



# 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.

60 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.

65 **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.

70 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.

75 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.

80 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.

85 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.

95 **Mr Speaker:** Does any other hon. Member wish to ...?

100 **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.

105 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  
110 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.  
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**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 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:  
180

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 vote for Parliament, for the Government or a Minister to set it by notice, and wherever there is a  
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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.

**Clerk:** The long title.

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**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.

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**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**

**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*.

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**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.

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This House will now adjourn *sine die*.

*The House adjourned at 4.29 p.m.*