



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**AFTERNOON SESSION: 3.06 p.m. – 5.10 p.m.**

**Gibraltar, Wednesday, 12th July 2017**

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# The Gibraltar Parliament

*The Parliament met at 3.06 p.m.*

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

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

## **Personal Statement by Hon. D A Feetham**

**Clerk:** Wednesday, 12th July, continuation of the meeting of the House.

**Mr Speaker:** The Leader of the Opposition has asked for leave to make a Personal Statement.  
5 The Hon. Daniel Feetham.

**Hon. D A Feetham:** Mr Speaker, today will be my last day as Leader of Her Majesty's Opposition in Gibraltar and I ask Mr Speaker to recognise my hon. Friend Mr Clinton as Leader of Her Majesty's Opposition as from close of parliamentary business today.

## **Personal Statement by Hon. L F Llamas**

10 **Mr Speaker:** I have also been asked for leave by the Hon. Lawrence Llamas also to make a Personal Statement.

15 **Hon. L F Llamas:** Mr Speaker, further to my Personal Statement last week and for the purposes of recording my change in status in *Hansard*, I shall be sitting as an independent Member of this Parliament as from today and therefore no longer represent the official GSD Opposition. It is without saying that I will endeavour to discharge my responsibilities with the same vigour and respect as when I started.

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

**Chief Minister (Hon. F R Picardo):** Mr Speaker, I rise as Leader of the House to acknowledge both of those Statements.

25 In relation to the first statement in this House from the Hon. Mr Feetham and the statements outside of this House by Mr Feetham in respect of his relinquishing of the position of Leader of the party opposite and Leader of the Opposition, he and I had an opportunity to speak on the morning when he made the announcement and I have already said publicly that I call for respect for the decision that he made. But on the last occasion that we faced each other across the notional dispatch box, can I just, perhaps, reflect for a moment that he and I started our political discussions as fierce friends and we ended up as fierce foes, but always in a political sense,  
30 certainly as far as I was concerned. We have also been partners, politicians and parliamentarians together, so as he leaves his post as Leader of the Opposition I wish him, of course, the very best at a personal level. He is going to remain a Member of this House, so we will continue to have an opportunity to spar, no doubt, at a political level; and I sincerely hope that at a personal level,

35 given that that was what he expressed was the driving motivation for his decision, I wish him all the best, of course.

40 Mr Speaker, I recognise that Mr Llamas is now sitting, although not where the other independent Member sits but as an independent Member also, and I applaud him for having had the courage of his convictions during the course of the debate on the Appropriation Bill and recognise that he is now not a Member of the official Opposition.

**Suspension of Standing Order 7(1)  
in order to lay report**

45 **Mr Speaker:** Could I now call upon the Chief Minister to move the suspension of Standing Orders for the purposes of laying on the table a report.

**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 the laying of a report on the table.

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

**PAPERS TO BE LAID**

**Clerk:** Papers to be laid – the Hon. the Minister for Justice.

55 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to lay on the table the Crimes Act (Schedule 4 Amendment) Order 2017.

**Mr Speaker:** Ordered to lie.

## Order of the Day

**BILLS**

**FIRST AND SECOND READING**

**Proceeds of Crime (Amendment) Bill 2017 –  
First Reading approved**

60 **Clerk:** Bills – First and Second Reading.

We commence with the Proceeds of Crime (Amendment) Bill 2017. A Bill for an Act to amend the Proceeds of Crime Act 2015. The Hon. the Chief Minister.

65 **Chief Minister (Hon. F R Picardo):** Mr Speaker, before this Bill proceeds, Members of the House will know that the publication of the Bill has not enjoyed six weeks – (*Interjection by Mr Speaker*) The Proceeds of Crime Act, Mr Speaker, amendment ... has not enjoyed six weeks of publication before the House is asked to proceed in respect of consideration of it. I have written,

Mr Speaker, to you this morning certifying that this Bill is too urgent to await six weeks of publication before the Parliament considers it.

70 I understand that the Hon. the Minister for Justice has been in touch with Members opposite in respect of this and that we are able to proceed to consider this Bill, not just on the basis of my certification of its urgency but also on the basis that that is broadly agreed. And so, Mr Speaker, I consider that the provisions of the Constitution in respect of the period of publication required before the Parliament can proceed upon the Bill have been satisfied.

75 **Mr Speaker:** Having received the necessary notice from the Chief Minister in respect of the urgency of this Bill, we can now proceed with it.

I now put the question, which is that a Bill for an Act to amend the Proceeds of Crime Act 2015 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

80

**Clerk:** The Proceeds of Crime Amendment Act 2017.

### **Proceeds of Crime (Amendment) Bill 2017 – Second Reading approved**

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that the Bill for the Proceeds of Crime (Amendment) Act 2017 be read a second time.

85 Mr Speaker, I have received representations from the Office of Criminal Prosecutions and Litigation regarding the need to introduce the amendment contained in this Bill. Without wishing to reveal any information regarding any ongoing matters, I have been satisfied that all the changes are warranted and need to be made expeditiously.

The Bill amends the Proceeds of Crime Act 2015 (POCA) in order to achieve a limited but important number of amendments.

90 New section 1T is an interpretation section. It provides for the interpretation of certain provisions common to Parts II and III. Previously these were found in section 2 of POCA and could have given rise to some confusion as section 2 is a substantive provision. By removing those parts of section 2 which relate to interpretation and placing them in the new section, 1T will introduce clarity and prevent possible confusion.

95 Sections 2, 3 and 4 provide for the main money laundering offences and these have been recast in the Bill. They are, therefore, not new offences and their origins can be traced back to the UK's Criminal Justice Act 1988. That Act was subject to amendment and later was replaced by the Proceeds of Crime Act 2002.

100 The UK's legislative intent in the 2002 Act, as demonstrated by the explanatory notes to that Act, was to simplify the offences, thereby making them easier to present to a jury. Mr Speaker, in the recast form the offences are aligned to the UK criminal law and, as a result, case law from the United Kingdom will be of assistance in this jurisdiction in the future.

105 For the sake of clarity, the three money laundering offences that are set out in clauses 2 to 4 are: clause 2, entering into an arrangement on behalf of another person to facilitate the acquisition, retention, use or control of criminal property; clause 3, acquiring, using or possessing criminal property; and clause 4, concealing, disguising, converting, transferring and removal from Gibraltar of criminal property. The maximum sentences available for these offences remain unchanged.

110 New section 4A was recently introduced as section 3A, but with the amendments proposed by this Bill it more logically sits after the main money laundering offences. The section is concerned with the consent that the GFU may give to a person making a disclosure to it. Where such consent is given, a person may do an act that is otherwise prohibited. This may arise in

cases where there is an interest in a transaction being completed so as not to indicate to the criminals concerned that there is an investigation afoot.

115 Sub-clause (5) introduces a moratorium period, which is 60 working days, and that period applies where the GFIU have refused consent to a particular transaction.

Sections 4B to 4E are new provisions that build on the moratorium period that is permitted in section 4A in cases where the GFIU do not consent to a particular course of action and provides for the court to extend the moratorium to a maximum of 336 working days or, in other words,  
120 two years.

Section 4B(8) provides for appeals to the Court of Appeal in connection with points of law.

The Bill retains references to working days, with a maximum permitted period following extensions granted by the Supreme Court to effectively two years. The period of two years is also in line with the maximum permitted period for the detention of cash that has been seized  
125 pending investigation as to the source of funds by the law enforcement agencies.

Sections 4G and 4H provide protection from liability where certain disclosures have been made in accordance with the requirements of the Act. In particular, 4H provides for protection for a breach of a restriction on the disclosure of information where the information is obtained in the course of a trade, profession, business or employment.

130 Clause 3(4) inserts a new section 6B. The section restates the offence applicable to relevant financial businesses, having been formally set out in sections 2, 3 and 4. The maximum sentence remains unchanged.

Clause 3(6) inserts a new section 35A. The section enables the Magistrates Court to commit a defendant to the Supreme Court where a confiscation order is being sought, and section 35B  
135 builds on that section.

Clause 3(9) amends section 58. In paragraph (a), subsection (1)(c) so that the requirement of belief is amended to suspicion. Paragraph (b) introduces section 58(3A), the effect of which is to open the possibility for restraint and charging orders to be sought at the investigation stage, again in line with the UK. The purpose of a restraint order is to prevent the dissipation or  
140 possible dissipation of assets. At present the law is that a restraint order can only be sought effectively following a charge or immediately preceding the charge, and this may well be far too late as many fraud investigations by their very nature take some time to complete and the alleged fraudster may well become aware of the investigation. This power in the UK to restrain during the investigative stages has been in existence for many years.

145 Clause 3(10) confers a power on the Supreme Court to enable it to make provision inter alia for reasonable costs of living, legal expenses and to provide for a person to carry on his trade, business, profession or occupation. These exceptions are not exhaustive. In addition, this sub-clause introduces certain safeguards, now subsections (7A) to (7C), including reporting to the Supreme Court on progress and a duty on the court to discharge an order where a reasonable  
150 time has passed and proceedings have not been commenced.

Clause 3(11) inserts a new section 59A for the enforcement abroad of restraint orders.

Clause 3(12) introduces certain safeguards where a charging order has been granted in connection with the criminal investigation, as is the case with restraint orders.

The remaining provisions relate to a number of amendments that are for housekeeping and clarification. They seek to improve on the clarity of the Act and the associated procedures, and  
155 state in which court should be seized of particular matters. From these, clause 3(25)(b) is worth highlighting, as it amends the definition of criminal conduct to restore the definition as it had been in section 2(9).

