



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.37 p.m. – 6.08 p.m.

Gibraltar, Wednesday, 25th May 2022

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The Gibraltar Parliament

The Parliament met at 3.37 p.m.

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

[ACTING CLERK TO THE PARLIAMENT: S Galliano Esq *in attendance*]

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

Clerk: Meeting of Parliament, Wednesday, 25th May 2022.
Suspension of Standing Orders. The Hon. the Chief Minister.

5 **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.

Gibdock lease – Statement by the Chief Minister

10 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the Government has agreed to the grant of a new lease over the Gibdock dockyard premises. The new lease has been granted to Balaena Propco Ltd, part of the Balaena Ltd group of companies who have today announced their acquisition of Gibdock. The Balaena group is an offshore utilities business based out of the United Kingdom. The ultimate beneficial owner of these companies is Simon Gillett, a British, UK-based entrepreneur. Mr Speaker, I recognise Mr Gillett in the Gallery today.

15 Change of control protections are included in the new lease, which were not provided for in the old lease.

The new lease terms meet three of the GSLP/Liberal 2019 manifesto commitments. These commitments were to, first, renegotiate the lease so that the dockyard is operated in a manner that does not pose a health risk to the surrounding areas – this is now specifically provided for in the lease as a key performance indicator; second, that the Government is able to ensure that the shipyard is operated in full and proper compliance with the highest environmental standards – this is now also provided for by the inclusion of another key performance indicator requiring adherence to three defined ISO certificates and the application of relevant Gibraltar law on pollution and environmental protection, and additionally there is a KPI commitment to best industry practice and the introduction of best available technology; and thirdly, there is a transition in the lease to shore power, also known as cold ironing, and this will have to be provided, under the lease obligations, within three years.

25 The new lease follows months of collaborative discussions between Balaena and the Government. I want to thank the Financial Secretary, Albert Mena, for his work on this, as well as John Paul Fa alongside him with the support of Land Property Services throughout, our land property agents.

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In addition to our manifesto commitments, there are also various other Government objectives that have been hardwired into the new lease, representing a significant improvement over the previous lease. In this respect, the lease now includes environmental, operational and financial key performance indicators, some of which are entirely new and some of which have been carried over and updated from the previous lease, such as the minimum number of resident employees required.

Residents of the area will particularly be very pleased to hear that any noisy works will no longer be allowed outside the hours of 8 p.m. to 8 a.m. Under the current lease, works can continue throughout with no specific reference to noise being curtailed. Works outside of those hours will now only be permitted on the basis of an extenuating works licence, which will only be granted for works for Royal Navy vessels or for works which the Government accepts are urgent. Noise will therefore become an unwelcome exception rather than a constant, unwelcome norm.

There are also various other lease terms that are sensitive to Balaena's growth plans, with the Government keen to give Balaena the greatest possible prospect of success for its new business venture in Gibraltar.

The Government has also felt that it was important, at this challenging time in our political and economic development as a result of Brexit, to keep the dockyard operational as a shipyard and provide a continued element of diversification to Gibraltar's economy at this time. We considered this issue with the benefit of the advice of the Minister for Economic Development, whose relationship with the dockyard goes back at least half a century – which I think is a fair portion of the period in which the dockyard has existed – the same half-century he has been an elected representative of the people of Gibraltar, some part of which he has also spent as a trade union leader, spending many days and hours in the dockyard as a result. In this respect, we will all be happy to hear also that the lease now beds in the continuation of an apprenticeship scheme going forward.

As a result of these arrangements, the Government will immediately start to work closely with Balaena to also explore the feasibility of constructing an access lane through the shipyard that would connect Queensway Road and Rosia Road. I am sure that all hon. Members will know that the Minister for Transport would wish to have been here today to hear this happy announcement. Further details of this will be announced as soon as possible.

The dockyard has been in need of an update to its lease to align with current requirements. Today we have delivered one that is in sync with Gibraltar's modern-day environmental obligations. The terms of the new lease that have been negotiated are highly positive for Gibraltar. As the Government, we have been ready to help out and play our part. I am excited to see what the future is going to bring for Gibdock, its employees and its new owners.

I take this opportunity to congratulate the new owners on their acquisition of Gibdock. The dockyard represents a key part of Gibraltar's real estate and I therefore welcome them to Gibraltar. I wish them great success in their operations. Their commercial success as a company will be our economic success as a nation. I am encouraged to see the drive and energy shown by the new owners, who seek to grow the Gibdock business from strength to strength whilst reducing the negative impact that the previous operations have had on the surrounding area. I consider the acquisition to be more than simply an acquisition of Gibdock: this as an investment in Gibdock and in Gibraltar, yet another vote of confidence in our economy at a sensitive time in our history. The conclusion of this deal at this time, with other competing priorities, is also proof of the Government's relentless desire to continue to grow Gibraltar's economy and our success in attracting quality investment.

Mr Speaker, given the seminal importance of the dockyard in our commercial, military, economic and political history, I am exceptionally – and without establishing any precedent in doing so – laying the new lease on the table of the House for all hon. Members to have immediate access to it.

Mr Speaker, I am grateful for leave to have made this Statement.

Mr Speaker: The Hon. Elliott Phillips.

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Hon. E J Phillips: Mr Speaker, we welcome the Statement by the Chief Minister and look forward to digesting the lease that he has kindly said he will lay on the table of Parliament.

90 Just a number of observations and one question for clarification. Whilst we welcome the change of control and the commitment to the environment first and foremost, and to the working hours that have been the bugbear of many residents of the south district – and, indeed, other areas of Gibraltar that have complained about noise pollution and working hours at Gibdock – just one point of clarification in relation to those environmental KPIs. How is the Government going to monitor compliance? That will be a key question that a number of constituents will undoubtedly have running into the future and insofar as the exception that the Chief Minister spoke about in relation to the Royal Navy, which I think is understandable but obviously we would need to look into that as well.

95 In relation to matters which the Government considers urgent, has the Government formed any view as to, insofar as complying with that test, what ‘urgent’ means in that context? We are just cautious that we still might see those hours in the 8 p.m. to 8 a.m. bracket being offended in some way, but if it is for supremely urgent works that need to be conducted I am sure that the whole community would support it – if those matters were urgent. If the Chief Minister could explain what he meant by that further, then I would be grateful.

100 Thank you, Mr Speaker.

105 **Mr Speaker:** The Hon. the Chief Minister.

Hon. Chief Minister: Mr Speaker, I am very pleased to have been able to come here to make this announcement today in the way that I have. I wanted to do so for the reasons I have set out in my Statement about the seminal importance of the dockyard in our political and economic and social history, as I have already provided for here, but not least because of how this was handled last time it happened. We have to remember that the last time there was a transfer of a lease we even had a situation where private conversations of the then Leader of the Opposition were bandied about by hon. Members when they were on this side of the House, so I think it is important that we put into context the way that the Government is seeking to deal with this matter properly.

115 I hope that when hon. Members do see the lease, which I understand is now with them, they will be able to digest it and not just indigest it, because of course the comparison that they will have to make will be with the lease that they agreed themselves when they were in government, and this is a considerable improvement for the people of Gibraltar, for those who will be running the yard as well and who have acquired it. We have found a new symbiosis between Gibraltar and the yard, which we think is the modern symbiosis that it was right to find at this time, but which could also have been found earlier.

120 In the context of how we will monitor compliance with the environmental KPIs, the first point I want to make to hon. Members is that of course the law of Gibraltar continues to apply as it has applied to date, even under the old lease. At the same time, there are onerous obligations under the lease which reflect the law of Gibraltar and go a little further by setting out more clearly what those obligations are and what they imply and mean. The agencies of the Government of Gibraltar – in the context of the environment, the Environmental Agency – will be how we monitor compliance with particular parts of our environmental legislation and those parts of the lease which require compliance with environmental provisions, but we will also have a role there as landlord, because by bringing some provisions into the lease we have a power as a landlord, not just as a regulator of all of the space that is Gibraltar through the Environmental Agency.

125 Recently, we have been remembering the magnificent work done in that yard at a time, in fact, when there was industrial action; but the unions – then led by Sir Joe – and the Government and all of Gibraltar joined forces to ensure the conversion of two commercial vessels into vessels that

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could sail to the Falklands as part of the task force. And so I think as we look back we remember what it is that has been done at this yard and what it is that may need to be done at this yard at any time – although we always hope in times of peace and not in times of war – and I think the Royal Navy exception, in terms of works that will have to be done to a vessel, is one that everyone in Gibraltar will understand. It goes beyond the commercial. This is something that, because it is about the Royal Navy, runs in our veins and we all understand that exemption.

In the context of urgency, the standard here will be one that is to be set, but it will be the ‘man bites dog’ category, not in the ‘man eats steak’ category. That is to say it will be in the unusual category, not in the normal category, and so simply because something is commercially urgent it will not automatically trigger that the Government of Gibraltar will be prepared to grant a permit. There may be some things that are commercially urgent for which the Government is prepared to grant a trigger and permit works, but those are circumstances which we believe will be few and far between.

What will the standard be? Well, when hon. Members were in government they passed a law that permits the Government to grant such permits in respect of any activity in Gibraltar, any commercial building work in Gibraltar. In the last 10 years I think we have used that power once and we have done so very sparingly, I understand, in relation to, from memory, something to do with the Airport approach lighting etc. So the standard will be a high standard. Hon. Members passed that law and immediately granted a number of permits. We have not done so. We are very conscious that people who live around this yard want to be able to live their lives without the constant difficulties that some have experienced – those who have lived closer to the yard. Indeed, it is true that some of this housing that has been developed around the yard has come after the yard, but as hon. Members who are legally trained will know, the fact that the nuisance comes to [inaudible] is no reason why it is no longer a nuisance. Therefore, we will be very careful to continue the work that we have been doing, and have now seen materialise in this lease, to protect all those who live around the yard at the same time as we protect the yard, its viability and its commercial ability to be a success for all those who work in it and for the Gibraltar economy, which includes all of us.

I hope I have dealt with all the points the hon. Gentleman raised.

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Mr Speaker: The Hon. Roy Clinton.

Hon. R M Clinton: Mr Speaker, I echo my colleague’s welcoming of the Statement. Any form of inward investment to Gibraltar at this time is, of course, to be welcomed and I think we look forward to this new partnership as set out in the lease – which, as it has just come into our hands, I have only quickly perused.

I note from my quick perusal of the particulars that it is a 35-year lease. My only question to the Government ... I can see there is a reduced rent, a stepped rent and a ceiling rent as a whole calculation based on profitability, but can the Government advise, in terms of immediate cashflow – and I cannot see, looking through the lease, just a quick scan – whether there is any form of premium paid up front? All I can see at the moment is perhaps the first instalment of the first year’s rent of £50,000. Is that correct?

Hon. Chief Minister: Mr Speaker, if hon. Members look at the rent clause, they will see that there are a number of different provisions. There is a provision on rent in the first seven years, a provision in year eight onwards, a provision if KPIs are failed and a provision on rent increase. There were none of those in the lease that they agreed and there was no premium in the lease that they agreed.

This is an assignment of the original lease dealt with by way of new lease because there was a dispute between the Government and the previous leaseholders as to whether they were holding over properly or not, but there is no premium in respect of this lease, as there was not before.

