



PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

MORNING SESSION: 11.09 a.m. – 1.37 p.m.

Gibraltar, Friday, 12th July 2019

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The Gibraltar Parliament

The Parliament met at 11.09 a.m.

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

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

Standing Order 7(1) suspended to proceed with laying of petition

Clerk: Meeting of Parliament, Friday, 12th July 2019. Order of Proceedings. Suspension of Standing Orders. The Hon. the Chief Minister.

5

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with the laying of a Petition on the table.

Mr Speaker: Those in favour? (**Members:** Aye.) Those against? Carried.
10 The Hon. the Chief Minister.

Hon. Chief Minister: Mr Speaker, I beg to move that the petition standing in my name be read.

Mr Speaker: I now put the question in the terms of the motion proposed by the Hon. the Chief Minister. Those in favour? (**Members:** Aye.) Those against? Carried.
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Clerk: The petition is addressed to the Gibraltar Parliament and reads as follows:

The petition of the undermentioned signatories believe that the Gibraltar British citizens should be democratically represented in Westminster. Furthermore, we believe that this is a right that all citizens should have, to be democratically represented in a Parliament where, at times that concern us are being debated. Your petitioners request all Members of Parliament to support the right of all Gibraltar British citizens to be democratically represented in Westminster and that we keep our retained autonomous powers as per our 2006 Constitution, our double lock and sovereignty, and our Chief Minister will always be our spokesperson. Moreover, we ask the hon. Members of the Gibraltar Parliament to debate our petition and to include a member of our movement in the next Constitutional Reform Committee, so that the wishes of 11,500 signatories are respected and listened to. Furthermore, on behalf of all our signatories we present to all the hon. Members of the Gibraltar Parliament a petition supported by 14,000 signatories of which 11,500 were from Gibraltar British citizens and 2,500 were mainly from British visitors to Gibraltar, a copy of which was handed to Her Majesty's Government of Gibraltar on 27th February 2019.

And there follow all the signatories. (*Banging on desks*)

**Statement by the Chief Minister;
Grace I supertanker
Welcome to Island Games athletes**

20 **Mr Speaker:** Communications – the Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, all Hon. Members will be aware that last week I signed a Direction under regulations made under the Sanctions Act 2019.

25 Acting pursuant to that Direction and all other relevant legal powers, the Captain of the Port – ably assisted by the Royal Gibraltar Police, Her Majesty’s Customs and the Gibraltar Defence Police – detained a supertanker, known as a very large crude carrier or VLCC, by the name of the *Grace I*. With my consent, the actions of our Port and law enforcement agencies have been supported by the armed forces of the United Kingdom under a request for military assistance to the civilian authorities.

30 Last week, we acted because we had reasonable grounds to believe that this vessel was taking actions in breach of established EU sanctions against Syria. These actions would be contrary to the law of Gibraltar, as the EU sanctions are contained in an EU regulation which has been directly applicable in Gibraltar since 2012. After laboratory testing, the cargo has now been confirmed to be 2.1 million barrels of light crude oil.

35 We will not allow Gibraltar to be used or to be knowingly or unknowingly complicit in the breach of EU or other international sanctions, or for any of the matters which our laws prohibit. With the powers that we took under the 2006 Constitution come also the responsibilities to act as required under European and international law when the time comes and the circumstances require it.

40 Now that these actions have been taken, their consequences may be challenged and tested in the courts. The regulations I made set out specific provisions to allow for such a challenge by any party alleging that they have a claim to the vessel and its cargo. As the sanctions being enforced are established by the European Union, last week I wrote immediately after the detention of the vessel to the Presidents of the European Commission and of the European Council, Mr Juncker and Mr Tusk, setting out which EU sanctions we have enforced. I have also provided this information directly to the office of the High Representative, Ms Federica Mogherini.

45 These actions were, of course, taken after a unanimous decision of the Gibraltar Cabinet. The matter is now in the Supreme Court.

50 Yesterday, the Royal Gibraltar Police announced that they had arrested the captain and the first mate of the *Grace I*. The RGP stated that this followed a protracted search of the vessel, where documents and electronic devices have been seized and examined. RGP and HM Customs also confirmed that officers involved in the investigation of a suspected violation of these sanctions were interviewing both men under caution at RGP headquarters at New Mole House. Both have been accorded, of course, their legal entitlements and access to consular representation.

55 Gibraltar’s actions in relation to the *Grace I* have been reflected in the world headlines in the past week. I therefore want to confirm to the House that all relevant decisions in respect of this matter were taken as a direct result only of the Government of Gibraltar having reasonable grounds to believe that the vessel was acting in breach of established EU sanctions against Syria. There has been no political request at any time from any government that the Gibraltar Government should act, or not act, on one basis or another. The information which related to the alleged Syrian destination of the vessel and its cargo legally required Gibraltar to take the necessary action once the vessel freely entered the jurisdiction. The decisions of Her Majesty’s Government of Gibraltar were taken totally independently, based on breaches of existing law and not at all based on extraneous political considerations. These important decisions about breaches of our laws were certainly not decisions taken at the political behest or instruction of

any other state or third party. In nations governed by the rule of law, decisions about the application of laws relating to what are potentially criminal offences are decisions made based on facts and legal analysis and are not decisions made on the basis of political requests, whoever the requesting party may be.

The provenance and origin of the cargo aboard the *Grace I* has not been relevant at all to Gibraltar's actions. We have no desire, right or obligation to do anything other than enforce the existing sanctions against the Syrian regime as we are bound and legally required to do by EU Regulation 36/2012, because these are not our sanctions but the EU's sanctions, Mr Speaker. We are acutely conscious, in fact, of the environmental issues that arise from the type of cargo that is held aboard *Grace I*. There are obvious inherent risks in the maintenance of such a cargo, all of which are being skilfully mitigated by the Gibraltar Port Authority, both as to security and all other relevant concerns. I know this will of course be a concern to citizens both in Gibraltar and in neighbouring states. The Government will want to give reassurances that we are working to ensure that there are no transboundary effects as a result of the maintenance of the cargo of the *Grace I* in Gibraltar.

Finally, I want to thank the brave men and women of our British armed forces, the Royal Gibraltar Police, Her Majesty's Customs, the Gibraltar Defence Police and the Gibraltar Port Authority for their work in securing the detention of this vessel and its cargo. The House can be assured that Gibraltar remains safe and our international reputation is nothing but enhanced by these actions.

Mr Speaker, before I sit down I think it is incumbent on me, on behalf of the whole House, given that we are sitting during this relevant week, to welcome all the athletes of the International Island Games to Gibraltar, (*Banging on desks*) to the magnificent Games that have been organised. Despite the weather, which in July we tend to be able to guarantee – but we have a Climate Change Bill on the agenda which might address some of that – I think these have been an excellent Games and I am grateful even to hon. Members opposite for reflecting on the fantastic facilities that have been provided for the Games to be held. (*Banging on desks*)

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

Hon. E J Phillips: Mr Speaker, we welcome the Statement by the Chief Minister in relation to the events that unfolded last week in relation to the *Grace I* and of course it is right that our laws are upheld and our regulations are upheld. We will of course keep this situation under close observation and any disputes that arise in the context of open court proceedings, but we welcome the determination of the Government to uphold the laws of Gibraltar and the regulations and I think it is a message to the world that Gibraltar will uphold EU regulations and sanctions.

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Mr Speaker, in relation to our athletes, of course I again congratulate the Government for holding the Games and indeed our young athletes and athletes from around the world who have descended on Gibraltar. It was a very proud day to see all of us in Gibraltar cheer on Jessy in his gold medal, as presented by the Chief Minister, and all the other athletes in Gibraltar who have secured medals – and those who also have participated but may not have succeeded in securing a medal. Participation in these events is so very important for our community and the wider community. (*Banging on desks*)

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Hon. Ms M D Hassan Nahon: Mr Speaker, I thank the Chief Minister for his Statement and I would like to, from my part and from the part of my party, Together Gibraltar, thank the essential services, the hardworking local officers from Customs to Police and internationally the Royal Marines, for their bravery and diligence within this very delicate situation. We hope that they are being given the adequate support from the Gibraltar and British governments and we wish them all the very best in their continuing operations.

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120 In terms of the Island Games, I echo the sentiments of the Chief Minister and the Leader of
the Opposition welcoming them to Gibraltar. It has been a great buzz for Gibraltar this week and
it has been a very proud week for us and for our community.

Thank you. (*Banging on desks*)

125 **Hon. Chief Minister:** Mr Speaker, if I can thank both hon. Members for those statements of
support in relation to the action taken in respect of the *Grace I*, and in particular for their
gracious words in relation to the organisation of the Island Games and the recognition of all our
athletes and all the athletes who are visiting us.

130 I cannot but suggest that – if we hold the non-partisan approach for a moment – there is one
gold medal missing for now but I think it will be awarded tonight at the closing ceremony, and
that is for Steven Linares for his work in ensuring that the Games happened. (*Banging on desks*)

Corrections to Hansard re Questions WQ8/2019 and Q65/2019

Clerk: The Hon. the Minister for Health, Care and Justice.

135 **Minister for Health, Care and Justice (Hon. N F Costa):** Mr Speaker, I rise to place on the
record of *Hansard* corrections to answers provided previously to two questions – Written
Question 8 of this year and Oral Question 65 of this year.

Q65-74/2019 Prison Act 2011 – Release of offenders on licence

Clerk: Question 65. The Hon. D A Feetham.

140 **Hon. D A Feetham:** Mr Speaker, in relation to all offenders convicted of violent or sexual
offences released on licence since the Prison Act commenced, please provide details of their
sentence and time served before release.

145 **Minister for Health, Care and Justice (Hon. N F Costa):** I now hand over to the hon.
Gentleman a schedule which includes the sentences imposed on prisoners in relation to violent
and sexual offences who were released on parole licence since the Prison Act 2011 commenced,
together with the length of sentence served.

Q65/2019

PRISONER	SENTENCE NUMBER	SENTENCE				TIME SERVED (DAYS)
		YEARS	MONTHS	WEEKS	DAYS	
1	1	2				
	2		1			
	3		1			303
2	1	4				799
3	1	3				
	2			3		373
4	1	4	6			550
5	1	3				
	2	4				
	3-29				135	1246
6	1	1	6			186
7	1			46		182
8	1		22			358
9	1		18			186
10	1		22			327
11	1	3				367
12	1	4	6			915
13	1	2	8			449
14	1		16			
	2				14	217
15	1		9			
	2		15			243
16	1	3				365
17	1	2	4			482
18	1	4	5			729
19	1		12			184
20	1	5	4			
	2		3			
	3			10		
	4			10		819
21	1		16			199
22	1	3	3			
	2				5	
	3				10	
	4				15	
	5				10	

PRISONER	SENTENCE NUMBER	YEARS	MONTHS	WEEKS	DAYS	TIME SERVED (DAYS)
	6				5	409
23	1	4				659
24	1	2	8			326
25	1	2	8			
	2		3			354
26	1	13				1609
27	1	7				925
28	1	2	8			347
29	1	2				326
30	1		20			204
31	1	4	3			639
32	1		18			189
33	1		12			209
34	1	1				
	2	2				396
35	1		20			200
36	1		18			182
37	1	4				660
38	1		16			196
39	1	4	8			853
40	1	2				253
41	1	2	8			
	2	1				
	3	4				962
42	1		1	6		
	2			3		
	3				72	482
43	1	3	4			495
44	1	1	8			
	2				15	207
45	1	1				186
46	1	5	6			690
47	1	4	6			737
48	1	1				247

Order of the Day

PAPERS TO BE LAID

Clerk: (vi) Papers to be laid. The Hon. the Chief Minister.

150 **Chief Minister (Hon. F R Picardo):** Mr Speaker, I have over the honour to lay on the table the Ombudsman's Annual Report for the year ended 31st December 2018, and the Annual Report of the Gibraltar Regulatory Authority for the year ended 31st March 2019.

Mr Speaker: Ordered to lie.

Suspension of Standing Order 7(1) to proceed with Government Bills

155 **Clerk:** Suspension of Standing Orders. The Hon. the Chief Minister.

Chief Minister (Hon. F R Picardo): Mr Speaker, I beg to move, under Standing Order 7(3), to suspend Standing Order 7(1) in order to proceed with Government Bills.

