if there are answers which in his reply he could give us. The first point that I make in terms of general principles ... Through the Clerk hon. Members will have seen that we have given notice of a letter on amendments that I will deal with at Committee Stage. I am not going to talk to those

amendments at this stage, but I do want to just explain the context of the general principle of the last one, and it was a question that I had which turned into a possible amendment that I put before the hon. Members.

In the English Act there are numerous references to this regulation-making power. They are very wide, they are as wide as they are in the Gibraltar Bill, but the big difference between the UK Act and the Gibraltar Bill is that there are also a number of references in the UK legislation which say that regulations do not take effect unless they have first been tabled in Parliament and approved by resolution of Parliament. That allows the United Kingdom Parliament – or, as the case may be, the devolved legislatures – to have advanced sight of regulations and to comment on them.

We are, of course, cognisant of the fact that in this Parliament we have an inbuilt governmental majority, but that should not be a reason to circumvent any discussion in this House. We perfectly understand that if the hon. Members wish to introduce regulations of a particular type they are likely to do so if it is subjected to a motion or resolution of this House because they have an inbuilt majority, but it should not be the case that we should bypass that mechanism at all, in our view.

We understand the need for, as the hon. Member put it in one of his categories for differences, maximum flexibility. We understand that and we understand the need for speed, but the need for speed and maximum flexibility has not prevented the UK structure being constructed in a way that subjects regulations to approval by resolution of the various parliaments. So why is it that we in Gibraltar need to be special and have a system which circumvents the powers and scrutiny of this House, limited as they may be?

Indeed, this is new in that sense because the European Union (Withdrawal) Act which was passed last year, in section 12 actually implies the opposite. Section 12 says ‘provides for a Minister to make regulations to implement the withdrawal agreement’, but it goes on to say that ‘regulations under this section may make any provision that could be made by an Act of Parliament except that regulations may not amend primary legislation unless the Minister believes it is urgent or necessary in the public interest, and no regulations may be made under this section after exit day’. So the power to make regulations to implement the withdrawal agreement under the Withdrawal Act was specifically more limited and qualified to urgency and necessity in the public interest if you wanted to amend primary legislation.

The effect of this Bill now repeals this section; and not only repeals it, substitutes it for a system that allows the Members opposite to enact regulations to make laws bypassing this Parliament that could amend and alter Acts passed by this Parliament without further reference to this Parliament without the need to certify urgency or that it is in the public interest and without the mechanism, which is the safeguard used in the United Kingdom, that if they wanted to do it, in the UK system you have got to introduce a resolution, you have got to introduce the regulations, and have it approved by resolution of the Parliament.

It is a big concern of the Members opposite and I hope that the hon. Member can reflect further that, given that this Parliament now, as the Chief Minister has explained, is going to revert – hopefully, and not be derailed because of Government business – will revert back to meeting on a monthly basis, there is no reason why the regulations that are made under this important piece of legislation cannot be tabled in this House and there cannot be a motion or resolution of this House approving the regulations where we are given the opportunity.

Why do I say it is important? For a variety of reasons: because we are given the opportunity to see the regulations in draft, to give you our views and it just may be that we may have a point on any of the specifics of the regulations. And if we do not, we do not, but at least we have fulfilled the proper function of this Parliament and it has not been bypassed. It is important to respect our institutions if we want other people to respect our own institutions. I ask the hon. Member to reflect deeply on the explanation I have given. I am sure that the hon. Member, from a position of good faith, thinks and puts forward this Bill in this respect, but I ask him to review

and consider it in greater detail, at least in relation to the regulations, and to consider the amendment that I have raised in that respect.

Mr Speaker, I would also say to the hon. Member that there is provision in the UK legislation for regulations to be time limited, i.e. there are provisions in the specific Act in the UK that the regulation-making power cannot be exercised in some respects beyond the IP completion dates. There is no such provision that I have seen in this Act. I have not put forward an amendment in this respect, but I ask the hon. Member to consider whether there should be a time limit, because otherwise, in theory, the regulations could be made at any point. There is good reason why they should be time limited, but I am not privy to the Government's thinking so I ask the hon. Member to perhaps consider that issue and indeed respond in due course when it comes to his reply.

Mr Speaker, I will speak to the other amendments that I have tabled when I get to Committee Stage, but I do want to make some observations in respect of the Independent Monitoring Authority, if I may.

Clause 15 of the Bill recognises the interface with the Independent Monitoring Authority, which is the body corporate established under the UK's legislation, and indeed enables a Minister to make regulations to prescribe the functions of the IMA in Gibraltar. I did notice in the UK Act that under Schedule 2 of the UK Act – in particular, I think it was section 4(3) – there is a need to consult the Gibraltar Government in respect of the appointment of someone on to the IMA, of a person who 'knows about conditions in Gibraltar'. I express simply a desire that the Government – which I am sure is uppermost in their minds – will proceed cautiously in the design of the architecture of the interface between the IMA, a body created under UK legislation, and the encroachment into our affairs by the IMA because of regulations that will need to be constructed to allow the IMA to have certain functions and so on in Gibraltar. We, I am sure, will proceed cautiously. I would be concerned that we do so and I simply flag the issue for the hon. Member, which he may already have thought about in his detailed consideration of the Bill, but it is important that we are careful about how the IMA powers are exercised in relation to Gibraltar.

Mr Speaker, I have indicated to the hon. Members that they have our support on the Second Reading of this Bill. I know that I have said things that also set out issues of disagreement between us – we cannot be singing from exactly the same hymn sheet on every single issue – but I hope they see that our support for the general principles of this Bill, on the basis that I have indicated and no other, is intended also to assist us giving a clear message today that, to the extent that we can, we are united in seeking to go forward with the spirit that the hon. Member closed with, which I also wish to close on: that the next 11 months are indeed important for Gibraltar; that in, whatever role, we are happy to assist, whether it is in a consultative or more direct role; that if the Government were to choose to continue as it has we will of course, as we are not direct participants, need to scrutinise arrangements from the outside; and we will fulfil our constitutional duty.

I sincerely hope, as I said in a recent interview, that at the close of this year we can all in Gibraltar celebrate our inclusion into a permanent and beneficial agreement and new relationship for Gibraltar with the EU, and that we do not need to rely on the fact that no deal is better than a bad deal and walk away from a bad deal, but that of course if that juncture arrives we will support the Government if it walks away from a bad deal.

Mr Speaker, those are the observations that I had on the Bill, and with that I sit down with that support of the Opposition on the basis I have indicated. *(Banging on desks)*

Mr Speaker: The Hon. Marlene Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, I take this opportunity also, firstly, to congratulate the Attorney General, Michael Llamas, on his much deserved honour of CMG. Michael Llamas has worked diligently and he has had a never-ending task for the people of Gibraltar with the

Brexit challenges in the last few years; but not only that, from Brexit to football I believe we all owe a huge debt of gratitude to Michael Llamas and I am proud to be able to take this opportunity today to say so. *(Banging on desks)*

1130 I will not bore the House with a long address, and as I say this I also take this opportunity to thank the Deputy Chief Minister for his very expansive address and detailed explanation on what is a very technical Bill.

1135 We have finally arrived at the moment, for all of us in this Chamber, which we hoped would never happen. Fifty years ago, fascism and intolerance closed down our border, severing ties of civility and affection between two closely intertwined communities. Since then, Gibraltar has endured, overcome and improved, establishing an identity that represents the polar opposite to the fascist spirit that wished to isolate it from the world. We are an open community, profoundly proud of our diversity and rich culture, but also an open economy, always ready to embrace new markets and opportunities. Today, other forms of intolerance, more nuanced but not too dissimilar to those of yesteryear, threaten to bring us apart again.

1140 I therefore approve of the practical application of this Bill and will of course vote in favour of it, despite the fact, of course, that I profoundly disapprove of its underlying substance. I hope that we can and will all work together to achieve the best possible outcome from this calamity that has been imposed on us and that we may never let ourselves be dragged into the mire of small mindedness and isolation.

1145 I take this opportunity, lastly, Mr Speaker, to remind Government that I stand ready to support them in the next 11 months in any way I can.

Thank you. *(Banging on desks)*

Mr Speaker: The Hon. the Chief Minister.

1150

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, it is indeed with a heavy heart that I rise to address the Parliament on this Bill that has been expertly presented by the Deputy Chief Minister in great detail, setting out to all of us all of the highways and byways of what it is that this Bill achieves. I think it achieves something that none of us had wanted to see achieved, 1155 which is the effective withdrawal of Gibraltar from the European Union in supporting the European Union (Withdrawal) Bill that we have already voted, but in bringing about in that process an orderly exit from the European Union rather than allowing a disorderly Brexit from the European Union, which would have happened if all that the United Kingdom and Gibraltar did was sever the ties between us and the EU by in effect repealing the Acts that are already in place to give effect to the Union without putting anything in its place. 1160

So I want to thank the Deputy Chief Minister for the way that he is taking us all through it in that detail and I want to thank also the team behind the work that has been done. Very often when we come here to the Parliament and we look at things in detail for a couple of hours, we are unable to appreciate the amount of work that goes into being able to produce even what we 1165 might term not a short Bill but not a long Bill either. That team has been led by the Attorney General and also by the Senior Drafting Counsel, Paul Peralta, who I think have really done an incredible job of ensuring that we were able to publish as soon as last Monday, which was almost immediately after the United Kingdom had finished going through the Bill in its Committee Stage. I will come to the timetable later, but this was really working to a fixed timetable in order to ensure that we were not considering an earlier iteration of a UK Bill when 1170 we would have to have almost all of the aspects of the UK Bill in Gibraltar, and that could have changed after the process in the House of Commons.

I also want to reflect on the work that we have done in the past four years almost now since the result of the referendum on Brexit. This is the last legislative instrument that will come to 1175 this House. We started with the Bill to allow the referendum and now we are here with the Bill to give effect to the deal to leave the European Union.

In that time I have also had an opportunity not just of working with my team, with the Deputy Chief Minister, the Attorney General – whom I will say more about in a moment – and the Financial Secretary; it is also true that in the Brexit Select Committee I have had the opportunity of working with the Hon. Mr Feetham – he was the Leader of the Opposition at the time of the referendum – and with the hon. Lady – I think she had just become an independent member at that time – and, if I may say so, Mr Phillips is not here but he also was a part of that process, and Mr Hammond.

We worked well in the Brexit Select Committee, we had an opportunity of exchanging views and we listened carefully to the things that they had to say. They listened carefully and, if I may say so, diligently, also keeping the confidences that we shared with them at the time of the negotiations, and I want to thank them sincerely for their honest and diligent work with us in that time. It is also true that we shared with them texts as soon as we were able in the context of that work, a point which I think is going to be relevant to some of the things that I will say later.

Mr Speaker, there are sometimes happy events that occur during difficult and sad times, also, and one of the happy events that Gibraltar will have seen recorded in this year's New Year's Honours list, which hon. Members in this House have already had an opportunity to refer to, was the conferment on the Attorney General of the grade of CMG, Companion of the Order of St Michael and St George. I think this is one of the most richly deserved honours ever bestowed in Gibraltar's history. Because of the nature of our parliamentary debating style, he is sitting behind me and I am giving him my back whilst I say these things about him, but he knows that I hold him in the very highest regard and the whole of this community does too. I think not only was this a richly deserved recognition of the work that Michael Llamas has done and does for Gibraltar; it was also one that was almost universally warmly received by the community that appreciates the work done by Michael Llamas. A lot of that work I think has been seen by those outside of Gibraltar also in the sweep of the work that Michael Llamas has done in the past 25 years, but perhaps more so in the past three years when he has been a stalwart pivot between Gibraltar and the United Kingdom of the technical work that needed to be done to bring us unfortunately also to this sad legislative moment.

Mr Speaker, there are four of us in this Parliament who started in politics together, and the first time that we went to a General Election, three of them – not me – stood for election with a manifesto I staunchly supported, although not a candidate. The cover of that manifesto was the Union flag and we proposed a royal city status for Gibraltar within the European Union. That is the depth of feeling that I think on both sides of the House there has long been for seeing the European Union as a potential, dare I say, 'solution' to many of the issues that Gibraltar has faced historically.

The Hon. the Deputy Chief Minister and I continued down that route in politics together. We never split from the original position and ideas. We went to Europe, we made the arguments, we lobbied, and I have said before but I must say today for the purposes of the historical record that one of my proudest moments in politics was when, having won the General Election in 2011, we agreed that the portfolio responsibility for Europe should be that of the Deputy Chief Minister; but one of the saddest moments I had in politics was to agree with him that I should designate him the Minister for Leaving the European Union as well. I think in the time that he has done both of those jobs he has done them expertly, but unfortunately in this process we are both undertaking an exercise that I think the four of us who stood under that initial manifesto if not every other Member of this House does not believe it was right that we should be pursuing but for reasons that I have set out before and during the referendum campaign, and after, and indeed which the hon. Lady in quite Churchillian tones now referred us to as she set out her support for the European Union, a project which Winston Churchill kick-started after the Second World War, and I congratulate her for having so powerfully set out the case for Europe a moment ago.

Mr Speaker, what we are doing today, even though we do not want to do it for all the reasons I have set out, is to bring about that orderly withdrawal from the European Union. There is only one thing, in my view, which is worse than an orderly withdrawal from the European Union – because I would have wished us to remain – and that is a disorderly withdrawal from the European Union. That is what would have happened if the United Kingdom and the European Union had not come to terms in a withdrawal agreement fashioned as it was under Theresa May as Prime Minister and then subsequently with the changes that were agreed by the new negotiating team in London, brought to a head by Mr Johnson as Prime Minister. That would have all of the dangers that we have already set out.

But let's be very clear: we are not out of the woods yet. What would have been a disorderly exit at the end of March last year, or at the end of October last year, or indeed at the end of January this year if those terms had not been agreed, could yet be a disorderly exit at the end of December this year if there are not new terms for an agreement between the United Kingdom and the European Union. What will have happened is that we will have had almost 24 more months to prepare for that disorderly exit and we will have cushioned the moment of withdrawal with this transition period.

So, Mr Speaker, in the context of the dates that I have set out already, hon. Members cannot have been surprised – especially given that we have said repeatedly that we were going to wait for the United Kingdom to have taken the legislation through its stages so that we had as near as dammit a final UK Bill or Act – that we would have published on 13th January this year. Indeed, in the United Kingdom, the Hon. Leader of the Opposition has just reminded us that their Bill was published on 19th December. They will have known that that was the Bill almost that they would have been speaking to when it was brought to this Parliament, and they will have known not just because that is the nature of the work that we are engaged upon but because we said that we would not publish here earlier because all we would have to do would be amend the Bill by the time that it came to this Parliament if it had been amended in the United Kingdom.

And so, Mr Speaker, I want to put to the hon. Gentleman opposite, to whom I am grateful for the attitude that he has taken in saying that he will support this Bill, that actually there is nothing to be seen in the context of the certification of urgency – there is obviously a certification of urgency because the six weeks would have been up after publication beyond 31st January and therefore time had to be abridged perforce; but that he could have been, and I am sure he was, reading the UK provisions and knowing what was coming and needed the time only to see the differences between the Gibraltar provisions and the UK provisions. And so, Mr Speaker, in that context I am sure that there has been no loss to the Opposition in having the Bill certified necessarily as urgent.

Mr Speaker, I am grateful on behalf of the Government for the support which they have said they will give at Second Reading. I do not know whether, by telling us that he is going to support at Second Reading, he is setting out that he might be withholding support at Third Reading depending on the outcome of his proposed amendments at Committee Stage, but I express gratitude to him at least for support at Second Reading because not supporting this Bill at Second Reading would in effect be to vote for a disorderly Brexit, at least for Gibraltar. And indeed it would be to vote for a disorderly Brexit even if one had a technical reason why one did not like the Bill. I have made no secret of the fact that neither the Deputy Chief Minister nor I like the Bill and what it does, because we politically – indeed, as I have said before, many of us in this House, at least the four of us – would certainly not have wanted to see this Bill come at all. So, whatever technical reason one might find to vote against the Bill, my view is that this is one on which we have to hold our noses and vote for an orderly Brexit because the alternative is not a good thing to go down in history as having supported.

Mr Speaker, the Bill does allow powers to amend primary legislation by secondary legislation. That is not unusual in the context of Gibraltar. That power has existed in Gibraltar in relation to European matters since the late 1980s in the Interpretation and General Clauses Act without having to lay anything on the table in this House, and indeed hon. Members will know that

1280 because there are regulations signed by him when he was a Minister which gave effect to those sorts of provisions. This is something that unfortunately we have all grown used to in order to give business efficacy to Gibraltar's obligations under the Treaties to transpose legislation within a particular timeframe.

1285 That does not mean that we should not seek to using those powers when we can avoid using those powers, and being granted a power under an Act to do something like amend primary legislation by secondary legislation is not something that any Minister is going to do lightly if it is possible to bring primary legislation to amend primary legislation, but the power exists. It is at section 23 of the Interpretation and General Clauses Act, subsection (g), if hon. Members are looking it up. But let's be clear: we may need to use the power, as we have needed to use it in
1290 the past, because of the need to do things on particularly tight timeframes or to do very wide things very quickly because of the particularly tight timeframes.

The hon. Gentleman has given notice, just at the beginning of the session, of the amendments that he is going to move and he is going to speak to them at Committee Stage. I will not therefore labour them for now, but none of the things that he is going to propose are
1295 not things that the Government itself did not consider at the time of the publication of the Bill and things which we determined we could not pursue.

The first that he is going to move is, in effect, an amendment to protect acquired rights. The Government would not want to trample over anyone's acquired rights, but there are ways that, if we do trample over anyone's acquired rights, such individuals are able to take action without
1300 the need to make specific statutory provision for appeals, if we do.

In the context of the other proposed amendments that he is making, first of all we cannot curtail the power to make secondary legislation in a way that it is not already curtailed, and indeed he should know that we have absolutely no intention whatsoever of bringing, by regulation, changes to primary legislation that would impose or increase taxation or fees, make
1305 retrospective provision, create criminal offences, establish a public authority – indeed, we would rather not have to establish any more public authorities, Mr Speaker – or indeed affect any rights under the Gibraltar Constitution. But if we did any of those things and any of those things were wrong, there is already a provision to curtail our powers in that respect.

In particular, Mr Speaker, I want to just address, as a matter of principle at this stage, the
1310 final clause of six in his proposed amendment to section 17, which is 'not to affect any rights under provisions or effects of the Gibraltar Constitution'. I am going to put it to him, when the time comes, that if we were to be persuaded by him to include that clause now, then we should always include it because none of us should ever ministerially have a power to do by regulation anything which affects any rights under, or provisions or effect of the Gibraltar Constitution. But
1315 the fact is we do not, because the Constitution is a superior enactment even to primary legislation, let alone to secondary legislation, and there is no need to save the Constitution in any provision granting a power. We cannot give ourselves a power to do anything that derogates from the Constitution and so therefore I will put it to him when the time comes that that is an unnecessary provision.

1320 Finally, Mr Speaker, on this question of having to lay in Parliament or not, the fact is already in Gibraltar we have, under the Interpretation and General Clauses Act, the power to make amendments to primary legislation by way of secondary legislation. The provision he is referring to in the European Union (Withdrawal) Act comes to an end when we leave the EU on 31st January *de jure*. This is the power that takes over thereafter and it endures for as long as it
1325 has to. He is right that in the United Kingdom there is a time limit and we have not provided for that time limit here, but the only power that we are taking is for the purpose set out, and as the need to amend legislation by dint of our departure from the European Union becomes extinguished *de facto*, the power is therefore extinguished *de jure*. But we can come to those points in greater detail when we get to the Committee Stage.

1330 Mr Speaker, 1972 was indeed a great year, and the hon. Gentleman has referred to our accession to the European Union and the accident of birth that might have placed some of us

within it but he has failed to alight on the most important thing that happened that year, which was of course the election of Joe Bossano to this Parliament for the first time. When he talks about opening new markets and taking new opportunities, if there was something that happened in 1972 which enables us to do that now, it is the presence still in this Parliament of the man then elected, who was the person who identified those new markets when the MoD withdrew from Gibraltar etc. and who started to describe us as the 13th jurisdiction in the European Union – the 13th member state, for shorthand – for a while. So I think when he talks about us being alive to new markets etc., I have living proof to my left, of course, that we are indeed very much alive to that.

But when he says that we had a limited influence in the referendum and that our voting in it did not change how the outcome of our departure or remaining in the European Union might have been affected, much like Scotland and other parts of the United Kingdom that voted to remain but are leaving, he has to recognise that we were part of the European Union as part of the member state United Kingdom, and although our Constitution of 2006 changed our relationship with the United Kingdom, and in particular section 47 changed how EU matters were dealt with between us, it did not change our EU-facing relationship under the Treaties. And so the reality is that with the member state United Kingdom as a whole voting to leave the European Union, there was little wriggle room in that respect for us.

Mr Speaker, there is an important point here on which I need to reflect and go back to the first points I was making. If there is one thing that changed the dynamic between the United Kingdom and Gibraltar at a political level, I put it to hon. Members that it was Gibraltar's ability to vote in European parliamentary elections. British political parties from the United Kingdom suddenly took an interest in campaigning in Gibraltar because we became part of the South West region, and in doing so the argument that the Hon. the Deputy Chief Minister and I put to then Prime Minister David Cameron when the referendum franchise was being determined was an unanswerable one, because the European Court having determined that the European Parliament was a legislature for Gibraltar, there could be no question of us being excluded from the franchise of the Brexit referendum. For that, Gibraltar also has Michael Llamas to thank.

The hon. Gentleman then took a turn in his intervention which I have to take issue with, which is the idea that Northern Ireland is somehow more protected in the European withdrawal agreement than Gibraltar. First of all, Northern Ireland is larger than Gibraltar and it does things which Gibraltar does not do and which therefore would not need to be provided for. For example, it exports milk and meat and potatoes etc., and so there is a whole agricultural element and a farming element to what is provided for in the withdrawal agreement in relation to Northern Ireland that with our most optimistic hat on we could not pretend was necessary to replicate in relation to Gibraltar.

There is a list of European provisions that apply to Northern Ireland, which are replicated because of the nature of the relationship between Ireland and Northern Ireland, which are irrelevant to us. And – something which will bring me later to the apposite issues that we have been debating on Friday and Saturday and today – there is a Common Travel Area between the United Kingdom and Ireland. There is a UK IIA Schengen, so to speak. We do not have such a Common Travel Area with the European Union.

All of those things are the things that are, to take the hon. Gentleman's phrase, 'protected' for Northern Ireland in the context of the withdrawal agreement – except, of course, if you ask the people of Northern Ireland, because some of the people in Northern Ireland might take the view that this is not protection for them. Indeed – the hon. Gentleman will have followed the debate – the DUP do not feel that the withdrawal agreement is something that they should support, and indeed at Westminster they did not lend their support in the vote on the withdrawal agreement at different times in the debate. He will know that.

So it is very easy to try and get up and pretend to somehow blunt the great effectiveness of the Government strategy by saying there are more pages in the agreement in relation to Northern Ireland than there are to Gibraltar, but that argument is not an argument that holds

water in any material respect. Indeed, there is also a great difference between Northern Ireland and Gibraltar. Northern Ireland is a part of the United Kingdom. The powers that Stormont has devolved are nowhere near the powers that Gibraltar has under its Constitution of 2006, because Northern Ireland is not part of the member state United Kingdom under Article 355(3). Northern Ireland *is* the United Kingdom, Mr Speaker, and so therefore there is a great difference between one and the other. We have to understand those things, and I know the hon. Gentleman fully understands them, but when we confect an argument we have to, of course, factor those in and not try and add so much salt to the argument's ingredients that somehow we make it taste different to what it actually is.

We have not been forgotten in this place, Mr Speaker, as the hon. Gentleman suggested – hardly forgotten just because we might not have been mentioned in as many news bulletins in the United Kingdom as Northern Ireland has been mentioned in. I put it to the hon. Gentleman that that argument, as he knows, is a total fallacy. It is as if the people of Northern Ireland made the argument that they have been forgotten because they have not been mentioned on GBC's *Newswatch* as often as Gibraltar has been mentioned on GBC *Newswatch*. In the United Kingdom, the news bulletins have related to one part of the United Kingdom more often than they have to Gibraltar, but they have related to Gibraltar when they had to, Mr Speaker. Indeed, I sometimes do not know whether I am going to be accused of doing too much media or not doing enough, but when Gibraltar has needed international media attention it has had it. You do not measure the effectiveness of a negotiation based on the number of news headlines that there may or may not have been on a particular subject; you measure the effectiveness of the negotiation based on the outcome of the negotiations.

On that, although they will preserve their position in respect of what they term as deficiencies in the MoUs, I will tell them that the MoUs that underpin the Gibraltar Protocol are an *excellent* deal for Gibraltar, with none of the alleged deficiencies that the hon. Gentleman has put and with the great advantage that they include Gibraltar in the transitional period and without which we would not be a part of that transitional period.

The hon. Gentleman says, in effect, that they could have done better – because they are saying we failed to take the opportunities, we failed to negotiate, therefore, as well as he could. Well, Mr Speaker, perhaps it is because we spent so much of our time negotiating and investing in these MoUs to make sure that they had no deficiencies and to make sure that they were good for Gibraltar. But I have to put it to him that there is nothing to suggest that he is a better negotiator than me, or indeed that they are better at persuading people than we are. If we use the most recent measure of our ability to persuade, where I persuade 52 he persuades 25. It is the only measure in politics, Mr Speaker. It does not seem to me that Gibraltar does not have the best of the negotiating teams available already.

And so, Mr Speaker, when the hon. Gentleman says the MoUs give frontier workers enduring rights that our people do not have, I know that he is too able intellectually and academically to know that that statement is untrue. All of the rights that frontier workers coming into Gibraltar have obtained are mirrored exactly in favour of Gibraltarians and indeed British citizens resident in Gibraltar who exercise rights in the European Union going forward. So, for example, a British Gibraltarian who lives in Spain under the arrangements we have negotiated is able to have those rights recognised in an enduring fashion, and he knows it – or at least I have sufficient intellectual respect for him to believe that he knows it. So it is not right to say that the MoUs give frontier workers enduring rights that we do not have. The withdrawal agreement specifically provides that British Gibraltarians have those enduring rights also.

I think he has worked out that without these MoUs there would be no transition. The line of the bargain is set where it was set. I think we have achieved more than they would ever have achieved – I think we have certainly achieved more than they might even have set out to achieve – but there is where the line is now.

At least they, I think, have now appreciated that without the MoUs that underpin the Protocol there would be no withdrawal agreement applicable to Gibraltar and therefore no

Withdrawal Agreement Bill, and indeed there would be no transition, and that is what explained – I was going to say a U-turn, Mr Speaker, but it was such a pirouette that it deserves to be described in that way – the pirouette that they did 48 hours before the last General Election when they realised that – it obviously dawned on them, like a new dawn, Mr Speaker – that if they took Gibraltar into a General Election argument where there was one party saying we are for the MoUs and them saying they are against the MoUs, people would go into the voting booths with the clear choice of GSLP-Liberals – and Ms Hassan Nahon I think also made the point with us – supporting the MoUs and therefore in the transition, and GSD hard Brexit, for Gibraltar only, even if there is a Brexit deal for the UK. That is why they changed their position, something which he presents in a much more flowery and buttered up way today, but that was the reality. They were heading for a brick-wall crash and at the last minute they realised that they needed to avert it. And I was pleased that they did, Mr Speaker; I was pleased that at the last minute they saw the error of their ways and they agreed with us on these issues.

I have been surprised twice by his approach to the comments by His Excellency the Governor. I say twice, Mr Speaker, because he seems to have developed such a thin skin these days that he believes that a Governor having his picture taken in a school and saying ‘This is a fantastic investment for our future’ is something that he needs to remark on outside of this place, as if it were an interference in politics; and a goodbye interview by a Governor saying ‘I think these things are good and I think they work for Gibraltar; these are my personal views’ – because he is not talking for the Foreign Office – somehow is something that he needs to remark upon also as a gross interference in our party political fray, as if anybody in Gibraltar were going to make up their minds based on what a Governor says.

But I will tell him something, Mr Speaker. For a Governor to say what his impressions are when he is leaving is, in my view, unremarkable. What is, in my view, entirely wrong is for a Governor to take a partisan position on his arrival, and that is what happened at the time of the arrival of another Royal Marine as Governor when they were in government and when views were expressed as to trilaterals and as to Cordoba Agreements, views which would not have chimed with him and they certainly did not chime with me or those of us who were Members of the Opposition then. But very different to say something on the way out in a personal capacity and say something on the way in, in the same rank as representative of Her Majesty the Queen, which represents the position of the then Government of the day.

So, Mr Speaker, I think those things have to be set in their proper context, and I am surprised that he has wanted to raise those issues in the context of this Bill, but given that he has raised them I think it is absolutely right and proper that I should respond. And I want to just reflect on the fact – and I think we will have a chance to say more on this – that Edward Davis has been a *magnificent* Governor, but he has been a better friend and supporter of Gibraltar than even he has been a Governor.

Then the hon. Gentleman wanted to talk about the joint negotiating team. Well, Mr Speaker, there is not going to be a joint negotiating team, because negotiating a constitution on behalf of a Parliament with a colonising power, or administering power, is different to negotiating business. In the context of the Constitution there was a Select Committee that made a determination – over five years, I think – of what the Parliament wanted negotiated, and then that Select Committee went on to become the negotiating team, with others included who were not in the Select Committee for reasons that were politically transparent at the time. And that is how you negotiate a constitution, okay. That is not how you negotiate a trade deal, and that is what we are talking about. We are talking about negotiating a trade deal. There is a difference between negotiating a trade deal and negotiating a constitution.

I know that as a device the hon. Gentleman wants to talk about unity, wants to talk about maturity and wants to talk about doing things together as much as he can, but when he does it is important that people look at what he says versus what he does.

He says, ‘We need to work together, I am not a tribal politician, let’s do as much as we can together.’ Okay. We take him at his word. I issue a New Year’s message where I attack no one,

except people beyond our shores – certainly no one on that side of the House. And what do I get back from those who are not tribal, who want to work together, who want to ensure that unity prevails? A blistering, reportedly, attack on all issues unrelated to the many that I had mentioned. Mr Speaker, he says one thing and he does another. Fair enough.

He says that they were given superficial access and superficial briefings. Perhaps they were superficial because he was not there. The others, who were – in my view, and I do not want to pit them against each other, perish the thought – did not consider for one moment that the briefings that they were getting from us were in any way superficial.

He says that we showed them documents just before they were published, but he seems to forget that I offered him the opportunity to meet a week before and he told me he was not available.

Mr Speaker, the Hon. the Deputy Chief Minister is absolutely right. In some instances, because of timings and Ministers being elsewhere and not being able to get to No. 6 at particular times, the Opposition were briefed on matters before Ministers were briefed on matters, and in most instances I have to tell them they received the same briefings that Ministers received. Ministers did not feel that they were being treated superficially. This was a negotiation that was moving apace. We were out of Gibraltar for most weekends. The Deputy Chief Minister was going to London and I was going to London and then to Brussels, and then he was joining us in Brussels. This was happening. Things happen. Decisions have to be made when the time comes and you cannot just simply put it off.

For that reason, Mr Speaker, I think it is important that we understand the differences between negotiating a constitution and negotiating a trade deal. Indeed, these things are going to start moving very quickly. I just remind them: the most important thing happening on 31st January is not the closure of nominations in a particular local race; it is our departure from the European Union. I wonder whether they gave any thought to the fact that there were other things happening that day. Anyway ...

Mr Speaker, I hope I have dealt with all of the issues the hon. Gentleman raised which are my area of responsibility. I know the Deputy Chief Minister will now deal with a lot of the others.

There is one issue that I think it is important that we reflect on, in an area where I think there is a measure of agreement. As he was telling one of the local newspapers on Friday, I was telling the international press something almost identical and both of us were reported on Saturday. He was talking about freedom of movement and I was talking about border fluidity and the opportunities for a common travel area with Schengen. I was repeating something I have been saying since 2014, but of course these things were put off as future issues were not to be dealt with in the context of negotiations etc. until now. I think this is an area where there is a large measure of agreement between us.

I just want to say that it is important that we distinguish between joining Schengen and a common travel area agreement with Schengen, or an agreement with Schengen for access to Schengen. Those two are different. I also think it is important because the term ‘freedom of movement’ has taken on a meaning under the European Treaties that we understand, and that although the terminology of ‘freedom of movement’ flows off the tongue, ‘freedom of movement’ means something under the Treaty. In effect now it means freedom of establishment, whilst I think that we are all talking about border fluidity – so the ability to, yes, move fluidly between Gibraltar and the Schengen Area but not necessarily implying the technical definition of ‘freedom of movement’ as now provided for in the Treaties. I am grateful, Mr Speaker, that I think there is a measure of agreement between us in that respect.

Today, the BBC has suggested that a line issued by No. 10, on which we were consulted and we were joint authors of, somehow contradicted the position that we had set out since 2014 with the support of the then Minister for Europe who became Deputy Prime Minister, Sir David Lidington, about differentiated relationships between Gibraltar and Schengen. The phrase that No. 10 put out to the BBC said this:

After we leave, the UK will be negotiating the future relationship with the EU on behalf of the whole UK family, including Gibraltar. Working closely together, the UK and Gibraltar Governments have always supported arrangements at the border with Spain which promote fluidity and shared prosperity in the region. The UK, including Gibraltar, is not [presently] part of the borderless Schengen zone.

1540 That was somehow interpreted by the BBC as suggesting that we could not have a different arrangement with Schengen. In fact, I am very pleased to tell the House that the BBC headline, which at 12.30 today was 'UK rules out Gibraltar EU travel deal', has now changed to 'UK to decide on Gibraltar EU travel deal' and the first line of that report, which was also, in our view, wrong, has also I think been changed on reflection, having seen that the No. 10 statement did not do any of the ruling out that their original headline had suggested – an area which I am sure

1545 hon. Members will welcome, because on this I think we are *ad idem*.

Mr Speaker, finally, a week on Friday, on 31st January at midnight we will be lowering the European flag. One second after midnight we will raise the Commonwealth flag. We will not be celebrating Brexit on this side of the House, but we will be accelerating through Brexit. We will open new markets, we will take new opportunities and we will ensure that everything we do is designed to make the people of Gibraltar prosper in the future as much as we have in the past. But make no mistake: the United Kingdom is not leaving Europe. The United Kingdom will always be in Europe because a part of Europe will forever be British: this Rock on which we stand.

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Thank you very much. (*Banging on desks*)

1555 **Mr Speaker:** The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, thank you very much. If I drift towards the hon. Lady, it is not because I am going to be defecting politically but because she has a fire under the table and it is terribly cold in the Chamber today. (*Interjection*) Well, I do not know – but she is performing a public service, I can tell the hon. Gentleman that.

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Mr Speaker, I am going to be very brief. One of the functions of the Bill, amongst other things, is to maintain regulatory and legal equivalence with the EU, certainly for a period of time and certainly for this transitional period for the next year. My contribution today is going to be limited to that.

1565 What I want to talk about is regulatory legal equivalence, our approach to regulatory legal equivalence in the future and why in the context of that I think it is very important that the hon. Gentlemen opposite accept the offer that has been made by the Hon. the Leader of the Opposition and why it is important we work very closely together in the future.

Mr Speaker, it has been clear to me certainly, for a considerable period of time, that we were going to be out of Europe, Gibraltar. The reason for that was this. It did not matter whether the UK reached an agreement, a permanent agreement with the European Union or a permanent relationship; I think the price – and I think I have said this before in this Chamber – the price that the Spanish government, of whatever persuasion, would have placed before Gibraltar and the United Kingdom for Gibraltar's inclusion within that permanent deal would have been so high

1570 politically that Gibraltar would have said no and would have walked away from it.

In saying that, I do not detract, despite all the criticisms that we have made on this side of the House of the MoUs, from the importance of the Government, which has been recognised by the Leader of the Opposition, reaching an agreement including Gibraltar within the transitional arrangement, because of course the reality would have been – and that is the position that we were faced with during the General Election – that if we had not agreed it, we would have effectively been falling off a cliff when the United Kingdom would have had an extra year, and that would have been a disaster for Gibraltar.

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So, certainly from this side of the House we have taken the view that there are areas of the MoUs that we do not like, we think we could have done a better job, but the reality of the situation is that what we are not going to do is walk away from a withdrawal agreement that

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would have meant that we would have fallen off a cliff whilst the UK would have had the benefit of the transitional period for the next year. That would have been a disaster.

1590 But the reality, in my respectful view, is that the price for a permanent deal that would have been waved in front of Gibraltar would have been so high – because the temptation would have been too great for the Spanish government – that Gibraltar would not have paid that price and we would have walked away. In fact, I believe that what has happened in the UK, in terms of the political situation and the win for the Conservative Government in the United Kingdom, has meant that we are odds on coming out of the European Union anyway without a permanent deal simply because the price for a permanent deal from a UK point of view – leaving aside
1595 Gibraltar, from a UK point of view – is some regulatory or legal equivalence in key areas, which is the price that the EU is going to demand of the United Kingdom if the United Kingdom wants a permanent relationship with the European Union.

Of course that goes against what, in my respectful view, Boris Johnson and the Conservative Party want to achieve for the United Kingdom, which is regulatory ‘disequivalence’, because it
1600 appears to me that what the United Kingdom are going to be attempting to do over the next few years is deregulate in the United Kingdom and move away from Key EU rules in key areas that will deregulate the United Kingdom, allowing outside investment to then flow into the United Kingdom, and that is how they propose to get the economy motoring in the United Kingdom.

If that is right, and I believe that that analysis is correct, then it is likely there is not going to
1605 be an agreement between the EU and the United Kingdom, and in those circumstances of course Gibraltar is also out because if the UK is out, Gibraltar is also out.

In that context, what we have is an economic situation in Gibraltar where key economic sectors like gaming and financial services are almost wholly dependent on access to the UK markets.

1610 I was very surprised, I have to say, when, having argued at the referendum that coming out of Europe was an existential threat to our economic model, we then had the statistics – I do not doubt them – emerging from the Government, that said that in terms of financial services, for example, I think it was 94% of our business was done with the UK, so it is almost entirely UK facing.

1615 In terms of the gaming industry, which accounts for a huge bulk of employment here in Gibraltar and economic activity here in Gibraltar, that is almost exclusively UK facing. Those that will depend on the EU for their markets may in fact opt to leave and go to other jurisdictions where they can continue to offer their services in a much easier way into the European Union.

What are the implications of that? Well, the implications of that are that if we are dependent
1620 on markets in the UK and the UK is moving towards or may move towards a situation of deregulation and ‘disequivalence’ with the EU, it may well be in our interest – indeed, I can see that there are cogent arguments for saying that it is in our interest that we too ought to look at this issue of regulatory equivalence and legal equivalence and there may be no point in shadowing the European Union in the future. Indeed, it could well work against us to do so.

1625 Therefore, there has to be an element of profound reflection from the Gibraltar side as to where we want to go and where we want to be in the future, bearing in mind where our markets are likely to be. We all have a desire in Gibraltar to open new markets and I know that the Government is not sitting on its hands in terms of looking for new markets. I can see the Father of the House nodding and I know and I acknowledge the work that the Father of the House has
1630 done in the Far East, but the reality is that certainly in the short to medium term our main markets are going to be in the United Kingdom. We have got to watch very carefully what happens in the United Kingdom and there has got to be a debate here in Gibraltar as to whether that is where we want to go, as well as whether we ought to go as well.

Indeed, in that context I also make this observation. The Government is talking about
1635 Schengen and perhaps how we might maintain some form of free movement in Schengen, that we might be able to negotiate some special deal in that respect in relation to Gibraltar, but of course if that, or anything else that may be attainable – and I foresee all sorts of difficulties with

the European side, which has to be read mainly ‘the Spanish side’ – will come at a price of maintaining regulatory and legal equivalence here in Gibraltar and thereby essentially not being in lockstep with the United Kingdom, then that is something that we have got to think about very carefully.

I can see that the Hon. the Chief Minister is being impatient with me. Look, I am making –

Hon. Chief Minister: You are making arguments for the Spanish. You are helping them to join up the dots. It does not make any sense.

Hon. D A Feetham: I am not helping anybody to join up the dots. I am making an observation in the context of this Bill as to what are the likely issues facing this community in the future and what are the issues that I feel are important that we ought to focus on.

Therefore, in that context, Mr Speaker, I do think it is very important that the Government and the Opposition work very closely together on these issues, together with other stakeholders in business, in the union sectors and elsewhere, to effectively set out a roadmap as to where we want to be and indeed where it is most beneficial for us to be. Everybody in this House has always, as far as I can see, been of the view that we have valued our membership of the EU, that we prided ourselves in complying with EU regulations, with EU standards, with EU laws, all that sort of thing. But I think that in the future there needs to be a profound debate about where we want to go and where it is most beneficial for us to go, and where the UK is going to be going in the next four years. Bearing in mind where our markets lie, that is going to be absolutely critical to Gibraltar’s economic future.

Mr Speaker, that is my contribution. Thank you very much. *(Banging on desk)*

Mr Speaker: Does anybody on the Government side wish to make a contribution?
Does the mover of the Bill wish to reply?

Hon. Deputy Chief Minister: Mr Speaker, I want to thank all the hon. Members who have contributed to the debate on the Bill today.

I will just go through the different points which I think require an answer or clarification, bearing in mind my hon. Friend the Chief Minister has already clarified and given a view on those points.

The first one was the timing for the Bill, which was mentioned by the Leader the Opposition. My hon. Friend the Chief Minister has already explained that the UK Bill was liable to amendment and we needed to wait for that process to finish before we introduced our own. I mentioned also, separately, in my introduction to the Bill when presenting it to the House, that there was this additional request from the United Kingdom, that they needed to ensure that all the different territories that had to legislate to give effect to the withdrawal agreement in different parts and in different ways, that all those are in place before they ratify and they can tell the European Union we have now done our part. So, in a sense, that is the timetable that has driven our own timing.

In terms of the point of no recognition of our desire to remain, I think the hon. Member understands that obviously the 96% vote for Remain made a considerable impact in the United Kingdom and also in the European Union. But the situation in the UK kept on evolving to such a degree that we found it was far more prudent to have friends on both sides of the argument. We ended up going to the Conservative party conference, the Labour, the Liberal Democrat the DUP and the SNP party conferences, and in all of them seeking support from people who were on the Remain side of the argument and also on the Leave side of the argument, which explains why we received standing ovations from the SNP and from the DUP within two weeks of each other, parties which are diametrically opposed on other issues.

The other point I think that needs to be made is that we voted in this referendum in 2016. The previous one took place on 5th June 1975. Within two years of joining the European Union

1690 they held a referendum on possibly leaving the European Union, and Gibraltar did not participate or vote or was involved in that in any particular way. I think my hon. Friend was instrumental in getting David Cameron to agree to include Gibraltar in the franchise this time round and I think that gave the people of Gibraltar a democratic say in the outcome, even though it was an outcome that we did not share and an outcome that we did not like.

1695 In terms of Northern Ireland also my hon. Friend has addressed this, but I think there is one more point to be made. First of all, I do not think you measure it in the number of pages. In the Irish one, as has already been indicated to the hon. Member, most of it is a list of EU measures which will continue to apply in different ways. Also, the Anglo-Irish Agreement is an international treaty, the Agreement of 1985, registered in the United Nations, so the processes and procedures to change that international treaty are obviously very different. Cordoba was, for example, a political agreement which gave Spain and the Partido Popular when they came in, in 2011, the opportunity to change it unilaterally. The Anglo-Irish Agreement is an international treaty registered in the United Nations and the processes and procedures are obviously very different.