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In the context of the rent, if hon. Members look at the stepped rent and they look at the reduced rent, as it is called, versus the market rent and the ceiling rent, all of which are set out in the document, they will see that this is a considerably better deal for the Government and for the taxpayer than was the case before.

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In the context of the term, the hon. Gentleman is right, this is a 35-year term. Of course, terms need to be agreed on the basis of what needs to be done commercially to finance the ability to enter into these arrangements – that is why the Government has agreed that period – but there are breaks provided for in the lease, which hon. Members will be able to see.

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Mr Speaker, the premium here for the people of Gibraltar, for the taxpayer, is not just in the context of the much higher rent that is payable, but also in the obligation to maintain the number of locally resident employees which is now fixed into the lease itself, which was not the case before; the environmental benefits provided for; and the cost, for example, involved in all of those – in particular the cold ironing cost, which would otherwise have been a cost which the Government would have had to meet, and the obligation to provide the 60 Hz generator, which was previously an obligation of the Government and is now an obligation of the tenant and which they have to comply with in 70 working days. So we have shifted obligations with big financial consequences, and that is the premium to the Government because we no longer have to put out for those costs; they are costs that are being taken by the lessee.

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Mr Speaker: Does any other hon. Member wish to seek any further clarification?

Order of the Day

BILLS

FIRST AND SECOND READING

University of Gibraltar (Amendment) Bill 2021 – First Reading approved

Clerk: (ix) Bills – First and Second Reading.

A Bill for an Act to amend the University of Gibraltar Act. The Hon. Minister for the Environment, Sustainability, Climate Change and Education.

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Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes): Mr Speaker, I have the honour to move that a Bill for an Act to amend the University of Gibraltar Act be read a first time.

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

Clerk: The University of Gibraltar (Amendment) Act 2021.

**University of Gibraltar (Amendment) Bill 2021 –
Second Reading approved**

220 **Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

The Bill makes a limited number of amendments to the University of Gibraltar Act 2015. The principal aim of the Bill is to make the University operationally more independent. There are some other amendments, as I will explain.

Clause 3(2) amends section 2 of the Act, which contains definitions.

225 Clause 3(3) amends section 8(1) of the Act and aims to streamline the functions of the University. Current descriptions are somewhat prescriptive. If amended, and if, in the future, there are further facilities, centres or academies, the Act will not need to be amended as any new areas would be covered. Moreover, the amendments provide the University with the ability to respond to local and regional opportunities and needs as they arise.

230 Clause 3(4) amends section 9(1) of the Act so that the appointment of the chancellor is undertaken by the Minister after consultation with the vice-chancellor.

Clause 3(5) amends section 11 of the Act. As amended, appointed of the vice-chancellor will be undertaken after consultation with the Minister, as opposed to with the Minister's consent. The vice-chancellor's powers will include the ability to summon meetings for both faculty and other academic administrative divisions.

235 Clause 3(6) amends section 13(3) of the Act to provide a suspended or expelled student with a right of appeal to the Public Services Ombudsman in place of the board. Currently a student appeals to the board. However, the amendment means that a neutral third party will be making the final decision, rather than the board, which is affiliated to the University. This also aligns with the University academic regulations.

240 Clause 3(7) substitutes section 15 of the Act, which provides for a registrar. The role is better defined and the registrar's appointment is moved from the board to the vice-chancellor. Their duties will be in accordance with the University academic regulations.

Clause 3(8) makes a consequential amendment to section 16.

245 Clause 3(9) amends section 18(2) of the Act, which sets out the board's powers. The main change is that the appointment of academic and administrative staff and office holders will now be made by the board in consultation with the vice-chancellor. Also, as with previous amendments, instead of requiring ministerial consent, the obligation in paragraph (f) is predicated on a consultation with the Minister.

250 Clause 3(10) substitutes section 19 of the Act with a new section that amends the composition of the board. The board will now be composed of up to eight members rather than seven, including one enrolled degree-seeking student who has been elected by the student body, two persons appointed by the Minister rather than four, and up to two persons appointed by the board. Furthermore, the director will not be entitled to vote at the meetings of the board. The board, rather than the Minister, will appoint their own chairperson. However, this person cannot be a student, the director, the vice-chancellor or the University's financial controller.

255 Clause 3(11) amends section 21 of the Act as a consequence of earlier amendments.

260 Clause 3(12) substitutes section 22 of the Act relating to terms of appointment. Appointment to the board will be for a period of three years; however, if renewed, may not exceed a total period of nine years in office. The enrolled degree-seeking student referred to above may only serve to the end of the academic year in which they cease to be an enrolled degree-seeking student.

Clause 3(13) amends section 44(1)(a) of the Act. The change of the accounting date from 31st December to 31st July is in order to align the financial year with the academic year.

265 Clause 3(14) is a minor amendment to section 56(2) of the Act as a direct consequence of Brexit.

I commend this 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? The Hon. Edwin Reyes.

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

May I start by thanking the Minister, who had a brief interchange with me after the publication of this Bill and so was able to clarify some things for me?

In the Bill, in clause 3(10), which amends section 19(1) of the Act, it says:

The board of the university shall be composed of up to eight members ...

275 and in (b) it says:

one enrolled degree-seeking student, elected by the student body,

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I speak from personal experience because I happened to hold one of those positions when I was an undergraduate at Urbaniana University. The wording that brings in a little bit of doubt to me is where it has to be an 'enrolled degree-seeking student'. Does that mean a student following just a bachelor's degree or, for example, a postgraduate, which could include a master's degree? There may not be a need to modify the Bill per se, but a record of what the intention of the legislators is ... And technically, those graduates who are following a Postgraduate Certificate in Education (PGCE), which the University is running nowadays, are they, generally speaking, classified as degree-seeking students? At the end of the PGCE they obtain a postgraduate certificate, not a degree; they are already graduates holding a degree in their own right. So perhaps a little clarification on that point may help to solve problems in the future.

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Perhaps, Mr Speaker, with your guidance ... I do know – it could be more a question of seeking an amendment to the wording in Third Reading or Committee Stage, but on the amendment, when trying to amend section 22 sorry.... Section 21 has some words struck out and then section 22(1) and 22(2) as existing are deleted completely, and then a new section 22(1) says:

Subject to subsections (1)

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– well, subsection (1) is this one itself now –

and (2),

– which is what follows underneath –

appointments to the board shall be for periods of up to three years,

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I think that should read 'Subject to subsections (2) and (3)' because there is no reference to subsection (3), which was the one I am asking about now, where the enrolled degree-seeking student can only serve to the end of the academic year, and in the new section 22(1) there is no reference to that subsection (3) which is now introduced and did not exist before.

If I am out of order, I can bring it up at the Committee Stage, but perhaps the Minister may appreciate the time to look into it, or offer me some clarification so there is no need to raise the topic at the Committee Stage.

Thank you, Mr Speaker.

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Mr Speaker: Does any other hon. Member wish to speak on the general principles and merits of the Bill?

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Hon. G H Licudi: Mr Speaker, in 2015 we established the University of Gibraltar through Act of Parliament. It was not an Act which we took, for example, from the UK, because in the UK we saw that most universities were established through Royal Charter rather than through Act of

Parliament. We did look at various jurisdictions and various models as to how other jurisdictions did that, but what we did in 2015 was to create something which was fit for Gibraltar, which was fit for a University in Gibraltar.

310 It was always thought at the time that, because we were doing something new in a place like Gibraltar, a small jurisdiction with its own specific type of University, there would come a time when some provisions in the Act at the time would have to be changed and we would have to learn through experience, learn through operational practice and learn through contact with students, the academic board and the regulator, and then bring improvements to the Act.

315 So that was always in the making, but it has been almost seven years since we have had the University of Gibraltar Act and essentially this Act, which was tailored for Gibraltar, almost in a little bit of a dark ... has stood the test of time. It is a testament to those involved at the time in putting this together, in structuring this, in the drafting, in all the research and the trips that were made to learn about how all this should be done. It is a testament to the very hard work of all of those involved at the time that we are here now, seven years later, making some what the Minister has rightly described as limited amendments to the Act which clearly are improvements to the Act.

My understanding is that these improvements arise following discussions with members of the University and recommendations made by the regulator, the University of Gibraltar Regulatory Authority, in order, as the Hon. Minister said, to make the University more operationally independent. All of this is, of course, to be welcomed.

325 At the time when we established this, we did not have a regulator of universities in Gibraltar. We had the Gibraltar Regulatory Authority, but the Gibraltar Regulatory Authority did not regulate any university or any academic institution, and therefore the feedback that we now have, as a result of the practice of these last seven years, from the regulator and from others involved in the University, was simply not available in 2015. Therefore, we created a model which has worked and has actually worked very well indeed, but there was always going to come a time ... and it has taken seven years, but that is in itself a testament to how good and how solid the legislative foundation of the University was, that it has taken seven years for these recommendations to be made, for the practice of the Act to be in place and for these limited amendments to be made.

335 The Hon. Mr Reyes makes a point and asks about the issue of the degree-seeking student on the board, and it obviously will be a matter for the Hon. Minister to answer the specific question but let me say that I certainly recall that that was one thing which was in the thinking of those putting together the Act at the particular time when we brought this together. We knew that at some stage the Government would want to make an amendment to the Act to bring in a provision such as this whenever other amendments were made, because it was always intended that it was a good idea to have a representative of the student body on the ultimate decision-making body for the University, which is the board of governors, and therefore that is something that is certainly to be welcomed.

345 Aside from the specific legislative provisions, it is worth noting – I think it is a good opportunity, now that we are debating issues to do with the University of Gibraltar – that the University of Gibraltar continues to be a great institution and a source of great pride for me and for others who were involved in establishing the University, and for Gibraltar generally. It has become not just a useful but I would suggest a vital academic component of what Gibraltar has to offer. It is recognised internationally and it is well recognised, and it has an excellent international reputation. The University has been training Gibraltarians and others, each year in greater numbers, for almost seven years. There are a number of courses aimed at professional development across various sectors in Gibraltar, which has benefited many professionals in Gibraltar and many businesses in Gibraltar, and it is always looking to expand its offerings. It has become what all of us who were involved at the time hoped that it would become, a beacon of excellence in the Mediterranean, even to the extent that the University is now blessed with having, as we know, Sir Lindsay Hoyle as the Chancellor.

360 Just to end, Mr Speaker, I would like to pay tribute to Vice-Chancellor Prof. Catherine Bachleda, her staff, the board and everyone who is involved with the University for the excellent work that they are doing and for the continuing expansion that we will see of the University over the years.
Thank you.

Mr Speaker: The Hon. Prof. John Cortes.

365 **Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes):** Mr Speaker, first of all, I would like to thank my hon. Friend the Hon. Gilbert Licudi for his intervention. It is, in fact, a testament to the quality of his pioneering work when the University was set up that we are able to now develop and mature the University with minimal changes at a time when we more or less expected the time would be right to move forward. I completely
370 support his praise of the University's vice-chancellor, the staff and the board.

The Hon. Mr Licudi is absolutely correct: these changes, which have the support of the University's board, are the result of their interaction with the University Advisory Board of the Gibraltar Regulatory Authority. As the Hon. Mr Licudi has said, this process could not have
375 happened at the time the University was set up. Whereas in 2015 the University aspired to international recognition, now it is actually obtaining international recognition. It is in contact with Universities UK, it is in contact with the Quality Assurance Agency, and they all have recommended that these steps are logical steps in the maturing of an institution such as the one that the Hon. Gilbert Licudi set up back in 2015. It is a testament to that and also proof of the ambition of the University to become ever more established in the international academic world.