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

GOVERNMENT BILLS

FIRST AND SECOND READING

Financial Services Bill 2019 – First Reading approved

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

A Bill for an Act to provide for the regulation of financial services and markets and fiduciary services; to make provision in respect of the Gibraltar Financial Services Commission; to establish a Financial Services Ombudsman; to make provision in respect of a deposit guarantee scheme, an investor compensation scheme and recovery and resolution arrangements and their financing; to provide for the regulation of the listing of securities, prospectuses and takeovers; to make provision in respect of market abuse; to provide for the control of insurance business transfers; to make provision in respect of occupational and personal pension schemes; to provide for the regulation of auditors and insolvency practitioners, and for connected purposes.

170 The Hon. the Minister for Commerce.

175 **Minister for Commerce (Hon. A J Isola):** Mr Speaker, I have the honour to move that a Bill for an Act to provide for the regulation of financial services and markets and fiduciary services; to make provision in respect of the Gibraltar Financial Services Commission; to establish a Financial Services Ombudsman; to make provision in respect of a deposit guarantee scheme, an investor compensation scheme and recovery and resolution arrangements and their financing; to provide for the regulation of the listing of securities, prospectuses and takeovers; to make provision in respect of market abuse; to provide for the control of insurance business transfers; to make

provision in respect of occupational and personal pension schemes; to provide for the regulation of auditors and insolvency practitioners, and for connected purposes be read a first time.

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Mr Speaker: I now put the question, which is that a Bill for an Act to provide for the regulation of financial services and markets and fiduciary services; to make provision in respect of the Gibraltar Financial Services Commission; to establish a Financial Services Ombudsman; to make provision in respect of a deposit guarantee scheme, an investor compensation scheme and recovery and resolution arrangements and their financing; to provide for the regulation of the listing of securities, prospectuses and takeovers; to make provision in respect of market abuse; to provide for the control of insurance business transfers; to make provision in respect of occupational and personal pension schemes; to provide for the regulation of auditors and insolvency practitioners, and for connected purposes be read a first time.

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

Clerk: The Financial Services Act 2019.

Financial Services Bill 2019 – Second Reading approved

Minister for Commerce (Hon. A J Isola): Mr Speaker, I have the honour to move that the Bill now be read a second time.

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Mr Speaker, our legislation governing the conduct of financial services has developed on a piecemeal basis over time in response to market activity and, in particular, continuous European Union legislation. This has resulted in a significant increase in the amount of primary and secondary legislation to the point where there are various statutory instruments applying to each sector. This has also resulted in, at times, a lack of cohesion between the different pieces of legislation.

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Mr Speaker, the Bill is a key part of the Legislative Reform Programme (LRP), a project launched in 2015 by myself on behalf of Her Majesty's Government and Samantha Barrass, the CEO of the Gibraltar Financial Services Commission (GFSC). This is the single largest review and reform of our financial services laws. The work consolidates and rationalises over 90 financial services legislative instruments into one Act and supporting sector-specific regulations. As well as establishing the new framework, the LRP has concurrently implemented all EU transpositions and local initiatives during the lifetime of the programme – around 30 significant pieces of financial services legislation. These have all now been lifted into the new structure.

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The aims of the LRP are to update, rationalise and improve the current legislation to make it more navigable for both the regulator and the industry and to address inconsistencies between these sectors. It is worth noting that the LRP and the changes it will introduce account for the continuation of the current market access to the United Kingdom beyond 2020, and the Bill intends to ensure regulatory alignment in terms of outcomes with the United Kingdom. As hon. Members will know, our legislation will be aligned but not the same as that of the UK. This alignment of regulatory outcomes is what HMGoG and Her Majesty's Government in the UK have agreed for our continued access to the UK financial services market.

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The Bill provides a clear, more navigable and accessible legislative framework for financial services that will facilitate innovation for both the regulator and the private sector. A key part of this Bill is the introduction of the Decision-Making Committee (DMC), which is a committee independent of the executive of the GFSC and its board and will be the key decision maker in all contended decisions. This innovation has been most welcomed by the private sector as a real check and balance on the powers of the executive of the GFSC. There are other significant new checks and balances in the Bill.

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225 Mr Speaker, we have worked closely with the LRP team and the GFSC, who have been responsible for the development and drafting of the Bill. I must thank Julian Sacarello and Ernest Lima, who are with us today, who have worked very closely with Jimmy Tipping and I in working through every detail of this Bill. Their work has been exemplary and their commitment relentless. We have met almost every Tuesday over the past three years to work our way through this Bill in every detail. I am most grateful also to them as well as to Peter Taylor, Samai Hurtado and Tara Wood from the GFSC, and Jonathan Bracken the lead drafter.

230 I must also acknowledge and express my most sincere thanks to an exceptionally distinguished former Member of this House who has advised and supported our work on this Bill. The Hon. Sir Peter Caruana QC has meticulously scrutinised this Bill and provided us with his excellent advice on all aspects of the Bill and I am most grateful to him for this.

235 Mr Speaker, over the last two years we have also consulted extensively with the Gibraltar Finance Centre Council and the different industry associations on the major areas of change as well as on individual parts of the Bill. I am very grateful for the major contribution that the Finance Centre Council and the private sector have made towards this. Significant policy changes have been made as a result of this extensive engagement, including some changes – made since 240 the Bill was published at the end of May – in the letter of amendment which is before the hon. Members today.

The consultation process started in July 2017 when we consulted on the proposal to establish a specialist financial services tribunal. On the back of the feedback received we changed approach and instead opted to maintain the current appeal route to the Supreme Court and 245 instead set up an independent Decision-Making Committee. This is responsible for taking certain regulatory decisions and we also further consulted on this specifically in June of 2018. Mr Speaker, in January of 2018 we consulted on Part 12 of the Bill, which covers the duties of auditors and actuaries of authorised persons. In March 2018 we consulted on the Regulated Individuals Regime which Part 8 establishes. We received a significant amount of valuable 250 feedback from the different industry associations and made substantial changes as a result. In August, we provided a separate consultation to each industry association and each response paper contained responses to every point that was raised by them. The revised post-consultation version of Part 8 was then circulated in October 2018. In June 2018 we consulted on the new GFSC Decision-Making Committee and in August we consulted on Part 11, which sets 255 out the GFSC's cross-sectoral sanctioning powers and related processes. Again, we received a significant amount of feedback from the industry associations and made substantial changes as a result.

Other parts of the Bill were shared with the Finance Centre Council at different times in the last year. The Finance Centre Council set up LRP sub-committees of industry members to review 260 the different parts based on their experience and background. The drafts of Part 2, which is the regulated and prohibited activities, and Part 6 and the Regulated Activities Regulations, were sent to the Finance Centre Council in October of 2018. A full draft of the new Act with 17 of the integrated parts of the Bill was sent to the Finance Centre Council in December 2018. Many of these lifted the content of current financial services legislation. A draft of Part 28 was sent to the 265 FCC in January. At the start of February the draft of Part 7 was also sent to the Finance Centre Council and in early May of this year we sent Part 3 and Part 10, which deal with the GFSC, its composition and investigatory powers, to the Finance Centre Council. On 24th May we shared the complete Bill with the Council, which was published at the end of May.

270 Mr Speaker, since the Bill was published at the end of May discussions with the Finance Centre Council have continued and have led to some further changes, which are presented in the letter of amendment to the Bill before Parliament today. These include the introduction of a regulation-making power for the Minister to establish a procedure for complaints to be made concerning the GFSC's exercise of its functions. Complaints will be made to both the GFSC and the Minister, or an independent person or body appointed for that purpose.

275 Another change made as a result of the recent discussions with the Finance Centre Council is the introduction of a restriction on the GFSC's ability to publish statements at all stages of the regulatory process. Government intends to further engage with the Council and private sector firms on the Bill before its implementation as and when may be required and we are open to comments from all.

280 As part of this informing process, two weeks ago the Financial Services Commission hosted six workshops to members of the different industry associations to familiarise the sector with the Bill and its key component parts. These were informative and well received and the team has also engaged with the Hon. Mr Daniel Feetham to walk him through the Bill, offering insight into our thinking wherever requested.

285 Mr Speaker, we expect the Bill to come into force at the beginning of October, ensuring that the private sector have sufficient time to familiarise themselves with its content prior to its implementation.

I must thank and acknowledge the significant support we have received from the Finance Centre Council and the individual associations in the sector. This has really been a team effort –
290 Government, the GFSC and the private sector working together to deliver the very best regulatory framework possible for our jurisdiction, and I am grateful to them all.

Mr Speaker, I will read from an email I received from the Chair of the Gibraltar Finance Centre Council, Mr Marc Ellul, on 29th May with their first comments on the Bill. I quote:

On behalf of the GFSC I would first of all like to thank you for the work done on the LRP. We acknowledge the significant time and effort which has gone into this and that you have been working towards Gibraltar having modern and effective financial services legislation fit for the 21st century. The DMC is particularly welcome, which introduces crucial checks and balances to the substantial powers of the GFSC. I think you share my view that if we get the DMC right, the increased sanctioning and regulatory powers in the Bill will be balanced out by a decision-making body with independent members and will therefore be more readily acceptable by industry.

Mr Speaker, Mr Nicolas Cruz, the outgoing Chair of ATCOM, reported in his annual report on
295 3rd July as follows when commenting on the LRP. I quote:

There are more checks and balances on the GFSC than ever before. Powers to apply sanctions are constrained by a level of independence from a new DMC, ability to publish are much constrained. Powers on the relevant Minister to exert control over the executive of the GFSC when required are enhanced including power to remove its CEO in certain circumstances. The legislation is not perfect nor near to perfect and there remain areas of some disagreement between the Industry and HMGOG but it is a very important progressive step in most areas (not all) that will introduce simplicity in navigation of consolidated legislation ...

Those endorsements, for which I am most grateful, need to be put into the context that we are dealing with over 650 pages of draft legislation and that we have agreed totally on the fundamentals, if not on all the detail.

Mr Speaker, the most significant changes introduced by the Bill are Parts 2, 6 and 7, which
300 provide for an umbrella legislative framework and a single authorisation process for all sectors. As Members will know, the previous legislation has different streams for each of the different sectors involved. These set out what constitutes regulated and prohibited activities; it introduces the legal concept of the general prohibition, meaning that no person can carry out these activities unless authorised or exempt. A contravention of the prohibition is a criminal offence.
305 Part 7 contains a harmonised approach to authorisation and obtaining permission to carry on regulated activities within the same threshold conditions applying to all firms. These conditions are set out in Schedule 17. Part 7 also contains cross-sectoral supervisory powers and the related processes.

A new Regulated Individuals Regime for the senior individuals, which is established by Part 8
310 of the Bill (RI Regime) and which aims to ensure that individuals who perform important regulated functions are fit and proper to undertake these roles, requires these individuals to seek approval from the FSC prior to taking up the position. The RI Regime essentially rationalises

and formalises the current system, which contains inconsistencies across the sectors in terms of the individuals that will need to be identified or approved by the GFSC. The criteria for approval and the approval process will be the same as what currently happens in practice when the FSC considers the fitness and propriety of these individuals. We are essentially introducing a standard regime applicable to all sectors. We are introducing appropriate transitional arrangements to ensure a smooth transition into the new regime after the legislation comes into effect. All individuals who have been approved in some way by the GFSC will be transitioned into the new regime and will not need to apply for approval under the new legislation.

A new Decision-Making Committee, as I mentioned before, is being established by Part 3. The DMC will be independent from both the executive and the board of the GFSC and will therefore provide an enhanced level of independence to the final stage of decision making in respect of the decisions that it will be assigned.

The DMC will take specified regulatory decisions, including all final decision notices that impose a sanctioning or supervisory power, unless the relevant party agrees in writing to the content of the GFSC's warning notice; all urgent and direct decision notices imposing a sanctioning or supervisory power that take effect immediately; all decisions on the publication of sanctions; decision notices to reject a firm's application for authorisation or a regulated individual's application for approval; and decisions to require an inspection cost contribution order.

The DMC will have six members and the appointments will be made by the Minister. All members must be ordinarily resident in, or carrying out work in or from Gibraltar. There will be three lawyers of 10 years' experience and three members with significant financial services experience. The Minister will have flexibility to appoint external members to consider particular cases or particular aspects of a case if all the fixed members are unavailable – due to, for example, a conflict of interest. One of the legal members will be appointed as Chair of the DMC and decisions must be taken by a panel of three members. In the event of the Chair being absent, the Chair must appoint one of the legal members to replace the Chair and, in urgent cases, the Chair can make a decision alone.