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1705 In terms of the MoU and the enduring rights to frontier workers, I think the point which I made in my introduction is that the MoU does not give any enduring rights to frontier workers, as those are in the withdrawal treaty itself. And also I should add the rights given in the withdrawal treaty are reciprocal. They are given by the European Union, the EEA EFTA countries and Switzerland to United Kingdom nationals, including Gibraltarians, in the same way as they are given by the United Kingdom and Gibraltar to European Union EEA EFTA nationals and also Swiss citizens. So they are reciprocal, but they are in the withdrawal agreement, not in the MoU. The only new thing that the MoU does is set up the Committee for Co-operation. The actual rights are enduring because they are in the agreement, not because they are in the MoU, and they apply to Europeans and they apply to British citizens in the same way.

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1715 In terms of intergovernmental negotiations, again I think I referred to that in my address, as did the Hon. Chief Minister in his. The hon. Member mentioned we were involved in the constitutional negotiations; that is true. As my hon. Friend has said, that emerged from a Select Committee of Parliament. Where there was no involvement with the Opposition whatsoever was, for example, in the shared sovereignty discussions, where – the hon. Member was in government at the time – there was a statement made by the then Chief Minister that a joint commission would be set up with the Opposition to work on lobbying in the United Kingdom and elsewhere. That never happened and we were never involved.

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1725 Indeed, there was also no involvement whatsoever in Cordoba – not that he would have wanted to be involved, but there was no involvement at all. The Opposition was not involved or consulted or informed. And indeed in the 16-odd years that I served in the House I do not think I was consulted or involved by the then Chief Minister and the Government in absolutely anything – or even briefed, I should add – (**Hon. Chief Minister:** However brief.) but we have indicated there will be an opportunity for the Opposition to provide an input in the process in the same way as they have had an opportunity to provide an input in the exit process.

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1735 The hon. Member referred to the regulation-making powers. My hon. Friend has answered that very well and also given me the time to look up the Interpretation and General Clauses Act, and it is very clear that the power to make regulations which may even amend primary legislation relating to international treaties, particularly relating to Europe and to the European Community, is in the Interpretation and General Clauses Act. That is there already. For example, I will just quote briefly, as it is referred to in that subparagraph:

- (ii) ... that Act may be amended, varied or added to by regulation made by the Government for the purpose of–
 - (aa) implementing such obligation or of enabling any rights enjoyed or to be enjoyed by Gibraltar under or by virtue of the Treaties to be exercised; or
 - (bb) dealing with any matter arising out of or related to any such obligation or rights or the coming into force or the operation from time to time of matters falling within the Treaties, and such amendment or variation may include such repeal of the provisions of that Act as is necessary to give such effect.

So this is something which, in EU terms and in Treaty terms, has already existed, Mr Speaker.

The other point was the IMA. We are conscious of his advice to the Government to be cautious about it. We have been. That is why the way it is drafted ... and the powers which will be bestowed on the IMA will be powers which the Government of Gibraltar will do.

1740 There is also this reference which the hon. Member made, which is in the UK legislation that will appoint people who need to know about the conditions on Gibraltar. Similarly, there is also the same phrase used in relation to Scotland, to Wales and Northern Ireland, to the devolved administrations which will also be affected by the IMA.

1745 Those are, I think, the only questions or points of clarification which were asked, Mr Speaker, so I once again 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 implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for Gibraltar's withdrawal from the EU, and for connected purposes be read a second time. Those in favour? **(Members: Aye.)** Those against? Carried.

Clerk: The European Union (Withdrawal Agreement) Act 2020.

COMMITTEE STAGE AND THIRD READING

European Union (Withdrawal Agreement) Bill 2020 – Committee Stage and Third Reading to be taken at this sitting

1755 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today, if all hon. Members agree.

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

In Committee of the whole Parliament

European Union (Withdrawal Agreement) Bill 2020 – Clauses considered and approved

1760 **Clerk:** Committee Stage and Third Reading. The Hon. the Chief Minister.

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 Bill clause by clause, namely the European Union (Withdrawal Agreement) Bill 2020.

1765 **Clerk:** A Bill for an Act to implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for Gibraltar's withdrawal from the EU, and for connected purposes.

1770 Part 1, clauses 1 to 3.

Mr Chairman: Part 1, clauses 1 to 3, stand part of the Bill.

Clerk: Part 2, clauses 4 to 6.

1775 **Mr Chairman:** Part 2, clauses 4 to 6, stand part of the Bill.

Clerk: Part 3, clauses 7 and 8.

1780 **Mr Chairman:** Part 3, clauses 7 and 8, stand part of the Bill.

Clerk: Part 4, clauses 9 and 10.

Mr Chairman: Part 4, clauses 9 and 10, stand part of the Bill.

1785 **Clerk:** Clause 11.

Hon. K Azopardi: I gave notice, Mr Chairman, that I was moving an amendment by introducing a new subclause (4), in the letter that I circulated earlier today. I will just read it, for the record:

To the extent that any power to make regulations under this section may be exercised in a manner to allow the making of decisions which would deprive or limit any person's rights such as these existed prior to the commencement of those regulations, the said regulations shall contain provisions for or in connection with appeals against or reviews of decisions of the kind described in the regulations.

1790 Mr Chairman, I just explain that this clause can impact on the accrued rights of people in terms of their status of entry and residence into Gibraltar and there is a comparable provision in the UK legislation, not exactly the same but that implies that regulations will be made that provide for rights of appeal of people, and this is an attempt to ensure that there is an element of due process and people have rights that they can trigger if indeed their rights are affected.

1795 **Hon. Chief Minister:** Well, Mr Speaker, the Government has already indicated on a number of occasions, indeed since the first moment that the results of the referendum came in, that we have absolutely no intention of affecting individuals' accrued rights. Indeed, even when this was a live issue in debate in the United Kingdom, the Government of Gibraltar was saying in Gibraltar we will not affect the accrued rights of individuals.

1800 The position broadly is there are those who have already acquired rights before the departure of the United Kingdom from the European Union and those, under the withdrawal agreement, now have those rights recognised going forward under the agreement.

1805 Our view was – and I think hon. Gentlemen would agree with us – that even absent the withdrawal agreement there were rights which individuals had acquired, those which we call the accrued rights, which could not be then stripped from them by one government or another. And our attitude is going to be that – namely that we are not going to do anything to strip people, who will have acquired these rights before our legal departure from the European Union, of those rights.

1810 If we were to do so even inadvertently, because it is not our intention to do so or to use any such power in that respect, then our view is that there are already mechanisms which provide for appeals both under the provisions of the agreement itself – remember that there are committees and there are appeals through committees which eventually get through dispute resolution procedures under the committees – and indeed even in our courts people could challenge the Government if we were to affect their accrued rights, without our having to create new specific avenues of appeal.

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Therefore, although we are not with the hon. Gentleman on his amendment, we are not with him because we believe that these avenues already exist, not because we think that there is a need to save the Government from challenge in respect of denial of accrued rights, because it is the Government's stated intention inside and outside of this House that we should not affect the rights of those who have accrued or acquired such rights before our departure from the European Union.

Broadly, Mr Speaker, those are what are known as the stock of individuals, those who have acquired those rights before, and, for all the reasons that we have set out our desire that we were not leaving the European Union, we think those individuals should not have their rights affected and therefore we agree with the sentiment but not with the mechanism that the hon. Gentleman is proposing.

Mr Chairman: The Hon. the Leader of the Opposition?

Then the House should vote on the amendment. Those in favour?

Hon. Chief Minister: If it helps the hon. Gentleman, Mr Chairman, what we are saying is, apart from our good intentions, they are protected by the Treaty. The withdrawal agreement is a Treaty, it is a new Treaty, and it provides for the preservation of these accrued rights.

The hon. Gentleman knows I made the point earlier ... He said that some things had been achieved for frontier workers which had not been achieved for British Gibraltarians. Well, those things have been achieved for Gibraltarians. The withdrawal agreement is entirely reciprocal; whether he accepts that or not, the mechanisms for enforcement of those protections are provided for in the Treaty. There is the international right in treaty; there are the existing rights under our laws if somebody wanted to take a national legal measure.

So I think we are all agreed as to the sentiment of not wishing to deprive anyone of their accrued or acquired rights; we are just not agreeing that this mechanism is required for that purpose because there is a higher protection in treaty law and there is already existing protection in national law.

Hon. K Azopardi: Mr Chairman, I am not withdrawing the amendment.

I hear what the Hon. the Chief Minister says as to their sentiments and their good intentions, but I reiterate there is a similar, although not same, provision in the UK Act and we think it would be better practice not just to rely on good intentions but simply to record in legislation what it should say. That is the reason we are putting it, and obviously we understand his stance.

Hon. Chief Minister: Mr Speaker, we are not saying that people should rely on good intentions. We are saying that our good intentions are an indication of what our actions are going to be, that there is treaty law protection and that there is existing national law protection and that this is simply not necessary. For that reason, we will not be supporting the amendment if it moves.

Mr Chairman: The House will vote on the proposed amendment. Those in favour? (**Several Members:** Aye.) (*Interjections and laughter*) Those against? (**Several Members:** No.) Is the hon Lady voting in favour or against? (Hon. M Hassan Nahon: Against.) Against.

Clerk: Original clause 11.

Mr Chairman: Clause 11 stands part of the Bill.

Clerk: Clauses 12 to 16.

Mr Chairman: Clauses 12 to 16 stand part of the Bill.

Clerk: Part 5, clause 17.

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Hon. K Azopardi: Mr Chairman, I have put forward an amendment here to introduce a new subclause (6), as follows, to add to this clause:

but regulations under this section may not impose or increase taxation or fees, make retrospective provision, create a relevant criminal offence establish a public authority or affect any rights under or provisions or effect of the Gibraltar Constitution.

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Mr Chairman, in putting this forward I repeat, as I did in my original contribution, that some of this exercise is because we have on this side also analysed the differences with the UK legislation, and when you get to the English equivalent of this legislation, which is at section 18 of the UK Act, it is very clear that there is a comparable provision.

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I heard the Chief Minister's contribution to the main Second Reading, where he said they have no intention of introducing regulations – I think that is what I heard, that they have no intention to introduce legislation – to increase taxation or fees or make retrospective provision or create a relevant criminal offence or establish a public authority. Well, let me say that clauses draft amendment 6(a) to (d), which precisely does all that, is word for word the terms of the English legislation.

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Just to explain because he addressed specifically subclause draft 6(e) about affecting the rights and provisions or the effect of the Gibraltar Constitution, let me say that as a constitutionalist I would tend to agree with him that of course this is possibly an unnecessary provision, but the reason I drafted it that way is that the English equivalent of this provision at (e) then makes reference to the Human Rights Act. That is the reason, although I appreciate that the Human Rights Act does not have the same standing as the Constitution. But I would say that in terms of (a) to (d) it is carbon copy what is provided by the UK legislation, and given that the Government has stated that they do not intend to do that, we would commend the amendments on the basis that the statutory protections should be there, at least insofar as (a) to (d) are concerned.

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Hon. Chief Minister: Mr Chairman, for the reasons that have already been set out by me at Second Reading, we are not going to accept this amendment. We have absolutely no intention of doing these things, but the Gibraltar context is different to the United Kingdom context and we are advised that we should have this power. In other words ...

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The hon. Gentleman should know this is not a ministerial desire not to have our power curtailed in this way; this is the advice that we have received in the context of potential that there may be a need to move quickly to deal with issues, for example, that relate to state aid and which might be interpreted as having those effects. But there is absolutely no intention whatsoever. We will resist doing any of these things by regulation, and if we have to do them we will seek to do them by primary legislation. The House has my undertaking in that respect because I would be very uncomfortable unless it were absolutely necessary to do any of these things by way of primary legislation.

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Mr Chairman, if moving his amendment has achieved anything, it has achieved that we have given the House that undertaking that we will be very careful to act in a way that is contrary to that undertaking.

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I cannot see us creating a public authority or indeed a criminal offence by regulation. None of our Ministers would see that and think we need retrospective actions as something that should happen by way of regulation. Taxation and fees are issues which are often dealt with by way of regulation, but if they are related to the EU they tend to be issues relating to state aid, so we would want, probably, if at all possible, to do them by way of primary legislation. The House has my undertaking in that respect.

1915 He is right, Mr Speaker, that he is wrong in his 6(e), because it is possible, if you take a power to amend a primary Act by secondary legislation, to amend something like the Human Rights Act, but it is not possible by secondary legislation to amend or affect a Constitutional right. Therefore, 6(e), in my view, does not make any sense in the context of a constitution, although it does make sense in the context of an Act.

1920 And so, Mr Speaker, for those reasons I think the House now, thanks to his amendment, understands the intention of the Government very clearly and has the benefit of the undertaking I have given, but also should know that we will not be supporting the amendment if he moves it.

Hon. K Azopardi: Mr Chairman, I am going to move the amendment.

1925 In terms of (a) to (d), could the Chief Minister enlighten the House as to who gave the advice that we should not have the protections in relation to (a) to (d), which would be a different statutory position than they do have in the United Kingdom?

Hon. Chief Minister: Mr Chairman, the advice, which therefore becomes a policy decision, comes from those drafting the legislation, on the basis that, for example, the Interpretation and General Clauses Act power that we have today – which we have had to use and hon. Members opposite have used when they are in government – has not been curtailed in this way.

The United Kingdom does not have that power, and so when they have created the power, because of the debate on the Henry VIII powers that they have had, they have curtailed it in this way. We have not had to be curtailed in the past in the exercise of the power and successive Governments have not fallen into these traps, although I do recall, I think, on one occasion there was a regulation to introduce a tax, which I spoke against from the Opposition, and all of the arguments about why I was wrong and the GSD were right are set out, Mr Chairman, in a speech by the then Chief Minister, Sir Peter Caruana.

1940 But I can repeat again, Mr Chairman, that it is not our intention to do any of this, but the power that we have taken forward is the power that has been exercised scrupulously and carefully by successive administrations in Gibraltar since the late 1980s and which the United Kingdom did not have.

1945 **Mr Chairman:** The House will now vote on the proposed amendment by the Leader of the Opposition. Those in favour? (**Several Members:** Aye.) Those against? (**Several Members:** No.) Clause 17 stands part of the Bill.

Clerk: Clauses 18 to 23.

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Mr Chairman: Clauses 18 to 23 stand part of the Bill.

Clerk: Part 6, clauses 24 and 25.

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Mr Chairman: Part 6, clauses 24 and 25, stand part of the Bill.

Clerk: Schedule 1.

Mr Chairman: Schedule 1.

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Hon. K Azopardi: Mr Chairman, I have given notice that in Schedule 1, which is headed 'Regulations under this Act, we seek the insertion of a new clause to 2(a) as follows:

The regulations made under this Act shall not be brought into effect unless they have first been laid in draft in Parliament and been approved by resolution or motion of Parliament before their coming into effect.

Mr Chairman, I explained in my original contribution to the Bill why we say this is important. I do not intend to repeat that ground in any length.

1965 The only answer that has been attempted to be given by Government is this reference to the provision existing in the Interpretation and General Clauses Act at section 23, which provides for that. I would say, though, that of course that historic power does exist of a very wide nature, but in drafting this legislation – which the Government has itself remarked on – based on the UK legislation, it remains the case that in not having a provision that subjects the regulations to be submitted in draft to this Parliament for approval, that we are out of step with a more modern practice, which is to recognise the parliamentary importance of the institutions, as they do in the UK, where the House of Commons must first receive regulations and approve them, and so must the devolved parliaments in Scotland and Wales and indeed now Northern Ireland.

1970 We would suggest when we put forward this amendment that, despite the provision in section 23 of the Interpretation and General Clause Act, it is important in the context of the very wide powers that are being given to Ministers – because they are very wide indeed – that this more modern version adopted in the UK, which will not make the institution of government grind to a halt but merely respect a separation of powers between the legislature and the executive – is adopted in Gibraltar as part of the statute as well.

1980 **Hon. Chief Minister:** Well, Mr Chairman, for the reasons that we have given – not that we have attempted to give, but the ones that we have given – we are not going to support the amendment.

1985 The reason is that this power is much less wide than the power that they exercised for 16 years under the Interpretation and General Clauses Act and indeed that has been there since the late 1980s. That was a power in effect at large because we were becoming members of the European Union. Anything could come from the European Union and the decision as to whether to make the change by primary legislation or by secondary legislation was a matter for a policy decision of the Government at the time.

1990 This is a much narrower power. This is a power only to do things necessary and exigent on departure, and so therefore it is narrow as to timescale because as we leave, there will be fewer and fewer things which are relevant, whilst the other power was much wider. All of the matters that were coming to Gibraltar from the EU were dependent on whether or not they might be implemented by regulation.

1995 Mr Chairman, I am a little surprised to hear the hon. Gentleman refer to the ‘much more modern’ practice that is being adopted in the United Kingdom. In the United Kingdom, as I told him before and he will know, these powers have been referred to as Henry VIII powers. In other words, they are not being referred to as modern – they are being referred to as medieval by those who are having the debates. So I put it to him that he is wrong in seeing these powers as modern. They are actually not modern, but in modern times they have been exercised carefully and with care generally by all administrations that have had the benefit of them in Gibraltar under the Interpretation and General Clauses Act there is no reason to think that this administration, reluctant as it is to leave the European Union, will therefore implement the necessary instruments for departure in any way which offends any of the other legal provisions that hon. Members might spot, or other sensitivities they might spot if we let them have these regulations in draft – something that they never let us have when they were in government or indeed we never let them have when we were in government, exercising the Interpretation and General Clauses Act power.

2000 But there is also an important logistical difference. The United Kingdom Parliament is in permanent session, so you can lay something overnight in the Parliament and you can then take 72 hours for people to comment and you can then proceed to make it a statutory instrument, which is the equivalent in the United Kingdom which takes effect. We are not in permanent session, so something has to be done in the three weeks, for example, in any month, and we

tend not to be in session. Then this power would mean that we would not be able to do things for another 21 days, for example.

So there are very good logistical reasons as well as legal reasons why we should not agree to the proposal that the hon. Gentleman is making, although I insist that we have no intention of using the powers provided for to do anything other than is absolutely, unfortunately, necessary to give effect to those parts of our obligations as require legislation to ensure that we leave the European Union in an orderly manner.

Hon. K Azopardi: Mr Chairman, what I meant by modern, by the way, is not that... I understand that they are referring to the debates on Henry VIII powers, but sometimes old things do not go out of fashion, they become retro and once again in fashion, and it just responds to.... What I meant by 'modern' was that it responds to the more modern grappling of the need to ensure the proper separation of institutions and that the institutions function in a good way.

We are going to, in a different place and at a different time, have a debate on that in Gibraltar – at some point soon, hopefully – in respect of how we improve and modernise this Parliament. In the context of that, it struck me and strikes Members on this side that it is important for there to be a curtailment of the wide powers of regulations so that this House can fulfil a better role of scrutiny by contributing any concerns it may have on draft regulations before they are brought into effect.

I hear what the Chief Minister says about the Parliament not being in permanent session, which is something that maybe at some point we also change, but that aside, there are mechanisms in the UK legislation that went through, as part of the Withdrawal Agreement Act, in respect of the regulations, of two types. So there are provisions in respect of the regulations that say that regulation should not take effect unless it is approved by Parliament, and that is generally the provision that is preferred in the UK legislation. There are also provisions, more rare ones, in the same Act which say that there can be regulations that are brought into effect but then they cease to have effect if they have not subsequently been tabled and approved by a resolution. That would meet the Chief Minister's concern if that was his preference. It is not our preference. Our preference is that we adopt a more liberal view of the curtailment of powers of the executive and that is the reason that we put it forward, because we think that it would be better practice for it to be introduced.

Hon. Chief Minister: Mr Chairman, unfortunately a lot of the things that the hon. Gentleman is talking about with which I agree are not for this debate; they are for the debate on parliamentary reform, a debate that, as he says, I hope we will be having soon. But we cannot make legislation assuming that we will agree that the Parliament will be in permanent session and that that will happen at any time soon. So we cannot hypothecate this Bill to what we might agree in future and how we might then implement it, and as for a different permutation of a clause, Mr Chairman. I think it is too late in the day for us now to consider that.

I think that the important thing they need to do is to exercise their role to scrutinise legislation and regulations as they emerge, and if they feel that there is a reason to move a motion to amend a piece of regulation they should move those motions whether or not they talk to us about whether they are going to have support for those motions – as is their wont, although they know that if they do not we will not support their motions.

So, Mr Chairman, we will not be supporting this amendment. We do not think that, having explained how we intend to exercise the power, there is any reason to be concerned about how the Government will be regulating to amend primary legislation for the purposes of our departure from the European Union. There is nothing to be concerned about there.

Mr Chairman: The House will now vote on the proposed amendment. Those in favour? **(Several Members: Aye.)** Those against? **(Several Members: No.)** Carried.

Schedule 1 stands part of the Bill.

Clerk: Schedule 2.

Mr Chairman: Schedule 2 stands part of the Bill.

Clerk: The long title.

Mr Chairman: The long title stands part of the Bill.

**European Union (Withdrawal Agreement) Bill 2020 –
Third Reading approved: Bill passed**

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the European Union (Withdrawal Agreement) Bill 2020 has been considered in Committee and agreed to without amendments, and I now move that it be read a third time and passed.

Mr Speaker: I now put the question, that the European Union (Withdrawal Agreement) Bill 2020 be read a third time and passed. Those in favour of the European Union (Withdrawal Agreement) Bill 2020? (**Members:** Aye.) Those against? Carried.

Adjournment

Chief Minister (Hon. F R Picardo): Mr Speaker, I note the hour and I would now invite the House to adjourn to Wednesday the 22nd at 3 p.m., when we shall continue with Government questions.

I would simply say that we should all, I think, now be in time to make our next appointment before ‘*La Lola se vaya pa Londre*’, which is where I think we are all going. So I move that the House should now adjourn until Wednesday at 3 p.m.

Mr Speaker: I now propose the question, which is that this House do now adjourn to Wednesday, 22nd January at 3 p.m.

I now put the question, which is that this House do now adjourn to Wednesday, 22nd January at 3 p.m. Those in favour? (**Members:** Aye.) Those against? Passed.

The House will now adjourn until Wednesday, 22nd January at 3 p.m.

The House adjourned at 6.43 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.08 p.m. – 6.51 p.m.

Gibraltar, Wednesday, 22nd January 2020

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The Gibraltar Parliament

The Parliament met at 3.08 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

SUSPENSION OF STANDING ORDERS

Standing Order 7(1) suspended to proceed with Questions

Clerk: Meeting of Parliament, Wednesday, 22nd January 2020.
Suspension of Standing Orders, the Hon. the Chief Minister.

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

Mr Speaker: Those in favour? (**Members:** Aye.) Those against? Carried.

Questions for Oral Answer

HOUSING, YOUTH AND SPORT

Q1/2020

Newly built sports facilities – Update on outstanding remedial works and completion

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Clerk: We now proceed to (viii) Answers to Oral Questions.
We commence with Question 1 of 2020. The questioner is the Hon. E J Reyes.

15

Hon. E J Reyes: Mr Speaker, further to the answer provided to Question No. 150 of 2019, can the Minister for Sport update this House in respect of the facilities which still require completion or remedial works at any of the newly built sports facilities?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

20

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, as per the answer to Question No. 150 of 2019, works are progressing.

Practical completion of the Europa Sports Complex is imminent. As far as the Lathbury Sports Complex is concerned, the works for the athletics track and the football pitch will start in the next few weeks.

25 **Hon. E J Reyes:** Mr Speaker, in his reply to Question 150, the Minister said that for Europa Point, minor works needed to be completed to the cricket oval. He added that the floodlights were ready and so on. Things were being prepared for the commissioning of the football facilities. Could he elaborate a bit more on what these minor works are, because January is nearly over and we were told that they would be completed early in the New Year?

30 **Hon. S E Linares:** Well, Mr Speaker, we are still early in the year, I think, and therefore the hon. Member can rest assured that it will be early in the year.

The fact is that when I say works will be ready imminently – I said that it would be ready probably the end of January – we are very close to the end of January and I would say now that I do not think it will be ready for the end of January, because there are a few things that need to be finished; the snagging and other issues that have cropped up.

35 One of them is, and I can tell the hon. Member, that the flooring of the outside is a bit slippery and therefore it is going to be changed at the cost of the supplier of the paint that they gave us. Things like that are what might delay the ... and it will be imminent and therefore that might delay slightly the completion.

40 **Hon. E J Reyes:** Thank you, Mr Speaker.

Just to make sure I got it right: when the Minister mentions that the flooring is slippery, and I understand we want to remedy that, is he referring to the flooring by the spectator stands at Europa or what is the flooring we are referring to?

45 **Hon. S E Linares:** Yes, Mr Speaker, it is just that we have realised that once it was the material that they used ... and these are things that are to do with the contractor, not us – and therefore I am just explaining to the hon. Member things that have cropped up which we were not satisfied with and therefore you go back to the contractor and you say to the contractor, 'Look, we do not think that this material is suitable.'

They have admitted to it and they are going to change it, so they are going to do it in phases. That might delay by a couple of weeks, not more than that.

55 **Hon. E J Reyes:** Grateful for that, Mr Speaker.

If I can go to the second part of his previous answer, the one in respect of the Lathbury Sports complex: last time we were told that the athletics track and football field would also be completed soon. I am grateful that today he has indicated that although he wanted to have Europa ready by the end of January, there may be a few weeks' delay. Does he have at least from the contractor an estimated completion date? 'Soon' was said in December but he may be in a better position now.

65 **Hon. S E Linares:** Well, Mr Speaker, the situation in Lathbury is that we need to co-ordinate with the company that actually does the finishes to the running track and the AstroTurf. So therefore it is a question of trying to get the right time for them to be able to put the actual finish of the quarter. If the hon. Member remembers during the time of the Island Games, we completed the whole of the area and then part of the area was then dug up, because we had to go underneath. So therefore that part is the part that needs to be done.

70 Obviously it will take a couple of weeks because it will not be able to be done, for example, this week because of the rains, or the weather. So therefore we need to just work with the people who are doing it to make sure that they come over and they have – it will not be difficult to have – just a couple of days of good weather in order to lay what is left.

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

75 I think on the final supplementary, we were told in December that the swimming pool is ready and all that is left are the final touches to the plant room. Have we made any progress in respect to that?

80 **Hon. S E Linares:** Yes, Mr Speaker, again these are issues that have to be completed. The pump room is nearly ready. If the hon. Member remembers, during the Island Games we did not cover the pool. We took the decision that the pool was not going to be covered for the Island Games and therefore the roof just needs a few finishing touches – and I reiterate, it is just a few finishing touches – before ... and like I said, the pump room as well, in order to be able to complete.

85 Remember also that during the Island Games, we brought in porta cabins to do for the changing rooms and the changing rooms are near completion as well. So therefore in relation to the swimming pool, I can tell the hon. Member that there is the pump room, just finishing a few touches in the roof, and basically the changing rooms are near completion as well.

90 **Hon. R M Clinton:** Mr Speaker, if I may ask the Minister a question, because I pass by the area very often and he mentions the pump room. I could not help but notice a rather large trench towards one side of the swimming pool building, which seem to have huge diameter wastage pipes. Can the Minister enlighten the House as to what that is for? Is that for sewage drainage of the swimming pool or some other related facility? These are very large diameter
95 pipes that are going into the ground.

Hon. S E Linares: No, Mr Speaker. Those pipes have nothing to do with the swimming pool. In fact, it is to do with the drainage of the whole of the complex.

100 Remember that when you have a running track and an AstroTurf on top, when it rains, imagine the amount of or quantity of water that will collect. So it is to do with the whole of the drainage of the whole area. So those big pipes have nothing to do with specifically the swimming pool.

Q2/2020

Gibraltar Sports and Leisure Authority facilities – Cancellations

Clerk: Question 2, the Hon. E J Reyes.

105 **Hon. E J Reyes:** Can the Government inform this House how many cancellations have been necessary at any of the Gibraltar Sports and Leisure Authority's facilities since the answer provided to Question No. 152 of 2019; indicating the location, date and reason for the cancellation?

110 **Clerk:** Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, the only cancellations experienced by users at any of the GSLA's facilities since the answer to Question No. 152 of 2019 have been at the GSLA Pool Complex as reported in the local press.

115 I am glad to report that the pool was in fact re-opened on Friday, 17th January.

Hon. E J Reyes: Mr Speaker, just so that I am clear, my question said 'at any of the facilities of the Gibraltar Sports and Leisure Authority': am I correct in assuming that those pertaining to Lathbury Barracks and Europa Sports Complex fall under the category of the Sports and Leisure

120 Authority facilities or are they referred to differently? I do not quite know if they are already under the control of GSLA or otherwise.

Hon. S E Linares: No, Mr Speaker, they are not under control of the GSLA, because as I have just answered the previous questions, they are still under the contractor. The contractor is still
125 there. So therefore the GSLA, there would not be any cancellation or anything, because allocations are not being given. It is not under the control of the GSLA because the contractor is still there.

Hon. E J Reyes: I am grateful for that clarification, Mr Speaker.
130 I understand the Minister's explanation about the pool and that it reopened on 17th January to which we are all glad.

I know, Mr Speaker, that the deadline for the notice of the question was Monday of last week, but since that period and today's answers, I believe in the last few days there was a need to make some cancellations at the Victoria Stadium. I do not know whether it was at the
135 Tercentenary Sports Hall or the old sports hall, as such. Hearsay has it that it may have been as a result of some electrical failure, whether it was to do the power cuts or not. I do not know if the Minister has been provided with the updated details by his staff, but certainly cancellations did take place.

Hon. S E Linares: Well, Mr Speaker, first of all, I am not aware of what the hon. Member is stating and therefore, if it is hearsay and people rumouring or whatever, I have not got any information of the ones that he is getting via whatever source he is getting it from.

All I can say is that when the question was asked, this is the answer, and if there has been anything prior or after the question has been asked, I would not know until either he poses
145 another question in the House or the hon. Member can write to me and we can see which one he is saying or hearsay or whoever is saying, and we can verify it.

Hon. E J Reyes: I am sorry, Mr Speaker, I may not have explained myself properly. It is not hearsay. I am told that it is factual that there were cancellations last week in respect of facilities
150 at the Bayside Sports Centre Complex. What is hearsay is that it could have been as a result of power failure. That is the part that is hearsay. But that there were cancellations last week is vertical.

I do not know if the Minister perhaps could say, 'Look, I only have answers for you as at such a date,' but as of today, 22nd January, I do not think that answer is fully correct – not because
155 the Minister is trying to mislead me, but because the Minister, I suppose, may not have been given updated information. That is what I am trying to say, Mr Speaker.

Hon. S E Linares: Mr Speaker, first of all, the hon. Member is now saying that it is not hearsay, that he is speculating whether it is happening or not happening. All I can say is that the
160 hon. Member poses the question, I go back to the officials, I get the answer and this is the answer that I have got.

Now, if things happen in between, I can tell the hon. Member if he wants to either pose a question next month, or whenever it is Question Time, I will answer the question. If not, I am asking the hon. Member just to write to me or to phone me or email, and I will verify that from
165 the day that the question was answered to this precise moment, I can give him whatever information there is, if there is any.

Mr Speaker: Are you happy with that?

Hon. E J Reyes: Mr Speaker, I know the Minister has given me alternatives of being able to contact him and if need be, I will pursue it down that avenue.
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Q3-6/2020

**Gibraltar Sports and Leisure Authority facilities –
Fees paid in 2018-19 for community use, advertising, sporting and non-sporting events**

Clerk: Question 3, the Hon. E J Reyes.

175 **Hon. E J Reyes:** Further to the answer provided to Question No. 153 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £6,565 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for community use during the financial year 2018-19, together with details of any payments still pending to be received?

180 **Clerk:** Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, I will answer this question together with Questions 4 to 6.

185 **Clerk:** Question 4, the Hon. E J Reyes.

Hon. E J Reyes: Further to the answer provided to Question No. 153 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £15,000 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for Advertising during the financial year 2018-19, together with details of any payments still pending to be received?

Clerk: Question 5, the Hon. E J Reyes.

195 **Hon. E J Reyes:** Further to the answer provided to Question No. 153 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £17,911 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for sporting events during the financial year 2018-19, together with details of any payments still pending to be received?

200 **Clerk:** Question 6, the Hon. E J Reyes.

205 **Hon. E J Reyes:** Further to the answer provided to Question No. 153 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £14,572.34 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for non-sporting events during the financial year 2018-19, together with details of any payments still pending to be received?

210 **Clerk:** Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, I now hand over to the hon. Member opposite a breakdown of the information requested.

Answers to Questions 3 to 6

During the financial year 2018-19, the GSLA received the following amounts from Users.

The breakdown is as follows:

Fitness Users	£6,285.00
Hire of lecture room	£280.00

During the financial year 2018-19, the GSLA received the following amounts from Advertising Revenue.

The breakdown is as follows:

RBSI (NatWest)	£15,000.00
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During the financial year 2018-19, the GSLA received the following amounts from Sporting Events.

The breakdown is as follows:

Straits Games	£1,260.00
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Darts	£15,856.00
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Misallocation of funds	£795.00
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During the financial year 2018-19, the GSLA received the following amounts from Non-Sporting Events.

The breakdown is as follows:

Dazed and Confused	£1,800.00
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Fresh Entertainment	£4,631.11
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Project X	£5,341.23
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Redefine	£800.00
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Misallocation of funds	£2,000.00
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Q7-10/2020

Gibraltar Sports and Leisure Authority facilities–

Fees paid in 2017-18 for sporting and non-sporting events, advertising and community use

Clerk: Question 7, the Hon. E J Reyes.

215 **Hon. E J Reyes:** Mr Speaker, further to the answer provided to Question No. 154 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £107,523.50 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for sporting events during the financial year 2017-18, together with details of any payments still pending to be received?

220 **Clerk:** Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, I will answer this question together with Questions 8 to 10.

225 **Clerk:** Question 8, the Hon. E J Reyes.

230 **Hon. E J Reyes:** Further to the answer provided to Question No. 154 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £11,954.41 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for non-sporting events during the financial year 2017-18, together with details of any payments still pending to be received?

235 **Clerk:** Question 9, Hon. E J Reyes.

Hon. E J Reyes: Further to the answer provided to Question No. 154 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £15,000 fees paid by users

of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for advertising during the financial year 2017-18, together with details of any payments still pending to be received?

Clerk: Question 10, Hon. E J Reyes.

Hon. E J Reyes: Further to the answer provided to Question No. 154 of 2019, can the Minister for Sports provide a breakdown with details of users in respect of the £10,994 fees paid by users of facilities falling under the auspices of the Gibraltar Sports and Leisure Authority for community use during the financial year 2017-18, together with details of any payments still pending to be received?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, I now hand over to the hon. Member opposite a breakdown of the information requested.

Answer to Questions 7 to 10

During the financial year 2017-18 the GSLA received the following amounts from fees for the hire of facilities under the Commercial Community Use scheme.

The breakdown is as follows:

Fitness users	£9,475.00
Hire of lecture room	£1,519.00

During the financial year 2017-18, the GSLA received the following amounts from Advertising Revenue.

The breakdown is as follows:

RBSI (NatWest)	£15,000.00
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During the financial year 2017-18, the GSLA received the following amounts from Non-Sporting Events.

The breakdown is as follows:

Colour Festival	£500.00
Fresh Entertainment	£4,002.97
Project X	£5,690.00
Santos Productions	£1,761.44

During the financial year 2017-18, the GSLA received the following amounts from Sporting Events.

The breakdown is as follows:

Snooker Event	£64,002.50
Darts Events	£41,400.00
Straits Games	£ 1,221.00
FI BA (Advertising)	£900.00

Q3-6/2020

**Gibraltar Sports and Leisure Authority facilities –
Fees paid in 2018-19 for community use, advertising, sporting and non-sporting events –
Supplementary questions**

255 **Hon. K Azopardi:** Mr Speaker, while that travels across the floor, as it were, can I ask the Hon. Minister to turn back to the schedule he handed to us in respect of questions 3 to 6, and if I may, can I just ask a couple of supplementaries in relation to that?

In respect of the non-sporting events, there is a breakdown there of a number of entities that paid fees. Can the Minister perhaps illuminate us a bit about the nature of those events?

260 I know what Dazed and Confused is because I think my daughters attended that kind of thing. But in respect of the others, what kind of events were they?

Minister for Housing, Youth and Sport (Hon. S E Linares): Well, Mr Speaker, I do not know specifically which events exactly they were, but I can tell him that Fresh Entertainment tend to do quite a lot of events around Gibraltar and could have been the electric festival, electronic festival, one of those festivals; Project X, similar; and Redefined, the same.

265 These are events that take place within the Victoria Stadium either in the MUGA area outside, or they take place in the Tercentenary, or have taken place not for very long anymore but in the Sports Hall. So it is within the Victoria Stadium and these are smaller events, bigger events, and these are the companies that actually do the events, and they have to pay a fee for that.

Hon. K Azopardi: Thank you for that.

Can the Minister perhaps help us a bit as to the basis on which these things are calculated? Why are there differences?

275 So if you organise an event for example on a particular day, why is there not a flat fee? What is the difference between the fees?

Hon. S E Linares: No, Mr Speaker, it cannot be a flat fee because it depends on how big the event is and therefore it depends on how many days they need, for example, the Tercentenary Hall. If they are doing the darts for example, they take two or three days to set up, and it is calculated to do with ... There are set fees, for example, on deposits but there are not set fees on the overtime that some of our workers in the GSLA have to work for. Some finish late, for example: they do not finish at 11 o'clock, which is the time that the workers at the Victoria Stadium or within the complex work and they have to stay until two to three o'clock in the morning. So it is all calculated depending on how much it costs *us* and then we pass the charge to the company that is actually doing the event.

Hon. K Azopardi: So when the hon. Member says how much it costs 'us' – i.e. GSLA – you mean that inbuilt into that fee, you are passing on staffing costs and things like that?

290 **Hon. S E Linares:** Absolutely and we have introduced that, because what was happening previously was that you would get a company come into the Victoria Stadium, doing an event; us, as in the GSLA, paying for damages, overtime, electricity, water, wear and tear of equipment, and we were paying for all that. And the event organiser used to get their profits and off they went.

295 So what we have done is we have introduced a fee which includes all these things, and it depends on how long they take in the event that they are charged. That is why there are differences of fees.

300 **Hon. K Azopardi:** Can the Minister then confirm: apart from these running costs that you are passing on, over and above that there is also a fee, or is it just the running costs that you are passing on?

And then finally on that schedule, the RBSI advertising: is that a cost, a sort of receipt in respect of the Island Games? Or is it something else?

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Hon. S E Linares: Sorry, could you repeat the question?

Hon. K Azopardi: The RBSI advertising revenue – what is that in relation to? That is really what I am asking. Is it the Island Games or is it something else?

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But my hon. colleague, Mr Bossino points out that there is a similar amount in 2017-18 so it presumably it is not a sort of Island Games amount then.

Hon. S E Linares: No, Mr Speaker, as the Hon. Chief Minister has reminded me, it is to do with the summer sports development – the summer programme that we run, which is also sponsored by NatWest. So that is –

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Hon. Chief Minister: A photograph of them handing over the cheque is in the *Chronicle* every year, so –

320 **Hon. S E Linares:** Yes, they do fantastic work for us, as in giving us a sponsorship by NatWest.

Hon. Chief Minister: One of the big cheques!

Hon. R M Clinton: Sorry, Mr Speaker, if I may ask the Minister: I cannot help but notice in the schedule he provided in answer to Questions 3 to 6 for 2018-19, there are two particular items that have ‘misallocation of funds’, which between them total £2,795 exactly. Can the Minister give the House an explanation as to how revenue receipts can be described as ‘misallocation’?

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Hon. S E Linares: Well, Mr Speaker, the note that the GSLA has given me as a supplementary – because I knew that question was coming, obviously! – is that the misallocation of funds was as the result of a payment credited to an erroneous subhead. So it was directed somewhere else, and then obviously it was not supposed to have gone there and they have redirected it. That is the answer that I have got.

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Hon. R M Clinton: I am very grateful for the Minister’s answer. Was he actually told what they were meant to be in respect of originally?

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Hon. S E Linares: No, Mr Speaker.

Hon. E J Reyes: Mr Speaker, just to clarify for me: the GSLA in both schedules gives the £15,000 revenue from advertising – which, I concur with the Chief Minister, I think is the adverts that are put round all the facilities at the Bayside Complex during the Summer Sports Programme and so on. Yet in respect to the financial year 2017-18, at the very bottom of the page, FI BA, which I think relates to basketball, has advertising in brackets. If it was for advertising, should the Treasury Department not want that better to come under an advertising heading rather than amounts received from sporting events? I do not quite know why an advertising item is not under ‘advertising’.

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Hon. S E Linares: Mr Speaker, I think this was the tournaments that were done by FI BA and they had their own advertising – they came with their own advertising. But obviously if they come with their own advertising, they should pay the GSLA a fee or at least a sum, because it

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seems like a very round figure. That is what I think it is: it is just that when associations do and they get their own sponsorship, they are supposed to be paying the Victoria Stadium some of that sponsorship.

355 But I will try and find out *exactly*, because I do not want to mislead Parliament. I will try and find out exactly what this FI BA means. But if I recollect, I think it was a tournament that FI BA did themselves.

360 **Hon. E J Reyes:** I am grateful and content, Mr Speaker, that the Minister will try to find out and then if need be he can report it. If he does report to his House, it means it goes in *Hansard* for whenever someone has to do future references.

Thank you.

Q11/2020

Gibraltar Sports and Leisure Authority staff – Maintenance done for GFA-owned facilities at Victoria Stadium

Clerk: Question 11, the Hon. E J Reyes.

365 **Hon. E J Reyes:** Can the Minister for Sport provide details of any financial arrangements currently in place whereby Gibraltar Sports and Leisure Authority Staff carry out maintenance and other works for the now Gibraltar Football Association-owned facilities at Victoria Stadium?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

370 **Minister for Housing, Youth and Sport (Hon. S E Linares):** Mr Speaker, at present there are no financial arrangements in place whereby the GSLA carry out maintenance for the Gibraltar Football Association within the development area at Victoria Stadium. Staff continue to work as normal, carrying out day-to-day tasks including maintenance in the development area, as well as
375 all other areas.

Hon. E J Reyes: So Mr Speaker, if the GSLA staff carry out duties in facilities that are now owned by the Gibraltar Football Association, does that mean that that staff has been seconded to the Football Association and is answerable to their managerial team or how quite does it
380 work? And it raises a further question: why does this association receive actual staff support, whereas other associations – as the Minister was saying before – may have to cater for it in respect of costs?

Hon. S E Linares: Mr Speaker, I do not see which other association actually is charged any
385 cost.

Anyway going back to his original question, what we are doing is working very closely with the GFA. The GSLA employees are under the GSLA management. They manage the Victoria Stadium as they have always done, and that is why I have put here ‘carrying out day-to-day tasks involving maintenance in the development area as well as in other areas.’

390 We are continuing as if it was the property of the Government because we are working with the GFA in order for them, once the area is started to develop – because up to now, there is no development, really, there is nothing happening – and until they start, that is when we are working with the GFA to see what regime we will put in place, because the GSLA will probably have Lathbury to run. So that is when it becomes a little bit of a problem.

395 **Hon. E J Reyes:** Thank you, Mr Speaker.

Perhaps I had better wait till the Lathbury deal ...

Just one thing arises here. In previous questions, if you allow me, Mr Speaker, the Minister made reference that there is an MoU that the GSLA has entered into with the GFA. When we
400 ask, could we have access to the contents of that, he said he would need to talk to the GFA first to see whether that could be handed over or not.

Has the Minister had an opportunity perhaps to see if we can have sight of those MoUs?

Hon. S E Linares: No, not yet; the reason being that some of the parts of the MoU are being
405 amended by both sides. So although we do not quite have it actually have it signed, sealed and delivered, we are still on a work in progress.