380 In relation to the point that the Hon. Mr Reyes has brought up, I agree with him: I believe that it is an error and that section 22(1) should, in fact, read 'Subject to subsections (2) and (3)' and I would ask that these amendments be made at Committee Stage.

In relation to 'degree-seeking', 'degree-seeking' would include masters and PhD students. It would not, in my opinion, include PGCE students. Whereas I am tempted to suggest an
385 amendment at Committee Stage I will resist the temptation because this was the wording agreed by the board. By me, here, in this place agreeing to a change in what the board has recommended I think would be a little bit of interference or involvement at a level which I do not think I should involve ... If the board feels that they should extend this to PGCE students, or indeed if my interpretation is incorrect, then that will resolve it, but if they feel that this should be extended
390 and there should be wording, then I will bring another Bill with this minor amendment to the House, but I think I owe it to the board to seek their advice, which I am not able to do right now.

Having said that, Mr Speaker, I once again commend the Bill.

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

Clerk: The University of Gibraltar (Amendment) Act 2021.

**University of Gibraltar (Amendment) Bill 2021 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill
400 be taken today, if all hon. Members agree.

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

**Employment (Bullying at Work) Bill 2022 –
First Reading approved**

405 **Clerk:** A Bill for an Act to amend the Employment (Bullying at Work) Act 2014. The Hon. Minister for Housing, Employment, Youth and Sport.

Minister for Industrial Relations, Employment, Housing and Sport (Hon. S E Linares): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Employment (Bullying at Work) Act 2014 be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Employment (Bullying at Work) Act 2014 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

415 **Clerk:** The Employment (Bullying at Work) Act 2022.

**Employment (Bullying at Work) Bill 2022 –
Second Reading approved**

Minister for Industrial Relations, Employment, Housing and Sport (Hon. S E Linares): Mr Speaker, I have the honour to move that the Bill be now read a second time.

The case of *Stagnetto v Cassaglia* under the 2014 Act in the Employment Tribunal, which has resulted in the proceedings before the Supreme Court and the Court of Appeal, has shown that there are a number of issues concerning the interpretation of the 2014 Act. In particular, difficulties have arisen in relation to the meaning of bullying and the liability of employers of the acts of employees. The Court of Appeal judgment described the 2014 Act as a very puzzling piece of legislation. Sir Patrick Elias JA went on to state in his judgment:

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It will be obvious from this judgment that I have not found this Act easy to interpret or apply. There is a lack of clarity about fundamental questions, such as precisely what amounts to unlawful bullying and when the employer will be personally liable for the acts or bullying of his employee. Parliament might think it appropriate to amend the legislation to clarify these difficulties and important issues.

The Court of Appeal made observations, which can be summarised as follows. Section 4(1) cannot be looked into in isolation. ‘Conduct’ in section 4(1) must be viewed objectively in the context of section 4(2). Section 4(2), for all practical purposes, contains an exhaustive list of conduct which amounts to bullying. Section 4(2)(a) sets out the kind of conduct required under section 4(1) and identifies the typical characteristics of bullying. Section 4(2)(a) captures the main categories of bullying with (b), (c) and (d) seen as specific examples. It is difficult to think of examples of bullying which do not fall within section 4(2)(a). Sections 4(2)(c) and (d) are single incidents, but acts should include at least some of the characteristics of bullying behaviour in section 4(2)(a). This is why the first amendment requires the replacement of the word ‘include’ in section 4(2) with ‘means’. This would clarify the interrelationship between sections 4(1) and (2), confirm that section 4(2) provides an exhaustive list and remove any doubt about the conduct required to amount of bullying.

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The Court of Appeal commented about section 4(2)(a) capturing the essence of bullying and that everything else should include some of the characteristics in section 4(2)(a) ... ought to be adopted by spelling out what it is intended to capture by section 4(2)(b), (c) and (d). This will be done by adding the new section 4(2A) as follows. Section 4(2A) should read:

For the purposes of subsections 4(2)(b), (c) and (d), the conduct in question must include behaviour which is offensive, intimidating, abusive, malicious or insulting.

440 The next amendment to this Act is in relation to the liability of employers of bullying by employees. Liability under the 2014 Act is set out in section 6(1), which states:

An employer (A) must not, in relation to employment by A, subject an employee (B) to bullying.

It is immediately apparent that it is the employer that must not subject an employee to bullying. It is therefore the act of the employer that must be looked at in consideration of whether there has been bullying. The problem is that bullying will often not be an act of an employer. In most cases it will be an employee that subjects another employee to bullying.

445 The fundamental problem with section 6, as the Court of Appeal decided, is that the 2014 Act does not give rise to vicarious liability on the part of the employer for the act of the employee. Vicarious liability is a secondary form of liability, which only arises when there is a primary liability by the employee. In the case of the 2014 Act, there is no liability at all of the employee and therefore no vicarious liability of the employer. In the absence of primary liability on the part of the employee, the only way in which the employer can be liable for the acts of the employee is to attribute such acts to the employer or to deem such acts to be the acts of the employer.

450 The Court of Appeal noted that there was no equivalent in 2014 to section 47(1) of the Equal Opportunities Act 2006, which states:

Anything done by a person in the course of his employment shall be treated for the purposes of this Act as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

455 Therefore, the Bill proposes to amend the 2014 Act on the same terms as section 47(1) of the Equal Opportunities Act.

After having discussed this with the Hon. Mr Bossino, who contacted me with some suggestions, and Mr Licudi QC, who has actually been the instigator of these amendments, I propose a further amendment to the amendment before you to, which I have given notice and set out in my letter to you. This is to be able to deal with the issue of the defence to the employer. This will be done by introducing a defence similar to that provided in section 47(3) of the Equal Opportunities Act 2006. This reads as follows:

460 In proceedings brought under this Act against any person in respect of an act alleged to have been done by an employee of his it shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment, acts of that description.

465 So, in order to capture both section 47(1) and (3) of the Equal Opportunities Act 2006, a new section should be inserted – and this is the amendment which I have proposed, which is extra to what already was in the Bill, so this is an amendment to the Bill – which should read:

7A(1) Subject to subsection (2) anything done by a person in the course of employment shall be treated for the purposes of this Act as done by the employer as well as by him, whether or not it is done by the employer's knowledge or approval.

(2) An act done by a person in the course of his employment shall not be treated as done by his employer if in the proceedings brought under this Act the employer proves that he took such steps as were reasonably practicable to prevent the employee from doing that act or from doing in the course of employment acts of that description.

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

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

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Hon. D J Bossino: Mr Speaker, thank you.

I think, firstly, to recognise and acknowledge the assistance that the hon. Member has given. He is right, I did approach him and I made a few points. They were explained to me, the points that I had were clarified, and we were then able to enter into discussions with the Hon. Mr Licudi yesterday in order to improve this legislation.

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The focus of this particular Bill is to take account of the live issues that were before the Court of Appeal in the *Stagnetto v Cassaglia* GHA matter, and that is precisely what this Bill does, so in that sense it is certainly an improvement. I think it has been very much focused on that, and it has dealt with those discrete issues, which although discrete were very important and are a fundamental understanding of the Bill, so most definitely it is an improvement.

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Simply to go through some aspects of this, the substitution of the word 'includes' with 'means' in clause 3(2)(a) of the Bill, which, in turn, amends section 4 of the Act, is in order to deal with an issue which was before the Court as to whether the four items under section 4 which are matters that amounted to bullying should be considered exhaustive or non-exhaustive. By the addition of the word 'means', in effect my interpretation has been confirmed by the hon. Member: it makes it an exhaustive list, so that is now being set in stone, the definition of bullying.

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Furthermore, there has been a further improvement because we now have the addition of a new subsection (2A) under clause 3(2)(b) of the Bill before the House, which very clearly sets out in statutory wording that those examples, in order for them to amount to bullying, must include behaviour which is ... and then it lists the adjectives that apply and currently feature in section 4(2A), which are 'offensive, intimidating, abusive, malicious or insulting'. I think that is going to be of great assistance to the law, to practitioners in the field and to those who fall victim of this very vile and foul behaviour.

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I ask a particular question, simply to clarify: why it was the case that it was decided not to include the word 'persistent' in (c) and (d), which relate to punishment imposed without justification and changes in duties or responsibilities of an employee. In those two instances, if that happens, there is not a requirement for it to be persistent, but the addition of the words that I have just talked about in new section (2A), if it is passed by this House – and is likely to be passed because it is going to have unanimous support, at least from the GSD Opposition, I can say so now ... is that that action has to be offensive, intimidating and so forth. That has been explained to me, that is a policy decision that the Government has taken and that is fair enough, but at least there is clarity in relation to that.

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If I can refer to my notes, there is one point that comes to mind ... I want to make sure that I do not leave anything out ... This would be the final point and I would invite the hon. Members opposite ... I think Mr Licudi may have something to say about this. It arises from my discussions with him yesterday and I think it would be of assistance for the record of this House that he speaks on it, if he may. I raise the point that there was an importation – a very important one, I may say – as a result of clause 3(3), which includes new 7A – again, if passed, but it will be – that, in effect, it is a deeming provision. It really was a failure of the initial Act and one which it is fair to say I do not think was spotted by anybody in the House at the time when we passed it, not even on this side of the House and certainly not on the other side of the House, that if an employee does something, how is the employer made responsible? That was the subject of argument before the Court of Appeal as to whether an employer in those circumstances could be found to be vicariously liable. My hon. and learned Friend, I think as a result of his arguments, said that it was impossible to impose vicarious liability on an employer without there being primary liability first on an employee, and therefore this deeming provision was deemed crucial in order to address that point.

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I do not say this in any derogatory way, but it is, in effect, a copy and paste of the provision – which I think the hon. Member Mr Linares mentioned earlier – from the Equal Opportunities Act,

520 so I went to that and I saw that there was a defence in there available to ... I think it is employers
in that Act, yes. I put that to the hon. Members opposite and an explanation was provided that in
fact there is already a defence available to employers in section 6(5) of the Act, which is a statutory
defence, so long as the employer has a Bullying at Work policy in place and it is properly
525 implemented and they have adequate reviewers and training and all the rest of it. And then there
is a section 5(b), which says:

as soon as reasonably practicable, he

– the employer –

takes all steps as are reasonably necessary to remedy any loss, damage or other detriment suffered by the
complainant as a result of the act or acts of which he complains.

That provides the employer a statutory defence. Nevertheless, the Government took my
suggestions on board and was careful that there is not a confusing interplay between the deeming
530 provision defence or qualification or exceptional and the statutory defence which is already there.
They did not quite import the language in section 47(3) of the Equal Opportunities Act, but it was
slightly amended.

I would invite the Hon. Mr Licudi, if he may, to address the House on that particular point,
because I think it is going to be of assistance in the future in interpreting those provisions, precisely
535 because I still think that there could be room for some confusion. In fact, it is indeed possible –
and I again invite the hon. Member to address the point I am going to make – that if you qualify
for the exception under the deeming provision, it is possible for an employer to go scot free, even
if that employer does not have a Bullying at Work policy in place, which is something I would have
thought this legislation wants to encourage all employers to have in place. If he could address that
540 particular point ... I do appreciate that the wording is slightly different, but again ... I know that
this is now the third occasion, but I do invite the hon. Member to address us on that point.

