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Climate Change Act 2019

Principal Act

Act. No. 2019-29

Commencement (LN. 2019/201)
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AN ACT TO SET A TARGET FOR THE YEAR 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.

PART 1

PRELIMINARY

Introductory

Short title and commencement.

1.(1) This Act may be cited as the Climate Change Act 2019.

(2) This Act shall come into force on a day to be appointed by the Minister by notice in the Gazette and different days may be so appointed for different provisions of this Act.

Interpretation.

2. In this Part, unless the context otherwise requires, -

“2045 target” has the meaning given in section 8(2);

“additional greenhouse gas” has the meaning given in section 25(3);

“Agency” means the Environmental Agency of Gibraltar;

“baseline” has the meaning given in section 25(1);

“carbon unit” has the meaning given in section 29(4);

“Committee” means the Gibraltar Climate Change Committee established under section 4 of this Act;

“COP” means the Conference of the Parties acting as the Meeting of the Parties of the UNFCCC;

“Cooperative Approaches” means the mechanism laid out in Article 6 of the Paris Agreement;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“climate finance” means, without limitation, all forms of financing of climate actions, from funding sources to mitigation and adaptation measures and initiatives to combat climate change;

“climate system” means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions;

“emissions”, means, in relation to a greenhouse gas, emissions of that gas into the atmosphere that are attributable to human activity;

“Emission Reduction Targets” means the emission reduction targets set in accordance with Part 3 of this Act, including the 2045 target, the interim target and the progress targets;

“EU” means the European Union;

“fair and safe Gibraltar emissions budget” has the meaning given in section 11(6);

“fossil fuel” has the meaning given in section 45(10);

“Gibraltar emissions” means emissions from sources in Gibraltar;

“Gibraltar removals” in relation to a greenhouse gas, means removals of that gas from the atmosphere due to land use, or land use change in Gibraltar.

“interim target” has the meaning given in section 9(2);

“international carbon reporting practice” has the meaning given in section 28(1);

“ITMO” means Internationally Transferred Mitigation Outcome and has the meaning that mechanism is given under Article 6 of the Paris Agreement, subject to guidance provided by the COP;

“the Minister” means the Minister with responsibility for Environment and Climate Change;

“net Gibraltar emissions” for a period, in relation to a greenhouse gas, means the amount of Gibraltar emissions of that gas for the period reduced by the amount of Gibraltar removals for the period;

“net emissions account” has the meaning given in section 7;

“Paris Agreement” means the Paris Agreement of 12 December 2015, within the UNFCCC, as amended from time to time;

“Paris Agreement financing mechanisms” means the mechanisms laid out in Article 6 of the Paris Agreement, being Cooperative Approaches, the Sustainable Development mechanism, Internationally Transferred Mitigation Outcomes and non-market approaches;

“person” means every individual or legal person, whether public or private;

“progress target” has the meaning given in section 10(3);

“public body” means a person or body with functions of a public nature designated by the Minister by notice in the Gazette;

“renewable sources” has the meaning given in section 45(10);

“sectoral mitigation measures” shall be construed in accordance with section 6(2)(e);

“sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas or aerosol from the atmosphere;

“source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas or aerosol into the atmosphere;

“Sustainable Development Mechanism” means the mechanism laid out in Article 6 of the Paris Agreement;

“Target-setting criteria” has the meaning given in section 11(4);

“tonne of carbon dioxide equivalent” has the meaning given in section 27(2);

“UNFCCC” means the United Nations Framework Convention on Climate Change.

Overriding Objective.

3.(1) The aim of this Act shall be to protect the climate for the present and future generations, and to assist in the taking of preventative and remedial measures against climate change.

(2) In this Act, the aim set out in subsection (1) shall be referred to as the “Overriding Objective”.

(3) It shall be the duty of every person together with the Government to use best endeavours to further the Overriding Objective.

(4) In fulfilling its duties pursuant to subsection (3), the Government shall, inter alia-

- (a) develop, periodically update and publish national inventories of Gibraltar emissions by sources and Gibraltar removals by sinks of greenhouse gases in order to monitor progress towards achieving its quantified emission limitation or reduction commitments pursuant to international treaties and obligations;
- (b) formulate, implement, publish and update policies regarding measures to mitigate climate change by limiting, and, to the extent possible, reducing Gibraltar emissions by sources, and by enhancing Gibraltar removals of greenhouse gases by sinks;
- (c) formulate, implement, publish and update policies regarding measures to prevent, avoid and reduce vulnerability and enhance resilience to the adverse impacts of climate change, and to facilitate adaptation to climate change;
- (d) promote and cooperate in the development, application and diffusion of technologies, practices and processes that control, reduce or prevent Gibraltar emissions in all relevant sections, including the energy, transport, industry, water, land-use, and waste management sectors;
- (e) promote sustainable management of sinks and reservoirs of greenhouse gases including all terrestrial, coastal and marine ecosystems and promote and cooperate in the conservation and enhancement of sinks and reservoirs of greenhouse gases including all terrestrial, coastal and marine ecosystems;
- (f) in so far as is reasonable, promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system;
- (g) promote and cooperate in the exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of response strategies;

- (h) promote and cooperate in education, training and public awareness related to climate change;
- (i) promote and cooperate in the development of the Paris Agreement financing mechanisms in Gibraltar; and
- (j) promote and develop Gibraltar as a leading jurisdiction in the mitigation of climate change.

(5) The Government shall ensure that policies, programmes and projects are designed and evaluated in a manner that takes into consideration mitigation of, and adaptation to, climate change and that such policies, programmes, projects contribute to the mitigation of, and adaptation to, climate change.

(6) The 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.

(7) The Government shall, in fulfilling its duties and obligations under this section as far as reasonably practicable, participate, cooperate and support participation in, international and intergovernmental activities, the Paris Agreement financing mechanisms, and programmes related to climate action, as appropriate. In particular, the Government shall promote activities that relate to climate action relevant to the Mediterranean region, and shall, as appropriate, participate, cooperate and support participation in such activities.

(8) The Government shall, in exercising its duties and obligations under this Act, be guided by the principles listed in this subsection and these principles shall be employed in the interpretation of the other provisions of this Act and any regulations made thereunder. The Government shall, in fulfilling its duties and obligations under this Act:

- (a) take climate change considerations into account, to the extent possible, in relevant social, economic and environmental policies and actions;
- (b) take into account its obligations and commitments pursuant to international treaties and obligations;
- (c) take into account the geophysical, social and economic circumstances of Gibraltar;
- (d) ensure that actions taken are, to the extent possible, the most cost-effective, using best available technologies and best practices as appropriate to Gibraltar;
- (e) ensure that it takes into account the best available scientific, technological, technical and socio-economic information;

- (f) ensure that all sectors of society and the economy participate in national climate action, including in relevant decisions;
- (g) ensure that climate change, environment, conventional and alternative energy policies and measures are designed, developed, coordinated and implemented in the best interests of the environment, the economy, and international objectives;
- (h) ensure that climate action taken respects the interests of all sections of society, is non-discriminatory and where relevant, promotes gender equality;
- (i) ensure that data are collected, processed and interpreted in cognisance of data related to achieving overall international obligations in other areas;
- (j) respect and, to the extent possible, safeguard the interests of vulnerable sectors of society, including by taking climate actions that support the eradication of poverty;
- (k) ensure that climate action taken should promote and enhance the competitiveness of Gibraltar's economy;
- (l) ensure, to the extent possible, that no conflict exists between policies and measures adopted in respect of climate action and other policies and measures;
- (m) ensure that it takes precautionary measures to anticipate, prevent or minimize the causes of climate change and to mitigate its adverse effects and that where there are threats of serious or irreversible damage, the lack of full scientific certainty should not be a reason for postponing such measures;
- (n) ensure that climate action taken contributes to sustainable development;
- (o) ensure that, where relevant, any beneficial impacts of climate change are harnessed to the benefit of society, the economy and the environment, to the extent that such beneficial impacts can reduce vulnerability and enhance resilience to other adverse impacts of climate change;
- (p) ensure that, prior to taking any decision, all the consequences of the outcome of that decision throughout the whole life cycle of that outcome are taken into consideration;
- (q) ensure adequate information is made available to the public, to facilitate public participation in respect of certain plans and programmes relating to the climate system and ensure adequate access to justice.

Establishment of the Climate Change Committee.

4.(1) There is hereby established a body for the purpose of exercising the advisory functions under this Act.

(2) The body established by virtue of subsection (1) is to be known as the Gibraltar Climate Change Committee (the “Committee”).