Mr Speaker, cross-sectoral investigatory powers are set out in Part 10 of the Bill and this Part is based on the relevant content from the Financial Services (Information Gathering and Co-operation) Act. Part 10 rationalises the current content, particularly in relation to both the appointment of inspectors and their cost. The starting point is that the GFSC pays for the costs of an inspector. If the GFSC finds a person culpable of a material contravention, based on the report the DMC can issue a costs contribution order on the relevant person equal to all or part of the costs reasonably incurred. Various criteria need to be taken into account by the DMC when it is considering whether to impose such an order, including the proportionality of the GFSC appointing an inspector and the reasonableness of the Financial Services Commission in appointing an external inspector as opposed to an internal staff member. These are all new provisions.

There is an appeal right in respect of the DMC's decision and the court must have regard to the same criteria when considering it. There are also additional requirements for the GFSC if it is considering appointing an external inspector, in terms of the criteria it needs to consider. Appeal rights are no longer applicable in relation to the power to request a firm to commission a skilled person's report or the power to appoint an inspector. This was necessary to align with UK regulatory outcomes – in the UK there are no appeal rights over these actions, as they are regarded as part of the regulatory process. There will be an appeal right for the costs contribution orders for inspections and the right judicial review will apply to the initial decisions outlined above. There is a new requirement on the Commission to publish a skilled persons report policy statement setting out how it will exercise this power.

Part 11 of the Bill sets out cross-sectoral sanctions and related procedures. The Part contains five common sanctioning powers that have been harmonised across the board. They will enable the FSC to respond proportionately to contraventions, depending on their gravity. The GFSC

365 already has these powers in respect of most of the sectors it regulates. In applying them across
the board, this Part plugs some gaps in the current framework. These applied powers have also
been set out in various recent EU directives.

The funding limits will be set out in the relevant sector-specific regulations. Where a limit is
required by directive, that limit will be incorporated. For sectors not subject to a specified limit
370 the LRP has sought to achieve an appropriate degree of harmonisation.

Publication of Appeals and Procedures: this Part has a consistent publication regime
applicable to sanctioning decisions. Publication is discretionary and the GFSC is required by the
legislation to conduct a proportionality assessment each time it intends to publish details of a
sanction it has imposed. If publication is not proportionate and in the circumstances, the FSC will
375 have to either defer, publish anonymously without mentioning the names of the firms, or not
publish at all. The publication can only be on the GFSC website and it must be limited to the type
and nature of the contravention, the identity of the person involved and the sanction imposed.
The DMC will take all of these publication decisions. The Part also contains harmonised
provisions on warning and decision notices and appeals.

380 As I mentioned earlier, on the back of recent discussions with Finance Centre Council after
the Bill was published, we have inserted a new section in this Part. It prevents the FSC from
issuing or publishing a statement which is critical of, or adverse or prejudicial to a person until a
decision notice has been issued in respect of the matter and the appeal route in respect of it has
been exhausted. There are limited exemptions to this, including where the Minister's consent is
385 obtained to the publication of a statement, or the FSC is warning consumers about a firm or
person conducting a regulated activity without an authorisation.

Mr Speaker, the Bill, once approved by this Parliament, will be implemented on a date to be
appointed. The Bill presents our sector with a modern, innovative and balanced approach to
financial services legislation and regulation. It is fit for purpose for the next generation of
390 business generated by our professionals, and, importantly, recognises and implements the
checks and balances required in any modern regulatory regime.

Mr Speaker, it gives me enormous pleasure to commend this Bill to the House. (*Banging on desks*)

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

Hon. D A Feetham: Mr Speaker, thank you very much.

The Opposition will be voting in favour of the Bill. I have no hesitation in saying that this is an
400 excellent piece of legislation and the Government ought to be commended for it, indeed in
particular the Minister and also all the officials who have worked very hard to make this
possible. In particular, the introduction of the Decision-Making Committee is, in our respectful
view, something that is going to help in improving what has been a rather fractured relationship
between the FSC and the industry over the last three or four years since they introduced a new
405 enforcement policy in 2013-14. It is, in our view, a most welcome development, but also we
have to say that its proposed jurisdiction is something that does not go far enough, and I will
speak on that in a few moments.

In my contribution I want to concentrate on appointment of inspectors, appointment of
skilled persons and the costs of their report, supervisory action other than a specified regulatory
410 decision, publications – which I think the Hon. Minister in his own contribution dealt with, and I
would like him to explain further – and also the issue of immunity.

Appointment of inspectors, supervisory action other than specified regulatory actions, skilled
persons and also publications – that is in the context of the Decision-Making Committee and the
jurisdiction of the Decision-Making Committee. In our respectful view, the Decision-Making
415 Committee's jurisdiction ought to extend to those areas – and I will explain in a moment what
my concerns are – and it does not at the moment. I also think, and I will develop this point in

420 due course, that in relation to inspectors, this piece of legislation unfortunately is a retrograde
step in certain aspects. What it does is it limits access to justice. The Hon. the Minister for
Financial Services has justified it by saying that because in the UK there is no right of appeal,
there is a need for regulatory equivalence in relation to regulatory outcomes. That, in our
respectful view, is misconceived. You do not get equivalence of regulatory outcomes by limiting
people's rights of appeal. It does not necessarily follow. We are talking about completely
different things when we talk about regulatory equivalence of regulatory outcomes. Indeed,
having the courts as the final arbiters to decide whether a decision by the FSC is fair or unfair, is
425 lawful or unlawful – indeed, lawful or unlawful, focus on that – cannot possibly lead to non-
equivalence of regulatory outcomes, and it is a way, in my respectful view, of attempting to
justify limiting the rights to appeal in a way that does not work.

430 I have used the word 'retrograde' and I have used strong language in relation to that. I do not
want in any way, shape or form, the views that I have expressed and I am about to express to
detract from what is an excellent piece of legislation and the excellent work that the Minister
and his civil servants have done in relation to this.

435 I also make this observation, Mr Speaker: that I think this particular piece of legislation also
illustrates the weakness in our parliamentary system. It is this: that here we are debating what is
effectively the largest piece of legislation ever brought to this Parliament in financial services,
post- or pre- but potentially that operates in a pro-Brexit context, hugely important for the
jurisdiction, and we are really debating it in an hour or an hour and a half in this Parliament,
when I think that this is precisely the type of Bill that would benefit from very careful analysis
and consideration by a special purpose select committee. Of course that is not a criticism of the
Government or a criticism of anybody. The fact is that because Parliament is constrained by its
440 numbers – and on this side of the House we are all frontbenchers; on that side of the House they
are all frontbenchers, they are all Ministers – it is very difficult to have the type of select
committee that could be set up in order to properly examine this, composed by backbenchers
with the ability to hear from the civil servants, to ask questions, to propose amendments. That is
the type of parliamentary engagement that one gets in other jurisdictions across the world in a
445 modern democratic setting, and that is something that I hope will be available to Gibraltar post-
enlargement of Parliament if the motion and the Bill to amend the way votes are cast in
Gibraltar is taken before the next election.

450 But I turn to examine the position in relation to the appointment of inspectors. The
appointment of inspectors can be extremely intrusive for a licensee. Amongst other things, they
have the power to speak to every single employee, have sight of all documentation, review all
work practices and demand time from management to do so. Indeed, they have got the power
to examine employees of a particular firm on oath. They have also got the right and the power –
this is the position now under our legislation, the 2007 Act and it will continue to be the position
under this Act – to also examine the lawyers and accountants. There are privilege issues and I
455 know that those are preserved in the Act, but it is the most intrusive power, in my respectful
submission, available to the Financial Services Commission. It is also the exercise of the power
which has led to most litigation in the courts, because we know from answers to questions that I
have posed in this Parliament – and indeed wearing another cap, which is the cap as a litigator
myself – that there has been more litigation against the Financial Services Commission in
460 relation to the appointment of inspectors than any other power exercised by them in the last
three or four years. Yes, Mr Speaker, that is the position, and I have probably been involved in
about 80% of those cases, so I do think that I speak with some knowledge of what the position
is.

465 At the moment, today, there is a right to appeal under the 2013 Act, so if the FSC decides to
appoint inspectors there is an immediate right to appeal, exercisable within 28 days, and then
there is also a right – it is not automatic, but there is a right – to apply for a stay of the decision.
Let me explain to the House why that is important. When the FSC makes a decision to appoint
inspectors, which I have said is extremely intrusive, if that is allowed to effectively take its course

470 pending litigation without a stay, without a freeze of that decision, then by the time that the
court determines the issue, possibly in favour of the licensee, the damage done to the firm is
done – that is it, the horse has bolted. Therefore, what happens in a lot of these cases, in fact in
all the cases that I have certainly seen, is that there is an immediate application to the courts for
a stay, a freeze or a temporary stop of the decision appointing the inspectors until the outcome
of the appeal. That is effectively the right to appeal and the ability to apply for that freeze has
475 gone under this proposed legislation. Of course it has gone – I believe it has gone because the
Government is being advised incorrectly by certain individuals within the FSC. I make no bones
about that. I believe that there are individuals within the FSC who see the fact that at the
moment there is a right of appeal and that there is a right to have recourse to the courts asking
for a stay as an impediment to them exercising their powers. But look, we are all subject to the
480 rule of law and we are all subject to natural justice, and giving people the right to appeal is a
plus – and this Parliament should not be effectively removing that right from those licensees.

I would have taken a different view had, for example, the decision of the inspectors been
subject to the Decision-Making Committee and reviewable by the Decision-Making Committee.
But what is not understandable, and I simply do not understand it, is that you remove the right
485 to appeal, you introduce this wonderful committee, for which I commend the Government for
thinking about it and introducing it, which is an independent committee reviewing the decisions
of the FSC, but you take a major bone of contention with the industry – the appointment of
inspectors – completely out of the remit of the Decision-Making Committee. That cannot, in my
respectful view, be right and I would urge the Government to at least either make the
490 appointment subject to the DMC or alternatively reinstate the right of appeal.

Mr Speaker, on Friday of last week I met with the hon. Gentleman's officials, both officials
from his Department and also officials from the FSC. I gave them my views. I do not see that in
fact some of the proposed amendments that I made to them last Friday have actually been
taken on board and therefore I am just going to go through that, so that the House can see what
495 I was proposing. Of course, this leaves aside the issue of the appeal, on which I have already
made my views known to the House. But if one looks at the appointment of inspectors under
section 137, section 137(1) begins by saying:

The GFSC may appoint a person who it considers to be competent to do so ...

– an inspector –

to investigate, on the GFSC's behalf, the affairs of a person in subsection (2) if–

- (a) it has reasonable grounds to suspect that the person has contravened a requirement imposed by or under this Act; or
- (b) if it appears to the GFSC that on other grounds there are good reasons for doing so.

500 So, contravention or other good grounds. That is effectively the section unlocking the
jurisdiction for the appointment, and in fact this is a far better section than the section that
exists at the moment in the 2007 Act, in respect of which there is confusion as to whether the
FSC has to satisfy a number of criteria – I think it is in subsection (3) – or whether it can do so in
a standalone subsection (1). So I think this is a better section. However, when one looks at
subsection (3) it says:

In deciding whether to appoint an inspector who is not a GFSC employee

505 – who is *not* a GFSC employee –

the GFSC must have regard to the proportionality of the cost of doing so, having regard to–

- (a) the seriousness of the suspected contravention or the matters giving rise to the good reasons for appointing an inspector on other grounds;

And then it goes further.

510 So, effectively what it is attempting to do is say that the section unlocking jurisdiction,
contravention – which is subsection (1), ‘Contravention of a requirement imposed by this Act’ –
has to be serious. That is what subsection (3) is saying. The problem is this: that in deciding
whether to appoint an inspector who is not a GFSC employee ... In other words, if it is a GFSC
employee it appears, as a matter of construction, that you then do not have to go through that
second loop, which is a second loop that basically says that you have got to consider
proportionality and seriousness of the suspected contravention. I made that point to the GFSC
on Friday and it does not appear to have been taken. You can respond, or you can do it now, if
515 you if you so choose.

Hon. A J Isola: It is a simple point, Mr Speaker, and I am grateful for the hon. Member for
giving way.

520 The choice of those words ‘who is not a GFSC employee’ link directly to the cost. In other
words, because the cost could be paid by the firm at a later date if there is culpability found in
the inspector’s report, in order for the GFSC not to use somebody internally, which is very much
cheaper, if they want to go outside the GFSC, where, as the hon. Member knows very well, the
costs can become quite serious, there is a further barrier that they need to cross in terms of
justifying that that cost is worth taking on board, but only in respect of where they go to an
525 external appointee, not somebody from within. That is limited solely to when they want to go
outside, so as soon as they choose to go outside they have a higher barrier to cross in terms of
the proportionality of the costs justifying that act. I do not know if that helps.

