



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 11.11 a.m. – 11.32 a.m.

Gibraltar, Tuesday, 3rd September 2019

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The Gibraltar Parliament

The Parliament met at 11.11 a.m.

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

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

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

Clerk: Tuesday, 3rd September, Meeting of Parliament.
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.

Parental leave for parliamentarians – Statement by the Minister for Housing and Equality

Clerk: Government Statement. The Hon. the Minister for Housing and Equality.

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Minister for Housing and Equality (Hon. Miss S J Sacramento): Mr Speaker, thank you for the opportunity to make a Statement today about my intention to put to the Select Committee on Parliamentary Reform that it consider the implementation of a written regime governing parental leave and particularly maternity leave for parliamentarians. I am doing so not only as
15 Minister for Equality, but I am sure that it is not lost on anyone that I am the only woman in Government and I am one of only two women MPs who have sat in the lifetime of this Parliament. There have never been more than two women in this House and at times there have been fewer. The gender imbalance of this House is historic and striking, particularly in this day
20 and age. At the last General Election just three of 20 candidates were women. Women make up roughly 50% of the electorate, but under 12% of this Parliament represents them. It is incumbent upon all of us to identify the barriers to women's participation in active politics and to work to mitigate them.

Each of us in this House is acutely aware of its demands, and this applies to all of us. Ours is a job where we are never off. We are holders of public office and it is our job and privilege to work
25 to represent those who elect us. Under this Government, Parliament now meets more often than at any time in Gibraltar's history. Our monthly meetings require us to be present, discuss and vote on Bills, ask and answer questions and deal with any other business of the House. Exceptions are, of course, made for illness and work-related travel and we are held to account on our attendance both by each other and by the electorate. So imagine the difficulty for
30 women needing an extended amount of time off.

As you are aware, since my announcement in this year's Budget session I am currently undertaking a review of the provisions of maternity leave which already exist, to consider how best to introduce provisions for paternity and parental leave. The law currently allows for 14 weeks' maternity leave. During this period Parliament may meet up to four times. There are currently no provisions catering for women parliamentarians who might want to have a child during the lifetime of a Parliament. Indeed, there are no formal arrangements for men either. The latter, however, does not seem to have been a deterrent.

Those elected to represent voters should have all the structural support in place to enable them to do so. The aim of considering formal arrangements for maternity leave and indeed parental leave for parliamentarians is to remove the barriers to effective representation and to encourage women to run for office in the first place. Structural provisions that remove the barriers for active parliamentary participation by new mothers will set an important example to the wider society which it represents: that being a parent should not be a barrier to workplace equality.

Without a written regime governing maternity leave for parliamentarians, the inequalities in representation will continue to exist. We are currently in the process of considering parliamentary reform and we must take this opportunity to address Parliament's gender imbalance and remove the systemic barriers to the equal representation of half the community which we represent. Gibraltar needs structural provisions for voting and dealing with parliamentary questions which are not at odds with family life. That is why I have today written to the Clerk of the House requesting that the Select Committee on Parliamentary Reform consider such formal arrangements for maternity leave.

This has never been an issue before. We have had very few women in Parliament and none have had children while in Parliament. There is no precedent and no one to look up to, but that is not the test. There will come the time when this will be necessary and at that point we should not have to scramble to make arrangements. Indeed, the objective is knowing that such arrangements would be in place and hopefully this would attract more women and younger women to our House, so it would help diversify in terms of gender and age demographic. We should welcome the removal of barriers that are currently preventing women from considering standing for these seats.

Mr Speaker, thank you very much for the opportunity of making this Statement of my intention to the House. *(Banging on desks)*

Mr Speaker: The Hon. the Leader of the Opposition.

Hon. E J Phillips: Mr Speaker, we welcome the Statement by the Minister insofar as she wishes to put before the Select Committee on Parliamentary Reform the implementation of paternity and parental leave for parliamentarians. She is absolutely right that this House should reflect generally the community within which we live and it is right, of course, that more women should participate in this House. To do that, of course we should support the proposal put by the Minister that we should remove barriers to entry into this place.

The Minister rightly observed that only three in the last number of elections have been women that have participated in elections. I note the reflection of how the law currently stands. There is, of course, parental leave per se in relation to the employer-employee relationship. We do not, as parliamentarians, enjoy the luxury of being described as employees or employers and therefore it is quite right that this proposition be put before a Select Committee, as it is a complex issue and would need to be determined by the Select Committee insofar as putting it before the House.