(3) The Minister may enact regulations to make provision –

- (a) for the conferral of functions on the Committee relating to advice on climate change, and in particular with regard to requesting advice or reports on any other matter relating to climate change, including but not limited to:
 - (i) carbon budgets;
 - (ii) Gibraltar emissions from international aviation and shipping;
 - (iii) trading schemes;
 - (iv) greenhouse gases;
 - (v) waste;
 - (vi) transport; and
 - (vii) the EU Emissions Trading System;
- (b) for the status, constitution, membership, remuneration and proceedings of the Committee;
- (c) for the execution of documents by the Committee;
- (d) for the creation of sub-committees;
- (e) for the information that the Committee must be provided and the information that the Committee’s advice must contain;
- (f) for the factors to which the Committee is to have regard in giving that advice;
- (g) for the period within which the Committee must give that advice;
- (h) as to whom that advice is to be given;

- (i) for the form and manner in which that advice is to be published and laid before Parliament;
- (j) for the accounting and reporting to be carried out by the Committee

Effect of Act.

5. Nothing in this Act, or a national mitigation plan shall operate to affect-

- (a) existing or future obligations of Gibraltar under –
 - (i) the Environment Act 2005;
 - (ii) Nature Protection Act 1991;
 - (iii) Greenhouse Gas Emissions Trading Scheme Regulations 2012;
 - (iv) Environmental Protection (Energy End-Use Efficiency) Act 2009; and
 - (v) Environment (Energy Performance of Buildings) Regulations 2012.
- (b) existing or future obligations of Gibraltar under any international agreement, including in particular the Paris Agreement;
- (c) any Act of Parliament, or applicable to Gibraltar, or instrument made thereunder that gives effect, or further effect, to any such obligation, including in particular the Greenhouse Gas Emissions Trading Scheme Regulations 2012; or
- (d) existing or future entitlements of Gibraltar or any person under the said law, any such agreement or any such Act of Parliament or instrument.

PART 2

NATIONAL LOW CARBON TRANSITION AND MITIGATION PLAN

The National Mitigation Plan.

6.(1) The Minister shall-

- (a) not later than 18 months after the commencement of this Act; and
- (b) not less than once in every period of 4 years,

make a plan, which shall be known as a national low carbon transition and mitigation plan (in this Act referred to as a “national mitigation plan”).

(2) A national mitigation plan shall-

- (a) specify the manner in which it is proposed to achieve the Emission Reduction Targets;
- (b) specify the policy measures that, in the opinion of the Government, would be required in order to manage Gibraltar emissions and Gibraltar removals at a level that is appropriate for furthering the achievement of the Emission Reduction Targets;
- (c) take into account any existing international obligation of Gibraltar referred to in section 5;
- (d) specify adaptation measures to be adopted to achieve the Emission Reduction Targets;
- (e) specify the mitigation policy measures (in this Act referred to as the “sectoral mitigation measures”) to be adopted by the ministers of the Government, referred to in subsection (3)(a) in relation to the matters for which each such minister of the Government has responsibility for the purposes of-
 - (i) reducing Gibraltar emissions; and
 - (ii) enabling the achievement of the Emission Reduction Targets.

(3) For the purpose of including, in the national mitigation plan, the measures to be specified for the different sectors in accordance with subsection (2)(e)-

- (a) the Minister shall consult with such ministers of the Government as considered appropriate, who may submit to the Minister, the sectoral mitigation measures that each such minister of the Government proposes to adopt in relation to the matters for which each such minister of the Government has responsibility;
- (b) a minister of the Government who has been consulted under subsection (3)(a) who proposes to submit the sectoral mitigation measures to be adopted by him to the Minister must do so within the period specified by the Minister;
- (c) the Minister shall, on receipt of the sectoral mitigation measures submitted to him in accordance with subsection (3)(b), include the sectoral mitigation measures submitted by each minister of the Government in the national

mitigation plan, as well as any sectoral mitigation measures prepared by the Minister;

- (d) a minister of the Government referred to in subsection (3)(b) shall, in relation to the sectoral mitigation measures to be adopted by him and before submitting the sectoral mitigation measures to the Minister-
 - (i) consult any other minister of the Government as he may consider appropriate; and
 - (ii) consult with the Committee;
- (e) the Minister shall, when specifying the period referred to in subsection (3)(b), have regard to the period specified in subsection (1).

(4) The Minister and any minister of the Government who submits sectoral mitigation measures shall take account of the following matters when performing functions under this section:

- (a) the need to have regard to-
 - (i) any existing international obligation of Gibraltar to in section 5;
 - (ii) likely future mitigation commitments of Gibraltar and the economic imperative for early and cost-effective action, and;
 - (iii) the requirement to be able to act quickly in response to economic and environmental occurrences and circumstances;
- (b) the need to promote sustainable development;
- (c) the need to take advantage of environmentally sustainable economic opportunities both within and outside Gibraltar;
- (d) the need to achieve the objectives of a national mitigation plan at the least cost to the national economy and adopt measures that are cost-effective;
- (e) relevant scientific or technical advice;
- (f) the findings of any research on the effectiveness of mitigation measures and adaptation measures;
- (g) the sectoral mitigation measures included in the national mitigation plan pursuant to subsection (2)(e) that are to be adopted by each minister of the Government in

relation to the matters for which each such minister of the Government has responsibility;

- (h) the most recent approved national mitigation plan;
- (i) any recommendations or advice of the Committee;
- (j) the protection of public health; and
- (k) the promotion of Gibraltar as a global centre of climate change financing in accordance with the Paris Agreement, the COP and the UNFCCC.

(5) The Minister and any minister of the Government who submits sectoral mitigation measures, may consult with the Committee for the purpose of the performance by them of their functions under this section.

(6) A national mitigation plan shall be laid before Parliament as soon as reasonably practicable after it is made.

(7) A national mitigation plan shall not be implemented unless it has been approved by Parliament.

(8) A minister of the Government shall, in the performance of his functions, have regard to a national mitigation plan approved by Parliament under this section.

PART 3

EMISSIONS REDUCTION TARGETS

The net emissions account.

7.(1) The net emissions account means the aggregate amount of net Gibraltar emissions-

- (a) reduced by the amount of carbon units credited to the net emissions account for the period in accordance with regulations enacted under subsection (5);
- (b) increased by the amount of carbon units that, in accordance with such regulations, are to be debited from the net emissions account for that period.

(2) The net amount of carbon units credited to the net emissions account for a period for which a progress target has been set under section 10 of this Act (“a target period”) must not exceed the allowable amount.

(3) The “allowable amount” is-

- (a) the amount equal to the limit, set by virtue of section 13 of this Act, on the net amount of carbon units that may be credited to net emissions accounts during the target period; or
- (b) where a net amount of carbon units has been credited to the net emissions account for any other target period, the balance (if any) remaining of the amount referred to in subsection (3)(a).

(4) In subsections (2) and (3), the “net amount of carbon units” has the meaning given by section 13(2) of this Act.

(5) The Minister may, by regulations, make provision for-

- (a) the circumstances in which carbon units may be credited to the net emissions account for a period;
- (b) the circumstances in which such units may be debited from that account for a period;
- (c) the manner in which this is to be done.

(6) Regulations enacted under subsection (5) must contain provision for ensuring that carbon units that are credited to the net emissions account for a period cease to be available to offset other emissions.

The 2045 target

The 2045 target.

8.(1) The Minister must ensure that the net emissions account for the year 2045 is at least 100% lower than the baseline.

(2) In this Act, the target set out in subsection (1) is known as the “2045 target”.

The interim target

The interim target.

9.(1) The Minister must ensure that the net emissions account for the year 2030 is at least 42% lower than the baseline.

(2) In this Act, the target set out in subsection (1) is known as the “interim target”.

(3) The Minister may, by order, modify the percentage figure mentioned in subsection (1) so as to substitute –

- (a) a figure provided by the Committee by virtue of subsection (4)(b)); or
- (b) a higher figure,

for the one for the time being mentioned there.

(4) The Minister must, as soon as reasonably practicable after the commencement of this Act, request advice from the Committee as to (having regard to the criteria set out in subsection (5)) –

- (a) whether the percentage figure for the time being mentioned in subsection (1) is the highest achievable interim target; and
- (b) if not, what the highest achievable interim target is.

(5) The criteria referred to in subsection (4) are –

- (a) scientific knowledge about climate change;
- (b) technology relevant to climate change;
- (c) economic circumstances, in particular the likely impact of the target on –
 - (i) the Gibraltar economy;
 - (ii) the competitiveness of particular sectors of the Gibraltar economy;
 - (iii) small and medium-sized enterprises;
 - (iv) jobs and employment opportunities;
- (d) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing;
- (e) social circumstances;
- (f) energy policy, in particular the likely impact of the target on energy supplies, the renewable energy sector and the carbon and energy intensity of the Gibraltar economy;

- (g) environmental considerations and, in particular, the likely impact of the targets on biodiversity;
- (h) international law and policy relating to climate change.

(6) Where the Committee has provided advice of the kind mentioned in subsection 4(b), the Minister must comply with either of the duties set out in subsection (7).