Hon. D A Feetham: Yes, but you see that is the way that it was explained to me and it does
530 not make sense for this reason, with respect to the Minister – and bear in mind that perhaps it is
because I am a litigator that I look at these things almost as ‘could this potentially cause a
problem in court later on?’ I cannot divorce myself from my training, and essentially, with
respect to the Hon. Minister, that really does not stack up for this reason: to the extent that
what he is saying to me effectively is if you go to an external person, because the costs are
535 higher you have got to look at proportionality of costs. I accept that, and if this was limited
simply to that I would say I understand it completely. But this is not limited to that. This is that,
and it then says:

the seriousness of the suspected contravention or the matters giving rise to the good reasons for appointing an
inspector on other grounds;

540 In other words, what it is basically, essentially saying is if you go to an inspector outside,
before you appoint you have got to look at the seriousness of the contravention. What I am
saying is that if an employee of the GFSC is appointed as inspector, you should also be looking at
the seriousness of the contraventions, because of course if you look at subsection (1) all it says
is:

the person has contravened a requirement imposed by or under this Act

545 and you can have a very minor contravention. And by essentially drawing a distinction between
seriousness for outside and saying you can only unlock this jurisdiction when it is serious for an
outside appointee but not for an employee, you are effectively leaving yourself open to the
argument that, if it is a GFSC employee, you do not have to consider whether the contravention
is serious. That cannot be right, Mr Speaker, and all I proposed and I think would deal with it is
to delete the words ‘who is not a GFSC employee’. That is it; it would deal with the point. But I
think it is an important point that potentially could give rise to issues in the future, bearing in
550 mind that when one looks at the 2007 Act the FSC has taken a view in relation to section 8 of the
2007 Act about the appointment of an inspector under subsection (1), unrelated to
subsection (3), which has all the different criteria about different contraventions and public

interest. The FSC has said, 'No, I do not have to show that this is on public interest grounds or that consumers in Gibraltar will be prejudiced – I can do it under subsection (1) unlimited and unconstrained by subsection (3).'

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So, given the track record of the FSC in arguing those kind of points – I know that he smiles, but it is true! Look, I have to say I take no pleasure in being perceived as the whipping boy here of the FSC. It is not in my role to whip anybody, but it is my role as a parliamentarian to essentially point out when there is potential unfairness and also when the law, in my view, needs improvement.

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Then the other point in relation to this part, Mr Speaker, is in relation to appeals. I again raised it and never had a satisfactory answer – perhaps the Hon. Minister can allay any concerns that I have. If one looks at section 145(1)(a)(i) and (ii), and if you look at (i) it says ... I will read it all:

A person aggrieved has a right of appeal under section 615 against any of the following decisions–

(a) a decision by the GFSC–

(i) under section 132(1)(a) or (b) to require a person other than an authorised person to provide specified information or information of a specified description ...

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Now, if we look at the definition of what 'an authorised person' means, and if one looks at section 131, it essentially says:

a 'relevant person' means–

(a) an authorised person;

(b) an approved statutory auditor or audit firm;

(c) a former authorised person ...

It says, 'defining a relevant person as an authorised person'. Now, I do not understand why section 132 gives the right to appeal to everybody other than an unauthorised person, taking into account that the definition of relevant person includes an authorised person. I just wonder whether that is a mistake. I asked about that last time round. I think that they were not certain, the officials, when I asked. I do not know whether a decision has been made or whether my concerns ... No doubt my concerns have been communicated to the Minister, but I would like an explanation from the Minister as to essentially what the Government's views are in relation to that.

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Mr Speaker, those are the views that I wish to express in relation to inspectors. I also say this in relation to skilled persons: that the appointment of a skilled person can also, in our view, be invasive for a licensee; of course we accept that they are not as invasive as the appointment of an inspector. Similar arguments as to those for the appointment of an inspector apply here. A review by the Decision-Making Committee will provide an effective, inexpensive and quick alternative to court proceedings for the fairness of the proposed appointment to be assessed. The cost of the skilled person's report should also be something the DMC should decide upon. At present, the Bill provides that the licensee should pay for this and there is no discretion for the GFSC to pay. If it turns out that the appointment of a skilled person was not justified and they have already produced a report, it would, in our view, be patently unfair for the licensee to have to pay for this. I accept that there is a distinction in how you appoint a skilled person and an inspector. An inspector is appointed by the GFSC; a skilled person is appointed by the licensee. So there is a contractual relationship between the skilled person, the consultant, and the licensee. But it is something that ought to be decided by the DMC.

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Let me give the Hon. the Minister my own experiences in relation to this. What invariably happens is – in a lot of the cases, I should say; I have use the word 'invariably' but I should say in a lot of the cases that I certainly have seen – the FSC appoints an inspector, there is an appeal and there is an application to freeze pending appeal. The court will freeze the decision pending the appeal. There is then a negotiation between the licensee and the FSC, and the FSC says, 'Well, okay, look, we will accept a skilled person.' Because of the reputational concerns for the

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595 licensee – a licensee does not want the appointment of an inspector because that indicates that
the licensee has done something quite badly wrong, because that is what we are dealing with
when we deal with an appointment of an inspector – the licensee will agree to the appointment
of the skilled person, but actually is really reluctant because there are licensees that may have
done absolutely nothing wrong even to justify the appointment of a skilled person. So, having
600 the DMC review the decisions of the FSC appointing a skilled person, in our respectful view, is
also a positive.

I have made a number of points. There are some inherent criticisms there, of course there
are, but it is a positive that the Government can take from the fact that I am suggesting that
these decisions come under the purview of the committee that the Government is proposing to
605 create as a consequence of this of Act, and that is a huge plus for the Government and for those
that have been the architects of this Bill.

Mr Speaker, I also said that I would talk about, very briefly, supervisory actions other than a
specified regulatory decision. There is an asymmetric balance of power between the GFSC and a
licensee, where they may feel threatened into taking a course of action they would otherwise
610 not wish to take. It is not uncommon for licensees to receive very lengthy letters from the GFSC
setting out deficiencies as perceived by them and suggesting that unless certain actions are
taken, licences will be suspended or revoked.

In fact, this is something that the Finance Centre Council set out in their own submissions to
the Government, and it cited three examples: the suggestions that regulated individuals, or
615 persons holding notifiable person positions of the licensee should resign; so there is no formal
decision but there is a suggestion that a licensee take certain steps to implement particular
measures; and the requirement for more regulatory capital to be held. Those are the three
examples that the Finance Centre Council basically raised. I do not know whether that has been
taken into account. As I say, there is a huge deficiency, in my view, here in relation to the
620 parliamentary procedure, particularly with a complex piece of legislation such as this, because it
really is very difficult to see whether the Government has taken on board particular points. As I
say, I was consulted and I gave my views on Friday of last week. The Government on the 10th,
that is two days ago, has produced a whole host of amendments and if that concern has been
taken into account in the amendments or I have not spotted it in the Bill, I apologise to the
625 Minister, but it appeared to me that the submissions that were being made by the Finance
Centre Council were meritorious and deserved consideration and inclusion within the Bill.

Mr Speaker, also publications. Sections 616 to 618 of the Bill deal with the publication of
sanctioning actions and restrictions thereto. Section 616 refers to the publication of sanctioning
actions, and there are some safeguards which can restrict publication, which are set out in
630 section 617. Those are welcome. Crucially, however, the legislation only covers the publication
of sanctioning actions but nothing else. No other decision by the GFC to publish anything else in
respect of a licensee is reviewable by the DMC.

The Hon. the Minister has said during the course of his intervention that there will be a
complaints committee, as I understand it, which will deal with this. That is how I understood it. If
635 there is not, could he please in his response just explain why anything else that is published by
the FSC that is not the publication of the sanctioning action is not something that can be
reviewed by the DMC. Unless again I have got it wrong and it is somewhere in there, I have not
spotted it.

And finally, Mr Speaker, on immunity, the proposed changes to the immunity sections will
640 see powers which escape the defence of immunity significantly reduced. In other words, the
immunity will apply to more situations than it does now or even did in 1989. Section 10(2) of the
Financial Services Commission Act 2007 has been restricted by the Bill. Section 10(2) of the 2007
Act lists the powers of subsections (a) to (f) to which the defence of immunity simply does not
apply, irrespective of whether persons seeking redress against the GFSC can establish bad faith.
645 The 2007 Act expanded on the powers to which the immunity did not apply from its
predecessor, the Financial Services Commission Act 1989.

Now, Mr Speaker, I have got to be careful what I say here because there is litigation on this particular point, but we know that there is a high-profile case at the moment that is in the Supreme Court where there was a publication by the FSC and the point there to be decided is: is this publication covered by the immunity in the existing legislation? If it is covered, then of course there is no right to sue anybody within the FSC for making those statements unless you can show that those statements were made in bad faith. That would be the position and that is what the Government is attempting to get to by extending the immunity in this Bill. We think that the Government ought to be cautious. In this day and age, whereby publications really are instantaneous and can reach members of the community, indeed jurisdictions, that perhaps in 1989 – and even in 2007, although by then the internet had already been quite established, but certainly the 1989 Act could not reach. I think that the damage potentially to an individual's reputation today is much more than the damage then, and if Parliament took the decision in 1989 not to have an immunity extend to certain publications I think the Government should not extend it. I think there were good reasons for not doing so then and there are even greater reasons, because of the way communications nowadays can reach more people, why we ought to be extremely cautious in this and not extend the immunity to those areas.

Mr Speaker, again I conclude by saying that I congratulate the Government. I thank the Parliament for its indulgence, listening to the views that we have expressed from this side of the House. Whilst critical, they are intended to be constructive and I congratulate again the Minister for what is an excellent piece of legislation.

Mr Speaker: The Hon. Roy Clinton.

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

I rise to echo the sentiments of my hon. Friend in terms of our support for this legislation and of course recognition that this is not just a weighty tome but a particularly complex piece of legislation covering a variety of areas.

There are just two things that caught my eye in glancing through this legislation and the first is that this now includes provision for a Financial Services Ombudsman, which I think the industry – having been a former member of the banking industry – will certainly welcome and I congratulate the Minister for having introduced it in this Bill. But I could not help but notice that this Bill also includes references to occupational pension institutions and requirements in respect of personal pension schemes. I am fully conscious that we already have the Private Sector Pensions Bill about to reach Committee Stage, but my question to the Minister is: has he considered the interaction between this Bill before us today and the Private Sector Pensions Bill? I do not see any cross-reference between the two. The FSC seems to exercise sole jurisdiction over authorisation, and yet the Private Sector Pensions Bill introduces the concept of the Pensions Commissioner. I am conscious that they maybe cover different areas and you could have a personal pension scheme which is entirely private and not part of an employer's scheme, but then also it is entirely possible to have a personal pension scheme which an employer will encourage employees to enter into and the employer will contribute to without necessarily setting up a formal trust deed or other scheme or rules. And of course there is also an entire section in here on occupational pension institutions, in the Financial Services Bill, and it would be welcome to hear what the Minister's views were as to whether there has been any consideration of interaction between these two different pieces of legislation.

I will give him one example if I may, Mr Speaker. Referring to the Private Sector Pensions Bill 2019, which is before the House, under the definition of 'pension plan' it says:

means either –

(a) an occupational pension organized and administered under the Financial Services (Occupational Pensions Institutions) Act 2006 and any regulations made thereunder to provide pensions for employees;

695 But in this Bill, under Schedule 29, page 895, one of the pieces of the primary legislation that is due to be repealed or revoked in entirety is in fact the Financial Services (Occupational Pension Schemes) Act 2006. And so I would ask the Minister to consider whether either the Private Sector Pensions Bill needs an amendment of some sort in order to reference the correct section of what will be the new Financial Services Act 2019, or whether in fact there is a need for any other cross-reference between the two.

700 I will give another example – and again, Mr Speaker, as my hon. Friend has said, this is a very complex piece of legislation which would have benefited from a select committee to go through it line by line, but for example, in the definitions in the Private Sector Pensions Bill 2019 it talks about a ‘financial institution’ meaning:

any other company which is approved by the Commissioner

– being the Commissioner for Pensions –

for the purposes of this Act;

705 And yet, under the Financial Services Bill, there is a positive prohibition in terms of accepting a member into a personal pension scheme unless the scheme has been approved by the GFSC, and the Private Sector Pensions Bill talks about bodies holding Class VII and Class XVI licences. So there seems to be a slight incoherence or – perhaps an unfair word – they do not seem to be entirely in sync with each other, especially, if I can give one further example, in definitions the Financial Services Bill talks about pension ‘schemes’, personal pension schemes and occupational pension schemes, whereas the Private Sector Pensions Bill talks about pension ‘plans’ but does not talk about schemes. Perhaps there is an opportunity to bring them into sync and also to make a cross reference perhaps in either the Financial Services Bill or the Private Sector Pensions Bill to refer to the Pensions Commissioner and/or the Financial Services Commission in terms of the approval of schemes. There certainly seem to be some benefits in at least linking the two, in that the Pensions Commissioner may approve a scheme but it may not be approved by the FSC, or vice versa. So I think there should be at least be a reference somewhere between the two saying ‘of course, subject to either/or having been prior approved’. I do not think there should be too much of a problem with that. I see the Minister shaking his head but I will leave it to him to give his answer in response.

