



# PROCEEDINGS OF THE GIBRALTAR PARLIAMENT

**AFTERNOON SESSION: 4.00 p.m. – 7.05 p.m.**

**Gibraltar, Monday, 16th December 2024**

## **Contents**

Standing Order 7(1) suspended to proceed with Government Bills .....	3
<b>Order of the Day .....</b>	<b>3</b>
Bills .....	3
First and Second Reading .....	3
Genetically Modified Organisms Bill 2024 – First Reading approved.....	3
Genetically Modified Organisms Bill 2024 – Second Reading approved.....	4
Genetically Modified Organisms Bill 2024 – Committee Stage and Third Reading to be taken at this sitting .....	5
Control of Major Accident Hazards Bill 2024 – First Reading approved.....	5
Control of Major Accident Hazards Bill 2024 – Second Reading approved.....	5
Control of Major Accident Hazards Bill 2024 – Committee Stage and Third Reading to be taken at this sitting .....	7
Litter Control (Amendment) Bill 2024 – First Reading approved .....	7
Litter Control (Amendment) Bill 2024 – Second Reading approved .....	8
Litter Control (Amendment) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting .....	10
Transport (Amendment No. 2) Bill 2024 – First Reading approved .....	10
Transport (Amendment No. 2) Bill 2024 – Second Reading approved.....	10
Transport (Amendment No. 2) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting .....	12
Traffic (Amendment) Bill 2024 – First Reading approved .....	12

Traffic (Amendment) Bill 2024 – Second Reading approved .....	12
Traffic (Amendment) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	13
Traffic (Amendment) Bill 2024 – First Reading approved .....	13
Traffic (Amendment) Bill 2024 – Second Reading approved .....	14
Traffic (Amendment) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	15
Education and Training (Amendment) Bill 2024 – First Reading approved .....	15
Education and Training (Amendment) Bill 2024 – Second Reading approved .....	15
Education and Training (Amendment) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	16
Transport (Amendment No. 3) Bill 2024 – First Reading approved .....	16
Transport (Amendment No. 3) Bill 2024 – Second Reading approved .....	17
Transport (Amendment No. 3) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	18
Sanctions (Amendment) Bill 2024 – First Reading approved.....	18
Sanctions (Amendment) Bill 2024 – Second Reading approved .....	19
Sanctions (Amendment) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	20
Global Minimum Tax Bill 2024 – First Reading approved .....	20
Global Minimum Tax Bill 2024 – Second Reading approved .....	21
Global Minimum Tax Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	22
Income Tax (Amendment No. 3) Bill 2024 – First Reading approved .....	22
Income Tax (Amendment) (No. 3) Bill 2024 – Second Reading approved .....	24
Income Tax (Amendment No. 3) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	32
Income Tax (Amendment No. 4) Bill 2024 – First Reading approved .....	32
Income Tax (Amendment No. 4) Bill 2024 – Second Reading approved .....	33
Income Tax (Amendment No. 4) Bill 2024 – Committee Stage and Third Reading to be taken at this sitting.....	34
Income Tax (Amendment No. 2) Bill 2024 – First Reading approved .....	34
Income Tax (Amendment No. 2) Bill 2024 – Second Reading approved .....	34
Adjournment .....	44
<i>The House adjourned at 7.05 p.m.</i> .....	45

# The Gibraltar Parliament

*The Parliament met at 4 p.m.*

[MADAM SPEAKER: Hon. Judge K Ramagge GMH *in the Chair*]

[CLERK TO THE PARLIAMENT: J B Reyes Esq *in attendance*]

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

**Clerk:** Meeting of Parliament, Monday, 16th December 2024. Suspension of Standing Orders. The Hon. the Chief Minister.

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

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

## Order of the Day

### **BILLS**

#### **FIRST AND SECOND READING**

#### **Genetically Modified Organisms Bill 2024 – First Reading approved**

10 **Clerk:** Bills, First and Second Reading.

A Bill for an Act to restate the law relating to genetically modified organisms, with modifications; and matters connected thereto.

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

15 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to restate the law relating to genetically modified organisms, with modifications, and matters connected thereto be read a first time.

20 **Madam Speaker:** I now put the question, which is that a Bill for an Act to restate the law relating to genetically modified organisms, with modifications, and matters connected thereto be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Genetically Modified Organisms Act 2024.

**Genetically Modified Organisms Bill 2024 –  
Second Reading approved**

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

Madam Speaker, with regard to this Bill and another three Bills that I hope to be taking today, as required by section 22(5) of the Environmental Governance Act 2023, I declare that this Bill, if enacted, contains provisions which will be environmental law. I further state, as required by section 22(6) of said Act, that in my view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law and, as required by section 22(10) of the Act, I will be publishing a notice to this effect in the Gibraltar Gazette.

If I now move to the content of the Bill, the Bill repeals and re-enacts Part 4A of the Public Health Act and is part of an exercise to modernise the Public Health Act on genetics, specifically on genetically modified organisms with certain modifications. It is based on the UK's Part 6 of the Environmental Protection Act 1990, which is still in force. Part 4A of the Public Health Act was originally enacted to transpose a number of EC directives at the time, together with two sets of regulations: the Public Health (Genetically Modified Micro Organisms) (Contained Use) Regulations and the Public Health (Genetically Modified Organisms) (Deliberate Release) Regulations. Those directives have since been replaced by other directives which have also been transposed largely by the regulations to which I have just referred. The references to EU law in Part 6A of the Public Health Act have been removed or modified in this Bill to ensure that the provisions still work post-Brexit.

The purpose of this Bill is to maintain a regulatory regime in respect of genetically modified organisms (GMO) to ensure that all appropriate measures are taken to avoid damage to the environment that may arise from the escape or release from human control of GMOs. In certain circumstances, a person must obtain the consent of the Competent Authority, being the Environmental Agency, before importing, acquiring, releasing or marketing a GMO. It imposes general duties and notification requirements on users of GMOs and creates offences where these are not complied with. It gives the Environmental Agency enforcement powers to ensure the provisions of the Bill are complied with, including powers of entry and inspection.

Madam Speaker, I commend this Bill to the House.

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

**Hon. G Origo:** Madam Speaker, I am grateful for the opportunity to comment on the general principles and merits of the Bill and grateful to the Hon. Minister for his explanation and justification of the same.

The Bill, in essence, as the Hon. Minister has quite rightly stated, re-enacts Part 5A of the Public Health Act with some minor modifications. These minor modifications include the introduction of a public register, the serving of notices and the power to issue regulations and consequential provisions. Most of these additions are quite rightly welcomed. This is a piece of legislation that is being repealed and has been in law for almost 30 years, I think, having been initially made law in January 1996.

On behalf of the Members on this side of the House, I would like to indicate our support for this Bill.

**Madam Speaker:** Does any other hon. Member wish to speak? Would the mover like to reply?

**Hon. Prof. J E Cortes:** Madam Speaker, I have to express my gratitude to the hon. Member. We discussed it briefly outside, when he indicated that the Opposition was supporting the Bill.

With that, I commend the Bill to the House.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to restate the law relating to genetically modified organisms, with modifications, and matters connected thereto be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Genetically Modified Organisms Act 2024.

**Genetically Modified Organisms Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Members:** Aye.

**Control of Major Accident Hazards Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to repeal and restate the law on the control and prevention of major accidents involving dangerous substances, the limitation of their consequences for human health and the environment; and for connected purposes.

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

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to repeal and restate the law on the control and prevention of major accidents involving dangerous substances, the limitation of their consequences for human health and the environment, and for connected purposes, be read a first time.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to repeal and restate the law on the control and prevention of major accidents involving dangerous substances, the limitation of their consequences for human health and the environment, and for connected purposes, be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Control of Major Accident Hazards Act 2024.

**Control of Major Accident Hazards Bill 2024 –  
Second Reading approved**

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

Madam Speaker, there are some amendments which I circulated by letter to your good self on 10th June 2024 and which I propose that we take at Committee Stage.

Madam Speaker, once again, as required by section 22(5) of the Environmental Governance Act 2023, I declare that this Bill, if enacted, contains provisions which are environmental law. I further state, as required by section 22(6) of that Act, that in my view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law and, as required by section 22(10), I will be publishing a notice to this effect in the Gibraltar Gazette.

The provisions of this Bill are another part of the dissection of the Public Health Act and by and large replicate a section of that.

Before I turn to the substantive provisions, the reason I am taking this Bill, as opposed to my colleague the Minister with responsibility for public health, is that the Environmental Agency is a Competent Authority and we have agreed that it would make sense for me to move this legislation.

Madam Speaker, Part 2A of the Public Health Act came about as a result of the transposition of Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances. In time, those provisions were further amended for the purposes of transposing Directive 2012/18/EU of the European Parliament and of the Council on the Control of Major Accident Hazards involving Dangerous Substances, amending and subsequently repealing the former legislation.

The overall purpose of the Bill is to require establishments that meet the relevant criteria to take measures to prevent major accidents and limit the consequences for human health and the environment, notify the Competent Authority before new establishments are constructed, prepare a major accident prevention policy and prepare safety reports where the upper-tier thresholds are met.

The regime as a whole will remain familiar to those who have to date operated under it under the Public Health Act. However, we have taken the opportunity to finetune some of the provisions where it was felt that the previous drafting could be improved. As was hitherto the case, establishments that, due to their size, are considered upper-tier establishments have to carry higher risks and are subject to additional provisions such as internal and external emergency plans.

Part 3 of the Bill provides the functions and powers for the Competent Authority to be able to operate under this Act. There is a new charging power, whereby the Competent Authority is able to pass on to the operator of an establishment the cost of bringing in outside expertise, in clause 29. This has been the practice to date and it is now formalised.

The Bill replicates provisions relating to transboundary incidents. During EU membership, the reporting requirement was to the European Commission. These provisions have been recast so that the Competent Authority may engage with neighbouring countries should the circumstances arise.

Part 4 of the Bill provides for an appeals process.

Part 5 has miscellaneous provisions, including a regulation-making power that allows for the amendment of the schedules and to enable the implementation of international conventions or agreements.

I commend the Bill to the House.

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

**Hon. G Origo:** Madam Speaker, I am grateful to the Minister once again for his justification of the merits and principles of the Bill.

As stated, this Bill repeals and re-enacts provisions of Part 2A and Schedules 6 to 11 of the Public Health Act, with certain amendments. In particular, Part 2 of this new Bill serves to replace sections 95A to 95U of the current Act. Part 3, as introduced in this Bill, serves to create further provisions and functions for the Competent Authority, and that part is welcomed as it will serve to provide further clarity in this respect. The schedules, as I have reviewed them, are also serving

to narrow down and confine the previous schedules pertaining to the Public Health Act, and therefore this provides an exercise of simplification and that is also welcomed.

On behalf of the Members of the Opposition on this side of the House, I can indicate our support for this Bill.

**Madam Speaker:** If no other hon. Member wishes to speak, I will call on the mover to reply if he so wishes.

**Hon. Prof. J E Cortes:** Madam Speaker, once again I am grateful to the hon. Member for supporting the Bill on behalf of the Opposition. We have had a brief discussion previously, so I have nothing further to add other than to commend the Bill to the House.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to repeal and restate the law on the Control and prevention of major accidents involving dangerous substances, the limitation of their consequences for human health and the environment, and for connected purposes, be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Control of Major Accident Hazards Act 2024.

**Control of Major Accident Hazards Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Several Members:** Aye.

**Madam Speaker:** Well, at least one or two of them do.

**Litter Control (Amendment) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Litter Control Act 1990. The Hon. the Minister for Education, the Environment and Climate Change.

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Litter Control Act 1990 be read a first time.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Litter Control Act 1990 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Litter Control (Amendment) Act 2024.

**Litter Control (Amendment) Bill 2024 –  
Second Reading approved**

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

I refer the House to a letter dated 11th December which modified and replaced an earlier one and which brings some amendments to be taken at Committee Stage.

This is the third Bill where I am required, by section 22(5) of the Environmental Governance Act, to declare that if enacted, this Bill contains provisions which will be environmental law. I further state, as required by section 22(6) of said Act, that in my view the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law and, as required by section 22(10), I will be publishing a notice to this effect in the Gibraltar Gazette.

Littering is an act of carelessness or laziness which negatively impacts on everybody. Apart from being an eyesore, litter can attract pests and cause fire hazards, which we are all aware of. Many Gibraltarians take part in volunteering and cleaning up Gibraltar on a regular basis, including Clean up the World, which the Environmental Safety Group organises, and therefore we are all very aware of the dangers and the antisocial nature of littering.

This Bill makes three changes to the Litter Control Act 1990. The first is to create a civil penalty for littering from a vehicle. Littering is a criminal offence under the Litter Control Act, and therefore enforcement action should only be taken where evidence against the offender is held to the criminal standard of proof beyond reasonable doubt. When littering takes place from a vehicle, it can be difficult for enforcement officers to identify the offender with sufficient certainty to take enforcement action. The new section 5A enables the keeper of a vehicle to be issued with a penalty if the enforcing officer is able to show to the civil standard of proof on the balance of probabilities that the litter was thrown from that vehicle. Unlike a criminal penalty, this civil penalty does not carry the risk of a criminal prosecution and therefore does not require the offence to be proven to the criminal standard of proof. This will assist our officers to take enforcement action against littering in a much more efficient manner. In order to avoid the potential for any double punishment, the Bill provides, in section 5A(8) that the enforcing authority may not issue a civil penalty notice against the keeper if a prosecution has been brought against the keeper in respect of the same littering offence, regardless of whether said prosecution is successful. Keepers of public service vehicles are exempt from such penalties but only in cases where the person who has thrown the litter from the vehicle is a passenger and not the keeper of the vehicle himself or herself.