160 Finally, I wish to take the opportunity to thank the Hon. Shadow Minister for Justice, Mr Elliott Phillips and also Mr Roy Clinton for making themselves available at very short notice yesterday to discuss the content of the Bill and its urgent nature.

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

165 **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, this Bill will enjoy the support of the official Opposition in respect of this matter.

170 I welcome the comments by the Hon. Minister for Justice. Indeed he did reach out to the Opposition yesterday to explain some of the more sensitive matters surrounding this piece of legislation, of course, when our international obligations are certainly important to all Members of this House and the reputation of this jurisdiction.

175 This enjoys the entire Opposition's support insofar as it will progress through Parliament. I am grateful.

**Mr Speaker:** Any other contribution?

I now put the question, which is that a Bill for an Act to amend the Proceeds of Crime Act 2015 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

180 **Clerk:** The Proceeds of Crime (Amendment) Act 2017.

**Proceeds of Crime (Amendment) Bill 2017 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Health, Care and Justice (Hon. N F Costa):** 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.

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

**Members:** Aye.

**Markets, Street Traders and Pedlars Act (Amendment) Bill 2017 –  
First Reading approved**

190 **Clerk:** We now move to a Bill for an Act to amend the Markets, Street Traders and Pedlars Act. The Hon. the Minister for the Environment, Energy, Climate Change and Education.

195 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Markets, Street Traders and Pedlars Act be read a first time.

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

200 **Clerk:** The Markets, Street Traders and Pedlars (Amendment) Act 2017.

**Markets, Street Traders and Pedlars Act (Amendment) Bill 2017 –  
Second Reading approved**

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

205 In the course of considering amendments to the Markets, Street Traders and Pedlars Rules,  
itself a part of a broader project that my colleague the Hon. Albert Isola is overseeing to  
modernise Gibraltar's business legislation, it came to our attention that any such amendments  
would have to be made by His Excellency the Governor by virtue of his powers under sections  
10, 11, 12(2) and 15 of the parent Act. Moreover, beyond his exclusive rule-making power, His  
210 Excellency enjoys various powers under section 16 of the Act – for example, to make  
designations as to the location of street traders or to impose certain requirements on the type  
of equipment they can use.

These matters self-evidently do not fall within the Governor's special responsibilities under  
section 47(1) of the Constitution, but are instead the responsibility of Ministers. The Bill is  
215 therefore essentially a tidying-up exercise. It ensures that the Act, which was commenced in  
1954 and last amended in 1982, conforms to the constitutional distribution of powers as  
between the Governor and Ministers and that the Government can then proceed to make such  
amendments to the Markets, Street Traders and Pedlars Rules as are necessary.

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

220 **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. Roy Clinton.

**Hon. R M Clinton:** Thank you, Mr Speaker.

225 From this side of the House, the Official Opposition, obviously we understand the reasoning  
for this Bill and it will certainly enjoy our support. I look forward to hearing in due course what  
the further wider-ranging amendments are going to be.

Thank you, Mr Speaker.

**Mr Speaker:** Does any other hon. Member wish to speak? None.

230 I will put the question, which is that a Bill for an Act to amend the Markets, Street Traders  
and Pedlars Act be read a second time. Those in favour? (**Members:** Aye.) Those against?  
Carried.

**Clerk:** The Market Street Traders and Pedlars Amendment Act 2017.

**Markets, Street Traders and Pedlars Act (Amendment) Bill 2017 –  
Committee Stage and Third Reading to be taken at this sitting**

235 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):**  
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.

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

**Members:** Aye.



**Law Commission Bill 2017 –  
First Reading approved**

**Clerk:** A Bill for an Act to provide for the constitution of a Law Commission for the reform of the law and for connected purposes. The Hon. the Minister for Health, Care and Justice.

245

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to provide for the constitution of a Law Commission for the reform of the law and for connected purposes be read a first time.

250

**Mr Speaker:** I now put the question, which is that a Bill for an Act to provide for the constitution of a Law Commission for the reform of the law and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Law Commission Act 2017.

**Law Commission Bill 2017 –  
Second Reading approved**

255

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that the Bill be now read a second time.

In the light of the comments in my Budget speech, I propose to add very little today.

260

The Bill provides for the Constitution of a Law Commission for the purposes of promoting reform of the law. The Commission shall be comprised of no fewer than six members appointed by the Government by notice in the Gazette and shall include the Attorney General, the Minister, no fewer than two commissioners who are barristers or solicitors of at least seven years' post-qualification experience, and no fewer than two commissioners appearing to the Government to be suitable for the role. A quorum of the Commission shall consist of three members. Each member will be appointed for a renewable term of three years.

265

The function of the Commission can be summarised as follows: to receive and consider proposals for the reform of the law made or referred to them by Government; to undertake, pursuant to any such recommendations approved by Government, the examination of any particular branches of the law and the formulation of proposals for reform; to consider and prepare proposals for consolidation or statute law revision in such areas as may be referred to by Government; to provide assistance and information to Government and other authorities on proposals for reform; and to obtain such information as to the legal systems of other countries as appears to the Commission is likely to facilitate the performance of the functions.

270

The Bill also states that the Government and the Commission may agree a protocol regarding the Commission's work. The protocol, among other things, may include matters such as the principles and method which will be applied in deciding the work to be carried out by the Commission and the administrative support which is to be provided to the Commission by the Government.

275

I commend the Bill to the House, Mr Speaker.

280

**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. Elliott Phillips.

**Hon. E J Phillips:** Mr Speaker, Her Majesty's Opposition will support the Bill for the creation of a Law Commission.

285 We understand that it is Her Majesty's Government's intention that the Law Commission will  
have a very wide remit and will, amongst other things, consider proposals for the reform of the  
law, undertake examination of areas of the law with a view to formulating proposals for reform,  
codification and elimination of the anomalies. It is also envisaged that the Law Commission will  
generally provide advice and information to the Government on reform and amendments of our  
290 laws.

We on this side of the House note that the first task of the new Law Commission will be to  
review our local sentencing guidelines to ensure that they cater for the needs of Gibraltar. I  
know that the Hon. the Minister for Justice did indicate in his Budget speech that that would be  
the first task of the Law Commission. I, for one, agree that we should create a body of  
295 sentencing guidelines which are Gibraltar-centric and entirely relevant to sentencing and the  
imposition of penalties by our courts. But a word of caution: in our view there may well be  
some overlap with sentencing practice of England and Wales. Sentencing practice in England and  
Wales, of course, is developed over a considerable amount of time and in changing  
circumstances. As the Minister for Justice is aware, sentencing of offenders is not an easy task. It  
300 balances the need to punish offenders, crime reduction, protection of the public, the  
rehabilitation of offenders and society's need that the offender makes reparation to the  
community. Sentencing is not therefore an exact science. It balances a number of significant  
interests with hundreds of years of evolving sentencing law. Whilst I agree that we should  
review sentencing, I believe that there is a risk that to tinker at the edges of an already well-  
305 established body of guidance may unravel a number of issues which will later need to be dealt  
with by the judiciary. I would urge that we exercise a degree of common sense when it comes to  
that review.

We on both sides of this House who have practised at the Bar will no doubt recall areas of  
sentencing practising guidance which have little relevance to Gibraltar practice and it is right  
310 that the Law Commission are tasked with recommending those changes.

We also suggest that when the Law Commission is formally constituted that it widely consults  
with stakeholders at the criminal Bar and the Bar Council generally, who will be able to add  
value to the work of the Law Commission.

We on this side of the House support and welcome each of the Law Commissioners who the  
315 Minister of Justice has indicated he will be appointing and we are sure, as part of a wider remit,  
this will also add value to this important work.

We in the Opposition also suggest that, insofar as the Commission's first task of reviewing  
our sentencing guidelines is concerned, that some further thought be given to extending the  
composition of the Law Commission to the chairperson of the Bar Council – whoever that may  
320 be at the time – the Superintendent of Prisons, the Drugs Co-ordinator and respective  
representatives from the Probation Service; and, as I have stated in this contribution, the  
possible participation of regular criminal law practitioners, who can also add a level of depth of  
their experience to this process. It may well be that when it comes to addressing other areas of  
law reform, the Law Commissioners will also be ably assisted by other members of our  
325 community who will have valuable contributions to make.

In summary, Mr Speaker, we support this Bill and also commend it to the House.

**Mr Speaker:** Does any other hon. Member wish to speak on the Second Reading of this Bill?  
I call on the mover to reply.

330

**Hon. N F Costa:** Mr Speaker, very briefly to thank the hon. Gentleman for indicating that the  
Government will enjoy the support of the official Opposition in respect of the creation of the  
Law Commission.

I take note of what he says in respect of applying common sense to the endeavour that will  
335 be undertaken. In that respect I think that, as he rightly says, the Law Commissioners are  
supremely suitable to undertake this work, and of course the work of the Commission will very

much be underpinned by the evidence and by the advice that will be provided by stakeholders who are actively engaged in this field – such as, for instance, the RGP in terms of criminal sentencing.

340

**Mr Speaker:** I now put the question, which is that a Bill for an Act to provide for the constitution of a Law Commission for the reform of the law and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

345

**Clerk:** The Law Commission Act 2017.

**Law Commission Bill 2017 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Health, Care and Justice (Hon. N F Costa):** 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.