Other than that, I think, Mr Speaker, I have covered all the points. Simply to repeat that this
side of the House – certainly the GSD side – will be voting in favour.

545 **Mr Speaker:** Does any other hon. Member of the House wish to speak on the general principles
and merits of the Bill? The Hon. Gilbert Licudi.

Hon. G H Licudi: Mr Speaker, first of all, I wish to declare an interest in this matter – not in the
legislation itself, but I was, as has been mentioned already, professionally involved in the cases
550 before the Supreme Court and the Court of Appeal which have given rise to consideration of the
impact of the Court of Appeal decision in particular and the advisability, requirement or necessity
to make these amendments. I should also say I have also been involved in advising the
Government as to what the impact of the Court of Appeal judgment is and the amendments that
ought to be made.

555 Having said that, the Hon. Minister has explained the background to these amendments, how
they arise, the issues which arose in the Court of Appeal, what essentially has been decided and
how that has impacted on the Act as we had it, the 2014 Act. There were two issues – in fact,
there were four issues before the Court of Appeal. Two were substantive and two were
procedural. We do not need to deal with procedural issues, but the two substantive issues
560 concerned the meaning of ‘bullying’ under, in particular, section 4(1) of the Act, and also the
liability of the employer. Issues of, firstly, interpretation arose in respect of both the meaning of
‘bullying’ and the liability of the employer, on which the Court of Appeal helpfully made some
comments and interpreted the legislation in a particular way in order to give the judgment of the
court in that case. As a result of those interpretations, we now know what the judicial
565 interpretation of this Act is in respect of the meaning of ‘bullying’, so strictly speaking, it is not

necessary to introduce these changes in respect of section 4 of the Act, because all we would need to do ... anybody who is involved in any case or advisory work would need to look at the Act, would need to look at judicial pronouncements and say, 'This has been interpreted in this particular way.'

570 What could not be done is ignore the second issue, which is the liability of the employer, because what the court has recognised is that there is, in fact, a lacuna in the legislation. Although vicarious liability was mentioned during the course of the debate in 2014, what none of us who were here – and there are a few lawyers on this side of the House and there were a few lawyers on that side of the House – realised at the time was that, as a matter of law, vicarious liability, for the reasons that have been explained, does not apply in respect of this particular Act. That was
575 something that we did not realise. It has been picked up as a result of argument before the court. There is clearly a lacuna in the legislation which needs to be remedied, and therefore the second amendment that the Bill seeks to introduce is absolutely necessary.

Given that that amendment is necessary and it was required to bring legislation to Parliament, it was clear that this was an opportunity, which has been taken by the Government, to clarify the
580 first issue, which is the meaning of 'bullying', by essentially giving effect to what the Court of Appeal has decided is the proper interpretation of this particular Act. Therefore, the first part of the amendment, which seeks to essentially change in subsection 4(2) 'includes' to 'means', arose as a result of the discussion and argument as to whether the list in section 4(2) was exhaustive or non-exhaustive, but not just that: more importantly, if it was non-exhaustive, what else did it
585 include? That was the crucial issue. What everybody involved in the case came to realise was that it was very difficult – in fact, just about impossible – to come up with examples of what could properly and objectively be viewed as bullying conduct which would not fall within one or other of the provisions of section 4(2) of the Act. Therefore, the court was satisfied and said that for all practical purposes section 4(2) provides an exhaustive list. What the amendment does is clarify
590 that that is, in fact, what is intended and that is, in fact, what is going to be the case. The list is now exhaustive and it is clear from the language which is now used, which now leaves no room for any doubt whatsoever.

The hon. Member opposite raises the issue of some provisions in section 4(2) requiring persistent conduct and others are not required persistent conduct. Section 4(2)(a) talks about
595 abusive, insulting, intimidating, malicious behaviour; section 4(2)(b) talks about unjustified criticism. Those require persistent acts, and it is now clear, as a result of the clarification and the rulings of the court, that where the behaviour in question falls within those particular subsections, it involves criticism or it involves abusive, intimidating or malicious conduct etc., those acts are required to be malicious for the purposes of falling within the definition of bullying.

600 It is worth noting also at this stage that what section 4(2) does is set out the meaning of 'conduct' where conduct is referred to in 4(1), because the basic definition or meaning of 'bullying' is in 4(1), where it talks of a person engaging in conduct which has the purpose or effect of causing humiliation, distress etc. When you consider what does 'conduct' mean, you now look exclusively at 4(2) and the list in 4(2). One of the difficulties that arose is if you look at 4(1) in isolation and
605 forget 4(2), and see that a person carries out bullying if he engages in conduct which has the purpose or effect of causing distress etc., the question that arises is what does 'conduct' mean? Does it mean any conduct at all which has that purpose or that effect? What the Court of Appeal has decided – and this is a very important interpretation – is that 'conduct' does not mean any conduct. The conduct in question must be viewed objectively and be capable, when viewed
610 objectively, as amounting to bullying conduct. That is why the Court of Appeal then went on to say the typical characteristics of bullying are actually in 4(2)(a), which is behaviour which is insulting, abusive, intimidating, malicious, etc., and given that those are the typical characteristics of bullying, those are the ones that should permeate throughout all other forms of conduct to determine whether there has been bullying conduct or not. That is what has given rise to the other
615 amendment to section 4, which is, in introduction, that for the purposes of (b), (c) and (d) in subsection (2), some of the characteristics in (a) must be present because those are the characteristics that define bullying. What is clear is that this Act is about preventing and providing

remedies for bullying conduct – not for any type of conduct which has certain purposes or certain effects, but for bullying conduct – and we now know what that type of conduct is.

620 As regards the issue of (c) and (d), which is punishment imposed without justification and changes in duties without reasonable justification, and the fact that the word ‘persistent’ is not present in there, which the hon. Member has raised, that was always the case. In 2014 when we introduced this legislation, a distinction was drawn between (a) and (b), which mention persistent, and (c) and (d), which do not mention persistent. I would venture to suggest that ‘persistent’ in
625 the context of (c) and (d) does not really make sense because then you would need to have *persistent* punishment by the employer or *persistent* changes in duties and responsibilities. Now what you will require, as a result of the decision and these amendments, is not persistent punishment or changes but punishment which is imposed without justification or changes without justification but which also include behaviour of a type which is abusive, insulting, malicious, etc.
630 That is what brings it within the context of being bullied rather than looked at in isolation as a punishment.

Those are the issues that arise in relation to section 4, and I understand that I have covered the issues that the hon. Member has raised.

The second issue concerns the liability of the employer, and the principal problem of this Act
635 is that it does not provide for liability by employees. It does not provide that an employee is liable for bullying somebody else, or that an employee must not subject another employee to bullying. It provides that an employer must not subject an employee to bullying. Therefore, given that there is only primary liability of the employer, there is this issue with vicarious liability, which is a form of secondary liability. The absence of that primary liability means that the employer is not
640 vicariously liable at all, although I recognise ...

I do not want to bore anyone with the legal language. Just to put it in a practical context so that the point is clearly understood, let us take the example of a negligent surgeon who performs an operation, does it negligently and causes harm to the patient. Typically, the patient or the family of the aggrieved patient will take action against the health authority involved – against the
645 hospital, against the clinic/provider – although they can also take action against the surgeon. The reason that the hospital/clinic/health provider is liable is where the surgeon is acting in the course of his employment as an employee of that institution and because the surgeon is liable himself. So the surgeon can be sued, he has primary liability for his own negligence, but then there is secondary, or what we call in legal terms vicarious liability on the part of the employer, and that
650 arises only where somebody acts in the course of employment. That is a typical example of where vicarious liability arises. But you must be able to sue the person who does the act, you must be able to sue the person who is primarily liable – in that example the surgeon. Under this Act, you cannot do that with an employee because the Act does not provide that an employee must not subject another to bullying or is liable for bullying, and therefore there must be another way in
655 which an employer can be liable, so that, as the hon. Member said, the employer cannot simply get off scot-free saying, ‘Well, that wasn’t my act and therefore I am not liable.’ We saw that there was a similar provision in the Equal Opportunities Act section 47(1), which is essentially a deeming provision. It treats the acts of employees, when done in the course of employment, as being the acts of the employer. It is important to say that that is not the same as vicarious liability. That is
660 deeming those acts to have been the acts of the employer; therefore, the employer is primarily liable and is caught by the provisions of the Act.

The hon. Member raised, in correspondence with my friend the Hon. Minister, the issue of section 47(3) in the Equal Opportunities Act, which provides a defence or an exception to circumstances when acts of an employee will not be treated as an act of the employer. This is
665 something that had been considered at the time, certainly when I was looking into this and suggesting to the Government what amendments ought to be proposed. As the hon. Member has said, there is already a statutory defence in the Act at section 6(5), in the context of bullying in particular. Section 6(5) provides a general defence to employers where the employer adopts the Bullying at Work policy, which is in the Schedule to the Act, where the employer implements and

670 takes reasonable steps to remedy any loss or damage caused by any wrongful acts of the employer
or an employee. So that provides a general defence, and the view that was taken originally was
you have already got a defence and it would be unusual to have two statutory defences in the
same Act.

675 But given that the point was raised and was looked at again, it is clear to see that what is now
going to be section 7A(1) deals with something slightly different to section 6(5). Section 6(5) deals
with proactive steps taken by the employer putting in place the policy and acting pursuant to that
policy. Section 7A focuses on the acts of an employee and the circumstances in which those acts
of an employee are to be treated as the acts of the employer. There may be occasions when the
two may overlap – the issue of the proposed amendment to the exception when acts will not be
680 treated as acts of the employer, and section 6(5). There may be some overlap, but essentially,
once the amendment is done, the focus on what is looked at in terms of whether the employer is
liable or not and whether there has been bullying depends on the question being asked of the
Employment Tribunal and the particular circumstances that arise in the case. If the question is ‘Is
the Employment Tribunal considering whether the employer has adopted and implemented the
685 Bullying at Work policy and therefore has a general defence?’ it would look at section 6(5). If the
question is different, and if the question is ‘Are the acts of the employee to be treated as the acts
of the employer?’ then the focus will be slightly different, and that is where 7A(2) would come in.

The hon. Member raises the question and suggests that there should be no room for confusion
and we should not have a confusing overlap. I recognise that there might be some overlap. There
690 might be circumstances where the employer has adopted the policy, has implemented the policy
and therefore says, in response to a suggestion that acts should be treated as his, ‘I have acted
reasonably: this is what I have done.’ So it is possible that both elements can come into play, but
there may be circumstances where, for the particular reasons which apply in any particular case,
the employer has taken reasonable steps in respect of specific acts – outside the policy, nothing
695 to do with the policy – of an employee or a group of employees, the employer takes reasonable
steps to prevent that happening, and that would allow the employer to say, ‘In these
circumstances, the acts of the employee should not be treated as my own, because I have taken
steps *a, b, c* and *d* to prevent all this happening, separate from the policy.’ It may be that the policy
is one of those steps, so the policy could be one of those steps, but there may be other steps that
700 the employer takes in respect of specific acts or specific employees or specific groups of
employees which fall outside the policy and would therefore allow the employer to say, ‘Because
I have acted reasonably, in these specific circumstances these acts of the employee should not be
attributed to me and I should not be made liable as a result.’ That seems reasonable and sensible.