The second amendment made by the Bill to the Litter Control Act is to provide for littering within the Gibraltar Nature Reserve and littering of the sea to be considered aggravating factors in any sentencing of an offence of leaving litter. As mentioned earlier, litter can have devastating effects on our wildlife. Animals often get injured on land and in the sea. We are aware of the dangers, to turtles and other marine animals, of marine litter and in some cases it can even be life threatening to these animals. Litter left among dry vegetation can cause devastating fires, which we unfortunately see happens across the Mediterranean very often. This provision will mean that judges in the criminal courts will need to take into account, when deciding on a suitable sentence for an offender, that the litter has been left in the Nature Reserve or in the sea. Madam Speaker, as you well know, where aggravating factors are present, judges can impose more stringent sentences in relation to the particular offence.

The last amendment of the Litter Control Act is the introduction of a provision to enable officers of corporate bodies to be liable to be prosecuted for offences committed by any corporate body where the offence is shown to have been committed with the consent or connivance of, or attributable to the neglect of that officer. Unfortunately, fly tipping is not uncommon and there are instances of companies which are paid to dispose of waste from domestic or commercial premises, or even construction sites, leaving it to be collected by the Government. This



unscrupulous conduct causes unnecessary cost to the taxpayer, can result in delays in collecting waste and can cause obstructions to the public highway, as well as being an eyesore. This provision will ensure that where a company has operated in such a way, its officers and managers can be personally liable to prosecution where they knew about the commission of the littering offence.

Madam Speaker, this Bill, while short, will serve to assist with the enforcement of offences which affect most of us in our day-to-day lives. We all want to live in a clean, green and tidy Gibraltar and this Bill will help us to deliver that. I commend the Bill to the House.

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

**Hon. G Origo:** Thank you, Madam Speaker. This Bill essentially penalises littering within the Nature Reserve more heavily and does so by making it an aggravating factor, and we on this side of the House will support this. The creation of new offences to include littering from a vehicle and the offences for body corporates are also welcomed. In our view, our Nature Reserve and Upper Rock is one of the crown jewels of Gibraltar and we must do our utmost to deter those who do not wish to take care of it. Therefore, I am pleased to indicate the support of the Opposition from this side of the House on this Bill.

**Hon. C A Sacarello:** Thank you, Madam Speaker, I would just like to ask for clarification from the Hon. Minister with regard to section B(10)(b), exempting the owner of the vehicle from being fined. It specifically states: 'the person who threw, dropped or otherwise deposited the litter from the vehicle, was at the time, a passenger in the vehicle'. Could I ask if the Parent Act covers the fining of that very passenger, as this seems to be a little loophole as it stands?

**Madam Speaker:** Can I just interrupt? I think specific discussions on the Bill would be a matter for the Committee Stage. You can flag it now, but in terms of discussing whether an amendment is required, I think that is better placed for the Committee Stage.

The Hon. Mr Clinton.

**Hon. R M Clinton:** Madam Speaker, when the Minister responds I want him to clarify, because obviously some of this relates to depositing material on the seabed and there is obviously a lot of talk of vehicles, but without sight of the main Act ... When the Minister replies, could he confirm whether 'vehicle' includes a seagoing vessel?

**Hon. Prof. J E Cortes:** Madam Speaker, because the seagoing vessel will deposit litter presumably in the sea, that is already an aggravating factor. I do not believe that the definition of 'vehicle' includes a seagoing vessel.

**Chief Minister (Hon. F R Picardo):** A seagoing vehicle is a vessel.

**Hon. Prof. J E Cortes:** Exactly. Madam Speaker, a seagoing vessel is a vessel, not a vehicle. I would not believe it is covered, but the fact that it is being put into the sea is an aggravating factor. It is something that can perhaps be looked at in future, and I would be happy to do that.

If it is identified that it is a passenger dropping the litter and therefore not the driver, the driver is exempt – or the owner is exempt, the keeper – but if we have identified the passenger, then the passenger is committing an offence because that person has been identified, and therefore there would be provision to prosecute that particular person.

With that, Madam Speaker, I once again commend the Bill to the House.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Litter Control Act 1990 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Litter Control (Amendment) Act 2024.

**Litter Control (Amendment) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Members:** Aye.

**Transport (Amendment No. 2) Bill 2024 –  
First Reading approved**

310 **Clerk:** A Bill for an Act to amend the Transport Act 1998. The Hon. the Minister for Education, the Environment and Climate Change.

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Traffic Act 1998 be read a first time.

315 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Transport Act 1998 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Transport (Amendment No. 2) Act 2024.

**Transport (Amendment No. 2) Bill 2024 –  
Second Reading approved**

320 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that the Bill be now read a second time, and I would refer the House to a letter suggesting changes to be taken when we sit at Committee Stage. The purpose of these changes is to increase the level of fine attached to breaches of road service licence conditions, as well as introduce a new administrative penalty for road service licence holders for  
325 the breaches of their drivers. I will more specifically talk about the administrative penalty now.

Clause 3(4), inserts a new section 19A, requiring the holder of a road service licence to ensure that a named driver complies with the provisions of the Transport Act, as well as the Transport Regulations. Failure to do so will result in the aforementioned administrative penalty. The Ministry for Transport has been working to address issues with the taxi service in Gibraltar and has formed  
330 the view that a holistic approach to these issues is required. The responsibility to provide a good taxi service includes road service licence holders who are not drivers themselves, as they are the ones choosing the individuals who will ultimately carry out the service. The original aim had been for this amendment to apply to Part 4 of the Transport Regulations 2000 only, but the changes proposed through the letter that I have referred to extends this new penalty to all offences  
335 committed by drivers under this Act. This further amendment is a response to behaviours that have been identified subsequent to the publication of the Bill and highlights the Department of Transport's ability to assess and remedy new issues quickly and efficiently.

Clause 3(8) breaks down the newly introduced penalty, setting out that the Chief Examiner of the Driver and Vehicle Licensing Department is to be the person to issue the fines, with the level of fines set at an initial £300. A further breach within a six-month period would see the fine raised to £500. The necessary safeguards have been put in place with this type of penalty. Notice is required under the newly introduced section 72B, the manner of notice being set out in section 72C, and an appeals process is included in 72D. The intention behind these changes is to increase accountability across the board, specifically with a view to ensuring road service licence holders select their named drivers with the necessary care and attention required in order to help establish the appropriate standard for the Gibraltar Taxi Service. The expectation is that this added scrutiny from licence holders would then trickle down to named drivers, improving their standards and thus the service as a whole.

The letter has been set out proposing amendments, and due to the advanced nature of this iteration of the city service, a view has been taken to have these amendments come into effect for the city service commencing in 2025. These changes will now form part of further amendments that are going to be presented in guidance to the Members of the Gibraltar Taxi Association, giving everyone the opportunity to be up to speed and in line with all of the changes that will be in place for the commencement of the service in 2025.

Madam Speaker, I commend the Bill to the House.

**Madam Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? Just for the avoidance of doubt, picking up on the earlier point, pursuant to Rule 31(1) of the Standing Rules and Orders, once a Bill is being read a second time the discussion shall be confined to the principles and merits of the Bill, so specific sections and comment thereon are to be left to the Committee and Third Reading stage.

The Hon. Mr –

**Hon. G Origo:** Madam Speaker – Sorry.

**Hon. Dr K Azopardi:** Madam Speaker, if my hon. Colleague gives way ... Obviously we are cognisant of that rule, but for your guidance there has been at least a practice that I am aware of, that sometimes Members might seek clarification on a particular section because it is relevant to the general principles, but we certainly understand the point that if it goes beyond that, it is for Committee Stage.

**Madam Speaker:** I am keen not to have a full discussion on particular sections at this stage, but flagging of a particular section for clarification is a different matter, so yes.

**Hon. G Origo:** Madam Speaker, I am very grateful. On the general merits and principles of the Bill it is noted that this Bill appears to extend penalties issued to name drivers – that is taxi licence holders. It increases fines which are not particularly prescribed within the Act, from level one to level three, and setting that to the default position. Most offences are prescribed a level of fine, so the majority of these offences are not affected. It also creates a new administrative penalty which applies to road licence holders and/or their named drivers.

The Bill, for the reasons already mentioned, is not controversial and I would like to indicate our support from this side of the House.

**Madam Speaker:** If no other hon. Member wishes to speak, I will invite the mover to reply if he wishes.

**Hon. Prof. J E Cortes:** Madam Speaker, once again I am grateful to the hon. Member for the support from the Opposition that he has indicated.

I commend the Bill to the House once again.

390 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Transport Act 1998 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Transport (Amendment No. 2) Act 2024.

**Transport (Amendment No. 2) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

395 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

400

**Members:** Aye.

**Traffic (Amendment) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Traffic Act 2005. The Hon. the Minister for Education, the Environment and Climate Change.

405 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Traffic Act 2005 be read a first time.

**Madam Speaker:** I put the question, which is that a Bill for an Act to amend the Traffic Act 410 2005 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Traffic (Amendment) Act 2024.

**Traffic (Amendment) Bill 2024 –  
Second Reading approved**

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

415 Once again, I must state that as required by section 22(5) of the Environmental Governance Act, I declare that the Bill, if enacted, contains provisions which will be environmental law. Under section 22(6) of said Act, in my view this Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law and, under section 22(10) of said Act, I will be publishing a notice to this effect in the Gazette.

420 This is a very simple Act. The Act, as it stands now, requires that when there is a road traffic accident, for named animals it should be reported. The current Act names horse, ox, ass, mule, sheep, pig, goat, dog or monkey, but it does not include cats – which has caused some consternation among cat lovers who have lost pets and have not had their loss reported – or other

wild animals, apart from monkeys, such as foxes and otters, both of which have recently been killed on our roads. It is important that these should be reported so that we have an idea of whether there are areas where we have to take certain action to reduce speed, perhaps, but also so that we have an idea as to the wildlife of particular areas. That is very simple: a desire to add cat, fox and otter to the list of animals.

I commend the Bill to the House.

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

**Hon. G Origo:** Madam Speaker, as already stated by the Hon. Minister, this is not a controversial Bill and I would therefore like, for the reasons already stated, to indicate our support on this side of the House.

**Madam Speaker:** If no other hon. Member wishes to speak, would the mover like to reply?

**Hon. Prof. J E Cortes:** Yes, Madam Speaker. Once again, I am grateful for the support, as I am sure the animals will be, although if they have been hit they will not be able to be grateful.

I commend the Bill to the House once again.

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

**Clerk:** The Traffic (Amendment) Act 2024.

**Traffic (Amendment) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today if all hon. Members agree.

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

**Members:** Aye.

**Traffic (Amendment) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Traffic Act 2005. The Hon. the Minister for Education, the Environment and Climate Change.

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** I beg your pardon, Madam Speaker, there are so many Bills that I am wanting to find the right piece of paper. My apologies.

I have the honour to move that a Bill for an Act to amend the Traffic Act 2005 be read a first time.

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

**Clerk:** The Traffic (Amendment) Act 2024.

**Traffic (Amendment) Bill 2024 –  
Second Reading approved**

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

470 If I may, Madam Speaker, I refer the House to my letter of 9th December, which is an effort to reduce confusion and call this Bill No. 2, to distinguish it from the previous one.

This amendment inserts a provision into section 39 to disapply the disqualification provision in relation to offences committed by virtue of section 75; in other words, to offences committed on personal light electric transporters, otherwise known as PLETs, and bicycles.

475 Clauses 3(3) and (4) make minor corrections to the Bill to add reference to a road, in line with other provisions of the Traffic Act and similar offences in the UK.

Clauses 3(5) and (6) correct cross references.

480 Clause 3(7) adds a provision to section 71 which has a similar effect to that effected by clause 3(2). It disapplies disqualification provisions to offences committed on PLETs and bicycles. This follows a Supreme Court ruling earlier this year in relation to the legislation governing the disqualification from driving motor vehicles by users of PLETs. This followed a conviction for using a PLET whilst under the influence of alcohol. In the ruling, the Chief Justice expressed concerns as to an ambiguity in the legislation. This Bill will remove such ambiguity by removing any reference to a disqualification from driving motor vehicles by a PLET user who is convicted of drink driving.

485 Clause 3(8) replaces section 75 to make the provision clearer, and also increases the number of offences that can be committed on a PLET or bicycle. The sections that were previously extended to offences committed by PLETs and bicycles, and indeed horsedrawn vehicles, continue to be extended, but the amendment now also extends offences such as causing death by reckless or dangerous driving, causing death by careless driving and causing death by careless driving when under the influence, to seek to improve safety for all road users and pedestrians. The penalty for the drink driving offences when committed on these other vehicles is also increased to reflect their seriousness.

I commend the Bill to the House.

495 **Madam Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles or merits of the Bill?

500 **Hon. G Origo:** Madam Speaker, on behalf of the Opposition, we take the view, rightly also, that cyclists, bicycle users and people on electric scooters are also road users and therefore should be conscious of and compliant with the rules of the law, and in particular those pertaining to the use of the road. We agree that offences such as dangerous and reckless driving should be extended to these road users, and in particular those who driving under the influence. So, for the reasons already mentioned by the Hon. Minister, I would like to indicate our support for this Bill.

505 **Madam Speaker:** Would the mover like to reply?

**Hon. Prof. J E Cortes:** Madam Speaker, once again I am grateful to the hon. Member and I commend the Bill to the House.

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

**Clerk:** The Traffic (Amendment) Act 2024.

**Traffic (Amendment) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

515 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice at the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

520

**Members:** Aye.

**Education and Training (Amendment) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Education and Training Act. The Hon. the Minister for Education, the Environment and Climate Change.

525 **Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Education and Training Act be read a first time.