(7) The duties are –

- (a) to lay before Parliament the order made under subsection (3) substituting the percentage figure for the time being mentioned in subsection (1) the figure provided by the Committee by virtue of subsection (4)(b); or
- (b) to make a statement to Parliament setting out the reasons why no such order has been laid.

Progress Targets

Progress Targets.

10.(1) The Minister must –

- (a) for each period of 4 years, and a final period of 5 years, between 2020 and 2045, set a target for the maximum amount of the net emissions account;
- (b) procure that the net emissions account for each period in that timeframe does not exceed the target set for that timeframe.

(2) The target –

- (a) for the period commencing in 2020, may be set at an amount that is less than the estimated net emissions account for the four year period preceding 2020;
- (b) for each period from 2024 to 2030 must be set at an amount that is consistent with a reduction over that period of net Gibraltar emissions which would allow the interim target and the 2045 target to be met;
- (c) for each period from 2030 to 2045, must be set at an amount that is –
 - (i) consistent with a reduction over that period of net Gibraltar emissions which would allow the 2045 target to be met; and
 - (ii) at least 3% less than the target for the preceding period.

(3) In this Act –

- (a) a “progress target” for any period of 4 years, save for the final period which shall be a period of 5 years, means the target for the maximum amount of the net emissions account set for that period in accordance with this section and section 11;
- (b) references to a progress target being met are references to the net emissions account for four years not exceeding the progress target for that period (and similar expressions are to be construed accordingly).

Setting progress targets.

11.(1) The Minister must, by order, set the progress targets for each period by the dates mentioned in paragraphs (a) to (g) of subsection (2).

(2) The Minister must set the progress targets for each period –

- (a) in the period 2020 – 2024, no later than 1 October 2020;
- (b) in the period 2025 – 2029, no later than 31 October 2021;
- (c) in the period 2030 – 2034, no later than 31 October 2026;
- (d) in the period 2035 – 2039, no later than 31 October 2031;
- (e) in the period 2040 – 2045, no later than 31 October 2036;

(3) The Minister must, when setting progress targets, have regard to any advice he receives from the Committee as to the cumulative amount of net Gibraltar emissions for the period 2020 – 2045 that is consistent with a reduction over that period of net emissions accounts which would allow the 2045 target to be met.

(4) The Minister must, when setting progress targets, also have regard to the following matters (the “target-setting criteria”) –

- (a) the objective of not exceeding a fair and safe Gibraltar emissions budget;
- (b) scientific knowledge about climate change;
- (c) technology relevant to climate change;
- (d) economic circumstances, in particular the likely impact of the target on:

- (i) the Gibraltar economy;
- (ii) the competitiveness of particular sectors of the Gibraltar economy;
- (iii) small and medium-sized enterprises;
- (iv) jobs and employment opportunities;
- (e) fiscal circumstances, in particular the likely impact of the target on taxation, public spending and public borrowing;
- (f) social circumstances;
- (g) energy policy, in particular the likely impact of the target on energy supplies, the renewable energy sector and the carbon and energy intensity of the Gibraltar economy;
- (h) environmental considerations and, in particular, the likely impact of the targets on biodiversity;
- (i) international law and policy relating to climate change.

(5) If progress targets for a period are not set by the corresponding date mentioned in paragraphs (a) to (g) of subsection (2), the Minister must set the progress targets as soon as reasonably practicable afterwards.

(6) In this Act, the “fair and safe Gibraltar emissions budget” is the aggregate amount of net Gibraltar emissions for the period 2020 – 2045 recommended by the Committee as being consistent with Gibraltar contributing appropriately to stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

(7) The Minister must lay an order made under subsection (1) before Parliament.

Modifying progress targets.

12. (1) The Minister may, by order, modify –

- (a) the percentage figure mentioned in section 10(2)(c)(ii);
- (b) a progress target set by virtue of section 11(1);
- (c) any date mentioned in paragraphs (a) to (e) of section 11(2);

(d) the target setting criteria in section 11(4).

(2) An order made in pursuance of subsection (1) shall be laid before Parliament, and must be accompanied by a report explaining why the modification is being proposed.

(3) The Minister must, as soon as reasonably practicable after laying a report before Parliament under subsection (2), make a statement to Parliament relating to the report.

Limits on use of carbon units.

13.(1) The Minister must, by order, set a limit on the net amount of carbon units that may be credited to the net emissions accounts during the periods mentioned in section 11(2), by the dates set out in that section.

(2) The “net amount of carbon units” means C minus D, where-

“C” is the amount of carbon units credited to the net emissions accounts during the periods in accordance with regulations under section 7(5);

“D” is the amount of carbon units debited from the net emissions accounts during the period in accordance with such regulations.

(3) An order under subsection (1) may provide that carbon units of a description specified in the order do not count towards the limited.

(4) If the limit for a period is not set by the corresponding date mentioned in section 11(2), the Minister must set the limit as soon as reasonably practicable afterwards.

PART 4

FUNCTIONS OF CLIMATE CHANGE COMMITTEE

Functions of the Committee

Advice before setting progress targets.

14.(1) The Minister must, before making an order under section 11(1), request advice from the Committee.

(2) The request for advice must include requests for the Committee’s views –

(a) in the case of progress targets proposed for the years in the period 2020 to 2030, as to whether those targets are consistent with a reduction over that period of net

emissions accounts which would allow the interim target and the 2045 target to be met;

- (b) in the case of progress targets proposed for years in the period 2030-2045, as to whether those targets are consistent with a reduction over that period of net emissions accounts which would allow the 2045 target to be met;
- (c) in any case –
 - (i) as to what progress targets are appropriate by reference to the target-setting criteria;
 - (ii) as to the extent to which the progress targets should be met –
 - (A) by taking action to reduce net Gibraltar emissions;
 - (B) by the use of carbon units;
- (d) as to the respective contributions towards meeting progress targets that should be made by –
 - (i) energy efficiency;
 - (ii) energy generation;
 - (iii) land use;
 - (iv) transport.

(3) As soon as reasonably practicable after making the order under section 11(1), the Minister must publish a statement setting out the reasons for setting those progress targets at those levels.

(4) If the order under section 11(1) makes provision different from that recommended by the Committee, the Minister must publish a statement setting out the reasons why.

Advice on setting progress targets.

15. When requested to do so by the Minister, the Committee must provide the Minister with advice as regards –

- (a) progress targets the Minister proposes to set under section 11;
- (b) a modification the Minister proposes to set under section 12.

Content of advice on setting progress targets.

16.(1) When providing advice under section 15(a), the Committee must express a view –

- (a) in the case of targets proposed for years in the period up to 2030, whether those targets are consistent with a reduction over that period of net Gibraltar emissions which would allow the interim target and the 2045 target to be met;
- (b) in the case of targets proposed for years in the period 2030 – 2045, as to whether those targets are consistent with a reduction over that period of net Gibraltar emissions which would allow the 2045 target to be met;
- (c) in any case, as to what targets are appropriate by reference to the target-setting criteria.

(2) When providing advice under section 15(a), the Committee must also express a view as to –

- (a) the extent to which the targets should be met –
 - (i) by taking action to reduce net Gibraltar emissions;
 - (ii) by the use of carbon units;
- (b) the respective contributions towards meeting the targets that should be made by –
 - (i) energy efficiency;
 - (ii) energy generation;
 - (iii) land use;
 - (iv) transport.

(3) When providing advice under section 15(a), the Committee may also express a view as to any other matter that body considers appropriate including in particular, as to any sectors of the Gibraltar economy in which there are particular opportunities to be made towards meeting targets through reductions in Gibraltar emissions.

(4) When providing advice under section 151(a), the Committee must also express a view as to the cumulative amount of net Gibraltar emissions for the period 2012 – 2045 which would allow the 2045 target to be met.

(5) The Committee must provide advice under this section within such period as the Minister may reasonably request.

Advice on Progress

Progress towards targets.

17. The Minister must, for every four year period, beginning with the year 2020 request the Committee to prepare a report setting out that body's views on –

- (a) progress towards achievement of –
 - (i) progress targets;
 - (ii) the interim target;
 - (iii) the 2045 target;
- (b) whether the progress targets, the interim target or the 2045 target are likely to be achieved;
- (c) any further effort which may be necessary to achieve progress targets, the interim target or the 2045 target.

Reporting on progress towards targets.

18.(1) The Committee must, in each year in which a target falls, prepare a report setting out its views on –

- (a) progress towards achievement of –
 - (i) progress targets;
 - (ii) the interim target;
 - (iii) the 2045 target;
- (b) whether the progress targets, the interim target or the 2045 target are likely to be achieved;
- (c) any further effort which may be necessary to achieve progress targets, the interim target or the 2045 target.

(2) A report prepared in a relevant year must also set out the Committee's views on the matters mentioned in subsection (5).