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720 Again, Mr Speaker, I make these comments, as my hon. colleague, has in purely a spirit of constructive observation in that we obviously all have a vested interest to ensure that the best possible legislation enters our statute book.

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

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Mr Speaker: Does any other hon. Member wish to speak on the Second Reading of this Bill? Otherwise, I will call on the mover to reply. The Hon. Albert Isola.

Hon. A J Isola: Mr Speaker, I am grateful.

730 If I may start with the Hon. Roy Clinton’s comments – and I am grateful to both Members for their helpful observations and comments, which I do not take as criticism. This, as you have rightly identified, has been a long trawl and an awful lot of work and I am grateful for your comments in respect of the team that has worked on this with us.

735 In respect of the pensions point, the Private Pensions Bill and the detail in terms of the regulation of pensions are completely different. There may be some pension schemes for small employers which are not caught by any of the legislation; there might be some bigger ones which are. So, the manner in which pension arrangements are entered into is regulated by the Financial Services Commission Act but the requirement to have one is in the Private Pensions Bill and the teams from both the Financial Services Bill drafting and the Private Pensions Bill drafting

740 have engaged, have gone through absolutely everything and agreed that this is the best way forward – so I take that advice.

In respect of the sections being aligned, yes, there will be some consequential amendments made subsequently to realign the cross-referencing of the sections, and I think that will be dealt with without any difficulty at all.

745 The issue of going through this Bill line by line: it is 652 two pages of legislation – if we went through it line by line I suspect the old adage of ‘speed to market’ would be dead and buried. And so I think that although I would welcome and I am happy to have more interaction with the hon. Members opposite as and whenever they want, this is not coming in until October and we do have the ability to make amendments between now and then. If they want to engage with
750 officials, with Julie and Ernest from the Financial Services Commission, myself or any other member of the team, I will of course be very happy to make that available to them to go through it if they want to scrutinise it in more detail – not a problem at all, any observation. As I have said publicly, I do not for a second believe the legislation is perfect. I think we have done a damn good job, but if it can be improved of course we are happy to do that with you.

755 I also welcome his comments in respect of the Financial Services Ombudsman and I am hopeful that we will be able to move swiftly to put that into place shortly.

Mr Speaker, moving on to the Hon. Mr Feetham, again, as I said with respect to Mr Clinton, I am grateful for his comments. I think if I just go through the issues that he raises, he mentioned that the DMC does not go far enough and I think what I have to say to that is it covers absolutely
760 every single supervisory action that it possibly can. In other words, wherever there is a dispute in terms of some action that the regulator takes, other than in respect of skilled persons and inspectors, wherever there is a warning notice, wherever there is an enforcement notice of any nature, any sanction, any publication, it goes to the DMC. So I think we have carved out of the existing powers, which have caused my hon. Friend some difficulty in the past ... have been now
765 captured by the DMC and I am entirely confident that it will work. But if our experience is in the coming months that it needs to be changed in any particular way, of course we will look at that. This is a work in progress. This is our first step towards this sort of decision-making process and there may be changes which we make to improve it if we need to get it improved and I think that is something that will be ongoing with yourselves, with the private sector and with the
770 regulator to ensure we get it to the best place possible. This is new, it is a significant change from how we worked in the past and we will have to work closely together to make sure that we take advantage of the opportunities that it brings us.

The hon. Member said that in respect of inspectors it is a retrograde step. He also mentioned that if a decision to appoint an inspector is lawful or unlawful we lose the right of appeal. Well, I
775 do not agree. I simply do not agree, and this is why I do not agree: if the decision is lawful or unlawful, there is a judicial review process. You can get to court immediately if there is lawful or unlawful activity through ... I know what you are going to say, I can see it and I will deal with it. Although the review process is a review process – it is not an appeal of the decision, I accept that, but it is a review that the right things have been taken into consideration and that fair and
780 due process has been followed. (*Interjection by Hon. D A Feetham*) Yes, please do.

Hon. D A Feetham: I am very grateful to the Hon. Minister

No, judicial review is a much more complicated procedure than an appeal under the 2007 Act or an appeal under this Act, much more complicated. It is much more difficult to get to court. It
785 is much less agile than an appeal under this Act. In circumstances where time is always going to be of the essence, it is also far more expensive. So you are, with respect, reducing somebody’s access to justice if you do not include an appeal mechanism for inspectors. And at the end of the day you have got to ask yourself why do you wish to restrict appeals when it exists under the law now and it is available in practically any other decision post the DMC getting involved because
790 there is a ... Why not here?

Hon. A J Isola: Mr Speaker, I was dealing specifically with the point of lawful or unlawful and what I am saying is that although there is not an appeal, I accept, in terms of access to the court it is there through a judicial review process.

795 Why is there no appeal on the appointment of an inspector? The answer is very simple. We are going to be accessing one market and one market alone post Brexit and that is the United Kingdom, and in respect of the regulatory alignment of outcomes that we have agreed with the United Kingdom government one of the key issues raised by the report was the length of time that it was taking the regulator to take important regulatory action. The hon. Member refers to cases where if they have got it wrong an injustice could be caused – yes, but what happens when they have got it right and they have prevented a huge calamity from happening within our financial services sector? What happens when they need it to prevent a fraud or some particular kind of activity, or remedy a significant breach that has taken place and an appeal prevents that from happening? It is very easy to say when they get it wrong it is unfair. Well, yes, but I do not know how many cases that the Hon. Member has dealt with in terms of challenging the Department’s inspectors have been successful. I honestly do not know.

Hon. D A Feetham: [Inaudible] seven.

810 **Hon. A J Isola:** Okay. So, in terms of regulatory alignment, what is critical is that if we seek to have access into the UK market we should do so on the basis of regulatory alignment, and the appointment of an inspector is not a DMC question because it is not a sanction, it is part of the supervisory investigation process. So, a skilled person is grade 1; an inspector is grade 2, where there is something far more serious that needs to be dealt with, and it is absolutely appropriate for an inspector to be appointed. So, for those reasons, Mr Speaker – and I know these were explained by my colleagues when they met with him last week – we do not accept that it is appropriate, or giving us the regulatory alignment that we agreed on with the United Kingdom government, to have an inspector.

815 In the past there was a right of appeal, but why was there a right of appeal? I will tell the Hon. Member why there was, and that is because if the 2013 Act gave the FSC the power to appoint an inspector and it forced the person who was being reviewed, the firm, to pay those costs, under the European Convention of Human Rights, where costs and moneys are concerned you have to have a right of appeal. We have removed the right of costs.

825 **Hon. D A Feetham:** Under the existing Financial Services Insurance Act 1989.

Hon. A J Isola: Yes, well, this is the advice that we have received from the greatest Gibraltarian ever, who has advised specifically on this point, as indeed the other points that you have raised, and has given us that advice. So, the advice I have had from my officials, and indeed from him, is that if costs are involved it is contrary to the European Convention of Human Rights if you do not have an appeal process. *(Interjection)* Just let me finish. So the costs bit has now been removed, the FSC pays the costs in the first instance, and only if there is culpability will the firm have to contribute to the costs; and if the firm is made liable to costs that can be appealed. So, all the safeguards that are required to be put into the legislation in respect of how this works are there, and that is why when we have explained this to the Finance Centre Council they have come back and they have said ‘we accept it’. So, the issues that you have raised we have discussed *ad nauseam* with the Finance Centre Council, they have made representations and they have been agreed and accepted by them.

835 The Hon. Member wants me to give way.

840 **Hon. D A Feetham:** Mr Speaker, thank you very much, and it is my last intervention but I think it is important.

Mr Speaker: Go ahead.

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Hon. D A Feetham: This is extremely important, Mr Speaker. With respect to the Hon. Minister and the greatest Gibraltarian of our time, that does not follow for this reason. The 2013 Act, in which essentially section 8 introduces the power to appoint inspectors with the cost being payable by the licensee ... Section 8 is a word for word, almost verbatim – there are some distinctions but it is almost verbatim – of the power that exists in the Financial Services Insurance Act 1989, I think it is. *There* it is the FSC that pays for the costs, it is not the licensee; and *there* is a right of appeal, and *there* Parliament took the decision to allow a right of appeal despite the fact that the costs were payable by the FSC and not by the licensee. So that cannot follow, in my respectful submission.

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But anyway, I apologise for the interruption and I am grateful to the Hon. Minister.

Hon. A J Isola: Mr Speaker, our considered view is that it is appropriate and right that there is not a right of appeal to the appointment of an inspector. It is part of the information-gathering process and in fact the 2013 Act that you have just referred to is called the Information Gathering Act and we believe that that power to gain that information in those special circumstances detailed in the Act are appropriate for the FSC to have. It is not right to say that we have been advised by the FSC wrongly in removing the right of appeal. We are doing this with our eyes wide open, having engaged fully in some detailed discussions on this and we understand the consequences exactly of what we are doing. But, for the reasons that I have given, it is absolutely necessary.

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In respect of the inspector's costs, section 137(3), as I explained ... He says it does not stack up. He is a litigation lawyer, I fully understand that, but we have been advised by litigation lawyers too – and I do not want to mention the name again – and the view is that we want to ensure (*Interjections*) that if the FSC choose to appoint an external inspector, there has to be a higher bar in terms of the proportionality of the cost. And it is linked to the cost, not the seriousness. The grounds for the appointment of an inspector are aligned with the UK, which is the first two paragraphs of section 137(1) the Hon. Member referred to. The bit in section 137(3) deals exclusively with the costs being proportionate whenever they leave the GFSC staff and appoint an external inspector.

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I do not agree that the skilled person should also be appointed, for the reasons that I have given in respect of the inspector.

In respect of supervisory powers, they *are* all caught. Any supervisory power in this Bill is caught by the DMC, and if there is one that we have left out it will be caught because that is a commitment and that is the position that we sought to capture in the Bill, and that is the intention of Government and indeed I suspect of this Parliament. So, if there are any that have been left out – and we have gone through it line by line to make sure that there are not, but if there are – we will capture them because that is the intention.

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In respect of his comments on publications, if he looks at the letter of amendment he will see a section towards the end, 'Publication of statements', section 617(a)(1). Everything that he has said is covered there. This is what I mentioned in my address at the opening, that we had engaged with the Finance Centre Council, they had raised this point, we had agreed with the point and we have made the change.

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The other point was the complaints procedure, which is where I think the confusion came when the hon. Member addressed that point. So that has been dealt with and indeed is in the letter of amendment that hon. Members have before them.

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Mr Speaker, immunity: I think that having dealt with the issue of publications in the way that I have just described, it no longer becomes relevant. Why? Because publications that the FSC are entitled to make in respect of anything – not just investigations or anything else, but *any* publication – are limited and prescribed by the Bill in terms of what they can do. I also have to say that the Finance Centre Council went a bit further and said there should be no immunity at

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all. Clearly you do not agree, and I am grateful that you do not. It is not possible. Every single regulator anywhere in the world has necessary immunity, as we do in the absence of bad faith – it has not been covered, but everything else has to be covered. We would simply not be able to recruit competent people with that immunity not being in place, and certainly not on to the board of the Financial Services Commission. So I believe that part is right and deals with those issues.

Mr Speaker, I think I have covered all the points that the Hon. Member has raised. I am grateful to them for their supporting the Bill and for their helpful comments.

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

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Mr Speaker: I now put the question which is that a Bill for an Act to provide for the regulation of financial services and markets and fiduciary services; to make provision in respect of the Gibraltar Financial Services Commission; to establish a Financial Services Ombudsman; to make provision in respect of a deposit guarantee scheme, an investor compensation scheme and recovery and resolution arrangements and their financing; to provide for the regulation of the listing of securities, prospectuses and takeovers; to make provision in respect of market abuse; to provide for the control of insurance business transfers; to make provision in respect of occupational and personal pension schemes; to provide for the regulation of auditors and insolvency practitioners, and for connected purposes, be read a second time.

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

Clerk: The Financial Services Act 2019.