But I can tell the hon. Member that for us on our side there is no issue as to showing you the final MoU that we will work on with the GFA. I am sure there are many things that we need to work with the GFA on, especially when they take over what is part of their land in relation to
410 what is the Government's land. Things like access and roads, getting in and out and these are the sorts of things we are working at.

Hon. K Azopardi: Can the Minister also confirm whether the MoU spans the interim arrangements that he has been discussing now in respect of maintenance, in answer to my hon.
415 colleague's question? And future arrangements? Or is the MoU narrower than that?

Hon. S E Linares: Mr Speaker, I could say that the MoU is basically the transition period, because ultimately what will happen is that the GFA will have its stadium where they will have to run it themselves, and we will have our part to do maintenance and all that.
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So it is basically the transition period. It is a question of the GFA trying to get everything organised, employ their own people to run obviously the National Stadium, which they will be running. So basically this MoU is whilst all the construction work and all the moving about, for want of a better word, is happening.

Hon. K Azopardi: And so if that is the case, is the Government in some kind of parallel discussions with the GFA in respect of the terms of the transfer, for example?
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I will just put a specific question, so I explain myself. Is the Government introducing any terms in respect of the transfer of that stadium to allow use of the facilities from time to time by other entities or is it going to be up to the GFA to determine use on request?
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Hon. S E Linares: No, Mr Speaker, I think it would be where we could come into agreement with the GFA to see how we can use their facilities. Remember that they are going to use *our* facilities. So there has to be a *quid pro quo* as to who uses what when. Obviously the stadium will become a football stadium, but I am sure within that remit there can be ... because the
435 complex is not only a football stadium; there are other amenities around it, and the general public will probably use it.

So we are working at that because it is how we get the final separation or final ... although it is separate, we can both share all our amenities.

Hon. K Azopardi: So would I be right to conclude from that answer that those decisions are
440 still live and under discussion between the Government and the GFA?

Hon. S E Linares: Yes, Mr Speaker.

Hon. E J Reyes: One final thing if I may, Mr Speaker. We were previously talking about the facilities at Lathbury and Europa, for which the Minister said we were hopeful for quite soon completion of football-related facilities. Would those remain exclusive to GSLA and therefore form perhaps part of the of the MoU, so that the GFA can use the facilities or are those facilities
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going to be handed over to the Football Association and therefore form part of an agreement via an MoU?

Hon. S E Linares: No, Mr Speaker, Lathbury, as I said, would be like the old Victoria Stadium. It will not be ... The GSLA will run it as if it was the old Victoria Stadium – that is it. And athletics will be played there, the children in schools can use it, the whole of the community can use it.

Mr Speaker: Next question.

Q12/2020

**Children's play park, Laguna Estate –
Initial opening; daily opening times and maintenance**

Clerk: Question 12, the Hon. E. J. Reyes.

Hon. E J Reyes: Can Government provide the date by which the children's play park in between St Anne's and Notre Dame Schools at Laguna Estate will be open for public use, together with details of opening times and indicating under whose responsibility will the day-to-day maintenance of these facilities come under?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, the new Adventure Playground and ball-playing area will be ready for the contractor to hand over within the next six weeks, after which there will be a very brief snagging period. The facility will be added to the list of playgrounds currently under the GSLA's remit with opening times in line with other similar playgrounds

Q13/2020

**Albert Risso House –
Update on senior citizen warden facilities**

Clerk: Question 13, the Hon. E J Reyes.

Hon. E J Reyes: Further to the answer provided to Question No. 156 of 2019, can the Minister for Housing update this House with details of new arrangements made with the idea of implementing the same warden facilities at Albert Risso House as already enjoyed by the tenants of the other rental homes provided by the Government exclusively for senior citizens?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, the answer remains the same as my answer to Question No 156 of 2019.

Hon. E J Reyes: Mr Speaker, the Minister sounded keen to enter into some sort of arrangements: is the Minister aiming for a particular date by when we hope to have come to a satisfactory arrangement with the residents of Albert Risso House and new facilities?

Hon. S E Linares: Mr Speaker, I know the hon. Member was not present at the debate last month, but we did bring up all these issues and yes, as soon as it is ready, it will be implemented. It is not ready yet, but it will be.

Q14-15/2020

**Government rental homes –
Investigations into unlawful occupation**

490 **Clerk:** Question 14, the Hon. E J Reyes.

Hon. E J Reyes: Further to the answers provided to Question Nos. 161 and 162 of 2019 can the Minister for Housing provide details of the final outcome of the case of unlawful occupation which the Housing Department was dealing with?

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Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, I will answer this together with Question 15.

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Clerk: Question 15, the Hon. E J Reyes.

Hon. E J Reyes: Can Government inform this House how many cases of unlawful occupation of Government rental homes are currently being investigated by the relevant authorities?

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Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, the answer remains the same as my answer provided in respect of Question 162 of 2019.

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Hon. E J Reyes: Mr Speaker, I hope I understood: what remains the same in answer to Question 162 was that there was still no final outcome; they were still looking into working in respect of an unlawful occupation.

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But my Question 15 now says how many are currently being dealt with? Can the Minister please clarify there has been no new one and it is just the same one that is pending? I am not entirely clear when I refer back to answers next month or whatever next session, I am confused and then I pose erroneous questions, Mr Speaker.

Hon. S E Linares: Mr Speaker, the answer was last time that there is one case of unlawful occupation which the Housing Department is dealing with. We are still dealing with that one and the rest of the answer is exactly the same.

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Q16/2020

**Joshua Hassan Centenary Terraces –
Update on affordable housing project**

Clerk: Question 16, the Hon. E J Reyes.

Hon. E J Reyes: Can Government provide an update in respect of its affordable housing project 'Joshua Hassan Centenary Terraces', indicating the number of homes sold, number of homes still to be sold and its estimated construction dates?

Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, it is very difficult to provide an exact figure as to how many flats have been allocated at Hassan Centenary Terraces as sales are taking place daily. Well over 500 flats have now been allocated.

The contractor has taken possession of the site and construction will begin shortly. A contract programme needs to be finalised but it is anticipated that the project will take 39 months to complete

Hon. K Azopardi: Mr Speaker, can the Minister ... I appreciate he cannot give us a scientific commencement date but does he have a bit more than 'shortly'? Does he have an anticipated commencement date of the construction? I am not going to hold him to it but just loosely.

Hon. S E Linares: Mr Speaker, as I understand it the site is already ready; contractors are already moving in, as we speak. Therefore, when I say 'soon', I could easily have said 'now'. It is going on now. I do not know whether ... It is public knowledge that there are two phases and phase 1 is already on the way.

Hon. E J Reyes: Mr Speaker, my question was the number of homes that had already been sold and the Minister has answered saying that over 500 have been allocated. I do not want to go into legal technical terms of what the difference is – 500 homes have a name to it and are perhaps at particular different legal stages, whether one calls them homes or allocated. I even take it perhaps that initial deposits have been made and certain instalments are forthcoming.

But I carried on my question by saying the number of homes still to be sold. I know the Minister was careful in saying that the numbers are changing daily, but he was able to round off a figure which I accept, around 500. So is he able to round off a figure of how many homes are still available for 'grabs', if one wants to use that word?

Chief Minister (Hon. F R Picardo): Mr Speaker, I do hate to labour the point, but one does feel as if we have been here for an hour having what might be termed almost a 'fireside chat' with each other, which I will be delighted to do with hon. Gentlemen, but there are 665 homes available at Joshua Hassan Centenary Terraces; the hon. Gentleman has told him they have sold 500. It is a simple matter of mathematics: 165.

Hon. R M Clinton: Sorry Mr Speaker, if I may ask the Minister he mentioned two phases, phase 1 and phase 2. Could he elaborate as to what phase 1 is? Is this to do with clearance of the mound on the site? No? Or if it is not, is it that the site is actually level and ready for construction? I am sorry to disappoint the Chief Minister.

Hon. S E Linares: Well yes, Mr Speaker, it is because the hon. Member has not taken time to read our press releases and has not done his homework – I will tell him as a teacher. It is out in the public domain. Everybody knows about the Hassan Centenary Terraces, how it is going to be built, how many houses there are.

But to come to this House and ask me that question!

Hon. Chief Minister: The answer to that question is already public knowledge.

Hon. S E Linares: It is public knowledge. (*Interjection by Hon. R M Clinton*)

Mr Speaker, I am not here to do the hon. Member's work! (*Interjections*) I am here to answer questions of things that he wants to ascertain from Government that the public do not know. What the hon. Member cannot do is come here ask me, 'What is the press release number that you brought this out?'

580 Mr Speaker, it is getting beyond the ridiculous!

Q17/2020

**Joshua Hassan Centenary Terraces –
Update on unsold units**

Clerk: Question 17, the Hon. Ms M D Hassan Nahon.

Chief Minister (Hon. F R Picardo): Hear, hear!

585 **Hon. Ms M D Hassan Nahon:** Thank you – what a welcome, Mr Speaker! I wish it was like that every time I rose. (*Interjections*)

Following on from last week's revelation in the press that 150 units are still available/unsold in Hassan Centenary Terraces, what reasons does the Government attribute to such a glut in this development?

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Clerk: Answer, the Hon. the Minister for Housing, Youth and Sport.

Minister for Housing, Youth and Sport (Hon. S E Linares): Mr Speaker, there is no glut as the hon. Member is repeating from statements in the press. The allocation process is still ongoing; there are a total of 665 flats to be allocated in the development, for which Gibraltar Residential Properties Limited has received over 2,400 applications.

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Of these applications, nearly 900 have been seen at least once. There are many more applicants yet to be seen than there are remaining flats. Government is confident that all of the flats will be allocated and that there will still be even more people wanting to buy flats at Bob Peliza Mews and Chatham Views.

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Hon. Ms M D Hassan Nahon: Mr Speaker, I really did not mean to draw a defensive response from the hon. Member. (**Several Members:** Hear, hear!) Oh, very popular today, Mr Speaker! I am feeling very popular today, Mr Speaker, from all sides of the House. It is nice.

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I recently understood that the Government or the Housing Department offered an upgrade in size to people who technically only had a need for smaller units and I was wondering whether perhaps this had anything to do with or this was following on from the possibility that the Government was not filling up the demand for houses.

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Could it be that the purchase terms are causing obstacles to potential purchasers and that is why it has not been filled? Yes, the hon. Member says that there is more left to sell but by now there had been a lot of talk about so much over-subscription and yet we understand that at this point not all of them had been sold. So I am wondering whether perhaps bridging loan issues have been an issue or anything of the sort that has contributed to this 150-odd that have not been sold.

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Hon. S E Linares: Mr Speaker, the hon. Lady must understand that I was not even thinking of being on the defensive at all – that is for the starters.

But just to put the hon. Lady right, there are 665 houses to be sold. People show an interest, of which there were 2,400 people interested in buying. Therefore, if there are 665 houses and 2,400 interested people, of course there are going to be people who have to wait, and of course

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there are going to be people who will not be able to buy because there is a higher demand than there is the supply.

Therefore what we did was we actually did upgrades and that is why the movement ... and I said it was alive; I said it at the very beginning, it is flexible. If somebody has a house now and it is upgraded, then that house has to be sold. What you do is you go over the list. Nine hundred people have been seen at least once in order to call them in to see which house they prefer. So we are working through the whole list and it will take time, but I can guarantee the hon. Lady that what happens is that other people also are waiting for the other two estates. So this is the issue. The issue is that – *(Interjection by Hon. Chief Minister)* Yes, exactly – just for the mathematics.

So that is what I say that there is more demand than there is a supply for *this* estate. But there are two more estates coming through. So these are the issues that come on a daily basis and that is why I would not even dare to say how many houses *exactly* we have sold. I cannot. *Now* they are probably selling a few, so I would be misleading the Parliament if I gave exact figures.

Hon. Ms M D Hassan Nahon: Thank you for that answer.

Mr Speaker, if the hon. Gentleman might be able to indulge me: why would he think that the press would pick up on the fact that there are 150 houses or units yet to sell, if it is a perfectly normal path of the way that these projects seem to develop? Why was it flagged up?

Hon. Chief Minister: Mr Speaker, because we issued a press release. For that simple reason – because we wanted to update the community what was happening, because we receive daily requests for information of people who want to buy and want to know why they have not yet been called.

The numbers that the hon. Member was giving are important ones, because look, if you have got 2,400 applicants for 665 properties, the problem that you have is not that you have a glut of properties; it is that you have a glut of applicants. And so, Mr Speaker, the important number for her to go away with is that the 165 left will have to be all that is available for the 1,500 that have not yet been called.

Of the 900 that were called, 500 have bought these particular properties. So I think we are in a very good position. This estate has seen remarkable acceptance. It is one that people are really wanting to buy into, because of the price, because of the terms and conditions which are extraordinarily generous, and indeed because of the location, which is a very favourable one. I remind all hon. Members that that was seen as an area only for luxury development. What others suggested should be for the luxury market, we have made available for Gibraltarians on the housing waiting lists who are eligible to buy. That, Mr Speaker, is the approach that we are taking and that is the sort of reality that underlies the Housing Policy which determines how we are going to continue. Great sites like the Eastside development, like the area on Queensway, where we are going to develop Chatham Views, like the area of the port we are going to develop, Bob Peliza Terraces or Mews, or whatever it is that it is called.

Mr Speaker, all of these are *excellent* opportunities for young Gibraltarians eligible to buy to get their foot on the housing ladder. These properties have had *huge* acceptance and we are very proud of the way the sales are going.

I would like to thank the people at GRPL who are responsible for this work, because the diligence with which they do this work – if they realise that somebody has been missed out, they call them back in; if they think somebody has not had the opportunity of having the best choice put to them, because they have had somebody else considering a home, they will call them back in and say, ‘Look, you considered three homes but somebody else has gone for another one; you should consider this one also’ – that level of *diligence* is something which the Government finds absolutely commendable, and I thank the men and women of GRPL for the work that they are doing.

HEALTH AND CARE

Q18/2020

Hearing aids –
Patients waiting over 12 weeks

Clerk: Question 18, the Hon. Keith Azopardi on behalf of the Hon. E J Phillips.

675 **Hon. K Azopardi:** Mr Speaker, with your indulgence because Mr Phillips is flying back, but because of the bad weather may suffer a bit of a delay, so I will take his questions while he arrives.

Mr Speaker, Further to Q171/2019 how many patients have been waiting over 12 weeks for hearing aids?

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Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, currently, 39 patients have been waiting over 12 weeks for hearing aids.

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Hon. E J Reyes: Mr Speaker, in respect of these patients is there any sort of obvious explanation of why this number of patients have had to wait? My understanding is that the 39 patients, at least most of them, who have been waiting over 12 weeks are still at the stage where the hearing aid has to be ordered, and then of course that will incur the delay of whatever delivery date the supplier is able to offer.

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Does the Minister have any further information as to why there seems to be this backlog of 39, as opposed to his ideal average waiting time of 12 weeks?

Hon. P J Balban: Mr Speaker, the question that the hon. Gentleman is asking was in fact replied to quite comprehensively last month and what I explained last month is that there is a process which culminates in a person receiving a hearing aid, and as part of that process there are several appointments whereby patients are asked, to see what best fits them, whether they are internal fitting devices or external fitting devices. Some are relatively straightforward, simple and in fact can be given off the shelf and that reduces the waiting time considerably. But there are other patients who request a hearing aid which is an internal device and that needs to be produced specifically, taking into consideration the contours of the inner ear.

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So there are a number of reasons why people have to wait more time than others, and I said last month we did explain this, and if you look at *Hansard* you can recap on what was said then.

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Hon. E J Reyes: Thank you, Mr Speaker.

In fact I did look at it following that, but it is the number of patients who have been waiting over 12 weeks to yet to be called in to see what hearing aid is the one they are going to choose, to see if it is one available off the shelf, to see if it is one that has to be ordered. But the 12 weeks have elapsed and they are still waiting and have not even had indication of a date or when they are due. They already had all the hearing tests needed, already had more than one appointment to follow up. They are now, from what they tell me, in a state of limbo, waiting to see what is going to happen. They were surprised at the answer that was given of 12 weeks. The 12 weeks had elapsed for them and they had heard nothing further.

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That is what I was trying to ask the Minister: why that delay? This has nothing to do with the time the unit may need to come from UK, if one off the shelf is not suitable for that individual.

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Hon. P J Balban: Mr Speaker, the delay is perceived in certain patients ... in fact some patients are even fast-tracked, especially those with severe hearing loss and elderly, so there is a

prioritisation involved. But the delays are something which obviously was raised last month and I am taking an interest to see whether things can be done to make this even further, because it is in our best interests, always, to make people wait less for things, and that is what our aim is.

We are looking into it but there is a process whereby a patient is referred to ... A patient goes to his GP, sees his GP, and then is referred. A letter of referral is sent to the audiologist and the patient is then seen in the clinic a few weeks later and then there is a process that there is some waiting time. The average waiting level is, as we said, for 12 weeks because of not only the amount of new requests coming through and referrals coming through but also there are numerous hearing aid devices which are lost – they fall, they are trodden on and they are damaged – and this adds to the requirements.

Once the audiologist sees the patient, then as I said, it can be a very quick process – in fact it is instantaneous. By that time the hearing test is carried out, they know what is necessary and they can just hand them a hearing aid off the shelf. If not, then there can be a wait of three to four weeks after that to receive the device. So it is the time that it takes.

Mr Speaker: Next question.

Q19/2020

**Gibraltar Health Authority Health Card –
Application criteria**

Clerk: Question 19, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

Hon. K Azopardi: Mr Speaker, can the Government state the criteria for the application of a Gibraltar Health Authority Health Card?

Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, the criteria in respect of applications for Gibraltar Health Authority registration are provided for under the Social Security (Employment Injuries Insurance Act), the Social Security (Insurance) Act, the Group Practice Medical Scheme Act and the Group Practice Medical Scheme Regulations.

Other than these, registration is possible under the United Kingdom Reciprocal Agreement Pensioner list, or those in possession of an E121 from another EU country.

Q20/2020

**GHA consultants –
Number engaged since 2019 General Election**

Clerk: Question 20, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

Hon. K Azopardi: Mr Speaker, can the Government confirm how many consultants have been engaged by the GHA since the 2019 General Election?

Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, since the 2019 General Election, the GHA has employed three Medical Consultants.

Hon. K Azopardi: Mr Speaker, apart from medical consultants, are there any other consultants that have been engaged, i.e. have people been providing services on a consultancy basis to the GHA?

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Hon. P J Balban: Mr Speaker, the question that was asked was specifically to do with medical consultants, and I think – (*Interjections*)

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Chief Minister (Hon. F R Picardo): Mr Speaker, I think in answering this question, the people compiling the information have interpreted the question as being about medical consultants, because of the GHA and the word ‘consultant’ in the context of the GHA meaning one thing.

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So I do not want to see the Minister or myself venture an answer that might be incorrect. The hon. Gentleman is right, his question is not limited to medical consultants. It says ‘consultants’ but I think it has, in good faith, been interpreted because of the context as being medical consultants. If he wants to know whether anybody has been asked to consult in the GHA in relation to something else – for example, I don’t know, computers – we would not be able to give him the answer today, but if they ask again or they write to us, I am sure that we can provide the information.

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Hon. K Azopardi: Mr Speaker, I accept that in good faith it can be misinterpreted, but given that the question has already been put, rather than put us to the added burden of asking the question again, the Minister has our question and perhaps he can send my colleague a list of information. If indeed there have been people engaged as consultants or providing consultancy services to the GHA since the last election, he can send my colleague Mr Phillips that information.

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Hon. P J Balban: Happy to, Mr Speaker.

Q21-25/2020
Mental health care –
Waiting times for various treatments

Clerk: Question 21, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

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Hon. K Azopardi: Mr Speaker, can the Government confirm average waiting time for consultant psychiatrists?

Clerk: Answer, the Hon. the Minister for Health and Care.

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Minister for Health and Care (Hon. P J Balban): Mr Speaker, I will answer this question together with Questions 22 to 25.

Clerk: Question 22, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

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Hon. K Azopardi: Mr Speaker, can the Government confirm the number of people in 2019 who have been prescribed with antidepressant/antipsychotic medication for the purposes of a mental health complaint?

Clerk: Question 23, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

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Hon. K Azopardi: Mr Speaker, can the Government confirm how many patients are currently sectioned under current mental health legislation?

Clerk: Question 24, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

Hon. K Azopardi: Mr Speaker, can the Government confirm how many patients receiving treatment for a mental health condition have a history of drugs misuse, either prescribed or use of illegal drugs?

Clerk: Question 25, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

Hon. K Azopardi: Mr Speaker, can the Government confirm the number of acute and non-acute admissions to the Ocean Views facility since it opened its doors?

Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, the average waiting time for a new referral appointment to see a Consultant Psychiatrist is currently three weeks for a routine referral. However, patients are triaged by the mental health team, and those that present with a more acute problem are seen sooner.

According to the GHA's prescribing data, the number of patients prescribed antidepressant and/or antipsychotic medication in 2019 was 3,974.

There are currently 25 patients sectioned under mental health legislation.

GHA records show that 244 patients present as having a history of drug misuse and a documented mental health issue.

All admissions into Ocean Views hospital are considered as acute. There have been 715 admissions into Ocean Views since it first opened.

Hon. K Azopardi: Can the Minister just help me, because I cannot recall when it opened, but does the Minister?

Chief Minister (Hon. F R Picardo): Mr Speaker, honestly I cannot tell him the date, but I am sure it was in our first term, and I think it was in the last year of our first term. So I believe it might have been between September 2014 and October 2015. I cannot be more precise than that and I may be completely wrong, but that is from memory what I recall.

Hon. K Azopardi: Yes. In relation to the answer on patients receiving treatment for a mental health condition with a history of drugs misuse, does the Minister have a bit more information about that? He has given us the statistic of 244. Are those current patients being treated, or is it a broad range over a span of years?

Hon. P J Balban: Mr Speaker, if this helps, a total of 421 patients are currently recorded in EMIS as having a history of drug misuse. Of these 421, 244 have a documented mental health problem.

Hon. K Azopardi: Thank you, that is helpful.

In relation to the answer that the Minister gives on the number of people in 2019 prescribed with antidepressant or antipsychotic medication, I think I took the number correctly as 3,974. I think that is the number, and obviously, that is a range of different conditions – some will be very mild and transitory; others will not be.

Does the Minister agree with me that that is a rather concerning statistic over a period of a year? And if the Minister had not seen that statistic till now, because we have posed the

question, or if the Minister was aware of that statistic, what steps is he taking to understand that situation a bit more clearly, because of the size of the issue?

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Hon. P J Balban: Mr Speaker, I would not like to hazard a guess as to whether ... This may well be pretty normal for a population of a given size. I could ask the professionals who have provided us with information, but I would not like to say either it is worrying or whether it is pretty conservative for the population in size. It is something which I am not qualified to ascertain.

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There is also one thing we have to take into account: there are people who take antidepressants; there are people who take antipsychotics; and there are people who take both. These have all been included, so it could be the same amount of patients taking both medication, as opposed to just one or the other. So we would really need to see what the views are of the medical profession, to see whether it is above what is expected or otherwise.

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Hon. K Azopardi: So is the Minister saying that he knows for sure or that he is speculating as to whether there is double counting in these figures?

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Hon. P J Balban: In that case I am sure because I have information here which, for example ... We have in one given year, for example, there are 3,600-odd patients on antidepressants, 775 on antipsychotics and 439 taking both. So I know that there is a mixture of patients here.

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Hon. K Azopardi: But then there are only 400 that are ... He has got a statistic, he has just given me figures, 3,600; 400 taking both. But you have given me a total of 3,974. So that does not suggest double counting.

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Hon. P J Balban: No, the way this was explained to me, Mr Speaker, is they add this 300 ... Let's hope the maths here stands up because I had this conversation with my staff and again, I need to take their advice. If we look at antidepressants and add antipsychotics to them, and then take away both, that is how they have contrived the figure – if that is at all useful.

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Hon. K Azopardi: Whether there is an element of double counting or not, and the Minister said he was not sure whether this is a sort of normal figure – even with some element of double counting, the number of people or prescriptions of antidepressants and antipsychotics is quite significant as a proportion of the population. At the very least, perhaps the Minister would speak to the specialists in the field, understand whether it is the norm and, whether it is the norm or not, have a conversation – I would urge him – perhaps in respect of what steps can be taken in any way to assist the causes of these issues.

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Hon. P J Balban: Mr Speaker, yes, absolutely.

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One thing I would like to mention is that mental health is something which affects most of us to very different levels and degrees. When it comes to depression and anxiety and very mild depression, it is something which patients will be prescribed something to help them on the way – it does not necessarily mean, I am not saying that it is something normal, but it is something which ... When look at antipsychotics, obviously the medication is much more powerful and it is something which is more restricted to certain categories and types of patients. But very mild antidepressants are something which are prescribed depending on the GP or the mental health professional, and so this is why there appears to be a huge number of people on ... I hate to say 'slightly milder' because I cannot say that and I am not in a position to say that, but there is a massive spectrum, from people who are slightly anxious, there is even the reported case of students who while they are studying they feel that they are anxious, and it is something which is transient because mental health ... I know few people who can say hand on heart that they have never been low, depressed or anxious. This reflects, I think, that.

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Hon. K Azopardi: Mr Speaker, will the Minister take steps to clarify this double-counting issue in this sense, because the question that my hon. colleague, Mr Phillips posed was: can the Government confirm the number of people. I appreciate that in obtaining the information, as the Minister has explained, there may be an element of people taking both and double counting, but because we asked precisely the number of people, and because it would be helpful for the Government to know precisely how many people, are taking one or the other or double and they are not double counted, so that you know the number of cases that there are in Gibraltar, will the Minister take steps to drill down on the statistics in a clearer way?

Hon. Chief Minister: Mr Speaker, in case it is helpful, certainly we will do that exercise because I think it is worth having clarity in that respect.

But we have to be careful that we do not fall into traps in this respect. First of all, when we are looking at the population, the hon. Gentleman needs to remember that those who are entitled to prescriptions under the Group Practice Medical Scheme do not just make up the 32,000 people who are resident in Gibraltar; they also make up those who are working in Gibraltar, etc. He has been given the answer a moment ago about registrations. We talk about 15,000 people working in Gibraltar, so if we were doing a rough calculation, we would be talking about approximately 47,000 people being entitled to prescriptions under the Group Practice Medical Scheme. So the base is not 32,000 from which 3,900 would be over 10%; the base is potentially 47,000-plus. So that is the first point.

The second point, Mr Speaker, is that in respect of mental health, I think the key issue is that people should not consider that having a mental health problem is a stigma in any way. Therefore he will find that a lot of the thinking in this respect is that more prescriptions in respect of antidepressants should not be seen as necessarily a bad thing, when we are trying to encourage people who have mental health issues to speak up and take advice and go to a GP. So the first blush reaction might be as the hon. Member has suggested, that we should all be concerned – and indeed we must all be concerned about those who have issues of mental health to ensure that they are getting the best possible service from our GHA. But we must not say anything in this House, and I am sure the hon. Gentleman will agree with me, and he will not want any of what he said to be interpreted in this way, as suggesting that people have a mental health issue should not manifest with it, they should not go to their GP and indeed that they should not have a drug prescribed.

I hope that is helpful, Mr Speaker, and I do agree with him that we need a little more clarity in respect of the statistic provided, so that we do know not just those taking one or the other, but we know exactly how many are taking one or the other, whether they are taking both or not.

Hon. K Azopardi: I certainly was not suggesting, and I do not think the hon. Member was saying I was, but because of the way he put it, I just make clear: I certainly was not suggesting that I adopt or accept any kind of stigma of people who have mental health issues. They certainly need addressing and it is a good thing that people should come forward and we need to break down barriers of acceptance to people with mental health issues.

What I am rather concerned about, though – and this is, I believe, a cross-party issue – is that as a society in Gibraltar we properly grapple with the issues that are causes of mental health problems, to the extent that they are not physical causes. If there are causes or exacerbations created by factors outside the individual – for example, it might be social media bullying or any kind of issue like that – that we drill down in a better way the statistics so that we understand them, so that not only the Government has that source of information, but as a society we understand it a bit better. The Government will not be able to address those issues unless it understands precisely the size of the number of people that are taking these medications in different categories and then drill down on the statistics in a better way, so that it understands for example, is it predominantly younger people, more than older people? And if it is younger people, more than older people, without specifying or breaking down barriers, respecting the

privacy and confidentiality of individuals, in discussions with specialists and interested groups and NGOs in this field, it would be important to try to come up with plans and steps to see if we can, with a better statistical analysis, address the issues that are coming up commonly that are being spoken to, to specialists, that specialists and nurse practitioners are understanding.

So I am giving a long intro to that question, so that the Hon. Minister has the opportunity to agree with me that it must be in the interests of the Government and society at large for the Government to have a better statistical recourse.

Hon. Chief Minister: Mr Speaker, the answer to that would appear to be yes; except of course, the issue is not whether the Government – or indeed the GHA, better described – has the statistical resource. The only issue is whether or not the information provided in answer to the question is the answer sought, because the Government, aka the GHA, does have that information. Indeed, I will allow the Hon. Minister to say something else now.

But what was concerning me, Mr Speaker, was that the hon. Gentleman was taking us down a road, and he has clarified I think inadvertently, of saying too many people seem to be in receipt of these drugs – that must be a cause of concern. Well, Mr Speaker, that is the *opposite* of the approach that I think he has clarified we are both keen to ensure that everyone takes, which is that if you do have a mental health issue, we do not consider you a problem: we want you to come forward and if you need medication, you should have that medication. I think what he is saying and what I agree with and is certainly the policy of the Government – and indeed, it is only the policy of the Government because we are advised by the professionals that it should be – it's that people should be encouraged to come forward as much as possible and not be regarded as a problem or indeed a statistic.

Now, Mr Speaker, the Hon. the Minister will say something now about how the numbers are compiled. He should not think that the Government does not have, aka the GHA, that information, that breakdown by age groups, that breakdown by sex. It is quite another thing to see whether they have sought it, which I do not think they have, or indeed if they have sought it, whether we have given it in this House. I think the important thing is not so much that we should have it – if hon. Members want it and it is available, we should; and we should, I put it to him, perhaps potentially debate it in the context of a different part of the process of this House, because the professionals in the GHA certainly do have it – I did not like his use of the words 'grapple with', but look, that is a matter of personal style – are certainly working with it, to understand how best to deal with the issues that manifest.

Mr Speaker, I will forever be sad that I had a very close personal friend who did not manifest, who did not take an antidepressant, and therefore is not with us now.

Hon. K Azopardi: Mr Speaker, I am sorry that certainly, that was a matter of regret on that last comment that he made, and I share that with him. And I am sorry that he did not like my use of the word 'grappling' (*Interjection by Hon. Chief Minister*) despite his love of man-to-man contact.

Given his comment that the Government is in possession of a breakdown of age groups, can the Minister illuminate us in respect of that?

Hon. P J Balban: Mr Speaker, I would have to ... that question would need to be asked independently. I do not have that information with me.

What I do stand up to explain: you mentioned whether I could discuss whether there was double counting and if we look at the statistics which were required, the answer to Question 22, there was a number of 3,974 patients. If I give you the breakdown: people on antidepressants, 3,638; people on antipsychotics, 775; on both, 439. So if you add 3,638 to 775 and deduct 439, you get 3,974, which is the answer given to the question. So there is double counting.

Hon. K Azopardi: Yes, Mr Speaker, but precisely for that reason then there must be no double counting. Can the Minister not agree? He has just told me there is no double counting.

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Hon. P J Balban: Mr Speaker, what I have said is that there are people who have been double counted – we are talking about the total amount of patients – so if a patient is taking antidepressants but he is also taking an antipsychotic, then obviously there is a deduction that needs to take place. There is a total of 3,974 patients, of which 3,638 are on antidepressants and of which 775 antipsychotics: if we add those together, you get a number greater than 3,974. So then we deduct those which are double, and this is the figure that has been provided.

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Hon. K Azopardi: Yes, precisely, Mr Speaker – precisely.

So what he has done is he has added the 3,600 to the ones that are the 775 and then deducted. You come up to roughly speaking 4,400-plus and you have deducted it to remove the double counted ones.

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Hon. P J Balban: To get the exact number of patients – you asked me how many patients are on – (*Interjections*)

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Hon. K Azopardi: Correct. And therefore, the figure ... In a second; I will just make the point, and then I may ...

So in effect, you have removed the 439 that are taking both to remove the double counting, so the 3,974 excluded the double counting. Is that not correct?

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Hon. Chief Minister: Mr Speaker, can I just advise, if possible, so that we might make some progress, that hon. Members at the end of this particular part of the Question Time take this algebraic part of the debate to the antechamber whilst we have coffee and then perhaps agree the number. I do not think we need to have a debate about the number; we just look at the number and tell him why it is we think it says one thing, and then we can make a decision together as to what the number represents.

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I do not think Question Time is about doing mathematics together.

Hon. K Azopardi: No, Mr Speaker. Question Time is not about doing mathematics; but Question Time is about extracting information and what I was trying to extract is the correct explanation because before, I was given the explanation that there was an element of double counting and what we now know is that 3,974 is the correct number without the double counting. But if we need to discuss it again, we will.

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Can I move on to another supplementary on the number of questions that we asked? In relation to Question 25, if I may, the Hon. Minister says there are 715 admissions through Ocean Views. Does he have a statistic on the length of the average stays of those admissions or not? I appreciate that we have not asked that question, so if he does not have it we will ask it again.

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Hon. P J Balban: Mr Speaker, I would not be able ... Let me just scan through the information given to me, but that is not something which I think would have been interpreted as a legitimate part of the Question.

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No, Mr Speaker.

Mr Speaker: We will have one last question on this subject.

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Hon. Ms M D Hassan Nahon: Mr Speaker, I was trying to interject for a while because I think there is something that has escaped all of us and maybe I will be assisting the Leader of the Opposition here, who will be forgiven perhaps for not being aware of this, seeing as he was not a Member of the House last year when I asked the Government questions.

1060 A very large pharmaceutical company had actually made the GHA aware of its concerns – and I believe it may have been Pfizer – warning us that with the levels of antidepressants, and benzodiazepines, which are made the main ingredient of these antidepressants that are used today, that for a population of 30,000, *too many* people were using and procuring the pharmaceuticals from them – and that is only one company showing its concerns.

1065 And now when it transpires that we see that about 10% of the population is on antidepressants and antipsychotics after such a warning, which should have set alarm bells ringing throughout the entire GHA, I find it really shocking and alarming, even though I could understand that the new Health Minister has not been aware, but I believe in this case a really strong brief should have been given to him in handover to come up with a strategy based on this advice and warning, and the fact that the Minister has no awareness of this concern or of these numbers until now, it seemed, and how we are going to curb things, is extremely worrying.

1070 I want to know what Government has done actively since Pfizer – I believe it was Pfizer in these big pharmaceuticals – issued these warnings to Gibraltar, given that it appears that nobody has any idea of the levels of over-subscription. Do not forget, Mr Speaker, we are talking about the numbers of people only in GHA. We have to assume that there is also another portion of the community that is getting them privately. So it is probably much more than 10% of our community and that is a very concerning figure.

1075 So I would like to know what the Government has done about this since the pharmaceuticals' warning.

1080 **Hon. Chief Minister:** Well, Mr Speaker, the hon. Lady is confusing – with the very greatest of respect – apples with pears. The Pfizer warning was about opioids and the opioid crisis, Mr Speaker. That led to a press release from the Government and a whole programme to reduce, not the subscription but the prescription of opioids in the GHA, which is a current and ongoing programme.

1085 But the hon. Lady needs to realise that she is falling into the same trap that the Leader of the Opposition was falling into. I say a trap, because I do not think either of them mean to do this.

1090 If there are people with mental health issues in our community and if that is 15%, 20% or 28%, which appears to be the average in other countries, then we have got a problem if we have not got 28% of those people somehow being prescribed the drug that they need, if they need a drug. So we should not be concerned, Mr Speaker, that it appears that 10% of our population is taking these drugs. We should be concerned if there is one person in our community who needs these drugs, who is not taking them, as much as we should be concerned about one person in our community who does not need these drugs or who does not need them any longer continuing to take them or be prescribed them. Those are the key issues.

1095 And the Pfizer issue is unrelated to *this* issue. It is related to a completely different crisis, which is equally important but which does not relate to mental health. It relates to a different issue, which is the opioid crisis, which affects many Western nations and is affecting Gibraltar as well. And hon. Members can look at the press release issued by the Government at the time that this issue arose.

1100 **Hon. K Azopardi:** Mr Speaker, does the Chief Minister not agree with me that rather than just that – because I do agree with a lot of what he said, but – it does not end there. Surely the Government is concerned not just about that but also about understanding better and tackling the causes of mental health, and also understanding and tackling better the adequacy of the medication-taking. We also are exposed to a number of programmes – I saw one last year on the BBC – about the adequacy and effectiveness of young people taking certain antipsychotic or antidepressant medication and how it does not work and how people are being prescribed these things automatically. That is a matter for not just clinicians but for governments and for societies at large to grapple with – yes, I will use it again, *grapple with* – the idea of whether we are giving

our young people antidepressants and antipsychotics when there are better ways of tackling these things. Does the Government not agree with that?

Hon. Chief Minister: Mr Speaker, we are in *violent* agreement with that and this is not an issue to grapple with; it is an issue to resolve, but we are not going to resolve it by having an argument across the floor of this House. We are going to resolve it by giving the resources to the professionals, who are going to advise us, who are trained as advocates but not as psychologists or psychiatrists, to be able to determine in which instances there may be an over-prescription or an under-prescription because both are equally dangerous. If somebody takes more of a drug than they need, they are put in danger; and if somebody does not take a drug that they need or takes less of a drug than they need, they are also potentially in danger.

This is the key point to put across. We should not be concerned about the amount of drugs being prescribed if they are the right amount of drugs being prescribed. We should certainly be concerned about drugs being prescribed if they do not need to be prescribed.

Mr Speaker, this is an issue where we have managed to show the community that even where we agree, we are able to find a way of having an argument about it. I think I would commend to the hon. Members that they use either other mechanisms in this House or seek to speak to the Minister not in this House, in order to see what we can do together and constructively to do more about mental health issues, whether they are affecting young people or the elderly.

Look, it is easy to just talk about young people; but what about the mental health affecting the elderly – Alzheimer's; dementia? These are equally concerning things which cannot just be treated with chemicals. And chemicals should be a last resort. Mr Speaker, I have my views, but my views are the views of an observer, a politician and an advocate. They are not the views of a professional. I put it to him that so are his and that we rightly take an interest in these things as Members of this Parliament who are here to shape the future of our community; but we must be led by the clinicians on these issues.

So I do not think, Mr Speaker, that there is anything further that we can bat to and fro from each other on this issue in the House, but it is an issue of concern for all of us.

Mr Speaker: Next question – I am sorry, it is the next question.

Q26/2020
Mental health audit –
Not yet published

Clerk: Question 26, the Hon. K Azopardi on behalf of the Hon. E J Phillips.

Hon. K Azopardi: Mr Speaker, can the Government state why the mental health audit has not been published?

Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, this document is still under review.

Hon. K Azopardi: Mr Speaker, how long has it been under review? And when does the Government expect it to be published?

1155 **Hon. P J Balban:** Mr Speaker, this document has been under review for a couple of months. In fact, it would have been June 2019.

Hon. K Azopardi: So that is seven months, not a couple.
And when do they expect to publish it?

1160

Hon. P J Balban: Mr Speaker, this document, I will say, was actually produced by Public Health England, it was produced both for the then Minister for Health and also Minister for Public Health, because it is something which is dealt with primarily in Public Health.

1165 We need to take stock of what the document says. That does not mean to say that certain recommendations of the document have not been put into effect; in fact quite a few of the recommendations of said document have already been put into effect. Just because the document has not been made public yet does not mean that it is just sitting on a shelf and nothing has happened. Many things have happened as a result of that.

1170 I still would like to take full... to get to grips with the document in its entirety and I will be meeting with Minister Cortes, who is the Minister responsible for Public Health, and then we will take a joint decision on this matter.

Hon. K Azopardi: Mr Speaker, that last answer suggests that what was received is not a draft document but a final document, you are reviewing it and implementing certain recommendations and so on. Why does it take seven months to publish the mental health audit? Even if the Government were implementing certain things, not implementing others, implementing certain in a different plan, why does it take seven months to publish it, when the Chief Minister has just indicated he agrees that mental health is so important?

1180 **Hon. P J Balban:** Ms Speaker, the reason why it is taking so long to make public is because we are seeking advice from the health care professionals on this. As I said, just because the report has not been made public does not mean that things are not moving. In fact on the contrary, things are moving and we are taking heed – the Government has taken heed and my predecessor took heed of the results of this programme. Many things already have happened and that will become evident in due course.

Hon. K Azopardi: Mr Speaker, I am not sure that the hon. Member did answer when he expects to publish it, firstly.

1190 Secondly, can he at least tell us the scope of this audit? What is it that it addresses? We have not seen it, so it is difficult to have a conversation.

Chief Minister (Hon. F R Picardo): Mr Speaker, the Hon. Minister has indicated that the report will be published as soon as he is able to go through the course of action he has determined he should go through before it is published.

1195 What is the audit about? It is an audit into mental health in Gibraltar. What is the hon. Gentleman doing? Well, Mr Speaker, what the hon. Gentleman is doing with his line of questioning is demonstrating that he agrees entirely with the position that we have taken in Government to publish reports.

1200 Or is it that he has forgotten – perhaps he wants to forget – that when he was the leader of the PDP and I was the leader of the GSLP/Liberals, there was a whole *swathe* of reports that the former Government, of the party that he now leads, would not publish? It was their policy, the GSD's policy, not to publish reports when they were in office.

1205 Now, Mr Speaker, our policy is to publish, but sometimes there are things that we have to do before we publish. So the answer he has got is we are going to publish and the audit is about mental health in Gibraltar. As soon as it is published, he will be able to see in detail exactly what was investigated, exactly by who and exactly what their conclusions were, because it is not as if

the Hon. Minister is saying, 'Well, look, I have got to look at what parts of this I redact.' He is saying, 'I have just got to make sure that with the new Minister for Public Health, I have dealt with any necessary issues that may be required before publication.'

1210 So Mr Speaker, I think what he will be left with is wanting to salute the approach of the current and past Minister of Health of first of all commissioning this report, and second, being committed to publishing it as soon as possible.

1215 **Hon. K Azopardi:** Mr Speaker, rather than smokescreens and ballast, let's concentrate on the issues, because what I do remember, as Minister for Health when I sat on that side, is how quickly we published the reports shortly after 1997 that we got into the Health Service.

Mr Speaker, the Government has had this report for seven months. Can the Minister not at least indicate to me – or the Chief Minister indicate to me – having read these reports, which presumably they already have, what these reports broadly contain? What is the scope of these reports?

1220

1225 **Hon. Chief Minister:** Mr Speaker, the scope of the report is audit into mental health in Gibraltar. The recommendations contained are what members who have carried out that report suggest we should do in order to improve mental health in Gibraltar. And the date of the report publication will be as soon as the current Minister for Health and the current Minister for Public Health are able to confirm its publication is possible without causing any difficulties or problems, because we need to ensure that there is nothing in there that will cause a problem, a breach of data protection, etc.

1230 The hon. Gentleman might also like to reflect that there has been a small matter of a general election in between the period of the ending of the work of that report and today, and therefore Mr Speaker, if there has been an element of greater delay than this Government might have wished to see in the publication, well, we of course wish that there had not been the case. But given that we are committed to publication, Mr Speaker, he will be pleased to see that our attitude is not the attitude of at least what I might describe as the 'latter days' of the GSD in government, given that he reminds us that he was responsible for publication of a report in 1997 when he was Minister of Health – I assume then saying how badly things had been going until 1996, Mr Speaker. *(Laughter)*

1235

1240 **Hon. E J Phillips:** Mr Speaker, I am grateful for the Chief Minister's intervention in relation to that question. I was listening to him in a taxi on the way here and one question I had in relation to the reason why this question was generated in the first place is that a number of charities approached me in respect of the mental health audit. They had been approached and consulted quite widely, it is said, by the Government in respect of the audit.

