

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 4468 of 24 May, 2018

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**B. 11/18**

**BILL**

**FOR**

**AN ACT** to amend the Income Tax Act 2010, various Acts on Social Security and the Medical (Group Practice Scheme) Act in order to make provision for the publication of details of failure to pay social security contributions or tax; and for connected purposes.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Act may be cited as the Miscellaneous Amendments (Income Tax and Social Security, etc.) Act 2018 and comes into operation on the day of publication.

**Amendment of the Income Tax Act 2010.**

2. Section 68 of the Income Tax Act 2010 is amended as follows-

- (a) in subsection (1) by inserting “and in any newspaper circulating in Gibraltar” after “Gazette”; and
- (b) in subsection (4) by inserting “and in at least one newspaper circulating in Gibraltar” after “Gazette”.

**Amendment of the Social Security (Insurance) Act.**

3. The Social Security (Insurance) Act is amended by inserting the following section after section 52-

**“Publication of details of failure to pay contributions.**

52A.(1) Subject to the provisions of this section, the Director may cause to be published in the Gazette and in any newspaper circulating in Gibraltar the name of any person whom he has reason to believe has failed to pay contributions due under this Act.

(2) The Director may act in accordance with subsection (1) where he believes that—

- (a) any contributions due to be collected or paid have not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the contributions due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

(3) For the purposes of subsection (2), the Director may estimate the amount or amounts due in accordance with the provisions of this Act.

(4) For the purposes of subsection (1), the following information may be published—

- (a) the name of the person (including any trading name, previous name or pseudonym);
- (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
- (c) the business address of the person (or registered office);
- (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
- (e) any such information as the Director considers appropriate to publish in order to make clear the person’s identity;

(f) the amount of contributions due and the period to which it relates.

(5) Where the Director is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Director shall publish a retraction in the Gazette and in at least one newspaper circulating in Gibraltar as soon as practicably possible.

(6) The sum of £5,000 referred to in subsection (2)(b) means the aggregate sum of contributions due under this Act, the Social Security (Employment Injuries Insurance) Act, the Social Security (Open Long-Term Benefits Scheme) Act 1997 and the Medical (Group Practice Scheme) Act.

(7) No information may be published before the time for any appeal under the Act has expired or, if later, before any such appeal is determined.

(8) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.

(9) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Director under this section unless at the date of such utterance, report or publication the Director has published a retraction under this section.

(10) The Minister may from time to time make regulations to cause and enable the Director to publish information on any person for the purposes of this section.”

**Amendment of the Social Security (Employment Injuries Insurance) Act.**

4. The Social Security (Employment Injuries Insurance) Act is amended by inserting the following section after section 49-

**“Publication of details of failure to pay contributions.**

49A.(1) Subject to the provisions of this section, the Director may cause to be published in the Gazette and in any newspaper circulating in Gibraltar the name of any person whom he has reason to believe has failed to pay contributions due under this Act.

(2) The Director may act in accordance with subsection (1) where he believes that—

- (a) any contributions due to be collected or paid have not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the contributions due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

(3) For the purposes of subsection (2), the Director may estimate the amount or amounts due in accordance with the provisions of this Act.

(4) For the purposes of subsection (1), the following information may be published—

- (a) the name of the person (including any trading name, previous name or pseudonym);
- (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
- (c) the business address of the person (or registered office);
- (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
- (e) any such information as the Director considers appropriate to publish in order to make clear the person’s identity;

(f) the amount of contributions due and the period to which it relates.

(5) Where the Director is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Director shall publish a retraction in the Gazette and in at least one newspaper circulating in Gibraltar as soon as practicably possible.

(6) The sum of £5,000 referred to in subsection (2)(b) means the aggregate sum of contributions due under this Act, the Social Security (Insurance) Act, the Social Security (Open Long-Term Benefits Scheme) Act 1997 and the Medical (Group Practice Scheme) Act.

(7) No information may be published before the time for any appeal under the Act has expired or, if later, before any such appeal is determined.