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

**Clerk:** The Education and Training (Amendment) Act 2024.

**Education and Training (Amendment) Bill 2024 –  
Second Reading approved**

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

535 This short amendment seeks to update the language used in the Education and Training Act by changing the meaning of SEND from Special Educational Needs and Disabilities to Supported Education Needs and Disabilities. The language and terminology that is used day to day can have profound influences on those who are within earshot. This change reflects more current language and ensures that we now refer to SEND provision here in Gibraltar in the most current version.

540 I commend the Bill to the House.

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

**Hon. E J Reyes:** Thank you, Madam Speaker. As the mover of the Bill has explained, it is a very simple but I dare say necessary amendment. We always like to be as up to date as possible on nomenclature, definitions and so on. We indicate our support for this Bill.

May I take your leave, Madam Speaker, to remind the Minister – we have had exchanges across this floor of the House as well – that although it is secondary legislation, there are other education-related matters and nomenclatures that need to be amended, for example in the National Curriculum Regulations and so on, which – if the Minister can confirm – I do not think requires a Bill as such but does require a notice as a second supplement to the Gazette. Perhaps across the floor of the House the Minister can commit himself to getting that done sooner rather later because it was raised well over six months ago.

**Madam Speaker:** If no other hon. Member wishes to speak, I call upon the mover to reply.

**Hon. Prof. J E Cortes:** Madam Speaker, the changes that the hon. Member is referring to, which we have agreed, are currently being drafted by the Department of Education. I believe they are regulations and they should be published shortly.

On the Bill before us today, I once again am grateful to the Opposition for supporting it and I commend it to the House.

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

**Clerk:** The Education and Training (Amendment) Act 2024.

**Education and Training (Amendment) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today if all hon. Members agree.

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

**Members:** Aye.

**Transport (Amendment No. 3) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Transport Act 1998 to make provision for the inclusion of a second vehicle to road service licences in respect of taxis for the purposes of carrying out a night city service.

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

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Transport Act 1998 to make provision for the inclusion of a second vehicle to road service licences in respect of taxis for the purposes of carrying out a night city service be read a first time.



585 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Transport Act 1998 to make provision for the inclusion of a second vehicle to road service licences in respect of taxis for the purposes of carrying out a night city service be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Transport (Amendment No. 3) Act 2024.

**Transport (Amendment No. 3) Bill 2024 –  
Second Reading approved**

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

Once again, I refer the House to a letter dated 9th December, proposing changes that will be taken at Committee Stage. Madam Speaker, you will have received that letter requesting some changes to be made to the Bill. The Bill originally envisaged the addition of a second vehicle to a road taxi service licence solely for the purpose of conducting the city night service. After further  
595 discussions with stakeholders, it is now proposed, hence the main purpose of the letter, that a second vehicle may be added to a taxi road service licence for the purposes of the city day service as well as the city night service. The changes proposed in my letter also include a provision that although two vehicles may appear on the taxi road service licence, only one of them can be operational on city service duties at any one time in respect of that licence.  
600

As was publicly announced earlier this year, the Ministry for transport has embarked on a number of changes including legislative amendments to improve the taxi service. The Ministry has been collaborating with the Taxi Association with the aim to, among other things, improve accountability and transportation options with respect to taxis. With respect to the latter, my  
605 Ministry has taken steps to enhance the taxi offering at night. This initiative goes hand in hand with the launch of the Taxi Association's app, which has already seen positive changes in the way the Taxi Association interacts with its customers.

This Bill, with the requested changes detailed in the letter, amends the Transport Act to allow for the inclusion of a second vehicle and additional driver to a taxi road service licence only after  
610 a successful application for an amendment to the road service licence is made to the Transport Commission, which will have to approve it. The idea behind this is that there will be a better and more efficient service as regards both the city day service and the night service. The second vehicle will only be able to carry out city service duties during the day and night, and, as previously mentioned, only one of them can be operational on city service duties at any one time in respect  
615 of that licence. Regulations, which will be published once the amendments to the Act come into force, have already been drafted to amend the Taxis (City Service and Cruise Terminal) Regulations 1999 in respect of the city night service, which provisions in large part mirror those of the city day service. Coloured discs are to be issued. The city night service will operate by way of roster approved by the Transport Commission and the same exclusions as to which points a taxi may  
620 operate from will apply. The hours for the city night service will be from 1700 to 0100 and transport inspectors will be on hand to ensure the provisions of the regulations are being met.

For all the above reasons, Madam Speaker, I commend the Bill to the House.

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

**Hon. G Origo:** Madam Speaker, I am grateful to the Hon. Minister for his statement on the general merits and purpose of the Bill. I would like to concur, having reviewed the same, that this Bill essentially allows licence holders to add second drivers on their licence so as not to create new

630 licences, and in essence serves to prevent watering down the value in the mind of those people  
who hold these licences. Given those drivers perhaps might be choosing to run a day or night  
service, when they are resting we have fewer cars on the road, so having second drivers running  
either day or night will not serve to compete with the original licence holder and the rationale  
behind the Bill may work. However, I must flag that it may only be a quick and temporary fix, and  
635 it may be the case that this just works in busy periods like this one, at Christmas. I would like to  
urge the Government to monitor this, and if further improvements and changes are necessary, to  
carry them out.

With respect to the changes made from deleting the night service and allowing this to also  
operate during the day service, I would like to just note that I have no issues with the added  
640 changes. It is actually one of the comments I was going to suggest to the Hon. Minister that it may  
help to improve the city day service and not just focus on the night.

For the reasons already stated, I would like to indicate the Opposition's support for this Bill.

**Madam Speaker:** If no other hon. Member wishes to speak, I will call on the mover to reply.  
645

**Hon. Prof. J E Cortes:** Madam Speaker, once again I am grateful to the hon. Member and to  
the Opposition for their support. Yes, his analysis is exactly right. It is to be able to allow to extend  
de facto the number of hours that taxis are on the road and therefore the number of taxis on the  
road at any one time. Absolutely this will be monitored, and if we have to make any changes, we  
650 will.

Madam Speaker, I once again commend the Bill to the House.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Transport  
Act 1998 to make provision for the inclusion of a second vehicle to road service licences in respect  
655 of taxis for the purposes of carrying out a night city service be read a second time. Those in favour?  
(**Members:** Aye.) Those against? Carried.

**Clerk:** The Transport (Amendment No. 3) Act 2024.

**Transport (Amendment No. 3) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Education, the Environment and Climate Change (Hon. Prof. J E Cortes):** Madam  
660 Speaker, I beg to give notice of the Committee Stage and Third Reading of the Bill be taken today,  
if all hon. Members agree.

**Madam Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of  
the Bill be taken today?  
665

**Members:** Aye.

**Sanctions (Amendment) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Sanctions Act 2019 to make provision about sanctions  
screening by relevant financial businesses, to amend the Proceeds of Crime Act 2015; and for  
connected purposes. The Hon. the Minister for Justice, Trade and Industry.

670 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Sanctions Act 2019 to make provision about sanctions screening by relevant financial businesses, to amend the Proceeds of Crime Act 2015, and for connected purposes, be read a first time.

675 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Sanctions Act 2019 to make provision about sanctions screening by relevant financial businesses, to amend the Proceeds of Crime Act 2015, and for connected purposes, be read a first time. Those in favour? **(Members: Aye.)** Those against? Carried.

680 **Clerk:** The Sanctions (Amendment) Act of 2024.

**Sanctions (Amendment) Bill 2024 –  
Second Reading approved**

**Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill be now read a second time.

I have given notice that I intend to move an amendment at Committee Stage to clause 4.

685 This short Bill has only two operative provisions; one clarifies the sanctions screening requirements in the Sanctions Act and the other carries out miscellaneous amendments to the Proceeds of Crime Act (POCA).

The purpose of the amendment to the Sanctions Act is to clarify two related matters: (1) the obligations on relevant financial businesses, as defined in section 9 of POCA, to have appropriate policies, controls and procedures in place for the purpose of conducting international sanctions screening under the 2019 Act; and (2) the supervisory and enforcement powers of the supervisory authorities appointed under POCA to deal with breaches of those sanctions screening obligations. In doing so, the Government is ensuring that supervisory bodies are able to better supervise relevant financial businesses and effectively enforce breaches to the Sanctions Act.

690 Clause (3) of the Bill adds a new section 8A to the Sanctions Act, which moves the current sanctions screening requirement contained in section 8 to a standalone provision. As presently drafted, section 8 of the Sanctions Act – Judicial notice of published lists – combines two quite distinct matters, the Judicial Notice of International Sanctions List published by the United Nations Security Council and other relevant organisations, and the obligation on relevant financial businesses to conduct sanctions screening. Consequently, clause 3 of the Bill separates the latter out as section 8A of the 2019 Act. Section 8A(1) to 8A(3) replicates what is currently in section 8A(3) and (4) of that Act. The only provisions are sections 8A(4) to (6). Section 8A(4) provides that the functions of the POCA supervisory authorities extend to supervising and enforcing compliance with the sanctions screening obligations imposed under section 8A of the Sanctions Act. Section 8A(5) contains regulation making powers which would enable the Government to make provision in respect of, or in connection with, the functions of the supervisory authorities under section 8A. The Government intends to use this regulation making power to enact regulations analogous to the Supervisory Bodies (Powers) Regulations 2017 to provide supervisory bodies with further regulatory powers to effectively enforce breaches of the Sanctions Act.

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705  
710 Clause 4 of the Bill amends a cross reference to section 10(ca) of the Proceeds of Crime Act to reflect the amendments to the Sanctions Act 2019. In turn, clause 4(3) makes minor corrections to cross references in section 156 of the Proceeds of Crime Act which are unrelated to sanctions. The amendment I intend to move at Committee Stage makes an amendment to that section 156 amendment with an erroneous reference to 'and' being corrected to 'or', as in the current provision, and a further correction to cross references in section 157 of the Proceeds of Crime Act.

715 The Government remains committed to continue working with the various working groups involved in the FATF Moneyval process to ensure that Gibraltar continues to adhere to the highest international standards and all supervisory bodies have all the tools necessary to combat AML and CFT.

720 In keeping with FATF recommendations 6 and 7, which dictate that jurisdictions must implement effective regimes in relation to targeted financial sanctions, this Bill clarifies and enhances Gibraltar's already effective regime to supervise and enforce the sanctions screening requirement.

Madam Speaker, I commend the Bill to the House.

725 **Madam Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. Mrs Ladislaus.

730 **Hon. J Ladislaus:** Madam Speaker, I am grateful to the Minister for that. We, on this side of the House, obviously commend anything that relates to tightening of regulations in this area, and it does seem of practical interest that these amendments are made. Therefore, we support the amendments and we will be voting in favour.

**Madam Speaker:** If no other hon. Member wishes to speak, I will call on the mover to reply.

735 **Hon. N Feetham:** I am grateful for the hon. Member's support for the Bill. Thank you.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Sanctions Act 2019 to make provision about sanctions screening by relevant financial businesses, to amend the Proceeds of Crime Act 2015, and for connected purposes, be read a second time. Those in  
740 favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Sanctions (Amendment) Act 2024.

**Sanctions (Amendment) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Justice, Trade and Industry (Hon. N Feetham):** I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.  
745

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

**Members:** Aye.

**Global Minimum Tax Bill 2024 –  
First Reading approved**

750 **Clerk:** A Bill for an Act to impose a Global Minimum Tax including a Qualifying Domestic Minimum Top-Up Tax compliant with the Organisation for Economic Co-Operation and Development (OECD) objectives by direct reference to their Global Anti-Base Erosion Model Rules and Commentary and for connected purposes.

The Hon. the Minister for Justice, Trade and Industry.

755 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill for an Act to impose a Global Minimum Tax including a Qualifying Domestic Minimum Top-Up Tax compliant with the Organisation for Economic Co-Operation and Development (OECD) objectives by direct reference to their Global Anti-Base Erosion Model Rules and Commentary and for connected purposes be read a first time.

760 **Madam Speaker:** I now put the question, which is that a Bill for an Act to impose a Global Minimum Tax including a Qualifying Domestic Minimum Top-Up Tax compliant with the Organisation for Economic Co-Operation and Development (OECD) objectives by direct reference to their Global Anti-Base Erosion Model Rules and Commentary and for connected purposes be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Global Minimum Tax Act 2024.

770 **Hon. Dr K Azopardi:** Madam Speaker, if I may? Perhaps it would be good to record that there has been certification of this Bill, for the record.

775 **Chief Minister (Hon. F R Picardo):** Madam Speaker, I do not think that it is necessary for me to do so – I think that the Hon. Minister would have done so in the course of his speech, and I have, in fact, certified – but I am very pleased to do so. In the past when I have done so, I think I have done so either at this stage or after the first speech has been delivered, but I have no difficulty in confirming that I have so certified.

#### **Global Minimum Tax Bill 2024 – Second Reading approved**

**Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill be now read a second time.

780 In line with Gibraltar's commitment as a member of the OECD's inclusive framework to implement the global Pillar 2 tax changes and, as previously announced, both in my parliamentary Statement of 19th December 2023 and publicly in my Budget speech on 3rd July 2024, this Bill introduces an effective minimum tax rate of 15% for large multinational groups with an annual turnover in excess of €750 million. Notwithstanding the fact that the headline corporate tax rate in Gibraltar was increased to 15% with effect from 1st July 2024, the Pillar 2 rules introduce a  
785 global standard to ensure that multinational groups are taxed at an effective tax rate of 15% at a jurisdictional level.

As previously announced, Gibraltar will implement the Pillar 2 rules in two stages. Firstly, in order to protect Gibraltar's tax base, Part 4 of the Bill introduces a domestic minimum top-up tax for accounting periods commencing on after 31st December 2023. This part will not apply to  
790 investment entities and insurance investment entities, to ensure that Gibraltar remains competitive in this respect and follows best practice adopted by similar jurisdictions.