I give way to the hon. Member.

705 **Hon. D J Bossino:** I know he was in mid-flow. Just two points. One is a general point of slight
disagreement, but simply to congratulate the Government for undertaking this piece of
legislation, which is actually ... The Court of Appeal encouraged legislators to amend not just the
issue about the deeming provision point but also what amounts to bullying. They made those two
710 points and encouraged Parliament to make the amendments in order to clarify those two points.
But it did include also the statutory definition of what amounts to, as they put it, bullying.

Secondly, Mr Speaker, just one point of detail which he and I have discussed, but again it is to
place it on the record the House. The soon-to-be new section 7A(2) talks about the employer
proving that he took such steps as were reasonably practicable. Any lawyer looking at this would
715 assume, I think quite rightly, that the standard of proof would be on the civil standard on the
balance of probabilities, but if he could simply clarify that by way of reminder before he sits down.

Hon. G H Licudi: Mr Speaker, yes, certainly that would be the intention of those words.
Whenever you have a provision where a defendant or a respondent in a particular case ... the
720 burden of proof shifts as a result of certain things being established and the burden of proof shifts
to the defendant or the respondent, the standard in order to satisfy that burden of proof will be

on a balance of probabilities and on what is known as a civil standard of proof. That is certainly, as far as I understand ... Although I am not part of the Government and the Hon. Minister can confirm for the Government that that is also the Government's understanding, that would certainly be the intention of this particular provision. As it is in relation to section 6(5), the Bullying at Work policy, it would be for the employer to prove. In order to have that general defence, it would be for the employer to prove that he has adopted a Bullying at Work policy, that he has implemented it, and it is only the employer who can do that. The policy talks about training, for example, so it is only the employer who can come along and say, 'I have trained x, I have trained y, and this is how I have done it; this is how I have implemented the policy.' So the burden is on the employer and the burden would be satisfied on a balance of probabilities.

Mr Speaker, I believe that I have dealt with some of the issues. The Hon. Minister who moves the Bill may have other points to make, but it seems to me that this is certainly an improvement. It is listening to the courts when they have interpreted. As the hon. Member has said, although we could simply have limited to this to curing the lacuna which existed, this Bill goes further, takes on board the comments of the courts, the hon. judges, and, in particular, the suggestion that Parliament might want to consider this. That is the reason why this Bill has been put to the House today.

Mr Speaker: Does the mover of the Bill wish to respond?

Hon. S E Linares: Yes, Mr Speaker – very short. It is great to see that on both sides we have been able to make amendments and improve a Bill which has been there, which the Court of Appeal has actually indicated to us, as legislators, to improve. It is great to see that it closes down what amounts to bullying, in the first place, and in the second place it clears up the liability of the employer to actions of an employee. It has been great to be working on both sides to improve this Bill.

I commend the Bill to the House.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Employment (Bullying at Work) Act 2014 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Employment (Bullying at Work) (Amendment) Act 2022.

**Employment (Bullying at Work) Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Industrial Relations, Employment, Housing and Sport (Hon. S E Linares): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**British Sign Language Bill 2022 –
First Reading approved**

Clerk: A Bill for an Act to recognise British Sign Language as a language of Gibraltar, to require the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities, and to require guidance to be issued in relation to British Sign Language.

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Clerk: Minister for Justice, Equality and Public Standards and Regulations.

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I have the honour to move that a Bill for an Act to recognise British Sign Language as a language of Gibraltar, to require the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities, and to require guidance to be issued in relation to British Sign Language be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to recognise British Sign Language as a language of Gibraltar, to require the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities, and to require guidance to be issued in relation to British Sign Language be read a first time. Those in favour? **(Members: Aye.)** Those against? Carried.

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Clerk: The British Sign –

Mr Speaker: Just a second, Mr Clerk. I just want to confirm that the Hon. the Chief Minister wrote to me certifying that the Bill was too urgent to permit the expiry of six weeks.

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Clerk: The British Sign Language Act 2022.

**British Sign Language Bill 2022 –
Second Reading approved**

Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento): Mr Speaker, I beg to move that the Bill for the British Sign Language Act 2022 be read a second time.

Today is a pivotal and historic moment for the deaf community in Gibraltar, particularly users of British Sign Language. This Bill provides for the recognition of British Sign Language as a language of Gibraltar and requires the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities. The Bill also requires the Minister to issue guidance in relation to British Sign Language. Our ambition is for this Bill to create a more inclusive society, improving the lives of deaf people and ensuring public services are more accessible for them. This will be yet another step in making Gibraltar a more inclusive society.

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Our Government has always led the way in respect of providing British Sign Language support for those who need it in Gibraltar. Indeed, we have been making provision for this for many years. In 2012, we established a contract for the provision of British Sign Language services in person at the Gibraltar Health Authority and this was later extended to the rest of the public sector. Provisions were later also made to extend this facility to online video conferences. British Sign Language is also very visible at National Day and other cultural events.

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This Government has been committed to the requirements of the deaf and hard-of-hearing community generally in a way that is unprecedented in any other before us. This represents yet

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another step in our journey for the inclusion of people with disabilities – for example, the provision of British Sign Language services at the Government Departments I have just mentioned, the provision of hearing loops across Government Departments, the provision of e-Gov services that will make interaction with Departments a lot easier to communicate with electronically, the provision of tech services at the Primary Care Centre and the WhatsApp service at the GHA’s 111 call centre, which can also be used to dispatch other emergency services, if needed. I would also add that the 111 service also serves the mental health crisis line. Of course, the icing on the cake will be the brand new audiology suite at the GHA.

This Government has shown its commitment to the provision of British Sign Language by ensuring that Government employees have been given the opportunity to learn British Sign Language at the Government’s expense. At present, there are 17 public servants who have received some training in this regard, either at BSL Level 1 or 2, and we are waiting for the current British Sign Language class to finish before embarking on funding a new group of trainees. There still is, of course, further work to do.

I would like to take this opportunity to extend my gratitude to all of those involved in making this a reality, but especially GHITA and Mr Joseph and Brugada and his family, who have constantly and rightly worked with Government in respect of our responsibilities towards the deaf community in Gibraltar and who have inspired us to do so.

I would like to turn to the clauses of the Bill. Clause 3 includes a definition of ‘relevant public authority’, which means all Government Departments, authorities, agencies, commissions, corporations or other bodies established by statute, and a person or body declared by the Minister by notice in the Gazette to be a relevant public authority. This definition ensures that all public bodies are in scope of the Minister’s reporting obligations under the Act.

Clause 4 recognises British Sign Language as a language of Gibraltar.

Clause 5 states that the Minister must prepare and publish a British Sign Language report after each reporting period. The report must describe what each relevant public authority has done to promote or facilitate the use of British Sign Language in its communications with the public. Such communications include any public announcement which it makes about policy or about changes in the law; the publication of any plan, strategy, consultation document or consultation response or any explanatory or supporting materials; and its use of press conferences, social media or a Government website to publicise any of its activities or policies. The Minister must publish each report no more than three months after the end of the reporting period to which it relates. The first reporting period shall be the period beginning on the day on which this Act comes into force and ending with 30th April 2023.

Clause 6 states that the Minister must issue guidance on the promotion and facilitation of the use of British Sign Language. Guidance may include advice for relevant public authorities on providing information to the Minister, advice on best practice for communicating with British Sign Language users and case studies to illustrate the value of providing British Sign Language interpretation in communications with the public. I can confirm that the Ministry of Equality is already one step ahead and has already drafted the first set of guidance notes for this Act, and preparations are already in place to reach out to all relevant bodies to ensure that their duties under the Act are fully understood and therefore comply.

Clause 7 includes a regulation-making power in respect of matters relating to the application of this Act and for more effectually carrying into effect the objects of this Act.

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

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

Hon. E J Phillips: Mr Speaker, thank you.

The Opposition, of course, will support the Bill. We agree with the hon. Lady that it is a historic and seminal Bill before this House, namely the British Sign Language Bill. The reason why I have

855 learnt a bit of sign language over the last couple of weeks is to, hopefully, present to our community that even MPs on this side of the House are able to pick up a bit of sign language, now that we are recognising, fundamentally, British Sign Language as a language of our community. I would like to say a big thank you to our deaf and hearing loss community, because I think is important on this seminal day that Members of this House attempt to learn British Sign Language so that we can do our bit, as well as those in our community who are going through the training courses that the hon. Lady articulated before.

860 It is important to reflect on how this Bill came about, what it seeks to achieve, what more can be done in this area and, fundamentally, to honour those who have made it their life's work to improve the lives of the deaf and hearing loss community.

865 I have enjoyed a close working relationship, as I know the hon. Lady has, with our deaf and hearing loss community, and I am very pleased that the Government has listened to our community and their Opposition. We note that we have played our part in bringing a motion before this House to encourage the law in this area and we are pleased to see the Government follow where we have led politically on this issue. But today is not about political point scoring, as I did say in relation to a question that was put before this House last week. Today is about unity across the floor of this House, today is about the celebration of deaf and hearing loss rights, today is about setting aside discrimination, and today, most importantly, is about establishing a platform for us to put into action the steps that need to be taken to provide important resources to our deaf and hearing loss community.

870 The people who should be applauded for this Bill are our deaf and hearing loss community, who have for decades been ignored, to be fair, by successive Governments, in particular the present Government, who have been in office for the last 10 years, and whilst this Bill will finally recognise British Sign Language and is supported by our deaf and hearing loss community, much more work will need to be done on the ground to make provision of British Sign Language in our community a reality. It is, no doubt, as the hon. Lady has said, a step in the right direction, and whilst it has the support of the entire House no doubt, there is a real and substantive need for change in the area of BSL provision.

880 As David Buxton, Chair of the British Deaf Association, said on the BSL Bill receiving Royal Assent in the British Parliament:

While today is a day to celebrate, we are all aware that this marks the first step on a long path towards truly equal access to public services, information and opportunities for BSL users in Great Britain.

885 The same is true here, our home. When responding to the publication of the Bill, GHITA Chairman Edgar Triay described it as a milestone but one that needed to be matched with real action with the establishing of the BSL Advisory Board on implementation of the provisions of the Act, a rolling out of information in GHA and educational establishments.

890 The hard word does not stop at the passing of this legislation, and whilst, for the first time, it recognises British Sign Language as a language and is a welcome step towards a more inclusive and accessible society, the proof of the pudding is in the eating and we must ensure the daily lives of our deaf and hearing loss community are improved by better access to BSL provision across all public services, most importantly education and health. It is an initial step in building a road map so that the deaf and hearing loss community can access services where there is a lack of provision.