One of the issues is that the Select Committee has only met once in relation to parliamentary reform and of course we should improve that so that we can meet more often to discuss those issues. Likewise, I have to rise to the bait, of course, insofar as regular meetings of this House. There has been infrequent Question Time of the Chief Minister and other Ministers on that side

of the House, and that should of course improve. We have been very critical, but I do not want to say much more on that; I am sure there will be some response in relation to that point.

85 But we wholeheartedly welcome the Minister's Statement in improving the quality of our democracy, improving the participation from members of our community and the diversity to which she speaks to. *(Banging on desks)*

Mr Speaker: The Hon. Marlene Hassan Nahon.

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Hon. Ms M D Hassan Nahon: Mr Speaker, for my part I would like to thank my good friend the hon. Lady, the Minister for Equality, for her wise and equality-driven stance on the matter of placing on the agenda for the next parliamentary term, in the Parliamentary Reform Select Committee, the issue of creating a regime and framework vis-à-vis paternity and maternity leave for future parliamentarians.

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It is, of course, crucial and vital to establish protocols in order to protect future parliamentarians and their seats in circumstances whereby they may not be able to be present in the House for maternity or paternity reasons. The famous case relatively recently of Labour MP Tulip Siddiq, who was forced to postpone her C-section to vote against Theresa May's Brexit deal, is just one case in point here which highlights the need to have these frameworks in order. Siddiq famously said how her battle to bring Parliament into the 21st century is far from won, and we ourselves need to deal with this battle of our own, right here, right now, especially if what we want is to make this Parliament truly representative, break the gender imbalance and make it inviting to both men and women in the future.

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I have five women, including myself, on my own slate for the forthcoming election, a couple of whom are still in their childbearing years, and it is duly welcome to hear that pathways in order to reflect their circumstances, as well as those of men who may require paternity time, will be well thought out and prepared for. However, I take this opportunity to urge all parties fighting the next election to include equalising statutory maternity and paternity leave, as we will be doing, if we truly want to call ourselves a progressive egalitarian society. If we do not, these frameworks that the hon. Lady talks of implementing within Parliamentary Committee discussions next term will reek of privilege and double standards, where on one hand we quite rightly protect and modernise leave for our parliamentarians but on the other hand we do not for our society in general.

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

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Mr Speaker: The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): I want, as Leader of the House, to welcome the Statement by the hon. Lady.

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I of course have to answer the statement by the hon. Gentleman that they have been very critical of the absence of meetings for questions. Well, they have not been critical, Mr Speaker, for the simple reason that they know that there have not been more meetings for questions because of the extraordinary events being played out outside of Gibraltar, but indeed if they had been critical they would also have been extraordinarily hypocritical because there have been as many meetings for questions this year as there were the last year that they were in government.

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Mr Speaker, the point which I think is an important point is that as we move towards ensuring gender balance we must ensure that we have done everything structurally that we are able to do to deliver gender balance. One of the things that we tried to do when we were first elected was to ensure that hon. Members who needed a timetable of understanding of when things were going to happen, in order to be able to plan matters relating to their parental responsibilities, had that. I think in the last year that has also fallen into disuse as a result of the huge difficulties that we are facing internationally, but anything that we can do to support the

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135 structure of Parliament in a way that ensures that the gender balance does not arise out of any failure of the structure of this place we will be entirely supportive of doing.

Mr Speaker: The Hon. Samantha Sacramento.

140 **Hon. Miss S J Sacramento:** Mr Speaker, I am glad to hear the positive response from the other side. Clearly there is recognition among all of us that this is something that needs to be done and I am sure that it will not be a battle between us to bring this House into the 21st century.

145 The response from the other side of this House has been extremely positive and there is very little that I need to say in reply, other than reply to the final remark made by the hon. Lady on the other side in relation to her suggestion that there would be double standards if we were to implement this for Parliament and not for the rest of Gibraltar. That is absolutely not the case. Perhaps the hon. Lady has misunderstood the position, but a regime on maternity leave already exists in law. As the hon. Gentleman the Leader of the Opposition explained, the law in relation to us parliamentarians is slightly different but it does not mean that we would find ourselves in a situation that is better than the rest of the community; it is just different because what we are talking about is a regime which will ensure that women will be able to participate fairly in this House.