Secondly, Part 3 of the Bill introduces an income inclusion rule, which will take effect one year later for accounting periods commencing on or after 31st December 2024. This will allow Gibraltar to apply the minimum global tax to multinational groups which are headquartered in Gibraltar, or  
795 where the parent entity is located in Gibraltar.

The Pillar 2 rules are complex, and extensive consultation has taken place over the past 12 months with the OECD, the Tax Working Group and the industry. The Global Minimum Tax Act 2024 will ensure that Gibraltar's Pillar 2 rules are closely aligned with the OECD's model rules and related administrative guidance and commentary.

800 Madam Speaker, this Bill demonstrates Gibraltar's commitment to complying with international standards and collaborating with the global community in preventing tax avoidance through base erosion and profit shifting.  
I commend this Bill to the House.

805 **Madam Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? Yes, the Hon. Mr Clinton.

**Hon. R M Clinton:** Thank you, Madam Speaker. We, on this side of the House, have no problem at all in supporting this Bill, especially since it is obviously in favour of the OECD Pillar 2 framework.  
810 The Bill itself is a complex piece of legislation, given the nature of what it is trying to do, but in terms of the principles of what the Minister has just described, he can rest assured that he has the support of the Opposition.

**Madam Speaker:** If no other hon. Member wishes to speak, would the mover wish to reply?  
815

**Hon. N Feetham:** I am grateful to the hon. Members opposite for supporting the Bill.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to impose a Global Minimum Tax including a Qualifying Domestic Minimum Top-Up Tax compliant with the Organisation for Economic Co-Operation and Development (OECD) objectives by direct reference to their Global Anti-Base Erosion Model Rules and Commentary and for connected purposes be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.  
820

**Clerk:** The Global Minimum Tax Act 2024.

**Global Minimum Tax Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

825 **Minister for Justice, Trade and Industry (Hon. N Feetham):** I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

**Madam Speaker:** Do all hon. Members agree that the Committee Stage and Third Reading of the Bill be taken today?  
830

**Members:** Aye.

**Income Tax (Amendment No. 3) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Income Tax Act 2010. The Hon. the Minister for Justice, Trade and Industry.

835 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Income Tax Act 2010 be read a first time.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

840 **Clerk:** The Income Tax (Amendment No. 3) Act 2024.

**Hon. Dr K Azopardi:** Again, for the purposes of the record, for this Bill and the following Bill there should be on the record a confirmation of certification by the Chief Minister of its urgency under the Constitution.

845

**Chief Minister (Hon. F R Picardo):** Madam Speaker, there is, because I have written to you to that effect.

**Madam Speaker:** Does the hon. Member wish to say anything else?

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**Hon. Dr K Azopardi:** Madam Speaker, the fact that the Chief Minister writes to you ... Of course, that is a letter; it is not seen in the *Hansard*. The *Hansard* reflects that a Bill was published on 10th December and is being taken today, so there needs to be confirmation, as far as I can see, for the purpose of the *Hansard*.

855

**Hon. Chief Minister:** Yes, Madam Speaker, but that does not have to happen now, which is what I said before. It can happen during the course of the Hon. Minister's speech when he is presenting the Bill, it can happen after that speech when I can get up and say so, or it can happen because Madam Speaker refers to it in the course of your introduction to the Bill. It does not require that I get up at this stage to express the fact that I have certified the Bill as urgent, and indeed it is not a constitutional requirement that I should do so.

860

**Hon. Dr K Azopardi:** Madam Speaker, the Bill cannot be taken unless there has been certification, because there is a constitutional requirement for the six weeks. So, if the Chief Minister does certify that the Bill is too urgent, then it can be taken; otherwise, it cannot even be taken.

865

**Madam Speaker:** For the avoidance of doubt, I can confirm that I have had certification from the Chief Minister that the matter is urgent and needs to be taken. So, for the purposes of *Hansard*, that will be reflected.

870

**Hon. Chief Minister:** Exactly, Madam Speaker, but the Bill would not be taken. That is to say the Bill would not be read in this House. The First Reading of the Bill would not happen in this House unless I had certified. What the Constitution requires is that I certify, and I have certified. The Constitution does not require that I get up in Parliament and say that I have certified. We may want to do so as a matter of practice at a different stage, not requiring the Leader of the Opposition to prompt us to do so, because the taking of the First Reading can only happen if I have certified. That should be enough for *Hansard*, but in any event, as I have indicated, the Minister in his speech would refer to that, I would refer to it thereafter, or you could do so. It does not require the fact that the Leader of the Opposition has got up to ask me to confirm that I have certified for the Bill to be able to move. The hon. Gentleman is wrong about that. The Bill moves only because it is certified, and it therefore is moving because it is certified.

875

880

**Madam Speaker:** Well, for the future, perhaps it may assist if, when I get a certification from the Hon. the Chief Minister, I pass it on to the Hon. the Leader of the Opposition. (*Interjection*) I passed it on.

885

**A Member:** Passed it on automatically.

890 **Hon. Chief Minister:** The hon. Gentleman knows that it has been certified, and indeed the Clerk would not have been free to read the long title the first time if that certification had not been received, and that in itself is a demonstration in *Hansard* that it has been certified.

895 **Madam Speaker:** The learned Clerk is confirming that the certification has been circulated, so hon. Members will have that.

**Hon. Dr K Azopardi:** Yes, Madam Speaker, I agree, but the point is that as far as I am aware, certainly when I have been sitting in this chair, it has always been the practice, first of all, that there is certification, and secondly, that it is recorded in the *Hansard*.

900 **Madam Speaker:** Well, we move on; it is recorded now.

905 **Hon. Chief Minister:** Sorry, Madam Speaker, yes, he is absolutely right, but not at this stage. That is the point I am making. The hon. Member has got up to prevent the Government from delivering its first speech on the subject, which would have dealt with the matter, because he has decided that he wants to say that the certification must be confirmed orally for the purposes of *Hansard* – which is not necessary – at the time and moment of his choosing, and the Government is not going to accept that as a requirement, let alone the constitutional requirement, because the Constitution is complied with and the long title could not be read if it had not been complied with, and therefore *Hansard* needs are satisfied.

910 **Madam Speaker:** All right, we will proceed.

**Income Tax (Amendment) (No. 3) Bill 2024 –  
Second Reading approved**

915 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill be now read a second time, and to present to the House a Bill amalgamating and implementing all previously outstanding historic tax measures announced by the Chief Minister in successive Budgets extending from 2016 to 2024.

I commend the Bill to the House.

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

925 **Hon. R M Clinton:** Thank you, Madam Speaker. The Hon. Minister has just told the House that this is an amalgamation Bill bringing together all the outstanding tax matters which were measures brought to the House by the Chief Minister in previous Budgets going back to 2016, but of course the Bill itself, in the explanatory memorandum, just says this Bill amends the Income Tax Act 2010. It does not say much more than that, but of course far be it for the Minister to have to clean up the Chief Minister's mess. I say that with a degree of ... I do not know what the word to use is, really, but 'I told you so': I told you so, I told you so, I told you so. I have been telling this House for years that we should have a Finance Bill, but no, the Chief Minister knows best; he knows everything, Madam Speaker. Indeed, it is somewhat ironic, to say the least, that the Chief Minister has certified this Bill is urgent. Why? Because part of this Bill, which in fact was published on 10th December 2024, is a rehash of Bill 26/2020 published on 12th November 2020. There are some provisions in here that Members on that side of the House were not even around for, let alone Members on his side of the House, and there are some things in there that the Hon. Minister himself might have problems with, because they probably run contrary to his principles on



taxation. This Bill is before the House because it is a tidying-up exercise. It is cleaning up the mess, the mess because there have not been Finance Bills. Every time the Chief Minister has stood up and said, 'I announced this measure,' he then forgets to implement the relevant legislation, which is why we have stuff going back to 2016. And so I must say it did bring a smile to my face when I saw that the Chief Minister had certified this as urgent. Of course it is urgent. This should have been done years ago.

Madam Speaker, let me just, by way of example ... and this really is cringeworthy for us as a Parliament, not even as a party-political point, and the Minister for Taxation may not even agree with this particular amendment that is being introduced. In section 3(5) of this Bill, there is a tax amnesty that was introduced in 2016 by way of a six-month extension. The Chief Minister stood up, announced it and did nothing further, but I actually asked, back in 2022 – in *Hansard*, 23rd June 2022 – in answer to my Question 265/2022: 'Can the Government advise how many individuals availed themselves of the six-month extension to the tax amnesty announced in the 2016 Budget, and how much tax was collected?' The answer was that a total of 13 individuals availed themselves of the six-month extension to a tax amnesty announced in the 2016 Budget, and as a result a total of £516,843 was collected. But now I ask myself under which law was this money collected? Under which law were these 13 individuals given a tax amnesty? By definition, if these individuals had to avail themselves of a tax amnesty, they were tax evaders, and so I ask the Minister with responsibility for taxation is he happy with this principle of giving carte blanche to tax evasion, because that is effectively what his Bill is doing, and he is bringing this Bill in his name – with, of course, the sanction of the Chief Minister. It is the Chief Minister's idea, not his, I grant him, but it must grate to have to clean up the Chief Minister's mess, and that is what the Minister is doing.

There is another very important point with this, and that is that the Commissioner of Income Tax should only collect taxes for which he has the legal authority. Under what legal authority did he collect this £513,000? And under what legal authority did he give a tax amnesty? As far as I know, we are a parliamentary democracy. We do not rule by decree from the royal palace: 'I will give you an amnesty.' No, the law has to be passed, and ironically, we are today being asked to pass a law to cover something that happened in 2016. How is this even possible? This is what this Bill is about: it is about cleaning up the messes. He calls it amalgamation. It is not amalgamation; it is a complete sweep-up. Of course, this could all have been avoided if Finance Bills were produced at the time of the Budget, because then you would not have these things hanging over from years past; nor should the Commissioner of Income Tax be placed in the invidious position of trying to implement Budget measures without legal cover. It is entirely illegal, what the Commissioner of Income tax has done. He has allowed an amnesty and collected money on the say so of the Chief Minister without a law being passed. This is the problem with the way we manage our taxes. We are frankly not even doing the minimum. This is amateurism at its worst, if not incompetence at its best. This is just this one section, which I appreciate the Minister for Taxation was not the author of, but now he has his name on it.

If I can go on to section 3(10)(d) and (e), this is about marketing expenses. It is a very technical point and it was something that was introduced by the Chief Minister in his 2021 Budget address. This was post-Covid and I think I understood intention behind the measure. In his 2021 Budget speech on line 1130, the Chief Minister said:

Businesses that invest in marketing will be awarded an additional deduction amounting to 50% marketing costs. This means that for every £1,000 spent on marketing the business will be able to claim a deduction of £1,500. Again, the claimant company will need to satisfy the Income Tax Office, through application, that the expense is validly incurred in marketing for the purposes of the business.

Previously, the Chief Minister had indicated on line 1118:

unless I state otherwise, the measures I am about to announce will only have a limited life of around two fiscal periods, from this date until 30th June 2023. This is what we believe will turbo-charge this economy out of this difficult period ...

980 Again, this is during the Covid period.

What has happened? For this year I give the Chief Minister full credit that it was realised that unfortunately some people decided that ... whereas the idea was to turbocharge the economy, they took this marketing additional tax deduction a bit too literally. In his 2022 Budget speech, the Chief Minister said on line 652:

Mr Speaker, last year I announced an incentive intended to promote investment in marketing by awarding businesses that invest in marketing an additional deduction amounting to 50% of their marketing costs. When we discussed this incentive internally, before the announcement, it was always intended to refer to marketing of Gibraltar as a destination and jurisdiction to visit or in which to set up business, and not a deduction for all marketing expenses generally. The idea of the incentive was that as we emerged from the pandemic we wanted to encourage travellers to visit Gibraltar and businesses to consider relocating here, particularly now the case has been made and proved for remote working.

985 He goes on to say:

This incentive was intended for a period of two years. Following this announcement, we have realised that this incentive is uncapped and capable of being overused by certain sectors of the economy, as presently drafted. With this in mind, I am terminating this incentive with immediate effect. [...]

In order to treat everyone fairly, the incentive will, therefore, apply for its first and only year as set out in the legislation, but only in the way it was originally intended –

– not as legislated, as intended in the Chief Minister’s mind, which nobody understood at the time –

that is to say the marketing must be of Gibraltar as a destination and jurisdiction, with the aim of attracting conventions, events, visitors and tourists or new businesses to set up here. Generic marketing to customers of one’s own product is not what we had in mind and will not be allowed. [...] An amendment to the legislation will shortly be passed to address these issues.

‘Shortly be passed’: this is 2022 and today we have the Bill certified as urgent.

990 And so, under subsections 3(10)(d) and (e), which by themselves look fairly mundane because they are almost one liners, what is effectively happening ... If anybody looks at it, they will see in 10(d): at the Income Tax Act

in paragraph 18(2) for “30 June 2023” substitute “30 June 2022”;

i.e. the one year that the Chief Minister was referring to in his Budget speech in 2022. He is cutting it to one year, not two.

And then, in 10(e):

for paragraph 18(3) substitute-

“(3) For the purposes of this paragraph-

“marketing and promotion” means any costs incurred in relation to the advertising or promotion of Gibraltar as a-

(i) destination for the purposes of enhancing tourism, attracting visitors ...

995 Blah-de-blah-de-blah. But of course the problem is the Chief Minister made these comments back in 2022. The legislation as it stands today actually says:

Marketing and promotion means any costs incurred in relation to the active marketing or promotion of products or services to consumers for the purposes of the production of the assessable income of the trade, business, profession or vocation in or from Gibraltar.