350

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

**Members:** Aye.

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

355

**Clerk:** A Bill for an Act to amend the Children Act 2009. The Hon. the Minister for Health, Care and Justice.

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Children Act 2009 be read a first time.

360

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Children Act 2009 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Children (Amendment) Act 2014.

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

365

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Children Act 2009 be read a second time.

This Bill inserts a new section 156A into the Children Act 2009 to allow minors over the age of 16 but under 18 years of age to consent to surgical, medical or dental treatment as if they were of full age.

370

There are a couple of typographical errors in the Bill as published which are subject to a letter containing amendments to be taken at the Committee Stage. The amendment replicates the equivalent UK provision which previously existed in local law as section 41 of the Minors Act.

However, this provision was repealed by the Children Act on 14th January 2010 and no equivalent provision was included in the new Act. The reasons for its omission are unknown.

375 The change is important if children are to be treated with equality and as autonomous beings, especially once they have reached the age of 16. The Government is of the opinion that making this statutory change, together with our adherence to the common law in the area following the UK case of *Gillick*, advocates the rights of every child to self-determination, dignity, respect, non-interference and the right to make informed decisions.

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

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

385 **Hon. E J Phillips:** Mr Speaker, this is an important amendment to the law, and in fact a consent, as the Hon. Minister knows, in respect of medical treatment, be that dental, surgical or otherwise, is a hugely complex area of the law.

One matter that I would recommend that the Minister look at, at a later stage when we are looking at possibly mental capacity amendments to the law ... is that we remember these provisions and where there is any crossover reference that needs to be made in relation to mental capacity. I do not know. I flag that as an issue now. I also flagged it in previous Bills that were brought before this House last year. But it is an important amendment to the legislation and I welcome the Minister's intervention.

390

**Mr Speaker:** Does any other hon. Member wish to speak on this Bill?

Does the mover wish to reply? No.

395 I now put the question, which is that a Bill for an Act to amend the Children Act 2009 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Children (Amendment) Act 2014.

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

400 **Hon. N F Costa:** 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?

405 **Members:** Aye.

#### **Medical (Gibraltar Health Authority) (Amendment) Bill 2017 – First Reading approved**

**Clerk:** A Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 and the Care Agency Act 2009 and to make consequential amendments to the Medical and Health Act 1997, the Mental Health Act 2016 and other subsidiary legislation. The Hon. the Minister for Health, Care and Justice.

410

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I have the honour to move that a Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 and the Care Agency Act 2009 and to make consequential amendments to the Medical and Health Act 1997, the Mental Health Act 2016 and other subsidiary legislation be read a first time.

415

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 and the Care Agency Act 2009 and to make consequential amendments to the Medical and Health Act 1997, the Mental Health Act 2016 and other subsidiary legislation be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

420

**Clerk:** The Medical (Gibraltar Health Authority) (Amendment) Act 2017.

**Medical (Gibraltar Health Authority) (Amendment) Bill 2017 –  
Second Reading approved**

**Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I beg to move that the Bill for the Medical (Gibraltar Health Authority) (Amendment) Act 2017 be read a second time.

425

The principal aim of the Bill is to make amendments to the Medical Act in order to introduce structural changes to the Authority.

For instance, the position of Chief Executive of the Authority has been replaced with a new position, the Medical Director. The Medical Director shall be the executive officer of the Authority and shall perform such functions and exercise such powers as are from time to time conferred upon him by the principal Act or any other Act. He also takes the position of Chairman of the Management Board.

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A new position of Deputy Medical Director has been introduced as well as Human Resources Manager, which replaces the Personnel Officer; and Hospital Operations Manager, which replaces the Hospital Manager. The position of Primary Care Manager has also been removed.

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These changes are also effective vis-à-vis the composition of the Management Board. The main function of the Management Board has changed so that now it is their duty to advise and assist the Authority rather than the Chief Executive.

The Bill introduces a regulation-making power which allows the Minister to amend the Act by subsidiary legislation in order to remove, replace or rename any of the posts listed under sections 3(1) of the establishment of the Gibraltar Health Authority; 6(2)(b), duties of the authority, specifically the duty to employ certain positions; or 11(1), Management Board. This is to facilitate future structural changes that may be desired. The regulation-making power also allows for consequential amendments to be made as required in other Acts or subsidiary legislation strictly as a result of any changes made to the principal Act.

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The Bill also amends the Care Agency Act by removing duties regarding elderly residential services from the remit of the Care Agency, as the duties now come under the remit of the GHA.

Lastly, the Bill introduces several consequential amendments to primary and secondary legislation to ensure that all newly named positions are referred to correctly in the wider context of the legislative landscape.

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**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 ... Sorry, before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill?

The Hon. Mr Roy Clinton.

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**Hon. R M Clinton:** Thank you, Mr Speaker.

I do have some difficulty with this Bill from a structural corporate governance point of view. The role of the chief executive, which the Government are seeking to substitute, is historically very different to that of a medical director. My understanding, as a non-medical man, is that the  
460 medical director is usually in charge of the quality of care, the delivery of care and also the ... well, the medical doctoring side of the hospital; the chief executive, certainly in the United Kingdom, has a very different, more holistic role in terms of the overall administration of the hospital.

I fail to see how substituting one title for another actually resolves anything in respect of the  
465 GHA. Making the medical director de facto the CEO is just really a change of title, but I do not see how the medical director, as a doctor, is going to necessarily have the skills or the experience to run a hospital in the way that a CEO would have to, and also, of course, be accountable for not just the performance of the medical staff but also in terms of delivery of the service and the overall effectiveness of the service and responsibility to the GHA board, and also  
470 in terms of cost and development and expenditure. They are very different strategic roles and you need very different mind-sets overall in order to achieve these objectives, which is why it is usual, certainly in the United Kingdom, that these are two distinct functions and they are not mixed in this way.

I understand the Government's political objective in, as it were, removing the role of CEO,  
475 but I do wonder whether overall strategically this will actually deliver the Health Service that Gibraltar needs and deserves.

Also, Mr Speaker, I have attended the various GHA board meetings, as the former Minister will testify and the current Minister will testify, but I did not see anywhere on the agenda any discussion about the restructuring of the Health Service. You would have thought the GHA  
480 board, which is the ultimate body responsible for the delivery of healthcare in Gibraltar, would have had at least some discussion about such a major restructuring. Certainly to my knowledge there has been no discussion at the board level as to what it is that the members of that board would think would be expedient. Of course I stand to be corrected by the Minister, because obviously I am not privy to the entire discussions and deliberations of that board, but certainly  
485 the public elements of those board meetings and from the agenda that is circulated in advance I am not aware of any extraordinary item saying 'major restructuring of the GHA'. It is the responsibility of the GHA board to deliver our medical services, and so they are the ones who really should have had an input as to this level of restructuring.

And so, in the absence of something that will convince me otherwise from the Minister that  
490 de facto combining the role of medical director and CEO in this manner will deliver a better Health Service, I am afraid I really cannot advise my colleagues to support this Bill in this form.

Thank you, Mr Speaker.

**Mr Speaker:** Before I call on the mover to reply, does any other Member wish to ... The Hon.  
495 the Chief Minister.

**Chief Minister (Hon. F R Picardo)** Mr Speaker, I do not know whether I welcomed him as Leader of the Opposition today or not, but given it is his first intervention since it has been announced that he will be taking the role, at least whilst a leadership election occurs in the  
500 context of the other party, I rise to welcome him to that role and to say that, as far as this side of the House is concerned, politics does not have to be a bellicose endeavour and I very much look forward to the opportunity that we might have to work together on aspects that are in the common interests of all of the people of Gibraltar who elect us and who put us here to work in their common interest.

I am disappointed, however, that the first words he utters in this House in the context of the  
505 new role are to lead that Opposition into a 'no' vote – something which he appears also to have

convinced them to do in relation to the Appropriation Bill, which did not go perhaps as well as they might have wanted.

510 Dealing with the substance of what he said are the reasons for voting against the measure, can I just ask him to reflect on this. The Gibraltar Health Authority was created before the GSLP was elected in 1988 – I think in 1987. (**Hon. N F Costa:** 1987.) That's right, and in 1987 the Health Authority did not have a CEO. (**Hon. N F Costa:** That's right.) Before 1987 there was a Department of Health – which did not have a CEO; it would have had an SO who then became the new incarnation of management in the GHA absent a CEO. The CEO was introduced by the  
515 former administration under Sir Peter as Chief Minister, and the first CEO was a doctor – Dr McCutcheon, to remind us all of who it was. So I think that, to an extent, kills the point that a CEO is not a doctor, because the first CEO was a doctor. So I do not think that the medical profession is excluded from the role of chief executive.

520 Was it a good idea that there should be a chief executive at the head of the GHA? He is, above all else, I detect from the contributions he makes in this House, a money man. What did the CEO's advent in the GHA do? It led to a steady increase in the costs of the GHA, they say today not matched by the service given to patients – unless they are saying that the service given to patients was magnificent on 8th December 2011 and dreadful on 10th December 2011, where the only thing that changed was the chief executive of Her Majesty's Government of  
525 Gibraltar, not the Chief Executive of the Gibraltar Health Authority.