150 On that note, in relation to maternity leave being extended to consider paternity leave and parental leave and the hon. Lady's encouragement that this be included in manifestos, I must say that this is something, as you know from my Statement in my Budget address, that the Government has already looked at, is already working on and is already at an advanced stage so that it can become the law.

Thank you, Mr Speaker.

160 **Mr Speaker:** Perhaps the Select Committee might also keep in mind the need somehow within the Precincts of Parliament to make arrangements for babies to be nursed.

Order of the Day

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

Mr Speaker: The Hon. the Chief Minister.

165 **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 Government Bills.

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

BILLS

FIRST AND SECOND READING

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

Clerk: Bills – First and Second Reading.

A Bill for an Act to amend the Companies Act 2014. The Hon. the Chief Minister.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to move that a Bill for an Act to amend the Companies 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 Companies Act 2014 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Companies (Amendment) Act 2019.

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

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Chief Minister (Hon. F R Picardo): Mr Speaker, the Companies (Amendment) Bill 2019 is a short but important Bill that amends Parts 12, 14, 15 and 16 and Schedule 26 of the Companies Act 2014.

I am dealing with this matter, which is usually something that would be dealt with by the Minister for Financial Services, as Minister Isola is away again in China promoting Gibraltar as a place to do business come Brexit or high water.

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The Bill amends the Act by extending the current provisions relating to the registration as a branch or establishment of a place of business in Gibraltar by overseas companies to other types of overseas entities having a legal personality, that is to say entities other than companies.

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The provisions of the Act regarding the registration of branches and the establishment of a place of business have been part of Gibraltar law since at least the late 1990s and have served Gibraltar well as mechanisms through which overseas companies may establish a presence in Gibraltar without having to set up new entities in Gibraltar. These provisions now need to evolve and be modernised to take account of the increased use in global corporate structure of different types of corporate entities which are not companies but have an independent legal personality, limited partnerships and limited liability partnerships being the most obvious examples.

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Government has received representations from firms that extending the provisions of the Act to these other types of corporate entities would provide flexibility and open up new structuring opportunities. These are considered particularly helpful in the context of Brexit, where firms are restructuring to enable themselves to continue operating in the EU from other jurisdictions but maintaining a real presence in Gibraltar serving non-EU markets from a Gibraltar branch. Hon. Members will therefore understand the importance of this Bill becoming an Act at this crucial time.

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The Bill therefore amends Parts 12, 14, 15 and 16 of the Act by substituting references to 'company' and 'companies' with references to 'bodies corporate' and 'body corporate' respectively. A 'body corporate' will mean any entity having a legal personality.

205 Mr Speaker, it is considered that these new terms will be wide enough to allow any type of corporate entity, including companies, to avail itself of the provisions of the Act regarding registration as a branch or the establishment of a place of business in Gibraltar.

Consequential amendments are made by the Bill relating to the particulars to be filed at Companies House, particularly by extending the references to directors, to officers of the body
210 corporate equivalent to the directors of a company and further amendments are made to Schedule 26 of the Act regarding the delivery of reports and accounts.

Finally, Mr Speaker, the Bill corrects the definition of 'the Fourth Council Directive' to 'Directive 2013/34/EU', which is a reference to Directive 2013/34/EU of the European Parliament and of the Council of 26th June 2013.

215 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? The Hon. the Leader of the Opposition.

220 **Hon. E J Phillips:** Mr Speaker, we thank the Chief Minister and we will be supporting this Bill.

Of course, it should be remembered that in times of Brexit we, of course, have to be flexible in our response to business to allow for these further restructuring opportunities to continue. I am glad to see that the Government has listened to business and it is encouraging to see that we are now introducing this law to allow for those further restructuring opportunities for our
225 businesses.

Mr Speaker: Does any other hon. Member wish to speak on the Second Reading of the Bill?

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

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Clerk: The Companies (Amendment) Act 2019.

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

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move that the Committee Stage be taken later today, if all hon. Members agree.

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

**European Union Withdrawal (Application of International Agreements) Bill 2019 –
First Reading approved**

Clerk: A Bill for an Act to provide for the application of certain EU-third country agreements and UK-third country agreements after Gibraltar's exit from the European Union or where there is an agreement under Article 50(2) of the Treaty on European Union, at the end of any
240 transitional/implementation period.

The Hon. the Deputy Chief Minister.