That is how section 18(3) reads at the moment of the Income Tax Act reads, as it stands today, but what we are being asked now is to rewrite that legislation and backdate it. Why? Because it was not done before. I have sympathy with the intention as to why this may be desirable from the point of view of the public purse, but the fact of the matter is that if we knew this was a problem in 2022 we should not be coming here in 2024 to legislate, and the Minister for Taxation will know this. He is cleaning up the mess left behind, but the Bill is in his name. I know that there are businesses in Gibraltar that intend to rely on the section as drafted, no matter what we do today, because that is the law. Businesses cannot operate without tax certainty. You can say, 'I never meant it to be that, and in fact I want it to be this,' but if you do not change the law, anybody reading the law says, 'Well, according to the law, this is what the law says.' How is the ordinary citizen meant to go about his business if nobody knows what the law actually is, or if maybe it is what the Chief Minister meant but he did not get around to doing it. That is not good enough. You cannot run your tax system based on the whims of a Chief Minister who does not follow it through. As I said, I have sympathy with the intention, but the execution of it is frankly appalling. We should not be being asked here today to pass a Bill to clean up something that should have been done two years ago. The Minister for Taxation knows this, and yet here he is presenting a Bill in his name cleaning up the Chief Minister's mess. But of course, this Bill is urgent.

There is a section which I would ask the Minister to provide some clarity to the House on. That is section 3(4), which seems to refer to penalties and filing of tax returns. The first element of it is amending section 65. Certainly (1) and (2) are carbon copies of what already exists, but now he has added on other elements in subsection (3), which talks about corporate offences in terms of micro companies' late filing, the same for medium companies and again for large companies. I would be grateful for the Minister's guidance on this particular point. What is interesting about this section, as opposed to all the other ones that are retrospective – and the other ones go back to 2016, 2018, 2022, 2023, 2024 – is that it says section 3(4) will come into operation on 1st January 2025. I ask the Minister can he provide some guidance to the House as to when this was announced? I have done a search of his Budget speech and I have done a search the Chief Minister's Budget speech, but I cannot seem to recollect or find a signalling of this increase in penalties. Of course, the Minister is free to include additional penalties whenever he pleases, but I would not characterise it as an amalgamation of outstanding Budget measures if it is something that was decided outside the Budget process. As I said, it is not something that I have a particular problem with, but I would not characterise it as a Budget measure if it was not discussed at the time of the Budget. I would be grateful for the Minister's commentary on that.

Another element which goes to show how bizarre this process is, is in section 3(3). In section 3(3) we have a double amendment, which starts, 'In section 30 ... for "£1,250,000" substitute "£1,500,000"', only to have it self-substituted by the following section saying 'for "£1,500,000" substitute "£1,750,000"', and of course, this is because we are playing catch-up. So, here we have an amendment that then amends itself, which must be some novelty in legislation and again speaks to the problem that we are facing. We are just not doing our work properly and we are not doing it fast enough. The Minister for Taxation probably cringes at this stuff because he probably would not have done it this way himself, but again it is his name on the Bill.

And then, talking about his name in the Bill, what I found strangely absent was his own Budget measures that he announced in the Budget for 2024. This is the roll-up of outstanding measures from 2016 to 2024, we were told, but in the Minister's Budget address, apart from the OECD measures and the property tax, which we will take in a while, he did mention some other measures of which we have seen nothing. There were two: one where he says, 'I will turn to the living accommodation exemption under schedule 7 to the Income Tax Act,' and another one proposing to seek to 'maintain the tax status enjoyed by those students undertaking employment, whilst avoiding inequity for standard employees'. And then he says:

these legislative amendments are in their final stages. I will bring them to this Parliament to be read shortly and once ready.

Madam Speaker, that was in July. We are here doing Budget measures back in 2016. Surely now is the time to do his 2024 Budget measures, but where are they? They are not here. Are we going to have to wait till 2025 to do his 2024 Budget measures? What is the problem? He, himself, has seen what is happening. We have seen the Commissioner of Income Tax, out of the goodness of his heart – and I do not know why he does this – trying to implement his Budget measure in terms of student taxes, amending the PAYE guidance, and again, with no legislation backing it. When I raise this, the Minister says, ‘No, he is just trying to be efficient. He is changing the guidance so that it is ready when it comes out.’ Well, here we are in December. When are we going to be ready to bring the legislation? You cannot now backdate it, certainly not on students; it is going to have to be forward dated. So, what on earth was the Commissioner of Income Tax doing? If this is meant to be an amalgamation Bill, surely we should be bringing everything else in. Why have we left out those two measures? Are we not doing this in a consistent way? We cannot, on the one hand, pretend to bring everything up to date and then leave things out. Somebody has to get this on the right footing. At the moment, we are not, and the problem is ...

It is not that I take any great pleasure in bringing these matters to the attention of the House or rubbing the Chief Minister’s nose in it. At the end of the day, this reflects badly on all of us as a Parliament. We cannot even do our own tax legislation in a sensible way. We are being asked to pass and support this Bill today, a Bill that backdates stuff to 2016, 2018, 2023, 2022 ... We might as well go back to Magna Carta, to 1066, at this rate. *(Laughter)* This is just not an acceptable way of doing business in this House. Of course, the Chief Minister finds everything amusing because he does not understand any of this stuff, Madam Speaker. *(Interjection)* He doesn’t. Look: he is obviously surfing the net looking for another car to buy, but this is serious politics, this is serious business, this is taxation. People have a right to know what tax to pay and not have to rely on assuming what the Chief Minister thinks he was doing when he stood up in his Budget speech.

The Minister for Tax has an important job to do, but he must do his job completely, not just picking up the Chief Minister’s mess, but also following up with his own Budget measures. The way to avoid all this nonsense is to have a Budget that includes a Finance Bill, not this nonsense of an amalgamation, which in fact, if you look at it carefully, is almost a Finance Bill. This is what a Finance Bill would look like, except it does not have all the backdating provisions; it would be forward dating. If we had one of these, we would have a sensible debate about each particular provision and we would vote yes or no for each provision, as has happened in the past. But this is the Bill that we have before the House, and given that it is such a mess, we will not be supporting the Bill; we will abstain on it.

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

**Madam Speaker:** Does any other hon. Member wish to speak?

**Chief Minister (Hon. F R Picardo):** Madam Speaker, I want to start where the hon. Gentleman ended up, by talking about a load of nonsense, but not the load of nonsense that he has referred to this Bill as when he has said it is not an amalgamation, but to the load of nonsense we have had to hear from him. I must say that with the very greatest of respect to the hon. Gentleman, because what he has wanted to do has been simply to trash and mischaracterise everything in this Bill and try to personalise on me and my person everything that he thinks is wrong not just with this Bill but with taxation in Gibraltar. I have got used to that in the last three terms that I have shared with the hon. Member in this House, except for the short period during the pandemic when we were able to work together. I suppose, like many others, he was just too scared about what was coming, too scared about the difficult decisions that had to be made, and he decided to get behind the slipstream that Albert Mena and I were creating and protect himself in that way from having to make any difficult decisions. But I was grateful for that short period of his agreement with everything that we were doing.

I do also want to point out, before I go any further, that it appears that the Hon. the Leader of the Opposition has also forgotten that if he wanted *Hansard* to reflect anything, he should have

asked that I confirm for the record that under section 35(1)(a) of the Constitution, as the Minister for Public Finance, I have certified that this Bill can move, although it is a Bill that, in effect, will raise taxation. I have so certified and I am happy to confirm that for the record of *Hansard*, although it is not necessary to confirm it for the record of *Hansard* because I have already signified it in writing.

Madam Speaker, the hon. Gentleman, in his speech for the Opposition, has said that we have not had a Finance Bill, as he has repeatedly recommended should be the case, and the difficulties that arise in respect of this Bill, as he now puts it, all arise because we have not followed his advice to have a Finance Bill at Budget time. It is not just us that have not had a Finance Bill at Budget time. In all of the years that I have been in this House since 2003, two terms of which were unfortunately under a GSD Government, there was not a Finance Bill, and indeed, as I understand it from the Hon. the Father of the House and the Deputy Chief Minister, there was not a Finance Bill in the years before that, and the leader of the party opposite now, Hon. the Leader of the Opposition was a Minister for eight of those years. So, it is not just us that are not following the hon. Gentleman's advice in not having a Finance Bill, which he appears to present as a panacea for all of the ills that he has self-diagnosed in this Bill, which we do not accept; it is his own party that did not do that in 15 successive Budgets from 1996, eight of them with his current leader as a Minister. So, hon. Gentleman will understand that we do not believe that the cure that he is prescribing is relevant, because we do not accept the diagnosis that he makes.

The hon. Gentleman has appeared to suggest that whenever you come to this House to deal with any lacuna that there may be in the law with something that needs to be provided for, you are not doing the housekeeping exercise of bringing the law into line with practice, you are cleaning up a mess – because that is what is going to grab a headline: cleaning up a mess. Well, I suppose we were cleaning up a mess after 2011 when we had to legislate for the measures *they* had not provided for, or when we had to do *their* Supplementary Appropriation Bill for the overspending *they* had incurred: cleaning up a mess. If you want to describe something in pejorative terms, you can describe anything, however positive and well intentioned, in pejorative terms.

The hon. Gentleman has pretended to do a charge of the Light Brigade style approach to this very meritorious Bill. To make the hon. Gentleman understand – because it might not just be me who understands nothing, it might also be he who understands very little – the charge of the Light Brigade was either the most audacious and brave charge that the British Army ever made, or the worst-informed military manoeuvre in the history of the British Army. It just depends how you describe it. We describe this as a meritorious Bill – (**Hon. R M Clinton:** Really?) we do, really, yes – that brings our law in line with outstanding Budget measures and with practice and brings in new measures too. If this is, therefore, amateurism at its best, as the hon. Gentleman has described, I will tell him that we learnt it from the best, as they might see it – that is to say them – or we learnt it from the worst, as we might see it – that is to say them – because if what we are doing here is giving retrospective legal cover to a Budget measure that has not been made law, those words first appear in the parliamentary record of this nation uttered by a Chief Minister of the Gibraltar Social Democrats in 2011, saying that he was bringing legislation to cover measures in the raising of taxation which they had been pursuing for years but had not provided legislation for. I am not, therefore, as Minister for Public Finance, in certifying that this Bill can go and therefore raising this issue as the reason why it is proper for it to go, Denning quoting himself as authority for his own proposition; I am actually quoting the person they would consider a master of their own rolls as authority for the proposition. This is what they used to do. This is what they introduced. This is what he now describes as amateurism at best. Well, if that is the case, then the only thing the hon. Gentleman has done is trash the record of 16 years of GSD Government in taxation because they had no Finance Bill and they brought the concept of retrospective legal cover. Let's be very clear: that is what he has now got up and done. He may simply have done it from that style, which is so the style of the centre right, not just here but everywhere in the world, that when we do

something it is perfectly all right; when the socialists do exactly the same thing, it is utterly disgraceful, it is unacceptable, it is sweeping up a mess.

I would have thought that people were too long in the tooth now not to see through it, but let me give you, Madam Speaker, the best example of what the hon. Gentleman has said today, which demonstrates that his approach has not been to find merit but simply to find fault for the sake of finding fault. What was the tax amnesty about? It is not just that now we should ask ourselves on what basis did we charge those who availed themselves of the amnesty, because that is the shallowest possible interpretation. Sure, we charged those who availed themselves of the amnesty before we passed the law. We are passing the law now. But a slightly more substantive understanding of that might actually lead the hon. Gentleman to realise that those who took the benefit of the amnesty were actually saying that they had failed to comply with the law on taxation as it was at the time, and that what the amnesty was giving them was a discount against their liabilities. So, it is not that we did not have a law on which to charge them; it is that we might not have had a law on which to give them the discount. Doesn't the hon. Gentleman realise? His case is totally undermined by the fact that he has relied on the amnesty as the issue. The amnesty was what people were availing themselves of because they were fessing up to having failed to comply with the law as it was.

It is also shallow and amateurish to believe that you cannot do retrospective legislation in matters of taxation. It is now trite that although the principle is that you do not legislate retrospectively, what you do is make sure that people have the certainty at least of announcement, because people have to have certainty and there is certainty once things are announced. Indeed, even in the United Kingdom, challenges to even Finance Bills – because a Finance Bill, which the hon. Gentleman says is the panacea, can also be retrospective – which have gone all the way to the European Court of Human Rights because the Finance Bill has been retrospective have failed because there can be retrospective legislation even where there has not been an announcement. Here you are dealing with the fact that there has been announcement. Certainty is there. You have been told what the Tax Office is going to do. It is the GSD principle of retrospective legal cover. The hon. Gentleman might like to use the copious time at his disposal to look it up and confirm that it is a GSD principle that we are applying. Retrospective legal cover does not offend any legal principle.

Madam Speaker, we think this is actually very good housekeeping that we commend as good tax practice, but it is good tax practice in the context of Gibraltar. What the hon. Gentleman cannot do is say we must have a Finance Bill as in Westminster. Westminster is for a market of 60 million people. Here, tax practitioners are all in touch with the Commissioner of Income Tax, who is constantly giving feedback on how measures will be implemented, assisting taxpayers. Tax certainty is available. This is not, therefore, an appalling exercise, as the hon. Gentleman has said; this is a very meritorious exercise, which I commend to the House. But does he really think that it is an appalling exercise that we are undertaking, or is he just trying to grab the headlines in a provocative tabloid style that actually, when you analyse it, as I have with the amnesty, is devoid of substance? He is just, as he has demonstrated in his speech, nitpicking. He is being pedantic, hypercritical of everything and excessively difficult, as we have all, unfortunately, come to know that he is. I have got used to the fact that in the time that he has been a Member of this House, the hon. Gentleman, other than in the period when he quietly got in our slipstream because it was too difficult and too scary to do anything else during Covid, is never going to say anything good about me, that we on this side are never going to be good enough for his exacting standards. Indeed, given that I have just demonstrated that what we are doing is what they were doing, even Sir Peter Caruana – and perhaps even the Hon. Mr Keith Azopardi, now Leader of the Opposition, then a Minister – is not good enough for the Hon. Mr Clinton, but we certainly are not good enough. Only he would be able to design finance measures and a Finance Bill and bring things at the right time with his Select Committee on Public Finance etc.