1245 Now, my question relates to the purpose of the audit, which I know that the Leader of the Opposition talked about scope. However the purpose of this audit, as far as I understand – and I would like the Government to confirm this – is to develop a strategy moving forward for Gibraltar. You can't understand, in my respectful view, the extent of the problem unless you can deal with the audit.

1250 I understand from the Minister's response to the question previously was that by piecemeal incorporation of certain ideas that were being thrown around the room in relation to the audit, they are now incorporating them. Isn't the *right* approach with this to publish the report at some point in the future that identifies the existence of the problem and how we intend to deal with it, so that the mental health charities in our community can understand what *they* need to do to support the Government, Mr Speaker?

1255

Hon. Chief Minister: Mr Speaker, I have never been happier to welcome the hon. Gentleman to this House *(Laughter)* and to thank him for agreeing wholeheartedly with the policy of the Government.

Mr Speaker: Next question.

Q27/2020
Cannabinoid derivatives for medicinal purposes –
Use by GHA

1260 **Clerk:** Question 27, the Hon. E J Phillips.

Hon. E J Phillips: Mr Speaker, Can the Government confirm what steps it is taking for the use by the GHA of cannabinoid derivatives for medicinal purposes?

1265 **Clerk:** Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, the GHA has established a panel of medicinal cannabis practitioners. The next step will be to provide training to these practitioners to then be able to authorise medicinal cannabis for patient use.

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Hon. E J Phillips: Just so that we can be clear insofar as the cannabis practitioners are concerned, where do they derive their qualifications from?

1275 **Hon. P J Balban:** Mr Speaker, these are a group of practitioners who have shown an interest in the subject and the actual education will come from a company called DrugScience UK, which is an independent government advisory body for the use of medicinal cannabis in the UK. So they will be providing the relevant training for them to be able to work in this field.

Mr Speaker: Next question.

Q28/2020
Dementia diagnosis –
Management

1280 **Clerk:** Question 28, the Hon. E J Phillips.

Hon. E J Phillips: Mr Speaker, can the Government state how it intends to manage the 3-5 weekly dementia diagnosis rate?

1285 **Clerk:** Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, over the six-month period between July to December 2019, 45 new diagnoses of dementia were made. This equates to 1.7 new diagnoses a week, and not 3 to 5 as the hon. Member's question refers to.

1290 However, the Government is fully committed to supporting these patients by consolidating the services provided by the Dementia Day Centre, and providing support for relatives and carers.

The Care Agency today provides domiciliary care to approximately 90 persons living with dementia or Alzheimer's.

1295 These services provide support in activities of daily living to promote independence and delay admission into hospital or residential care.

Hon. E J Phillips: Mr Speaker, just one supplementary in relation to that point.

The information I have not just plucked from thin air; in fact we know by public statements by Dr Beguelin that he takes the view that there are between three and five weekly dementia ...
1300 Clearly, Dr Beguelin is involved at the grassroots level and ground level in relation to dementia. Obviously, he has been honoured by Her Majesty the Queen recently in relation to his work within our community, so there seems to be maybe at odds Dr Beguelin's view in relation to the weekly diagnosis and the Government's actual statistic. Can the Government be a bit helpful, why there is this disparity in figures?

1305 **Hon. Chief Minister:** Mr Speaker, Dr Beguelin will have the congratulations of everyone in this House for the way in which Her Majesty has recognised his magnificent work for this community. It was not for the diagnosis of dementia. It was for the cumulative work that he has done for this community, in particular in the field of medicine but not just in the field of
1310 medicine; also in the field of charity. The data that we are dealing with is the data of the Gibraltar Health Authority.

When Dr Beguelin has said the thing that he has said, he has given an estimate of what he thinks the rate of diagnosis is. This is the actual rate of diagnosis.

Look, if it is one it is worrying. We have an issue, to ... I am not going to say 'grapple', I will
1315 just say 'deal with', Mr Speaker. But those are the things that hon. Members need to realise: that it is quite something to deal with what is *said* and quite another to deal with what is *actually statistically happening*. Now, scientifically we have to work on the numbers that we have, not on what we *think* might be happening.

I also say to them, Mr Speaker, they love to criticise how much we spend and how much we
1320 have increased spending, but one of the ways that we have principally increased spending is spending on these issues. We opened these facilities to look after those with dementia and Alzheimer's. We opened the day centres to look after them and we increased, *massively*, the domiciliary care. That has added many millions of pounds of expenditure to our bottom line. It is exactly the right sort of thing to be spending on.

1325 **Hon. E J Phillips:** Mr Speaker, just to correct the record, I think it was said in the context, of course, in an interview on GBC, where the correlation between pollution in our community and the increased incidence of dementia within our community.

That is what I am driving at. What do we have in place to cater for that? Clearly the health
1330 budget of the future will need to take into account not only mental health but also dementia, and the huge pressures on our community from these ailments that are being suffered by members of our community. That is the reason why I asked the question so that I can have a bit more information as to how the Government intends to deal with it.

I appreciate the point made by Chief Minister that money is being ploughed into it. But I just
1335 want to know how it is going to be dealt with in the future, looking at the very large budget, quite necessary budget that we have for the health service, and how we can manage those moving into the future.

Hon. Chief Minister: Mr Speaker, there is another question on the Order Paper that deals
1340 with the issue of budget and dementia. So I am surprised that the hon. Gentleman has brought it up in this context.

Everything in relation to dementia and Alzheimer's is changing – why we get it, how to deal
1345 with it, how to keep it at bay, how to treat it if treating it is possible; how to treat those with it and how to approach them. All of those things, Mr Speaker, form the basis of the approach that the Government is taking and the Dementia Strategy which the Government has worked on with GADS and others. All of these things together are how the Government is dealing with it, but all of these things involve expense. Then when they get up and criticise how much we spend, they

do not say, 'Look, actually, I am only complaining about this £1 million, but all the other £5 million, those are fine because we agree that we have to deal with issues like dementia.'

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Hon. E J Phillips: Mr Speaker, we have never complained about that point. What we say is there should be priority in Government spending, Mr Speaker: mental health, obesity, dementia care – it is an ever-increasing amount of money that is being spent on our health service and in many circumstances quite rightly. What we ask, Mr Speaker, and we will go on to another question in relation to expenditure more generally, is how we control that budget and can we afford it, Mr Speaker?

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Hon. Chief Minister: Ah, Mr Speaker, so the issue is *not* that we should have a strategy of how to deal with things and that we should ensure that we provide the best possible care; it is that we should control how much we spend. I did not realise that austerity was once again at the heart of the questioning.

1360

Q29-30/2020
Mental health provision –
Percentage of annual health budget

Clerk: Question 29, the Hon. E J Phillips.

Hon. E J Phillips: Mr Speaker, can the Government state what percentage of the annual health budget is dedicated to mental health provision?

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Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, I will answer this question together with Question 30.

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Clerk: Question 30, the Hon. E J Phillips.

Hon. E J Phillips: Mr Speaker, can the Government state what percentage of the annual health budget is dedicated to dementia provision?

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Clerk: Answer, the Hon. the Minister for Health and Care.

Minister for Health and Care (Hon. P J Balban): Mr Speaker, it is impossible to provide a meaningful reply to either of these questions because mental health conditions, including dementia, will impact on all areas of the GHA including the Primary Care Centre, St Bernard's Hospital and Ocean Views. There will also be an impact on Elderly Care Services as well as Domiciliary Care.

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As such, funding for mental health care and dementia are intrinsic parts of all health and elderly care provision and therefore cannot be separated in any meaningful way.

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Hon. K Azopardi: Mr Speaker, has the mental health audit that the Minister guards so carefully made any recommendations in respect of a separate mental health budget for Gibraltar?

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Hon. Chief Minister: Mr Speaker, the hon. Gentleman will be able to read exactly all the recommendations contained in that audit when it is published.

Hon. K Azopardi: Mr Speaker, the Chief Minister must have the advantage over us of having read it, and so does the Minister – I am asking him, despite guarding the secrecy of this report for the moment and going to publish it in due course – does it contain any recommendations in respect of a mental health budget?

Hon. Chief Minister: Mr Speaker, something that is going to be published is not secret. It is just not yet published.

Hon. K Azopardi: Mr Speaker, are we going to prolong these exchanges any more with the Chief Minister failing to answer a question that the people of Gibraltar will want answered as to whether this report contains recommendations in respect of a mental health budget?

Hon. Chief Minister: No, Mr Speaker, the Government of Gibraltar is going to ensure that the people of Gibraltar have a full and complete disclosure of an audit into mental health services in Gibraltar, which only this Government has sought, which goes into all issues of mental health and which should not be seeing us look in isolation at any one particular part, simply because it might tick the box or tickle the fancy of Members of the Opposition.

Hon. K Azopardi: Mr Speaker, has the Minister received recommendations or has it been discussed in the Department as to whether the mental health services should be provided for in a separate way within the budget? *(Interjection)* Whether it should be split in some kind of subhead or accounted for in a different way?

Hon. Chief Minister: Mr Speaker, hon. Members will know – I know that it is some time since the hon. Member has looked at a Budget Book in this House, but he will know – that there is a very clear line by line, almost, in the pages that relate to the GHA of how much is spent on Ocean Views, how much is spent, etc. so the hon. Gentleman is able to see that.

The question is if you ask about a particular mental health ailment – and this is the point, Mr Speaker: their question is not about what is the cost of the mental health services, etc.; they are asking about one ailment and asking what the budget is across the GHA in that respect – *that* is what cannot be extrapolated.

Hon. E J Phillips: Mr Speaker, the question was geared towards mental health provision in our community but also it drilled down on dementia provision. Now, the Minister for Health is unable to answer that question, because as he says it is part of all of our services insofar as health is concerned, but the Budget Book itself talks about the dementia day care centre, the dementia residential facility, about £4 million. All I am asking for is a global percentage for the provision of mental health in our community, which I am sure he is able to do, if he gets his calculator out, adds up those items that are contained in the Budget to give a percentage so this community understands to what extent the Government is dedicating resources to mental health in our community.

Every country in the world can do that. Why can't we, Mr Speaker?

Hon. Chief Minister: Mr Speaker, bravado does not avail the hon. Gentleman of greater logic. *(Laughter)* He does not even understand the question that he has asked, I am sorry to say.

Of course in the Budget Book there is provision for the mental health service, for Ocean Views, etc. But if that is the question that he is asking, Mr Speaker, then he gives himself away because it is public information and all he is asking us to do is to calculate as a percentage of the figure at the bottom of that part of the book the £4 million that he has referred to or whatever else it is.

He is asking what percentage of the annual budget is dedicated to mental health provision. Mr Speaker, we have not interpreted that as being something really as contrary to the rules on

1445 questions in this House as, 'Can you please do the division for me of which bits relate to those parts of the Health Authority that are exclusively about mental health from the whole of the budget?' If that were what he was asking, Mr Speaker, then the question would have been out of order.

1450 **Hon. E J Phillips:** Mr Speaker, we have asked a very simple question as to whether the Government can give a percentage to the provision of mental health in the community. Clearly, the Government is unable to satisfy those members of our community who would like to know how much the Government is spending on mental health more generally.

So clearly, the answer to the question is they are unable to do so. That is right, isn't it?

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Hon. Chief Minister: No, Mr Speaker. I am going to now do it a little more slowly for him. The Budget Book sets out specifically in relation to the GHA what GHA spending is on. In respect of those parts of GHA spending which are specifically on mental health, he cannot surely have been asking us to work out what a percentage that is of the total of spending on the GHA, because not only are we able to do so in this community, as he says every community or nation is able to do, but if that is the question he was asking, *he* would be able to do it from the publicly available information that is already published. And if that is the case, Mr Speaker, then his question is, by reason of his explanation, *out of order*.

1460 But Mr Speaker, because we believed him to be asking a more sophisticated question, which perhaps we should not have ascribed to his questioning – despite the fact that this community has spent a small fortune in training him as an advocate and cross-examiner, Mr Speaker – it is not possible to do that further analysis.

I hope I have said it slowly enough.

1470 **Mr Speaker:** Next question.

Hon. R M Clinton: Sorry, Mr Speaker, may I?

1475 Just to elucidate the House, I really cannot find in the Budget Book the cost of Ocean Views. (A Member: Shame!) And I would be grateful if the Chief Minister will take that on board when he replies to my hon. colleague. He asked a perfectly reasonable question.

Certainly the cost of the dementia residential facility is in the book, as is the long-term care dementia facility, but certainly – and we have made this point in the past – the costs of mental health, direct costs which are easily attributable, for example Ocean Views, are not in the book. So would the Chief Minister accept that my hon. colleague's question is entirely reasonable?

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Hon. Chief Minister: Of course not, Mr Speaker, because just because the hon. Gentleman says he cannot find it in the book today does not mean that it is not there.

1485 Indeed, Mr Speaker, hon. Members have fallen into the trap of voting against the Budget, since the Hon. Mr Clinton arrived on the scene. And by the way Mr Speaker, I should welcome him back. I am so pleased he decided to re-join the debate and the parleying, and has decided not to walk out today, as he did last time that he did not like the answers he was getting, Mr Speaker.

So I do not accept any of what he has said. I do not believe that either he or I are the arbiters of whether a question is reasonable or proper. I think that is you, Mr Speaker.

1490

Mr Speaker: Next question.

Hon. Chief Minister: Mr Speaker, can I propose, given that we have been at it for two hours and only have managed to get through 30 of the questions that we have, that we should take a short break and return at 5.25 p.m.?

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Mr Speaker: The House will recess until 5.25 p.m.

The House recessed at 5.10 p.m. and resumed at 5.25 p.m.

Q31-36/2020
St Bernard's Hospital –
Staffing for A&E and paediatric emergencies

Clerk: Question 31, the Hon. Ms M D Hassan Nahon.

1500 **Hon. Ms M D Hassan Nahon:** What is the short staffing deficit of nursing hours at A&E in St Bernard's Hospital for the month of December?

Clerk: Answer, the Hon. the Minister for Health and Care.

1505 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I will answer this question together with Questions 32 to 36.

Clerk: Question 32, the Hon. Ms M D Hassan Nahon.

1510 **Hon. Ms M D Hassan Nahon:** What is the minimum speciality grade level requirements to work in A&E in Gibraltar?

Clerk: Question 33, the Hon. Ms M D Hassan Nahon.

1515 **Hon. Ms M D Hassan Nahon:** How many A&E doctors are employed by the GHA and how many of those are on the specialist register?

Clerk: Question 34, the Hon. Ms M D Hassan Nahon.

1520 **Hon. Ms M D Hassan Nahon:** How many A&E doctors work at the St Bernard's Hospital night shift?

Clerk: Question 35, the Hon. Ms M D Hassan Nahon.

1525 **Hon. Ms M D Hassan Nahon:** What is the St Bernard's A&E consultants' ratio of clinic/non-clinical hours per week?

Clerk: Question 36, the Hon. Ms M D Hassan Nahon.

1530 **Hon. Ms M D Hassan Nahon:** Who covers paediatric emergencies out-of-hours on site?

Clerk: Answer, the Hon. the Minister for Health and Care.

1535 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, the total number of nursing deficit hours for the month of December at Accident and Emergency was 476 hours.

All doctors working within the Accident and Emergency Department will possess a basic medical qualification, previous experience of having worked within a similar department and be registered with the General Medical Council.

The GHA currently employs a total of seven Non-Consultant Hospital Doctors (NCHDs) in the Accident and Emergency Department, one Associate Specialist and one Consultant.

The Consultant is listed on the specialist register of the General Medical Council.

The Accident and Emergency Department at St Bernard's Hospital is staffed by two Doctors until midnight. Between the hours of midnight and 9am, the department is staffed by one A&E Doctor.

The formal job plan for the A&E Consultant stipulates a ratio of 70% clinical and 30% non-clinical work. However, this is just a guide as the demands of the department vary widely on a daily basis and clinical need always takes priority.

The GHA's team of Paediatric Consultants provides an out-of-hours on-call rota. Any paediatric emergencies presenting at the Accident and Emergency Department will be attended to by the resident A&E team in the first instance. Any hospital-based paediatric emergency occurring outside of the A&E Department will be attended to by the resident Intensivist/Anaesthetist Registrar team.

In either case, interim on-site cover is provided until the arrival of the on-call duty Paediatric Consultant.

Hon. Ms M D Hassan Nahon: Mr Speaker, I just want to point out that the line of my questioning is mainly to highlight the fact that I understand that there seems to be a situation where many doctors who are not seniors or known as registrars or consultants are having to take the load for directing and making decisions, causing a lot of pressure on the doctors. From what I understand and what the Minister has just explained, having one doctor only on the night-shift after midnight leaves little room for when doctors call in sick or when there is understaffing, especially when we hear that they have been in one month 476 hours of short staffing.

So my question is: does it not concern the Government that there is a massive load on doctors who are not specialists in their field and something that could pose a high liability on their shoulders, if things go wrong? It could lead to the GMC investigating safe practices in Gibraltar, for example. Are these short staffing numbers adequate, considering the figures that we have just heard?

Hon. P J Balban: Mr Speaker, the fact that there is one doctor overnight is the ... Remember that Accident and Emergency can be extremely busy or there will be lulls when there is no one to be seen. If for example there was a need to call in extra doctors in case there is something unexpected, then they can be called in separately, but to have top consultants in A&E constantly, even at times when there is no need, when the doctors can adequately look after most of the cases that come through, will be a lack of usefulness of the resources available.

Hon. Ms M D Hassan Nahon: Mr Speaker, I do not know about when the Minister talks about 'top doctors'. I think it is regular practice to have an overall registrar consultant on top of the work of the A&E doctors.

From what I understand there was a staffing or a system failure on the night of 2nd January, where there was no A&E specialty. Is there anything that the Minister could tell me about what failure may have led to this? Because of course this could have had a massive impact on patients.

Hon. P J Balban: Mr Speaker, the hon. Lady is talking about a specific date in question which I have no information for, so if you want to ask regarding that specific case, I am happy to seek information.

One thing which the hon. Lady, I think, may be mixing together is when she asked, in Question 31, about the short staffing deficit, it was in terms of nursing hours, but then she has mixed it up with the doctors. Since then, there has been a recruitment drive to fill in nursing

vacancies in the Accident and Emergency, because a lot of the work that is carried out in Accident and Emergency is of a nursing nature. In fact the triage nurses will have a very good record of seeing patients within the first 10 to 15 minutes, or so I am told, and are very quickly able to recommend the course of action: if it is urgent, they will obviously be brought in quicker and if it is something which is not so urgent or something which can wait, then other patients are given the priority.

So that is the difference between the questions that have been asked, in terms of 31 which is talking about nursing hours, and doctors, which was the second part of the group of questions.

Hon. Ms M D Hassan Nahon: Mr Speaker, if I were to tell the Minister that many of the doctors feel burnt out because they feel that the pressure should be on the senior doctor, which there are not enough of per shift, and that this is what is contributing to the low morale, this low staffing level – something which is actually dangerous for the community and detrimental to the staff – would this be something that the Minister would concur with and something that perhaps Government is looking to increase in terms of their A&E senior doctors complement?

Hon. P J Balban: Mr Speaker, what I would be quite upset about is because since I took office, after the elections, I have made it a point to start to get to know all the practitioners and the consultants. It is a very big process but I am meeting them, sometimes one to one, sometimes in groups. So if such a department had issues that they wanted to raise, my door, my office is open to them.

I have spoken to many consultants and surgeons, and we have had candid discussions as to what their aims are, what they want to achieve, and we have discussed what the Government's policies are in that respect. So if there is such an issue, then I would love to know. As I said, I will be calling on this group of doctors and consultants in due course, and if it is deemed necessary, they just need to request and I will make it a point to see them soon, and we can discuss the issues, and if they have low morale, see how we can address that.

But it is a bit surprising that they would seek to tell you in that respect or this official reached you, when I do not think I would like to be considered someone who is unapproachable in that respect, since I took office as Minister for Health and Care.

Hon. Ms M D Hassan Nahon: Mr Speaker, I would just like to clarify that the information that reaches me of course is of a sensitive and anonymous nature and I am not saying that any doctor has spoken to me; I am gathering reports from good sources, not 'rumourology', but I am not at liberty to confirm or deny whether I have had a meeting with a group of any doctors. I am just fulfilling my role as an Opposition spokesperson, as they would when they were in opposition, which is exactly what the people of Gibraltar pay me for. (*Interjections*)

One more question, Mr Speaker. The Hon. Minister says that when there are paediatric emergencies, those trained with basic medical skills and knowledge attend and they wait for a consultant in paediatric specialty to come. Would the Minister not concur that in most A&E centres in the NHS in the UK, for example, there is always a paediatric specialist on site in A&E? This is my understanding and this is what we do not have here.

Hon. P J Balban: Mr Speaker, as to that part of the question, I genuinely can say I do not know – I will ask.

But coming back to the first thing, I mean unless... if people are feeling demoralised, demotivated, unhappy – I am not saying that you saw a group of doctors, it does not really matter who you saw, but whoever raises concerns – and if you have had these concerns for a while, there is nothing stopping you from contacting me and bringing it to my attention, so I could maybe act quicker. I am hoping that that happened just a short time ago, because otherwise we have wasted a lot of time in that respect.

But I cannot help, unless they see that because they seek an appointment with me or whether because it is my time to see them and I have called them in, or whether the hon. Lady, or indeed someone across the floor decides to let me know.

1645 Coming back to the question of the paediatrician, I will need to find out whether it is common practice in in other places. Most of the ailments that are received in A&E, thankfully, are minor things. A lot of things are ... sometimes it is children with febrile illnesses, who use A&E more as if it was a clinic. But if there is a need to be visiting in an emergency, an acute case, and it cannot be addressed sufficiently or quickly enough, they will call a paediatrician in.

1650 There is always a paediatrician on call, not necessarily there. They are not living there. They are not waiting for something, but they are on call and they can be summoned. I believe they have a 30 minutes waiting time. So within 30 minutes ... Remember, most of what the general doctors and practitioners will do, doctors and A&E staff will stabilise ... First of all, there is a triage. The nurse will make sure, will see what the issues are, and if it is something then the
1655 doctors will do their best, and obviously successfully, to stabilise the patients if there is a need to. And then within 30 minutes tops, you will have the on-call paediatrician on site.

So I think for a small place like Gibraltar where visitors are small, that is quite reasonable. Again, I cannot compare to what happens in the UK and when I do see this group of practitioners, I will do my best to see what their views are.

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Hon. Ms M D Hassan Nahon: Mr Speaker, I thank the hon. Gentleman for his genuinely good-will answer and I appreciate that, as I am sure anybody working in the field would.

The main concerns that I have flagged up have been of the reality that regular doctors not on the specialist register are acting as senior decision-makers, putting their own GMC at risk, where
1665 they cannot say anything beyond their level of competency. This is what I believe is causing the burnout, so I would ask the Minister, in the spirit of goodwill which he has shown, whether he would commit here to holding talks in the coming weeks, as soon as possible, with those in the A&E department, in order to really understand – I understand that he has just taken on this portfolio – and work towards ensuring that levels of staffing are acceptable, in place and
1670 appropriate for the type of traffic and demographic that goes in and out of A&E.

Hon. P J Balban: Mr Speaker, in my limited experience of my training in the UK, I do not think it is uncommon – and again, I will need to talk to the consultants when I do see them – to have this grade of doctor as frontline defence within an accident and emergency department. As I
1675 said, there is always help at hand, and even when it comes to cases of someone who needs to give birth or who has complications, there are always people ...

But I do not think it is uncommon to have doctors at this level. They are trained, they have had experience and we do not take people or doctors on that have not shown adequate experience in this field of medicine, so we do not have a GP, for example, sitting at Accident and
1680 Emergency; it is a person who has had at least five years of medical education plus the years of training to get them to that level. As I said, even if there was a need to, if there is an emergency, in theory everyone can be called in if necessary.

If you look at your reports, the NHS is considered to be a health service well known for providing good care. Yes, we have had times when people wait within A&E for what are perceived as unreasonable times, but if you compare that to what is normal in my experience in
1685 UK hospitals, I do not think we have ... especially because of the triage system is so good that within 15 minutes they have already assessed you, and if it is not something which is urgent then you are asked to wait.

What we also do not have sight of as patients in Accident and Emergency is what is coming
1690 back out through the rear door. So ambulances can be coming in and what seems like a waiting room which does not move, apart from the triage, it generally is because there are more serious patients – patients with perhaps MIs or coming through via the ambulance route from the back.

So I think we need to understand the way they work and I commend them for the work that they do. I think it is an extremely important part of the hospital.

1695

Hon. D A Feetham: Mr Speaker, just in support of the hon. Lady because I have heard some of the things that she has relayed across the floor of the House: one of the problems in Accident and Emergency, so the information that has come to me, is that the senior consultant of the accident emergency does not actually work night shifts. So over a period of time, what that does is it causes an undue disproportionate burden to be placed on the shoulders of more junior doctors. Of course, that may well be contributing to a sense of loss of morale, perhaps even burnout, in relation to those doctors.

1700

Does he know whether that senior consultant does night shifts? And does he have any information as to many how many nights a week, for example, he works? Or is his information exactly the same as ours – or mine, I should say – that the senior consultant does not actually work at nights in Accident and Emergency?

1705

Hon. P J Balban: Mr Speaker, as far as the information that I have received, and it is part of the answer to Question 34 which I have already mentioned, between the hours of midnight and 9 a.m., the department is staffed by one Accident and Emergency Doctor, which is what I presume is deemed sufficient for the need that there is at that time – but obviously with the caveat that should there be a need for extra support, it can be dialled in.

1710

Now, what really gets me is that ... I have been a very short period of time, but a lot of the doctors, surgeons and consultants have already asked to come and see me for whatever reason, we have shared ideas and they have come with their ambitions for the service or whatever. And I said my door is open, so that if there is such discontent, although I have been there only a relatively short period of time, my doors have been open. A lot of people have come of their own accord. As I said, I have not felt that pressure or that discontent.

1715

Obviously I will meet them in due course, because I have a schedule of meetings arranged, unless for them they deem it sufficiently important for them to wish to see me sooner and I will.

1720

I will find out what the ... But as far as I am aware, because the triage system works so well, because most of the patients are uncomplicated cases, as I have mentioned earlier, then it is something which is dealt with adequately by the service provided at the moment.

Hon. D A Feetham: I should also like to also offer a health warning as well, of the nature of the hon. Lady's, that the hon. Gentleman must not assume that it is doctors that have actually come to me. I make no comment about sources in any way, shape or form, for obvious reasons.

1725

But he ought to look at – and would he undertake to look at – what doctors are working night shifts, for him to ascertain whether in fact there is a disproportionate burden on some doctors, in particular junior doctors at Accident and Emergency, that can then potentially have an impact on morale of those junior doctors?

1730

Look, I am not a doctor and I know very little about these sorts of issues – just what is reported to me from those that may come to see me. But it does seem unfair that if we have a situation where it is always junior doctors that are effectively there at Accident and Emergency, and that the senior guy does not work nights. I leave that with the Hon. Minister.

1735

I will also say that in fact exactly the same report came to me about 2nd January, when there were no doctors at Accident and Emergency and it had to be covered from outside the department. So that again perhaps is something that the hon. gentleman ... will he undertake to look into that as well?

1740

Hon. P J Balban: Mr Speaker, I cannot speak specifically of this case in question, but in my general briefing, it is something which can happen, whereby there is an issue and someone could fail to come to work, someone could fall sick; but obviously there is a system in place whereby adequate cover would come in.

1745 So again, I would need ... If that question is asked specifically about that specific day on 2nd January, I will endeavour to find out what actually happened on that date and report back.

I will continue to look at that department and see what can be done or what is happening at the moment. But clearly if ... I am not saying that doctors are approaching you, but it may be that patients are perceiving waiting times as being inadequate and then saying, 'I have waited two hours to be seen', or whatever. They will not say that, because of the triage nurses, because the feedback I get is that you will be seen very quickly. They take your blood pressure, your pulse, the vital signs, they are professionals at what they do and they know exactly when someone can wait and someone cannot wait. So that is not the case.

1755 What can take longer, and this is where I assume that people that you represent will come and talk to you, your constituents will talk to you about, and it is probably coming from feedback from patients and what they perceive when they speak to doctors, saying 'Why is it taking so long?' or whatever. But that is an inevitable part of any institution like Accident and Emergency.

Hon. E J Phillips: Mr Speaker, just one question in relation to the low morale point that was raised by both the hon. Gentleman and the hon. Lady – and I know that the Minister has spoken to doctors, I think the Chief Minister said from a sedentary position that of course the doctors have gone to see him as well.

1765 Mr Speaker, my question is whether the Government has given any thought to looking at career progression within this particular area – i.e. looking at whether you can move from a system of NCHD doctors, as we have had for many years, to a junior house officer/senior house officer position and registrar position, so that we can improve career opportunities within the service, so that doctors feel that they are moving along a career path within the service.

1770 I think this is particularly affected in A&E – again, with the concerns that have been raised by both the hon. Gentleman and the hon. Lady in relation to doctors specifically. I just wondered whether he has, in his consultations with doctors, explored this possibility.

Hon. P J Balban: As I said earlier, I have not had an opportunity to speak to this group of doctors, which are a specific part of the hospital organisation. I think you are mixing, using the same nomenclature that I would use when I was a student in the UK, where you have house officers (HOs), senior house officers (SHOs), registrars, senior registrars and consultants. That has now become the non-consultant doctors, I think they are grouped in that broader spectrum, in nomenclature.

1780 Again this is my experience, without having had this information from the professionals that work in the hospital. I think that a job in Accident and Emergency is one which generally is short lived. I think that obviously all doctors progress; I do not think it is something, unless ... you must really love the adrenaline rush of that acute type of medicine to want to remain there. I am sure that in other big hospitals, there may be chances of promotion, and for some reason they become consultants in A&E – I mean, there are – but I do think that they are there for a short period of time.

1785 I do not really want to ... I am just sharing my experience, but I would not like the hon. Gentleman to take that as something certain. But as I said, as I delve deeper into the GHA, which is my intention, I will endeavour to learn more about Accident and Emergency, and I will thoroughly enjoy these medical meetings, which brings back all my previous life!

1790 **Hon. E J Phillips:** Just one question, Mr Speaker, with your leave.

Insofar as the 476 hours are concerned, does the hon. Gentleman know what that represents as a percentage of the total amount of hours available for work?

1795 **Hon. P J Balban:** No, Mr Speaker – I am running through my notes – I would not be able to give you a percentage. The reply was limited to the amount that is of nursing; but I have

mentioned that there has been a recruitment drive since then – in fact, it was sometime in November – to try to reduce these figures.

1800 **Hon. E J Phillips:** So just to follow up on that, you have clearly identified the problem in terms of shortage and therefore the recruitment drive within this particular area is to avoid having these shortages within nursing at this level. Is that right?

1805 **Hon. P J Balban:** Mr Speaker, the recruitment drive was actually to try to fill in the nursing vacancies within Accident and Emergency, and in fact I sought the information: interviews were conducted back in November 2019 and the normal recruitment process is now being followed.

A lot of that as well ... The sickness absence has been mitigated substantially by two bank nurses, which were staff nurses, who have been actually covering for these posts.

1810 I really would need to meet with this department – I have briefly gone down to see them, but I have not had the time to look at their *modus operandi* and see how they work and what their needs are, as a department.

Hon. Ms M D Hassan Nahon: Mr Speaker, if I can just ask one last supplementary.

1815 As much as I really am grateful for the answers that I have had from the Hon. Minister, one thing is not clear: it seems that in Gibraltar the policy is at the moment to have junior doctors, who are known as SHOs in the UK, from what I understand, in A&E without a consultant side by side – meaning that all the responsibility is lying on the A&E doctors, without any GMC protection, if anything goes wrong. Yes, of course they are extremely efficient, but the point is: is that sustainable and for how long, because of the burnout factor and the fact that they are not supposed to be taking on all this senior decision-making on their shoulders? And is this the policy going forward of the Government as it stands?

1820

Hon. P J Balban: Mr Speaker, I think that these doctors do as far as their remit allows – as far as their professionalism allows. I cannot see... What they are trained in is to stabilise the patients if it is a very acute case, so that then a patient can be ... the course of action, the course of treatment can be established.

1825

The hon. Lady said, ‘working there without GMC registration’. (*Interjection by Hon. Ms M D Hassan Nahon*) I would have assumed that all doctors are GMC-registered regardless of their level.

1830 **Hon. Ms M D Hassan Nahon:** I did not say registration; I said protection, which is a very different thing – meaning that if they take decisions beyond their remit, when they are not senior doctors and they are taking a direction that they are not licensed to take, effectively, because they are not on the specialism scale and on the seniority scale, they would lose their GMC protection. It is not about registration, I know they are all registered. That is a whole risk.

1835

Hon. P J Balban: Mr Speaker, what the hon. Lady is alluding to is that we have people working there who are not qualified to work in that position and although ... I heard the hon. Lady say that they are not qualified to take decisions. *Of course* they are qualified to take decisions – and for *most* decisions, because Accident and Emergency is an acute medical system. So they know exactly how to ... The most important thing in Accident and Emergency work is to stabilise a patient, if a patient comes in who has suffered shock in a road traffic accident or whatever, that is their job: to stabilise until then they can move on to ITU, ICU or wherever they need to take the patient, whether they could be referred outside Gibraltar or wherever. But they are the first line of defence to stabilise the patient.

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1845 So that the hon. Lady should suggest in any way that we have people there fighting on the frontline who do not know how to hold the rifle, I think it is not really... They are perfectly qualified to deal with the aspects of their profession that they deal with there, and if they feel

that they are not happy to take certain decisions, there are mechanisms by which they can call doctors, who will be able to come to Accident and Emergency if necessary.

1850

Mr Speaker: Next question, please.

Q37/2020

**Care workers' contractual progression –
Collaboration between GHA and care agencies**

Clerk: Question 37, the Hon. Ms M D Hassan Nahon.

1855 **Hon. Ms M D Hassan Nahon:** Does Meddoc and/or other care agencies collaborate with the GHA to synergise contractual progression for care workers after their initial 12-week contract?

Clerk: Answer, the Hon. the Minister for Health and Care.

1860 **Minister for Health and Care (Hon. P J Balban):** Mr Speaker, I am not aware of any such collaboration.

1865 **Hon. Ms M D Hassan Nahon:** Mr Speaker, the reason I ask this is because I have had several constituents come to me feeling very discouraged that they have given a 12-week programme through Meddoc or a care agency with much confirmation that after the 12 weeks, many promises that they will be taken on with the GHA.

So really genuinely I would like to ask the Minister, what would I say to constituents who have been told that after 12 weeks, they are going to be given a contract with the GHA and then they sort of fall off a cliff and do not know where to go?

1870 **Hon. P J Balban:** Mr Speaker, again I would like to know where this information is coming from. Who has told the hon, Lady this information? I am not aware ... I am pretty sure the GHA is not promising people who have had a 12-week stint in Meddoc, which is a private company, that then they have their doors open to come and join us at the GHA.

1875 I do not know where the information is coming from and if the hon. Lady would like to enlighten me, I will endeavour to find out, but that is not ... I cannot see that that is... It does not make sense to me.

Mr Speaker: Next question.

DIGITAL AND FINANCIAL SERVICES

Q38/2020

**Entry into new tax treaties –
Progress**

Clerk: Question 38, the Hon. D J Bossino.

1880

Hon. D J Bossino: Can the Minister for Financial Services advise of progress with regards to the entry into new tax treaties?

Clerk: Answer, the Hon. the Minister for Digital and Financial Services.

Minister for Digital and Financial Services (Hon. A J Isola): Mr Speaker, I congratulate the hon. Member on his avid reading of our manifesto. *(Laughter)*

Mr Speaker, the Government with the full support of the private sector is keen to enter into new tax treaties with other countries following the agreement with Spain on fiscal matters and the DTA with the United Kingdom.

We are engaging with the Finance Centre Council who have set up a specific subcommittee to support our preparatory work and we have also engaged with professionals experienced in this field to assist us. However, I do not intend to name the countries we are considering publicly so as to avoid any unintended consequences that unnecessary publicity at an early stage could cause. I will be happy to discuss these with the hon. Member behind the Speaker's Chair

Hon. D J Bossino: Mr Speaker, I am grateful for the answer. He is absolutely right. I have carried out a bit of an audit of the manifesto promises and commitments.

In relation to the last point, is he aware that ... He talks about a subcommittee, and I think the subcommittee is called the double taxation treaty ...

Sorry, excuse me. No, that is not the ...

It is a subcommittee. Yes, the Double Taxation Treaty Committee and it is chaired by Mr Nick Cruz. Is he aware of an e-mail that has been sent out to the various professional bodies in order to obtain that consultation? And if he is, can he at least, without going into the detail of it, because he has mentioned the sensitivities in relation to this issue, whether the way that it is being put to the members of the profession and the various stakeholders represents the Government's views on that?

If he could at least say that across the floor of the House. If not, I fully understand what the hon. Member has said.

Hon. A J Isola: Mr Speaker, we have discussed this for some time with the Finance Centre Council and after the election we engaged formally with them and ask them that we wanted to extend the consultation to their membership to get a full picture as to what it is that the private sector believe we should be doing in looking at DTAs. There is no point in the Government executing DTAs with countries which are of no use to the private sector, if business is what we are trying to attract, and consequently we invited the Finance Centre Council to engage fully with us. They offered to set up a subcommittee to look specifically at this work, which they did immediately.

We discussed it at last week's Finance Centre Council meeting, after which the email that the hon Member refers to was sent out. I am aware of the contents of that email and we do anticipate having a full and detailed engagement with the private sector on the jurisdictions that we should be thinking about and why.

Hon. D J Bossino: Grateful, Mr Speaker.

If the hon. Member could assist me: if the hon. Member is telling the House, as he is indeed, that he is aware of the contents of the email, can he at least confirm that it accords with the Government's thinking in relation to its approach in relation to the entry into new double taxation treaties?

Hon. A J Isola: Mr Speaker, from memory, because I glanced through it when I was sent it, I believe it does. But I would not expect to be held by an email sent out by a subcommittee of the Finance Centre Council to the private sector as reflecting Government policy. Before saying it did or did not, I would like to go through it again in some more detail.

1935 **Hon. D J Bossino:** Finally, Mr Speaker, does he have an expectation as to when a further double taxation treaty will be entered into, or is it impossible for him at this stage to give an indication?

1940 **Hon. A J Isola:** Mr Speaker, the work will commence with a strategy yet to be agreed which will then entail some serious work in engaging with different countries that may be identified. So it would be absolutely impossible for me to give any degree of a timeline.

What I can say is that I fully expect our own strategy to be formulated within the next two months.

1945 **Hon. D J Bossino:** Sorry, I did say it was a final question but this is *really* a final question, Mr Speaker.

My hon. Friend, Mr Feetham suggests that I ask whether he can give an indication as to when the UK-Gibraltar Double Taxation Treaty is going to be made effective.

1950 **Hon. A J Isola:** Mr Speaker, the Hon. the Chief Minister has advised that he expects this to be effective at the end of Q2 2021 – effective.

Q39/2020

Image Presentation –

Publication of Bill to amend the Bills of Exchange Act

Clerk: Question 39, the Hon. D J Bossino.

1955 **Hon. D J Bossino:** Can the Minister for Financial Services state when the Bill to amend the Bills of Exchange Act in connection with Image Presentation will be published?

Clerk: Answer, the Hon. the Minister for Digital and Financial Services.

1960 **Minister for Digital and Financial Services (Hon. A J Isola):** Mr Speaker, I anticipate that this Bill will be published in the coming months. My wish had been that it would have been published prior to the Christmas break, but other priorities such as the significant Legislative Reform Programme (LRP) and the Brexit work have caused a slight delay.

1965 Meanwhile, the banks in Gibraltar have been participating in the cheque imaging process with no adverse impact and we are in contact with them to ensure they are not negatively impacted by the delay.

Hon. D J Bossino: Mr Speaker, the Hon. the Minister says that banks have already been participating in the cheque imaging process, I think he said. Is that possible without the legislative backup, would be my first question?

1970 Is there anything, given the audit that I have carried out in relation to his manifesto, where he says that the GSLP and now Governments promise that ‘we will publish the Bill within a month of the date of the election’ – there is a very specific commitment in that regard and he has explained why that has not been able to come to fruition in that time period. But was there any anything in that, why the intention originally was to do it within that specific timeframe?

1975 **Hon. A J Isola:** Mr Speaker, the timeframe was because we were ready to go in September and we then decided to give full priority to the LRP and the introduction of the Financial Services Act. Then of course Brexit dates continue to change and our readiness for that was deemed to be more critical than this.

1980 That is why there is been a slight lag and now the draft legislation is being written up to be consistent with the new Financial Services Act, which of course it will be.

My understanding is that the banks can continue with the cheque imaging process and they continue to do so, and there is no unnecessary impact.

Q40/2020

**Attracting further banks to Gibraltar –
Progress**

Clerk: Question 40, the Hon. D J Bossino.

1985

Hon. D J Bossino: Can the Minister for Financial Services advise whether there has been any progress in attracting further banks to Gibraltar?

Clerk: Answer, the Hon. the Minister for Digital and Financial Services.

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Minister for Digital and Financial Services (Hon. A J Isola): Mr Speaker, I and officials in Gibraltar Finance continue to target new banking entrants and you will be aware that most potential progress is in the area of digital banking or Fintech, rather than the traditional banking model which continues to consolidate and is generally averse to expansion into smaller jurisdictions. Hence, Fintech banks are the sector that we are successfully targeting, and the hon. Member may be aware that we currently have two such firms having been approved in principle by the regulator and going through the final stages of the licensing process.

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There is also of course, Mr Speaker, the pending completion of the Jyske bank sale.

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Hon. D J Bossino: By way of clarification, Mr Speaker, when he says he has two parties which are now close to being licensed, are those in relation to the Fintech bank area, specifically?

Hon. A J Isola: Yes, Mr Speaker. As I said in the answer, fintech banks are the sector that we are successfully targeting. The hon. Member may be aware that we currently have two such firms having been approved in principle.

2005

Mr Speaker: Next question.

Q41-42/2020

**Government website and IT security –
Independent audit**

Clerk: Question 41, the Hon. Ms M D Hassan Nahon.

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Hon. Ms M D Hassan Nahon: An IT flaw within the Government law website was discovered in January, and this was reported by Gibraltar's media agencies as well as in a few international publications. Has an independent security audit been carried out since this vulnerability was discovered to determine if other vulnerabilities exist?

2015

Clerk: Answer, the Hon. the Minister for Digital and Financial Services.

Minister for Digital and Financial Services (Hon. A J Isola): Mr Speaker, I will answer this question together with Question 42.

2020 **Clerk:** Question 42, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: When was the last independent IT security audit of the Gibraltar Government undertaken and how regularly are these audits carried out?

2025 **Clerk:** Answer, the Hon. the Minister for Digital and Financial Services.

Minister for Digital and Financial Services (Hon. A J Isola): Mr Speaker, the last independent IT Security Audit requested by ITLD was carried out in 2019. An IT Security Audit is usually performed when any significant change or upgrade to the Government network and/or a software application is undertaken.

2030 The security flaw reported in the media in January of this year was a vulnerability in the Gibraltar Laws website, which has since been upgraded to a new version. The old Gibraltar Laws website was running on an outdated Content Management System (CMS), framework which was exposed to a series of vulnerabilities. The new website is running on a new framework, which is kept up to date and continuously patched to ensure that the site is safe from known vulnerabilities.

Hon. Ms M D Hassan Nahon: Mr Speaker, most IT security organisations recommend audits twice a year, not just as the Minister described when there are new software packages or versions. So they recommend as a minimum twice a year. Some governmental organisations do it monthly or quarterly.