We have analysed whether or not the advent of a chief executive into the GHA led to better value for money, whether it led to better healthcare or whether it led to reduced cost, and it did none of that. So the decision has been taken that it is possible to have a medical director atop the hierarchy of health in Gibraltar, who has responsibility for medical matters and some matters in administration, without having to have a separate strand of administration which is simply the chief executive, who has become a cost centre, because it is a new liability in salary, a very large one indeed – he will recall that we had the debate about how the salaries of the Principal Auditor and the Chief Secretary had risen, and it was in relation to that – and second, a cost centre because, under the auspices of a chief executive, the increases in cost in the Health  
530 Authority were not driven by the increase in salary. So you could not say, 'Well, of course it's costing more because we have the same number of staff and they are getting pay rises'; it was an exponential growth in cost, which we do not think necessarily equated to an exponential growth in value for money for the taxpayer or better service.

540 So, in the circumstances, Mr Speaker, I think it is right that we have taken the decision that the hon. the mover has put to the House as eloquently as he has. In particular, just dealing again with the point of whether a doctor can be a CEO of an organisation, the second CEO – which they did not complain about – was a nurse. So I do not think any of the points that he has made raise any issue for the Government in continuing to be persuaded that the course set out by the Hon. the Minister for Health is the right course for this community. It is the right course for  
545 healthcare in this community. It pursues an agenda of value for money in respect of the healthcare that we provide for the community and it pursues an agenda of ensuring that a medical director is in charge of decision-making alongside those politically responsible for decision-making.

550 So, in the circumstances, Mr Speaker, I am disappointed that his first act as Leader of the Opposition will be to take us where the last act of the former Leader of the Opposition took them, which was to negative votes on things which are very good for our community. One was to pay for the schools, the hospitals and the civil servants, and the other one now is to reform how we ensure that those atop the structure of Health provide the best possible value healthcare for our community. Nonetheless, I still welcome his appointment and look forward to  
555 working with him on other matters.

**Mr Speaker:** Does any other hon. Member wish to speak on the Second Reading of the Bill? Does the mover wish to reply? The Hon. Neil Costa.

560 **Hon. N F Costa:** Mr Speaker, I am also disappointed that the hon. Gentleman will not be voting in support of the Bill, and I will tell him why.

He has said that the reason why he finds difficulty in supporting the Bill is because the roles of the chief executive and of the medical director are quite different, to his mind, and that strategically it makes sense to have a chief executive separate from a medical director. But will he not agree with me that if under the present structure where we have had a chief executive since 1997 there has been an overspend of £89 million over 20 years in the GHA, the CEO is in fact self-evidence of catastrophe? (**Hon. Chief Minister:** An indictment.) It is an indictment of their structure. (*Interjection*) But it is absolutely – (*Interjection*) Yes, but not so soon, Mr Speaker.

570 **Hon. Chief Minister:** We all know it's a relaunch, not a resignation.

**Hon. N F Costa:** Therefore, there is an inverse relationship to success in having a CEO at the top of the GHA, proven by the fact that there has been an overspend of £89 million over 20 years under a CEO.

575 Mr Speaker, the hon. Gentleman says that the Medical Director will de facto become the CEO. The Medical Director will *de jure* as from today become the Chief Executive, or the CEO, because the Medical Director will be subsuming the powers of the CEO.

580 He refers us to the UK NHS as an example as to why we in Gibraltar should also have a CEO – again, in my estimation, precisely the wrong example. He has read, surely, in the newspapers in the UK the black alerts in many trusts about doctors kicking their heels because, as a result of bed shortages, operations are being cancelled. Cancer operations are being cancelled. Old people are being kept waiting on trolleys for hours on end. The NHS in the UK – unfortunately, Mr Speaker, because it is not something to be gleeful about – is in a state of wreckful disrepair. It is in a very, very bad way. So, if I am going to take an example of a healthcare system, it will unfortunately – and it does pain me to say this – will not be from the NHS, from where we do get guidelines in terms of NICE guidelines and so on. Because, in fact, they are running a huge deficit and also because of the experience of nurses who have not received a pay rise in six years in the UK, which has led to allegations of nurses having to go to food banks to be able to receive food, and all of the instances where there has been a shocking lack of care, medical, surgical and otherwise, in the NHS, the hon. Gentleman really should not be pointing me to the NHS as a model – (*Interjection*) yes, he did – from which to emulate in order to be able to justify the Opposition's decision not to vote for the Bill.

595 Mr Speaker, clearly the reason for not voting is political and not based on reason, because if it is based on reason, and given that I have just told him that the model to which he refers me to, is run by chief executives, and he knows, because it has been printed in UK press, that it is falling to bits, then surely he has to admit that the CEO is not necessarily the best thing since sliced bread because the NHS is not providing the healthcare that the UK citizens surely deserve.

600 Mr Speaker, we would not be introducing these changes by way of legislation if we did not think that they were appropriate. Does it not make sense to him intuitively that there should be a senior consultant leading a healthcare service? Doesn't it make sense to him, in the same way that you have a Director of Education who is – (**A Member:** Not necessarily.) Well, Mr Speaker, they say not necessarily ... All right, let me take them through it. It may not necessarily make sense to always have a professional at the top of every single Government Department. You do not necessarily need a person with a tourism masters to run the Gibraltar Tourist Board – a business masters may do, an MBA – but surely for medical services you would expect that a person who has been on the patient side of care, who understands the needs of patients, should be the best person possible to be able to direct from the top how to run a health service. And they keep nodding their heads, so then perhaps maybe we should have a Chief Justice in the courts who is an engineer rather than a lawyer (*Laughter*) and we should have perhaps some kind of professional actor running the GHA if it is not necessary to have (*Interjection*) a senior –



610 *(Interjection)* Mr Speaker, it is not without importance that before the GHA there was a medical department and every single ... Can you believe this, Chief Minister: every single top person – *(Interjection)* Mr Speaker, sorry. Every single person at the top of the medical department was a senior surgeon, and of course it was a senior surgeon because it makes eminent sense that the person running the Health Service should be a senior practitioner.

615 Mr Speaker, simply to conclude, the hon. Gentleman who does attend the boards, I readily admit. He did, however, miss the fact that I did say in conclusion that we would not be discussing the changes that are taking place in the Bill because the period covered up to March of this year, and that we will be covering the changes that have been brought about by the Bill because we will be covering the relevant period in the next board meeting.

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

**Mr Speaker:** I now put the question, which is that a Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 and the Care Agency Act 2009 and to make consequential amendments to the Medical and Health Act 1997, the Mental Health Act 2016 and other subsidiary legislation be read a second time.

625 Those in favour? **(Several Members: Aye.)** That is Government Ministers and ... Anybody else from the Opposition benches voting in favour? No. Those against? **(Several Members: Aye.)** That is the official Opposition. And the two independent Members – how are they voting? The Hon. Marlene Hassan Nahon? **(Hon. Ms M D Hassan Nahon: In favour. In favour.)** In favour. Sorry, I  
630 did not get that initially. So the Government and the Hon. Marlene Hassan Nahon voting in favour. The official Opposition against. **(Hon. L F Llamas: In favour.)** The Hon. Lawrence Llamas also in favour. Therefore the Second Reading is carried.

**Hon. Chief Minister:** By a substantial *(Inaudible)*

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**Clerk:** The Medical (Gibraltar Health Authority) (Amendment) Act 2017.

**Medical (Gibraltar Health Authority) (Amendment) Bill 2017 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Health, Care and Justice (Hon. N F Costa):** 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.

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

**Several Members:** Aye.

**Disability Bill 2017 –  
First Reading approved**

645 **Clerk:** A Bill for an Act to make provision for persons with disabilities modelled on the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities; and for matters connected thereto. The Hon. the Minister for Housing and Equality.

650 **Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, I have the honour to move that a Bill for an Act to make provision for persons with disabilities modelled on the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, and for matters connected thereto, be read a first time.

655 **Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for persons with disabilities modelled on the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, and for matters connected thereto, be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

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**Clerk:** The Disability Act 2017.

### **Disability Act 2017 – Second Reading approved**

**Minister for Housing and Equality (Hon. Miss S J Sacramento):** Mr Speaker, I have the honour to move that the Bill be now read a second time. In fact, I beg to move that this Bill, the Disability Act 2017, also known as Agnes's Law, be read a second time.

665 Mr Speaker, our Government is one that truly represents equality and diversity, and our track record shows that we recognise the duty of society to treat people of all backgrounds with dignity and respect. There are times when we need to legislate to ensure that there are sufficient protections in place. As a Government, we have an established track record of protecting rights, and this Bill is another milestone in respect of equality. It takes determination and courage of conviction to take action and make real change when it comes to achieving equality in our society, and I am honoured to be Gibraltar's first Minister for Equality.

670 This Bill implements one of our manifesto commitments. The purpose of this Bill is to legislate to further protect people with disabilities using the terms of the UN Convention on the Rights of People with Disabilities as a model. Indeed, the Chamber of Commerce, in its February edition of *Chamber News*, referred to this Bill as possibly one of the most significant pieces of legislation introduced by the GSLP Liberal Government. This, Mr Speaker, speaks volumes.

675 This Bill is particularly important for me, as it transcends my time as a Minister and has been quite a personal journey for a long time. While in private practice as a barrister, I first met with the Disability Society in January 2006 and offered to help them in their mission to achieve legislation for disability rights in Gibraltar, given the vacuum that existed. I have a very vivid recollection of that meeting over 10 years ago, where I was presented with a draft piece of legislation that had been prepared by the late Mrs Agnes Valarino. Mrs Valarino had previously been the Chairperson of the Disability Society, and at that meeting, when the Committee presented me with a draft, they referred to it as Agnes's Law because they wanted a fitting tribute to a lady who had worked so hard to progress the rights of people with disabilities in Gibraltar. In 2006 I promised to help. Little did I know then how literally this would happen. A true pioneer and champion of the rights of people with disabilities, I felt it only right and fitting that Mrs Valarino's wish to legislate be honoured by referring to the proposed Disability Act in her memory.