The hon. Gentleman will forgive me for not thinking that his judgement of me and my political career is the one that might be most relevant, because, as the Hon. Mr Feetham, the Hon.

Minister, has said, this Bill deals with matters from 2016. We have asked the public in Gibraltar for their judgement on two occasions since 2016. He has asked the public to make him Minister for Public Finance on three occasions since 2015. In 2015, we enjoyed the biggest landslide in any two-horse race since Joe Bossano won the biggest landslide in the history of landslides, and since 2016 we have won two more times. The public have not chosen his view on whether we should have a Finance Bill, they have not chosen his view of how terribly we do things, they have not chosen his view of how terribly I do things, so hon. Members will be forgiven, on that side of the House, for understanding that on this side of the House we prefer the view and the confidence expressed in us by the people of Gibraltar on those two successive occasions since 2016 where he says that we have done things so badly, and I – in particular, given that he personalised his speech so much on me – will tell him that I am very satisfied that on the four occasions that I have sought the confidence of the people of Gibraltar to be elected as their leader, I have won the argument and that I have asked them to do so one last time and their final judgement on me was that I should continue to be their leader and neither he nor any of his colleagues should take over.

I am sorry, Madam Speaker, if I end, as he purported to end, by rubbing his nose in it, but he will understand that after four successive defeats inflicted on Members opposite, three of them on him since 2015, and given what he has said, I will rub that in their noses as many times as I have to. And when they call me incompetent and he calls me incompetent and says that Magna Carta was signed in 1066, I will remind him it was signed as the Great Charter in 1215. If he cannot even get his facts right, I am not surprised that we have won four times on the trot, and in particular since 2015 when he became their spokesperson on matters of finance, and in particular in 2016, which is the period which we are now tidying up and ensuring that we put everything in its proper place to give retrospective legal cover, that brilliant GSD construct which we now apply today. I, therefore, Madam Speaker, commend the Bill to the House.

**Madam Speaker:** Does any other hon. Member wish to speak? In that case, I call upon the mover to reply.

**Hon. N Feetham:** I am grateful, Madam Speaker. I have made a few notes of the comments made by the hon. Member Mr Clinton. He started his speech and he kept repeating it time and again: he was calling this House to deliver tax certainty. He is saying that the Government, by delaying the implementation of announcements in Budgets, is ... the lack of tax certainty as a result of not having the legislation in place. And then, at the end of his speech, he says, 'I will abstain.' The Opposition will abstain from passing legislation which in his opinion is absolutely necessary to deliver tax certainty. There is an inherent contradiction in that argument. He then chastises the Hon. Chief Minister. Well, let me make it clear that I am the Minister with responsibility for taxation. I accept responsibility for this Bill being presented in this House and in my name, and therefore, if hon. Members need to direct criticism at me, I am here and I accept that criticism.

Let me also say, please, that the Tax Office has been working every hour of the day since we took office in order to be able to deliver on the measures that the Government has announced both in ministerial statements and indeed in this House. That has also required us to recruit two senior tax professionals, so we are better resourced as a Tax Office to be able to deliver a lot of the work that perhaps was not there before we recruited and upskilled our resources in the Tax Office.

He then goes on to say that there were Budget measures that I had announced, and indeed which the Chief Minister had announced in the last Budget, and why didn't not we bring them in this Bill? The answer is simple. It is as innocuous as that I had a conversation with the Commissioner of Income Tax and said, 'Commissioner, shall we bring the Bill with our tax measures now, or do we wait until the next parliamentary session?' His advice – this is the advice of senior officials – was 'It is not necessary to bring it within this Bill, which is an amalgamated Bill that brings everything else up to date, given that there is not the same degree of urgency.' Of course, we will table the Bill. It will be tabled, hopefully, in the next session of Parliament.

The hon. Member also refers to a section within the Bill ... I cannot remember what the section was, but it relates to fines and the late filings by companies. He questions where was this announced? Off the top of my head I cannot remember specifically where it was announced. It was not announced in my Budget measures, it was not announced in the Chief Minister's Budget measures, but I am absolutely certain that it was announced by one of my other colleagues and therefore it has been collected in this Bill. That is from memory, what I think is the case, and I am very happy to communicate what the factual position is outside this House, but I do remember that an announcement was made in relation to filings of tax returns and audits and therefore the relevant provision reflects some of the discussions that we had in relation to that measure.

He has also asked why we have inserted a prospective date of 1st January. That was on advice. In other words, the advice that we had was that in relation to that specific section, for reasons that were articulated to the Government, that date was chosen above a historical date.

He has made a song and dance that the Government has failed to introduce tax legislation which was announced in previous Budgets. No company has actually been knocking on my door, pushing and asking me as aggressively as the hon. Member has done today. In other words, a tax Budget measure is announced and companies incorporate the necessary measure in their tax returns. Indeed, we are talking about companies that have audited accounts. In other words, we are talking about very large companies with audited accounts, we are talking about some companies that are regulated by the Gambling Commission as gaming companies, other companies as financial services licensed entities. They have not made as much noise as the hon. Member has done today.

I really can but echo the Chief Minister's words when the hon. Member referred to us going back in time and implementing the Magna Carta in 1066. Madam Speaker, as the Hon. Chief Minister has pointed out, 1066 was the Battle of Hastings; it was not Magna Carta.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Income Tax (Amendment No. 3) Act 2024.

**Income Tax (Amendment No. 3) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

**Minister for Justice, Trade and Industry (Hon. N Feetham):** I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

**Members:** Aye.

**Income Tax (Amendment No. 4) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Income Tax Act 2010. The Hon. the Minister for Justice, Trade and Industry.



**Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Income Tax Act 2010 be read a first time.

1295 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Income Tax (Amendment No. 4) Act 2024.

**Income Tax (Amendment No. 4) Bill 2024 –  
Second Reading approved**

1300 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill be now read a second time.

The Bill amends Section 20 of the Income Tax Act 2010 to restrict the amount of brought forward losses that may be set off against profits in a given accounting period.

1305 Section 20(6) will limit losses to 50% of the measure of profits or gains computed in accordance with Schedule 3. The measures will apply in relation to accounting periods ending on or after 31st July 2024.

1310 As highlighted in my Budget address, the vast majority of losses are generated by companies in the financial services and gaming sectors. Consequently, Section 20(7) will limit these changes to designated persons, namely companies carrying on regulated activities within the meaning of Section 5 of the Financial Services Act 2019 or Section 3(1) of the Gambling Act, as well as connected persons.

Section 20(8) disapplies these rules to companies defined under Section 3 of the Insolvency Act 2011 that are subject to insolvency proceedings and which are deemed to be designated persons.

1315 Section 20(9) ensures that the restriction on the use of brought forward losses will not apply to losses generated during the period 1st July 2021 to 30th June 2023. This reflects the fact that the Government introduced a number of stimulus measures in this period in the wake of the Covid pandemic, including enhanced corporate tax deductions and allowances.

1320 This Bill does not eliminate brought forward losses. Taxpayers can continue to utilise accumulated losses prospectively albeit at a slower rate, one which allows and ensures a fair and proportionate economic contribution to our shared consumer community.

Madam Speaker, I commend this Bill to the House.

1325 **Madam Speaker:** Before I put the question, does any hon. Member wish to speak on the general principles and merits of the Bill? The Hon. R M Clinton.

**Hon. R M Clinton:** Thank you, Madam Speaker. The Minister will be pleased to hear that we will ride in his slipstream and approve this Bill. It will have our support in the manner he described at the Budget speech. I think it is worthy of our support.

Thank you, Madam Speaker.

1330 **Madam Speaker:** If no other hon. Member wishes to speak, does the mover wish to reply?

**Hon. N Feetham:** Madam Speaker, I am grateful to the hon. Members opposite.

1335 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Income Tax (Amendment No. 4) Act 2024.

**Income Tax (Amendment No. 4) Bill 2024 –  
Committee Stage and Third Reading to be taken at this sitting**

1340 **Minister for Justice, Trade and Industry (Hon. N Feetham):** I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today, if all hon. Members agree.

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

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**Members:** Aye.

**Income Tax (Amendment No. 2) Bill 2024 –  
First Reading approved**

**Clerk:** A Bill for an Act to amend the Income Tax Act 2010. The Hon. the Minister for Justice, Trade and Industry.

1350 **Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that a Bill for an Act to amend the Income Tax Act 2010 be read a first time.

**Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a first time. Those in favour? (**Members:** Aye.) Those against? Carried.

1355

**Clerk:** The Income Tax (Amendment No. 2) Act 2024.

**Income Tax (Amendment No. 2) Bill 2024 –  
Second Reading approved**

**Minister for Justice, Trade and Industry (Hon. N Feetham):** Madam Speaker, I have the honour to move that the Bill for the Income Tax (Amendment No. 2) Act 2024 be read a second time.

1360 Madam Speaker, I have given notice that I intend to move an amendment at Committee Stage to make some amendments to this Bill.

This Bill amends Section 3 of the Income Tax Act 2010 in order to allow the Commissioner of Income Tax to provide the Gibraltar Financial Intelligence Unit (GFIU) with information where the GFIU makes a lawful request.

1365 The Bill amends Schedule 1 to insert a new Part 2 for the purposes of introducing the Budget measure announced in relation to the charging of tax on income from the disposal of an interest in a taxable property where a person holds a certain number of properties other than exempted properties. The initial announcement was for the threshold to be three or more properties, but this is being amended to five or more properties. The property exempted is set out in paragraph 1 of Part 2 and includes, amongst other things, a person's primary residence, commercial property and property which is unfit for human habitation or in need of substantial repair. The amendment I am proposing at Committee Stage provides for a new exemption for properties constructed prior to and held by the owner since 1st January 1988. I will move an amendment to provide that any further exemptions for any category or class of property may be made by order, with such order to be approved by resolution of this House in advance. Paragraph 1(2) of Part 2 of the schedule as

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1375 I propose it be amended at Committee stage provides that tax will be payable where a person holds five or more taxable properties or an aggregate in five or more taxable properties over three consecutive basis periods, and that person disposes of the property. A further amendment will provide that the profits, rather than the amount arising from the disposal of any such property by the person or the property-holding entity, whether directly or through a disposal of shares, will be charged as though the profits arising from the disposal are the income of that person or entity.

1380 I do not propose to discuss every provision in the Bill in this address. I have explained its purpose in my Budget speech and I have since also defended it publicly, including in a GBC *Viewpoint* programme where the hon. Member opposite, Mr Clinton, participated. I remind this House that Action for Housing have twice come out in support of this measure. Let me, however, try to provide some brief commentary. This property tax Bill is crafted with the intent that property ownership in Gibraltar benefits the many and not just the few. It is about fairness, about ensuring that those who benefit financially most from a thriving property market also contribute proportionately to tax revenues and the welfare of our community. It has not been uncommon in recent years for a small number of purchasers to purchase a large number of off-plan apartments in developments in Gibraltar, expecting not to pay any tax when eventually disposing of their property interests. They create a secondary market for these properties, selling at a time of their choosing, typically when prices have risen significantly. The result of this practice is clear. When some developers announce that reservations are oversubscribed many times over shortly after sales commence, many families are unable to buy flats directly from the developer. Instead, they are forced to turn to the secondary market, where prices are substantially inflated. This, in turn, makes it difficult for local families to afford homes. It is imperative to remind everyone of the tax responsibilities that apply to such transactions, even under the current law. We can no longer permit reliance on any perceived uncertainty in the existing tax legislation regarding trading and the tax liabilities arising from the sale of multiple properties. Tax is not voluntary. I have reiterated this principle on numerous occasions since taking office. The property tax Bill before us today is designed to address precisely these issues, ensuring that those who engage in such practices contribute their fair share of tax to our community. Indeed, they should already be doing so. Any argument that the law will exempt trading in less than five properties and only tax five is mistaken. The legislation sets an automatic inclusion for taxation purposes of five or more properties. It does not provide an exemption for anyone considered trading in fewer properties. Under existing law, courts must determine whether the sale of properties constitutes trading, applying case law under so-called badges of trade. Every revenue law university student should be able to explain it.

1395 This process involves interpreting facts and circumstances to decide if property sales are taxable as trading income or constitute a capital gain. This makes the dividing line between trading or not often highly subjective. We are drawing a line in the sand by providing the automatic inclusion in the new Act, establishing a clear threshold, reducing uncertainty, namely ownership of five or more properties, rather than relying on judicial interpretations and avoiding costly enforcement action for this threshold. So, while the provision explicitly covers cases with five or more properties as a clear threshold, the legislation does not preclude taxation of profits from fewer properties if the nature of the activities otherwise constitutes a trade.

1400 Madam Speaker, I commend this Bill to the House.

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

1420 **Hon. R M Clinton:** Madam Speaker, unnecessary is how I would sum up this Bill; unnecessary in so much as this Bill was certified urgent, because if you look at the face of the Bill, you will see it was published on 25th July 2024 and six weeks have elapsed by my counting. So, in fact, there was no need to certify this Bill as urgent by the Chief Minister.

1425 **Hon. N Feetham:** Will the hon. Member please give way?