2040 So is the Government going to commit to audit within frequency or are they going to continue to simply do them when a new package of software or hardware even hits their systems, and if it did, does it have the resources to make such a commitment if they were interested in hosting biannual audits?

Hon. A J Isola: Mr Speaker, nobody suggested that the audits are carried out annually. Audits are carried out as and when required, which could be very much more than twice a year. So it is not that we are saying that they are annual or that it is right that they are annual.

2050 What we are saying is that these audits are carried out when a significant change or upgrade to the Government network and/or software application is undertaken, which could be more frequent than that. In terms of whenever an audit is requested, this is on the advice of ITLD. Consequently, I would expect, if they do not feel they have the resources, that they would tell us when they sought that work to be undertaken.

2055 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I was trying to explain – I do not know if I explained myself well – that it was more about, from my understanding, that as a *minimum*, whether or not there were upgrades or not, they were usually carried out as a minimum of twice a year; and whether Government would impose this. Or am I right in understanding that the hon. Gentleman says that they take their lead from ITLD, which is also perfectly understandable and appropriate?

2065 **Hon. A J Isola:** Yes, Mr Speaker, I understand the hon. Lady, what she meant, but I think she understood from my answer that we do it once a year. That is not the case. What I am saying is that these are done whenever ITLD believe them to be necessary, which are the professionals that I rely on – it is certainly not my decision; it is theirs.

Mr Speaker: Next question.

BUSINESS, TOURISM AND TRANSPORT

Q50/2020

**Hotel Occupancy Survey –
Details for 2019**

Clerk: We move now to Question 50 and the questioner is the Hon. D J Bossino.

2070

Hon. D J Bossino: Can the Minister for Tourism provide the same details as set out in Table 1.01 of the Hotel Occupancy Survey for the year 2019?

Clerk: Answer, the Hon. the Minister for Business, Tourism and Transport.

2075

Minister for Business, Tourism and Transport (Hon. V Daryanani): Mr Speaker, the information requested by the hon. Member will be published in the annual Hotel Occupancy Survey, which will be tabled at Parliament once the survey is complete.

This information is published only on an annual basis in the survey.

2080

Hon. D J Bossino: Mr Speaker, I asked similar questions in the last meeting of the House in December. I asked for updates to questions arising from the various tourism reports and I think the hon. Member and indeed the Minister for the Port also obliged and provided me with the updated figures.

2085

The reason why I ask is because as he will know, the Table 1.01 from last year's Hotel Occupancy Survey takes us to 2018. Given that now, 2019 is completed, I thought the hon. Member would be helpful enough to be able to provide me with that information in advance of the publication of the survey.

2090

Is there any particular reason as to why he is reticent to provide this information now? I would have thought he would have had the figures available to him. And if he does not have the figures available to him now, whether he may reconsider, and provide me with the information before the Hotel Occupancy Survey is in fact published.

2095

Hon. V Daryanani: Mr Speaker, this survey is normally tabled at Parliament around Budget time. So the hon. Member has to appreciate that we are only 22 days into the new year and this information is provided by the hotels. I do not know whether the hotels have actually provided the complete information for the whole of 2019.

I do not really have any problem in providing the hon. Member with the statistics once I have them.

Q51/2020

**Online procurement of business licences –
Resumption of system**

2100

Clerk: Question 51, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: The online procurement of business licences has not been functional for around a year. Can Government explain the reason for this and when the online procurement of licences will resume?

2105

Clerk: Answer, the Hon. the Minister for Business, Tourism and Transport.

Minister for Business, Tourism and Transport (Hon. V Daryanani): Mr Speaker,

2110 There was a break in communication between the World Pay application and the OFT database. Government is currently working on a solution with a higher level of automation which should deliver increased efficiency when it is rolled out.

2115 **Hon. Ms M D Hassan Nahon:** Mr Speaker, just for the record, my question or my query applies also to renewals. The fact of the matter is, as businesses report, that if you multiply an hour, which is what it takes to renew licences by the amount of businesses that there are, the annual cost of not having an online service actually costs hundreds of thousands of pounds, at least. Obviously companies report that the reduction of red tape is the key to run businesses efficiently, so considering that the Government has been promising a one stop shop from three elections ago, can the Government just tell us genuinely when exactly they expect to roll this out, realistically?

2125 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the hon. Lady loves to conflate issues and dramatise the position. I suppose that if every business in Gibraltar that has got to do a renewal were to quantify what it costs to go and do a renewal as they always have in the past versus doing it online as we have been trying to ensure that they are able to do, and we are the first Government to seek to ensure that they are able to do, I suppose if you added all that up together it might be hundreds of thousand pounds. Or it may not. But for each business it might just be a few pounds, Mr Speaker – a few pounds which we are trying to avoid them having to pay by trying to bring about not just in relation to business licensing, the new system that the hon. Gentleman has said we are about to roll out, but indeed across the Government all of the mechanisms that we are trying to roll out.

2130 So Mr Speaker, we are in the process of trying to do this. Hon. Members including her love to accuse us of spending money. Part of the money that they accuse us of spending is in trying to achieve that which we have promised to do and are keen to do and are in the process of doing and as soon as we are able to we shall be announcing that we have achieved that particular rolling manifesto commitment.

2140 And of course, Mr Speaker, we want to do it as soon as it is possible to do. But these things also lead to vulnerabilities. If we set something up and there is a security vulnerability, she will come here and ask us why it is that we could be hacked, and if we do not do it because we are trying to ensure that we do it in the way that we are not hacked, she will come here and ask us why it is that it is taking so long.

I fully appreciate that is the role of a lonely opposition Member of Parliament, Mr Speaker.

2145 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I am not that lonely. Almost 6,000 people voted for me and gave us a good mandate to show that there is a need for something different to what already exists today, so I do not feel very lonely at all.

2150 I think that despite the Chief Minister's very eloquent and sophisticated answer and spin, he still has not answered us how, after almost 10 years we still have not seen these shiny promises of one-stop shops. As time goes by, yes we can always hark back to yesteryear that things were not done but we all know that things have moved on. People work online. The world is moving faster. Technology is key and we need it on tap. The Chief Minister knows that very well because when he announces things that need to come into shape, then he always reminds us how important these priorities are. So in the same way, we also want to understand why this priority has not actually materialised, after almost 10 years. Talking about the past and how we used to do things in those days, I do not think will alleviate any business of today wanting to move on with their business. And we still do not have an answer, Mr Speaker. Can the Chief Minister provide us with an answer?

Hon. Chief Minister: Well, Mr Speaker, I am grateful to the hon. Lady for evidencing her style of exaggeration.

The great New Dawn was in December 2011. We are now in January 2020. That is exactly eight years and one month later; not 10. There is a big difference between a decade and eight years. That is the sort of exaggeration which denudes her questions of accuracy, Mr Speaker, which then of course leads me to have to challenge her on it.

For example, she might say that she is not lonely because she has got 6,000 votes. Well, she had 4,000 votes last time but she is still on her own in this place and that is the reality of the result of the last election whether she and I like it or not, Mr Speaker, because the fact is that I thought at one stage she was almost about to wipe them out! But never mind! *(Laughter and interjections)* I know, Mr Speaker, that during the course of the night, *they* thought they might have been wiped out but never mind! Never mind. Anyway, they are doing a good enough job of wiping themselves out. I do not think she needs to worry too much about that.

But Mr Speaker, let's be very clear. What we promised eight years and one month ago was a one-stop-shop Government counter. So eight years ago. Mr Speaker, we were talking about the counter where you could go and do everything and we talked about bringing about electronic Government. Things are moving on. They are always constantly moving.

Can I tell her when we are going to deliver electronic Government 100% as a one-stop-shop in the virtual situation? She knows I cannot; and she knows that the question she is asking is seeking information which is not possible to give with any degree of accuracy.

Is it true that we are the Government that has most invested in seeking to make that virtual reality something that people can rely on, that virtual opportunity to engage with Government? Yes. Are there many challenges in doing so? Yes. Would they be doing any better if they were here? Well, I put it to them, Mr Speaker, that if they invested as much as we have they would have achieved what we have. If they invested more, they would have achieved as much as we have because you cannot go any further by putting more money into it. It is very likely that they would have invested less, unless of course this is another one of the areas where they criticise us for spending but would have spent the same amount.

So, Mr Speaker, all of which makes me simply say to her: watch this space, it is coming faster under us than anybody else.

Q91/2020

The Mount refurbishment project – Expected cost and completion date

Clerk: We now move to Question 91 and the questioner is the Hon. D J Bossino.

Hon. D J Bossino: Mr Speaker, there is formally no Question 91. I think that the interim Notice of Questions that we received end at Question 90, which is the hon. Lady's question.

But I have got a copy of it here, so I am happy to proceed. Okay. *(Interjections)* No, no. There is a question which I filed, but it is not formally in the ...

Two Members: How do you know?

Hon. D J Bossino: Because I have just ... I do not know by way of notification in this document, but I have just been told by the Clerk that it is Question 91. *(Interjections)*

Yes. I deduced that, Mr Speaker, because I see that the Hon. the Deputy Chief Minister is present, and I think my remaining questions are exclusively ... See, the Hon. the Minister for the Port is not present, so on that basis I assumed that Dr Garcia would be answering the question.

Mr Speaker: Would you proceed to ask the Question?

2205

Hon. E J Reyes: If it helps, Mr Speaker, I think none of us on this side of the House have anything beyond Question 90. So we would not be able to partake in it any further.

Perhaps if the Clerk ... I think that the Hon. Minister for Sport was seeking some information that he may now have available to be sent by you, Mr Speaker. So perhaps we can fill in the next couple of minutes as are needed by ... If you give way to the Minister for Sport, he can finish answering my question, that way it remains on record.

2210

Chief Minister (Hon. F R Picardo): He knows what question it is, he is ready to ask it ...

2215

Mr Speaker: Mr Clerk, can I ... ?

We are just going to check. Just a second please. We are going to check whether it is not simply just 91 that is missing.

Mr Speaker consulted the Clerk.

Mr Speaker: I understand that the questions which follow 91 will not be asked this evening. So we can do, if you wish, Question 91.

2220

Hon. D J Bossino: Mr Speaker, I am happy to oblige.

Can the Deputy Chief Minister provide details of the expected cost of the project to refurbish The Mount and how long it is expected to take to complete?

2225

Clerk: Answer, the Deputy Chief Minister.

Deputy Chief Minister (Hon. Dr J J Garcia): Mr Speaker, the Government is not in a position to forward details on costs and programme in relation to The Mount project as this is still at a very early stage. Once the relevant investigations are completed and designs and permits awarded, we will be in a position to provide such details.

2230

Hon. D J Bossino: Mr Speaker, what are the investigations which the Hon. the Deputy Chief Minister has described as relevant?

2235

Hon. Dr J J Garcia: Yes, Mr Speaker, the initial phase of the project involves the clearing of vegetation. That would allow the people who are doing this to determine the condition of the different terraces, the paths, the walls, etc. and that would allow a further investigation to take place.

2240

At the moment we cannot investigate any further because things are covered by overgrown vegetation. That is what is happening at the moment: the vegetation is being cleared. That is the first step of the project.

The hon. Member may also be aware, in terms of the finances, which is the question, that there is £200,000 in the revenue of estimates and expenditure, which is simply set aside for this kind of work.

2245

Hon. D J Bossino: Mr Speaker, can the Hon. the Deputy Minister assure the House that stringent heritage considerations will apply in relation to this particular project?

2250

And I would just widen the question to include obviously not only buildings but also the environment and the plants and the trees which are of certain environmental heritage value as well.

2255 **Hon. Dr J J Garcia:** Mr Speaker, yes, in fact before the work started, the Heritage Trust, the Environmental Safety Group and GONHS were all taken on site to get a better understanding of what it was that was going to happen. They have also been on site again since the work has commenced and obviously whatever is done there will also go, as it has to under the Town Planning Act to the Development and Planning Commission eventually, where there will be a wider discussion and debate on the proposals.

2260 **Hon. D J Bossino:** Mr Speaker, does the hon. Member have an idea as to when the whole project is going to be completed?

The hon. Member will obviously know that his party during the election, in their manifesto, had very ambitious plans in relation to that area. Can he give us any indication as to when he thinks it is going to be completed? Will it be during the course of this term of office or is the hon. Member looking at a longer period than that?

2265 **Hon. Dr J J Garcia:** Mr Speaker, it is not possible to give an indication at this stage, simply because of what I said in the answer to the original question, which is that once we are able to investigate in detail and determine the work that remains to be done, we will then be able to draw up the phases with timescales for each particular phase.

2270 But at the moment, this is preparatory work to allow investigations to take place on the site.

Hon. D J Bossino: And in relation, Mr Speaker, to that initial preparatory work stage, does he have an indication as to when that is likely to be completed?

2275 **Hon. Dr J J Garcia:** I cannot say at this stage. At the moment, they are clearing vegetation – a selective tender was issued for that, and the contractor is on site. The work only started after the New Year break.

Procedural

Clerk: We come back now to Question 85 and the questioner is the Hon. R M Clinton.

2280 **Hon. K Azopardi:** Can I just ask on a point of order, Mr Speaker. Clearly the Government presumably knows the order it is going to take certain questions and indeed the Clerk knows because he is directing the orchestra of the jumping up and down.

2285 It would be helpful to pass that information to the Members Opposite because purely for our own organisation of business. We are all here, and of course we are going to be here, but it would be helpful to have that. We are all trying to make the House work better, and I hope that is shared. But if this information is available – and it may be available only recently to the staff – but it should be passed on to the Members opposite.

2290 **Mr Speaker:** The hon. Member should be made aware that there has been an admin error. That is the reason. There was no other intent or anything.

2295 **Hon. K Azopardi:** Mr Speaker, I was not talking about an admin error in relation to, for example what just happened on Question 91, but certainly – and I have not been here long since my reincarnation! – last time as well, in December, there was an element of backwards and forwards. And that is okay; but it would be helpful for us to know that that is what is going to happen at different points.

Chief Minister (Hon. F R Picardo): Mr Speaker, if I can be of assistance – that *is* what is going to happen, in the sense that the reason that we backward and forward is that in order to try and assist hon. Members, as soon as batches of questions are ready for answer, they are sent to the House, usually in groups relating to Ministries. We try and do that so that the House can organise the Order Paper. That does not mean that the Order Paper, which gives a number is the order that is going to be followed.

So for example, the Hon. Minister Licudi is not here today, but his questions were completed, they were sent to the House, they were put on the Order Paper. But he is simply not here and we could simply have taken the attitude of saying he is not here, therefore you can have a written copy of his answer or you can choose to ask at the next Question Time, under the existing Rules. Instead, because we expect that he will be able to be here and answer orally, we skip in order to enable hon. Members to do the oral asking of questions and therefore also supplementaries.

So Mr Speaker, where we are able we follow the Order Paper because it is in everybody's interest. Where we are not able to, we do not. That has always been the way in which I have seen questions handled in this House. If hon. Members tell us that they may not be available one day but they may be available another in time, then we will try to make arrangements to assist them so that they can be here. If they tell us on the day, then it is sometimes very difficult to do that because other Ministers have other responsibilities.

Hon. K Azopardi: Mr Speaker, I am not sure if the Hon. Chief Minister has understood me. I am not objecting, by any means, to the jumping around because of availability. All I am saying is that if hon. Members have organised and know in advance that that is going to happen, then they should pass that information on.

If the hon. Members Opposite are only just told that one of the Ministers is unavailable 10 minutes earlier, well then we understand of course. But if they know a couple of days before and that information is being passed on to the staff, it should also be passed on to the Opposition so that we know. We are all Members of the same House and we should know what the actual business is going to be in what order. That is all I am saying.

Hon. Chief Minister: Mr Speaker, that would require a level of detail that I think would start to interfere with Government's ability to plan.

The hon. Gentleman said it is normal. Look, it is normal since we were elected and we changed the way that the House dealt with business, because hon. Members will know that before, there was no indication of anything. Hon. Members will know that we were not even told the date of the Budget! And once the period for a Bill to be taken was up, we had to be ready to take a Budget.

We are trying wherever possible to give hon. Members as much information as possible so that they can be here when their Questions are going to be dealt with and they can be off doing their private business and pursuing their moneymaking activities, which they are perfectly entitled to do, when they do not have to be here. But I assume that they do want to be here when the House is in session, unless they cannot be – unless the hon. Gentleman is telling us that he wants to know if there are those who are going to be here to answer questions only to some Ministers and if those Ministers are not going to be here, they are not going to bother turning up.

They know that I endeavour – and I have told him that I am going to try and stick to it – to answer my questions on Thursday at 3 p.m.. They know that traditionally the House deals with questions on the basis of the manner in which people have been elected etc.. That is the way in which questions are answered and they now know also that we are trying to help everyone – them and the House – by allowing the questions to reach the House as soon as they are completed, so that the numbers can be put on the Order Paper as soon as possible.

I do not think I can tell them more than that, but perhaps in the Select Committee we will be able to work together to avoid what both sides might see as the ways that Question Time is not working as we might all wish. For example, today – two hours for 26 questions, I think was hardly edifying for either side.

Hon. K Azopardi: Mr Speaker, the hon. Member does not have to tell me about how badly things were done in the past because he may find that he and I agree – if it is true that he believes in parliamentary reform in a serious way, well he will find in me and the Members on this side of the House, people who are committed to engage in that process.

So we can talk about how things did not work in the past under governments of different political ideologies, and that there should be improvements and we will both share that view. All I am making – and we are at risk of the Chief Minister pulling a very minor procedural point that I was making to try to assist all of the Members of this House and creating a mountain out of a molehill. I do not believe that it can be possible that Government business is going to be interfered with by simply telling the Members on this side of the House in what order questions are going to be taken because the Government is organising its business, so it has already organised its business in a particular way. All we are doing is then taking questions in the order that the Government is dictating in accordance with the Government business it has organised.

So I do not think it is too much to ask for to simply ask for information. I am not asking to negotiate the agenda with the hon. Member; I am asking that once he decides, as Leader of the House what the agenda is going to be, he should pass on the information.

Hon. Chief Minister: Mr Speaker, it seems to me that there is nothing which is a minor procedural issue with the hon. Gentleman, because he gets up to make a point during Question Time. I do not know whether this is a matter of a point of order and I am very grateful that you are allowing us the latitude to deal with this in this way, but he does it on the basis as if he were the great reformer and he is asking for something which is eminently reasonable, and that is why he knows that I am going to get up to make the political points that I am making, because I am not going to let him get away with making political points as if he were not, Mr Speaker.

This is the political equivalent of throwing the stone and hiding the hand, Mr Speaker! I know that he agrees with how badly things were done in the past and not just by the GSD administration. I know in particular how badly he thinks things were done in the past by the GSD administration because he led a party in two general elections *against* them, saying that he would do things completely differently to the way that they were doing them, and he and I think will be able to agree in the Select Committee when we do negotiate how questions should be taken, a different way of doing things, Mr Speaker, which will give everybody the certainty of knowing when they have to be here, rather than when they simply might have to endure the process of questions in order to be around to ask their questions when they come up.

But, Mr Speaker, he knows that with the best will in the world, unfortunately we suffer differences of timetable and I do not want ever to inform the House that we are going to do something and then not be able to do it, because then we are going to be accused of playing with the House timetable.

But I think together we will be able to agree a better way of doing this in the Select Committee. So as usual, Mr Speaker, I think he and I will find that we are *violently* agreeing that things need to change and we are probably going to be very violently agreeing about what they should change to. But look, I guess that is just the nature of the Punch and Judy politics that he is falling into.

Mr Speaker: Next question, please.

JUSTICE, MULTICULTURALISM, EQUALITY AND COMMUNITY AFFAIRS

Q85/2020

Office of Criminal Prosecutions & Litigation –
Relocation to NatWest House

Clerk: Question 85, the Hon. R M Clinton.

2400 **Hon. R M Clinton:** Mr Speaker, further to Question 230/2019 can the Government advise who the landlord is (and beneficial owners if a corporate entity) of the premises to which HMGoG's Office of Criminal Prosecutions & Litigation will be relocated to at NatWest House, Suite 6, 6th Floor, 57/63 Line Wall Road, Gibraltar?

2405 **Clerk:** Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

Minister for Justice, Multiculturalism, Equality and Community Affairs: (Hon. Miss S J Sacramento): Mr Speaker, I will answer this question together with Question 86.

2410 **Clerk:** Question 86, the Hon. R M Clinton.

2415 **Hon. R M Clinton:** Mr Speaker, can the Government advise the length of lease, size of floor space and annual rent subsequent to the first year, when was the lease signed and by whom on behalf of the Gibraltar Government, of the premises to which HMGoG's Office of Criminal Prosecutions & Litigation will be relocated to at NatWest House, Suite 6, 6th Floor, 57/63 Line Wall Road, Gibraltar?

2420 **Clerk:** Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

Minister for Justice, Multiculturalism, Equality and Community Affairs (Hon. Miss S J Sacramento): Mr Speaker, the landlord is Gibcorp Ltd. The beneficial owners are the Peralta family, the Hassan family, the Levy family and the Provasoli family through their respective holding companies.

2425 The lease is for a period of 12 years. The total area of floor space is 3,932 sq ft.

The annual rent is £123,858 for the first three years. Rent increases are dealt with under clause 1(d).

The Chief Secretary signed the lease on 19th December 2019.

2430 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Hon. Minister for her answer. Can I ask, are there any break clauses in the 12-year lease?

2435 **Hon. Miss S J Sacramento:** Mr Speaker, I have not been advised and it is not a question that I can answer immediately. I can inform the hon. Member later.

Hon. R M Clinton: Mr Speaker, just for clarification, 3,000 square feet is solely in relation obviously to Suite 6, yes?

2440 **Hon. Miss S J Sacramento:** Yes, it is Mr Speaker.

Hon. K Azopardi: Can I ask, how did the possibility of the rental of these premises arise? In other words, who approached who?

Chief Minister (Hon. F R Picardo): Mr Speaker, this issue was raised with me by the Attorney General.

2445

Hon. K Azopardi: Sorry, the issue of the possibility of the rental was raised by the Attorney General – is that correct? Is that what he said?

Hon. Chief Minister: Yes, Mr Speaker.

2450

Hon. K Azopardi: Can we know when the Attorney General raised this issue the Chief Minister?

Hon. Chief Minister: No, Mr Speaker, if he wants any certainty. I remember him raising it with me, but I cannot remember exactly when it was. It is not as if I made a diary note of the fact that he might have raised it with me.

2455

Hon. K Azopardi: And following that conversation with the Chief Minister, what happened next?

2460

Hon. Chief Minister: Mr Speaker, I told him I was not averse to what he was telling me and that he should go off and seek rates and understand the space and whether it would fit all the people from the Office of Public Prosecutions, which is what he was very concerned about. And with the Director of Public Prosecutions, that is what they went off to do.

2465

Hon. K Azopardi: Does the Chief Minister know who the Attorney General and DPP negotiated with?

Hon. Chief Minister: No, Mr Speaker, because I was not there.

2470

Hon. R M Clinton: Mr Speaker, if I may ask the Minister, does the Government have no other available space for the Attorney General? If not, could his existing Chambers not be refurbished? What is the business case for hiring extra office space from the private sector?

2475

Hon. Chief Minister: Mr Speaker, I answered this question already at the time of the last meeting of the House. Six months have not passed. I do not know whether the hon. Gentleman wants me to repeat what I said then or whether he would rather just read *Hansard*.

Hon. R M Clinton: Mr Speaker, may I ask the Minister, was there a business case presented to her in order for the AG to hire premises outside the existing Government rental stock? And if so, by whom?

2480

Hon. Miss S J Sacramento: Mr Speaker, as the hon. Gentleman knows, I was not the Minister with responsibility for Justice at the time that this lease was negotiated. In fact, I have had absolutely no involvement in the negotiation of the lease. Given that this has been negotiated by the Attorney General and by the Director of Public Prosecutions, I have absolute trust that they have exercised due diligence and negotiated this in good faith.

2485

As further information, Mr Speaker, when this question was last asked, last month, I did an exercise with Land Property Services Ltd and they immediately gave me at least 30 other commercial rents where the rent price per square foot was much more expensive than this one. So I hope that that sets the commercial angle of this lease into context.

2490

Q87/2020
International Women's Day 2020–
Celebration plans

Clerk: Question 87, the Hon. Ms M D Hassan Nahon.

2495 **Hon. Ms M D Hassan Nahon:** What are the Government's plans to celebrate International Women's Day 2020?

Clerk: Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

2500 **Minister for Justice, Multiculturalism, Equality and Community Affairs (Hon. Miss S J Sacramento):** Mr Speaker, International Women's Day was first celebrated by this Government in March 2012 and this year will be no exception.

2505 We have identified how we would like to celebrate it in 2020 and we are already making plans with our stakeholders. We will make a detailed announcement about the celebration once our plans have been confirmed. I would be happy to discuss this with the hon. Lady so she can be aware of our plans and participate in them. As she knows, she always receives an invitation to my events.

Q88/2020
Gender Pay Gap survey 2018 –
Publication of results

Clerk: Question 88, the Hon. Ms M D Hassan Nahon.

2510 **Hon. Ms M D Hassan Nahon:** When will the results of the Gender Pay Gap survey of 2018 be made public?

Clerk: Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

2515 **Minister for Justice, Multiculturalism, Equality and Community Affairs (Hon. Miss S J Sacramento):** Mr Speaker, the data is being analysed and will be published when finalised.

Q88/2020
Pride March –
Plans for 2020

Clerk: Question 89, the Hon. Ms M D Hassan Nahon.

2520 **Hon. Ms M D Hassan Nahon:** When will the Pride March take place this year, and is an organisation plan for the event under way?

Clerk: Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

2525

Minister for Justice, Multiculturalism, Equality and Community Affairs (Hon. Miss S J Sacramento): Mr Speaker, June is regarded as Pride month and the Department of Equality is planning how this will once again be marked. Organisation is already well underway.

2530 I have no doubt that it will be as much of a success as with everything that the Department of Equality embarks upon.

A Member: Hear, hear.

2535 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I have had a few representations from interested parties asking whether a contract for an organised event would be going out to tender or would it just simply be taken on by the Ministry itself. Would the hon. Member be able to clarify because I have been asked various times about this one?

2540 **Hon. Miss S J Sacramento:** Mr Speaker, when the Department of equality mark any event, we always do it ourselves and I would like to take this opportunity to thank the Department of Equality for their dedication to these events, the meticulous planning and the very successful execution of them.

Q90/2020

Equal Opportunities Act amendments – Sexual orientation as protected category

Clerk: Question 90, the Hon. Ms M D Hassan Nahon.

2545 **Hon. Ms M D Hassan Nahon:** According to the GSLP manifesto of 2019, 'In Gibraltar under the Equal Opportunities Act "sexual orientation" is still not a protected category with regard to the provision of goods and services. It cannot be acceptable for a business to refuse service due to the sexual orientation of the customer, but currently no law prevents this.'

2550 When will this be corrected and the Equal Opportunities Act amended?

Clerk: Answer, the Hon. the Minister for Justice, Multiculturalism, Equality and Community Affairs.

2555 **Minister for Justice, Multiculturalism, Equality and Community Affairs (Hon. Miss S J Sacramento):** Mr Speaker, the process to eliminate this discrimination has already commenced immediately upon our re-election and we in the GSLP Liberals were the only ones to pledge to do so.

2560 **Hon. Ms M D Hassan Nahon:** Mr Speaker, I thank the hon. Lady for her answer, but I do not think I heard an answer as to when this will be corrected. Any idea of when this Act will be amended?

2565 **Hon. Miss S J Sacramento:** Mr Speaker, the instruction has already been given. I am aware that the legal drafting team are working on it. They certainly have an instruction from me to complete it as soon as possible.

HOUSING, YOUTH AND SPORT

Q2/2020

Gibraltar Sports and Leisure Authority facilities –
Cancellations: further information

Mr Speaker: I believe that the Hon. Minister Linares has a response or reply to the hon. Member.

2570 **Minister for Housing, Youth and Sport (Hon. S E Linares):** Yes, Mr Speaker, I have the reply that the hon. Member wanted via WhatsApp, which I am just getting, and it is to do with the cancellations that he was asking for, that I said that I did not know what had happened since I answered the question to today.

2575 The answer is that cancellations were initiated due to safety protocols as a result of some power failure. The removal of all users from inside the playing area: when the power came back, they were restarted. So it was not actually a cancellation of an allocation, but a precaution for the safety of users. So they were told to come out and then they were told to come in, and this happened on Saturday.

ADJOURNMENT

2580 **Chief Minister (Hon. F R Picardo):** Right, Mr Speaker, I am now going to move that the House should adjourn until tomorrow at 3p.m. – Thursday at 3 p.m. – on the third Thursday of the month, which is when I intend to take Chief Minister's Question Time; something I have been able to do very successfully for six and a bit of the eight years we have been in Government, when Brexit has not interfered. I will of course advise any Members of the Opposition who wish to take on the mantle of leading the Opposition in asking questions of the current Leader of the House to be here tomorrow at 3 p.m. That might help us to work out what might happen on 31st January, Mr Speaker.

2585 I move that the House should now adjourn to three o'clock tomorrow.

Mr Speaker: I now propose a question, which is that this House do now adjourn to Thursday, 2590 23rd January at 3 p.m.

I now put the question which is that this House do now adjourn to Thursday, 23rd January at 3 p.m. Those in favour? (**Members:** Aye.) Those against? Passed.

This House will now adjourn to Thursday, 23rd January at 3 p.m.

The House adjourned at 6.51 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.15 p.m. – 6.45 p.m.

Gibraltar, Thursday, 23rd January 2020

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The Gibraltar Parliament

The Parliament met at 3.15 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

Questions for Oral Answer

ECONOMIC DEVELOPMENT, ENTERPRISE, TELECOMMUNICATIONS AND THE GSB

Q92-96/2020

Public finances –

GSB legal right of set off;

Consolidated Fund and Improvement & Development Fund outturn;

Credit Finance debentures; RBSI credit facility agreement

Clerk: Meeting of Parliament, Thursday, 23rd January 2020.

We continue with Answers to Oral Questions. We start at Question 92. The questioner is the Hon. R M Clinton.

5

Hon. R M Clinton: I think that must be me, Mr Speaker.

Mr Speaker, can the Government confirm that there is no legal right of set off as regards deposits placed by the Gibraltar Savings Bank with NatWest or Barclays and any loans granted by these banks to the Government of Gibraltar?

10

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

Minister for Economic Development, Enterprise, Telecommunications and the GSB (Hon. Sir J J Bossano): Mr Speaker, I will answer this question with Questions 93 to 96.

15

Clerk: Question 93, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government please provide the six-month outturn of income and expenditure to 30th September 2019 for the Consolidated Fund and Improvement and Development Fund?

20

Clerk: Question 94, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise the terms, i.e. maturity date and interest rate, of the debentures issued by Credit Finance Company Ltd as at 31st October 2019?

25

Clerk: Question 95, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise the total monetary value of debentures issued by Credit Finance Company Ltd as at 31st October 2019?

30 **Clerk:** Question 96, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise the amount of the arrangement fee agreed as per clause 11.2 of the £75 million credit facility agreement entered into with the Royal Bank of Scotland International (RBSI) on 10th October 2019?

35

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

Minister for Economic Development, Enterprise, Telecommunications and the GSB (Hon. Sir J J Bossano): Mr Speaker, there is no legal right to set off Gibraltar Savings Bank deposits against loans by any bank.

The six-month outturn of income and expenditure is not yet available. The only information that I have which I am prepared to share with the hon. Member is the estimated totals for the period, which are: Consolidated Fund – revenue £312.6 million, expenditure £305.2 million, balance £6.2 million; Improvement and Development Fund – expenditure £33.8 million, revenue £6 million, balance minus £26.4 million.

The monetary value of the debentures issued by Credit Finance Company Ltd as at 31st October 2019 is £400 million and the maturity dates and interest rates are as follows: 1st April 2022, 3% per annum, £10 million; 1st April 2024, 4% per annum, £65 million; 1st April 2024, 5% per annum, £40.75 million; 1st April 2024, 6% per annum, £275 million; and 1st January 2029, 6% per annum, £9.25 million.

The arrangement fee agreed with the Royal Bank of Scotland International was £637,500.

Hon. R M Clinton: I am grateful to the Minister for his answer, and if you will just indulge me, Mr Speaker, while I go through the other various questions, turning first to Question 95, I was asking about the monetary value of debentures issued by Credit Finance and he mentioned £400 million, but is there perhaps some confusion, in that he is giving a number for the preference shares but not the debentures – or is he saying that there is £400 million in debentures in addition to the £400 million of preference shares?

60

Hon. Sir J J Bossano: There is £400 million in debentures in substitution for the redeemable shares, so the £400 million redeemable shares have now been replaced by £400 million debentures.

65 **Hon. R M Clinton:** Mr Speaker, I am grateful for that answer.

As at 30th September, I see a position where there is £400 million of preference shares and then an additional amount of £9.2 million of debentures in respect of Credit Finance. At what point did this swap occur? Or has this process occurred over a number of months? And can perhaps the Minister explain why it was felt that it was necessary to swap from preference shares into debentures?

70

Hon. Sir J J Bossano: Well, in effect the figures that he has got have been switched around. What was there before as debentures is now the preference shares and what was the preference shares is now the debentures. The debentures have in fact been structured so that they reflect the redemption date and the interest that the Savings Bank is paying to depositors. So, the fact that we have got, for example '2022, 3% per annum, £10 million', is that in £10 million we are going to repay something that is at 2%. So, Credit finance pays the Savings Bank 1% over what the Savings Bank pays the public. That is how it has been structured and it

75

80 makes the position of Credit Finance, from our perspective, better and more in consonance with... There is a requirement not to match as precisely as this but to match in overall terms, but it makes more sense to us to do it this way, something we had not thought of doing before but the decision has been taken that it is better to do it this way.

85 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Minister and of course I understand the concepts of the maturity ladder and the need to match your assets and liabilities.

Just to confirm, so I am crystal clear, the total, to use the banking term, 'exposure' of the Savings Bank to Credit Finance then remains overall at £400 million? Just to confirm, if he could.

90 **Hon. Sir J J Bossano:** The position is no different from the one that he referred to in his previous question. It is just that in fact there is less equity and more debt in the relationship between the two, but the debt is tied up to a maturity date of the Savings Bank to the public.

Hon. R M Clinton: Mr Speaker, coming to his answer to Question 92, he confirms there is no legal right to set off. Can I just ask the Minister: has he obtained a legal opinion to that effect?

95

Hon. Sir J J Bossano: Well, I have not obtained a legal opinion – although we have got a lot of lawyers – because nobody has thought there is a need for one. It is self-evident from the documents and the relationship we have with the Bank that there is no question of them being able to set off what we owe them against what they owe us.

100 I think, in fact, when the GSD was in government their argument was the converse of that: that they put the money in the banks so that if a bank could not pay them back then they would be able to deduct it from what they owed the bank. So, in effect, they were saying that the logic of having, for example, £200 million say with Barclays and borrowing £200 million from Barclays at the same time – which was effectively borrowing back your own money, as I saw it from that
105 side – was that if Barclays got into trouble, clearly under Community law the Government of Gibraltar would only be protected in respect of €100,000, which is the only liability they have. But because we had money that they had lent us, the Government would then be able to say, 'Well, I am not paying you'. So, in effect what they were saying was that the set off would happen in the opposite direction. But I do not think there was a legal document stating that,
110 even at that time, in that direction, any more than there is anything today. There is not even an understanding that they may set it off, and certainly it would be very strange if they were not able to pay back the loans. That has never happened and is never going to happen.

Hon. R M Clinton: I am grateful to the Minister for his answer.

115 As regards the six-month outturn of income and expenditure, it has become practice in previous years to get the detailed breakdown by Department and head of revenue. Is there any reason why we cannot get that level of breakdown, apart from these sort of global figures that he has given us?

120 **Hon. Sir J J Bossano:** As has happened so many times with computerisation in the history of Gibraltar, in the Government, the replacement of the Treasury accounting system (TAS) started at the beginning of the financial year, it has had teething problems as we have gone along and by the time we got around to October or November the position was that the removal of payment vouchers and replacement of electronic means was not delivering the information as
125 up to date as was the case with the paper systems. So, a policy decision was taken, which I strongly supported, that rather than risk a situation where we might finish up the financial year without being able to give accurate information to the Parliament, it was better to stop the process and then restart it in April for the next financial year and go back to closing this year with the previously existent TAS system. That is what is happening now, but they are catching up
130 with information that needs to be put into the thing.

We are confident that we will be able to produce reliable figures at the close of the financial year, because in effect it will be done as it has been done every year since I came here in 1972, rather than in the more efficient future system which we have to catch up with.

135 **Hon. R M Clinton:** I am grateful to the Minister for his answer and explanation. Would he say, therefore, that the implementation of the new system to replace TAS has in effect prevented the Government receiving the normal at least half-yearly position that he usually gets? Would that be an accurate description?

140 **Hon. Sir J J Bossano:** Well, I think 'receiving' is not accurate, because it suggests that something has not entered into the account of the Government. It is the information that is missing, not the actual cash. So, because the information is missing, it means that we have less confidence in the accuracy of the figure. In effect, the estimated figure is more likely to be correct than a breakdown would be, because if you are making a guesstimate of the total you are more likely to get it right, but if you have 40 different entries, some may be mistaken in one direction and others mistaken in the opposite direction and there tends to be a probability that the mistakes, in terms of where we are, would cancel out and that the total would be closer to the accurate figure.

145 If I gave him figures which we cannot be confident about in different heads, it would not be any use to him, or to me, because it would be no indicator of anything. That is why I have not got the information. If I had it, he would have it – and he will have it as soon I do.

Hon. R M Clinton: Mr Speaker, I am grateful to the Minister for that answer.

150 He gave the number £6 million in the Improvement & Development Fund, resulting in a deficit of £26.4 million, but if I recall correctly – and he may be able to correct me – the Deputy Chief Minister mentioned there was something in the order of £30 million of revenue from MoD house sales that had not been passed over to the Improvement & Development Fund, and therefore perhaps the deficit that he has got there would not necessarily be a deficit.

160 **Hon. Sir J J Bossano:** There may be £30 million worth of property transactions that have been carried out, but the recording of that in the Treasury books has not yet happened, because one of the things that we had to do was to go back to ... We could not produce figures on the basis that half of the information was electronic and half of the information was paper. So, in effect, the electronic information was stopped. We went back to replicating the paper as we would have done had we not introduced the electronic information. That means that the recording of the information is somewhat delayed, but of course that delay is getting shorter and shorter because they are doing two things: they are inputting the stuff that comes in and inputting the stuff that has to be reinstated. What this shows is that at the time they prepared the answer, that is what the books showed. It does not mean that there is not more in the bank account than this shows.

170 **Hon. R M Clinton:** Mr Speaker, I am grateful to the Minister again.

Just turning to Question 96, if I understood the Minister correctly, the arrangement fee was £637,000. I do not have the previous loan agreements with me today, but that does seem to be higher than was paid for previous loan agreements. Would the Minister agree this is a substantially higher number than has been paid in the past?

175 **Hon. Sir J J Bossano:** I cannot agree because it is not something that I have looked at in the past. I can tell the hon. Member that the interest rate is very competitive, so one thing may compensate for the other. It is less than 1% over the base rate – 0.8-something, I think.

Hon. R M Clinton: Mr Speaker, I am grateful again. Can the Minister advise, if he is aware, whether this facility in fact has been syndicated by the Royal Bank of Scotland International?

185 **Hon. Sir J J Bossano:** As I recall from the agreement, the provision for syndicating exists, but to my knowledge it has not been. And I am surprised, in fact, that it should be there because £75 million is a very big amount of money for the kind of money that banks normally syndicate.

190 **Hon. D A Feetham:** Mr Speaker, just returning to the question of set off, and given that the hon. Gentleman has also mentioned the views of the previous Government, of which I was part, has he received any kind of advice as to whether under general insolvency law there is a mutual set off? So, in other words, the Government would be entitled to set off as against what it owes the bank in the scenario that he raised, which is where a bank basically effectively goes bust what he was saying was the bank goes bust and under European law all we would be entitled to would be the €100,000?

195 I am asking the question because, as somebody who practises in that area, it just seems to me that there would probably be an insolvency right of set off and it is something that perhaps the hon. Gentleman would want to consider, rather than concede that no set off is available to the Government in those circumstances.

200 **Hon. Sir J J Bossano:** Well, when I find myself with spare time I will take the time to consider speculative possibilities that I think are extremely remote. I cannot see NatWest going bust any time soon.

205 **Hon. D A Feetham:** No, Mr Speaker, neither do I, but the point that the hon. Gentleman made and I thought perhaps ought not be conceded in this Parliament is that in the situation that he postulated – we did not postulate it, he postulated it – which was if the bank were to go bust there would only be €100,000 under European law that the Government would be entitled to ... I am just saying that is not a concession that the hon. Gentleman perhaps ought to make, because in fact there would be a set off under insolvency law, and I am pretty sure of my ground
210 in relation to that.

Hon. Sir J J Bossano: Well, if he is giving me free legal advice ... I am always quite happy to have lawyers giving advice without charging, Mr Speaker, *(Interjections and laughter)* but he is in fact misquoting me, because I did not say that that was my view. I said that was the view of the
215 Government, and the view of the Government apparently is not the one he has, because they made the case here that the reason why they were putting the money in the bank was so that if a bank did not pay them they would then not pay back the loans to the bank.

Perhaps he should give the former leader of the party and former Chief Minister the benefit of his legal advice, because he was the one who was postulating it. I was quoting what he had
220 said to me in answer to my questions. It is not something that I am suggesting is right or wrong. I assume that the great leader was always right, so I just took it for granted!

Mr Speaker: Next question.

Q97-98/2020
Employment for disabled individuals –
Numbers in various schemes

Clerk: Question 97, the Hon. D A Feetham.

225 **Hon. D A Feetham:** Mr Speaker, following on from supplementary questions to Questions 270-272/2019, is the Minister now in a position to state how many disabled individuals have the benefit of being employed in (a) sheltered employment schemes, (b) private sector training schemes and (c) public sector training schemes?

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

Minister for Economic Development, Enterprise, Telecommunications and the GSB (Hon. Sir J J Bossano): Mr Speaker, there are no sheltered employment schemes. There are 42 Supported Employment Company employees currently placed in the private sector and 26 in the public sector.

I do not have any information as to whether there are any individuals with disabilities employed in private sector training schemes.

240 As regards public sector training schemes, individuals who are participating in these are not requested to reveal whether they have any disability unless such a disability makes it impossible or dangerous for them to undertake the requirements of the training, in which case of course they would not be engaged for that particular training.

245 **Hon. D A Feetham:** Mr Speaker, the hon. Gentleman, I have to say, has this quality of being able to conflate, confuse and mix up – an ability that I have never seen outside opponent lawyers in a court case; that is the kind of ability that the hon. Gentleman has, I have to say.

Mr Speaker, does the Government not wish to know, in order to be able to better the lives of disabled people, how many disabled people there are working within or being trained in private sector training schemes, for example, in order to then be able to incentivise private sector companies to offer training schemes to disabled people? This is one example that I can think of off my feet; there are many others.

255 **Hon. Sir J J Bossano:** Well, first of all, I am sorry to hear that my answers conflate and confabulate him, or whatever it is that he says they do to him. It is not something that I want to do to him; I am sorry to hear that that is what happens. What I do is I address the logic of the language of the question and provide logical answers, Mr Speaker.

The hon. Member asked me if there are people in private sector schemes. I do not know whether the private sector is running training schemes. I know the training schemes that I run for the Government. As far as I know, if there are private firms that run training schemes they do not inform the Government that they are doing it and they do not publicise it, so I have no idea if there are such things, and, if there are such things, whether there are people with disabilities participating in them.