680 Members of this House will be aware that a Command Paper was presented and published in October 2015. Responses to that Command Paper were received and the views of the public were taken on board. My Ministry and I have met with everyone who responded to the consultation process, and charities and representative groups. I have also had the opportunity to discuss this with the hon. Member opposite, Mr Llamas, who held this portfolio. I am grateful to

695 everyone involved in the consultation process, which was very favourable and helped to clarify certain points. This is why we introduced the consultation process when we came to office in 2011.

Historically, disability legislation has been an area of law which has been overlooked. The existing Equal Opportunities Act 2006 is specific to employment-related matters alone. The Disabled People Act 1992 is outdated and fails to meet the demands of a modern and inclusive society such as the one that this Government is building. For this reason, we have decided to repeal the Disabled People Act 1992 and instead publish this new modern piece of legislation which aims to create an equal playing field in all aspects of society for people with disabilities.

I can say with confidence that since we have come into Government equality and inclusion have gained more importance. This I daresay is because of what we have invested in changing our policies and all the work that we have done on delivering training and creating awareness of disability equality principles. It is clear that on this subject we have been leading from the front.

On to the Bill itself, it introduces a standalone piece of legislation for people with disabilities, setting out several principles and obligations that should be considered by any person taking policy decisions or actions, the ultimate purpose being to promote, protect and ensure the full and equal enjoyment of all fundamental rights and freedoms by people with disabilities, and to promote respect for their inherent dignity.

The Bill is modelled on the UN Convention in a way that is relevant to our community. The Bill is not intended to create new rights; these already exist in our law. The fundamental right not to be unfairly discriminated against is already enshrined in our Constitution. This Bill clarifies existing obligations and legal duties and provides a framework to give practical effect to the Convention's aim, which is to provide equal enjoyment by all people with disabilities. This Bill is a significant step forward and will make important changes to the lives of people with disabilities and their families.

Mr Speaker, turning to the Bill itself, I do not propose to go through each individual section, as these are quite self-explanatory; but I will only refer to some of the more pertinent ones.

Sections 4 to 7 introduce the definitions and the general principles and obligations of the Act, and in relation to section 6 we will be producing guidance notes to promote understanding of obligations and facilitate the introduction of these.

Section 12 sets out a power to introduce policies, strategies and initiatives on awareness raising. While not yet a legal obligation for us, we have nevertheless been leading on this for the last five years. We have invested heavily in training and awareness. We have not only made this widely available to the public sector but also through our hugely successful Equality Means Business seminars for the private sector, which have also been embraced by the Chamber and the GFSB, and finally our Understanding Autism seminars for parents of people on the autism spectrum. The uptake and interest in all of these have been wonderful, and by delivering this intense programme of training we have been setting the groundwork for the implementation of this legislation.

Sections 13 and 14 relate to accessibility and implement a requirement for people undertaking the provision of public buildings or premises to consider and cater for the access and use of facilities by people with disabilities. Again, a lot of work has been done in preparation for this and it is, of course, a continuous process. This, in fact, will be the first section that will have practical implementation almost immediately, as we will introduce the part R regulations of the building rules, which will mean that all new buildings, alterations or change of use of existing buildings must take account of people with disabilities. This will give legal effect to what already exists as a Government policy for the last five years and has been applied to all our Government projects. Again, another example of the Government leading from the front.

Section 23 deals with the collection of useful data and statistics to enable the formulation and implementation of successful policies to cater for people with disabilities. This is something which has always been lacking in Gibraltar and will assist us in making even further improvements in the future for people with disabilities in all aspects of their daily lives. At this

point I would like to thank not only my Ministry and the Government Departments who have been working on compiling the disability register, but also the Data Protection Commissioner and his staff at the GRA for their guidance to ensure that we do not fall foul of the data protection legislation in so doing.

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Mr Speaker, stigma, prejudice and discrimination against people with disabilities is unfortunately still prevalent. Although we still have a long way to go in changing cultural norms, perceptions and attitudes, this law aims to make those rights real by building on and giving effect to the right not to be unfairly discriminated against on the grounds of disability and put the rights of people with disabilities on an equal footing to everyone else.

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Mr Speaker, if you may indulge me to make the point that a new law is not enough and my work does not stop here ... In order for the rights and the framework to become meaningful, I consider that continuous education and awareness is essential to ensure that the community can properly understand and become more responsible in ensuring that people with disabilities are no longer treated less favourably. We will therefore continue our work at every level in the public sector, particularly in the training of professional staff who work with people with disabilities, those in management and those who work on the front line, the private sector, and of course support parents and families. We need everybody to embrace the principle that, while we provide a statutory framework, we each have an individual and collective responsibility to go beyond this and make Gibraltar more inclusive of people with disabilities. This is about embracing the principles and is about changing hearts and minds.

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I would like to acknowledge the work that has been done by the strong and extremely motivated team at the Ministry for Equality on this legislation and, importantly, on the implementation of these principles, and in particular, to Mr Tito Garro, from the Government Law Office, who was responsible for drafting the legislation, and for his advice throughout; and, of course, special mention to the Disability Society, who last year celebrated their 50th anniversary and whose advice and guidance has been very welcome. The Disability Society inspired me when I met them in 2006 and they and the values that they represent continue to inspire me today. Equally, of course, I must refer to all the individuals and other representative organisations who have worked with us and who also represent these goals and values, including the Chamber of Commerce, the GFSB and the new Unite Equalities Committee as well. I will continue to work with all the stakeholders who share these ideals in the implementation of the legislation and the development of Government policy.

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Finally, Mr Speaker, I again refer to a very special person in respect of whom this legislation is in honour, the late Mrs Agnes Valarino. I said at the beginning of my intervention that in December last year, when I published this Bill, I announced that it would be referred to as Agnes's Law as a tribute to her and her dedication to championing the rights of people with disabilities. I did not know Agnes personally, but I have always heard great things about her. I have had the pleasure of working with her husband Mr Maurice Valarino in my current role, her son Bernard in my previous role, and also have the pleasure of knowing her other son, Matthew, who among other attributes is a wonderful artist, and a beautiful abstract painting of his hangs in my office.

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Together with my ministerial colleagues and the rest of the community, we will work together to break down barriers, promote equality and achieve a more inclusive society. Mr Speaker, I am honoured to commend this Bill to the House. *(Banging on desks)*

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**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. Lawrence Llamas.

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**Hon. L F Llamas:** Mr Speaker, I would like to contribute to this debate. The Bill presented before us adopts more principles of the UN Convention 2006 than the Command Paper issued in October 2015. I must say that it will reinforce some of the basic human rights enjoyed across

society as being rights equally to be enjoyed by anyone with a disability. I therefore extend my support to the Government for bringing this Bill to the House.

800 The name given to the piece of legislation, Agnes's Law, is extremely appropriate given the lobbying led by the late Mrs Agnes Valarino, carried out in her life. I did not have the privilege of knowing the late Mrs Agnes Valarino; however, her legacy and those of all involved in bringing this legislation to this House will be known for generations to come.

805 When the Bill was published back in December last year, I wrote to the Minister for Equality with my concerns and those of constituents who had expressed and identified areas where further clarity and detail was required. In my email I included what I felt would consolidate and fulfil the principles of the UN Convention. Last month, in reply to my email, the Minister and I had a discussion covering these areas, where her arguments and those of Her Majesty's legal experts were conveyed, and therefore I have taken those on board in good faith but will reserve  
810 the right to return to these in the future, depending on the implementation of the Act. The practical effect of the Act as it stands today extends sufficiently enough to give life to the relevant aspects of the UN Convention.

The UN Convention on the Rights of Persons with Disabilities is an international human rights treaty which has been developed extensively and in great detail. Its principles and objectives are  
815 the cornerstone to extend equal rights to persons with disabilities. The Convention has served as a catalyst in shifting the perception of people with disabilities with its charity-based approach to treatment and services to a human rights based approach in which people with impairments are no longer considered medical problems, totally dependent on the generosity of non-impaired people in society, but has fundamental rights to support inclusion and participation in all areas  
820 of the community. This is a fundamental basis that I will seek to ensure is taking effect in Gibraltar.

The Government have embarked on a series of awareness-raising campaigns, through seminars and booklets, which appear to be good initiatives as education is key. These campaigns have focused on the public sector, the private sector and parents.

825 My first area of concern is the omission of the amendment to section 38 of the Equal Opportunities Act 2006 to include persons with disabilities within the demographic of society against whom one cannot discriminate against. I am assured by the Government's legal experts, through the Minister, that there is no need, given our Constitution, and I shall not be proposing an amendment on this understanding, even though personally I do not see any harm in simply  
830 including it.

Secondly, the UN Convention model includes an independent committee which monitors and reports the implementation and compliance of the Treaty. This differs in the proposed Bill with the responsibility being assumed by the Minister for Equality. It would seem appropriate to follow suit from the UN Convention and designate this responsibility to a committee composed  
835 of independent and experienced individuals who hold no conflicts of interest, and with stakeholders. I feel that is particularly necessary in light of the introduction of the term 'as far as reasonably possible', which has been included a total of 17 times in this Bill. It would therefore make complete sense to have a non-partisan, fully independent committee to evaluate and assess all the areas of ambiguity and oversee the implementation of this legislation with  
840 absolute autonomy. The Minister has assured me that she is happy to keep an open mind to the creation of an independent committee in the future if needs arise. I shall therefore keep this issue very much alive and shall apply pressure if I feel that the requirement of such a committee is required.