(3) In subsection (2), the "relevant year" means such year as the Minister may, by order, designate in accordance with subsection (4).

(4) The year which may be designated under subsection (3) is the first year following a year for which an progress target has been set (a "target year") or the second year following a target year.

(5) The matters referred to in subsection (2) are –

- (a) whether the progress target for the year was met;
- (b) the way in which that target was or was not met;
- (c) the action taken by the Government to reduce net Gibraltar emissions during that year.

(6) The Committee must lay a report under this section before Parliament no later than 31st January in the third year following the target year.

Government's response to reports on progress.

19.(1) The Government must lay before Parliament a response to the report laid by the Committee under section 17.

(2) The response to the Committee's report must be laid before Parliament no later than 31st March in the third year following the target year.

Duty of Committee to provide advice or other assistance.

20. When requested to do so by the Government, the Committee must provide advice, analysis, information or assistance as regards –

- (a) the exercise of the Government's functions under this Act or any Regulations enacted hereunder;
- (b) the exercise of the Government's functions in relation to climate change other than under this Act;
- (c) other matters relating to climate change.

Supplementary provisions

General Ancillary Powers.

21.(1) The Committee may do anything that appears to it necessary or appropriate for the purpose of, or in connection with, the carrying out of its functions.

(2) The Committee must have regard to the desirability of involving the public in the exercise of its functions.

(3) The Committee must, in the discharge of its duties have regard to the terms of the Paris Agreement, the procedures and guidelines of the UNFCCC and any decisions made by the COP.

Powers to give guidance.

22.(1) The Minister may give the Committee guidance as to the matters it is to take into account in the exercise of its functions generally.

(2) The power to give guidance under this section includes power to vary or revoke it.

(3) In performing its functions the Committee must have regard to any guidance given under this section.

Powers to give directions.

23.(1) The Minister may give the Committee directions as to the exercise of its functions generally.

(2) The power to give directions under this section does not include power to direct the Committee as to the content of any advice or report.

(3) The power to give directions under this section include power to vary or revoke the directions.

(4) The Committee must comply with any directions given under this section.

PART 5**GREENHOUSE GAS EMISSIONS***Greenhouse Gases***Greenhouse gases.**

24.(1) In this Act, a “greenhouse gas” means-

- (a) carbon dioxide;
- (b) methane;
- (c) nitrous oxide;
- (d) hydrofluorocarbons;
- (e) perfluorocarbons;
- (f) sulphur hexafluoride.

(2) The Minister may by regulations modify subsection (1) so as to:

- (a) add a gas; or
- (b) modify the description of a gas.

(3) The power in subsection (2)(a) may be exercised only if it appears to the Minister that an agreement or arrangement at European or international level recognises that the gas to be added contributes to climate change.

(4) The Minister must, before publishing regulations under subsection (2), request advice from the Committee.

Baseline

The baseline.

25.(1) In this Act, the “baseline” means the aggregate amount of-

- (a) net Gibraltar emissions of Carbon dioxide in 1990; and
- (b) net Gibraltar emissions of each of the greenhouse gases other than carbon dioxide for that year that is the baseline year for that gas.

(2) The baseline years for the greenhouse gases other than carbon dioxide are-

- (a) for methane, 1990;
- (b) for nitrous oxide, 1990;

- (c) for hydrofluorocarbons, 1995;
- (d) for perfluorocarbons, 1995;
- (e) for sulphur hexafluoride, 1995.

(3) Where the Minister has made regulations under section 24(2)(a) adding a greenhouse gas, (“an additional greenhouse gas”) the Minister may by regulations, make provision as to the manner of determining in the case of an additional greenhouse gas, the amount of net Gibraltar emissions for the baseline year.

(4) Regulations made under subsection (3) may in particular-

- (a) designate a year as the baseline year for the additional greenhouse gas;
- (b) provide for the amount of net Gibraltar emissions of the gas for that year to be treated for the purposes of this Act as the amount of net Gibraltar emissions of that gas for that baseline year.

Emissions from international aviation and international shipping.

26. The Minister may by regulations made under this section make provision regarding the emissions from international aviation and international shipping that are attributable to Gibraltar for the purposes of this Act.

Measurement of emissions.

27.(1) For the purposes of this Act, greenhouse gas emissions and reductions of such emissions are measured or calculated in tonnes of carbon dioxide equivalent.

(2) A “tonne of carbon dioxide equivalent” means one metric tonne of carbon dioxide or an amount of any other greenhouse gas with an equivalent global warming potential (calculated consistently with international carbon reporting practice).

(3) The amount of Gibraltar emissions and Gibraltar removals of a greenhouse gas for a period must, in so far as reasonably practicable, be determined consistently with international carbon reporting practice.

International carbon reporting practice.

28. In this Act, “international carbon reporting practice” means accepted practice in relation to reporting for the purposes of –

- (a) the protocols to the UNFCCC;

- (b) the Global Covenant of Mayors for Climate and Energy;
- (c) such other agreement or arrangements at European or international level as the Minister may, by regulations, specify.

Carbon units, carbon accounting and units of other emission reductions.

29 .(1) The Minister may, by regulations, make provision for a scheme –

- (a) for registering or otherwise keeping track of-
 - (i) ITMOs;
 - (ii) carbon units;
 - (iii) carbon offsets, whether mandatory or voluntary;
 - (iv) such other unit or measure representing a form of reduction, mitigation outcome, allowance of any greenhouse gas or any other mitigation of climate change that the Minister may by regulations prescribe.
- (b) for establishing and maintaining accounts in which the units listed in subsection (a) above may be held and between which they may be transferred;
- (c) for setting limits on the amount of the units listed in subsection (a) above that may be credited to net Gibraltar emissions;
- (d) for modifying any limits set in paragraph (c), including any conditions for making such modifications; and
- (e) for setting procedures for the international transfer of the units listed in subsection (a) above provided these procedures are consistent with the Paris Agreement, (as modified by any COP), the procedures and guidelines of the UNFCCC and the decision of any COP.

(2) Regulations under subsection (1) may, in particular;

- (a) provide for an existing scheme to be adapted for these purposes, including schemes and processes implemented under the Paris Agreement or any subsequent COP, or any procedure or guidance of the UNFCCC; or
- (b) provide for schemes which incorporate the Paris Agreement financing mechanisms.

(3) These regulations may also include provision –

- (a) designating a person or body to administer or regulate the scheme;
- (b) establishing a person or body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise of the person or body as the Minister considers appropriate;
- (c) conferring power on the Minister to give guidance or directions to the person or body administering or regulating the scheme;
- (d) conferring power on the Minister to delegate the performance of any of the functions conferred on them by the regulations;
- (e) requiring the payment by persons using the scheme of such charges as are reasonably required to cover the reasonable costs incurred in operating the scheme;
- (f) designate persons or bodies to advise on matters relating to the scheme.

(4) In this Act a “carbon unit” means a unit of a kind specified in regulations made under subsection (1) and which represents –

- (a) a reduction in an amount of greenhouse gas emissions;
- (b) the removal of an amount of greenhouse gas from the atmosphere;
- (c) an amount of greenhouse gas emissions allowed under a scheme or arrangement imposing a limit on such emissions.

PART 6

REPORTING DUTIES

Reports on progress targets.

30.(1) The Minister must lay before Parliament a report in respect of each year in the period 2020–2045 for which a progress target has been set (a “target year”).

(2) The report must state whether the progress target for the target year has been met.

(3) If the progress target has not been met, the report must explain why.

(4) The report must also contain the information mentioned in section 31.

(5) The report under this section must be laid before the Parliament no later than 31 October in the second year after the target year.

Reports on progress targets: content.

31.(1) In respect of each greenhouse gas, the report must—

(a) state the amount of net Gibraltar emissions for the baseline year;

(b) state the amount of net Gibraltar emissions for the target year;

(c) state whether the amount of net Gibraltar emissions represents an increase or decrease compared to the equivalent amount for the previous target year;

(d) identify the methods used to measure or calculate the amount of net Gibraltar emissions (including in particular any change to those methods).

(2) The report must also set out the aggregate amount for the target year of net Gibraltar emissions.