265 I have to remind the hon. Member that the people in SEC are employees. They are not being trained in order to be put in a private sector job. They are already in a job, a job with an indefinite contract for life, which he congratulated me for in July 2012. He said it was a very good thing that I had done in creating a company which gave them a job for life. So, those people are not trainees, they are in permanent employment, and those are the ones that I am giving in the figures. There are slightly more in the private than in the public sector, the first two numbers that I have given him. Those people are people with disabilities who would not be in that company if they did not have disabilities.

275 The people who are training are training to acquire a skill. They get paid out of public funds during the process of training. By doing that, we are helping the private sector where we have a private sector that is predominantly composed of firms that employ less than five people. It is very difficult for a small employer with five people to take on trainees, because it becomes an overhead, which means that the output of the person is not available to the firm until the person has been trained. So we provide, sometimes with EU money – which regrettably will

soon end – and sometimes with our funding. If the criteria of the EU are not available in the case of an individual, we still give the individual that opportunity.

In those areas, because people have disabilities they are not prevented from doing that. 280 Somebody may have a disability which is not sufficient to require him to be in SEC because there is a chance that he can obtain skills and work. In the questionnaire, when people have to put down their CV, we do not have a question that says ‘Do you have any disability?’ – I am not sure that it would be the right thing to do – but if a person volunteers information that suggests that particular training would put him at risk, then he is not taken on for that training programme 285 and we find another area of training where he will not be at risk.

It does not follow that because there are people with disabilities they cannot work in the private sector or the public sector as employees on the basis that they are competing. There are people who have been in the Supported Employment Company who have been able to apply for vacancies in Government in competition with other people from the private sector and they 290 have been successful in the interviews because they have the necessary qualifications and they have moved into a job in the Government where they are required to meet all the requirements that any other person is. Even though they may have some disability, it is not a disability that interferes with their ability to deliver the job.

So the answer is, within SEC if tomorrow somebody comes along and says ‘There are some 295 things that I could be doing’, he is not prevented from moving into training – but SEC is not intended to be a training company; it is intended to be a company that gives people a secure job for life. Therefore the criteria of his question is what I have dealt with in the order that he has put it. He has put three possibilities. Sheltered employment schemes, as I understand it, are schemes which are done in the United Kingdom, where the private sector provides a sheltered 300 job for somebody, but it is not paid for by the government in the UK or anywhere else. What we have here we have never called sheltered employment. We have called it, from the beginning, the Supported Employment Company because it has a 100% backing from the taxpayer.

Hon. D A Feetham: Mr Speaker, unfortunately – and I am used to it now because I have been 305 in this Parliament long enough – the answers from the Hon. Minister are always very long and it eats into the ability of this side of the House to then ask supplementaries on an important issue.

But I will just ask this supplementary, and in asking it I will make several assumptions that I hope are not controversial, one of which is that the Government, as indeed any responsible politician entrusted with the affairs of this community, would wish to be able to ensure that 310 disabled people get training opportunities, and indeed that their needs and their opportunities in the future to make a life for themselves, is adequately met because they have challenges that people without disabilities do not have. Also, I make the assumption that the Government is aware and that the Hon. Minister is aware that ‘disability’ is a defined term in the very Act that they introduced, in the Disability Act 2017, so it would not be very difficult to maintain, for 315 example, a register of disabled people who meet that definition.

Therefore, in the light of those two things, what I would like to know is what is the Government doing in order to ensure that people who meet the definition of disability ... And I agree that there may be other people who are disabled who may not meet ‘disabled’ in how people would understand the term ‘disability’. For example, they may have some problem with 320 their eyesight but do not meet the definition of disability within the Act – and those are severe; they have got to be a severe disability, as we will see during the course of the debate when we come to that. But what is the Government doing in order to ensure that those people have adequate training opportunities in Gibraltar?

Hon. Sir J J Bossano: Mr Speaker, the Member opposite criticises me when I give him a yes and a no, and he criticises me when I give him a long explanation, so I suppose he just likes to criticise me whatever I do. *(Laughter)* 325

I am astonished that he says that no responsible politician and no responsible government would fail to provide specific training for people with disabilities, since they did not provide it in 15 years – and I have never considered that they were totally irresponsible in those 15 years. What he is suggesting now was something that he never proposed when he was a Minister and the party that he ... When he made the mistake of abandoning the correct party and he joined the wrong party, he –

Hon. D A Feetham: *No me lo perdona.* That is behind the answers! That is the *real* reason behind the answers!

Hon. Sir J J Bossano: He made that mistake. We make mistakes in life and we pay for them, and there you are. (*Laughter*) When he made that mistake he never actually succeeded, if he thinks as he does now, in influencing them.

Nobody deprives people with a disability from being included in all the training programmes. If somebody tomorrow comes with a disability and says 'I would like to train as a carpenter', he is not deprived from being a carpenter and training as a carpenter. There is no category, as if they were a separate class of citizen, that says there is training for people who have disabilities and there is training for people who are without disabilities. That is not the case. If that is what he is proposing, then I question whether that is desirable.

So, all the training that is available to people in Gibraltar is available to people in Gibraltar irrespective of whether they have disabilities or they have not. I have already told him that in my original answer because I have said if somebody comes along and says 'I want to be a carpenter', if it is obvious that he has a particular disability or if he volunteers information about the disability and we think that the things he has to do in training as a carpenter – which he may not be fully aware of – would put him in danger, then we would say, 'Well, look, maybe you should not be training to be a carpenter, maybe you would do better if you were training to be a painter.' Or, for example, if he wanted to be a welder; a welder is a more risky business.

I have told him already that it is not that people with disability are denied opportunities that are available to other people; it is that we have a duty of care for the trainees, as we have a duty of care for employees, and in any event the trainees are employees. Unlike what used to happen before, they are not people with an allowance; they are people with a contract of employment. When we take them into a contract of employment, we do not want to put people in a dangerous situation. I do not see what it is that he finds offensive about that when he says no reasonable politician would do it. I would hope reasonable politicians would be concerned about the welfare of their employees.

Hon. D A Feetham: Mr Speaker, this really is the last one, and I am very grateful for your indulgence because I think that the answer the hon. Gentleman has given ... Really, therein lies where I think that the hon. Gentleman is not appreciating where I am coming from nor the significance of it.

Does he not agree with me that you cannot treat disabled people the same way as an able-bodied person in terms of the training opportunities, because there are many disabled people with disabilities that would not allow them to do those training schemes that he has very ably put in place in relation to others? That is what I am asking. I am asking the Government to please focus on looking at the needs of disabled people and perhaps devising training opportunities for those disabled people, because there may well be people who are disabled and cannot do those training schemes that able-bodied people will do. That is one of the main planks and reasons why I was asking this question.

Thank you, Mr Speaker.

Hon. Sir J J Bossano: Mr Speaker, I think there is not a category of disabled and not disabled. There are many different things that constitute disabilities and some of those things might be an

380 impediment to doing a course that is being run and a provision of returning, but integrating people with disabilities so that they are part of a class of youngsters who are no different is something that is already happening in schools. There is a school of thought that there should be inclusion so that you do not have a situation where you are given an apprenticeship for disabled people and that is your label. No, you do the same apprenticeship as everybody else.

385 If there was a situation where somebody came along and was interested in training and there was a training programme that we would do for him, nobody is going to deny it to him because the fundamental issue with problems that we have with running training programmes is that all the training programmes nowadays that mirror what is happening in the UK are predominantly employer based. We actually go further than they go in the UK. In the UK, employers pay a levy.
390 We say to somebody, 'If you will take on the trainee, I give him to you free – you only have to commit to giving him a job when he is trained.'

I have no knowledge of somebody being given unequal treatment because the people who interview and select candidates have turned them down because they have a disability. I would be very surprised if it happened, because I think in all walks of life in Gibraltar our people tend to be conscious of the need to be receptive to the needs of people with disability. It happens at work. If there are people who have got a problem with keeping up with the rest, Gibraltar is not a place where other people do not care; they care enough to make sure that they help him to be up with the rest. That is my experience of how people behave.

Certainly if he is got some suggestions that he wants to put to me or some training
400 programmes that he thinks could be suitable for some people he knows exist and currently are being, as it were, shut out of the market, I am happy to look at it.

Q98-99/2020

NVQ Levels 1 to 4 –

Numbers qualified by trade and year

Clerk: Question 98, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, in relation to the previous question as to how many people
405 have qualified ... This must be because there is a previous question that has not been added here and that has been allocated to a different Minister, but in relation the previous question as to how many people have qualified for ... No, because it is Question 99 first and then Question 98, Mr Speaker. Shall I ask Question 99 first?

410 **Mr Speaker:** It would help, yes.

Hon. D A Feetham: It would help, wouldn't it?

Mr Speaker: It would help the listener.

415 **Hon D A Feetham:** Since 1st January 2016, how many people have qualified for NVQ Levels 1, 2, 3 and 4, setting out the trade in which those qualifications were obtained broken down by NVQ level?

In relation to the previous question as to how many people have qualified for NVQ Levels 1,
420 2, 3 and 4 since 1st January 2016, please also break those figures up by individual year from 2016 to 2019.

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

425 **Minister for Economic Development, Enterprise, Telecommunications and the GSB (Hon. Sir J J Bossano):** Mr Speaker, I fear the Clerk failed to give me the opportunity to say that I would answer Question 99 with Question 98 – so now I am answering Question 99 with Question 98.

The number of qualifications attained by apprentices since 2016 has been as follows – and I am giving him the year and then the rest, so it covers both questions.

430 For 2016: Carpentry Level 3, one – that is one individual; Bricklaying Level 2, one; Plastering Level 2, one; Welding Level 2, two; Electrical Level 2, six; Mechanical Level 2, four.

For 2017: Tiling Level 2, one; Multi-skilled Level 1, 23; Mechanical Level 3, four.

For 2018: Multi-skilled Level 1, 21; Welding Level 2, one; Mechanical Level 2, three; Electrical Level 3, five; Mechanical Level 3, four; Internal Assessor Level 3, one.

435 For 2019: Multi-skilled Level 1, 34; Multi-skilled Level 2, nine; Plumbing Level 2, eight; Welding Level 2, three; Electrical Level 2, six; Mechanical Level 2, two; Electrical Level 3, five; Mechanical Level 3, nine.

There were no Level 4.

440 **Hon D A Feetham:** Mr Speaker, is there a reason why there are no Level 4s from 2016 to 2019?

Hon. Sir J J Bossano: Yes, Mr Speaker, because there has never been Level 4 in the history of Gibraltar – because Level 4 is degree Level.

445 **Hon D A Feetham:** Is the Hon. Minister saying that there is no demand for Level 4 because it is too high in terms of the ...? Is it available, that NVQ Level 4, and there is no demand for people to do Level 4?

450 **Hon. Sir J J Bossano:** To my knowledge Level 4 has never been provided for and I do not know whether the instructors that have been in Gibdock and in the Construction Training Centre would need, themselves, to do some more studying and get some more qualifications, because the comparison that is done in the UK between the NVQs and the GCSEs, O-levels and A-levels is that Level 4 is the equivalent of a basic degree.

455 I do not think there is a demand. I do not think anybody would get a job with a Level 4 that they would not get with a Level 3. A Level 3 in the construction industry already involves supervision of workforce as part of the level that is reached, and Level 2 is the craft grade, so people come out with craft ... We are doing craft training. We are producing tradesmen. They are Level 2 in the construction industry and they are Level 3 in the electromechanical sector. The difference is that it is Levels 1 and 2 in construction and Levels 2 and 3 ... There is no Level 1 in electro-mechanical, it is 2 and 3. We have never done 4 in Gibraltar's history. I do not know whether the people would be required to do additional training to do Level 4. If there were one or two people it would be an expensive business, probably. If they wanted to do Level 4 it would be cheaper to send them to do it somewhere in the UK, but it is not something that I consider
460 the local construction industry requiring – a Level 4 in carpentry, for example – because people who are above the general foreman, which is the Level 3, would probably be people who got a degree in construction in the construction sector, that we send normally to study in the United Kingdom, people who would be doing quantity surveying, that kind of level. It is supposed to be the equivalent of that.

470 I do not know whether a Level 4 would exist in painting or in carpentry, but I can tell him that it has never been done and it has never been on offer.

Hon. D A Feetham: in terms of demand, and I know that the majority of the demand is obviously at Levels 1 and 2, but does he have figures for the demand for Level 3? In other words,
475 people who have sought to do Level 3 and have been rejected and not been allowed to do

Level 3. They have got to Level 2 and they have tried to get to do Level 3 but have not been allowed to do Level 3. Are those statistics that the Hon. Minister has available to him?

480 **Hon. Sir J J Bossano:** Well, no. I know of nobody who has wanted to do Level 3 and has not been allowed, because otherwise there would not be any Level 3s.

Is he suggesting, Mr Speaker, that there is somehow a filter that decides which individual is permitted to go to Level 3 and which individual is not? I have given him all the people who have done Level 3 in this answer and I have been doing that since 2012. There were people before that who went to Level 3. They do not *need* to go to Level 3; there are people who may *want* to go to Level 3. The Level 3 is much more demanding than the Level 2, not because it requires better manual skills but because it requires different kinds of skills in addition to the manual skills. So the Level 3 in a craft trade in the construction industry would be somebody who would be a site foreman, who would be responsible for overseeing carpenters and plumbers. Some people may want to do that. Nobody prevents them from doing it if they request it, but we do not assume that everybody who is coming out of the Training Centre will be a foreman, because otherwise there would be nobody to supervise. Clearly there are going to be less openings for foremen than for people in the trade.

495 It may give somebody an advantage to have a Level 3, but I do not think it is an advantage that would immediately result in a better job, because, in my experience, in most construction firms people get promoted to charge hand or foreman from within the ranks of the craft people who are working there already. Therefore, I think if somebody went into a construction company with a Level 3 as a carpenter, it might give him a better chance of being selected as a foreman several years down the road but he is unlikely to come in and be put as a foreman when he is in his early 20s, when there will be people who will have much more experience in terms of having been in the industry.

500 When people come out of training they are qualified and they have to be paid the craft rate for the job, but everybody knows, in this field as in many others, that ... I suppose when you arrive as a lawyer you do not expect to be treated as if you know as much as somebody who has been practising for 10 years. When you come out as a carpenter, you probably are not as effective a carpenter as a carpenter who has been working for 10 years; so, even if you come out with a Level 3 as a foreman it is likely to be something that could give you an advantage sometime in the future but not immediately. Therefore, in effect it means that the people who say they want to do the Level 3 probably have that 'looking into the future' approach, because the immediate effect will not be that they will actually be any more with a Level 3 than they would with a Level 2. Therefore, most people when they come out do not say 'I want to stay on.'

510 If he knows anybody who he says has wanted to do Level 3 and has been turned down, I would be happy to look into it if he gives me the details.

515 **Hon. D A Feetham:** Yes, in fact I had two people last year who came to my surgeries to tell me that they had received substantial impediments to doing Level 3. That was last year. I will attempt to get in contact with them and then put them in contact with the Hon. Minister.

So, essentially I gather from that answer that what he is telling me is that the Government will not put any kind of impediment on any individual who wants to go from Level 2 to Level 3? That is one question.

520 And then the second question, so that I can just sit down and not ask any further on this, is: why is it that, since 2016, there have been no carpenters, for example, that have gone into the Construction Training Centre, or people who wish to do carpentry?

525 **Hon. Sir J J Bossano:** As regards the first question, Mr Speaker, I have not said that there will be no impediment. I do not know whether there may be an impediment that has nothing to do with not wanting to provide Level 3. You could have a situation where there are other reasons

why the people in the Training Centre may be ... from the experience of having a particular individual there previously until Level 2.

The hon. Member must understand that there are many occasions when we give people lots of chances to come back when they drop out and when they fail to keep attendance, because we want them to succeed. I am sure that it was like that before, because it is an initiative of the people who run the training centres, who want the trainees to come out with qualifications. It is no credit to them if people come out without qualifications. They have got an interest in making sure that people succeed and therefore they bend over backwards to accommodate people.

It may well be; I am not saying that it is but I am saying that I have not said that there is nothing that can impede it. There is no policy that says there is a limit on how many people can do Level 3. Nobody has told the Training Centre 'If there are two people who want to do it, you can only do it for one.' That is not the case. There may be something that I do not know about and he may not know about which explains why somebody has been turned down, if they have been turned down. I am not aware of it.

As regards the carpenters, what we are doing now is concentrating, and have been for some time, on multi-trade teaching. The construction industry consists of two sectors. One sector is the new-build; the other sector is the maintenance. In the new-build, the numbers fluctuate between 1,500 and 500. So, at any one time a thousand people get sacked because the construction industry slows down and a thousand people will get taken on. Where there is permanence of work is in maintenance of buildings. That is why we have more Gibraltarians in maintenance than we have Gibraltarians in new-build.

In new build, the industry is moving increasingly towards prefabrication. This is considered to be the modern method of construction, which the UK is adopting and investing something like £3 billion or £4 billion to move in that direction, which means that in effect there are no carpenters that make doors anymore. The doors come from a factory and people just use screwdrivers and put the screws in the frame. So you can spend money teaching a carpenter to make a door but nobody will employ him to make a door. Therefore, in the construction industry, the important thing is that they can repair doors but not that they can repair doors only. When we do maintenance of houses in the housing estates we do not want to have to say to a guy, 'You go in and take off the tiles from the walls and then go away' – somebody comes in and takes the cement and the plaster and re-plasters, because he is a plasterer, and then somebody else comes and puts in the tiling because he is a tiler.'

So we are producing multi-skilled crafts that are able to do maintenance jobs, and the maintenance jobs are going to be there in increasing numbers and for life because the more buildings we have the more maintenance workers we need. That is the assessment and the analysis that we have done of where the industry is and where permanent jobs can be found, and therefore why it is in our interest to ... A person who has been trained to have several skills is a more valuable employee than one who can only do one thing, because the valuable person with one thing is if there is enough work to keep him fully occupied doing that and nothing else for 38 hours a week. That is not the kind of industry that we are in.

Already we have got a situation where every time a block of flats goes up there are different subcontractors who come in with a specialist workforce who do one thing only. There are people who only put on doors and people who only put in bathrooms and people who only put in windows. If a guy is not a carpenter in the full sense of the skills of the trade, but a door hanger, then he gets paid so much per door. That is how the industry works. It used to be like that for many years with bricklayers, where people did not get paid by the hour but were paid by the number of bricks they put. Brickies in the United Kingdom used to earn £800 a week putting bricks, and they worked like machines. Well, we did not used to have that in Gibraltar. We used to have all-rounders. We called them masons, but they did everything – plastering, bricklaying, tiling – and that is what I am convinced is the best thing in giving security of employment to the people we are training in Gibraltar, and that is where the industry is going.

I am sorry if I have been too long. *(Laughter)*

**Standing Order 7(1) suspended
to proceed with Government Statement**

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

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

Mr Speaker: Those in favour? (**Members:** Aye.) Those against? Carried.

**Rise in Import Duty on cigarettes –
Statement by the Chief Minister**

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Chief Minister (Hon. F R Picardo): Mr Speaker, in support of this Government's continuing efforts to discourage smoking generally among our community, hon. Members will have noted that Import Duty on cigarettes has been raised by a total of 153% of the level of duty when I took office. Most recently, duty was raised by £1 in the Budget of 2018, from £13 to £14 per carton. It was further raised by 50p, from £14 to £14.50, in the Budget session of the House for this financial year. Today, the duty will increase again.

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Mr Speaker, as part of my Government's continuing efforts to curb the health problems arising from smoking, as well as our commitment to tackle all illicit tobacco activity, and after close consultation with the Collector of Customs, the following further increase of Import Duty has been introduced as from midnight last night.

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Import Duty per carton of 200 cigarettes will be increased, from £14.50 per carton, by 50p, to £15 per carton. This will now amount to an increase of 159% on the level of duty since the time I took office.

Today's edition of the Gibraltar Gazette, which will issue shortly, will reflect this increase.

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Mr Speaker: Does the Leader of the Opposition wish to make a statement?

Hon. K Azopardi: Well, I was just going to ask the Chief Minister for some clarification, if I may, on the Statement.

605

We note the Statement, clearly. Is there any thinking behind the Statement that affects the timing of it? For example, why not have made that increase at Budget time? Or why not wait until the next Budget to make the Statement? I would be grateful to understand a bit more what is behind that, whether it is domestic thinking or whether it is thinking beyond these shores. Again, if the Chief Minister were to indicate it was the latter, he would not need to indicate to me the detail and we can perhaps have a private discussion about it, but we would welcome a bit more as to the motivation behind it, because it strikes us that it is, in some ways, odd to see a measure like this at this moment, in January, when normally the Chief Minister would have made those announcements at Budget time.

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Hon. Chief Minister: Mr Speaker, there is absolutely nothing from beyond our shores in respect of the thinking that goes into duty in Gibraltar; it is more about what happens *on* our shores that might motivate us to increase duty – if he can understand what I mean by that.

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Mr Speaker, this is not unusual. I have raised duty not at Budget time on a number of occasions since I have been Chief Minister. I have done it in November, I have done it in December and I have done it now in January.

620

This is about market forces and it is about price and where price is in the context of prices in other jurisdictions, which is what determines what the price here is and where successive Chief

Ministers have advised that the Collector believes there is market share to be had for the taxpayer, for the exchequer, rather than leaving it on the table, so to speak, for those who are in these businesses to take as profit.

625 That is the thinking behind this. It has absolutely nothing to do with anything else. Indeed, he has a question on the Order Paper about retail prices and Gazettes. This is completely divorced from that. This is duty, Mr Speaker, and in the time since I have been Chief Minister I have achieved a growth of 159% of the price that was there when I arrived into the role by taking the opportunities when I am advised to take them to raise the duty because the market opportunity
630 is there. There may be an opportunity to raise Tobacco Duty again before the next Budget or at the next Budget, or not at the next Budget. These are issues on which I take advice from the Collector.

We want to ensure that the price of tobacco is not as keen as it used to be. That is why we have made these increases. There are issues about not allowing illicit activity to become
635 attractive and therefore see more of it, and there are principally also issues of health and wanting to ensure that we put more on the cost of the carton so it is less attractive, in particular to young people.

Standing Order 7(1) suspended to proceed with questions

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

640 **Chief Minister (Mr F R Picardo):** Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with questions.

Mr Speaker: Those in favour? (**Members:** Aye.) Those against? Carried.

CHIEF MINISTER

Q100-01/2020

**Civil Service sick leave –
Rate by Department; mental health issues**

645 **Clerk:** We continue now with answers to Oral Questions. We commence with Question 100, and the questioner is the Hon. E J Phillips

Hon. E J Phillips: Mr Speaker, can the Government state the Civil Service sick leave rate for 2018 and 2019 by reference to each Department, including Authorities?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer this question together with Question 101.

655 **Clerk:** Question 101, the Hon. E J Phillips.

Hon. E J Phillips: Can the Government state the Civil Service sick leave rate for 2018 and 2019 and confirm what percentage of the rate relates to mental health issues?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the information requested is too voluminous to obtain in the timeframe available.

665 **Hon. E J Phillips:** Mr Speaker, can the Government commit to answering this question at the next session of the House?

Hon. Chief Minister: Mr Speaker, I cannot commit to that, but I do think that the information being requested is relevant, and what I can commit to is to ask that the information be compiled
670 from now on.

Therefore, if this information is maintained in each Department and then centrally provided in a way that enables us to answer this question, it would be possible for all Members of this House, upon the hon. Gentlemen asking us, to have this information. Indeed, I am almost minded to ask the Chief Secretary to put this information out with the data that we provide –
675 which relates, as he knows, to the questions we used to ask – so that it is available for analysis, both in respect of sick leave generally and in respect of mental health issues relating to certificates which may be granted for sick leave.

I cannot commit to going back to compiling the data, because that, I am told, is very difficult, but I see no reason why it cannot be kept henceforth and that therefore we should then see the
680 body of data build up in a way that enables us each to do the analysis that we consider appropriate.

Hon. E J Phillips: Would the Chief Minister also give thought to preparing it on a quarterly basis? I understand from other countries ... For example, Ireland has a rate of 4.6% and the
685 United Kingdom has 6.9% in relation to the Civil Service more generally. What they do in the United Kingdom, I think, is quantify what impact that has on the health budget. In the UK I think the total loss of hours amounts to about £12 million a year in relation to mental health issues, for example.

Although he cannot commit to going back, there may be a possibility of looking at the last
690 quarter perhaps to shorten the period – I have asked for two years, but insofar as trying to accommodate that, maybe looking at the last quarter moving forward.

Hon. Chief Minister: Mr Speaker, we are still dealing with Brexit. The Civil Service is busy supporting the Government on these issues. I will do him a deal, if he will accept it: starting this
695 month, by the end of March we will have a quarter, and if we put this information out there in a way that does not even require him to ask it – literally put it on the website – we will then be able to do calculations on a quarterly, half-yearly and yearly basis.

This is not information that the Government thinks is not pertinent; I think it is pertinent. It is not possible to provide it in the time frame available for a House. Going back to compile it is
700 going to be difficult. Let's start the process of at least getting it organised in a way which enables us to have the information going forward, because I think we are more interested in what is happening today than we might be in what was happening 24 months ago, although I do accept that he is trying to see whether there is a trend – I am interested to see it also. But let's get it going and then let's see what we see.

Q102-103/2020

**Chief Minister's New Year message –
Dealing with abuses; strengthening public finances**

705 **Clerk:** Question 102, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise what steps it intends to take 'ensuring that abuses by some are properly dealt with', as stated by the Chief Minister in his New Year's message?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Well, Mr Speaker, hon. Members can rest assured I am not dealing with abuses of the privileges of this House.

715 I will answer with Question 103.

Clerk: Question 103, the Hon. R M Clinton.

720 **Hon. R M Clinton:** Mr Speaker, can the Government advise what steps it intends to take 'to further strengthen our public finances', as stated by the Chief Minister in his New Year's message?

Clerk: Answer, the Hon. the Chief Minister.

725 **Chief Minister (Hon. F R Picardo):** Mr Speaker, yes, sir, and the hon. Gentleman will see all relevant announcements at Budget time.

730 **Hon. R M Clinton:** Mr Speaker, can he advise, in relation to Question 102, what he meant by 'abuses'? And how would he intend to properly deal with them? It is not necessarily a measure that would be relevant to the Budget, so I am just interested to hear what it is that the Chief Minister means by 'abuses'.

735 **Hon. Chief Minister:** Well, Mr Speaker, I mean many things, some of which will be relevant to Budget time, but I include there of course, for example, people who do not pay arrears. Indeed, he will know, for example, that we are very keen that people should pay arrears. People should pay their dues. There is absolutely no reason, if you owe rent, if you owe a utility, if you owe rates, if you owe service charges, if you owe PAYE or social insurance, why you should not be paying that.

740 As he will know, under the first years of the administration a Central Arrears Unit was set up to chase those arrears, to stop that abuse. They were elected and they disbanded the Central Arrears Unit – I guess because it is not popular. We were re-elected, we reinstated the Central Arrears Unit, and that is one of the ways that we are dealing with those abuses, and we are ensuring that everybody who owes money to the Government is followed up in respect of those costs. If a business pays its dues, then it is not fair that another business next door should not pay its dues; if a tenant pays his dues, it is not fair that the tenant next door should not pay his dues; and if there are good, genuine reasons why somebody cannot pay their dues, that they are helped through that process by the Government. Those are the sorts of abuses that I was thinking of. There are others, but those in particular I think we have an excellent track record of dealing with.

750 And, if I may say so, when the hon. Lady was Minister for Housing she pursued people who owed arrears of housing rent for the first time in the history of this community from the Ministry, without fear or favour that it might affect her when the time came to count the votes.

Hon. R M Clinton: Mr Speaker, I am grateful to the Chief Minister for his answer.

755 In relation to Question 103, when he talks about strengthening our public finances, I know he says it will all become apparent at Budget time, but I have heard that before and I have never had the answers I have asked for.

760 So, can he perhaps give some indication, in his mind, when he gave this message to the public in the New Year, what it is that he thinks, by that message, he meant by strengthening public finances? Is his view that strengthening is more borrowing? What is it that he means by 'strengthen'?

Hon. Chief Minister: Well, Mr Speaker, as you can imagine, I do not agree with the preface that the hon. Gentleman has spoken.

765 I have set out in my Budget speeches a lot of the answers to the questions that he has asked during the course of the year, in particular when I have told him that I am going to be able to say more at Budget time. I do of course acknowledge that he does not very often like what I have to say in Budget time, but not liking an answer does not mean that you are not getting an answer.

770 I think it is abundantly clear that if I say that we are going to deal with measures that will further strengthen the public finances, I consider that the public finances are strengthened – because 'furthering' means taking to a next step.

775 When I say I am going to deal with those issues at Budget time, that is what I am going to do. In that way, I will let the hon. Gentleman and the rest of the community have my mind, at the time that I consider it would be appropriate for them to have it, on the issues that I referred to, which he has now asked me about in the context of my New Year message.

780 **Hon. K Azopardi:** Can I just ask, on Question 102, is the action that the Government intends to take in respect of abuses, or is the intended action going to extend to abuses in respect of public service contracts? What I mean by that is in relation to contracts adjudicated by the public sector in respect of anything – for example, construction.

785 **Hon. Chief Minister:** Mr Speaker, if we felt that there had been abuse in respect of contracts we had adjudicated whilst we were in office, we would have dealt with it as we did the contracts that we felt they had adjudicated which were abusive and which we inherited, which led to us terminating those contracts and making very clear to those who held those contracts that if they wished to sue the Government we would make very clear, in the context of those claims, how we thought that those abuses had prejudiced the taxpayer.

790 We, of course, do not believe that the contracts we have adjudicated have prejudiced the taxpayer, and if we did, or indeed if a contract we had adjudicated in the belief that it did not prejudice the taxpayer led to the taxpayer being prejudiced, we would pursue that immediately.

Hon. K Azopardi: So I take it, from that, that the Chief Minister does not consider that there are any financial abuses in respect of construction contracts awarded by the Government.

795 **Hon. Chief Minister:** Mr Speaker, if the Chief Minister has brought to his attention by those who control the expense of any contract which the Government has awarded, whether in construction or otherwise ... and if what is brought to my attention is an abuse of the terms of the contract and therefore of the obligations that the contractor has to the taxpayer, I will deal with it immediately. That is not a measure for the Budget. That is a contractual issue which we would deal with immediately because the exchequer would therefore have been deprived of funds by the abuse in the contract.

800 Hon. Members love to raise issues of rumour etc., but they have never brought anything concrete to this House. If they do, of course I would expect that they would bring it to this House after having told the Government, unless they just want to grandstand on a particular issue, because if it comes to the attention of any taxpayer in Gibraltar that the taxpayer is being taken

805 for a ride and that taxpayer is keen to stop that ride, then of course they get in touch with the Government and the Government will immediately act.

But this is not about an issue of perception, this is about actual abuse; this is not about political argument, this is about actual abuse.

810 **Hon. K Azopardi:** In formulating his policy list of measures to address abuses, has the Chief Minister asked those supervising those contracts whether they have a view on whether steps should be taken to better control those contracts?

Hon. Chief Minister: I do not need to, Mr Speaker, because those who supervise those
815 contracts are daily in contact with the Chief Minister on any issue which they consider is pertinent in respect of those contracts. It is their job not to wait to be asked if there is abuse in respect of Government construction contracts, but to immediately flag up anything that may be going wrong. They flag up to the Government things that may be going wrong with a contract, which is the perfectly normal running of any contractual situation – you need to know when
820 things are going exactly on time, when they are not going on time, when things are on budget, when they are not on budget, why they are not on budget, why you may have changed specs which may have increased budget, why things may have been used on site which were not in keeping with the budget.

As he knows, because he has been a Minister, these are issues which are constantly in play in
825 the context of the delivery of Government contracts, so I do not need to ask those who are responsible for these things. They are daily in contact with me, bringing to my attention all matters relating to contracts, and if they have ever brought an issue of abuse to me then it has been dealt with immediately.

830 **Hon. K Azopardi:** Is it the function of those people who are daily in contact with him to also consider how the subcontracts are administered and the pricing of the subcontracts? Or is it only their role to oversee the principal contract?

Hon. Chief Minister: Mr Speaker, I really do not see how these questions arise from the main
835 question as supplementaries, but we can have a tutorial on contracts and subcontracts.

Of course there is only contractual privity between the Government and its contractor, not between the contractor and the subcontractors.

Hon. K Azopardi: Mr Speaker, these questions arise because I am trying to ascertain how
840 they formulated their list of abuses, and as I understand it from what the Chief Minister has said, they are only looking, therefore, to the principal contract and not the subcontracts. Is that not the case?

Hon. Chief Minister: No, Mr Speaker. What I have told him is that there was only contractual
845 privity between the Government and the contractor.

He is stabbing at what the abuses I am referring to may be and he has tried to go down one particular avenue, which is the issue of construction contracts, and we are now having a discussion about where the reach of the Government is: whether it is to the contractor or to the subcontractor. He knows, Mr Speaker, that the Government's reach is to the contractor in
850 contract because it is where privity lies.

Hon. K Azopardi: Does the Government –

Mr Speaker: With respect, I think we are deviating from the principal question and answer. I
855 will allow one further question.

Hon. K Azopardi: I am grateful, Mr Speaker.

Given that the principal question was about trying to elicit from the Government what steps it wanted to take to ensure that abuses are dealt with, does the Chief Minister not consider that in future there should be controls that extend beyond the principal contracts?

Hon. Chief Minister: Mr Speaker, there are controls that extend between the principal contractor and the Government, but they are not contractual controls.

Mr Speaker: Next question.

Q104/2020

NatWest House –

Plans to relocate further Government Offices or Departments

Clerk: Question 104, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if it intends to relocate any other Government Offices or Departments to NatWest House; and, if so, which?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, we are currently looking at various locations and assessing their suitability for these to be used as HM Government of Gibraltar offices, as well as assessing opportunities to develop new or redevelop existing office space to provide civil servants and public sector officers an improved working environment.

Hon. R M Clinton: Mr Speaker, can the Chief Minister perhaps clarify in his answer whether, in respect to those options, that includes NatWest House?

Hon. Chief Minister: And many others, Mr Speaker.

Hon. R M Clinton: Mr Speaker, in looking towards hiring additional space from the private sector, does the Government not look to see how it can maximise use of its existing office space or stock before going to the private sector?

I vaguely recall one of the GSLP-Liberal manifesto commitments to centralise Civil Service functions in certain offices, but without giving any details. How does moving Government offices piecemeal into the private sector – for example, the World Trade Center, NatWest House and Leanse Place – achieve that objective?

Hon. Chief Minister: Mr Speaker, I have given him an answer. He seems to be obsessed with NatWest House – I do not know why – and not so obsessed with Leanse Place and not so obsessed with the World Trade Center; he is only obsessed with NatWest House. But I have given him an answer that talks about assessing opportunities to develop new or redevelop existing office space of the Government. So I think the supplementary he was asking had been answered in the context of the first answer I had provided, and that could be a central location for all of the Civil Service or for parts of the Civil Service, Mr Speaker.

Hon. K Azopardi: Mr Speaker, can the Chief Minister say: are there no other public buildings that can be used to relocate staff so that the Government does not need to spend money in the private sector?

Hon. Chief Minister: Mr Speaker, that is exactly the answer I have given, if I may say so with respect: we are looking at assessing opportunities to develop new or redevelop existing Government office space.

Q105-106/2020

**GIC Ltd and Eruca Investments Ltd –
Basis for cash transfer; fees paid or payable to advisors**

905 **Clerk:** Question 105, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise on what basis will the cash be transferred from GIC Ltd to Eruca Investments Ltd?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I will answer with Question 106.

915 **Clerk:** Question 106, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government provide details of fees paid or payable to the legal and/or other advisers to GIC Ltd and Eruca Investments Ltd, other than incorporation costs, from incorporation to 31st October 2019?

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the transfer of cash between GIC Ltd and Eruca Investments Ltd is a matter for each of their independent boards to consider and determine depending on the circumstances.

925 As to fees paid to the legal and other advisers to GIC Ltd, other than for incorporation, these are set out in the schedule I am providing to the hon. Gentleman. The Government does not own or control Eruca Investments Ltd and I am therefore unable to provide the information for that company.

Answer to Question 106/2020

- i. Fees of £22,745 were paid to Hassans for legislation drafting and advice and attending meetings with opposition members;
- ii. Fees of £7,250 plus disbursements of £145 paid to PwC for financial assistance advice; and
- iii. Financial Advisers, £2,500 p.c.m.

930 **Hon. R M Clinton:** Mr Speaker, while I await the schedule for Question 106, if I can turn to Question 105 – the reason I ask this question is really quite simple. I believe the Chief Minister indicated – and I am happy to be corrected by him – that the purchase of the Government’s 50-50 interest was done at face value, which we understand was for £88.5 million, and GIC Ltd has issued preference shares to Eruca. But if the Government’s 50-50 affordable housing was transferred at book value, I assume the cashflows will then reflect that book value. I am at a loss
935 to see how GIC Ltd would then make a profit on those repurchases of the 50-50 interests and therefore how GIC would be in a position to, for example, pay dividends out of profits if it has no profits. So I was wondering if the Chief Minister could shed any light on that, other than a stock answer ‘I am not responsible for it’?

Hon. Chief Minister: Well, Mr Speaker, I am only answerable in this House for the things that I am responsible for. That is the reality.

The hon. Gentleman had a full briefing, from those advising on the establishment of this structure and the Financial Secretary, in my office. I think they explained all of these things to him.

The question he is now asking in supplementary is not the question that was put. The question that was put really can only be answered in the way that I have answered it because it is a question about on what basis cash will be transferred from one company to another. On that simple issue the answer can only be that it is really down to the board of those two companies when the transfer of cash is to be considered. But he is asking now a question about structure and profit. That is a different question to the question that was asked, which is a simple question about transfer of cash.

Hon. R M Clinton: Mr Speaker, I have just had the schedule in answer to Question 106. Can he can advise if, under item iii, 'Financial Advisers, £2,500', it is in relation to James Stocks & Co? In that briefing we were advised that James Stocks & Co is involved. I do not see any payments of fees listed here in answer to Question 106.

Hon. Chief Minister: Mr Speaker, I do not think he asked for who the fees were payable for, he asked for fees paid, but he has been given, in i. and ii., who has been paid the fees, so I do not know, in respect of iii., whether it is James Stocks & Co or whether it is an entity called Financial Advisers.

If he wishes to have that information, he may wish to write to me. In the information I have been given ... He knows James Stocks were involved, as he said, but I do not know whether they are the financial adviser retained on that monthly stipend.

Hon. R M Clinton: Can he perhaps advise, Mr Speaker, how long that monthly stipend is due to go out for?

Hon. Chief Minister: Well, Mr Speaker, I would have thought whilst the structure is in place, but that is an assumption on my part and therefore *Hansard* should reflect that I am not giving that as an answer that can be relied upon, because he has not asked us that in the context of the question.

In fact, if I may say so, Mr Speaker, the question is very specific as to timing. It is a question that asks about fees paid to 31st October 2019; it is not about prospective fees. But in being open in the answer given, the £2,500 has been indicated to be per calendar month, which has led to the supplementary, but it is not information that I have with me for that reason.

Q107-108/2020

Budget re new schools and sporting facilities – Preparation and authorisation; original versus actual expenditure

Clerk: Question 107, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise who prepared and who authorised the budget for the new schools and sporting facilities whose expenditure was channelled through Government or GDC-owned corporate vehicles?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (F R Picardo): Mr Speaker, I will answer with Question 108.

Clerk: Question 108, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise the original budget versus actual expenditure for the following schools and sports facilities channelled through Government or GDC-owned corporate vehicles, namely: St Anne's, Notre Dame, Westside/Bayside Comprehensives, Lathbury Sports and Swimming Complex, University accommodation block and the rifle shooting range?

Clerk: Answer, the Hon. the Chief Minister

Hon. Chief Minister: Mr Speaker, the original construction and fitting out budgets approved by the Government and the relevant boards of the companies involved in the development of these magnificent facilities, and the actual construction and fitting out expenditure to date for the various projects listed, are as follows.

St Anne's School original budget, construction and fitting out, £12,838,800; actual expenditure on construction and fitting out costs, £12,603,716. Notre Dame School, £8,493,000 versus £9,116,862. Westside and Bayside Comprehensives, £58,208,375 versus £65,903,678. Lathbury Sports and Swimming Complex, £24,297,891 versus £25,497,528. Rifle shooting range, £10,625,000 versus £8,792,312. University accommodation block, £8,371,893 versus £8,830,463.

Hon. R M Clinton: Mr Speaker, I am grateful to the Chief Minister for his answer, but if he can clarify who prepared the budget in respect of these facilities – and when he says 'approved by the Government', was that the Government sitting in Cabinet or was that him as Finance Minister?

Hon. Chief Minister: Mr Speaker, when I sit in Cabinet, I sit as Finance Minister, and this is a collective decision of the Government with collective responsibility in Cabinet. The budgets are prepared in the context of seeking the tenders usually, in fact in most cases, by the Chief Technical Officer, who then prepares the tender, and then the tender price is the one that I have given him.

Hon. R M Clinton: Mr Speaker, in terms of monitoring actual versus budget – and certainly in terms of the comprehensives there seems to be a significant overspend – who is responsible for monitoring actual expenditure versus budget? Is it the Cabinet or is it the Chief Minister himself, personally?

Hon. Chief Minister: There is not a significant overspend, Mr Speaker.

A significant overspend is when you say you are going to build an airport for £24 million (*Laughter*) and it costs £84 million. I am not going to talk about the courts. Let's just talk about things which people no longer here are responsible for. (*Interjection*) Let's talk about things which are the responsibility of those no longer here.

Indeed, the cost of the Airport may ascend to £100 million when the full account comes in, so if you say something is going to cost £24 million and it costs £100 million, that is a significant overspend.

The Hon. Mr Azopardi, when he was helping me to win the 2011 General Election, going round the estates, will recall ... And I have the *Chronicle* where the former Chief Minister had said it was going to cost £24 million and he and I used to have a go at him because it then went on to cost, we then thought, £84 million.

That is a significant overspend; there is not a significant overspend here, Mr Speaker.

1035 He has asked about original budget versus actual expenditure and he has asked who
monitors these things. Well, these things are monitored by the relevant Department, so in this
context, Education, the relevant Minister – in this context the then Minister for Education; the
Chief Technical Officer of the Government of Gibraltar; the Financial Secretary of the
Government of Gibraltar; the Minister for Public Finance – that is the Chief Minister, at least
1040 whilst we are in office; and the whole of the Cabinet.

What there is is additional works done, which during the course of the build have been
brought to our attention and we have decided to pursue; or indeed, principally in the context of
Bayside and Westside, it is not the build, it is the fitting out. In other words, we have decided,
having considered these issues and requests coming through from the Department, to provide
1045 better or improved fitting out for the schools when the requests have come through. That is
what is reflected here – not an overspend but a further investment in the education of our
children.

Hon. Gentlemen love to go to these openings and say that everything is magnificent and
shake people's hands and say how lovely it is, and then they like to come here and pretend to
1050 whip us for making these investments and say that we spent too much.

I come fresh from the opening of the magnificent new Clubhouse facilities. Clubhouse do an
excellent job. We have invested money in them being able to do an excellent job. Hon. Members
clap and cheer at Clubhouse, at the excellent job that they do, and marvel at their new
facilities – and then come here and criticise the fact that we spend money.

1055 This is not an overspend, Mr Speaker – this is the right investment for the future of this
community, an investment in our children. (*Banging on desks*)

Hon. R M Clinton: But, Mr Speaker, given that he is openly admitting to spending well over
£100 million, would it not be appropriate that this should be reflected in the Budget book,
1060 because if he is making decisions about what should and should not be expended and
Parliament has not voted on it, what authority does he have to spend hundreds of millions of
pounds?