845 The Bill adequately deals with accessibility issues and successfully promotes the rights of those with physical disabilities. However, it is my view that it does not go far enough to legislate in a clear manner what the rights and protections for persons with disabilities are. I had intended to move amendments in three key areas which I feel are missing. However, the Minister has assured me that the issues which I shall be raising are already satisfied in domestic legislation for a considerable time and therefore would mean duplicating legislation, which

850 would be against the advice given by law draftsmen. She has assured me that she will be publishing directive guidelines under the Disability Act provisions. Naturally, I respect her approach and will await a timely publication of guidelines, which I have been assured will commence as from September.

855 The areas which I am concerned about regard clause 19, which covers health. As it currently stands, all this Bill says is that persons with disabilities are entitled to healthcare and are not to be discriminated against. It fails to deliver and legislate as to how the health sector should function, work and interact with persons with disabilities. In future guidelines, I expect the guidelines to set out that the health sector will, as per the UN Convention, which is extensive and detailed in nature, to ensure systems and rights are protected.

860 The Bill does not mention anything to do with work and employment or equality before the law. It is important to transpose all Gibraltar-relevant articles of the UN Convention into domestic law and not cherry-pick parts of the UN Convention or even parts of the articles themselves. If the article is relevant to Gibraltar it should not be omitted. Thus we should ratify them and publish them pending effect so that the community can read and understand where we are aiming and what targets we expect in the near future. I am assured once again that these issues already exist in our legislation. I would therefore expect to see on paper and in practice 865 the commitment and detailed clarification as to what our law should be achieving, as it should be easy to read for all concerned.

870 With regard to work and employment, I will expect the Government to recognise in its guidelines the rights of persons with disabilities to work on an equal basis with others. This includes the right to the opportunity to gain a living by work freely chosen and accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities and extend the full details of the Convention.

875 With providing guidelines to provide equal recognition before the law, the Government must reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law. The Government must recognise that persons with disabilities enjoy legal capacity on an equal basis with others on all aspects of life.

880 The Government must take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity. This is to include an independent advocacy service. The Government must ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse, in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercising of legal capacity respect the rights, will and preferences of the person, free of conflict of interest and undue influence, proportional and tailored to the person's 885 circumstances, subject to a regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests. I feel that this will give persons with disabilities a well spelt out, easy to follow detailed overview of what their rights and protections within our jurisdiction are. It will empower them with the armour and artillery to ensure they are truly 890 equal to freedom of choice and equal in voice.

**Mr Speaker:** Any other hon. Member wish to reply? The Hon. Marlene Hassan Nahon.

895 **Hon. Ms M D Hassan Nahon:** Mr Speaker, this Parliament has a proud record of standing up for groups who may have previously felt underrepresented in terms of their civil rights, from single-sex couples to mental health patients. Both sides of this House should feel proud that we have helped advance the status quo of minority groups in Gibraltar.

900 While I may have argued on a number of occasions that many of these measures perhaps do not go far enough in terms of fully eliminating the inequalities of our society, it is encouraging to see that progressive voices have an ear in this Chamber. I have no doubt that these groups now feel that they are a part of a more inclusive Gibraltar, and that is a testament to how we as a

House have recognised these inequalities and embraced proposed solutions. This Disability Bill takes this notion a step further. It recognises the difficulties that some of the most vulnerable members of our community face and examines how to resolve them. It also acknowledges the equal contribution that many of these individuals can make to society and gives them an opportunity to realise their full potential. It makes those affected aware of their rights and entitlements whilst clarifying the procedures to enable them to access those rights. This acts as a significant development for those the Bill represents, for it is only by recognising these difficulties, this potential and these rights that we can start to do justice to those who may have felt let down by society. I hope that these individuals will now see that we have listened to their concerns and identified with their plight.

As far as I feel this Bill might go, though, I cannot, nonetheless, question a few of its aspects in the hope of obtaining some clarifications and reassurances from Government. I note, for example, that the Bill makes no reference to advocacy, a crucial need for families of disabled persons.

I would also like to express concern at the implications of some of the wording of the Bill. I refer, for example, to the repeated use of the phrase 'as far as reasonably possible' in the descriptions of the responsibilities of the relevant Minister and the individuals with statutory duties as indicated in the Bill. 'Reasonably' is an elastic term that is subject to interpretation, and I would like to ask what criteria the Minister will be using for ascertaining the parameters of this word insofar as the obligations detailed in the legislation are concerned. Will the onus of challenging any interpretation of such a term be placed on vulnerable members of our community, or will this provide relevant parties with opportunities to renege on their responsibilities by protecting themselves behind flexible wording? What safeguards are in place to prevent the abuse of this elasticity, and who will take responsibility for this? It is my view that legislation can only be as effective as the obligations it imposes, and any possibilities for these to be sidestepped through ambiguous interpretations should be kept to a minimum. The fact that this Disability Bill uses this phrase 17 times casts some reservations on its efficacy and I am sure the House and the community as a whole would appreciate some clarification on this matter.

These are the valid concerns of interested and affected parties, not just mine; and while we all naturally, both sides of the House, welcome this Bill and the recognition of the rights of the disabled, reasonable questions have nonetheless been raised that I feel deserve to be answered at this stage. It is my full intention to vote in favour of this Bill, as I feel that it represents an important step in Gibraltar's maturity into a progressive and inclusive society, but I would like to yield to the Minister in the hope that she will provide some answers and reassurances to the issues that have been raised and implement them in a timely manner.

Mr Speaker, I take this opportunity to pay tribute to the late Mrs Agnes Valarino, because it is thanks to benevolent and strong souls like Agnes that societies like ours here today take note of these much-needed steps towards enhancing social justice.

Thank you.

**Mr Speaker:** The Hon. Roy Clinton.

**Hon. R M Clinton:** Mr Speaker, today we are debating a significant piece of legislation which is indeed a landmark, no matter how you look at it. My only regret – and I think perhaps this House owes a collective apology to those in Gibraltar who are affected by this legislation – is that it was not passed sooner, and I think for that both sides of the House must take equal responsibility. **(Two Members:** Hear, hear.)

I am aware of the level and degree of consultation that has been undertaken by the Minister in bringing this legislation to the House and certainly this side of the House, the Official Opposition, will of course welcome it and support it. Having said that, the contributions of both the independent Members have corroborated the observations I made in going through the draft legislation, in that it is peppered indeed with, as the independent Members have pointed

955 out, 17 references to language that says ‘as far as reasonably possible’. The question has to be, of course – and of course the Minister will no doubt enlighten us in her response, is – who makes that determination: is there an independent body or commission which will determine what is reasonably possible? Also, there is a degree of discretion by the Minister on a unilateral basis without, it would appear to be, advice from independent bodies or commissions or committees, which perhaps would be preferable.

960 Mr Speaker, the GSLP undertook in 2011 to legislate this within the first year, but as I have said already, both sides of the House have to take equal responsibility for the delay. In the manifesto it said it would be using the terms of the UN Convention as a model and further on introduce legislation in Parliament to give effect to the terms of the UN Convention on the Rights of Disabled Persons and the protocol in Gibraltar.

965 Mr Speaker, at the risk of repeating what has already been said, what has been brought to my attention and the main concern is that yes, this is perhaps a very good first step towards addressing the needs of the disabled, but what we have here is a degree of cherry-picking, unfortunately, of the UN Convention. And certainly, as has already been mentioned, there is no mention in here as to the rights of advocacy for the disabled, which my understanding is it is critically important, especially for those who may not be able to have the capacity to make decisions for themselves. Also, Mr Speaker, there is no mention in here of independent monitoring of implementation and there is a large degree of ministerial discretion.

970 Those are the concerns on an overall basis as to some areas of the Act that may need clarification for us this side of the House to at least understand what the Government’s thinking has been in introducing certain wording into the legislation.

975 Mr Speaker, I have to also pay tribute to Agnes Valarino, who unfortunately I never met or knew, but I know the Disability Society are present in the Chamber and I thank them and all the people who have been a force in ensuring that this legislation is before us here today. I am proud, of course, to be able to support the legislation, albeit with those reservations which we have raised and indeed the independent Members have raised. And I congratulate the Disability Society for achieving this legislation today.

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

985 **Mr Speaker:** Is there any other contributor to the Second Reading? The Hon. the Chief Minister.

**Chief Minister (Hon. F R Picardo):** Mr Speaker, it is a pleasure to rise in the context of this debate and that the Bill is finally on the floor of the House enjoying its Second Reading. It is a Bill that has been, as Members have reflected, foreshadowed for some time; it is a Bill that has taken a lot of work. Would we have wished to pass it earlier? Of course we would have wished to pass it earlier, Mr Speaker, as we might have wished to do many things earlier in this Parliament, but we just have to get on and do the things that we have to do as soon as we can.

990 So I am surprised that on a Bill of this nature the hon. Member has decided that he wants to talk about blame, because of course the world did not start on the occasion of the first GSD Government being elected or indeed on the occasion of his arrival in this House. But if he wants to talk about blame – which I do not think is what we should be talking about in respect of a Bill as important and ground-breaking as this – then at least if the world had started in May 1996 I trust he would accept that they have to share  $\frac{16}{21}$  of the blame for this Bill not having been brought earlier, with us sharing only  $\frac{5}{21}$  of the blame for this Bill not being brought earlier, given that they had, 21 years ago, the opportunity to bring a Bill of this sort.