(3) The report must also—

(a) state the amount of the net emissions account for the target year;

(b) state the proportion of the reduction in the net emissions account which is accounted for by reductions in net Gibraltar emissions;

(c) state the amount of Gibraltar gross electricity consumption for the target year;

- (d) state the amount of Gibraltar electricity generation for the target year;
 - (e) state the average emissions per megawatt hour of electricity generated in Gibraltar in the target year;
 - (f) state the average emissions per megawatt hour, and the estimated lifetime cumulative emissions, of any new electricity generation capacity greater than 50 megawatts approved in Gibraltar in the target year.
- (4) The report for each year in the period 2020–2045 must—
- (a) state the amount of the net emissions account for each preceding target year;
 - (b) state the cumulative amount of the net emissions account for the target year and all preceding target years.
- (5) If the method of measuring or calculating net Gibraltar emissions changes and that change is such as to require adjustment of an amount for an earlier target year, the report must specify the adjustment required and state the adjusted amount.
- (6) An adjustment under subsection (5) must, in so far as reasonably practicable, be made in accordance with international carbon reporting practice.
- (7) If an amount mentioned in subsection (3)(a) or subsection (4)(a) or (b) for an earlier period requires to be adjusted, the report must—
- (a) explain why the adjustment is required;
 - (b) specify the adjustment required; and
 - (c) state the adjusted amount.
- (8) The report may contain such other information as the Minister considers appropriate and, in particular, may state the amount of Gibraltar electricity generation from each source for the target year.
- (9) Where regulations have been made under section 29 of this Act, the report must also—
- (a) state the total amount of carbon units—
 - (i) that have been credited to or debited from the net emissions account for the target year;
 - (ii) that have been purchased in the target year;

- (iii) that have been held and not surrendered in the target year;
- (b) give details of the number and type of those carbon units.

Reports on proposals and policies for meeting progress targets.

32.(1) As soon as reasonably practicable after laying an order under section 11 setting progress targets, the Minister must lay before Parliament a report containing the information set out in this section.

(2) The Minister must, before laying a report under this section before Parliament, publish a draft of the report for consultation .

(3) The Minister must publish the report at least 30 days before the date on which the report is laid before Parliament.

(4) The Minister must, before laying the report before Parliament, have regard to any representations on the draft report made to him.

(5) The Minister must, when laying the report before Parliament, lay a statement setting out—

- (a) details of any representations mentioned in subsection (4);
- (b) the changes (if any) they have made to the report in response to such representations, and the reasons for those changes.

(6) The Minister must, as soon as reasonably practicable after laying a report under this section, and in so far as reasonably practicable, make a statement to Parliament relating to the report.

(7) The report must, in particular, set out—

- (a) the Minister's proposals and policies for meeting the progress targets;
- (b) how those proposals and policies are expected to contribute towards the achievement of the interim target, the 2045 target and, in each target year, the domestic effort target;
- (c) the timescales over which those proposals and policies are expected to take effect.

(8) The report must also set out the Minister's proposals and policies regarding the respective contributions towards meeting the progress targets that should be made by—

- (a) energy efficiency;
- (b) energy generation;
- (c) land use;
- (d) water use;
- (e) transport.

(9) The report must also explain how the proposals and policies set out in the report are expected to affect different sectors of the Gibraltar economy.

(10) The second and each subsequent report under this section—

- (a) must contain an assessment of the progress towards implementing proposals and policies set out in earlier reports;
- (b) may make such adjustments to those proposals and policies as the Minister considers appropriate.

Report on the interim target.

33.(1) The Minister must lay before Parliament a report containing the following information in respect of the year 2030.

(2) The report must state whether the interim target has been met.

(3) If the interim target has not been met, the report must explain why.

(4) In respect of each greenhouse gas, the report must state the amount of net Gibraltar emissions for 2030.

(5) The report must also—

- (a) state the amount of the net emissions account for 2030;
- (b) state the cumulative amount of the net emissions account for the period 2020–2030;
- (c) Where regulations have been enacted under section 29 of this Act, state—

- (i) the total amount of carbon units that have been credited to or debited from the net emissions account for 2030;
- (ii) the total amount of carbon units that have been purchased in 2030;
- (iii) the total amount of carbon units that have been held and not surrendered in 2030;
- (iv) details in respect of the number and type of those carbon units.

(6) In subsections (4) and (5), the amount means the amount set out in the report for 2030 made under section 30.

(7) The report may contain such other information as the Minister considers appropriate.

(8) The report under this section must be laid before Parliament no later than 31 October 2032.

Report on the 2045 target.

34.(1) The Minister must lay before Parliament a report containing the following information in respect of the year 2045.

(2) The report must state whether the 2045 target has been met.

(3) If the 2045 target has not been met, the report must explain why.

(4) In respect of each greenhouse gas, the report must state the amount of net Gibraltar emissions for 2045.

(5) The report must also—

- (a) state the amount of the net emissions account for 2045;
- (b) state the cumulative amount of the net emissions account for the period 2020–2045;
- (c) where regulations have been enacted under section 29 of this Act, state the total amount of carbon units—
 - (i) that have been credited to or debited from the net emissions account for 2045;

- (ii) that have been purchased in 2045;
 - (iii) that have been held and not surrendered in 2045;
 - (d) where regulations have been enacted under section 29 of this Act, give details of the number and type of those carbon units.
- (6) In subsections (4) and (5), the amount means the amount set out in the report for 2045 made under section 30.
- (7) The report may contain such other information as the Minister considers appropriate.
- (8) The report under this section must be laid before Parliament no later than 31 October 2052.

Further provision about reporting duties.

35.(1) The Minister may, by regulations made under this section, make further provision imposing duties on himself to report to Parliament.

- (2) Regulations made under subsection (1) may in particular—
- (a) provide for the information to be reported under the duties;
 - (b) provide for the period in relation to which that information is to be provided;
 - (c) provide for the period within which that information is to be provided.

PART 7

DUTIES OF PUBLIC BODIES RELATING TO CLIMATE CHANGE

Duties of Public Bodies

Duties of Public Bodies.

- 36.(1) A public body must, in exercising its functions, act—
- (a) in the way best calculated to contribute to the delivery of the targets set in or under Part 3 of this Act;
 - (b) in the way best calculated to help deliver the national mitigation plan;
 - (c) in a way that it considers is most sustainable.

(2) The Minister may, if they consider it appropriate to do so, by regulations, make further provision relating to the imposition on relevant public bodies of duties relating to climate change.

(3) The duties imposed by subsection (1) and any duty imposed by virtue of regulations under subsection (2) are referred to in this Act as “climate change duties”.

(4) In this Part, a public body which has climate change duties under subsection (1) or by virtue of subsection (2) is a “relevant public body”.

(5) Regulations under subsection (2) may in particular—

(a) impose climate change duties on—

(i) all public bodies;

(ii) public bodies of a particular description;

(iii) individual public bodies;

(b) impose different climate change duties on different public bodies or descriptions of public body;

(c) remove climate change duties.

(6) Before making regulations under subsection (2), the Minister must consult, in so far as reasonably practicable-

(a) such associations; and

(b) such other persons,

as the Minister considers appropriate.

(7) The Minister must co-operate with a relevant public body to help that body comply with its climate change duties.

Guidance to relevant public bodies.

37.(1) The Minister must give guidance to relevant public bodies in relation to climate change duties and those bodies must have regard to such guidance.

(2) Before giving guidance under subsection (1), the Minister must consult, in so far as reasonably practicable,

- (a) such associations; and
- (b) such other persons,

as the Minister considers appropriate.

(3) The Minister may vary or revoke guidance given under this section and where guidance is varied to a substantial extent, subsection (2) applies.

Reporting on climate change duties.

38.(1) The Minister may, by regulations, make provision—

- (a) requiring relevant public bodies to prepare reports on compliance with climate change duties;
- (b) requiring any relevant public body found, following an investigation under section 40, to be failing to comply with its climate change duties, to prepare a report on the actions it has taken, is taking or intends to take to secure future compliance with those duties;
- (c) subject to subsection (2), setting out what information reports must contain;
- (d) setting out the form and manner of reports;
- (e) setting out the period within which reports must be sent to the Minister.

(2) A report required by virtue of subsection (1)(a) must, in particular, contain information relating to how—

- (a) procurement policies of relevant public bodies; and
- (b) procurement activity by relevant public bodies,

have contributed to compliance with climate change duties.

(3) Regulations under subsection (1) may in particular—

- (a) require two or more relevant public bodies to prepare a joint report in relation to compliance with one or more climate change duties; and

- (b) require those bodies to co-operate with each other for the purpose of preparing that report.

Monitoring body

Appointment of monitoring body.

39.(1) The Minister may, by regulations, designate one or more persons or bodies to monitor whether relevant public bodies are—

- (a) complying with climate change duties;
- (b) having regard to any guidance given under section 37.

(2) In this Part, a person or body designated under subsection (1) is the “monitoring body”.

Investigations

Investigations.

40.(1) The monitoring body may carry out an investigation into—

- (a) a relevant public body's compliance with climate change duties;
- (b) whether a relevant public body is having regard to guidance given under section 37.

(2) The monitoring body must carry out an investigation if the Minister directs it to do so.

Investigators' powers.

41.(1) In this section an “investigator” means—

- (a) the monitoring body;
- (b) a person authorised by the monitoring body for the purpose of carrying out investigations.