Hon. Chief Minister: Mr Speaker, I hope he does not get up and walk out this time when I
1065 remind him that he is completely wrong about what he is saying, because he says that
Government does not vote this expenditure.

The companies through which the expenditure flows have, in some instances, their own
income and they have income derived from the Government. They get that income from a
contribution that this House votes since we are in office. In other words, since we are in office,
1070 this House votes a contribution to the companies, so there is no question of the House not
controlling expenditure.

But the hon. Gentleman gets up as if he has just got the opportunity to suggest that he has
caught the Chief Minister – 'admitting' was the word that he used – openly admitting that I
spent £100 million. Did he miss the fact that I spent most of the last General Election campaign
1075 boasting that we had spent this £100 million and more, boasting that we were making these
investments in the future of our community? Indeed, one minute they are accusing us of trying
to make the most of the spending during the course of a General Election campaign, and then
they come here to suggest that we have been hiding the spending and they have just caught us
and we have 'admitted' that we have spent this amount of money.

1080 No, Mr Speaker, we are not admitting this; we are proudly *boasting* of the investment we
have made in our community. We are happy to have done so through the company structure,
which we think is the most agile way of making this sort of investment – because they taught us
how to do it, because they introduced capital spending through companies. And when we do
these things, not only do we invest more when it is right that we should do so – in Hillside, in
1085 other new facilities like the new primary care facility, the paediatric care facility, in the new

schools, in the new sporting facilities – when we do so, we ensure that we do so on budget, or, if it goes above the budget, that it is for a good reason, as I have indicated.

The hon. Gentleman has not wanted to alight on the ones where we spent less than the original budget. But what we do not do is pile £10 million into a hole in the ground, like they did on the Theatre Royal.

Hon. R M Clinton: Mr Speaker, perhaps the Chief Minister would care to consider in the forthcoming Budget session to provide a detailed analysis of where that £25 million goes to the corporate vehicles, because I would be willing to bet it certainly did not go to building the schools.

Hon. Chief Minister: Mr Speaker, I am not a betting man, I do not do bets, I am not here to risk things for the community, but he has made a suggestion and I will take it under advisement. I will ask those in the Treasury whether they think it is a good idea or not. His ideas tend not to be good ideas, but he has made a proposal and of course I will consider it.

Q109/2020
Brexit bailout fund –
Steps to create

Clerk: Question 109, the Hon. R M Clinton.

Hon. R M Clinton: Mr Speaker, can the Government advise if it has taken any steps in creating a bailout fund as suggested by the Gibraltar Chamber of Commerce in its 2019 election wish list?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, not yet.

Hon. R M Clinton: So, Mr Speaker, can we adduce anything by the Chief Minister's response – that it is something that the Government might consider favourably; or is it that the jury is still out on the concept?

Hon. Chief Minister: Mr Speaker, it is less than a hundred days since we fought the General Election. We were not coy in the way that we approached the election. The Chamber of Commerce sent us a letter, which they published – indeed, a wish list which they published. We sent them a reply, which we published, and our reply says, in the context of the request that they made for a Brexit fund, 'We will consider with you how to provide some safety net for businesses that might find themselves in difficulty arising from Brexit without putting taxpayers' money at risk.'

There has not yet been a hard Brexit, and in the context of a transitional period there is no suggestion that there is any company in Gibraltar facing an eventuality which might engage in the context of the issue that the Chamber raised with us.

Q110/2020

**Agency workers in public service –
Numbers since May 2019**

1125 **Clerk:** Question 110, the Hon. D A Feetham.

Hon. D A Feetham: Mr Speaker, how many agency workers were placed or employed within the public service, including the Civil Service and Government-owned companies, as at the end of every month since May 2019?

1130

Clerk: Answer, the Hon. the Chief Minister

Chief Minister (Hon. F R Picardo): Ah, the old adversary.

1135 Mr Speaker, no agency workers were placed or employed in the Civil Service or the public sector as at the end of every month since May 2019, other than as set out in the schedule I am now handing him in respect of the GHA, which is the only area where they might find them.

Answer to Question 110/2020

	Medical	AHPs	Ambulance	Nursing	Admin	Industrial
31st May 2019	4	0	0		3	8
30th June 2019	4	0	0		3	8
31st July 2019	6	0	0		3	8
31st August 2019	5	0	0		2	0
30th September 2019	4	0	0		2	0
31st October 2019	6	0	0		2	0
30th November 2019	5	0	0		2	4
31st December 2019	5	1	0		2	5

NURSING INFO

As at	No. of Nursing Agency Workers employed
31st May 2019	14
30th June 2019	19
31st July 2019	23
31st August 2019	31
30th September 2019	28
31st October 2019	25
30th November 2019	36
31st December 2019	25

This includes all agency nurses from Meddoc, Grand Home Care and We Care.

Q111/2020

**Minimum retail prices for tobacco –
Relationship to MoU with Spain**

Clerk: Question 111, the Hon. K Azopardi.

1140 **Hon. K Azopardi:** Mr Speaker, are the minimum retail prices for tobacco introduced under the Tobacco (Minimum Retail Price) Notice 1/2020 on 9th January 2020 related in any way to the MoU agreed with Spain on tobacco?

Clerk: Answer, the Hon. the Chief Minister.

1145 **Chief Minister (Hon. F R Picardo):** Ah, Mr Speaker, the current adversary.
Mr Speaker, yes Sir, I refer the Hon. the Leader of the Opposition to Press Release 230/2019.

1150 **Hon. K Azopardi:** Mr Speaker, the MoU envisaged a particular plan – if I can put it that way – by I think it was the end of June 2020. Does the Chief Minister anticipate more of these price changes being introduced?

1155 **Hon. Chief Minister:** Well, Mr Speaker, the MoUs are not yet in effect, but if he looks at the press release that I referred him to, I said that in relation to the tobacco MoU the Government of Gibraltar was voluntarily and unilaterally taking steps from that moment, even though the MoUs were not going to kick into effect unless there was a Withdrawal Agreement etc.

1160 I am surprised he has had to ask me about it, because he has asked me about something which is public information. He was already Leader of the Opposition when this happened, and there was a debate in this House as to those issues. What I said then was that we were going to start the process of giving effect to these price increases for the reason I set out in the context of that press release – and he will have seen the Gazette notices that emerged since then.

1165 He has referred to Notice 1/2020 which was issued on 9th January, but there is Legal Notice 66/2019, Legal Notice 127/2019 and Legal Notice 190/2019. This is the fourth of the legal notices in the Gazette giving effect to the position set out in the tobacco MoU, so there are two left to get to the stage that was envisaged in the MoU, and all of those things were said, so I am surprised that he has had to ask me about these things, because he was already Leader of the Opposition when these things were said publicly and I would have thought he was following the debate.

1170 He has said that our MoUs create great deficiencies. He does not seem to be following what we are saying about the MoUs.

Hon. K Azopardi: Mr Speaker, the hon. Member can rest assured I am following avidly what he says, although he ducks and dives around issues on a constant basis and sometimes it is difficult to follow precisely where he is going.

1175 The legal notice that was issued was not accompanied by a press release, so the question was intended to draw clarification and confirmation, which the Chief Minister has gladly given.

I have a question on the Order Paper on the meetings being held, but is the issue of tobacco on future meetings for discussion with Spain?

1180 **Hon. Chief Minister:** Mr Speaker, I am surprised he says that he follows what I say avidly, because he has asked a question which has its answer in something that I have already said which I referred him to.

I can imagine he is a little embarrassed and therefore has tried to suggest that it is all my fault that he has not been able to piece together what it was that was happening with this notice, but

if he looks at the press release that I referred him to, it says that we have today issued a legal notice to implement minimum prices for retail of cigarettes.

1185

Mr Speaker, the debate we had here was on a piece of legislation which was required to allow the Government to do this. We could not impose a retail price on cigarettes in Gibraltar without a change in the law. We brought a law to the House, we had a debate about that law and we said we are going to start implementing retail prices from now on, as provided for in the tobacco MoU.

1190

Our press release says:

These measures are reflected in the Memorandum of Understanding on Tobacco entered into in respect of the Withdrawal Agreement.

So, Mr Speaker, how is it that he says that he needs to ask me to clarify something which has been said explicitly in the context of a debate in this House when he was already leader of the party – although he was not, of course, Leader of the Opposition – and which has a consequence, which is the legal notices that I have set out already culminating in the current legal notice with more to come?

1195

I really do think it is ungenerous of him to say it is all my fault and that that is why he has had to ask the question.

Will tobacco be spoken about in the context of future meetings with Spain? Well, look, this is an issue of diplomacy. Most states neighbouring each other talk about the prices in consumables like tobacco, petrol and alcohol, because if it is too low in one and too high in the other there is an arbitrage, and they tend to discuss these things.

1200

Will this issue be raised with us in respect of the future negotiation? Well, the future negotiation has not begun and so I am not going to suggest to those who might be on the other side of the table what it is that they should load the agenda with on their side.

1205

I can tell him that the tobacco MoU is a freestanding MoU that sets out what the Government of Gibraltar will do, and the Government of Gibraltar is doing it and it is doing it unilaterally. If he looks at the tobacco MoU, he will see that is the way it is framed.

Hon. K Azopardi: Mr Speaker, the Chief Minister should not feign so much innocence – and not be as dismissive in this House – that you are going to have a nice, cosy, fireside chat with Spain on tobacco because it is simply a discussion between neighbouring territories about price differentials and so on. We all know what Spain is saying about tobacco. It is not a cosy fireside chat to reinvent or modernise fairy tales between our respective countries.

1210

Does the Chief Minister consider that the MoU on tobacco therefore closed the issue – insofar as Gibraltar is concerned on the issue of tobacco?

1215

Hon. Chief Minister: Mr Speaker, I do not know whether the hon. Gentleman is trying to mock the excellent work done by the hon. Lady on *Fireside Chats* the other day, for which I also congratulate her.

1220

We are about to go into negotiation about our future relationship with the European Union. Our closest neighbour in the European Union is Spain. I have not feigned for one moment any innocence or dismissed any aspect of what that negotiation may be, but he is trying to draw me into one of the issues potentially in that negotiation. If he wants to do that, why doesn't he go and ask the Palacio de Santa Cruz to instruct him, if he wants to start negotiating for them?

1225

I would suggest that, given that I have told him that he is not going to be in any joint negotiating team, he allows us to do the negotiating for Gibraltar and he allows the Spanish to do the negotiating for Spain, and then he can either criticise or praise what it is that we bring back. I have no doubt that even if we bring back 'the Bible made out of marzipan', as the Spanish saying goes, he will criticise us for it.

1230

Hon. K Azopardi: Mr Speaker, the Minister for Justice can rest assured that I was not mocking her work on fairy tales. I was seeking to mock the Chief Minister. I thought it was quite a direct attempt to mock the Chief Minister.

1235 So the Chief Minister, therefore, cannot say ...? I am not asking what the Spaniards are going to do in relation to tobacco, nor am I volunteering my services. He can rest assured that despite our differences and despite the fact that he rejects our offer of participation in the joint negotiating team – that would be in the public interest of Gibraltar, but because he is arrogant enough to think that he has a monopoly on good ideas ... Despite his rejection, he can rest
1240 assured that we on this side are fully behind the Government in its attempt to secure the best deal possible and best way forward for Gibraltar, but what we will also do is criticise it if it gets it wrong.

On that issue, Mr Speaker, and precisely on the question that I am asking ... What I am asking simply is not for him to open it up on the basis of what Spain might do – what I am asking is does
1245 he consider that the issue of tobacco is now closed?

Hon. Chief Minister: Mr Speaker, if he was mocking me I do not think he made too good a job of it, although –

1250 **Hon. K Azopardi:** I will try harder.

Hon. Chief Minister: – mocking each other I suppose is part of that Punch and Judy show that we all profess we do not want to fall into the trap of making this Parliament, but never mind.

Mr Speaker, I do not think it is in the public interest for him to form part of a joint negotiating
1255 team. If I thought it was in the public interest then I would invite him to come into the negotiating team, which would then be a joint negotiating team. But he has to understand that he came 14th in the poll. It really is quite something when somebody who has been rejected by 75% of the electorate says that the negotiating team is only going to be in the best interests of the public in Gibraltar if it includes him and not if it includes the two people who came at the top
1260 of the poll, who therefore have more of the confidence of the people of Gibraltar.

But look, I really do not know why we are discussing these things. There is a negotiation to be had and we have to concentrate on doing it.

The hon. Gentleman has been charged with an important responsibility, which is leading the Opposition. I recognise that that means that they have to pick out the potential for us to have
1265 made a mistake and magnify it and then try and explain that to the public. So be it. Well, he may or may not be after the end of this month. That is why, he knows, I called him 'current', only because he has bravely put his position at the disposal of his party – if there is anyone in his party ready to take the plunge, now that there is a vacancy, to try and fill the vacancy.

These are not issues for us to be debating across the floor of this House. He knows what he is
1270 doing in baiting me to take a position on this issue. It is transparent – touché, if he likes; I know what he is doing. I am not going to fall into the trap of taking a position, one way or the other, so that then when I come back from a negotiation with an answer or another answer he can say, 'Ah, your answer demonstrates that the answer you gave me on 22nd January is a position from which you have moved' etc. – a little too long in the tooth for that on this side of the House,
1275 Mr Speaker, and I wish him all the best for 31st January.

Q112/2020

5G –

Assessment of public health risk

Clerk: Question 112, the Hon. K Azopardi.

Hon. K Azopardi: By the way, there is no vacancy. I have not resigned. *(Laughter)* I have asked the party to start the process.

1280 Mr Speaker, what steps, if any, is Government taking to assess any public health risk from the roll-out of 5G across Gibraltar?

Clerk: Answer, the Hon. the Chief Minister.

1285 **Chief Minister (Hon. F R Picardo):** I see the nuance, Mr Speaker, although others might want to create the vacancy.

A Member: [Inaudible]

1290 **Hon. Chief Minister:** Well, yes. Now he has been a Member for more than two years
Mr Speaker, the Government does not consider that there are any credible reasons to think that there may be any public health risk arising from the proposed roll-out of 5G services across Gibraltar. If there were, the Government would not consider allowing the rollout of 5G services in any part of Gibraltar.

1295 The GRA is responsible for the management of the electromagnetic spectrum in Gibraltar and this includes licensing and ensuring compliance by licensees with the recommendations issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), a non-governmental organisation which is formally recognised by the World Health Organisation (WHO).

1300 As part of the licensing process, the GRA conducts audits of new installations, as well as when licensees change equipment or operating parameters on currently licensed installations, to ensure compliance with these standards. The GRA also performs random audits throughout the year.

1305 Furthermore, the GRA is in the final stages of procuring a scalable continuous monitoring solution to monitor the electromagnetic fields in Gibraltar. The initial system will comprise of three deployable monitoring stations which will continuously monitor and publish online the current EMF levels in the approximate frequency range of 20 MHz -40 GHz. This frequency range includes the bands considered for 5G services and other mobile technologies, as well as Wi-Fi and TV and radio broadcasting.

1310 Collectively, the above lends towards ensuring that operators of 5G networks and other types of wireless networks operate these within safe parameters insofar as radiation levels are concerned, and then by adhering to acceptable levels as specified by the ICNIRP, which I will remind myself and the House means the International Commission on Non-Ionizing Radiation Protection.

1315 **Hon. K Azopardi:** Mr Speaker, is the Government therefore supportive of the roll-out of 5G technology in Gibraltar?

1320 **Hon. Chief Minister:** Mr Speaker, is he asking me as Chief Minister or as the Chairman of Gibtelecom, which is doing the roll-out? The hon. Gentleman knows that I am the Chairman of Gibtelecom, knows that Gibtelecom is doing the rollout and he knows that I am the Chief Minister and therefore, whilst there is a GSLP-Liberal Government, the Minister for Public Finance. Therefore, my position, I think, is a clear one: we are of the view that there is absolutely no reason to be concerned; otherwise we would be concerned and we would not be rolling out.

1325 **Hon. K Azopardi:** Mr Speaker, the Chief Minister I assume is aware of the concerns of some NGOs, publicly expressed, about the health risks of 5G and indeed a desire that there should be a public debate – which is going to happen; I believe there is a public debate on it tomorrow – in

respect of 5G. Is the Chief Minister aware of local concerns in relation to the public health effects of 5G?

1330

Hon. Chief Minister: Mr Speaker, not only am I aware of those NGOs' views, I have debated with them and I have given them my contrary views.

1335

There is going to be a debate, because the Government thought that these things should be debated. If people want a debate, there is no reason why people should not have a debate, but the Government considers those concerns to be absolutely groundless. They are the same concerns that we have seen on mobile telephony generally – on 2G, on 3G, on 4G, on Wi-Fi – and there is nothing to suggest that there is a good reason to consider that 5G will be any different, or indeed that there will be any sound basis for those concerns.

1340

The Government believes Gibraltar needs to be at the forefront of safe technologies that create no risk, and we believe that there is no reason to consider that 5G brings any such risk or that there is anything here which any internationally accredited body has considered should be on the agenda to prevent the roll-out of these technologies.

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These technologies are being rolled out in many cities in the world and we are very confident that there is no reason to delay Gibraltar's progress into the 5G world. Indeed, I would put it to hon. Gentlemen that if they were in our position and they had considered the evidence, they would take the same view, and that Gibraltar would be greatly handicapped in its progress as an economy if we were to take a contrary view not based on solid evidence.

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Hon. K Azopardi: Mr Speaker, the Chief Minister, in saying that he is aware of these concerns, says that he is not only aware but he has met them to give them 'my contrary view' – I think I quoted him correctly. Based on what?

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The Chief Minister is a layman, of course – unless he has turned scientific expert. There is conflicting scientific evidence out there. What is the evidence, or what advice has the Government received in respect of 5G, or has it accessed specialist public health advice on this issue?

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Hon. Chief Minister: Well, Mr Speaker, I just reminded him that I am the Chairman of Gibtelecom and Gibtelecom has experts in this field that advise the Government. I have just read him the answer from the GRA about where in the spectrum these waves will be and how they are in keeping and will be monitored to be in keeping with the position of the International Commission on Non-Ionizing Radiation Protection.

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He said that there are conflicting scientific views. Well, yes, there are some scientists who have said things about 5G which are not suggestive that there is not a problem, but those same scientists have said things about 4G, 3G, 2G, microwaves, Wi-Fi and mobile phones generally. So the question is: is there an internationally accredited body that is saying stop 5G? And the answer is no.

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When people talk about the World Health Organisation and they point to the World Health Organisation standards, it is the same standard and the same concern that is expressed literally about microwaves, the thing that all of us have in our kitchens, where we put our baked beans when we do not want to eat them cold.

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The Government therefore is not going to act on the basis of suggestions from NGOs that we should stop rolling out 5G whilst the rest of the world rolls it out except perhaps one or two random cities, simply because they have found one or two scientists who they say give a better view than those who are the accredited scientists in the organisations that we would be concerned about adhering to.

Hon. K Azopardi: Mr Speaker, there is, as I say, conflicting scientific evidence. I hear what the Chief Minister says. The World Health Organisation has classified radio frequency radiation as possibly carcinogenic, but has also said that the evidence falls short of being conclusive that

1380 exposure may cause cancer in humans. So I understand where he is coming from, but what I am asking is ... When he bats away my question on the basis that Gibtelecom has experts, Gibtelecom is deeply conflicted in this issue because it has a commercial imperative to want to roll out 5G technology. Is it not the appropriate thing to do, in view of conflicting scientific evidence, to ask an independent public health expert to express a view to the Government, not just to Gibtelecom?

1390 **Hon. Chief Minister:** I really do not think that the hon. Gentleman has thought that through. The hon. Gentleman has just said that the 110 people who work for Gibtelecom would rather make a buck on 5G than ... somehow give all of us in Gibraltar cancer. The hon. Gentleman needs to think things through; he needs to think things through.

1395 There is not a conflict in Gibtelecom. Everyone in Gibtelecom would be very concerned not to do something which would cause a health risk in Gibraltar, even if it meant that they could not roll out 5G. The Chairman of Gibtelecom would not want Gibtelecom to make a penny from 5G if there was anything credible to suggest that 5G was a problem. The classification of the World Health Organisation that he is talking about is literally the classification the WHO applies also to 4G, to 3G, to mobile phones, to microwaves – the ones we have in our homes.

1400 On that basis, it would be us taking Gibraltar back to before the 1970s and ruling that until there is evidence that microwaves are safe we are not going to allow the importation of microwaves; we are not going to allow his phone and my phone, which are running on 4G at present, to scale up to the next level – indeed, we would confiscate his phone because it is a danger to him and his family, and mine. Well, mine certainly is a danger to my health – through stress, if not through anything else. Mr Speaker, it does not make sense.

1405 We can all, when we are in Opposition, play an issue up, of course we can, and we can in that way ingratiate ourselves with the NGOs. Of course we can, fully acknowledged – I see where he is going, see what he is doing and see why he is doing it – but next September, when the new iPhone is out on 5G, and every other Android phone is out on 5G, and everybody wants their phone on 5G, are we going to say to people in our economy that Gibraltar is the only place in Europe that is not going to have 5G and that is really good for us in terms of progress?

1410 If it were just an economics issue, perhaps we should say that if it were bad for our health, but there is nothing credible to suggest it: the same level of concern as in respect of the microwave in the kitchen, as in respect of the 4G signal and the 4G phones. Mr Speaker, think these things through. Nobody in Gibtelecom wants to make one penny if it is going to put the health and safety of the people of Gibraltar at risk. Just like the debate we had in 2015, nobody on this side of the House was going to take a moment's risk with Gibraltar if LNG was going to cause an explosion that might do away with one third of our landmass.

1415 It is just not that this side of this House does not care and they do, and that we care about economics and they care about people. We care about people, of course we care about people, and we care about economics; and they say they care about economics as much as they say they care about people. But this is not about a real health risk. You can find scientific opinions in every direction on anything, but you have to guide yourself by the established bodies.

1420 Therefore, Mr Speaker, we do not believe that there is any issue on 5G. I have given my views to the NGOs. They are perfectly welcome to have a public debate and put those issues out for the public, but let's be clear about what we are dealing with and let's not throw hares out there in the Parliament that tomorrow people will be talking about in offices and will be worried about in relation to 5G, when it is not the case.

1430 **Hon. K Azopardi:** And I know the game that he is playing, Mr Speaker – this idea that we have somehow suggested that people in Gibtelecom would put 'making a buck' – to use his phrase – above the protection of this community. That is not what we are saying. I know the game that he plays – he plays it constantly. Every time he gets up to congratulate sectors of the public service, or this or that, he plays the game more shamelessly than anyone of extending out into the

community to congratulate every single person, even though it may be contradictory to positions he has taken. It is the most incredible, shameless attempt at political populism.

1435 That is not what we are suggesting. What I am asking the Chief Minister is – because he did not answer the question ... He is talking again about the Government's view on 5G risks. This is a matter of public concern and public debate, it is not just a public debate in Gibraltar; so we are not scaring anyone, nor are we seeking to be popular. We do not think – let me make it very clear – that we have a monopoly on public concerns, nor do we think that, as they sit on those chairs, they do not care about the public concerns. I do not believe that. What I am saying is that
1440 surely it is responsible to take these concerns seriously and to seek independent opinion. That is all we are saying, and people would expect a Government to do so.

When there is a Government that represents a number of sectors, it is right that perhaps it should be driven by the Minister with responsibility for public health and not the Minister who sits on the board of Gibtelecom. It is just a question of management of issues and seeking advice
1445 in a responsible way, so that you take a rounded view – and when you take a rounded view, it then becomes much more justifiable to do so.

So I ask again: is the Government not intending to seek independent advice on this issue?

Hon. Chief Minister: Mr Speaker, it was not the Minister for Public Finance, Chief Minister
1450 and Chairman of Gibtelecom who was alone in the meeting with the NGOs and who is the only person who has been considering these issues in Government. I was at the meeting with the NGOs with the Minister for Public Health, who happens to be also the Minister for the Environment – who is not known for his concerns about making a buck, who has no conflict about Gibtelecom. So, Mr Speaker, we have taken a position completely in the round.

1455 Neither do I accept that anybody in Gibtelecom has a conflict, because I do not believe that there can be a conflict between the right to life and wanting to continue to live a healthy life and setting up a 5G system. That is not a conflict in a place like Gibraltar. You might have a conflict like that if you run a company in a large country and what you are going to do is in one end of the country where it is not going to affect you or your family, including your little ones. Here, the
1460 men and women of Gibtelecom – who, when he has realised what he has said about them, he has ridden hard and fast away from – live under the antennas that they are going to set up, and so do their children. So they have not got a conflict, because nobody can have that sort of conflict. They would immediately decide in favour of not doing it, to protect themselves and their families.

1465 It is really quite remarkable to hear him say that we have not taken these issues seriously. I was talking about these things with the NGOs in May or June last year. He is raising it nine or 10 months later. He comes late to the party because he has just heard that there is going to be a public debate.

But do you think that the Government should have waited until the time of a public debate to
1470 take a view about these things, when they are so serious? Of course we looked at this issue, of course John Cortes independently looked at this issue – and he is a scientist, Mr Speaker. His advice was that there was absolutely nothing reliable against 5G, and the advice of the scientists at Gibtelecom is that there is nothing reliable against 5G.

Or is it that he wants me to just go to whoever *he* considers to be independent on this issue,
1475 who might already have expressed a view which is contrary to 5G, and somehow in that way get me to hamstring Gibraltar? Well, Mr Speaker, I am not going to do so. I believe that we are well served by the professionals in Gibtelecom – whom I praise not out of any desire to curry favour with them; I do not think I need to curry favour with them.

The hon. Gentleman has done enough already, I think, just in the past 15 minutes, to
1480 demonstrate to them what little regard he has for their concern for this community, that he is going to have to get up and now spin and spin and spin as if he were an old devil in order to try and get himself out of it. I can imagine he is going to get up and say that of course they are the best and the most magnificent professionals there are, but how can he marry that with them

also at the same time trying to persuade us to do something that is going to hurt and damage all our children and ourselves? This is utter nonsense, Mr Speaker. It is beneath him. He can do better.

Hon. K Azopardi: Mr Speaker, let me just ask this. Surely the Chief Minister is not suggesting that he is taking independent public health advice from Dr Cortes? However much I am fond of him – (**Hon. Chief Minister:** Professor.) Prof. Cortes, sorry – whatever the skills of the Minister for Health, presumably he is not out there giving, as a matter of course, scientific advice. Presumably he seeks recourse to scientific advice.

What independent scientific advice has the Government taken from anyone other than Gibtelecom?

Hon. Chief Minister: Mr Speaker, let me just remind him of what it is like in Government, because it is so long since he was here that he seems to have forgotten. I do realise, of course, that he left voluntarily in 2003 and missed it so much that he was doing everything possible to come back four years later by 2007, and indeed without his help in 2011 we would not have won the election then. But let me just remind him of what Government is about.

Government is made up of an executive, which involves Ministers. Those Ministers have executive responsibility. The Ministers sometimes are very well qualified – and John Cortes is very well qualified as a professor in relation to matters of the environment – but we head Departments. Those Departments are made up of professionals, some of them scientists, and in the GHA we have an individual with responsibility for public health who answers to the Minister for Public Health, who is John Cortes, and in the Ministry of the Environment we have people who have scientific understanding of these issues, in Gibtelecom we have people who have scientific understanding of these issues and in the GRA we have people who have scientific understanding of these issues. And if any of them have a concern or do not feel they have the expertise, they go to scientists and they buy in the expertise. Having gone through all of those processes, we are told that there is absolutely no reason to have any concerns about 5G, but he, because he has seen that an NGO has expressed a concern, thinks that that concern trumps all of the other concerns.

Well, we do not share the view. We think that there is absolutely no ground whatsoever to have any reasonable concern about 5G. We are relying on the information we have received from the scientists who work for the Government and in the Government, the scientists they may have sought the opinion of, and the views that they express to the Government we consider to be devoid of conflict which might be a threat to health or a risk to life. And I believe that about the great professionals in the GRA, Gibtelecom, Public Health in Gibraltar, the Environmental Health Agency and the Department of the Environment in Gibraltar.

To suggest that there is a risk with 5G that we are racing into ignoring their advice, or that they are allowing us to race into not having properly researched this – based on opinions which appear on the internet and in papers, but which are not verified as requiring serious regard to be had to them by the international bodies that regulate these issues – is really to think that the Government is reckless with the health of the nation.

Hon. K Azopardi: Mr Speaker, first of all, I have no problem being reminded of the time I had the guts and conviction to form a third party and say what I believed. Better to do that than machinate to form a third party and then not have the guts to do so – which is what he did – and move from one coalition partner to another for political expediency. That is exactly what he did. He did not have the guts. I have been in politics for 30 years and I believe I get things right and wrong. Sometimes I am not on the right side of issues, I do not always win debates, but at least people know that I have the guts to do things.

Now we are getting to the heart of it, because only now is he talking about the processes that there have been, the internal processes that the Government has run through – the Ministry of Environment and so on and so forth. (*Interjection*) He did not indicate it before.

So let me ask again: in that process, are those Ministries satisfied that it is not necessary to take independent advice?

Hon. Chief Minister: Mr Speaker, we have been in politics for 30 years; some part of that time together, some part of that time not together, some part of that time not together but allied in removing the GSD from Government. It has been a long haul.

In terms of having guts, it is very easy to have guts to do the wrong thing. It is very easy to have guts to make a mistake. There is no question of each of us having the guts to do something without thinking it through and wasting our time, but given that we have been in politics for 30 years, and he is reminding us of that and the guts he has had, I have been in politics for 30 years and I have got the job he wants. So, not bad, I suppose! But I will take it that all of that talk of guts was not meant for me, Mr Speaker; it was meant for someone else. Let's be clear what he was doing.

He says only now we seem to be getting to what happened. No, Mr Speaker, only now have I been so aghast at his lapse of memory about how Government works that I have explained to him exactly how the Departments reach conclusions which lead politicians to take positions. Or is it that he thinks that I see something about 5G and I make up my mind for myself? I have explained to him that I take advice, that there was another Minister involved and that he takes advice and that he also brings his own position to the table.

We do not believe that there is a need for an independent expert to advise us on that on which there is no international controversy other than that which you might be able to make up on any subject if you go on Google for long enough.

Q113/2020

Mound between Eastern Beach and Catalan Bay – Removal of rubble

Clerk: Question 113, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, when will there be a start to the removal of rubble from the mound between Eastern Beach and Catalan Bay?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, the removal of rubble from the mound between Eastern Beach and Catalan Bay commenced in November 2019.

Hon. K Azopardi: Mr Speaker, can I assume that that rubble is directed to reclamation projects in different parts of Gibraltar?

Hon. Chief Minister: Yes, Mr Speaker, as is specifically set out in our manifesto in different places.

Hon. K Azopardi: And there have been no changes of plan to that, I assume. How long is the plan to remove the rubble for?

Hon. Chief Minister: Mr Speaker, removing the rubble takes approximately 24 to 36 months depending on how quickly the fill is created.

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Hon. K Azopardi: Mr Speaker, the answer the Chief Minister has just given, the 24 to 36 months, is to remove what precisely? Not the whole rubble, presumably, or is it? Am I understanding that they will remove the rubble completely within 36 months. Is that what he is saying?

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Hon. Chief Minister: Mr Speaker, you cannot be exactly precise about how much is going to fill the Victoria Keys reclamation, in whatever final shape the EIA may approve etc., and what will go elsewhere, but in 24 to 36 months we anticipate that the reclamations will have happened – or at least one of them will have happened; I do not know whether the other will be complete or will be in process. There are permitting issues. In fact, there is a question on the Order Paper we will come to now, but in the context of the movement, given the volume, you could move that volume in that period of time.

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Hon. K Azopardi: And in the context of all that movement of 24 to 36 months, are special measures being taken to protect the environmental impact on Catalan Bay?

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Hon. Chief Minister: That is why it takes 24 to 36 months, because you have got to do it in keeping with environmental plans etc. But look, you have got to understand that when you move a rubble mountain that was created – 85% of which was there when we were elected – you are going to find yourself obviously creating dust etc. If you leave it where it is, you create dust because it is there; if you move it, you create dust when you are moving it. What can you do?

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Before they were elected in 1996 they said that the reclamation there – which was then not a rubble mountain – was a rat-infested pit. No sooner were they elected it became Sovereign Bay and it looked almost like an imitation of the Rock of Gibraltar. We have had to add to it in the context of the spoil from the tunnel, and moving it of course is going to create a disturbance. Not moving it creates another disturbance, but we do think it is in everybody's interest to move it and to move it in the context, as we have set out in our manifesto, of those two reclamations.

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Hon. K Azopardi: I am grateful, Mr Speaker, for that, because I am sure that as years go by the rat-infested mountain will have rats the size of tigers; and so it will be welcome news, certainly to the residents of Catalan Bay, for that to be the case.

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Does the Chief Minister know whether the rubble is going to be moved just by truck, or is it also going to be moved by barge?

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Hon. Chief Minister: Mr Speaker, if there were tigers there, we would be holding safaris.

The hon. Gentleman is making a habit of asking me things that are already in the public domain – which makes my life easier. We have already said in public statements – indeed, I think I had a row with the hon. Lady about it – that it will go by barge and by truck.

Q114/2020

New land reclamation project – Commencement date

Clerk: Question 114, the Hon. K Azopardi.

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Hon. K Azopardi: Mr Speaker, when does the Government expect that the new land reclamation project of approximately 150,000 m² will commence?

1625 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, preparatory works continue. The commencement of the reclamation works will also be subject to the grant of the necessary permits.

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Hon. K Azopardi: Mr Speaker, that is not really an answer to the question that I asked: when they expect it to commence. When is it going to commence – the reclamation itself, not the preparatory study?

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Hon. Chief Minister: Well, sorry, Mr Speaker, I will express this in different terms: when the preparatory works are finished and the permits have been granted.

Hon. K Azopardi: Mr Speaker, we can play this game of chicken all afternoon, but it is really not that hard: how long is the preparatory work going to take?

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Hon. Chief Minister: Well, you see, Mr Speaker, the problem is that if I were to say ‘in three weeks’ time’, then he would say, ‘Ah, so you are going to twist the arm of those who have to grant the environmental permit, you are not going to allow the independent scientists to come in and you are going to risk the health of everyone by creating the reclamation in a way that is not in keeping with environmental rules.’ If I say, ‘Well, look, there is a process to go through, there are EIAs to be had and there are permits to be granted and I therefore cannot put a time limit to it,’ then he tells me I am not answering his question. This is really a demonstration that hon. Members are just going to criticise anything that we say.

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We have a manifesto commitment to do something and therefore we have to explain to the general public in Gibraltar if we have not done it by the time of the next general election. I am not going to create a new hostage to fortune by telling the hon. Gentleman I intend to do it by 5th March, so that on 6th March, if I have not done it, he is going to say, ‘You failed to start the reclamation when you said that you would.’

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The former Chief Minister, who he and I criticised on just about everything, said one thing which we had to accept when we were on that side of the House. He said, ‘Hon. Members opposite have not been elected to be timekeepers for the GSD Government’s delivery of its projects.’ We have set out time limits in our manifesto where we considered it appropriate; otherwise, we have the lifetime of this Parliament to deliver against our promises to the people of Gibraltar. He, to be fair, then also went on to say that as far as he was concerned the manifesto was just a wish list and not a set of promises. We take a different view. We think that we have to do what we set out in our manifesto. We have said what we are going to do in the lifetime of this Parliament. If we do not, we have to explain ourselves to a higher power – namely, the voters.

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Hon. K Azopardi: I am not sure if the hon. Member takes a different view, given the litany of broken promises in his manifestos.

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Mr Speaker, I am not expecting a scientific yardstick and I am not going to stand up in March to say that he told me that it would be on 3rd March at 5 a.m. We are elected to seek information. The Chief Minister, and the Government, has gone to an election based on a number of promises. They promised to commence a reclamation of 150,000 m², and I am just asking him loosely when is it going to be commenced? Is it going to be commenced this year, next year, 2023, or one month before the election so he can tick it off his list?

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Hon. Chief Minister: Mr Speaker, the hon. Gentleman can say what he likes, but really I do not think it is reasonable to say that we have a litany of broken promises. And the majority of the public in Gibraltar have not agreed with him. Indeed, 75% of the general public in Gibraltar did not agree with him when the time came to try and persuade the general public to determine who should sit here and who should sit there.

The hon. Gentleman and I have a good relationship, but if there is one thing he and I have learnt over the past 30 years it is that when it comes to politics we do not trust each other not to take advantage when the time comes. That is a good thing in a multi-party democracy where there is an adversarial system and he leads one party and I lead the other. I do not know whether I can describe them as the principal party of opposition or not – we will see what happens when the next election comes.

He has to remember that when he was last in government the DPC was something that sat behind closed doors, where Ministers signed permits for themselves; now the DPC is a public body which debates issues in public, and the Government has subjected itself to the DPC. I am not going to put pressure on the DPC to make a decision one way or the other by giving the date by which I expect to do or not do something. So he will forgive me for not replying loosely to what he has described as a question loosely put.

Hon. K Azopardi: Mr Speaker, let me try one final time ... And the Chief Minister should not trouble himself about describing us as the principal party in opposition. As he says, let's wait until next time: I hope to describe the Members opposite as the principal party in opposition next time. Is it likely that the new land reclamation project will commence within the calendar year if the DPC grants permits?

Hon. Chief Minister: Mr Speaker, how we refer to each other after the next general election, if we refer to each other at all, is not a matter for us; it is a matter for the general public.

I am not going to fall into the trap of giving any indication in respect of this project other than that which we have given to the general public in Gibraltar – namely, that we have taken an obligation to do the things set out in our manifesto during the lifetime of this Parliament and we are not going to set ourselves up with hostages to fortune on timings which we may not, for very good reason, be able to comply with.

For all I know, I could be facing another Leader of the Opposition within the next month, who might, by March, be saying to me, 'But you told the FLOP' – former Leader of the Opposition, the other FLOP – 'that you would have started by March, and he might have said that he was not going to chase you on it, but I am,' and I do not want to risk another future Leader of the Opposition – also potentially a FLOP – not sticking to his word on the subject.

Q115/2020

Gibraltar Consultative Council – Number and dates of meetings

Clerk: Question 115, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, how many meetings of the Gibraltar Consultative Council have been held since it was established, and what have been the dates of those meetings?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, no meetings of the Council have been held, because of the GSD's position – at least until the last election – that they would not participate in those meetings.

1720 **Hon. K Azopardi:** Mr Speaker, on 21st July 2017 the Government issued a press release which is headed 'First Meeting of the Gibraltar Consultative Council' – which actually happened on 24th July and which I attended, by the way, before I became leader of the GSD. Is the Chief Minister saying that no other meetings have been held since that time at all?

1725 **Hon. Chief Minister:** Well, Mr Speaker, he will know that the full Gibraltar Consultative Council provides for individuals to be appointed as ad hoc Members. No such appointments have been made.

The position of the Government was that we wanted to create a Council akin to the Privy Council, which enabled us to meet not just with those who were office holder Members. He will recall a better way of describing those who were there already by dint of the offices that they had held, as he was, and those who were otherwise appointed, including those that currently held the office of Leader of the Opposition, and we have not held other meetings, Mr Speaker, for those reasons.

1730 Given that he is a member of the Council under the statute as drafted, he would have known if there had been. I would not have sought to exclude him. Indeed, I would have sought to persuade him to attend in his new position as leader of the GSD, although his membership of the Council was not as leader of the GSD because then he was not Leader of the Opposition. There was somebody else who was Leader of the Opposition, designated *a dedo* by him. But I am very keen to know if he will attend now, because then I will be very much minded to convene those meetings. He knows I was very keen when I created the Council.

1735 **Hon. K Azopardi:** Mr Speaker, I was just trying to correct his initial answer, because his initial answer was there were no meetings, and actually there was a meeting.

1740 **Hon. Chief Minister:** Not of the full Council.

Hon. K Azopardi: Well, there was a meeting. The Chief Minister cannot stand in this House and say there was no meeting if he issued a press release saying there was the first meeting of the Gibraltar Consultative Council – and he is quoted as saying 'I am very pleased that the Consultative Council will meet for the first time on Monday' in his press release, so obviously it met. So his answer to the Parliament was incorrect. It may have been a failure of recollection.

1750 Or is it that actually what happened was that a couple of days later there was a bit of a furore because there were no women on the Gibraltar Consultative Council. If I refresh his memory, he was quoted in the press as saying that of course there were going to be ad hoc members and that it would not be the best brains in Gibraltar if it did not include certain women – I think, something like that; I paraphrase what the Chief Minister was intending to say.

1755 Mr Speaker, does the Chief Minister not accept that it cannot have been because of the position that the GSD took prior to the first meeting on 24th July 2017 that the Council has not met again, because he has not yet, since then, or since I became the leader, suggested or called me to say 'I would like to convene a Gibraltar Consultative Council meeting – now that you are the leader, would you like to come?'

1760 **Hon. Chief Minister:** Mr Speaker, the answer is not misleading and I did not forget that meeting of the Council without its ad hoc members, but the Council is not whole unless it has its ad hoc members. And indeed, those who made the criticism that the Council had no women in it did not understand that the structure of the statute provided that the Council is made up of

people who have held specific offices in Gibraltar, and until now no woman has held those specific offices yet, and ad hoc members – and no ad hoc members have yet been appointed.

1770 So there is no question of no women having been appointed. Women *will* be appointed as ad hoc members. It is also not true that we have not spoken. He and I do not disclose the content of our private conversations, but we have, I think it is fair to say – and I will remind him – had a conversation about this. I am not going to disclose what it is, but we have had a conversation about this, a very positive conversation. I am not complaining about that conversation.

1775 **Hon. K Azopardi:** Mr Speaker, what I am trying to ask him is ... because he gave an impression as well – and I do not disclose my conversations with him either but he gave an impression that the reason the Consultative Council, in his direct, first, original answer, has not met is because of the GSD's position. What I am saying to him is that it has been over two and a half years since
1780 the Consultative Council first met, and yes it was a first meeting of the Consultative Council, and it counted. It was not because it did not have ad hoc members that it did not count, because in your press release of 21st July 2017 the Government specifically says 'The first meeting of the Council will include only post holder members and life members of the Council', looking forward to, in due course, appointing ad hoc members, no doubt. But if there had been a serious attempt at convening the Consultative Council, surely the Chief Minister in the last couple of years would
1785 have said to me 'I would like there to be a meeting of the Consultative Council.'

The reason I ask these questions is because in a recent *Viewpoint* programme the Chief Minister suggested that the reason that the GSD had not been involved more closely in the negotiations on Brexit was because we had not accepted to treat some of the aspects that we could have had access to confidentially because we had not decided to come into the Council.

1790 Does the Chief Minister not accept that that was a completely red herring, because if that had been a serious position he would have reached out to me in the last two years after my election and said to me 'You can have this information as long as you come to the Council', and he would have understood that I had stood specifically in the leadership election of the GSD on the basis that I would attend the Consultative Council on an issue-by-issue basis if I thought it
1795 was appropriate and in the public interest to do so?

Hon. Chief Minister: Mr Speaker, it is nonsense to ask somebody who said something whether he agrees that that something is a red herring, because obviously the person who has said it will not consider it to have been a red herring; otherwise, he would not have said it. But
1800 let's be clear. The hon. Gentleman I think has forgotten earlier conversations that we had about this subject, because I remember them, and indeed he seems to have forgotten other information that we have provided him.