1000 He says this is a first step. Well, Mr Speaker, it is the only step that has been taken in the direction of travel today by this House and it is a step which I think we should all be welcoming. This is a pioneering piece of legislation which this Government is bringing to the House, and I have not heard them congratulate the Government for doing so.



1005 Mr Speaker, the hon. Members opposite who have spoken about more of the substance of  
the legislation than the Hon. the Acting Leader of the Opposition, have raised points about the  
phraseology – and both of them are the independent Members, ironically – ‘as far as reasonably  
possible’. This is not unusual language in legislation, but we need to understand what it is that  
that provision provides for perhaps by looking at what the opposite would be.

1010 So, if something is not reasonably possible, is that what hon. Members think the House  
should be embarked on dealing with? In other words, should we commit the community to  
things which are not reasonably possible?

For the first time, Mr Speaker, I am going to be dealing with a Leader of the Opposition who  
is not a lawyer and two independent Members who are not lawyers, so I will forgive them for  
1015 not having at their fingertips the concept of reasonableness. The concept of reasonableness in  
English law is the most established concept of English law. It is not, if I could put it this way, like  
the concept of ‘soon’ or ‘shortly’. It is a concept which is much more subject to objective control  
than the concept of ‘soon’ or ‘shortly’, which we have had occasion to debate amicably across  
the floor of the House in the past.

1020 If I marry that with the concern the Member opposite has raised about whether there is an  
independent monitoring system, well, of course there is, because we live in a society which has  
three branches of Government and one of them is the judiciary, and when we create a law we  
subject performance under that law to the third branch of Government, which is the judiciary.  
So there is an independent monitoring system, as there is for constitutional rights – it is the  
1025 courts. The courts determine what is or is not reasonable and therefore we are imputing a  
control to all of the responsibilities and obligations which are taken by the Government for itself  
and for other citizens by the creation of this law.

Mr Speaker, quite unlike all of the Members who have spoken in this debate so far, I have the  
honour to say that I did know Agnes Valarino. She was very active already when the Hon. the  
1030 Deputy Chief Minister and I were taking our nascent steps in politics and was a great advocate  
for those with disabilities even at that time, and so when the hon. Lady approached me to say  
that she thought it appropriate to nickname this law the Agnes Valarino Law, I thought it was  
absolutely right that she should do that because we knew from our own experience that Agnes  
had been a great advocate for those with disabilities.

1035 Mr Speaker, if I may say so, this is another pioneering step for this House, as the hon. Lady  
has said, but is another pioneering step for this Government, for this administration, not over  
the past year and a half but over the past five and a half years, and in each of the steps that we  
have taken in respect of civil liberties it is abundantly clear that the charge has been led by  
Samantha Sacramento, whose record, if judged objectively, can only be seen to be an  
1040 extraordinary and exemplary one. She has been the most committed advocate for the  
advancement of civil rights of all the Members of this Parliament in the past five and a half years  
– and if anybody cares to work out what those letters stand for, they might work out they stand  
for AACR. So the GSLP Minister in the GSLP Liberal Government has done a magnificent job in  
that respect. *(Interjection)* He can speak. *Tiene el derecho de hablar ahora.*

1045 I therefore, Mr Speaker, commend the Bill to the House. I commend the work of the Hon.  
Minister in this respect and I commend the work of those advocates outside this House who  
have fought so hard for this Parliament to legislate in this way.

1050 **Mr Speaker:** Does any other hon. Member wish to contribute before I ask the mover to  
reply? The Hon. Daniel Feetham.

**Hon. D A Feetham:** Mr Speaker, in relation to some of the points that the Chief Minister has  
made ... because I think they are important, but it is important that we examine some of what he  
has said because it is all very well and good to actually say ... and I would appreciate if the Hon.  
1055 the Minister for Equality were to perhaps address this ... It is all very well for the Hon. the Chief  
Minister to say the courts know what reasonableness is and they determine what reasonable

actions are every day of the week in court cases, but the reality is that, in the first instance, what you cannot do here is basically say that the duty of what is reasonable or what is unreasonable is the courts', because that assumes that effectively everybody is going to have access to the courts, that people who are aggrieved at any decision that is made by a Government Minister in relation to what is reasonable or unreasonable are just simply just going to go off to court and challenge the decisions. That is not real life for you. At the end of the day you are talking about some of the most vulnerable members of society. For us as a Parliament to basically say to those people, 'If you have got a grievance about what is reasonable or unreasonable you go to the courts and you ask for a judge to determine that', that cannot be right, Mr Speaker, and it cannot be within the spirit of what is a major piece of legislation for the benefit of disabled people.

Therefore it must follow that it is for the Government to provide some kind of guidance, either, as the hon. Gentleman to my right or the hon. Lady to my left have said, some kind of committee, some kind of objectively justifiable body that will come to objectively justifiable reasons as to why something is not reasonably practicable ... Otherwise, what we have is a situation where the Minister just simply says, 'This is not achievable, this is not reasonable: if you don't like it, you go to court.' Quite frankly, I think it is important that some comfort comes from the Government in relation to this aspect of the Bill, so that those out there are satisfied that effectively there is at least an overlay on top of Government decisions in terms of somebody determining what is reasonable, who is not the Minister himself, without those people having to go to court. That is the only contribution that I wish to make.

**Mr Speaker:** The Hon. Samantha Sacramento.

**Hon. Miss S J Sacramento:** Mr Speaker, in reply to the interventions, I think I will start with the last one first. The hon. Gentleman did round off by saying that he would hope that it would be without reference to the Minister himself. Well, at least for the time being it will be to the Minister *herself*, but I am sure that ... Mr Speaker, he knows what I mean.

In relation to what the Hon. Mr Feetham has said on recourse to the courts, I am sure that he must understand that the reference that the Chief Minister made when he referred to the courts was obviously not that people are expected to refer to the courts in cases of ambiguity as to the definition of reasonableness. What the Chief Minister meant – and I think most lawyers here understood what he meant – was that the courts have dealt with these matters before and the courts have issued standard guidelines as to what reasonableness means, and that is what we are referring to. For a piece of legislation to say that something is to be done when it is reasonably practicable or reasonably practical is quite standard and guidelines as to what is reasonable or not are usually provided in the courts through case law. This is the test of reasonableness which applies to many circumstances, and there are tried and tested cases in relation to disability and guidelines that have been established in the cases of disability.

So, because this is a point that has been raised by everybody opposite, I wish to allay everybody's fears in this respect as to the definition of reasonableness. I am sure that there was no mischief intended or any undue scaremongering, but if I can provide clarification as to what that means, there is plenty of clarification as to what it means in case law. It is not a get-out clause in any way; it is just a very standard approach to this. And in any event, I think that the Hon. Mr Feetham must have missed when I ... I did not go through each section of the Bill – I said that I would only refer to the most salient points, and I did start off by referring to section 6, which is the one that gives us power to provide guidance. So his invitation for us to provide guidance has already been catered for and the intention, as I explained in my speech, is that my Department will from time to time be issuing guidance notes.

The Hon. Mr Llamas referred to a conversation that we had where I hoped to issue the first guidance notes in September. In fact, it will probably be earlier than that because the guidance note in relation to access to buildings, the guidance note explaining the effect of the part R

1110 regulations, will be issued sooner. And in fact, Mr Speaker, we hope to, by the end of the week,  
have a guidance note on the Disability Act itself. I think within a month we will have two  
guidance notes issued pursuant to section 6 of the Act, so I hope that that allays anybody's  
concerns.

1115 Going back to the intervention before Mr Feetham's intervention, that of Mr Clinton – and it  
is ironic that it is only Mr Clinton who says that this could have been passed sooner, when  
Mr Clinton is the only one who represents a party that was in Government and could themselves  
have done this sooner. It is very telling that neither of the independent Members have raised  
this as an issue. Of course, as the Chief Minister said, we would all have wanted this to have  
1120 been done sooner. When we were very idealistically and happily drafting the manifesto before  
the 2011 election – because of the importance that we gave this, we wanted to ensure that we  
did this as soon as possible – we thought it would have been easy to have done it by 2011.  
Because of the complexity and volume of the issues involved, that was not possible, but that is  
not to say that a lot of the groundwork has not been undertaken since then, because, as I  
referred to in my speech, of course this legislation is important but we ... Mr Speaker, shall I  
1125 pause a second so we can maybe ...? I hear an echo in the microphone. (*Interjection*) Of course  
the legislation is important, but it goes beyond the legislation, and that which goes beyond the  
legislation is work that we have been undertaking very intensely and very tirelessly since 2012  
by way of reviewing our policies, investing in our services, investing in training and investing in  
the delivery of awareness training for other groups as well.

1130 Dealing with the issues raised by Mr Llamas and Ms Hassan Nahon, which were quite similar,  
in relation to the omission of reference to employment, as I mentioned to Mr Llamas in our  
conversation, if protections exist in other pieces of legislation then they will not be replicated in  
this Act because then that would make for bad law. And that, Mr Speaker, is protected under  
the Equal Opportunities Act, which in my initial speech I explained refers to protection from  
discrimination in the field of employment.

