



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

AFTERNOON SESSION: 3.00 p.m. – 3.20 p.m.

Gibraltar, Thursday, 18th December 2014

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The Gibraltar Parliament

The Parliament resumed at 3.00 p.m.

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

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

Procedural – Q775/2014 withdrawn

Mr Speaker: Following the Leader of the Opposition's indication this morning that he was withdrawing Question 775, I will therefore call upon the Chief Minister to table the answers to Written Questions.

5 **Chief Minister (Hon. F R Picardo):** Mr Speaker, the indication that the Leader of the Opposition gave this morning was that if it prevented us from coming back this afternoon, he would withdraw his question, but we are back this afternoon and I am happy to deal with the question.

10 **Hon. D A Feetham:** Mr Speaker, I am afraid that the Chief Minister was not here, I indicated to the Speaker that I was withdrawing the question and that is the end of the matter. It is a matter for me, it is not a matter for the Chief Minister and therefore we continue with the tabling of Written Questions.

15 **Mr Speaker:** Yes, I confirm that he did say that he was withdrawing the question and therefore the next business is for the Chief Minister to table the answers to Written Questions.

Hon. Chief Minister: Well, Mr Speaker, I do not think that is what he said. I actually watched that part of the debate from my office, where I was holding an important meeting which is the reason I was not here.

But I am very happy for the hon. Member to withdraw the question. In fact I think it is very wise that he should withdraw the question and I am very happy to proceed to the next item on the Order Paper.

20 But as *Hansard* will show, what he said this morning was not that he was withdrawing the question, just that he would withdraw it if it prevented him from coming back this afternoon.

Questions for Written Answer

Written Questions W285/2014 to W286/2014 tabled

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to table the answer to Written Questions numbered W285/2014 to W286/2014 inclusive.

Order of the Day

BILLS FIRST AND SECOND READING

Crimes (Amendment) Bill 2014 – First Reading approved

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Clerk: (ix) Order of the Day. Bills – First and Second Reading.
(1) A Bill for an Act to amend the Crimes Act. The Hon. the Minister for Education and Justice.

30 **Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):**
Mr Speaker, I have the honour to move that a Bill for an Act to amend the Crimes Act be read a first time.

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

35 **Clerk:** The Crimes (Amendment) Act 2014.

Crimes (Amendment) Bill 2014 – Second Reading approved

Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):
Mr Speaker, I have the honour to move that the Bill be now read a second time

40 Mr Speaker, the sole purpose of this Bill is to repeal section 555(1)(b) of the Crimes Act 2011. That is because the equivalent provisions of section 555(1)(b) are now contained in the new Marine Protection Regulations 2014.

45 Members will be aware that those Regulations provide a comprehensive set of rules including governing spear fishing. This particular rule relates to spear fishing and that is an activity which is now subject to those Regulations and in respect of which a person must obtain a permit. So the equivalent provision of what we are repealing is now contained in the Marine Protection Regulations.

I wish to give notice, Mr Speaker, that there is a slight amendment to be made to the Bill at Committee. The Bill currently provides, in title and commencement in clause 1, that it comes into operation on the day of publication. As hon. Members will be aware, the Marine Protection Regulations come into effect on 1st January 2015 and what we cannot do is repeal this whilst the other one has not come into effect. Therefore I will be moving an amendment by replacing the day of publication by 1st January 2015.

50 I commend the Bill to the House.

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

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

Clerk: The Crimes (Amendment) Act 2014.

Crimes (Amendment) Bill 2014 – Committee Stage and Third Reading to be taken at this sitting

60 **Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):**
Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today, if all hon. Members agree.

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

**Companies (Amendment) Bill 2014 –
First Reading approved**

Clerk: (2) A Bill for an Act to amend the Companies Act.
The Hon. the Minister for Education and Justice.

Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):
70 Mr Speaker, I have the honour to move that a Bill for an Act to amend the Companies Act be read a first
time.

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

**Companies (Amendment) Bill 2014 –
Second Reading approved**

Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):
80 Mr Speaker, I have the honour to move that the Bill be now read a second time.

Mr Speaker, the primary purpose of this Bill is to tidy up a number of editorial errors and omissions in
the Companies Act 2014. The Bill also introduces three changes that the Government has agreed to make
because of representations by the financial services and company management industries, which were not
made during the consultation process or command paper stage leading up to the enactment of the
legislation. There is also a further change that the Government has made out of its own initiative.

85 Mr Speaker, except for clause 2(44) and clause 3, which are inter-related, the editorial errors and
omissions are self-evident in the Bill.

Clause 2(44) introduces a provision to cater for the power to acquire shares of shareholders dissenting
from a scheme or contract approved by a majority. This provision, which replicates in its entirety the
equivalent provision – that is, section 208 of the former Companies Act – was inadvertently omitted from
90 the current Act. Section 208 of the former Companies Act which has been kept in force in the interim
period, can therefore now be repealed, which is exactly what clause 3 provides.

Mr Speaker, the additional changes agreed to by Government subsequent to industry representations are
as follows.

95 In clause 2(36) the Government has agreed that schedule 9 on the definition of small and medium sized
companies be amended to correspond to the qualification of a small or medium company in section 293 of
the Act.

At present, schedule 9 proactively anticipates the accounting and audit threshold figures in Directive
2013/34/EU which comes into force in 2016. However, the Gibraltar Society of Accountants has
recommended that the additional obligations on businesses entailed by that Directive should not be brought
100 into force before its transposition deadline in 2016. So what we are in fact doing is reverting to the old
provisions, pending the need to transpose that EU Directive in 2016.