Deputy Chief Minister (Hon. Dr J J Garcia): I have the honour to move that a Bill for an Act to provide for the application of certain EU-third country agreements and UK-third country

245 agreements after Gibraltar's exit from the European Union or where there is an agreement under Article 50(2) of the Treaty on European Union, at the end of any transitional/implementation period be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to provide for the application of certain EU-third country agreements and UK-third country agreements after Gibraltar's exit from the European Union or where there is an agreement under Article 50(2) of the Treaty on European Union, at the end of any transitional/implementation period be read a first time. Those in favour. (**Members:** Aye.) Those against. Carried.

255 **Clerk:** The European Union Withdrawal (Application of International Agreements) Act 2019.

**European Union Withdrawal (Application of International Agreements) Bill 2019 –
Second Reading approved**

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

Mr Speaker, the Bill before the House today is a contingency measure in the face of a no-deal Brexit. Members know that there is now a strong likelihood that the United Kingdom and Gibraltar may exit the European Union on 31st October without a withdrawal agreement. Having said that, the United Kingdom government have said that they continue to work towards a deal. Nonetheless, the political background in London is as fluid as ever. Members will be aware of the moves towards the parliamentary-imposed delay to our EU departure. They will also have heard the Prime Minister's address outside Downing Street, where he countered those moves with a possible general election.

Mr Speaker, we need to be prepared. That is why the Bill is before us today. The House will be aware that over the years the EU has entered into a number of agreements with third countries, being countries outside the European Union. In particular, those agreements have covered areas where the member states have ceded their competence to the European Union. Such agreements apply to Gibraltar by virtue of our membership of the EU and will therefore cease to apply as from exit day. This Bill makes provision for the application of certain of those international agreements – those that prior to leaving the European Union already apply to Gibraltar and which the United Kingdom has or is in the process of replacing with new agreements. As I will set out below, by including the replacement agreements in the schedule, such agreements will have force of law in Gibraltar.

I now turn to the specifics of the Bill. Clause 1 provides for the commencement of the Act to be by notice in the gazettes. The intention of the Government, however, is for the Act to commence on exit day.

Clause 2 provides definitions. I have given notice to Mr Speaker that I will be moving an amendment here at Committee Stage. This is in order to insert a further definition so that the definition of 'international agreement' is broad enough to encompass non-binding arrangements which may be necessary to bridge the gaps that may occur in cases where an EU agreement will cease to apply before the new agreement is fully in force.

Clause 3(1) and (2) together provide that international agreements that are contained in the schedule constitute the law of Gibraltar. This may be applied directly to the same extent as such agreements applied to Gibraltar before the relevant date. This includes multilateral agreements that remain in force and continue to apply to Gibraltar as a result of the United Kingdom becoming a party in its own right and extending those to us.

Subclause (3) provides an important clarification. This is that the reference in subclause (1) to agreements being applied to the same extent as EU third country agreements apply to Gibraltar

is to be interpreted as meaning that the scope of such international agreements is the same provided for by the EU treaties and EU law as it applied to Gibraltar before exit day. Therefore, an agreement would not fall outside the scope of subclause (1) merely because the successor agreement is not cast in identical terms to the agreement that it replaces or may replace.

295 Subclause (4) clarifies what is meant by ‘provisionally applied’ in subclause (1).

Subclause (5) confers a power on the Chief Minister to amend the Schedule by order.

Subclause (6) requires that any such order be laid before Parliament after it has been made.

Mr Speaker, the Schedule presently reflects the state of play as at the date of publication of the Bill. Since then, and more particularly when exit day arrives, more agreements will require listing and therefore it is envisaged an order will be published around exit day itself and any further updates at suitable junctures thereafter.

300 I have also given notice of a small amendment to clause 3(1) consequent on the insertion of the new definition in clause 2.

Clause 4 requires a court or tribunal to read any provision of Gibraltar law in a manner that is compatible with an international agreement that is listed in the Schedule. Where it is not possible to do so, it requires that the terms of the international agreement take precedence over any law enacted before the relevant day.

Clause 5 confers a regulation-making power on the Chief Minister. This power may be exercised in connection with an obligation arising from a scheduled international agreement.

310 Mr Speaker, as I said earlier, this Bill arises from our departure from the European Union – or our potential departure – on 31st October. It provides a basis for a necessary legal framework for the application of certain international agreements to Gibraltar.

I commend the Bill to the House.

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

Hon. E J Phillips: Mr Speaker, we welcome this contingency measure and we thank the Deputy Chief Minister for his explanation.