895 I must say when the deaf community approached me eight months ago and since the House last met, I was shocked that in 2022 we effectively cannot provide BSL interpreters, qualified and experienced, so deaf members of our community can communicate with their doctors, nurses, RGP or other public services. You only have to reflect for one moment – and I think I was responding to a question that we had put in this House and the Chief Minister engaged on ... You only have to reflect for one moment the daily basis and the impact that hearing and speech have on everyday life: not to be able to communicate with your doctor about how you feel, so that a diagnosis can be properly informed; not being able to tell your teacher about the support you

need at school; not being able to tell a pharmacist what medication you need; not to understand an emergency situation, such as when a fire alarm is triggered; and not being able to watch the news, importantly, in order to understand what is going on in your community. God forbid not to understand the Chief Minister's Statement last week on the treaty, and, indeed, potentially this afternoon in relation to Gibdock!

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We need to make sure that the Bill before the House is not a token Bill and that there is a meaningful and genuine understanding within Government and the wider community of the real and urgent need to back this Bill with action – namely, the provision of BSL support: qualified interpreters across our public services, including broadcasting.

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We will support this Bill. As we have said, it is a start. It cannot be a token Bill. It must be a signal to our deaf community that we hear you and we have your back. We must now, without delay, take important steps to increase accessibility, so that our deaf community feels included in our community.

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Lastly, Mr Speaker, and by no means least, I wish to recognise GHITA Chairman Edgar Triay, Joe Brugada and the many others who have pushed forward in relation to deaf and hearing loss rights; and, of course, Bobby and Ana Maria Gomez, who are on their massive walk from Gibraltar to the north of the Iberian peninsula, and whilst we sit in this air-conditioned Chamber they make the epic hike of half a marathon each day in the scorching Spanish sun to raise awareness of deaf issues in our community. We must match this massive effort and the efforts of GHITA and recall the daily struggles of our deaf and hearing loss community by ensuring that BSL resource is made a top priority.

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Thank you, Mr Speaker. *(Banging on desks)*

Mr Speaker: The Hon. Marlene Hassan Nahon.

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Hon. Ms M D Hassan Nahon: Thank you, Mr Speaker.

I welcome this long-overdue Bill and commend the civil society groups whose lobbying has made it possible. Eight years of fighting for the rights of the disabled have given us all an example of how to unite to achieve lasting political change, and their efforts are being extremely successful in giving visibility to a collective that has been marginalised in Gibraltar for far too long. In this case, it is the work of GHITA, and in particular its chairman, Edgar Triay, that deserves praise and recognition. I also think it is fair to thank the Hon. Elliott Phillips, who presented this topic as a motion following an appeal to MPs in this House by BSL advocates, a motion which has, in turn, spurred this Bill.

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Unfortunately, as we have seen in the past, policies such as this one often become a purely symbolic exercise. This Bill will be empty of substance if it is not accompanied by rigorous implementation, the investment of public resources and a profound cultural and institutional change. Currently, in Gibraltar, we are far from providing adequate levels of accessibility for deaf people and BSL speakers. Government press conferences and other institutional messages are also not, by default, subtitled and therefore still not inclusive for deaf people. We need BSL interpreters on public counters, in educational and healthcare environments and the widespread introduction of hearing-loop infrastructure in our society. We need BSL to be introduced in our education system in order to bridge the hearing divide that exists in our society.

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We need to do much more to ensure that we provide equal opportunities to the most vulnerable members of our society, and I hope that this Bill, which I shall be supporting with my vote, is the first of many changes to come.

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Thank you, Mr Speaker.

Mr Speaker: Does any other hon. Member wish to contribute? The Hon. Prof. John Cortes.

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Minister for the Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes): Mr Speaker, I will let my hon. Friend the Hon. Samantha Sacramento rebuke the

preposterous claims from the Hon. Mr Phillips that we have followed anything that they did in this – or anything else, for that matter. If we had followed their lead, we would not have got anywhere in the past seven years and all the achievements would have not been there.

955 I can say that some years ago, when I was Minister for Health and my hon. Friend was Minister for Care, we worked very closely together and we took landmark steps in response to approaches from GHITA and from Mr Brugada and his family, because it was clear to us that there was absolutely nothing in place to support and help those who have hearing impairment. We took steps then. I can remember some of them, including the text messages for the Health Centre, the provision of online connections when there was a need to have a consultation with somebody who could work in sign language, and many other things which were not in place at the time.

960 Today's step, as we all agree, is a hugely significant one and I want to congratulate my friend the Hon. Samantha Sacramento for taking it. Knowing how determined she is in everything she does, I am absolutely convinced that it will not just be something that lies on the statute book, and that we are making tremendous progress and we will continue to do so in the future.

Mr Speaker: The Hon. the Chief Minister.

970 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I want to agree with one of the things that Mr Phillips has said, which is that today is a historic and seminal moment. It is a historic and seminal moment because we are adding a language to the official languages of Gibraltar. That is not something that can be done easily, it is not something that can be done without considerable thought and considerable preparation, and so today is historic and seminal and that is how I would have described the presentation of this Bill by the hon. Lady, the Minister with responsibility for equality if he had described it in that way himself. And so we are in agreement.

975 Mr Speaker, when something is historic and seminal it is a pity to sully that moment with party politics, but that is exactly what the hon. Gentleman has done. The Hon. Prof. Cortes has been absolutely right to say that there is no question of this Government following hon. Members – absolutely no question, because the hon. Members have presented policies in this House which are entirely contrary to the progress that we have represented.

980 In the time since we were elected in this place, what they have told us to do is not to open the Development and Planning Commission to the public, not to facilitate minutes, but to keep them entirely confidential, as they were. And when it comes to the particular issue that we are dealing with, this Government is not for one moment following a motion that the hon. Gentleman put without consulting with the Government – that is to say without gauging whether or not the Government would support it.

985 This Government is following the advice of the Minister with responsibility for equality, the advice of those who advise her and the work done by GHITA – not just in the work that they have done recently when they were outside my office and I was able to become involved in a discussion with them where they explained a lot of the issues about BSL, in particular how BSL had been in the process of becoming an official legislated-for language in the United Kingdom, not just in the context of the Westminster Parliament's legislative action, but in the parliaments of the nations that make up the United Kingdom: in the Welsh parliament, in the Scottish Parliament, the last one being the British Parliament for England rather than for the whole United Kingdom.

990 It is therefore, in my view, totally wrong and it is totally misleading the public to suggest that the Government is somehow following the Opposition. In fact, what hon. Members need to reflect on is that this is a Government Bill. It is not an Opposition Bill, it is not a Private Member's Bill – which is what the hon. Gentleman's motion called for. This is a Government Bill. It has been given Government time, it is going to be passed with Government votes, and if there is anybody who is entitled to claim the credit for this, it is the NGOs, the one that the hon. Lady mentioned – GHITA – and the ones that the Hon. Minister mentioned. I will say a little more about that in a few moments.

1005 How can the hon. Gentleman get up and say that we have been ignoring the deaf community?
It is all very good to say things in the context of trying to score party political points – and I see him shaking his head, but that is what he said – but when you say things when you want to make a party political point, you have to make a serious party political point.

1010 And so, let us reflect on what we found when we followed them into Government. We found absolutely no provision whatsoever. We were elected into Government and immediately the hon. Lady started to make provision for British Sign Language to be provided at events for the Government. There are not enough people to help us with this and that is one of the challenges, but immediately we were providing British Sign Language on National Day and on other occasions.

1015 I do not know whether in saying that we have ignored people who are suffering from hearing loss, tinnitus etc., the hon. Gentleman has forgotten that in our manifesto for the 2015 election we had considerable provision in respect of the deaf, and indeed in our manifesto for the 2019 General Election. I imagine that we want to forget these things because I am talking about elections that they lost, so they do not like to think back, but we have more provision on page 109 of our manifesto – ‘Working with GHITA’, ‘A strategy to deal with deafness’, ‘Screening children for deafness’, ‘A study on hearing loss’, ‘Hearing aids’ and ‘Services for the deaf’ – and there we set out again:

We established the use of a British Sign Language interpreter on National Day and we are committed that this will always be provided for as long as we are in Government.

The way that we provide for this, to ensure that it continues when we are not in Government, is to entrench it into legislation, which is exactly what we are doing today.

1025 I hope that GHITA sees that it has support across the floor of the House, but we should, I think, be hesitant to get into a competition of showing GHITA who supports them more or less. But if a competition is what hon. Members want, the Government that they led did nothing and the Government that we lead has incrementally done things and now has brought this Bill and is going to pass it. I think, frankly, therefore, that it ill-behoves any of us to play a party political game on a day that we have said is historic and seminal.

1030 Having said that, I was surprised to hear the hon. Lady say that this is long overdue when I have certainly not heard her voice on this issue at all, before. It is surprising that somebody who has not raised the issue, who has not campaigned on the issue and who has not even brought a motion says that something is long overdue. (*Interjection by Hon. Ms M D Hassan Nahon*) Well, then, Mr Speaker, in that context, it must have been long overdue for her to do something about it, and in saying that at least – which I do not recognise is the right approach – we are recognising the works of the relevant NGOs, she is recognising that we recognise the work of the NGOs and therefore I hope she will not be saying that we do not listen, because we have listened and she was wrong to say that it was the motion that had spurred on this Bill: completely wrong.

1040 The Government has certified this Bill today as urgent for a reason: because if we had not certified it we would not have been able to proceed with it until 27th May, which means we would not have been able to come back to it until the next meeting of the House. There is no reason why we should not be getting on with the things that GHITA wants us to be getting on with, and that is what we are going to do, get on with the things that the people who have a need in this area want us to be doing, rather than simply continuing to engage in a baseless exchange on the party-political aspects of who did what, when.

1045 What we have to recognise is that there are two people with a link to Gibraltar – one of them is a Gibraltarian, and they are a married couple – walking to raise funds for people who have difficulties with hearing. What we have to recognise is the incredible work done by Edgar Triay. We have to recognise and remember that he is supported by people like Mrs Facio Beanland, who gave an extraordinarily moving talk in February 2020 at one of the Gibraltar Talks about the difficulties that people with hearing loss suffer. We have to recognise that for many years Joe Brugada has been campaigning on this issue. He described himself as wanting to be a thorn in my

side until we took the steps that we had to take, and here we are taking them. His daughter, and her husband as well, and Jackie Dalli and Tony Gomez. These are the people who deserve recognition today for the work that they have done – and many others, I am sure, who I cannot name-check because I simply do not know their names.

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This is not about some sterile argument between some politicians on a hot day, late in May, about who did what and who said what, when; but if it were, hon. Members have to remember that the only ones who can do are the ones sitting on this side – and doing we are, Mr Speaker.

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Mr Speaker: Does the mover of the Bill wish to respond?

Hon. K Azopardi: Mr Speaker, can I –?

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Mr Speaker: Can I just interject before we continue? I would just like to read out something that I thought might be useful for today, but mainly for the future, about the way we cover the general principles and merits of Bills. It says here:

Members must confine discussion to the main purpose and the contents of the Bill and not deal at length with matters not provided for therein. The reference may be made to such matters if related to the Bill. It must be confined to the Bill as printed.

We tend, many times, to stray from this. I am just reminding Members what is required of everyone.

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Hon. K Azopardi: Mr Speaker, of course that is right, but as we are midstream in the debate on the principles of the Bill and certain things have been said beyond that passage, with your indulgence on this occasion I would like to respond not just on matters which are relevant here but also the things that have been said, because at the end of it that passage could have been read also a bit earlier. Certainly, going forward, I think that is an important passage that Your ... that Mr Speaker has read. I was about to call you Your Lordship – but not yet!