(2) An investigator may use the powers set out in subsections (3) to (5) if the investigator considers that it is necessary to do so for the purposes of or in connection with an investigation.

(3) An investigator may, by notice in writing, require any relevant public body to provide any relevant document or relevant information in the possession, or under the control, of the relevant public body.

(4) An investigator may require any person who possesses or controls any document or information referred to in subsection (3) to provide an explanation of the document or information.

(5) An investigator may take copies of, or extracts from, any document or information produced in accordance with subsection (3).

Reporting by monitoring body.

42.(1) The Minister may direct the monitoring body to prepare a report relating to—

- (a) the monitoring body's activities under this Part;
- (b) investigations carried out by the monitoring body;
- (c) its use of resources in carrying out its functions under this Part;
- (d) any other matters as the Minister may direct.

(2) The report may include information relating to a continuing investigation only if the Minister directs that information to be included.

(3) The monitoring body must send the report to the Minister.

(4) The Minister must lay the report before Parliament.

Guidance to monitoring body.

43.(1) The monitoring body must have regard to any guidance given by the Minister to it in relation to the exercise of its functions under this Part.

(2) Before giving guidance under subsection (1), the Minister must consult, in so far as reasonably practicable, the persons mentioned in subsection (3).

(3) Those persons are—

- (a) the monitoring body; and
- (b) such other persons,

as the Minister considers appropriate.

(4) The Minister may vary or revoke guidance given under this section and where guidance is varied to a substantial extent, subsections (2) and (3) apply.

Power to direct monitoring body.

44.(1) The Minister may give directions to the monitoring body relating to the exercise of its functions under this Part.

(2) The Ministers may vary or revoke a direction given under this section.

(3) The monitoring body must comply with a direction given under this section.

PART 8

OTHER CLIMATE CHANGE PROVISIONS

ENERGY EFFICIENCY

Promotion of energy efficiency and renewable energy

Duty of Minister to promote energy efficiency.

45.(1) The Minister must prepare and publish a plan for—

- (a) promoting energy efficiency; and
- (b) improving the energy efficiency of living accommodation,

in Gibraltar.

(2) The plan must set annual energy efficiency targets and describe how those targets are to be reported on.

(3) The annual energy efficiency targets set under subsection (2) must not be lower than any energy efficiency targets set by the EU from time to time.

(4) The plan must also include details of how the Minister intends to update planning and building regulations to ensure that all new buildings avoid a specified and rising proportion of the projected emissions from their use, calculated on the basis of the approved design and plans for the specific building, through the installation and operation of low and zero-carbon generating technologies.

(5) The plan prepared under subsection (1) must be published within 12 months after the day on which this section comes into force.

(6) The Minister—

- (a) may, from time to time; and
- (b) must, before the end of the period mentioned in subsection (7),

review the plan prepared and published under this section.

(7) The period referred to in subsection (6)(b) is the period of 3 years beginning with the day on which—

- (a) the plan is first published; or
- (b) the plan was last reviewed under subsection (6).

(8) Where, following a review under subsection (6), the Minister varies the plan, he must publish the plan as so varied.

(9) In preparing or varying the plan, the Minister must have regard to the contributions which improvements to buildings and changes in building standards can make to the delivery of energy efficiency and to the reduction of emissions.

(10) In this section—

“energy efficiency” includes the use of—

- (a) technologies (other than those used for the production of heat) reliant on renewable sources of energy;
- (b) materials and equipment the manufacture or use of which produces or involves lower emissions than other materials and equipment; and
- (c) surplus heat from electricity generation or other industrial processes for district heating or other purposes;

“fossil fuel” means—

- (a) coal;
- (b) lignite;
- (c) peat;
- (d) natural gas;
- (e) crude liquid petroleum;
- (f) petroleum products;
- (g) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (f);

“renewable sources” means sources other than fossil fuel and nuclear fuel.

Information on energy.

46.(1) The Minister may, by regulations, require persons of the kinds specified to provide the Agency with information on the energy produced by or otherwise associated with such persons' activities.

(2) The regulations may in particular include provision about—

- (a) the circumstances in which information must be provided;
- (b) the information required to be provided, including the periods to which the information relates;
- (c) the form and manner in which information must be provided;
- (d) the periods within which information must be provided;
- (e) the functions of the Agency in relation to the regulations;
- (f) the keeping of information and its production to the Agency;
- (g) the enforcement of the duties imposed by the regulations;
- (h) offences in relation to failures to comply with requirements of the regulations.

(3) The Agency must issue guidance to persons to whom the regulations apply on how to comply with the requirements of the regulations.

Duty of Minister to promote renewable heat.

47.(1) The Minister must prepare and publish a plan for the promotion of the use of heat produced from renewable sources.

(2) The plan must, in particular—

- (a) set—
 - (i) targets for the percentage of heat to be produced from renewable sources; and
 - (ii) in relation to each target, the date by which it should be met; and
- (b) describe how those targets are to be reported on.

(3) The plan prepared under subsection (1) must be published within 12 months after the day on which this section comes into force.

(4) The Minister—

(a) may, from time to time; and

(b) must, before the end of the period mentioned in subsection (5),

review the plan prepared and published under this section.

(5) The period referred to in subsection (4)(b) is the period of 2 years beginning with the day on which—

(a) the plan is first published; or

(b) the plan was last reviewed under subsection (4).

(6) Where, following a review under subsection (4), the Minister varies the plan, he must publish the plan as so varied.

Climate Action Fund

Climate Action Fund.

48.(1) The Minister, in consultation with the Minister responsible for finance, may by regulations establish and maintain a Climate Action Fund.

(2) The Climate Action Fund may raise funds from:

(a) revenues accruing to the Government from its participation in and implementation of market-based measures relating to climate action adopted pursuant to international legislation, including, inter alia, from the auctioning of allowances pursuant to the Greenhouse Gas Emissions Trading Scheme Regulations 2012 as may be amended or replaced from time to time;

(b) revenues generated by the Government through the implementation of national measures relating to the reduction or limitation of Gibraltar emissions;

(c) any donations or grants made to the Fund by individuals or institutions;

(d) any sums appropriated by Parliament for such purpose;

- (e) any sums or monies as may from time to time be provided by or under this Act or any other law.

(3) The Climate Action Fund shall be administered by a board composed of a chairperson appointed by the Minister and two other members, one member being appointed by the Minister responsible for finance, and the other member being appointed from amongst persons knowledgeable in climate change matters.

(4) The Climate Action Fund shall 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 for, or ancillary to its functions.

(5) The members of the board referred to in subsection (3) shall be appointed for a term of three (3) years and on expiration of their terms shall be eligible for re-appointment.

(6) The Climate Action Fund referred to in subsection (2) shall be applied to:

- (a) support the fulfilment of the obligations set out in this Act and regulations made hereunder;
- (b) support the fulfilment of the Government's obligations and commitments established under international law;
- (c) the provision of financial support to, and the promotion, facilitating and financing of the transfer of, and access to, environmentally sound technologies and know-how or capacity for developing countries, in accordance with obligations and commitments of the Government pursuant to international treaties.

(7) The Climate Action Fund referred to in subsection (2) may be applied in Gibraltar or elsewhere, to support research and development related to the climate system or to promote education, training and public awareness related to the climate system or to finance such other activities including activities organized by non-governmental organisations, as the Minister, in consultation with the board, may prescribe.

(8) The board referred to in subsection (3) shall every financial year deliver to the Minister a copy of its duly audited balance sheet together with a report of its activities during the previous financial year. The Minister shall lay a copy of the balance sheet and of the report before Parliament.

(9) The Minister may, with the concurrence of the Minister responsible for Finance, make regulations prescribing the procedure to be followed by the board referred to in subsection

(3) and otherwise regulating the fund. The Minister may by such regulations in particular prescribe such functions, activities and initiatives that may be or are to be financed by the fund.

(10) The revenue of the Climate Action Fund shall not be subject to tax under the Income Tax Act 2010.

WASTE REDUCTION

Waste Prevention and Management Plans

Waste prevention and management plans.

49.(1) The Minister may, by regulations, require persons of the kinds specified—

- (a) to prepare plans for the prevention, reduction, management, recycling, use and disposal of waste produced by or otherwise associated with their activities;
- (b) to comply with those plans.

(2) The regulations may in particular include provision about—

- (a) the circumstances in which plans must be prepared, including when more than one plan must be prepared;
- (b) the kinds of waste in relation to which plans must be prepared;
- (c) the periods—
 - (i) to which plans relate;
 - (ii) within which plans must be prepared;
- (d) the content of plans;
- (e) subject to section 61—
 - (i) the enforcement authority in relation to the regulations; and
 - (ii) the functions of that authority, including the approval by it of plans prepared under the regulations;
- (f) the keeping of plans and other information and their production to the enforcement authority;

(g) the enforcement of the duties imposed by the regulations;

(h) offences in relation to failures to comply with requirements of the regulations.