**Hon. R M Clinton:** I will give away, if you wish, yes.

**Hon. N Feetham:** This Bill has not been certified as urgent. The Bill has been certified by the Hon. Chief Minister on the basis that he is the Minister with responsibility constitutionally for public finance.

**Chief Minister (Hon. F R Picardo):** They may have said Madam Speaker, a 35(1)(a) notice and a 35(2) notice or a 35(3) notice.

**Hon. R M Clinton:** Madam Speaker, I have a copy of the letter here, if the Minister wishes to have a copy and frame it, because it does say 'Tax Bill abridgement of time' and his Bill is listed here, in fact, as the very first one, signed by the Chief Minister: 'With very best wishes, as ever, Fabian.' It may just have been an administrative error but it has most definitely been certified as urgent. Again, I come back to my theme of not being necessary. In fact, the Minister, in his closing remarks, more or less admitted this. In his closing remarks, he said, 'Don't let anybody think' – if I can paraphrase – 'that this is a get-out-of-jail-free card for anybody who is trading for properties with the badges of trade' which is a well-known tax concept that has been recently published in a book on the principles of Gibraltar taxation, as the Minister will know on page 83 the badges of trade test. For the purposes of those who are not tax experts, it says on page 84 that badges of trade can be summarised as follows: the presence or absence of a profit-seeking motive; the number of transactions; the nature of the asset; the existence of similar trading transactions or interests; changes to the asset; the way the sale is carried out; the source of finance; the interval of time between purchase and sale; and the method of acquisition. There is a whole list of case law which follows on the next few pages, so this is a concept that is well tried and tested in the law. I do not claim to be an expert in the law, but I did find it somewhat unsettling in his closing remarks for the Minister for Justice – not just the Minister for Taxation but the Minister for Justice – to say that this would draw a line in the sand, it would set a clear threshold and he would not have to rely on judicial interpretation. The Minister for Justice is doubting the ability of our legal system to interpret our own laws. How bizarre is that? We have accepted legal principles as to the badges of trade. The Minister is telling us, 'This law does not override the badges of trade, they are still there to be applied if we so please, but in case I do not get the right decisions from the judges, I am going to bring in this legislation.' Frankly, it is a bit much, perhaps, which is why we say this legislation is unnecessary.

This activity of trading in properties, as the – I almost called him the Chief Minister – Minister for Taxation, maybe Chief Minister, alluded to in his original Budget speech ... He says this is really meant to catch those who are treating our property market as a casino – well, not a casino, a stock market – and making excessive profits, but this activity was, is and has always been taxable. So, if it is taxable, why is the Minister not taxing it? Why not?

The Minister himself has alluded to a GBC *Viewpoint* programme in which I participated. What was interesting was that in the absence of rules of debate we were able to have a fairly free and frank exchange and flow of thoughts, and what came across to me and the impression I came away with was that this was not a closing-a-loophole, tax-revenue-raising measure; this was about enforcement. This was not about balancing the Budget – 'We need to raise more money – let's add 10p on that, let's tax this, we need to do that'; no, this was about him having a problem with enforcement. He more or less admitted this in public TV. But if he knows there are ... I cannot remember what expression he used. I think he held up his hands and said, 'There are these number of people that we know of' – 10, I think it was – 'who are persistent offenders, who refuse to play ball, who refuse to comply with the tax law as it exists.' So why not just issue assessments against them and let them argue their day in court? That is what the courts for, but somehow we have this shortcut legislation, which I think he alluded to in his Budget speech, 'to avoid costly litigation' or words to the effect. But tax law should not just be about enforcement. I have now understood that his role really is Minister for Tax Enforcement. He is the Government's tax

enforcer. As I perhaps unkindly alluded to, he is the Sheriff of Nottingham in the great Robin Hood saga, playing to King John. This Sheriff of Nottingham is blindly seeking to enforce the tax law and is introducing a new form of collecting this money, but in his narrow view of the world he is not considering the effect it has on the wider perception of Gibraltar as a jurisdiction.

We, on this side of the House, do not have a problem with him collecting tax that is due. We do not have a problem with him taxing those terrible wealthy people who are making so much money. Tax them, by all means. But the problem is that he is producing a piece of legislation to start with which has a feel to it of some sort of capital gains tax. We have said for a long time that we do not have capital gains tax in Gibraltar, and I assume that any move to introduce it will have to be something that will be debated in this House. It is one of the attractions of Gibraltar that we are competitive, and this world we need to maintain every single competitive edge that we can because we need it. We are competing with a big, bad world, and there are people out there – if you look at property in Dubai – who will be direct competitors with our offering. We have huge developments which we all know of, which I will not name, that will be seeking investors. I do not have a problem with the Minister for Taxation seeking to tax those that need to pay tax and should be paying tax – by all means – but the way this property tax Bill, if you want to call it that, was introduced unsettled the market. It also opened a can of worms in terms of capital gains tax. When the Minister said he is introducing an amendment to the Bill where he will exempt properties before 1st January 1988, and in fact anybody who has owned a property since 1st January 1980 that was built before 1988, I asked myself why that date – 36 years to today, or thereabouts. Why? How did you come up with this date? I am glad the Chief Minister finds it so amusing, because he is adding no value to this debate at all, Madam Speaker, as he sticks his finger in his mouth.

**Hon. Chief Minister:** To signify amusement is to signify, hook, line and sinker (**Hon. R M Clinton:** Whatever.) to my colleague. (**Hon. R M Clinton:** Indeed.) I do not need to justify to you.

**Hon. R M Clinton:** So, Madam Speaker, why 36 years? What is the magic date? Maybe there is a rationale to it, but I am sure the House would like to hear it. (*Interjection*) I did not know you found it so amusing, but anyway.

**Madam Speaker:** The hon. Member will not address the other side directly. We have been through this.

**Hon. R M Clinton:** Madam Speaker, I did not know [*inaudible*]

The problem is the Minister has identified a problem of enforcement, and whoever is advising the Minister has drafted this piece of legislation. The Minister, in a letter to the *Chronicle*, tells us that this was drafted with the input of five experienced tax professionals. They were so experienced that this Bill has had to be amended. So, what advice is the Minister getting as to how to draft this Bill? The problem, Madam Speaker, is that he started off with anything above three properties is effectively deemed to be trading. Now this has changed to five or above. Why? He has increased it by 100%, so you can trade, theoretically, four properties. But he then says, 'You cannot, because I will tax you anyway.' Well then, what is the point of this legislation? What certainty is he providing anyone, other than saying if you are trading or you have five properties and I think you are trading, this will give me definitive proof that you are. But this could be done by the courts; it does not need a piece of legislation. All he has done is produce a completely unnecessary piece of legislation. In fact, although he says in his closing remarks, 'Don't think that you can trade four properties and not be taxed, because the badges of trade still apply,' there will be people who read this and say, 'Well, actually, these are exempt, therefore they are exempt.' How can you say they are exempt but still subject to the badges of trade? What he has done – and I hesitate to use these words, but he has drafted the opposite of what he intended. He has actually drafted what looks like a tax evader's charter. He says, 'Don't worry anything four properties or below, we are not going to look at you. We are only interested in those with five and above.' If

you are going to say, 'Well, actually, forget about it because I am going to tax you under the badge of trade,' what is this legislation doing if he is not going to do it anyway? It does not make any sense.

In the amendments that were given to us this morning, there is one amendment which I will welcome. The Minister will not be too surprised that we are going to vote against this Bill because it is an unnecessary piece of legislation, because you already have the ability to tax and the Commissioner has the powers to do whatever is necessary, but in his amendments I was glad to see that he has removed his ministerial discretion and now requires ... In fact, the bit that he has overwritten for paragraph 1(11)1L1 and substitutes the entire subsection (1), removes his ministerial ... No. I am sorry, Madam Speaker, I am reading the wrong line. After nine. That is right, paragraph ... After 2(9) 'The Minister may by prescribed, but unless it has been approved by a resolution of Parliament' and that I welcome because, before, it was entirely at his discretion, which I thought was wrong and I am glad to see that he has at least taken that on board. The other thing I am grateful to see he has taken on board is the amendment of the words 'amounts arising' – which frankly had no real meaning in finance terms – to 'profits', which makes much more sense. So, at least in that sense, his tax five tax experts have delivered what they should have delivered in the first place, and that is the piece of legislation that he wanted. But of course, this is not the piece of legislation that he wanted, because it is giving more exemption than he anticipated, and at the end of the day this probably will end up in Court because there will be people who say, 'But you gave me exemption for four properties; I can sell four properties.' He will say 'No, it is badge of trade,' and they will say, 'Well, hang on, which one is it? Is it the badge of trade or is it the piece of law?' It is going to end up in front of the judges, I am sure, because minute you try to tax somebody who has sold three properties and they say, 'No, you exempted four,' what are you going to do? You are going to end up in Court. That is what is going to happen. It would be much better if you had just applied the badges of trade than have this piece of legislation.

Madam Speaker, if he is so worried about these 10 entities that buy up entire floors of buildings –

**Hon. Chief Minister:** I have not said 10.

**Hon. R M Clinton:** Well, whoever it was, you held up your hands.

**Hon. Chief Minister:** Listen to the recording of this. (**Hon. R M Clinton:** Yes.) It was not in that context.

**Hon. R M Clinton:** Well, whichever context, you held up your hands and gave an indication that it was not more than two hands' worth. (**Hon. Chief Minister:** Foreign investors.) Some of which apparently, are locally based now.

If the Government knows who these offenders are, just go after them and tax them, raise an assessment; you do not need to do this. And then to roll out and hold up Action for Housing and say Action for Housing is supporting this and they think it is great ... Action for Housing will realise that these properties are not rental properties. These are not Government 50/50 properties. This will do nothing to help their constituents. I am sure Action for Housing will be delighted to hear that you raised the threshold from three to five because, hey, we have to tax those nasty property developers, but we are going to keep development aid because that is important.

Madam Speaker, we do not need lectures from the Minister or this Government about how socialist they are, what wonderful things they are doing for housing, because this will do nothing to address the housing market, nothing at all, and he knows it.

In terms of the presentation of this Bill, it is meant to provide legal certainty as to what is trading in property. I am afraid to say he is probably providing the reverse. He is codifying the ability to trade for profit – although he will deny it – four properties without being subject to tax. That is what it looks like on the face of the Bill and his amendments. But to say at the same time,

1585 'But I reserve the right to come after you if I think you are trading' ... What kind of law is this? We say you have the powers to tax anyway. You do not need this law. If who the offenders are, go after them, but this law, in the same way as it was certified as urgent, is unnecessary, Madam Speaker, and on that basis we cannot support the Bill.

**Madam Speaker:** Does any other hon. Member wish to speak?

1590 **Hon. Chief Minister:** Madam Speaker, the hon. Gentleman, in his condescension, I think, has failed to understand the general principles and merits of this matter, and I have no doubt that the Hon. the Minister for Finance will put him right on how this is, in effect, just a reversal of presumption which does not change the underlying principle as to trade. He will address that in greater detail.

1595 In raising the spectre of a capital gains tax, I think the hon. Gentleman has fallen into the trap of believing what he reads in ill-informed comment outside this House, and I want to just deal with that point, from the point of view of my role as Minister for Finance, to say that the Government has absolutely no intention, plan or desire to introduce a capital gains tax. It is not what this Bill does by any stretch of the imagination and I think that even the hon. Gentleman has, 1600 in his confusion, accepted that during the course of his speech, because what he is saying is you are codifying the badges of trade in a particular respect, thereby demonstrating that his main thesis in one of the parts of his speech, that this could somehow be characterised as a capital gains tax, is dealt a fatal blow. I want to be absolutely clear: the Government is not considering; the Government has no intention and the Government will not be pursuing any capital gains tax provisions. That is not what this Bill is about and it is not a precursor to another Bill that might do that. I hope that that is now sufficiently clear and that that, as the hon. Gentleman has alluded to in the context of his speech to the market, therefore should settle the market in that respect, 1605 Madam Speaker.

1610 **Madam Speaker:** Does any other hon. Member wish to speak? The Hon. the leader of the Opposition.

**Hon. Dr K Azopardi:** I am grateful, Madam Speaker. If only it were that easy to settle the market.

1615 I will say to the Hon. Minister who introduced the Bill that I was initially attracted to this measure. I will explain why, but before I do that, may I just say, this Bill, of course, is in two parts. The first part deals with GFIU provisions, really a request between the Financial Intelligence Unit and the FSC. Were that the only measure in this Bill, of course we would support it. We make that distinction. It is fair to say that my hon. Colleague Mr Clinton's speech concentrated on the second 1620 part of this Bill, which is the so-called property tax, to which I will also confine my general comments on the principles, because my colleague has dealt with some of the more granular points.

I just want to deal with the more principal issues, because I start where I started when I rose, which is, were it to be that easy to settle the market as the Chief Minister has sought to do, by 1625 saying that there will not be a capital gains tax? The issue precisely at the heart of this is that the market has been spooked and it is important to bear that in mind. As I started, when I thought about considering my reply to this, I was indeed initially attracted to the measure that the Hon. Minister spoke about in his speech because he talked about there being a minority of people who were, in effect, evading tax, sidestepping, depriving the Exchequer of revenue. I do agree with the point that he made then and repeated now, that those who benefit most should contribute by way of taxation whatever the law says they should contribute. I have no issue with that, and 1630 indeed none of the Members on this side of the House have an issue with the Government pursuing enforcement proceedings against people who, under the law of Gibraltar, are supposed to pay tax on certain things, whatever the tax law provides. That is why I was initially attracted by

1635 it, because I had understood from the Minister's speech that there was a lacuna in the law, that somehow these things were happening that were not provided for by the law. So, I put that at the forefront of my consideration of the measure.