**Financial Services Bill 2019 –
Committee Stage and Third Reading to be taken at this sitting**

Minister for Commerce (Hon. A J Isola): Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all Hon. Members agree.

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

**Stamp Duties (Amendment) Bill 2019 –
First Reading approved**

Clerk: A Bill for an Act to amend the Stamp Duties Act 2005.
The Hon. the Minister for Housing and Equality.

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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 amend the Stamp Duties Act 2005 be read a first time.

Mr Speaker: I now put the question, which is that a Bill for an Act to amend the Stamp Duties Act 2005 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

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Clerk: The Stamp Duties (Amendment) Act 2019.

**Stamp Duties (Amendment) Bill 2019 –
Second Reading approved**

Minister for Housing and Equality (Hon. Miss S J Sacramento): Mr Speaker, I beg to move that a Bill for an Act to amend the Stamp Duties Act 2005 be read a second time.

935 The purpose of this Bill is to enshrine in law Budget measures from 2014 and 2015, which to date have been implemented administratively, and Budget measures from 2018. In summary, the measures are as follows. In 2014 the Chief Minister announced that, in order to support the purchase of family homes, no Stamp Duty would be payable by first- and second-time buyers on the first £250,000 irrespective of the total cost of their new home.

940 In 2015 the Chief Minister declared that, to further assist working families with the purchase of their homes and those who may need to move to alternative accommodation as their family composition changed, he would increase the threshold set down in the 2014 Budget measure from £250,000 to £260,000.

945 In relation to the Special Stamp Duties, in 2018 the Chief Minister declared that the sale of any property sold as an affordable home for and on behalf of the Government in the preceding four years – that is to say properties at Beach View Terraces and Mons Calpe Mews – would attract a new Special Stamp Duty of 7.5% of the total sale price. Clause 3(3) gives effect to this measure. The Special Stamp Duty will be payable by the seller over and above any relevant Stamp Duty on the sale that may be paid by the buyer. The Special Stamp Duty will not apply to the sale of any part of the Government's equity in the property. Moreover, an exception to the duty applies where the Land Management Committee directs that this duty is not payable due to a forced sale, including the cases of marriage or relationship breakdown, or where a family moves to a larger property as a meritorious upgrade to another, newer affordable housing estate.

955 Mr Speaker, these conditions were introduced in order to put an end to speculation for investment and excess profits on the sale of the new affordable housing estates described in the legislation.

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

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

I now put the question, which is that a Bill for an Act to amend the Stamp Duties Act 2005 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

965 **Clerk:** The Stamp Duties Amendment Act 2019.

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

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

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

**Climate Change Bill 2019 –
First Reading approved**

975 **Clerk:** A Bill for an Act to set a target for the year 2050, and interim target for the year 2030, and to provide for progress targets for the reduction of greenhouse gas emissions; to establish a Committee on Climate Change; to confer power on Ministers to impose climate change duties on public bodies; to make further provision about mitigation of and adaptation to climate change; to make provision about energy efficiency; to make provision about the reduction and recycling of waste; to make other provision about climate change; and for connected purposes.

The Hon. the Minister for the Environment, Energy, Climate Change and Education.

980 **Minister for the Environment, Energy, Climate Change and Education (Hon. Dr J E Cortes):** Mr Speaker, you will be in receipt of a letter of 4th July which introduces some amendments. I have the honour, therefore, to move that a Bill for an Act to set a target for the year 2050, as amended to 2045, and interim target for the year 2030, and to provide for progress targets for the reduction of greenhouse gas emissions; to establish a Committee on Climate Change; to confer power on Ministers to impose climate change duties on public bodies; to make further provision about mitigation of and adaptation to climate change; to make provision about energy efficiency; to make provision about the reduction and recycling of waste; to make other provision about climate change; and for connected purposes, be read a first time.

990 **Mr Speaker:** I must point out to the Hon. the Minister that the Bill gives the date of 2050 as published and therefore that is the correct title of the Bill as at the moment. You will be amending it in due course. The Act will say 2045, but not the Bill.

I now put the question which is that a Bill for an Act to set a target for the year 2050, and interim target for the year 2030, and to provide for progress targets for the reduction of greenhouse gas emissions; to establish a Committee on Climate Change; to confer power on Ministers to impose climate change duties on public bodies; to make further provision about mitigation of and adaptation to climate change; to make provision about energy efficiency; to make provision about the reduction and recycling of waste; to make other provision about climate change; and for connected purposes, be read a second time.

1000 Those in favour? (**Members:** Aye.) Those against? Carried.

Clerk: The Climate Change Act 2019.

**Climate Change Bill 2019 –
Second Reading approved**

1005 **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.

It is widely accepted that urgent action is required to address the causes and consequences of climate change. Numerous studies and reports set out the economic case for action on climate change and conclude that the costs of inaction will be far higher than tackling climate change now.

1010 The concern of our population, and in particular of our youth, about the consequences of climate change has been made evident – very evident indeed – in recent months. Globally there is increasing and acute awareness of the devastating natural, geographical, social and political effects that climate change will inevitably have on current and future generations unless immediate action is taken to address it.

1015 On 3rd May this year this House unanimously passed a motion declaring a climate emergency. The climate emergency motion sets out ambitious targets, even more ambitious than those set out in this Climate Change Bill that provides a legal framework and a binding obligation to this and future Governments to deal urgently with climate change and to put into action the pledges made by us all.

1020 Mr Speaker, the Bill sets up a framework for Gibraltar to achieve its long-term goals for reducing greenhouse gas emissions and to ensure steps are taken towards adapting to the impact of climate change. The Bill establishes an economically credible emissions reduction pathway to 2045, as amended, and beyond by putting into statute short-, medium- and long-term targets. It introduces a system of periodic progress targets, which constrains the amount of emissions in a given time period. These periods will last four years, beginning with the period 1025 2020 to 2024, and save for the first period, which will be set imminently, must be set four years ahead.

The Bill provides for a system of reporting by the Minister on Gibraltar's progress towards a greenhouse gas emissions reduction target. It creates a new independent body – the Climate Change Committee – to advise the Government on how to reduce emissions over time and across the economy and on any other matter relating to climate change, including adaptation to climate change. This expert body will advise on setting targets, measures required to achieve them and progress made, as well as reporting on progress.

1030 The Bill includes powers to enable the introduction of new trading schemes to reduce emissions through secondary legislation. This increases the policy options which the Government could use to meet the medium- and long-term targets in the Bill. The Bill will be used to support emissions reductions through several specific policy measures – amendments to improve renewable transport fuel options, or a power to establish incentive schemes to encourage household waste minimisation and recycling are but two examples.

1040 Part 1 deals with the overriding objective of the Bill which is to 'protect the climate for the present and future generations, and to assist in the taking of preventative and remedial measures against climate change'. Specific duties are imposed on Government to ensure that any policy, programme or project is designed in a way that at least evaluates and takes into consideration mitigation of and adaptation to climate change. In fulfilling its obligations under the Bill, the Government is to follow a list of statutory principles which include taking into 1045 account climate considerations, the geophysical, social and economic circumstances of Gibraltar and its international commitments. This part of the Bill also establishes the Climate Change Committee.

Part 2 of the Bill establishes an overarching plan known as the National Low Carbon Transition and Mitigation Plan, abbreviated to the National Mitigation Plan. The first of these 1050 plans is drafted by the Minister within 18 months of commencement of the Act and a new plan is drafted at least every four years. The plan sets out the measures to be taken in order to achieve the targets set by the Bill.

Part 3 of the Bill creates a statutory framework for greenhouse gas emissions reduction in Gibraltar by setting a 42% reduction target for 2030, known as the interim target; and, as 1055 amended, a 100% reduction target by 2045. Consequential amendments to timelines and dates will also be made. To help ensure the delivery of these targets, the Bill requires that the Minister set progress targets every four years from 2020 to 2045.

Subsection (1) defines the obligation on the Minister as reducing the net emissions account by at least 100% by 2045 relative to the defined baseline year. The net emissions account as 1060 defined in section 7 and the baseline year set in section 25 which, for most greenhouse gases, is 1990. For any one year the net emissions account will consist of the total of Gibraltar's emissions reduced by the amount of Gibraltar removals and adjusted to reflect carbon units credited and debited to the accounts.

Section 9 sets out the 42% interim target for 2030. Subsection (1) defines the obligation on 1065 the Minister as reducing the net emissions by at least 42% by 2030.

Subsection (3) enables a modification of this figure and to replace it with a figure provided by the committee as the highest achievable interim target.

Subsection (4) places a duty on the Minister to request advice from the Climate Change Committee as soon as is reasonably practicable after commencement of the Bill.

1070 Subsection (1) of section 10 requires the Minister to set targets for the maximum amount of the net emissions account for each four-year period between 2020 and 2045.

Subsection (2) sets out criteria that the progress targets must meet.

Section 11 contains a number of conditions which must be met when the progress targets are set.

1075 Section 13 provides a power to set, by order, restrictions on the amount of carbon units credited to the net emissions account.

Part 4 of the Bill sets out the functions of the Climate Change Committee, which are largely of an advisory nature but also include reporting duties to ensure accountability.

1080 Section 14 obliges the Committee to respond to a request by the Minister for advice on proposed progress targets and proposed modifications related to these targets.

Section 17 requires the Committee to prepare a report of every four-year period setting out its views on the progress made towards the targets, the interim target and the 2014 target. It must also provide views on whether these targets are likely to be achieved and views on any further action considered necessary. Specific deadlines for laying the report before Parliament are provided.

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Section 19 obliges the Government to respond to a report provided by the Committee.

Section 20 obliges the Committee to respond to requests for advice, analysis, information and assistance by the Government in connection with functions under the Bill.

1090 Section 24 defines the term 'greenhouse gas'. The Minister is given a power to amend the definition of greenhouse gas, adding or modifying the description of a gas, but only if an international agreement has been reached which recognises that the gas contributes to climate change.

1095 Section 26 is the power to enact regulations to make provision about which greenhouse gas emissions derive from international activities. This Part also provides for the measurement of emissions to be calculated in tonnes of carbon dioxide equivalent. The term 'international carbon reporting practice' is defined in section 28 as 'accepted practice under the United Nations Framework Convention on Climate Change, the Global Covenant of Mayors for Climate and Energy, or other international agreements which may be specified in regulation.

1100 Section 29 allows the Minister to determine what carbon units should be added to and subtracted from the net emissions account and how carbon accounting will work. Regulations may set out schemes for registering or trading carbon units, offsets and other units which can be used for carbon accounting purposes.

1105 The Bill requires that the Minister report regularly to Parliament on Gibraltar's emissions and on the progress being made towards the emissions reduction targets. Part 6 provides for separate reports to be laid in respect of the progress target, the interim target and the 2045 target. The Bill specifies the information that the reports must contain. This includes whether the targets have been met, and if they have not the report must explain why. The accountability and transparency which is crucial to the enforcement of the duties under the Bill are provided through these reporting obligations.

1110 Part 7 places specific climate change duties on public bodies. Guidance may be given to relevant public bodies in relation to climate change duties and those bodies must have regard to such guidance. A Minister may, by regulation, require relevant public bodies to report on how they are complying with climate change duties. Section 40 enables a monitoring body set under section 39 to carry out investigations into how relevant public bodies are complying with their duties.

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Mr Speaker, section 45 requires the Minister, within 12 months of the section coming into force, to publish a plan for promoting energy efficiency and improving the energy efficiency of living accommodation in Gibraltar. 'Energy efficiency' is defined in subsection (10).

1120 Section 48 provides for the Minister to establish, with the Minister with responsibility for finance, a Climate Action Fund which may raise funds from a variety of sources

Section 49 enables the Minister to make detailed provision by regulation requiring persons specified to make waste prevention and management plans and to comply with them. Provision may also be made by regulation requiring the provision of information by persons specified in those regulations about waste associated with their activities.

1125 Section 51 enables the Minister to make regulations requiring persons specified therein to provide facilities for the deposit of waste and requiring that waste deposited in such facilities be collected by an authorised person and, as far as practicable, recycled.

Section 52 provides a similar regulation-making power, save that these regulations would empower public authorities to require organisers of temporary public events to provide facilities for the deposition and, as far as practical, recycling of waste.

Section 53 provides for persons specified in those regulations to ensure that specified things procured or constructed by them include or contain a certain amount or proportion of recycle. Regulations may also be enacted to set up deposit and return schemes for packaging associated with specified products.

1135 Section 59 provides for regulations requiring persons supplying carrier bags to take goods away to charge for those bags and requiring that the net proceeds of such charges be applied to environmental causes.