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Mr Speaker, this is indeed a day that is a cause for celebration, as has been said on both sides of the House, and I agree that the true heroes of this are the people who have had been mentioned by the Chief Minister and my hon. colleague Mr Phillips, and also those who have suffered silently and have wanted more assistance, more help, and are slightly frustrated and have encouraged Members of the House to vote in favour, as indeed we are. It is a cause for celebration that this is happening and, indeed, that we are taking these steps forward. I hope that this framework – because it is only a framework – provides a basis for us to move forward and deliver that package of support for people who have these hearing issues.

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In saying that, the Chief Minister in his contribution seems to take any opportunity to engage and widen the debate beyond things that are not in the principles itself. He may criticise my hon. colleague Mr Phillips for having taken a particular stance, he may not have liked the comments that he was making, but with all due respect, Mr Phillips's comments were restricted to the subject matter of the Bill – but he widens it to who improved the planning processes. It has nothing to do with the Bill. If he really wants a history lesson on who opened up the planning process, well, it was not them first, because when we inherited the Government in 1996 we first injected provisions on public participation, which they improved – and I am the first to acknowledge they improved subsequently in 2011, but life did not begin in 2011 when the hon. Member took that chair. The GSLP were not first in office in 2011. We can all play history lessons, but it is a jaded process, and when the hon. Member talks about the motion that my colleague Mr Phillips presented on British Sign Language, still relevant to the principles of the Bill but he casts aspersion as if we did not consult on this motion, it is a peculiar view of democracy, (**Two Members:** Hear, hear.) because democracy ...

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1100 This is what we are supposed to do as parliamentarians on this side of the House. We are
supposed to raise issues, hold the Government robustly to account. Sometimes we can get things
done by agreement, sometimes we can get things done by persuasion, but motions can be
presented by first showing them the draft motion, or they can be presented because it is our
democratic function. Or is he saying that he is only willing to agree a motion that is first put to
him? I would say, Mr Speaker, that is a slightly peculiar form of democracy because it might be
that I file a motion on which he says, 'I never thought of this, and this is a great motion.' If I were
1105 sitting on that side, I might say, 'This Opposition motion is bang on point – I actually think we are
going to support it,' but he is saying, in a slightly warped kind of view of democracy, that unless
we negotiate it with him he is unwilling; he is going to blind himself in a party-political partisan
kind of view to saying no, just because the Opposition have done what we have been elected to
do by the people of Gibraltar. It is a matter for him.

1110 And then he goes on to talk about what they have done on sign language and so on. I
congratulate them for things they have done in a positive sense. I honestly do congratulate them
if they have made improvements for people who are vulnerable people in this community or
people who want things. But he casts that point on the basis that it is a sort of lecture point: 'I am
not taking lessons from the hon. Members on the other side,' and all of that. It is slightly aggressive
1115 on the basis of a Government that does no wrong. He really needs to calm down. (*Interjection by
Hon. Chief Minister*) He needs to calm down, Mr Speaker. He really does need, on this issue which
actually we agree on, to calm down. (*Interjection by Hon. Chief Minister*)

This Bill, which we are supporting, will hopefully provide a basis for significant improvement
for people who have hearing disabilities, and we think that is a great step forward. It was
1120 signposted by my hon. colleague's motion. It has been put in the body of a Bill by the Government.
We have supported it. We are going to vote in favour. It will, hopefully, deal with the frustration
that we hear from people on the ground in this community, and we think that this will be a step
forward – and that is why we are supporting it, but on the basis that I have indicated.

1125 **Hon. E J Phillips:** Hear, hear.

Hon. Chief Minister: Mr Speaker, at least he made it in time to make a speech.

Mr Speaker: The Hon. Samantha Sacramento.

1130 **Hon. Miss S J Sacramento:** Mr Speaker, how regrettable that the Members opposite have
turned this Bill, which was something landmark and representing positive progress, into an
attempt at party political point scoring. It is not something that I would have wanted to deal with
in that way, but given that the hon. Member Mr Phillips, in his intervention, made it party political,
1135 I am left with no choice but to answer the points that he raised in that respect.

The hon. Gentleman started by saying that this was not about political point scoring but
proceeded to make two party political points. The first one was his attempt to take credit for the
presentation of this Bill. In the hon. Member's mind, this Government that has a Minister for
Equality and a Ministry for Equality, both of which enjoy an excellent relationship with NGOs in
1140 this respect and were already working on this ... No, he ignores that point, he ignores that fact, he
ignores the reality and he wants to believe, himself, and by extension he wants the community to
believe that his motion was a trigger for this. I therefore have a responsibility to clarify, given that
I am the Minister presenting this Bill, that nothing could be further from the truth.

1145 When, regrettably, the Leader of the Opposition aggressively tells us that the motion was
ignored, the point that we need to make is that ... I will paraphrase what the hon. Gentleman said.
He said that in an ideal situation we would have agreed with the motion and said, 'Oh, this is
fantastic, we agree with your motion.' But no, the reason we did not reply to the motion was
because had proper protocol and Parliament etiquette and courtesy been extended, had the hon.

1150 Member opposite informed us that the GSD – Mr Speaker, perhaps if I could have silence in the Chamber, I could hear myself think. (*Interjections*)

Mr Speaker: I have to say that it is really unparliamentary to be murmuring – (*Interjections*) It applies to both sides. (*Interjections*) No, I said it applies to both sides, but it is rude and unparliamentary. It works for both sides. (*Interjections*) No, I am making it –

1155 **Hon. Chief Minister:** No, Mr Speaker, I was heckling, not murmuring. (*Interjection*)

Mr Speaker: As I said, the last group of persons who were murmuring were the Opposition and that is why I directed my view towards them, but I accept that both sides are guilty of this practice – and it should stop; it is not right.

Hon. Miss S J Sacramento: Thank you, Mr Speaker.

1165 My team at the Ministry for Equality and I were really positive and really excited about doing this today, and it is so regrettable that we are being dragged into this by the Opposition, but because they raise it I need to address the issues.

1170 I am going to raise the issue of a technicality, which is a parliamentary process which the general public may not understand, but given that they want to take credit for this, it is important that the public do understand the procedure and the technicalities. The Hon. Mr Phillips presented a motion for there to be a Private Member's Bill on the matter, which would have required the majority of this Parliament. This is a Government Bill. So, we find ourselves in a situation where the hon. Member has found an interest in BSL – and I thank him for that and I commend him for that – but if the hon. Member had done the normal thing, which most Members on the other side do when they find themselves in the situation, called me and said, 'I want to propose a motion to Parliament that will give us this end result,' I would have said, 'Don't worry about it, we are already working on this Bill.' Therefore, the hon. Gentleman cannot pretend to take the credit for the Government Bill that has been presented today, because work was already well on its way. This is the business of the Ministry for Equality, who were already engaged with GHITA and other stakeholders in this, because there were other people whom we were speaking to in this respect, and the foundation work had already been commenced. So, absolutely not, Mr Speaker. As the person who presents this Bill, I can tell the hon. Gentleman very clearly that he was not the trigger for it; it was the advice of the Ministry for Equality and the people we engage with who were the trigger for this.

1185 The hon. Gentleman Mr Phillips also makes another point where he tries to score party political points and which is, indeed, inaccurate. Quite apart from clearly not listening to what I said in my original speech, as well as what I said in answer to Parliament questions last week, Mr Phillips says that we cannot provide British Sign Language interpreters. He does not accept, and we have heard it not only from myself but also from my friend the Hon. Minister Cortes that when he was Minister for Health we made arrangements for BSL provision, initially in the Health Authority because it did not exist. So what we have is a contract between the Health Authority and a provider, for BSL. We have a procedure where if someone who uses BSL needs to see a doctor, they make arrangements in advance by text message, notify the Gibraltar Health Authority that they need to see a doctor so an appointment can be made for them electronically – something which did not exist before either. So there are arrangements for them to be able to make electronic appointments and there are arrangements for them to be expected, and therefore, in the meantime, as much provision as possible. Arrangements will be made for a British Sign Language interpreter to be there to assist. Sometimes, of course, if it is an urgent situation and it is an emergency, it may not be possible to make those arrangements. On that basis, as an alternative to that and as a contingency we have an app, where a British Sign Language interpreter will be available online. For the hon. Gentleman to try to pretend to the community that there are no facilities for people who require British Sign Language is not accurate, and therefore I cannot leave it unanswered in this House.

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1205 Mr Speaker, it was more eloquently put by the Leader of the Opposition when he said that more assistance can be provided, and that is what I said in my speech. This is not our starting point, this is a progression of our starting point from 2011 and all the things that we have done in relation to progress on British Sign Language, and we have now entrenched and enshrined it in legislation so, as the Chief Minister said, it will have longevity and posterity because it is now on our statute books. That is an accurate reflection of what we have done, and not what the hon. Gentleman was trying to pretend was the reality.

1210 On the final point, the hon. Gentleman seems not to have read the Bill, because the Bill makes provision for accountability. Section 3 of the Bill clearly states the public authorities the Bill places this responsibility on, because the hon. Gentleman mentioned particular institutions and they are, of course, captured by the Bill. There is provision for accountability, and therefore the Government will have to hold these entities to account, to ensure that the intention of the Government in passing this Bill is actually happening. I hope that the hon. Gentleman now understands and rests assured of the intention of the effect of this legislation.

1215 Mr Speaker, I cannot emphasise enough that a day when we should all be together as a Parliament to speak about the progress that we are making and the inclusion of people with disabilities by the passing of this Bill has been dragged down by the Member opposite because he wanted to make party political points, because he wanted to take the credit for the work that the Government has done.

1220 Thank you, Mr Speaker. (*Banging on desks*)

1225 **Mr Speaker:** I now put the question, which is that a Bill for an Act to recognise British Sign Language as a language of Gibraltar, to require the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities, and to require guidance to be issued in relation to British Sign Language be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The British Sign Language Act 2022.

**British Sign Language Bill 2022 –
Committee Stage and Third Reading to be taken at this sitting**

1230 **Minister for Justice, Equality and Public Standards and Regulations (Hon. Miss S J Sacramento):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Pensions (Widows and Orphans) (Amendment) Bill 2020 –
First Reading approved**

1235 **Clerk:** A Bill for an Act to amend the Pensions (Widows and Orphans) Act. The Hon. the Chief Minister.

1240 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Pensions (Widows and Orphans) Act be read a first time.

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

1245 **Clerk:** The Pensions (Widows and Orphans) (Amendment) Act 2020.

**Pensions (Widows and Orphans) (Amendment) Bill 2020 –
Second Reading approved**

1250 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

This is a short Bill that is designed to give effect to my commitment in the Budget speech of 2007 to bring about legislation to enable the widows and orphans provisions to be open to certain members of the community who had evinced an intention to wish to be covered by the provisions of what is known as WOPS.

1255 I recall, Mr Speaker, that at the time we first had debates in this House about this matter, you were, at that stage, the Clerk, not elevated yet to the role of Speaker, and the former Chief Minister used to remind us all in the House that you were the last remaining member of the Civil Service on WOPS.