(3) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

(4) In this Part—

“recycling”, in relation to any waste, includes recovery and re-use (whether or not the waste is subjected to any process) (and cognate expressions are to be construed accordingly);

“specified” means specified in regulations (and cognate expressions are to be construed accordingly);

“waste” means any substance or object in the categories set out in the Schedule to this Act which the holder discards or intends or is required to discard; and for the purposes of this definition—

“holder” means the producer of the waste or the person who is in possession of it; and

“producer” means any person whose activities produce waste or any person who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste

Waste data

Information on waste.

50.(1) The Minister may, by regulations, require persons of the kinds specified to provide the Agency with information on the waste produced by or otherwise associated with such persons' activities.

(2) The regulations may in particular include provision about—

(a) the circumstances in which information must be provided;

(b) the information required to be provided, including the periods to which the information relates;

(c) the form and manner in which information must be provided;

- (d) the periods within which information must be provided;
- (e) the functions of the Agency in relation to the regulations;
- (f) the keeping of information and its production to the Agency;
- (g) the enforcement of the duties imposed by the regulations;
- (h) offences in relation to failures to comply with requirements of the regulations.

(3) The Agency may give guidance to persons to whom the regulations apply on how to comply with the requirements of the regulations.

Deposit of recyclable waste

Recyclable waste: facilities for deposit etc.

51.(1) The Minister may, by regulations, require—

- (a) persons of the kinds specified to provide facilities for the deposit of waste;
- (b) authorised persons—
 - (i) to collect waste deposited by virtue of paragraph (a);
 - (ii) to ensure, in so far as reasonably practicable, that such waste collected by or transferred to them is recycled.

(2) The regulations may in particular include provision about—

- (a) the circumstances in which facilities must be provided, including the places at which they must be provided;
- (b) the persons for whom facilities must be provided;
- (c) the kinds of waste for which facilities must be provided;
- (d) the circumstances in which authorised persons must collect waste, including which authorised persons must do so;
- (e) the charging by authorised persons for collecting waste, for recycling waste and for otherwise ensuring waste is recycled;
- (f) subject to section 61—

- (i) the enforcement authority in relation to the regulations; and
- (ii) the functions of that authority;
- (g) the keeping of records and their production to the enforcement authority;
- (h) the enforcement of the duties imposed by the regulations;
- (i) offences in relation to failures to comply with requirements of the regulations.

(3) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

(4) The Minister may not, by regulations under this section, impose requirements on persons to provide facilities for the deposit of waste in circumstances in relation to which regulations under section 52 may be made.

(5) In this section and in section 52, “authorised person” means a waste collection authority or waste disposal authority in Gibraltar.

Recyclable waste: facilities for deposit at events etc.

52.(1) The Minister may, by regulations, confer power on public authorities to issue notices requiring—

- (a) persons responsible for organising temporary events open to the public to provide facilities for the deposit of waste by persons attending those events;
- (b) authorised persons to—
 - (i) collect waste deposited by virtue of paragraph (a);
 - (ii) ensure, in so far as reasonably practicable, that such waste collected by or transferred to them is recycled.

(2) The regulations may in particular include provision about—

- (a) the events in relation to which notices can be issued;
- (b) the circumstances in which facilities must be provided, including the places at which they must be provided;
- (c) the persons for whom facilities must be provided;

- (d) the kinds of waste for which facilities must be provided;
- (e) the persons to whom notices can be issued;
- (f) the content of notices;
- (g) the form of and manner in which notices can be issued, including the times at which notices can be issued;
- (h) appeals against notices;
- (i) the circumstances in which authorised persons must collect waste, including which authorised persons must do so;
- (j) the charging by authorised persons for collecting waste, recycling waste and otherwise ensuring waste is recycled;
- (k) subject to section 61—
 - (i) the enforcement authority in relation to notices; and
 - (ii) the functions of that authority;
- (l) the keeping of records by persons to whom notices are issued and their production to the enforcement authority;
- (m) the enforcement of duties imposed by notices;
- (n) offences in relation to failures to comply with requirements of notices.

(3) Public authorities must have regard to any guidance given by the Minister to them in relation to the functions conferred on them by the regulations.

(4) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

Procurement of recyclate

Procurement of recyclate.

53.(1) The Minister may, by regulations, require persons of the kinds specified to comply with the requirement in subsection (2).

(2) That requirement is to ensure that things procured or constructed by or on behalf of such persons—

- (a) comprise of; or
- (b) include or contain a certain proportion of,

recyclate.

(3) The regulations may in particular include provision about—

- (a) the circumstances in which the requirement applies;
- (b) the kinds of things in relation to which the requirement applies;
- (c) the proportion of recyclate that such things must include or contain;
- (d) how such proportions are to be determined;
- (e) the circumstances in which a person may apply to the Minister to have the requirement disapplied;
- (f) subject to section 61—
 - (i) the enforcement authority in relation to the regulations; and
 - (ii) the functions of that authority;
- (g) the keeping of records and their production to the enforcement authority;
- (h) the enforcement of the duties imposed by the regulations;
- (i) offences in relation to failures to comply with requirements of the regulations.

(4) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

(5) Persons to whom the regulations apply must have regard to any guidance given by—

- (a) the Minister;
- (b) the enforcement authority,

to them in relation to the requirements imposed by the regulations.

(6) In this section, “recyclate” means waste that has been recycled.

Procurement of recycled and recyclable products etc.

54.(1) The Ministers may by regulations require specified public authorities to ensure that—

- (a) a specified proportion of the goods or works procured by or on behalf of the authorities, or
- (b) a specified proportion of the materials used in the production, provision or construction of goods, services or works so procured,

fall within subsection (2).

(2) Something falls within this subsection if—

- (a) it has been used already (including where it has been refurbished since that use),
- (b) it has been remanufactured, or
- (c) it is designed to be repaired, reused, refurbished, remanufactured or recycled.

(3) The regulations may, in particular, make provision about—

- (a) the circumstances in which the requirement applies,
- (b) the kinds of things in relation to which the requirement applies,
- (c) how the specified proportions are to be determined,
- (d) the circumstances in which a person may apply to the Minister to have the requirement disapplied,
- (e) subject to section 61—
 - (i) the enforcement authority in relation to the regulations, and
 - (ii) the functions of that authority,
- (f) the keeping of records and their production to the enforcement authority,
- (g) the enforcement of the duties imposed by the regulations,

(h) offences in relation to failures to comply with requirements of the regulations.

(4) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

(5) Persons to whom the regulations apply must have regard to any guidance given by—

- (a) the Minister,
- (b) the enforcement authority,

to them in relation to the requirements imposed by the regulations.

(6) In this section—

“ specified ” means specified in the regulations.

Reduction of packaging

Targets for reduction of packaging etc.

55.(1) The Minister may, by regulations—

- (a) set targets—
 - (i) for the reduction of packaging;
 - (ii) for the reduction of Gibraltar emissions associated with packaging;
- (b) require persons of the kinds specified to comply with those targets.

(2) The regulations may in particular include provision about—

- (a) the circumstances in which the requirement in subsection (1)(b) applies;
- (b) the kinds of packaging in relation to which targets may be set;
- (c) the targets in relation to such packaging (including how targets may be set);
- (d) the methods of determining whether targets have been met;
- (e) subject to section 61—
 - (i) the enforcement authority in relation to the regulations; and

- (ii) the functions of that authority;
 - (f) the keeping of records and other information and their production to the enforcement authority (including the periods to which records or information must relate and within which it must be produced to the authority);
 - (g) the enforcement of the duties imposed by the regulations;
 - (h) offences in relation to failures to comply with requirements of the regulations.
- (3) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.
- (4) In this section and in section 56, “packaging” shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer. 'Non-returnable' items used for the same purposes shall also be considered to constitute packaging. 'Packaging' consists only of:
- (a) sales packaging or primary packaging, i.e. packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
 - (b) grouped packaging or secondary packaging, i.e. packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;
 - (c) transport packaging or tertiary packaging, i.e. packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers.

Deposit and return

Deposit and return schemes.

56.(1) The Minister may, by regulations, establish deposit and return schemes.

(2) A “deposit and return scheme” is a scheme under which—

- (a) the sale price of articles includes a returnable element (a “deposit”);

- (b) persons who return—
 - (i) such articles;
 - (ii) the packaging associated with such articles (“returnable packaging”); or
 - (iii) both such articles and such packaging,

are entitled to be paid a sum equal to that deposit.

(3) Retailers may be required, under a deposit and return scheme, to—

- (a) include a deposit in the price of articles placed on the market by them;
- (b) accept the return to them of—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
- (c) pay a sum equal to the deposit to persons who return to them—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
- (d) return such articles to the producers of them;
- (e) return returnable packaging to the producers of it or of the articles with which it is associated.