1135 They also referred to the UN Convention, which refers to a committee that monitors the  
Treaty. The way that conventions are ratified is not the same as when European directives are  
transposed into domestic legislation. I know that this may seem like technical legal jargon, as  
Mr Reyes always affectionately refers to me because I am a lawyer, but because I am a lawyer I  
know what the difference is, and to me it is very clear and the difference is important in these  
1140 circumstances because what this Act does is provide for a model of legislation based on the  
principles of the UN Convention. It is not intended to be and it is not a wholesale replica of the  
UN Convention; it has to be relevant to our community. There are sections which do not appear  
in this piece of legislation because they appear in others, and because we are not transposing a  
UN Convention there is no need to have a committee to ensure that we are complying to report  
1145 back to the UN. Mr Speaker, the way that it works is that we need to first have legislation in  
place that would satisfy the extension of the UN Convention to Gibraltar, and in fact that  
extension is not in our gift; it is something that we would apply to be extended through the UK  
and that is a process that takes an extremely long time, but this is how it stands. I hope that  
explanation as to how the process works is useful.

1150 I hear comments as to who will monitor the legislation. I am perfectly satisfied that  
appropriate safeguards are in place, because of course at this point I make the point that there is  
obviously recourse to the courts, and that is always available but obviously recourse to the  
courts is always used as a last resort. But there will be many independent organisations who are  
free to make representations and to speak out on behalf of people with disabilities. For the last  
1155 five and a half years this Government has operated an open-door policy, where we always listen  
to and, on the whole, always consider representations that are made by third parties. At this  
stage, I do not see that there is a need for an external body to check the implementation of the  
legislation, because there is no suggestion that the legislation will not be implemented to the full  
effect of the law – literally, Mr Speaker. But again, like everything else, legislation is fluid, and if  
1160 there is a genuine need for such safeguards, then if an issue were to arise it is something that we

would consider at the appropriate time – but at this point there is no evidence that that would be necessary.

1165 In relation to the point made for advocates, this is already covered to a different extent, depending on the individual concerned and on the mental capacity of the individuals concerned. Advocacy can be made and will be accepted if made on behalf of an individual by parents or by representative groups. Concerns are always heard and considered very seriously. Certainly when I was responsible for disability services I always took on board representations made to me by individuals, by parents and by representative groups, including the Disability Society, and I know that my hon. and learned Friend Mr Costa equally continues that practice. In the case of a person with disabilities, we will always have a social worker as an advocate for them, so that is a further safeguard, and in the case where someone falls within the remit of our new Mental Health Act there will be provision in that Act, where appropriate, for there to be guardians for these individuals, so this is also already covered.

1170 So, Mr Speaker, while points have been made, I am sure I am satisfied that there are procedural safeguards and I am sure that the implementation of this legislation, which we have all long awaited, will be very effective.

1175 Once again, I commend the Bill to the House. *(Banging on desks)*

1180 **Mr Speaker:** I now put the question, which is that a Bill for an Act to make provision for persons with disabilities modelled on the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, and for matters connected thereto, be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

1185 **Clerk:** The Disability Act 2017.

**Disability Bill 2017 –  
Committee Stage and Third Reading to be taken at this sitting**

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

1190 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?

**Members:** Aye.

1195 **Clerk:** A Bill for an Act to amend the Housing Act 2007. The Hon. the Minister for Housing and Equality.

1200 **Chief Minister (Hon. F R Picardo):** Mr Speaker, can I move that the House recess for five minutes so that the Government can deal with a particular issue – not for long, just for five minutes?

**Mr Speaker:** We will now have a short recess.

*The House recessed at 4.55 p.m.  
and resumed its sitting at 5.00 p.m.*

**COMMITTEE STAGE AND THIRD READING**

*In Committee of the whole Parliament*

**Clerk:** Committee Stage and Third Reading.

1205 **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 Proceeds of Crime (Amendment) Bill 2017; the Markets, Street Traders and Pedlars Act (Amendment) Bill 2017; the Law Commission Bill 2017; the Children (Amendment) Bill 2014 – obviously 2017; and the Medical (Gibraltar Health Authority) (Amendment) Bill 2017, as well as  
1210 the Disability Bill 2017.

**Proceeds of Crime (Amendment) Bill 2017 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Proceeds of Crime Act 2015.  
Clauses 1 to 3.

**Mr Chairman:** Stand part of the Bill.

1215

**Clerk:** The long title.

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

**Markets, Street Traders and Pedlars Act (Amendment) Bill 2017 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Markets, Street Traders and Pedlars Act.  
Clauses 1 and 2.

1220

**Mr Chairman:** Stand part of the Bill.

**Clerk:** The long title.

1225

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

**Law Commission Bill 2017 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to provide for the Constitution of the Law Commission for the reform of the law and for connected purposes.  
Clauses 1 to 6.

1230

**Mr Chairman:** Stand part of the Bill.

**Clerk:** The long title.

1235 **Mr Chairman:** Stands part of the Bill.  
The Hon. Roy Clinton.

**Hon. R M Clinton:** Thank you, Mr Chairman.

1240 I just have one question and that is in relation to the composition of the Law Commission in clause 4(2). In terms of the composition – no fewer than six and the various members, and looking at the two barristers or solicitors and then two commissioners appearing to go on to be suitable for the role – I was wondering if there is an intention on behalf of the Government to maintain that proportion in the sense of ... It would appear from the reading of this that there is nothing stopping the Commission from having, for example, 20 commissioners appearing to be suitable and just having two lawyers. I know it may sound a ridiculous suggestion, but is there anything perhaps that the Government may want to put in to just tighten it to make sure that that proportion is maintained?

1250 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Chairman, to answer the hon. Gentleman's question, the appointment of the law commissioners was quite a gruelling exercise for us, in terms of choosing persons we thought would be suitable to cover the various purposes contained in the Bill, and so we ended up with a list which we thought reflected eminent members of society who would be suitable to be law commissioners. As the Hon. Mr Phillips said, in respect of any particular subject matter then we would be inviting other stakeholders to either provide evidence or to provide advice to the Law Commission, but not as law commissioners. So, in short, the answer is that we do very much anticipate that this ratio will be kept moving forward.

**Clerk:** So, just for the sake of *Hansard*, clauses 1 to 6.

1260 **Mr Chairman:** Stand part of the Bill.

**Clerk:** The long title.

1265 **Mr Chairman:** Stands part of the Bill.

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

**Clerk:** A Bill for an Act to amend the Children Act 2009.

**Mr Chairman:** There are two very simple amendments, of which notice has been given. One of them is to change the date from 2014 to 2017.

1270 The other one is a typographical error, really: in clause 2, substitute the word 'undertaken' for 'undertake'.

Do all hon. Members agree that those amendments be inserted?

**Clerk:** Clause 1 as amended.

1275 **Mr Chairman:** Stands part of the Bill.

**Clerk:** Clause 2 as amended.

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

1280

**Clerk:** The long title.

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

**Medical (Gibraltar Health Authority) (Amendment) Bill 2017 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to amend the Medical (Gibraltar Health Authority) Act 1987 and the Care Agency Act 2009 and to make consequential amendments to the Medical Health Act 1997, the Mental Health Act 2016 and other subsidiary legislation.

1285

Clauses 1 to 10.

**Mr Chairman:** Stand part of the Bill.

1290

**Clerk:** The long title.

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

**Disability Bill 2017 –  
Clauses considered and approved**

**Clerk:** A Bill for an Act to make provisions for persons with disabilities, modelled on the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected thereto.

1295

Clauses 1 to 26.

**Mr Chairman:** Stand part of the Bill.

1300

**Clerk:** Schedule 1.

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

1305

**Clerk:** Schedule 2.

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

1310

**Clerk:** Schedule 3.

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

**Clerk:** The long title.

1315

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

**Proceeds of Crime (Amendment) Bill 2017 –  
Markets, Street Traders and Pedlars Act (Amendment) Bill 2017 –  
Law Commission Bill 2017 –  
Children (Amendment) Bill 2017 –  
Medical (Gibraltar Health Authority) (Amendment) Bill 2017 –  
Disability Bill 2017 –  
Third Readings approved: Bills passed**

1320 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have the honour to report that the Proceeds of Crime (Amendment) Bill 2017, the Markets, Street Traders and Pedlars Act (Amendment) Bill 2017, the Law Commission Bill 2017, the Children (Amendment) Bill 2017, the Medical (Gibraltar Health Authority) (Amendment) Bill 2017 and the Disability Bill 2017 have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

1325 **Mr Speaker:** I am now going to put the question in respect of five of the Bills together, leaving the Medical (Gibraltar Health Authority) (Amendment) Bill to be voted on separately.

So I now put the question that the Proceeds of Crime (Amendment) Bill 2017, the Markets, Street Traders and Pedlars Act (Amendment) Bill 2017, the Law Commission Bill 2017, the Children (Amendment) Bill 2017 and the Disability Bill 2017 be read a third time and passed. All in favour? (**Members:** Aye.) Those against? Carried.

1330 I will now put to the vote the Medical (Gibraltar Health Authority) (Amendment) Bill 2017. Those in favour? (**Several Members:** Aye.) Those against? (**Several Members:** Nay.) The Bill is approved. The Third Reading is approved by the Government voting in favour and the two independent Members with the Official Opposition voting against.

1335 **Hon. Chief Minister:** Mr Speaker, I now move that the House should adjourn to Wednesday, 26th July at 3 p.m.

**Mr Speaker:** The House will now adjourn to Wednesday, 26th July at three in the afternoon.

*The House adjourned at 5.10 p.m.*