1260 In 2017, I said, during the course of my Budget address, at paragraphs 505 and 506, the following:

Also in relation to pensioners, the Government has been approached by a number of those entitled to re-enter the Widows and Orphans Pension Scheme who were not married to their current partners at the time that they retired. The law states that any marriage of the pensioner whose rights would be assigned to a widow or orphan who was not married by the time he retired would not be eligible to entitlement. This is grossly unfair and is based on an old law which has not kept pace with modern life.

– in fact, Mr Speaker, the original Bill comes from 1961 –

It is, in any event, an issue that affects only a handful of those who would re-enter the old WOPS scheme. The law will therefore be changed to allow for marriages after the retirement of the contributor if he opts back into the scheme to count also.

[...] The window to re-enter the WOPS scheme [...] will be open again, from midnight tonight until 30th September 2017, to allow those who have previously been denied membership on the basis of the application of this aspect of the law to apply.

1265 That was done, and subsequently we published a Bill, which fell when the General Election was called in 2019 and we then republished a Bill on 20th February 2020 which would deal with the changes that needed to be made. The Hon. Mr Feetham asked me about the progress of the Bill at the last session of the House, and having regard to the Bills that were still outstanding I have seen it is possible for us to take it today.

1270 Mr Speaker, 20th February 2020 was almost exactly six weeks before the pandemic began. I hope that that helps the House to understand the reason why this Bill has not progressed. We have done precious little of the ordinary legislating that we do in this time. We have brought some extraordinary Bills that we have had to deal with. Indeed, in 2020 we did not even have an Appropriation, we had an emergency Appropriation. As I have already said, we have already given a commitment to all those who registered in time that the absence of the Bill would not prevent us from giving them the benefits that they might have registered for.

1275 I believe it is now time for the Bill to be passed. Hon. Members will see it is actually a Bill which has very little effect. It has the effect of making some amendments to deal with the issue that I raised in my Budget speech and permitting, under the relevant provisions, a resumption of

contributions where that is relevant – although I do not think there is anyone in the service who will be involved in that.

1280 And so, Mr Speaker, I move that the House should now approve this Bill, which I think is one that all sides agree needs to be put in place to give effect to this part of the Budget Statement of 2017.

1285 **Mr Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Daniel Feetham.

Hon. D A Feetham: Mr Speaker, the Opposition is going to be voting in favour of the Bill. It is a very welcome Bill and it will be very welcome in particular to those who are affected by it.

1290 I have had an opportunity now to consider the Bill in the light of the statute that it amends, and in my view it does deal with a concern that I have had at the back of my mind, and I do not for one moment hesitate in saying this. At the end of the day, we are not here ... although we are here to, of course, make political points in the right way, we are not here to make political points that may cause concern amongst those who may be affected.

1295 The point that I was concerned about was, because the commitment by the Hon. Chief Minister was made in 2017 – as he rightly says, the Government published a Bill but that Bill went by the wayside because the House dissolved and the Bill had not been brought to Parliament; a new Bill was then published in 2020 – whether the time period from 2017 all the way to today, in 2022, had the propensity to cause a prejudice, in particular to the widows of those contributors or ex-public servants who may have died from 2017 to 2022, or whenever the Bill is taken. In fact, the combination of the amendments together with section 18A(2) of the Act that we are amending will allow a contributor's widow to make the contributions if her ... or his wife, or whoever it may be, the partner, has died in that five-year period. I have no hesitation in expressing my view that that is the effect of the amendments when taken together with the principal Act, and for those reasons I have no hesitation in saying, on behalf of the Opposition, that we will be supporting the Bill. *(Banging on desks)*

1305

Mr Speaker: The Hon. the Chief Minister.

1310 **Hon. Chief Minister:** Mr Speaker, I am very pleased to hear that from the hon. Gentleman. I think I have given an indication that the thing that he says concerned him should not concern him, and I am very pleased that he has de-concerned himself in that respect.

1315 What I would say is that one of the things that they have always criticised that we introduced, which was the principle of commutations, has meant that there are fewer and fewer people who are going to be interested in respect of this particular Bill, going forward. It is true that they were not supportive of that, but I think it has worked very well. Then again, they were not supportive of so many things that have worked so well, not least ... I am just remembering the things that they used to say about the Future Job Strategy, let alone commutations and how they were going to ruin us. And so I am very pleased, Mr Speaker, that they are going to support this Bill.

1320 **Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Pensions (Widows and Orphans) Act be read a second time. Those in favour? **(Members: Aye.)** Those against? Carried.

Clerk: The Pensions (Widows and Orphans) (Amendment) Act 2020.

**Pensions (Widows and Orphans) (Amendment) Bill 2020 –
Committee Stage and Third Reading to be taken at this sitting**

1325 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken today, if all hon. Members agree.

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

1330

COMMITTEE STAGE AND THIRD READING

1335 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to move that the House should now resolve itself into Committee to consider the following Bills clause by clause, namely the Pensions (Widows and Orphans) (Amendment) Bill 2020, the University of Gibraltar (Amendment) Bill 2021, the Employment (Bullying at Work) (Amendment) Bill 2022 and the British Sign Language Bill 2022.

In Committee of the whole House

**Pensions (Widows and Orphans) (Amendment) Bill 2020 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the Pensions (Widows and Orphans) Act.
Clauses 1 and 2.

1340

Mr Chairman: May I interject at this point and point out that in the title and commencement it refers to the 'Act 2020' – should that not be 2022?

1345 **Chief Minister (Hon. F R Picardo):** Mr Chairman, yes, I am grateful. Because the Bill has been on the Order Paper for some time now, the Act will have to be read as 2022. The Bill is still the 2020 Bill, but the Act will have to become the 2022 Act, which is clause 1.

Mr Speaker: Clause 1 stands part of the Bill.

1350

Clerk: Clause 2.

Mr Chairman: Clause 2 stands part of the Bill.

Clerk: The long title.

1355

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

**University of Gibraltar (Amendment) Bill 2021 –
Clauses considered and approved**

Clerk: A Bill for an Act to amend the University of Gibraltar Act.

Clauses 1 to 3.

1360 **Minister for Environment, Sustainability, Climate Change and Education (Hon. Prof. J E Cortes):** Mr Chairman, in the same way as we needed to amend the year, we need to do so in clause 1.

Mr Chairman: Clause 1 stands part of the Bill.

1365

Hon. E J Reyes: Mr Chairman, if I may: in clause 3(12) I propose that where it says 'For section 22 substitute' that part now reads 'Subject to subsections (2) and (3)' as opposed to subsections (1) and (2).

1370 **Hon. Prof. J E Cortes:** Absolutely, Mr Chairman, we agreed that earlier, so that is ... I think we agree on both sides.

Mr Chairman: Clause 3 as amended stands part of the Bill.

1375

Clerk: The long title.

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

Employment (Bullying at Work) (Amendment) Bill 2022 – Clauses considered and approved

Clerk: A Bill for an Act to amend the Employment (Bullying at Work) Act 2014.
Clauses 1 and 2.

1380

Mr Chairman: Clauses 1 and 2 stand part of the Bill.

Clerk: Clause 3, as amended.

1385 **Mr Chairman:** The amendment in clause 3 which was circulated earlier in the month, if the Opposition is content with that.
Clause 3, as amended, stands part of the Bill.

1390 **Hon. G H Licudi:** Mr Chairman, you have just indicated the amendment circulated earlier in the month. Is that an amendment which was circulated today or yesterday?

Hon. Member: No, it was circulated on Monday.

Mr Chairman: I clarify that: it was earlier in the month, but it was really on 25th May.

1395

Minister for Industrial Relations, Employment, Housing and Sport (Hon. S E Linares): Yes, it is the one I sent Mr Speaker to give notice that I would be moving the amendment.

Clerk: The long title.

1400

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

**British Sign Language Bill 2022 –
Clauses considered and approved**

1405 **Clerk:** A Bill for an Act to recognise British Sign Language as a language of Gibraltar, to require the Minister for Equality to report on the promotion and facilitation of the use of British Sign Language by public authorities, and to require guidance to be issued in relation to British Sign Language.

Clauses 1 to 7.

Mr Chairman: Clauses 1 to 7 stand part of the Bill.

1410 **Clerk:** The long title.

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

**Pensions (Widows and Orphans) (Amendment) Bill 2020 –
University of Gibraltar (Amendment) Bill 2021 –
Employment (Bullying at Work) (Amendment) Bill 2022 –
British Sign Language Bill 2022 –
Third Reading approved: Bills passed**

1415 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Pensions (Widows and Orphans) (Amendment) Bill 2020, the University of Gibraltar (Amendment) Bill 2021, the Employment (Bullying at Work) (Amendment) Bill 2022 and the British Sign Language Bill 2022 have been considered in Committee and agreed to, some with amendments.

I now move that they be read a third time and passed.

1420 **Mr Speaker:** I now put the question, which is that the Pensions (Widows and Orphans) (Amendment) Bill 2020, the University of Gibraltar (Amendment) Bill 2021, the Employment (Bullying at Work) (Amendment) Bill 2022 and the British Sign Language Bill 2022 be read a third time and be passed.

Those in favour of the Pensions (Widows and Orphans) (Amendment) Bill 2020? (**Members:** Aye.) Those against? Carried.

1425 Those in favour of the University of Gibraltar (Amendment) Bill 2021? (**Members:** Aye.) Those against? Carried.

Those in favour of the Employment (Bullying at Work) (Amendment) Bill 2022? (**Members:** Aye.) Those against? Carried.

1430 Those in favour of the British Sign Language Bill 2022? (**Members:** Aye.) (*Interjection*) Thank you. Those against? Carried.

Chief Minister (Hon. F R Picardo): Mr Speaker, given that we have now dealt with all of the business of the House, I move that the House should now adjourn *sine die*.

**Procedural –
Leader of the Opposition’s motion on mental health
to be deferred to a future meeting**

1435 **Hon. K Azopardi:** Sorry, Mr Speaker, if the Chief Minister will give way, I just wanted to record the fact that I have a motion standing in my name on the subject of mental health. I have agreed with the Hon. Minister for Health to defer it to another meeting, so that a meeting can take place between us and the hon. Lady on the issues.

**Procedural –
Private Member’s motion re British Sign Language withdrawn**

1440 **Mr Speaker:** I must enquire about the motion taken by the Hon. Elliott Phillips: is that to be withdrawn or remain on the Order Paper?

1445 **Hon. E J Phillips:** Mr Speaker, in relation to the advances made today, I will be withdrawing that Bill – given, of course, the Government has indicated it would oppose it in any event, but it is withdrawn.

Mr Speaker: The Hon. the Chief Minister.

1450 **Chief Minister (Hon. F R Picardo):** Mr Speaker, it was not a Bill, it was a motion, and it is not that we would have opposed it, it is that it became hypothetical as a result of the Government’s action.

Adjournment

Chief Minister (Hon. F R Picardo): Mr Speaker, I now move that the House should adjourn *sine die*.

1455 When we return, in June, depending on how Government business progresses but in order to give hon. Members a heads-up, I do intend that June should be the month in which we take the Budget, the Appropriation Bill. I am in contact with the Leader of the Opposition about dates. Unfortunately, at the moment, the dates that the Government considers are the ones we need to take may not be convenient. It may not be possible to move them, but we will obviously try to come back to deal with the Appropriation debate on dates when all Members can be here, if possible.

1460 **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.
This House will now adjourn *sine die*.

The House adjourned at 6.08 p.m.