The maximum penalties for offences created by regulations under any sections in this part of the Bill are set out in section 62, being the statutory maximum fine for summary cases and an unlimited fine for matters prosecuted on indictment.

Section 63 provides a power for the Minister, together with the Minister with responsibility for Transport, to provide for the reduction of emissions from transport. These regulations may make provisions for a number of areas in which emissions reductions from transport can be made.

1145 In summary, Mr Speaker, this Bill provides, for the first time in Gibraltar, firm, legally binding targets, a road map and the ability to regulate a range of activities to the benefit of the community and of the planet.

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

1150 **Two Members:** Hear, hear.

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. Trevor Hammond.

1155 **Hon. T N Hammond:** Mr Speaker, I thank the Minister for presenting the Bill and I can tell him that the Opposition will be supporting the Bill.

I do have one or two questions on the Bill, questions for clarification primarily on the issue of the Committee. I think the Bill sets out targets which are very important and sets out challenges for future Governments which are very important to have in order to meet those very difficult targets that we have to reach between now and, as amended, 2045. We all recognise the importance of those targets, however, in terms of both the local environment and the global environment and the potential consequences of globally not meeting those targets.

1165 But I would like to ask the Minister some questions about the establishment of the committee. I do know that in the UK there is already a model for such a committee and indeed a climate change committee does exist, but the legislation as proposed here is different from the legislation as enacted in the UK and I wondered if the Minister actually looked at that legislation,

and if so, why he perhaps decided not to follow that UK model. I say this because in the UK it would appear that the climate change committee is a body corporates along the lines of perhaps the Heritage Trust here in Gibraltar, and in being a body corporate of course it automatically achieves a degree of independence from Government, which is something that strikes me as something that would be positive in the case of a climate change committee because hopefully its terms of reference will allow it to drive the agenda very much on the climate, rather than have potentially the agenda driven by any particular Minister who happens to be in office at a particular time. I say this because of course the legislation as set out in the Bill does give the Minister a great deal of authority to regulate the Climate Change Committee. It allows the Minister to establish the status, constitution, membership, remuneration, proceedings of the committee, the execution of documents by the committee, the creation of subcommittees; pretty much every activity that the committee might undertake can be regulated, or presumably would be regulated, by the Minister and that does not feel quite right to me. I think it would be appropriate for such a committee to have greater autonomy from Government to be able, to some extent, to pressurise Government. Perhaps not every Minister of the Environment in the future will be as keen to meet targets as the current Minister no doubt is. But the point is having an autonomous committee with its own constitution would separate those powers somewhat and I think give that committee more teeth with respect to its activities.

I just wondered if the Minister has given that consideration and what his thoughts are around that. Other than that, no significant points to raise with respect to the rest of the Bill, and regardless of the Minister's response we will most certainly be supporting this Bill.

Mr Speaker: The Hon. Marlene Hassan Nahon.

Hon. Ms M D Hassan Nahon: Mr Speaker, I would like to congratulate the Government for tabling this Bill for climate change.

Climate change represents an existential threat that, if left unchecked, will alter our existence as we know it. As the House will know, the protection of our environment is a core pillar of my politics and that of my party, Together Gibraltar. Scientists have overwhelmingly recorded their alarm at the ever-accelerating impact our consumerist lifestyles are having on the planet. As we know, the rapidly rising temperatures brought about as a direct result of disproportionate levels of greenhouse gases produced will lead to rising sea levels, species extinction, mass migration, water shortages, wars – and the list goes on. Bluntly put, our planet will become uninhabitable.

It is incumbent on every nation on this planet to take action and reverse this process. This will require an overhaul in the way we presently view things and go about our business as humans. We will need to make fundamental lifestyle and socio-economic changes to live in harmony with our environment.

In terms of general targets, it is a shame, then, that since the Government announced a state of climate emergency back in March 2019 when they committed to carbon neutrality by 2030, this date has been pushed back 20 years more to 2050. Perhaps it is the Government's view that climate action is not that urgent. The United Nations and their panel on climate change, the most knowledgeable and credible organisation on the issue, tells us that we have just over a decade to mitigate the effects of climate change. In the words of General Assembly President Maria Fernanda Espinosa Garcés, 'We are the last generation that can prevent irreparable damages to the planet.' It is the position of the panel that 11 years are all that remain to avert catastrophe.

This is not scaremongering or conspiracy theories. These are scientifically based, measured, institutional positions on what is going on. We must open our eyes. This is the world we live in, whether we like it or not. We have to be brave enough to make this issue a real priority and not caveat it to other agendas such as profit, comfort or votes. We have no more time left for short-termist thinking. Even though it might feel that way sometimes, we are not an entity detached

1220 from this planet. We will suffer the same consequences as everyone else and we share the exact same responsibility.

We must understand, once and for all, all that is the most important challenge facing our community. This Bill is a welcome step in the right direction, but like is often the case when dealing with this kind of legislation, it is too little too late and I believe we can do more. We should take the example of Norway, for example, which in its parliament in 2009 agreed to bring the target forward 20 years to 2030 in response to the Paris Agreement on Climate Action which was reached in December by nearly 200 countries. Norway has now agreed on a 2030 target to cut net greenhouse gas emissions to zero – 20 years earlier than the previous deadline – by paying for emission cuts abroad that correspond to its own emissions to reach the target. This is not ideal, as some of these emissions will continue to happen in the future in exchange for carbon credits, but it shows commitment and ambition. This Bill simply does not show enough of that. I therefore believe that this Bill should set a target to make Gibraltar carbon neutral by 2030, not to have achieved an 80% reduction by 2050.

1230 In terms of progress targets, many believe that every four years is leaving it too long. This should be reviewed yearly, as the threats move fast and we need to respond accordingly. Also, four years is terribly inefficient, as progress will need to be reviewed continuously. Again, how will emissions be counted and calculated? By the amount of fuel bought? These are at best based on estimations from different sectors. We need real data.

1235 In connection with the Climate Action Fund, wouldn't it be better to commit a minimum percentage of our budget to tackling this – have a climate emergency budget, so that whoever is in power needs to adhere to it? The Climate Action Fund sounds a bit hollow and meaningless, Mr Speaker.

The European Commission has recently put forward its future budgetary plans, which include spending a quarter of its entire finances on tackling climate change. Obviously, the Commission is not a state with its burdens and obligations and therefore the percentage sounds disproportionate, but I believe the commitment of a substantial, fixed percentage of our budget in law would create an economic incentive that would help us ensure the application of these policies.

1245 Mr Speaker, in addition, with regard to the charges for the supply of carrier bags, seeing as this is supposed to be a Bill that goes well into the future, should this Bill not commit to banning all single-use plastic carrier bags? This is what is really needed: action *now*.

Nevertheless, this Bill shows some positive steps that Gibraltar will be taking in implementing measures that will have an impact at a local and international level. Indeed, an extremely ambitious objective has been set to make Gibraltar a leading jurisdiction in the mitigation of climate change. Crucially, it brings the environment into the decision-making processes across Government bodies.

1255 Anyone who has watched any of Greta Thunberg's speeches will have heard her say that the time for talk is over and that we need drastic action now. I feel, as many do in Gibraltar, that this Bill does not go far enough to deliver this action.

1260 In terms of the independent auditor commission, there is little accountability applied to the Ministers in the application of the standards set. The main bodies mentioned are the committee, which is purely advisory and is selected by the Minister, and the monitors which are directly appointed by the Minister to check on public bodies. Would it not be wiser to appoint an independent commission or body to provide governance?

1265 In terms of get-out clauses, there are numerous considerations allowed for that provide convenient get-out clauses. The National Mitigation Plan, point 4, prioritises economic imperative and least cost to the national economy – not so great, Mr Speaker.

1270 In terms of moving targets, targets for net emissions fall way below – 9(3)(a) allows a committee the ability to modify the target figures at will; and 11(b) allows the Minister to miss the deadline for submitting progress targets and then to set them as soon as is reasonably practical. A timeframe here would be advisable to ensure it gets the attention it deserves.

Mr Speaker, there is a lot of vagueness. The section on transport, 63(1), uses extremely vague terminology to cover this sector's commitment saying, and I quote:

The Minister may ... make provision for the reduction of Gibraltar emissions from transport.

Or may not. Decidedly non-committal.

1275 Still on the transport section and the charging points for electric vehicles, where will they be located exactly? Roadsides? New residential flats? Fuel stations? How will this infrastructure be built and paid for? And when is this target for? What percentage of vehicles would have access to electronic charging points? And, in terms of the requirement for the Government to replace 25% of its vehicles with electric vehicles, shouldn't there be a commitment to all Government vehicles being electric by 2030 at the most? I also believe that we should implement restrictions on vehicles accessing areas of Gibraltar depending on emission levels of vehicles. However, for that to materialise properly we need live data, which we do not have at the moment.

Further, the following questions arrive from the relevant sections.

1280 3(4)(a) 'periodically'. How often is 'periodically'? How often will monitoring be done? Where will this be published? And how soon can we expect such a measure?

1285 3(4)(b) 'limiting emissions': we currently do not count the carbon footprint per capita of the fuel we sell in bunkering, so how will this be calculated and what is the baseline to measure reductions?

3(4)(d) 'waste management': when can we expect the sewage treatment plant to be started, let alone completed?

1290 3(4)(e) 'sinks and reservoirs': with all the construction, will there be some sort of greenbelt aside from the new woodland area?

(3)(4)(j) 'promote Gibraltar': how exactly? We still burn LNG, and despite promises that renewables will increase, it is still at a paltry 2% output.

1295 (3)(5) and 3(6): I fully agree that 'Government shall ensure that policies, programmes and projects are, to the extent possible, designed in a manner that ensures resilience to the impacts of climate change'. However, given the amount of overdevelopment and how projects have been announced – for example, Victoria Keys being a case in point – before assessing the environmental impact, it sounds a bit hollow.

1300 (3)(8): 'to the extent possible' leaves a huge margin for inaction, potentially socio-economic factors above climate change, which defeats that purpose.

Mr Speaker, in Part 2, how exactly is mitigation going to take place and where is the data going to come from?

1305 On Visibility, section 3(8)(q) ensures that 'adequate information' is made available to the public. Why stop at adequate? Why not inform the public fully? It also allows for public participation in respect of certain plans and programmes relating to the climate system. Will this be applicable for the Victoria Keys project and indeed for the new 2019 Planning Development Plan? Will this development plan reflect the sinks and reservoirs mentioned in the Bill?

1310 In terms of net emissions, the target for net emissions over the period between 2020 and 2024 merely has to be less than the net emissions recorded in the previous four-year period between 2016 and 2020. Given that the LNG power station will be coming online towards the end of 2019 and that there is a 30% reduction in emissions as a result, this target is hardly taxing. It is shockingly unambitious, in fact. It effectively means that we do not need to do anything for four and a half years in this respect.

1315 Mr Speaker, in terms of the Climate Action Fund, the Climate Action Fund appears to be discretionary, showing no link to investment levels or obligatory budgetary inclusion. By contrast, the EU has expressed a wish to dedicate a quarter of its spend towards climate action.

In connection with poor track record, in 2015 Gibraltar, under this Government, applied for an EU grant, coming up with a national renewable energy action plan. This plan committed us to hitting targets for the introduction of renewable energy. The target showed a sliding scale of,

1320 over five years, increasing our renewable energy as a percentage of our total energy production
to 15% by 2020. It included a variety of clean energy sources. To date, this Government has only
1325 been able to very recently introduce one source of renewable energy – solar panels – which
contribute between 1% and 2% of our total energy production, according to the Hon. Minister
for the Environment, way short of its target. Similarly, their manifestos have seen Government
promise the electorate a sewerage plant but not a brick has been laid yet. Even with written
commitments, this Government has failed to come remotely close to meeting their targets.

The simple fact of the matter is that they are merely paying lip service to the growing
pressure from the general public and the recent students' and ESG strikes for climate action.
While well intentioned on the face of it, this Bill is riddled with get-out clauses, adjustable
1330 targets and is self-governed by the Ministers and a committee selected by the same bunch.
There is no governance, no external audit allowed for. Nor does the Bill pave the way for a green
economy, or at least a more environmentally friendly one, when each step of the way is met
with obstacles such as economic get-out clauses and ministerial interference.

Mr Speaker, on the important matter of cross-border collaboration, I believe also – and
1335 something I have not seen anywhere in the Bill – that we should have collaboration with those
entities from across the border who have the genuine best interests of our shared environment
at heart – as long as, of course, they do not have a covert anti-Gibraltarian agenda. The
environment in this Bay is a cross-border issue, whether we like it or not. We need international
collaboration on climate change. This is a problem that we cannot face alone. What good will it
1340 do if we manage to ban all of our emissions while we continue to be sprayed with contaminants
from across the Bay? We need to find a way to work with bona fide agents across the border to
improve the air quality in our region. Cross-border interest groups, for example, particularly
focused on forwarding a green agenda would be a great start and a step in the right direction.