Clause 2(41) introduces a filing fee of £100 for both (a) the annual filing and (b) any voluntary filings of
Statements of Allotments, Redemptions or Purchase of Owned Shares for private schemes under section
189 of the Act. These new fees were agreed between the Government and the Gibraltar Funds and
105 Investments Association.

Mr Speaker, the third suggestion made by industry subsequent to commencement of the Act is to repeal
section 12. This is an amendment to the Bill which is not currently there, but which I will be moving at
Committee and therefore I am giving notice now that I will be making this or proposing this amendment at
Committee.

110 Section 12 relates to the requirements of a statement of proposed officers that would accompany the
filing of an application to register a company. The Association of Trust and Company Managers (ATCOM)
has very recently made representations to the Government that it prefers the procedure under the former
Act, in which there was no such requirement for a statement to be filed with an application for registration,
particularly as it was and is mandatory to disclose the identity of officers subsequently, including in the
Annual Return.

115 Mr Speaker, after careful consideration the Government has agreed to retain the former simpler system.
The repeal as I have said of section 12 will be an amendment which will be made at Committee.

120 Finally, Mr Speaker, there is a change that the Government has made at its own initiative, namely by the addition of clause 2(27). This amendment provides for the Minister to prescribe or amend by regulation fees that are payable to the Registrar.

Left as it is, it would be necessary to pass an amending Act whenever a fee is changed or a new fee needs to be introduced and it makes much more sense in the Government's view, Mr Speaker, in terms of flexibility and responsiveness to industry needs, for fees to be dealt with by Government through secondary legislation and that is in fact the practice in other areas of legislation.

125 Mr Speaker, I commend the Bill to the House.

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

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

Clerk: The Companies (Amendment) Act 2014.

**Companies (Amendment) Bill 2014 –
Committee Stage and Third Reading to be taken at this sitting**

135 **Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):** Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today if all hon. Members agree.

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

COMMITTEE STAGE AND THIRD READING

**Crimes (Amendment) Bill 2014;
Companies (Amendment) Bill 2014.**

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: the Crimes (Amendment) Bill 2014; and the Companies (Amendment) Bill 2014.

In Committee of the whole Parliament

**Crimes (Amendment) Bill 2014 –
Clauses considered and approved**

150 **Clerk:** A Bill for an Act to amend the Crimes Act.
Clause 1.

155 **Minister for Education and Justice & International Exchange of Information (Hon. G H Licudi):** Mr Chairman, in clause 1, I would propose the replacement of the words 'day of publication' by '1st January 2015'.

Mr Chairman: I now put the question in the terms moved by the Hon. the Minister for Justice. Those in favour? (**Members:** Aye.) Those against? Clause 1 as amended stands part of the Bill.

160 **Clerk:** Clause 2.

Mr Chairman: Stands part of the Bill.

165 **Clerk:** The long title.

Mr Chairman: Stands part of the Bill.

**Companies (Amendment) Bill 2014 –
Clauses considered and approved**

170 **Clerk:** A Bill for an Act to amend the Companies Act.
Clauses 1 to 3.

Mr Chairman: Clauses 1 to 3. Those in favour? (**Members:** Aye.) Those against. Stand part of the Bill.

175 **Minister for Education, Justice and International Exchange of Information (Hon. G H Licudi):**
Mr Chairman, before moving to the long title, I would propose a new clause 4, headed 'Repeal of Section 12'. Clause 4 would say:

'Section 12 of the Companies Act 2014 is repealed.'

Mr Chairman: I now put the question in the terms moved by the Hon. the Minister for Justice.
Those in favour? (**Members:** Aye.) Those against? Carried.

180 Clause 3 as amended stands part of the Bill. Clause 4, I am sorry... well, it is not as amended. New clause 4 stands part of the Bill.

Clerk: The long title.

185 **Mr Chairman:** Stands part of the Bill.

**Crimes (Amendment) Bill 2014 and Companies (Amendment) Bill 2014 –
Third Readings approved: Bills passed**

Mr Speaker: The Hon. the Chief Minister to report.

190 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Crimes (Amendment) Bill 2014 and the Companies (Amendment) Bill 2014 have been considered in Committee and agreed to with amendments, and I now move that they be read a third time and passed.

Mr Speaker: I now put the question which is that the Crimes (Amendment) Bill 2014 and the Companies (Amendment) Bill 2014 be read a third time and passed.

195 Those in favour of the Crimes (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

Those in favour of the Companies (Amendment) Bill 2014? (**Members:** Aye.) Those against? Carried.

ADJOURNMENT

Season's good wishes

200 **Chief Minister (Hon. F R Picardo):** Well, Mr Speaker, I have the honour to move that the House do now adjourn *sine die* and in doing so; I take the opportunity to wish every Member of the House a very merry Christmas and a happy New Year.

We will be back no doubt again in January. I think given an indication that Hon. Mr Speaker has given, probably on the fourth Thursday of January, because the first day of January is a Thursday and therefore it would be very early on after the holiday that we would be back. To give hon. Members on both sides an

205 opportunity to get into the run of things and for there to be more to debate, it makes sense to come back on the fourth Thursday of the month. .

Other than that, to all those here and to all those watching and listening, merry Christmas.

210 **Hon. D A Feetham:** Mr Speaker, on behalf of the Opposition, merry Christmas to everybody and a happy New Year – not only everybody outside this House but also in particular to members of staff that work so very hard to make sure that this Parliament runs efficiently every single month.

Mr Speaker: May I associate myself with the remarks of the Chief Minister and the Leader of the Opposition and extend to everyone a very happy Christmas and a peaceful New Year to members in the Public Gallery and those at home.

215 I now propose the question which is that the 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? Carried.

The House will now adjourn *sine die*.

The House adjourned at 3.20 p.m.