Can I suggest that actually we are both of the view –and I am not going to disclose what we have discussed but I seem to discern from him that we are both of the view that the Council is a
1805 good thing. I disclosed previously that he was involved in drafting the legislation for us and I think that is not something from which he will resile. It is an abject fact and something which I was very pleased to instruct him to do, and he did a very good job in doing so, Mr Speaker. We both think that the Council is a good thing. We both think that the Council should meet. We both, I think, can agree parameters in respect of the presence of GSD current officeholder
1810 members on the Council which will not give rise to the concerns that previously had been the case, and the Council can then meet with regularity as a full, whole Council with its ad hoc members, which will include women because some of the best brains in Gibraltar are undoubtedly women.

I invite him, although he is not here to answer my questions, to consider whether he might
1815 want to reflect on that in a positive way

Hon. K Azopardi: Mr Speaker, I have done nothing but reflect on it in a positive way, as he knows. What I am seeking to correct is the impression he has given that this has somehow been

1820 a bar created over the last couple of years, where we have tried to adopt a position where we have unreasonably been unwilling to accept the confidentiality of certain information. That is not the case, because we have not had any discussion on the basis that when I was elected the Consultative Council was going to be reconvened for the purposes of this Brexit ... Certainly there has not been a serious attempt to reconvene it, let me put it that way.

Can I ask the Chief Minister: has he identified the ad hoc members now?

1825 **Hon. Chief Minister:** Mr Speaker, our recollections are different, but he and I are very careful in the respect we have for each other – however hard we might go at each other adversarially here, as we are required to – not to disclose the content of our conversations, so we can have a discussion about that later. And he and I may have different recollections about conversations
1830 now going back almost two years, but in short the answer to the question that he has put is yes, and I would be quite happy, perhaps over a cup of coffee somewhere else, to have a conversation with him on whom I propose to appoint.

It was, in my view anyway, something that he and I should consider together, given that we are currently in post, on the basis that although the law does not require me, I seem to recall –
1835 he wrote it on my instructions – to seek the views of the Leader of the Opposition, I think it is good practice that they should seek the views of the Leader of the Opposition. And especially in the context of the relationship that he and I have, I will seek his views on that.

Mr Speaker: The Hon. Marlene Hassan Nahon.

1840 **Hon. Ms M D Hassan Nahon:** Thank you, Mr Speaker.

If I can just interject, I understand from what the Chief Minister has just said that he has identified people for the ad hoc participants in the Consultative Council. Can I ask, as a woman with a brain, what would be the criteria that the Chief Minister is seeking to use for these
1845 members in order to achieve balance and value?

Hon. Chief Minister: Mr Speaker, it is not about balance or value; it is about the best brains in Gibraltar. It is not about having a brain or indeed about being representative or having votes; it is about the best brains in Gibraltar, and many of those are women.

1850 **Hon. Ms M D Hassan Nahon:** Mr Speaker, the Chief Minister has not answered my question.

Of course he is going to choose people with brains and I have no doubt that he is going to choose women, and he himself, by default, by saying that he is going to choose women is already seeking to bring about a sense of balance because of the conversation we have been
1855 having about needing women. That indicates a sense of balance already. But the question remains: what is the criteria by which Mr Picardo and whoever is around him, in good company I am sure, will be deciding that these are the best brains? What are we talking about, an IQ test? How do you decipher who these best brains are?

1860 **Hon. Chief Minister:** Well, Mr Speaker, this is not about Mr Picardo. Mr Picardo is not entitled to do anything. It is about the Chief Minister, and the Chief Minister, under the legislation, is able to appoint those people based on his view – or her view, depending on who the Chief Minister of any day may be – subjectively of who the best brains in Gibraltar are.

I have just given an indication to the House that I think that that should be moderated by
1865 discussion with the Leader of the Opposition. There are many appointments that are done on the basis of selection in that way and they do not require IQ tests. But look, I fully accept that those are subjective issues. The only objective test of who should be appointed to anything is called the general election. It happens every four years and it has put us all where it has put us.

Q116/2020

**Select Committees on Parliamentary Reform, Constitutional Reform and the Environment –
Date of first meetings**

Clerk: Question 116, the Hon. K Azopardi.

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Hon. K Azopardi: Mr Speaker, when will the first meetings of the Select Committees on Parliamentary Reform, Constitutional Reform and the Environment take place?

Clerk: Answer, the Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, the Government intends to convene the first meetings of the said committees for the third week of February this year.

Hon. K Azopardi: Mr Speaker, all of them in the same week, I assume from his answer?

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Hon. Chief Minister: Mr Speaker, yes.

I think I have given the indication to the hon. Gentleman privately, which I am happy to share with the House, that I intend that the mornings of Tuesdays in the third week, which is the parliamentary week, should be given up to the work of Select Committees.

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Some Select Committees may require more time. We may spend longer in respect of the work of Select Committees on the Environment and on the Constitution than just an hour during the course of the morning. But I want to get into the rhythm of having the meetings the mornings of the third Tuesday of each month and then adding further time for the work of each of those Committees as may be necessary. Initially the Committees I think need a first meeting to kick off and then we can determine extra time being provided for each as may be necessary.

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Q117/2020

**Ministerial Code –
Introduction**

Clerk: Question 117, the Hon. K Azopardi.

Hon. K Azopardi: Mr Speaker, is it still the Government's intention to introduce a Ministerial Code and if so when will this be introduced?

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Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, yes, sir.

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As we have previously informed the House in his absence from it, the Government already adheres to the Draft Code which we will be proposing that the Select Committee on Parliamentary Reform should adopt, alongside a code for MPs and public servants.

Hon. K Azopardi: Mr Speaker, that last reference, 'alongside the code for public servants', that is also the Draft Code that was published some time ago. Is that the one?

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Hon. Chief Minister: Speaking from memory, I think the answer is yes, Mr Speaker, and I think there may already have been an iteration of the code for MPs. But I cannot from memory say that that is the case. I am not 100% sure.

1910 **Hon. K Azopardi:** And when he says that it is going to be proposed to the Committee on Parliamentary Reform for adoption, is it simple adoption or for discussion and amendment as well?

1915 **Hon. Chief Minister:** Well, Mr Speaker, the Government has prepared it. So the Government brings it for adoption.

If hon. Members want to propose changes to it, of course it is a Select Committee so we will consider what they have to say and the Committee then – he will recall that the way that the Committees work – make a recommendation to the House and the House then adopts the Code. But if the Select Committee takes a different view or considers more work is required then it will not come to the House for formal adoption, or indeed the Select Committee may divide on the basis of a majority recommending and the minority report coming to the rest of the House.

1920 **Hon. K Azopardi:** Mr Speaker, there was no trap in the question. All I was saying is I am aware these drafts exist, they were prepared some time ago and it may just be convenient to simply run through in case anyone has any suggestions, but it may be that they can be adopted.

1925 **Hon. Chief Minister:** And that, Mr Speaker, is the position that I am proposing.

Q118/2020

Letters of Entrustment from UK – Number received since 2011; policy area

Clerk: Question 118, the Hon. K Azopardi.

1930 **Hon. K Azopardi:** Mr Speaker, can the Government set out a list of Letters of Entrustment it has received from or signed with the UK since 2011 and specify what field of policy area they relate to?

1935 **Clerk:** Answer, the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, two Letters of Entrustment have been received from the United Kingdom since 2011: the first on 21st December 2016 in relation to entering into agreements with other State parties under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters; and the other on 1st July 2019 in relation to Tax Information Exchange Agreements and Double Taxation Agreements.

Hon. K Azopardi: Mr Speaker, are any other Letters of Entrustment under negotiation?

Hon. Chief Minister: Mr Speaker, not at present, I think is the answer.

Q119/2020

Electronic Travel Authorisation for UK entry – Discussions with UK government

1945 **Clerk:** Question 119, the Hon. K Azopardi.

1950 **Hon. K Azopardi:** Mr Speaker, has the Government had discussions with the UK government or will it have such discussions in respect of the proposal to introduce an Electronic Travel Authorisation for entry and visits to the UK and how such a proposal will impact on Gibraltarians?

Clerk: Answer, the Hon. the Chief Minister.

1955 **Chief Minister (Hon. F R Picardo):** Mr Speaker, no, sir.

Hon. K Azopardi: Mr Speaker, I appreciate that there are two questions in one, but that then produces certain ambiguity, if I may.

1960 Is it 'no', you have not had discussions or 'no', that you will not have discussions, or no to both?

Hon. Chief Minister: No to both, Mr Speaker.

1965 **Hon. K Azopardi:** Mr Speaker, why is it that the Chief Minister will not have discussions with the UK? Is it because he has information that the proposal to introduce Electronic Travel Authorisations will have no impact on Gibraltarians?

Hon. Chief Minister: Yes, sir.

1970 **Hon. K Azopardi:** And where is that information derived from?

Hon. Chief Minister: The nature of the Electronic Travel Authorisation.

1975 **Hon. K Azopardi:** From a draft document, is it? Without involving any human discussion on the concept? That is what he is suggesting, is it? It is an extrapolation and his analysis, having seen a document, a draft of the Travel Authorisation – is that what he is saying?

1980 **Hon. Chief Minister:** Mr Speaker, this is something that will only apply to those who are not British citizens who require a visa to enter the United Kingdom. That is not something that afflicts Gibraltarians.

1985 **Hon. K Azopardi:** Mr Speaker, I am grateful and the reason for the question was to seek clarification, because when I first read about it, it certainly was not clear whether it would impact on anyone who might come from an Overseas Territory, for example. So if that is clear, if it does not impact on BOTCs, that is fine. Is that the position; it has no impact on BOTCs?

Hon. Chief Minister: Mr Speaker, the hon. Gentleman has asked a question about how such a proposal will impact Gibraltarians. I do not think there are any Gibraltarians left who are BOTCs, is the first part of my answer in respect of what he said. (*Interjection*) No, none – zero.

1990 Second, the measure is in relation to those who will require visas. This is the equivalent of this visa that will be required. That will not impact British citizens. Gibraltarians are now all British citizens.

Q120/2020

**Brexit technical meeting with UK and Spain –
Details**

Clerk: Question 120, the Hon. K Azopardi.

1995 **Hon. K Azopardi:** Mr Speaker, when is the next technical meeting – well, now we know –
(**A Member:** Yes.) between UK, Spanish and Gibraltar officials in relation to Brexit scheduled to
take place, where will it take place, who will attend for Gibraltar and is it a trilateral meeting?

Clerk: Answer, the Hon. the Chief Minister.

2000 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the meeting was this morning in Madrid. It
was attended by a number of officials from Gibraltar as set out in our press release of Monday,
which was in Tuesday's press.

It was a meeting between three administrations and therefore trilateral.

2005 **Hon. K Azopardi:** Mr Speaker, does the Chief Minister not think that it perhaps should have
been appropriate to advise the Brexit Select Committee of this development, so that Gibraltar
did not have to learn of this meeting from the Spanish press?

2010 **Hon. Chief Minister:** Well, Mr Speaker, I am surprised that he asks that, because you see, the
fact of this meeting was widely known before it was adjourned some weeks ago, it was back on
this week and our press release was issued I think at the same time as press releases elsewhere
were issued, almost simultaneously, but ours were reported in print the following day and on
the television the night before, because ours are embargoed for 8.30. Others might not have
been embargoed and might have been read earlier by some.

2015 But there is no question of people having to read it from the Spanish press, other than the
Spanish press published it before the Gibraltar press. But the administrations put it out there at
almost the same time.

2020 **Hon. K Azopardi:** Mr Speaker, of course I am aware that this technical meeting had been
adjourned, but the very first time, a few weeks ago, that it was said that this meeting would take
place, there had been a leak to the Spanish press. That is how we found out. The way that we
found out as to the date of the new meeting was also by the Spanish press, because I have got a
copy of a press release issued by *La Mancomunidad* that was dated the day before the press
release issued by the Government here.

2025 What I am saying is that I am suggesting to the Chief Minister that perhaps it should have
been appropriate for the Brexit Select Committee to be advised of these developments.

Secondly, Mr Speaker, can I just ask, so that we do not have to find out through the Spanish
press, what was discussed? What was the agenda of this meeting?

2030 **Hon. Chief Minister:** Well, Mr Speaker, I do not accept that the press release that
hon. Members have in respect of this week could be any earlier than ours. What happened
before was that despite the relevant administrations all agreeing when they were going to issue
a press statement, one part of the Spanish state leaked the fact that the meetings were going to
happen before we had all agreed that we were going to say what was going to happen.

2035 So hon. Members know from the time that they have been in office that you are trying to do
things together in the context of meetings and then very often unfortunately the Spanish side
are not faithful to what is being agreed – not because the interlocutors that you are with are not
faithful to it, but because someone in another part of a very large administration that has many

levels decides to go off and tell a friend and that friend tells another friend and that friend puts it in a newspaper.

Now, does that mean that you no longer try and agree how you are going to make public statements about things? I think that would be the wrong position.

But the Government has already I think issued a lengthy press release whilst I have been here, or is about to, which sets out what was discussed at those meetings. I am literally just checking, and in fact, Mr Speaker, it has: Press Release 42/2020.

As for the Brexit Select Committee, Mr Speaker, I was very disappointed that the hon. Gentleman did not propose that he should be on it. Brexit is unfortunately one of the things we have to deal with and I would have thought therefore that he would want to be on it. But he has not proposed himself for it.

Hon. K Azopardi: Mr Speaker, whether I am on the Brexit Committee or not is neither here nor there. As he knows, when I wrote to him on the composition of Select Committees, I gave him the composition of the Select Committees and I also said to him that beyond the Brexit Select Committee I thought that as Leader of the Opposition he should brief me from time to time when there was an important juncture in the Brexit discussions. We do not think that the right way to proceed ...

Look, if the hon. Members have taken the view that there should not be a joint negotiating team, that is okay. It is a matter for them. But what they should not do is pretend that they believe in unity and the flow of information and so on, but they do not advise the Brexit Select Committee. We hear about meetings from the Spanish press and when I ask him about what is being discussed he refers me to a press release he has issued while we are in this House without having told the Members opposite, who have an important constitutional function to fulfil.

Mr Speaker, is the Chief Minister going to behave like that as we go forward in this process, because if that is the way, he is in effect making a mockery of the Brexit Select Committee?

Hon. Chief Minister: Mr Speaker, I really do not think that he has reflected on the things that he has been saying until now and the way that he has wanted to approach unity.

Now, of course, we all were roundly critical of Sir Peter Caruana – indeed, as I have reminded him today on a number of occasions, he helped us to defeat him in 2011 – not least because of the way that he insisted always that if there was to be unity on a subject it was unity around the Government's position, because the Government had been elected to govern, and when the Government called for unity, unity means that hon. Members opposite are expected, if not required, to join the Government in its position.

Now, that is not the position that I am taking. I am saying that they will be briefed and I am saying that the Select Committee will be the place where we do the briefing. He has chosen not to be in the Select Committee and he has asked that over and above all of those Brexit Select Committee briefings, which we think have been very full, very frank and a great opportunity to work together, he has described less than 72 hours ago as being superficial.

So I frankly think that sometimes he tries to run with the hare and hunt with the hounds, when he pretends that he wants unity whilst at the same time eschewing any opportunity there may be for us to work together by misdescribing the work that we have already done together.

Indeed, the Hon. the Deputy Chief Minister was very generous in the praise that he lavished on the hon. Lady and Mr Feetham about the work that we had done in that Select Committee; the ideas they had shared with us on occasion. I reflected on the way that we have kept each other's confidences in respect of the work that we had done in that Select Committee. We intend to continue in that way.

The hon. Gentleman will also know from what has been in the Spanish and Gibraltar press and what has been said already that this was not a meeting of any substance. This was a meeting about meetings. In other words, this was a pre-meeting about how the meetings of the

2090 MoUs will be carried out when they come to be carried out once the MoUs kick in, which can only be after 31st January.

Now, the MoUs are not what the Brexit Select Committee needs to be looking at. The MoUs are what was agreed already being put into effect. In respect of the issues that are in play, they really relate to how, in the context of Gibraltar, we all ensure that the transitional period is being
2095 adhered to.

Let's be very clear: there is no reason to call it the implementation period because that was a terminology born from Mrs May's original view when she was Prime Minister that there would be a negotiation not just about departure but also about the future relationship which would be implemented during the period of transition. The European Union took the view that there
2100 would be nothing to implement because nothing new was going to be agreed and all that could be debated was transition from membership to non-membership.

So what the Brexit Select Committee needs to be is a place where we can work together in fashioning proposals as we go into the negotiation about the future. That is what we want to talk about to hon. Members in the context of that Select Committee and that is why I am surprised he is not going to be on it. That is where we are going to share our ideas and hope to hear their ideas about how the negotiations should be conducted; what should be the subject matter of negotiation; what would be an optimal outcome; what will not be an optimal outcome. That is where they can give us their views in that respect and he has chosen not to be on it. That will lead to a negotiating team and the negotiating team will not involve them,
2105 Mr Speaker. We have been very clear about that and we have been clear about why we do not think that there should be a joint negotiating team and he has been clear about the consequences.

He has made very clear, and it was obvious, that if he were in the negotiating team and we came back with a result, he would in effect be fixed with the result of that and supportive of it. Or, if he were not in the negotiating team, he would be free to criticise what we come back with. Well, look, no expletive, Sherlock – obviously, Mr Speaker! But we have taken this view simply because we think it is the best and most agile way to conduct the negotiations and it is the democratic way of doing so.
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In the United Kingdom, nobody forms part of the United Kingdom negotiating team from the opposition. The opposition are there to criticise. They do not have a Brexit Select Committee to fulfil the role that we are suggesting. They have a Brexit Select Committee which just does scrutiny in the usual Westminster parliamentary way. We are proposing a Brexit Select Committee where we can work together to fashion what it is that we go to negotiate.
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So, Mr Speaker, that is the position of the Government and I think it is the right position. I think it is the position in the public interest of Gibraltar and as the depository of the majority of the support at the last General Election, with over half of the votes cast, we are entitled to take that view. I think he recognises that and he has said so in the way that he is dealt with our views contrary to his in the way that this whole negotiation should be carried out.
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Hon. K Azopardi: Mr Speaker, that was a lot of ducking and diving – (**Hon. Chief Minister:** Was it?) Yes. There was a lot of ducking and diving because I started asking about why the Brexit Select Committee had been bypassed, and it is ducking and diving because ...
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The Chief Minister expresses surprise that there can possibly have been a Spanish press release that predates his, but I am holding it and it is one day before his: the *Gabinete de Prensa* of the *Mancomunidad* issues a press release on 21st January and he issues one on 22nd January. So we find out from the Spanish press *twice* that this meeting is going to take place.
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Secondly, yes the Brexit Select Committee is being bypassed. It matters not, surely, whether I am on it or not. The Brexit Select Committee has been bypassed because it has not been told of this meeting nor has it been invited to ... no information has been shared with it. I have full confidence in the colleagues that I nominated onto the Brexit Select Committee and as I told him at the time, and he knows because I have communicated with him in writing when I suggested
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the nominees for the various Committees, that I said that beyond the Brexit Select Committee he should brief me at any time he wishes on issues of Brexit. He knows he can do that.

2145 So it really is a bit of a red herring to say it is a big thing that I did not nominate myself for the Brexit Select Committee. I have offered him unity and a desire to work together on the issue of Brexit in different ways. So he knows he really does not need to make a thing about the fact that I am on the Brexit Select Committee or not, because he knows that if he picks up the phone and asks to speak to me about Brexit in the public interest, I am going to do so and help as much as I can.

2150 So that is not the issue and nor is it really, surely, the issue now, because in the *Viewpoint* programme two weeks ago, he said that that the proper forum that he wanted us to come onto was the Consultative Council so that he could then acquire all this information and help in Brexit. So he has got to decide what it is that is the hurdle for us to assist.

2155 The real hurdle is the last comment that he made: that he does not want us to really assist and be aware or have all the information. That is okay. I have also said during my interventions that it is his prerogative because I recognise that they are re-elected and they can decide how to handle these things and that is okay. But be clear with the people of Gibraltar that that is the real issue. All I am saying is, if there is going to be a Brexit Select Committee do not denude it of its effect and make it work.

2160 Insofar as the original answer he gave, that this is a trilateral meeting, can the Chief Minister perhaps explain to me, is the analysis that this is a trilateral meeting accepted by all the delegations or is this just his view of life?

Hon. Chief Minister: Mr Speaker, nobody has bypassed anything, in particular not the Brexit
2165 Select Committee. You see, the stage at which we are, is about to commence the future negotiation. The former Brexit Select Committee of the former Parliament dealt with the Withdrawal Agreement and these MoUs are consequent on the protocol under the Withdrawal Agreement. The Brexit Select Committee that the Hon. Mr Feetham and the hon. Lady were on had the benefit – and Mr Phillips – of the briefings, which I do not accept for one moment would
2170 have been in any way superficial, for all of the reasons the Deputy Chief Minister indicated.

The meetings in Madrid today were about the Withdrawal Agreement MoUs. The Withdrawal Agreement MoUs are about ensuring that in the transition things stay as they must be in the transition. The Brexit Select Committee is going to be looking now at issues relating to the future. So nobody has been bypassed. He gets up, Mr Speaker, to try and ensure that
2175 tomorrow's headlines reflect his view of life by using terminology like 'bypassed'. Look, nobody has been bypassed – far from it.

We are looking forward to the work that we are going to do with the Brexit Select Committee for the reasons I have indicated, and with the Gibraltar Consultative Council, which it appears, given the discussion we had earlier, will include him and of course will be considering Brexit also.
2180 But I am surprised that he has not proposed himself for the Brexit Select Committee. But look, it may be that by February the Leader of the Opposition is on the Brexit Select Committee. We do not know.

Now, Mr Speaker, what the meetings in Madrid have been about are the MoUs. Now, they say that they hate the MoUs and that they are greatly deficient. So I do not expect that they are
2185 going to be very pleased to hear that there are going to be meetings in respect of those MoUs, because all they are going to do is consider these greatly deficient MoUs that they are referring to.

I really do think that he is the one throwing red herrings into the mix, simply in an attempt to try and make himself relevant in respect of this process. On a debate with the Chief Minister at
2190 Question Time on this subject, today, congratulations – he has achieved it. He has said something about it and I have no doubt it will be reported and, given where he is in the context of the internal political debate in his party, that is what he needed to achieve. I recognise that I am the punch bag that allows him to try and seek that relevance in the context of the debate.

Now, finally, Mr Speaker, coming to the issue that he asked about, and just one final point on unity. The issue of unity is the one that I referred to – I think he is criticising – in my New Year message where I talked about the need for unity this year in Gibraltar. Well, my call for unity was responded to in a New Year message by the hon. Gentleman that called me everything except handsome, as the Spanish saying goes, where he went back to the arguments that they deployed ill-fatedly at the General Election, indeed, at more than one General Election, on public finances etc. and criticised the MoUs that these meetings were about seeking to implement as from February. So he talks the talk on unity and he gets my attention when he talks about being prepared to work with us and then he grabs the microphone and does something else, which is use every opportunity he can to criticise us.

Also, like him, I respect the fact that as Leader of the Opposition that is his role. I am not going to suggest that he should not criticise the Government. In a healthy democracy based on adversarial politics that is what the Leader of the Opposition does. Indeed, it would probably be very strange if we locked ourselves into a room, agreed everything, told no one anything about it and believed that that was in the extreme public interest. So unity does not mean that there is no politics in Gibraltar on this subject. I fully accept that. Indeed, I welcome the fact that there is scrutiny of what the Government is doing.

Finally, Mr Speaker, the hon. Gentleman will know that since the arrival of *Partido Popular* in office in 2011, the Spanish Foreign Office has not pursued the objectives of the Trilateral Forum for Dialogue which were agreed in 2005, I believe, 2004, with the Córdoba Agreements in 2006. So they do not refer to meetings as trilateral. Indeed, they seek to refer to meetings as bilateral.

But indeed, the Withdrawal Agreement and any part of it and the implementation of it is the implementation of an agreement between the United Kingdom – the member state United Kingdom – which at the end of that process of transition and on 31st January becomes no longer a member state, and the European Union, not Spain. And so, if anybody was going to describe what is happening as bilateral and they looked at this dispassionately they would see that it is bilateral between the United Kingdom and the European Union.

There are different parts of the United Kingdom administration and within the constitutional structure of the United Kingdom that engage with different parts of the European Union: sometimes member states and sometimes constituent parts of member states, or constituent parts of the institutions of the European Union. But there were three administrations with constitutional responsibilities present at those meetings: Gibraltar, Spain and the United Kingdom.

Hon. K Azopardi: Mr Speaker, the Chief Minister should not confuse the messages that I give, because he gives the example – and it is not the first time he has given the example – of the New Year's message I gave. But the New Year's message that I gave was composed of different aspects. And yes, in the economic argument we have a very different economic view of life of the Members opposite. But that is not to be confused with the offer to work together on the issue of Brexit.

First of all, I did not name-call in my New Year's message. When he paraphrases the Spanish saying, he is incorrect. I may have criticised in a robust manner the economic handling of the affairs of this community, but I did not personalise it like he did in a subsequent press release – a matter for him. But what he should do precisely is the exercise that he says he does, which is to recognise the role that we have and ring fence the reality that we may have different domestic differences – he says it often enough that he respects that we have domestic differences and it is a good thing – but then also recognise the issues where we can work together.

Mr Speaker, I asked about the trilateral aspect of it: recognition and whether it was an analysis that was respected and recognised. And I think from his answer – a rather long answer but – I know where he wants to go and I know why he wants to present it that way. But it sounded to me that, because it is not accepted by Spain, that it is trilateral according to him only and the UK. But that is not a universal recognition of all the parties in the room.

What I suggest to the hon. Member is to be cautious in that process. I know that in this process there have to be discussions, but the hon. Member needs to be cautious about the structure of those talks because Gibraltar gained a lot in terms of recognition when it established the trilateral structure and we should be cautious about giving it away.

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Hon. Chief Minister: Mr Speaker, we do have different economic views of life. We have a view of life which is that we did not criticise them when they borrowed through companies and they criticise us when we borrow through companies like they did when they were in Government.

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Why is that relevant? Well, because I am struck by the fact – and this may simply be the human condition at play, Mr Speaker, is not necessarily a criticism of the hon. Gentleman – that he says, ‘I did not call you names, I just criticised you’. Well, I do not think I called him names, I think I just criticised him. So I think that the criticism versus name-calling debate is really in the mouth of the speaker and at least it appears that we both think we have not called each other names and we think we have just criticised.

2260

But I suppose, like any footballer that is called up on a foul, that we will all argue that we were playing the ball and never intended to kick the other. It is good that we are both saying that we do not intend to name-call each other, even though the other might regard himself as name-called, and that our view is that we should just properly criticise each other’s policies. I think it is healthy that we should take that view.

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Well look, Mr Speaker, I recall the fact that in 2006 there was something that struck me then, not as Leader of the Opposition, just as a Member of this House. It was that I felt almost as if the Hon. Mr Azopardi was *more* critical, *more* quickly of the Córdoba arrangements than we were, and indeed I recall that Joe Bossano, in the way that characterises him, did not react in a kneejerk fashion. Indeed, he was criticised for spending time considering what emerged from Córdoba and then doing a detailed analysis which led us to accept some parts of it and roundly reject others. Those were the fruits of the trilateral process that he now seeks to talk up and protect.

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We were clear that we thought that the Trilateral Forum for Dialogue was acceptable in everything except the birth of it, because the birth of it was a meeting, the last meeting, of the Brussels Process. There was a meeting of the Brussels Process from which the Trilateral emerged. He will recall that, Mr Speaker, and he will want to go back and look at that I am sure because he and I, I think, take exactly the same view of bilateralism and the Brussels Process. So let us not be too forgetful of all aspects of the trilateral process. But a trilateral process which is defined by Gibraltar being a separate entity to the United Kingdom in any negotiations, with a full veto over anything that may be agreed which relates to Gibraltar, is something that we all I think regard as essential.

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Now, in the context that we are dealing with, remember that Brussels and the Trilateral etc. were all about that which others want to talk about: the future of Gibraltar. The position that we take, and I think this is an issue across the floor of the House, is that the future of Gibraltar is a matter entirely for the people of Gibraltar, principally, and the United Kingdom, not to be discussed with anybody else.

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He will have seen that in some parts of the Spanish press they are saying that these talks in Madrid today are about the future of Gibraltar. *Not one word* would have been talked about today about the future of Gibraltar or indeed the future relationship between Gibraltar and the European Union. Today is *just* about the Withdrawal Agreement and the MoUs under the Withdrawal Agreement.

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What do the MoUs under the Withdrawal Agreement do? They do, for the period of transition, the work of ensuring that we hold the ring the same as when we were members of the European Union on those issues. So what there are at this moment are the two parties to an agreement: the United Kingdom and the European Union. There is a protocol on Gibraltar under that Agreement between the United Kingdom and the European Union. That protocol on

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Gibraltar creates MoUs which create committees. Those are the meetings that we are dealing with. Meetings of committees of technical officials who have constitutional responsibilities in respect of the things that are set out in the bilateral agreement between the United Kingdom and the European Union, which is the Withdrawal Agreement.

So I know he will agree with me that these are not issues on which he and I would ever, looking back, have expressed a different view. We would not accept that there should be *any* discussion on *any* matter in relation to Gibraltar where the people of Gibraltar were not independently represented and recognised as being independently represented and where we had a full veto in respect of those issues. And any matter which relates to the future of Gibraltar, which is very dangerous shorthand for anyone to use, I want to be explicit in this House, is exclusively for the people of Gibraltar and for the United Kingdom.

Q121/2020

Abortion referendum –

Neutral education for secondary school students

Clerk: Question 121, the Hon. Ms M D Hassan Nahon.

Hon. Ms M D Hassan Nahon: Does the Education Department have any intentions of providing a neutral educational platform to inform secondary school students on both sides of the argument for the upcoming abortion referendum, given the reality that 16-year-old students will be enfranchised to vote?

Clerk: Answer, the Hon. the Chief Minister.

Chief Minister (F R Picardo): Mr Speaker, the hon. Lady has another question on a similar subject which because it related to Education specifically would be answered by the Department of Education. I am answering the hon. Lady's question on this subject because it is related directly to the referendum and therefore I consider it appropriate that I should be answering on this subject.

Mr Speaker, the Government does not consider that there should be any campaigning in schools. If members of the relevant teaching body, however, want to invite a representative of each side in the referendum, it would be a matter for them and the Government would not interfere in whatever decision they might make in that respect. But of course, then I am sure they would want to see balance in that respect.

Hon. Ms M D Hassan Nahon: Mr Speaker, the Chief Minister hopefully will forgive me for seeming pedantic, but in relation to the other question, which, from what I understand, he believes that the other hon. Gentleman will deal with, because of the other question and because the Hon. Chief Minister knows that I have written to him about my concerns – because I had received reports that children were being fed propaganda in religion classes – I would ask the Chief Minister if, on what he has just answered me, if his Department of Education will ensure that if, in a separate way as he has just described, people do come and speak to students, to ensure that there is a balance. That is really what I would like to ascertain.

Hon. Chief Minister: Well, Mr Speaker, that is why I refer the hon. Lady to the other question, because I know that they are related, but I thought it was appropriate ... when the Minister and I saw the questions, one is about existing education, one is about the referendum and it is my responsibility to deal with issues relating to the referendum.

2345 It is of course true that given the subject matter of the referendum and the ages of those who might be taught those subject matters, what is taught in the school must be neutral and if it is not already neutral, we must ensure it is neutral going forward. That is the subject of the other question, but it is related to this one I acknowledge and the hon. Lady is right to highlight it because there should not, either directly or indirectly, be messages put before people who are going to be making decisions in a plebiscite that might be interpreted by one side or the other as tending to take the position of one side or the other.

Adjournment

2350 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I move that the House should therefore now adjourn to tomorrow at 4 p.m.

2355 Mr Speaker, the hon. Members opposite will know that one Minister is not well and if possible he will be well tomorrow and we will be able to do Questions. Alternatively, we will have to ask hon. Members to choose whether they wish to have their answers in writing this month or whether they simply want to have the questions answered orally in the following month as they are entitled to do under standing orders. I should hope by tomorrow morning to be able to inform the Clerk of what we will be able to do.

It is also true, Mr Speaker, that there is a Bill that we will have to deal with and so we will be able to come back then also to deal with those issues.

2360 **Mr Speaker:** I now propose the question which is that this House do now adjourn to Friday, 24th January at 4 p.m.

I now put the question, which is that this House do now adjourn to Friday, 24th January at 4 p.m. Those in favour? (**Members:** Aye.) Those against? Passed.

This House will now adjourn to Friday, 24th January at 4 p.m.

The House adjourned at 6.45 p.m.



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.09 p.m. – 4.29 p.m.

Gibraltar, Friday, 24th January 2020

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The Gibraltar Parliament

The Parliament met at 3.09 p.m.

[MR SPEAKER: Hon. M L Farrell BEM GMD RD JP *in the Chair*]

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

Questions for Oral Answer

Procedural – Answers to Oral Questions in absence of Ministers

Clerk: Meeting of Parliament, Friday, 24th January.
We continue with answers to Oral Questions.

5 **Chief Minister (Hon. F R Picardo):** Mr Speaker, as I indicated to hon. Members during the course of yesterday, I am sorry to say that one of our Ministers, Minister Cortes, has been unwell for the second half of this week and is still not able to come to Parliament – I am sure I join all Members of the House in wishing him well, and no doubt he has been following our proceedings audio and visually; and another Minister, Minister Licudi, has been traveling and is unable to return in time to the House to continue with answers to oral questions.

10 Therefore, under Standing Order 16 I understand there is a provision where hon. Members now have the opportunity to choose, in the next 72 working hours, whether they wish that the questions they have put to those Ministers be kept and rolled over to the next meeting so that Ministers can answer orally then, or whether they simply wish to have at least the first answer
15 now – or not now, once they have made their election – in writing and then pursue the questions further next time. Of course, Mr Speaker, the Government would not consider it appropriate to ask you to enforce any rule as to the six-month provision for not repeating a question in the context of these two Ministers in relation to the questions that they have had this time.

Questions for Written Answer

20 **Clerk:** We now proceed to answers to Written Questions.

Hon. Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to table the answers to Written Questions W1/2020 to W10/2020 inclusive.

Order of the Day

BILLS

FIRST AND SECOND READING

Referendum (Amendment) Bill 2019 – First Reading approved

Clerk: Bills – First and Second Reading.

- 25 A Bill for an Act to amend the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes.
The Hon. the Deputy Chief Minister.

- 30 **Deputy Chief Minister (Hon. Dr J J Garcia):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes be read a first time.

- 35 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Referendum (Amendment) Act 2019.

Referendum (Amendment) Bill 2019 – Second Reading approved

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

- 40 The purpose of the Bill is straightforward. First, it makes provision for proxy voting in any referenda to be held in Gibraltar under the Referendum Act 2015. The House will recall that last year voters in elections to the Gibraltar Parliament were able to vote by proxy for the first time. This had long been the practice in European parliamentary elections. This Bill provides consistency between parliamentary elections and referenda in Gibraltar by allowing those
45 eligible to vote by proxy, if they so wish. Second, the Bill provides for the use of tactile voting by the visually impaired through a modified ballot paper.

Mr Speaker, clause 1 sets out the short title to the Act.

Clause 2 states that it will commence on the date of publication.

- 50 Clause 3 amends the Parliament Act with the following new provisos: (a) all eligible voters will have the power to appoint a proxy to vote on their behalf if the eligible voter is unable or unlikely to be able to cast their vote on the date of the referendum, including in the case of medical disability or employment-related events; (b) the Minister, by notice in the Gazette, will be able to lower the age of a person who is eligible to be a proxy voter for a particular referendum; (c) the provision of the forms to be used with regard to proxy voting, i.e.
55 application form, form of proxy paper, poll card and emergency application form; (d) the procedures to be followed with regard to proxy voting; (e) consequential amendments to existing provisions of the Acts in order to provide for proxy voting; and (f) it modifies Form G, the ballot paper, to provide for the use of tactile voting devices.

Mr Speaker, my hon. Friend the Chief Minister gave notice on 13th December of an amendment to the Bill. I give notice also that in Committee Stage the year 2019 in clause 1 will need to be changed to 2020.

Mr Speaker, 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 the Bill?

Hon. K Azopardi: Mr Speaker, we will support the Bill, as, as far as we can see, these are similar provisions as were made in the Parliament Act already.

One of the list of measures that the Hon. the Deputy Chief Minister was setting out was the adjustment in the age of the proxy voter, which we assume on this side of the House will be aligned with a qualifying period, so that at least you have to be of eligible age for the purposes of the referendum so as to be a proxy voter as well.

For the reason that it seems to us to be aligned with the Parliament Act, we will of course support it. I would just make two general observations, if I may. One of them does not necessarily arise from this particular Bill but I just make it as a general point.

We were pleased on this side of the House to be consulted on the terms of the motion and indeed on the question. The Referendum Act, of course, does provide, as indeed is clear from the suggested ballot paper, that the question can be reached in two ways. One is by motion of the House, or indeed it can be inserted subsequent to a motion by virtue of the Government issuing an Order under the Act. We would certainly on this side of the House commend and prefer the practice that we followed for the purposes of this referendum. It is rare indeed in this place that we have had referenda and we think it is good practice for there to be consultation as far as possible on the question.

The other issue I raise, which is perhaps more pertinent to the forthcoming referendum itself, is that Members opposite will recall that when we debated the motion on the referendum itself, there was an exchange between the Chief Minister and I on the issue of whether, as a result of the cap on expenditure, whether the Returning Officer, in this case the Referendum Administrator, would require some kind of statutory back-up to then enforce the mechanics, and we had a bit of an exchange as to whether he needed that. There have been no amendments put forward, so I am not sure whether we should assume on this side of the House that it is because the Referendum Administrator to be does not require the statutory back-up or whether it may come at a different point in the next few weeks. Really it is a question more than anything else.

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

Chief Minister (Hon. F R Picardo): Mr Speaker, the hon. Gentleman has made two points. I will deal with one, which is the issue relating to the Order that he referred to in the context of the referendum, and my hon. Friend the Deputy Chief Minister will deal with the question he has raised about rules etc., which is more about the administration of the referendum.

The reason I rise to deal with the first, Mr Speaker, is because the law provides that such an Order will be signed by the Chief Minister. The position that we have taken is that, as he has indicated, it is absolutely right that we should, in our view, and therefore we instigated it, consult on the issue of the question. We may have different views as to what the answer to the question should be, but we should not have fallen into the trap of having such different views as to what the question should be that we could not agree it, and I think we demonstrated that we were able to work together on issues like that. Nonetheless, we believe – in fact it is required under a proper reading of the Act that there now be an Order for a referendum which contains the question, and hon. Members will see that, given the time limits provided for in the Act, we will be publishing the Orders consequent on the agreements we have reached, signed under my

hand on 7th February, if I remember correctly, which will give more than the time required under the Act. That, I think, will contain the question and other of the technical aspects in different Orders as required by the Act.

115 So yes, it is absolutely right that we should consult, whatever the circumstances, so that when we are asking a question of the public it should be a question that all of us agree should be the question to be answered insofar as it is possible. The law does not say that we have to, but we must always, if this ever happens again, continue the practice we have established of trying to have a question that is agreed. Nonetheless, there will still be Orders.

120 I cannot recall, Mr Speaker, and the Father of the House also cannot recall, whether we were consulted on the question in 2002 on that referendum. I literally cannot remember, but it is very likely, knowing the characters at the time, that we were consulted in the sense that the phone was picked up and the question was read to us. I much commend, as I think the hon. Gentleman does, the procedure we have followed here, which is that we had a truly meaningful discussion which I think led us to a better conclusion and is now a question agreed by both sides.

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Mr Speaker: I now call on the mover of the Bill to reply.

Hon. Deputy Chief Minister: Mr Speaker, in terms of the mechanics of the cap – the hon. Member asked how the Referendum Administrator was going to enforce that – we are working on rules at the moment which will set out the mechanics in terms of the enforcement.

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Other than that, I simply thank the hon. Member for the support of the Opposition and for their constructive comments.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

135

Clerk: The Referendum (Amendment) Act 2019.

COMMITTEE STAGE AND THIRD READING

Referendum (Amendment) Bill 2019 – Committee Stage and Third Reading to be taken at this sitting

Deputy Chief Minister (Hon. Dr J J Garcia): 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 now? (**Members:** Aye.)

In Committee of the whole Parliament

Referendum (Amendment) Bill 2019 – Clauses considered and approved

Clerk: Committee Stage and Third Reading.

145 **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 Referendum (Amendment) Bill clause by clause.

Clerk: A Bill for an Act to amend the provisions of the Referendum Act 2015 to provide for proxy voting and connected purposes.
150 Clause 1.

Mr Chairman: Is the House content with replacing the figure 2019 with 2020? Yes?
(**Members:** Yes.)
155 Clause 1 stands part of the Bill.

Clerk: Clause 2.

Mr Chairman: Clause 2 stands part of the Bill.
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Clerk: Clause 3.

Hon. Chief Minister: Mr Speaker, I have given notice that in clause 3(5) we should remove the clause as it is and insert the clause as proposed.
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Deputy Chief Minister (Hon. Dr J J Garcia): Mr Chairman, I move the amendment to clause 3, inserting the new clause after clause 3(24), which is the amendment in relation to the ballot paper.

170 **Mr Chairman:** Is the House content with both amendments?

Clerk: Clause 3 as amended.

Mr Chairman: Clause 3 as amended stands part of the Bill.
175

Clerk: The long title.

Hon. E J Reyes: Mr Chairman, I have a small, pedantic query and I thought it was not part of clause 3, which is why I waited until now. Where it says 'Form L', if I refer to page 182 of the
180 green paper, which I think is the application to vote a proxy, on the right hand side of the fourth little bullet point down, towards the end of that paragraph, just above where the words 'eligible proxy' are, it says in the last sentence in brackets:

Your application must be supported by your employer or your spouse's employer. If you are self-employed, then the support must be 18 or over ...

I know it is pedantic, but I think '18' refers to years of age, not to 18kg in weight or something. Right after that, it says 'a person who has or will have attained the age of 18 years'.
185 So, is it understood that '18' refers to a person's age and not to any other factor that a numerical figure would apply to? It is a bit pedantic, but it is worth raising at this stage, Mr Chairman.

Hon. Deputy Chief Minister: Mr Chairman, yes, the form the hon. Member has referred to is a cut and paste from the Parliament Act and also from UK legislation, but there is provision in the Referendum Act itself, in section 8(1), for the minimum age at which a person is eligible to
190 vote for Parliament, for the Government or a Minister to set it by notice, and wherever there is a

reference to 18 it means 16 if, in this particular case, the voting age is going to be 16. I do not know whether that answers the hon. Member's query.

195 **Hon. E J Reyes:** Yes, Mr Chairman, if those who are legally minded are content with that and I think, above all, reference to the exchange that was had in Parliament, that should clarify any queries that any other equally pedantic retired school teacher like myself may wish to bring up in the future.

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

Mr Chairman: Clause 3 as amended stands part of the Bill.

205 **Clerk:** The long title.

Mr Chairman: The long title stands part of the Bill.

**Referendum (Amendment) Bill 2019 –
Third Reading approved: Bill passed**

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the Referendum Bill has been considered in Committee and approved without amendments. I move it should now be read a third time and passed.

210 **Mr Speaker:** I now put the question, which is that the Referendum (Amendment) Bill 2019, with amendments, be read a third time and passed. Those in favour of the Referendum (Amendment) Bill 2019? (**Members:** Aye.) Those against? Carried.

Adjournment

215 **Chief Minister (Hon. F R Picardo):** Mr Speaker, on that basis, the House has now finished the work it needed to deal with for this session and I move that we should now adjourn *sine die*.

Mr Speaker: I now propose the question, which is that this House do now adjourn *sine die*. I now put the question, which is that this House do now adjourn *sine die*. Those in favour? (**Members:** Aye.) Those against? Passed.

220 This House will now adjourn *sine die*.

The House adjourned at 4.29 p.m.