320 It now appears strongly likely, as he has said, that we will be leaving the European Union without a deal and therefore this is sensible and of course the correct way to proceed insofar as the amendment to the law is concerned. That is all we need say about the matter.

Mr Speaker: I now put the question, which is that a Bill for an Act to provide for the application of certain EU-third country agreements and UK-third country agreements after Gibraltar’s exit from the European Union or where there is an agreement under Article 50(2) of the Treaty on European Union, at the end of any transitional/implementation period be read a second time.

325 Those in favour. (**Members:** Aye.) Those against. Carried.

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Clerk: The European Union Withdrawal (Application of International Agreements) Act 2019.

European Union Withdrawal (Application of International Agreements) Bill 2019 – Committee Stage and Third Reading to be taken at this sitting

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

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

COMMITTEE STAGE AND THIRD READING

Clerk: Committee Stage and Third Reading.

340 **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 Companies (Amendment) Bill 2019 and the European Union Withdrawal (Application of International Agreements) Bill 2019.

In Committee of the Whole Parliament

**Companies (Amendment) Bill 2019 –
Clauses considered and approved**

345 **Clerk:** A Bill for an Act to amend the Companies Act 2014.
Clauses 1 to 7.

Mr Speaker: Stand part of the Bill.

350 **Clerk:** The long title.

Mr Speaker: Stands part of the Bill.

**European Union Withdrawal (Application of International Agreements) Bill 2019 –
Clauses considered and approved with amendment**

355 **Clerk:** A Bill for an Act to provide for the application of certain EU-third country agreements and UK-third country agreements after Gibraltar's exit from the European Union or where there is an agreement under Article 50(2) of the Treaty on European Union, at the end of any transitional/implementation period.

Clause 1.

360 **Mr Speaker:** Stands part of the Bill.

Clerk: Clause 2 as amended.

365 **Mr Speaker:** The Hon. Minister has given notice that he has circulated an amendment. Can we take it that the amendment is approved? (**Members:** Aye.) So, clause 2 as amended stands part of the Bill.

Clerk: Clause 3 as amended.

Mr Speaker: Again, there is a small amendment to this clause, so clause 3 as amended stands part of the Bill.

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Clerk: Clauses 4 to 6.

Mr Speaker: Stand part of the Bill.

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Clerk: The Schedule.

Mr Speaker: Stands part of the Bill.

Clerk: The long title.

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Mr Speaker: Stands part of the Bill.

**Companies (Amendment) Bill 2019 –
European Union Withdrawal (Application of International Agreements) Bill 2019 –
Third Reading approved: Bills passed**

Chief Minister (Hon. F R Picardo): Mr Speaker, I have the honour to report that the European Union Withdrawal (Application of International Agreements) Bill 2019 and the Companies (Amendment) Bill 2019 have been considered in Committee and agreed to with some amendments and I now move that they be read a third time and passed.

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Mr Speaker: I now put the question, which is that the Companies (Amendment) Bill 2019 and the European Union Withdrawal (Application of International Agreements) Bill 2019 be read a third time and passed. Those in favour? (**Members:** Aye.) Those against? Carried.

FIRST AND SECOND READING

**Fair Trading (Miscellaneous Repeals and Amendments) Bill 2017 –
For First Reading**

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Clerk: Bills – First and Second Reading.

A Bill for an Act to repeal certain provisions and to amend others of the Fair Trading Act 2015 relating to business licensing, in particular as regards the dissolution of the functions of the Business Licensing Authority; to provide for the exchange of information or intelligence between the Office of Fair Trading and relevant agencies and bodies; to modify and clarify the meaning of certain terms; and for related purposes.

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Chief Minister (Hon. F R Picardo): Mr Speaker, I move that the House should now adjourn. As I do, I am going to move that the House should adjourn to Tuesday, 17th September at 3 p.m. Between now and then we will enjoy the festivities of our National Day. But I think I should just give a health warning to hon. Members and those who will be watching in the community that, as I said when we last adjourned, given what is happening in the United Kingdom it is not impossible that the Government may need to exercise the powers set out in the Standing Orders and Rules to recall Parliament before that date. Otherwise, I hope to see all other hon. Members in the House on Tuesday the 17th at 3 p.m.

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405 **Mr Speaker:** The House will now adjourn to Tuesday, 17th September at three in the afternoon.

The House adjourned at 11.34 a.m.