In terms of fossil fuels, in order to move Gibraltar away from our reliance on fossil fuels the
1345 Government needs to show a commitment to: (1) real investment; (2) real changes to our
infrastructure; and (3) real incentives for businesses and individuals. Without this focus, timely
targets, an independent panel, the removal of ambiguity and get-out clauses showing real
commitment, this Bill will fail to deliver the action required.

Despite all my reservations about the Bill I shall be voting in favour of it given that, albeit
1350 dissatisfying, in general a Climate Change Bill is always better than not having one.

Thank you.

Mr Speaker: The Hon. Roy Clinton.

1355 **Hon. R M Clinton:** Mr Speaker, thank you very much.

I rise to address a very narrow point in respect of the Bill and that is in respect of the Climate
Action Fund. Mr Speaker, this fund, according to clause 48(4) will 'have a legal personality
independent and distinct from that of Government and shall be capable of entering into
contracts and of acquiring and transferring property and doing all such things that are necessary
1360 for, or ancillary to its functions'. I would ask the Minister to clarify, and given the comments of
my hon. colleague in respect of the Climate Change Committee that does not have a separate
legal personality, why is it that for the Climate Action Fund he feels that this should have a
separate legal personality but not the Climate Change Committee?

Also, I would ask him if he could explain why, in terms of its creation and the way it holds
1365 money, the Government has not just simply set up a special fund under the normal procedure
for the creation under the Public Finance (Control and Audit) Act, where he could simply set up a
climate change designated special fund? Why has he gone to this degree?

Also, I am concerned that the money in this fund will be only controlled by a board with three
people, two of which are effectively appointed by the Government and, interestingly enough,
1370 under 48(3) the only other member is appointed 'from amongst persons knowledgeable in
climate change matters'. I find it curious that that language does not even appear on his Climate

Change Committee. I just find it hard to reconcile the language in this section with the language in the section on the Climate Change Committee, in which there is not even a reference to people being knowledgeable in climate change matters.

1375 I do not understand, Mr Speaker, and perhaps he can explain, under 48(6), where it says:

The Climate Action Fund ... shall be applied to:

(a) support the fulfilment of the obligations set out in this Act and regulations made hereunder;

Is this actually saying that any moneys channelled into this fund would then be used, for example, to pay the expenses of the Climate Change Committee?

1380 I also note – and I think the hon. Lady has made references to this – that there is a very wide discretion in here as to what the Minister may do by regulations. He can ‘prescribe such functions, activities and initiatives that may be or are to be financed by the fund’. I just find that this again gives the Government wide discretion.

1385 And of course, in terms of 48(8), the delivery of audited balance sheets, I would ask him: by whom? Is this to be a fund that will be covered by the Principal Auditor, or is it his intention that this is to be audited by an independent audit firm? And if so, what type of legal personality does he envisage? Is this to be a body corporate, a bit like, as my hon. colleague has said, the Heritage Trust? Or is this to be an incorporated entity? I think we should know at this stage what type of entity we are talking about if it is to be holding funds either appropriated by Parliament or gifted to it by the public. What is it that the Minister intends? And is the Minister entirely comfortable that the administration of this fund by only three people is appropriate?

1390 Thank you, Mr Speaker.

Mr Speaker: Does any other hon. Member wish to contribute? The Hon. Joe Bossano.

1395 **Minister for Economic Development, Telecommunications and the GSB (Hon. Sir J J Bossano):** Yes, Mr Speaker, I really want to speak on the wider issues that we are facing rather than on the technicalities of the Bill, which is a Government Bill, which clearly on this side of the House we all subscribe to.

1400 I think the state of the business of climate danger is progressing much faster than the state of the attempts to do something about it. (**A Member:** Hear, hear.) The latest comment on where we are is that of Prince Charles to the Commonwealth, saying we have got 18 months left to save the planet. That was said yesterday. In my recent contribution to the Budget, where I referred to this, I said there is a debate, which is a global debate, which is not taking place but which will be forced on us by the passage of time and the worsening of the situation. The warnings of the scientists are not having the effect that they should have.

1405 The conference that I was fortunate to attend in London recently, organised by the St Michael and St George Order, was addressed by the head of the British Antarctic Survey looking at what is happening in Antarctica, who said two incredibly alarming things – and this was a scientist who was not trying to alarm anybody, was not even talking as if the planet that she was referring to was the one we are living on, but was looking at it with the detachment that scientists tend to develop when they look at things. One thing that she said was that the battle had already been lost in respect of the North Pole because there are now too many political issues and vested commercial interests, that allowing a shorter passage for ships by having a pole that does not freeze the waters around it is going to become predominant and that everybody is already trying to position themselves in order to exploit the mineral wealth of the land that will be revealed when the ice is not there. So it seems that the view of the scientists is that, whatever we do, that is no longer something that can be stopped or recovered.

1415 Then she said that in the case of the South Pole, if the ice there melted then we would be talking about an increase in sea level of 30m. We were sitting on the second floor of the Foreign Office and she told us we would all be swimming there, if that happened! The other information

1420 that she provided which is evidence of what is happening with the climate is that the latest
 science on the South Pole is that they have been able to drill and bring out a column of ice that
 goes down as far as the ice goes, however many kilometres that is, and that they have been able
 to find a way of preserving that ice so that they can then slice it, like you do when you do scans.
 The oldest bit of the ice at the bottom of this column is 800 million years and they have been
 1425 able to examine – by controlling the melting of that ice, which contained frozen air bubbles – the
 CO₂ content in parts per million. In the 800 million years there has never been a time when it has
 been at 400-odd parts per million, which is what it is now; it has never been higher than
 330 parts per million. So we are talking about a situation where there is now evidence that if
 there is a connection between CO₂ and climate change and the temperature of the planet, then
 1430 it is not just has it always happened, or has it happened without us being there, and has it
 happened in the past. We were not there 800 million years ago.

So I think the mounting evidence presents a worsening picture, and a worsening picture is
 related to a shortening timescale. 2020 may be too late, 2030 may be too late, 2050 may be too
 late, or it may be too late already, but certainly I believe that the most important thing we need
 1435 to do, apart from the physical action that we take to reduce CO₂ emissions in Gibraltar – which
 will make no difference at all to the scenario that I am painting, but we have to do it because
 otherwise, if everybody takes the position ‘what I do doesn’t make a difference’, then nobody
 will do it – is to convey the sense of urgency that this entails at every opportunity and
 everywhere we go, ‘we’ individually as Members of Parliament and ‘we’ collectively as
 1440 Government and Opposition, if it is real and it is serious.

I recently attended the Parliamentary Assembly of the Mediterranean (PAM) and I took the
 opportunity of explaining to them the motion we have passed on the climate emergency. I urged
 the organisation, PAM, to recommend all the parliaments in the Mediterranean to follow the
 example of what we have done and the UK has done, in the hope that we keep on raising the
 1445 level of consciousness and the level of concern that needs to exist before radical action needs to
 be taken – and the radical action goes to the very root of what I know about, which is
 economics.

The science, if it is a science, of economics is built on a premise that exploiting the resources
 of the planet in ever-increasing quantities to have ever-increasing levels of consumption is what
 1450 we should be doing. It never assumed, in the short history of economics as a so-called science,
 that that would have any effect other than enrich us, and the real debate in economics has not
 been about whether exploitation is good or bad but who should take the lion’s share of what we
 exploit. Well, what the planet is telling us is that while we are all squabbling about who takes the
 lion’s share, there may be nothing to take before very long, and that I think reflects part of what
 1455 the hon. Lady was saying but is not something that we can address and put right by taking
 measures ourselves here.

I think we need to see what we can do to ensure that the seriousness of the situation is
 understood by our people and that we collectively try to make other people understand it. There
 are people who believe what I am saying all over the world, but they are all minority voices and
 1460 we need to help make those voices louder. *(Banging on desks)*

Mr Speaker: Does any other Member wish to speak on the debate before I call on the mover
 to reply?

The Hon. Dr John Cortes.

1465

Hon. Dr J E Cortes: Thank you, Mr Speaker.

I would like to thank all the contributors to this debate for what is ultimately, despite some
 reservations, clear support for the Climate Change Act. In particular, I would like to thank my
 friend and colleague, and in many ways mentor, the Hon. Sir Joe Bossano, for taking the
 1470 message beyond our shores as he always does so ably, taking the environmental message on this
 occasion.

1475 If I may just make my first reference to the Hon. Mr Clinton, I have to reassure him that there is no cause for concern and that certainly if and when the Climate Fund, which I very much want to happen, comes into place it will be provided for perfectly well, and the incorporation of a climate expert is not going to be just in that fund. But I will be talking about the committee in a minute. One thing that the hon. Member did not do is actually welcome that there is an intention to create such a fund, which I think is very important.

1480 In relation to the Hon. Trevor Hammond's question on the form of the committee, I think we must realise that the committee has to be created and that there is provision for regulations to determine the status, constitution and membership of the committee. This will happen. So it does not rule out the possibility of a body corporate, although I do not think that is the kind of committee that certainly I envisage. I think that what I am looking at is an advisory committee but made up of experts. Some of these experts, because of the nature and the specialist nature of this, may not necessarily be in or from Gibraltar. We may call on international experts to form part of that committee. So that is the angle that I am looking at and I think that when the composition is announced the hon. Member will most certainly welcome it.

1485 The hon. Lady raised a lot of very valid points. Clearly, since she prepared her speech we have amended the target from 80% in 2050 to 100% in 2045. That is a statutory target of the Bill, but the climate motion still stands and the intention approved by Parliament and certainly my intention as Minister is to aim for the more ambitious targets of carbon neutral by 2030 and reduced emissions by 2035.

1490 I think what I must say is that I have recently commissioned a study which will look at the different targets that we have set in the motion and in the Bill which we hope to pass today, and it will actually translate those targets into what definite action has to be taken. I expect to receive that report by the end of August and I will share it with the Members opposite and I think that will explain away a lot of the concerns that have been raised, because this certainly is urgent.

1495 The Bill also provides that in modifying targets they may only be modified if the targets are higher – that is more ambitious – and they cannot be modified in the opposite direction. It may be that based on the result of that report we would look at doing that, because that would provide advice to the committee which then would make those representations.

1500 A lot of what the hon. Lady said is down to detail – carrier bags and electric vehicles. If we had waited to do all those different things that will come into play, we would not have had this Bill before us today. These are details and this is why there are wide regulation-making powers. It is not because I would necessarily want to control all this; it is because we need to get this on the statute book and now we need to deal with these regulations.

1505 I am sure that even though the hon. Lady said that I am only paying lip service to the environment, she actually does not mean that. I can assure this House that these regulations will tackle head on the urgent nature of the problem, the climate emergency. They will, certainly while I am Minister for Environment, and therefore I would urge all in this House to ensure that following the next elections I continue to be Minister for the Environment, (**A Member:** Hear, hear.) (*Banging on desk*) obviously with the blessing of the Chief Minister, whose decision ultimately it would be. Mr Speaker, I do not think anybody here can doubt my commitment to this and I do assure even those who think that this is not ambitious enough that the ambition is there and that as long as I am able to perform the duties as Minister for the Environment I will make very sure that they are fulfilled and that Gibraltar plays its role, small as it may be, in tackling this climate emergency.

I once again commend the Bill to the House. (*Banging on desks*)

1520 **Mr Speaker:** I now put the question, which is that a Bill for an Act to set a target for the year 2050, and interim target for the year 2030, and to provide for progress targets for the reduction of greenhouse gas emissions; to establish a Committee on Climate Change; to confer power on Ministers to impose climate change duties on public bodies; to make further provision about

1525 mitigation of and adaptation to climate change; to make provision about energy efficiency; to make provision about the reduction and recycling of waste; to make other provision about climate change; and for connected purposes, be read a second time.

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

Clerk: The Climate Change Act 2019.

**Climate Change Bill 2019 –
Committee Stage and Third Reading to be taken at same sitting**

1530 **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.

1535 **Mr Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today? (**Members:** Aye.)

Chief Minister (Hon. F R Picardo): Mr Speaker, the Parliament has been through a lot of business this morning and we still have a number of issues to deal with this afternoon. Given the time, I would propose that we recess until 3.15 this afternoon.

Mr Speaker: The House will now recess until 3.15 this afternoon.

The House recessed at 1.37 p.m.