(8) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.

(9) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Director under this section unless at the date of such utterance, report or publication the Director has published a retraction under this section.

(10) The Minister may from time to time make regulations to cause and enable the Director to publish information on any person for the purposes of this section.”

**Amendment of the Social Security (Open Long-Term Benefits Scheme) Act 1997.**

5. The Social Security (Open Long-Term Benefits Scheme) Act 1997 is amended by inserting the following section after section 41-

**“Publication of details of failure to pay contributions.**

41A.(1) Subject to the provisions of this section, the Director may cause to be published in the Gazette and in any newspaper circulating in Gibraltar the name of any person whom he has reason to believe has failed to pay contributions due under this Act.

(2) The Director may act in accordance with subsection (1) where he believes that—

- (a) any contributions due to be collected or paid have not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the contributions due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

(3) For the purposes of subsection (2), the Director may estimate the amount or amounts due in accordance with the provisions of this Act.

(4) For the purposes of subsection (1), the following information may be published—

- (a) the name of the person (including any trading name, previous name or pseudonym);
- (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
- (c) the business address of the person (or registered office);
- (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
- (e) any such information as the Director considers appropriate to publish in order to make clear the person’s identity;

(f) the amount of contributions due and the period to which it relates.

(5) Where the Director is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Director shall publish a retraction in the Gazette and in at least one newspaper circulating in Gibraltar as soon as practicably possible.

(6) The sum of £5,000 referred to in subsection (2)(b) means the aggregate sum of contributions due under this Act, the Social Security (Employment Injuries Insurance) Act, the Social Security (Insurance) Act and the Medical (Group Practice Scheme) Act.

(7) No information may be published before the time for any appeal under the Act has expired or, if later, before any such appeal is determined.

(8) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.

(9) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Director under this section unless at the date of such utterance, report or publication the Director has published a retraction under this section.

(10) The Minister may from time to time make regulations to cause and enable the Director to publish information on any person for the purposes of this section.”

**Amendment of the Medical (Group Practice Scheme) Act.**

6. The Medical (Group Practice Scheme) Act is amended by inserting the following section after section 10 -

**“Publication of details of failure to pay contributions.**

10A.(1) Subject to the provisions of this section, the Director may cause to be published in the Gazette and in any newspaper circulating in Gibraltar the name of any person whom he has reason to believe has failed to pay contributions due under this Act.

(2) The Director may act in accordance with subsection (1) where he believes that—

- (a) any contributions due to be collected or paid have not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the contributions due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

(3) For the purposes of subsection (2), the Director may estimate the amount or amounts due in accordance with the provisions of this Act.

(4) For the purposes of subsection (1), the following information may be published—

- (a) the name of the person (including any trading name, previous name or pseudonym);
- (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
- (c) the business address of the person (or registered office);
- (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
- (e) any such information as the Director considers appropriate to publish in order to make clear the person’s identity;

(f) the amount of contributions due and the period to which it relates.

(5) Where the Director is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Director shall publish a retraction in the Gazette and in at least one newspaper circulating in Gibraltar as soon as practicably possible.

(6) The sum of £5,000 referred to in subsection (2)(b) means the aggregate sum of contributions due under this Act, the Social Security (Employment Injuries Insurance) Act, the Social Security (Open Long-Term Benefits Scheme) Act and the Social Security (Insurance) Act.

(7) No information may be published before the time for any appeal under the Act has expired or, if later, before any such appeal is determined.

(8) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.

(9) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Director under this section unless at the date of such utterance, report or publication the Director has published a retraction under this section.

(10) The Minister may from time to time make regulations to cause and enable the Director to publish information on any person for the purposes of this section.”

**EXPLANATORY MEMORANDUM**

This Bill makes amendments to various Acts on social security and the Medical (Group Practice Scheme) Act so as to allow the Director of Social Security to publish the name of any person who has failed to pay contributions due under the various Acts referred to therein. It also amends the Income Tax Act 2010 to bring it in line with the amendments made to the various Acts on social security.

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