(4) Producers may be required, under a deposit and return scheme, to—

- (a) include a deposit in the price of articles placed on the market by them;
- (b) accept the return to them of—
 - (i) such articles;
 - (ii) returnable packaging; or

- (iii) both such articles and such packaging;
 - (c) pay a sum equal to the deposit to retailers who return to them—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (d) recycle, or have recycled—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging.
- (5) A deposit and return scheme may also provide for a person or body (a “scheme administrator”) to—
- (a) ensure that deposits are included in the price of articles placed on the market;
 - (b) accept the return of—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (c) pay sums equal to deposits to persons who return—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (d) return such articles to the producers of them;
 - (e) return returnable packaging to the producers of it or of the articles with which it is associated;

- (f) recover sums equal to deposits from such producers;
- (g) recycle, or have recycled—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging.

(6) The Minister may make regulations under this section only where he considers it necessary or expedient to do so for the purpose of promoting or securing an increase in the recycling of materials.

(7) The regulations may in particular include provision about—

- (a) the persons who are retailers and producers for the purposes of deposit and return schemes;
- (b) the articles to which such schemes apply;
- (c) the deposits to be included in the price of such articles;
- (d) the inclusion, in the sale price of articles, of a non-returnable element to cover the reasonable costs incurred by retailers, producers or a scheme administrator in administering such schemes;
- (e) the articles the return of which entitles persons to payment of sums equal to deposits;
- (f) the methods by which such articles are to be identified;
- (g) the packaging which is returnable packaging for the purposes of such schemes;
- (h) the methods by which returnable packaging is to be identified;
- (i) information on the operation of schemes (including notices on premises where articles are offered for sale and the content of such notices);
- (j) the places to which articles can be returned;
- (k) the places to which returnable packaging can be returned;

- (l) the registration of retailers and producers to whom schemes apply (including the reasonable fees payable in relation to such registration);
- (m) the scheme administrator;
- (n) subject to section 61—
 - (i) the enforcement authority in relation to the regulations; and
 - (ii) the functions of that authority;
- (o) the keeping of records and other information and their production to the enforcement authority;
- (p) the enforcement of the duties imposed by the regulations;
- (q) offences in relation to failures to comply with requirements of the regulations.

Deposit and return schemes: designation of scheme administrator.

57.(1) The Minister may, by order, designate—

- (a) a body established under section 58(1); or
- (b) such other person or body as they consider appropriate (an “existing body”),

as a scheme administrator of a deposit and return scheme established by virtue of section 56.

(2) An order under subsection (1)(b) may, in so far as the Minister considers it necessary or expedient to do so, modify the functions of an existing body by—

- (a) conferring functions on;
- (b) removing functions from; or
- (c) otherwise varying the functions of,

the body.

(3) That order may in particular include provision about—

- (a) borrowing by the existing body (with the approval of the Minister);

- (b) the charging by the body, in respect of the exercise of its functions in relation to a deposit and return scheme, of such reasonable amounts as the Minister consider appropriate.

(4) In exercising functions in relation to a deposit and return scheme, a scheme administrator must comply with any written directions of a general or specific nature as the Minister may from time to time give to it in relation to those functions.

Power to establish scheme administrator.

58.(1) The Ministers may, by regulations, establish a body to be a scheme administrator of a deposit and return scheme established by virtue of section 56(1).

- (2) A body established under subsection (1) is to be a body corporate.
- (3) The body may do anything which appears to it—
 - (a) to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions in relation to a deposit and return scheme;
 - (b) to be conducive to the exercise of those functions.
- (4) In particular, the body may—
 - (a) enter into contracts;
 - (b) with the agreement of the Minister, borrow money;
 - (c) charge, in respect of the exercise of its functions in relation to a deposit and return scheme, such reasonable amounts as the Minister considers appropriate.
- (5) Regulations made under subsection (1) may in particular include provision about—
 - (a) the status and constitution of the body;
 - (b) the status of the members and any employees of the body;
 - (c) the remuneration, allowances and pensions of such members and such employees;
 - (d) the conferral of functions on the body;
 - (e) the keeping by the body of accounts and accounting records.

*Carrier bag charges***Charges for supply of carrier bags.**

59.(1) The Minister may, by regulations, require suppliers of goods—

- (a) to charge for carrier bags supplied at the place where the goods are supplied for the purpose of enabling the goods to be taken away or delivered;
- (b) to apply the net proceeds raised by such charges to the advancement of environmental protection or improvement or to any other purposes that may be reasonably regarded as analogous.

(2) The regulations may in particular include provision about—

- (a) the circumstances in which the requirement applies;
- (b) the suppliers to whom the requirement applies;
- (c) the carrier bags to which the requirement applies;
- (d) the minimum amount to be charged for each carrier bag;
- (e) how the net proceeds raised by the charge are to be ascertained;
- (f) the purposes to which those net proceeds are to be applied;
- (g) subject to section 61—
 - (i) the enforcement authority in relation to the regulations; and
 - (ii) the functions of that authority;
- (h) the keeping of records and their production to the enforcement authority;
- (i) the enforcement of the duties imposed by the regulations;
- (j) offences in relation to failures to comply with requirements of the regulations.

(3) The enforcement authority must have regard to any guidance given by the Minister to it in relation to the functions conferred on it by the regulations.

Offences relating to supply of carrier bags: fixed penalty notices.

60.(1) A person authorised for the purpose of this section by an enforcement authority may give a person a fixed penalty notice if the person so authorised has reason to believe that the person to whom the notice is given has committed a relevant offence.

(2) In subsection (1), “relevant offence” means an offence provided for in regulations made under section 59.

(3) The Minister may by regulations make further provision about fixed penalty notices under subsection (1).

(4) Subject to section 61, the regulations may in particular include provision about—

- (a) the enforcement authority in relation to the regulations; and
- (b) the functions of that authority in relation to fixed penalty notices.

General provision

Enforcement authorities.

61.(1) This section applies to any regulations made under this Part other than under section 52.

(2) The enforcement authority provided for in the regulations is to be—

- (a) the Agency;
- (b) a public authority; or
- (c) such other person or body as the Minister considers appropriate.

(3) The regulations may provide for the functions of the enforcement authority in relation to the regulations to be exercised by two or more such authorities and about the functions of each such authority.

(4) The regulations may also provide for enforcement authorities to levy charges to recover the reasonable costs incurred by them in exercising their functions under the regulations.

Penalties.

62.(1) A person who commits an offence under regulations made under this Part is liable to such penalties, not exceeding those mentioned in subsection (2), as are provided for in the regulations.

- (2) Those penalties are—
- (a) on summary conviction, a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, an unlimited fine.

TRANSPORT

Reduction of Gibraltar emissions from transport.

63.(1) The Minister may, after consultation with the Minister with responsibility for Transport and any other minister of Government as the Minister considers necessary or appropriate, by regulations, make provision for the reduction of Gibraltar emissions from transport.

- (2) The regulations may in particular include provision about—
- (a) charging points for electric vehicles;
 - (b) requirements for the Government to replace 25% of its vehicles with electric vehicles;
 - (c) restrictions on vehicles accessing areas of Gibraltar depending on emission levels of vehicles;
 - (d) taxation on households with multiple vehicles;
 - (e) availability of grants for electronic vehicles;
 - (f) requirements for ships to use shore side electrical power;
 - (g) the enforcement of the duties imposed by the regulations;
 - (h) offences in relation to failures to comply with requirements of the regulations.

(3) The Agency may give guidance to persons to whom the regulations apply on how to comply with the requirements of the regulations.

Regulations.

64. Without prejudice to any other power conferred by this Act to make regulations, the Minister may make regulations for the better carrying out of the purposes and provisions of this Act.

SCHEDULE**CATEGORIES OF WASTE**

1. Production or consumption residues not otherwise specified below.
2. Off-specification products.
3. Products whose date for appropriate use has expired.
4. Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc, contaminated as a result of the mishap.
5. Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers, etc.).
6. Unusable parts (e.g. reject batteries, exhausted catalysts, etc.).
7. Substances which no longer perform satisfactorily (e.g. contaminated solvents, exhausted tempering salts, etc.).
8. Residues of industrial processes (e.g. slags, still bottoms, etc.)
9. Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.).
10. Machining or finishing residues (e.g. lathe turnings, mill scales, etc.).
11. Residues from raw materials extraction and processing (e.g. mining residues, oil field slops, etc.).
12. Adulterated materials (e.g. oils contaminated with PCBs, etc.).
13. Any materials, substances or products whose use has been banned by law.
14. Products for which the holder has no further use (e.g. agricultural, household, office, commercial and shop discards, etc.).
15. Contaminated materials, substances or products resulting from remedial action with respect to land.
16. Any other materials, substances or products which are not contained in the above categories as the Minister may designate by notice in the Gazette.