As the weeks went by, during summer, it became obvious that several things were emerging as facts, and some of them became very obvious in that *Viewpoint* programme that the Hon. Minister was on with my hon. Colleague to my left, Mr Clinton. I think that programme happened around late September. By that stage, having watched the programme in great detail and replayed it to make sure that I had understood, because I am not a tax lawyer – badges of trade are for my hon. Colleague Mr Clinton, not for me; I have never had to advocate a case on badges or trade – I drew from that programme and from the sequence of discussions that there had been, not just publicly but from people who approached the Members on this side of the House, that two things seemed clear. Several things seemed clear, but two were prominent: that there was no lacuna and that these things were taxable. So, what the Hon. Minister was trying to do, and had explained in July during his Budget speech, was already taxable under the law of Gibraltar. I know he says that this provides more certainty, but if it is taxable – and he conceded as much, I think, on the programme, albeit that he couches it in terms that this would be clearer: 'We do not have to go to Court because it is clearer' ... Affirmations such as you do not have to go to Court are, if he does not mind me saying so, slightly facile, because even in attempting certainty it may be that things go to court, because that is the way of things, especially if money is at stake. But it seemed to me that that was becoming very clear, that the law of Gibraltar already makes this taxable. Indeed, the expert on that panel, I think an acknowledged expert in the field, said very clearly on the *Viewpoint* programme, 'This is taxable', and that was the same advice that we were getting on this side of the House.

The Hon. Minister – and my recollection is the same as my hon. Colleague Mr Clinton – in that programme said, 'This is not a lot of people, it is a minority of people,' and gesticulated to the camera. I know he had an aside with my hon. Colleague Mr Clinton before, but my recollection is that he gesticulated to the camera and said, 'It is not more than the fingers on these hands,' and that he or at least the Tax Office believed that they knew who they were. Well, again I say that if that is the case and we are dealing with a minority of people, and the law of Gibraltar provides that these activities are taxable, tax these people and do so without spooking the market. What was becoming very clear as well was that the market was being spooked by this measure. It cannot be that the Members on this side of the House were only receiving that information; I am sure that information was reaching Members on that side of the House. Some of the amendments that will be attempted at Committee Stage might be to settle nerves and the intervention of the Chief Minister might be to settle nerves, but the market is perhaps more unsettled than that.

1670 It is not clear what revenue this will raise, although that is not an issue of objection on this side of the House, because what we say is if there is revenue out there that should be taxed under the law, it should be taxed. No issue with that; we make it very clear. We support the principle that people should be pursued if they are evading tax, but this Bill does not tax these activities for the first time – at least that is my understanding – because the law already provides that they are taxable. Therefore, the matter of public interest and whether you vote in favour or against this Bill, you have to balance the fact of whether this introduces into the law of Gibraltar taxation on an activity in respect of which there was a lacuna, against the possibility that the market might be spooked and it would have a detrimental effect on other things. If the answer to the first question is you are providing, for the first time, taxation, but it is in the public interest to do so, well, then perhaps the balance of issues might be a different way. But if you reach the conclusion, as we do – and, I think, the specialists out there reach as well – that this activity is taxable in Gibraltar, then you have to consider the consequences of this measure that achieves nothing other than spooking the market.

What does it mean when you spook the market like this? In circumstances where most first-time buyers are not getting their first property this way – most first-time buyers are getting their property through the 50/50 route or through perhaps a resale of a 50/50 – all you are doing by



1690 this measure is ... if it is true that the market is being affected and spooked, in effect providing a disincentive to development, which will create scarcer property opportunities and perhaps higher prices, you are not having the effect that the Hon. Minister ... On that programme, *Viewpoint*, he also said that his ambition was that this would give properties to people who would otherwise be priced out. He is repeated it today. I think he said that families would be able to buy on the first sales from developers. But if developers are spooked because they do not have investors, perhaps these developments will not happen. Then prices would rise rather than fall, and therefore make it more difficult for families to get housing.

1695 We put that in the mix because the development market does not just create houses. Although the creation of houses helps economic growth, helps families move on from one house to another, gives them an opportunity to have a better quality of life and so on – and all of that is important – the property market, the property development market and the construction industry create jobs and tax and Social Insurance revenue, and we are in a competitive market. When you put all that  
1700 into the balance, do you want to spook the market, create a crisis of confidence in the market, affect jobs, Social Insurance and tax revenue? For what? For a measure which achieves the taxation of something that is already taxable? When you do all that, it does not seem to us to make sense. Despite, perhaps, a bit more judicial uncertainty, would not it be easier not to spook the market, pursue enforcement proceedings against the not more than the fingers on these  
1705 hands of people? There is no dishonour in adjusting the Government's position. The Government could adjust its position having considered the effect on the macro-economic issues that arise here.

1710 It is a laudable intention to recover tax from people who should be paying it over, it is a laudable ambition to seek that the prices of housing should go down and that more families in Gibraltar should have housing accessible, but with all due respect to the Minister, I am not sure this measure does any of that. In fact, it might do the reverse. It is still time for the Government to consider whether it actually implements this measure and takes on board the wider concerns that people have had on this issue.

1715 As I said, we are not against the taxation of people who are speculators, who are profiteering from developments. If they are taxable, let them be pursued, and do so in a manner that does not then affect other economic fundamentals, which is our concern. Our concern is that the Bill, as it is being presented and as it is being perceived – and market perception, at the end of the day, is important – will have a detrimental effect on prices, jobs and investment into the market in Gibraltar at a time when we are in a highly competitive world and at a time when Gibraltar cannot  
1720 afford to discourage investment into our economy. For those reasons, Madam Speaker, we will vote against this Bill. (*Banging on desks*)

**Madam Speaker:** Does any hon. Member wish to speak? In that case, I call upon the mover to reply.

1725 **Hon. N Feetham:** Thank you, Madam Speaker.

This Bill has been heavily debated outside this House. What the hon. Members have articulated in terms of their opposition to this Bill they have already articulated outside this House, and in particular in the GBC debate that the hon. Member Mr Clinton and I had in September. The reality  
1730 is that he has not learnt anything from that debate.

1735 It is quite telling that they are walking a tightrope on this Bill in terms of the arguments that they are articulating today. On the one hand they say, 'We are all in favour of taxing people. Do not do anything, because the badges of trade are very clear-cut judicial guidelines and therefore, to that extent, it is taxable today and we do not need this Bill.' But then on the other hand they also say, in the same breath, that we do not need this Bill because it creates uncertainty, because it could kill the development market in Gibraltar, which I completely and utterly reject. What they are actually saying, one at the same time, is that there is a law, albeit through judicial interpretation under the badges of trade, that taxes it, but actually do not tax it, because if you

do tax it, then the development market in Gibraltar will be severely affected and impacted and therefore will affect jobs, economic activity and everything else. That is what they are saying on the opposite side of the House, because they find it very difficult to face the people of Gibraltar and tell them the honest truth. The honest truth is this: that a person just above the Minimum Wage in Gibraltar pays and declares more tax than the persons trading in properties in Gibraltar and not declaring it as taxable income under the badges of trade, because in most cases, if not in all cases, they happen to have professional advisers – lawyers, accountants and perhaps a minority of persons involved in the property market – that advise them that it is not taxable, that it is a capital gain, when it is blatantly trading. The problem is that the Tax Office does not have visibility on the taxable income that is being created from the sale of properties in Gibraltar because the onus is on the individual to declare it as taxable income. If he does not declare it as taxable income, because the view is being taken that it is an untaxed capital gain, the Tax Office does not get to know, and therefore the Tax Office cannot challenge those returns.

It is a point that has been made emphatically to me by the Commissioner of Income Tax. He is wholly behind this Tax Bill; his office is wholly behind this Tax Bill. Why? Because it reduces the length and the cost of enforcement action, and indeed, as the Hon. Chief Minister has pointed out, it effectively reverses the burden on the taxpayer to declare the income as taxable income. That is what the Tax Bill does, but it is easier for them to criticise the Tax Bill in order to ensure that those that are talking to them behind closed doors, who happen to be a minority of property professionals in Gibraltar ... to keep them sweet and keep them happy, whereas we on this side of the House are intending to ensure that everybody in Gibraltar pays their fair share of taxes. That is the intent of the Bill. They are walking a tightrope on this Bill, but it will be obvious and transparent to anybody listening to this debate. He says it is not necessary. He refers to the badges of trade as being well tried and tested. The badges of trade are far from being well tried and tested, because it is highly subjective. It involves a judicial assessment of facts and circumstances that in themselves create uncertainty.

There is nothing radical or novel about this Bill. Numerous other jurisdictions have done the same. Canada has done the same. New Zealand has done the same. You introduce a statutory provision that crystallises a tax liability and therefore avoids that costly enforcement action, which the Tax Office has advised me is something which, in their opinion, is much needed in order to tackle the non-reporting of tax liability in Gibraltar in this area. They cannot have it both ways. They cannot on the one hand say, 'We agree with the intent of the Bill,' which is what the Hon. Leader of the Opposition has said, 'but actually, if you do introduce the Bill, that creates a tax liability or crystallises a tax liability, it is going to harm the industry in Gibraltar.'

Then the hon. Member says that this is a capital gains tax. He definitely did not learn anything in the debate that we had on GBC. It was made absolutely clear to him by the very tax expert he has quoted here today that this is not capital gains tax. It cannot be capital gains tax. This is treating as trading income an activity which legislation defines as being taxable. It is not capital gains tax. It was made absolutely clear to the hon. Member in that debate by a highly regarded tax professional. I think he accepted that argument, but he comes here today and repeats the very same argument that was thrashed out on GBC TV by a tax professional. All he is doing is repeating the very same arguments that he has articulated over the last six months – and every time it is proved that he is wrong – so that viewers watching this debate who perhaps were not cognisant of the arguments that had been previously raised or indeed had not watched the GBC debate ... perhaps he can convince them. Well, he cannot convince anybody who watched that debate, and he certainly cannot convince anybody on this side of the House, because I remind him today, again, that this cannot be a capital gains tax. Under no notion, under no argument can this be considered to be a capital gains tax.

Then he refers to the exemption, that we have given notice of an amendment and we have said that persons who owned properties prior to 1st January 1988 and have held that property since ... we are saying that it is exempt or should be exempt from tax. He has a short memory. In the GBC debate with me, he kept going on about the fact that you could have somebody who is a

long-term holder of a property, and he referred ... I have the transcript here, but I will not bore the hon. Members by reading from it. He said something along the lines of, 'There are people that might be holding properties for 50 years, and there are families in Gibraltar that have held property for 50 years, and surely that should not be considered to be trading and they ought to be exempted.' Well, I have taken on board what the hon. Member said, but instead of actually fixing the date as corresponding to 50 years, we have set the date at 1988, 1st January – 34, 35 years – because on this side of the House we believe that that is a very significant date for Gibraltar. But of course he has forgotten – because he tends to forget and he has a very short memory – the achievements of Joe Bossano (*Interjections and banging on desks*) (**Several Members:** Hear, hear.) when Joe Bossano was elected on 1st March 1988, when Joe Bossano transformed the housing market in Gibraltar. Joe Bossano and his colleagues Pepe Baldachino Marie Montegriffo, who unfortunately is not with us today, Juan Carlos Perez, Robert Mor and indeed, of course, my father Michael Feetham, embarked on the largest housing project Gibraltar has ever seen. If it were not for Joe Bossano, we would not have had the boom in the property market that we have had since then. I asked my officials, 'Can you put a pie chart together to show how much social housing 50/50 and socially assisted housing has been constructed since 1988, so that I can see exactly, in a pie chart form, where the percentage of home ownership lies between different administrations?' Madam Speaker, 80% of all socially assisted housing has been constructed by a GSLP or a GSLP Liberal Government. (**Hon. Chief Minister:** Hear, hear.) (*Banging on desks*) So, we do not take lessons from the hon. Members opposite, certainly not on tax, certainly not on what we should do in order to ensure that we alleviate the housing market in Gibraltar. Madam Speaker, 80%; 20% was actually during the time of the GSD Government, and they were in office for 16 years. Joe Bossano, under the first administration, was in office for eight years, and I believe the pie chart shows that over 50% was attributable to the eight years that Joe Bossano was in office. So, 1988 is a remarkably important historical date, and that is why we chose 1988. (*Interjections*)

He has asked why we move the number of properties from three to five. Actually, when we sat down at the Cabinet and discussed whether it should be three or five, we had a discussion around that, that perhaps that number ought to be five, but we landed on three. There is no right or wrong number here, except that by moving the number from three to five, we believe that almost 99% of what we are trying to catch are already caught on the five or more properties. I am not going to read the transcript but the famous number 10 comes because the hon. Member opposite, Mr Clinton, was arguing what the what the Leader of the Opposition has echoed today: 'My goodness, what you are doing is horrendous for the property market; you are going to deter investors.' I said, 'What investors?' and I think the hon. Member Mr Clinton referred to foreign investors. I said, 'Well, I have the number of foreign investors that will be impacted by this Bill, and that number is less than the number of fingers on the hand.' In other words, 10 or fewer foreign investors. So, really, the argument that this Bill would undermine foreign investment in Gibraltar was a flawed argument; the same flawed argument as every argument that they have put across today. It is simply flawed.

He then talks about, you know, who the offenders are, so why do not you do something about it? Well, the problem is that those that ought to be declaring this as taxable income are not doing it, and because it does not go into their tax return, the Commissioner of Income Tax does not know the full number of individuals actually avoiding their tax obligations. By reversing the onus on the individual, the law will clearly prescribe that they now have to report it and therefore it becomes taxable.

There was something that Mr Clinton said in the GBC debate which certainly I found fascinating. We could not debate it any further and perhaps I should have asked him, but we did not have time. It was an extremely passionate debate between me and the hon. Member. He was shouting over me on many occasions I was asking him to just calm down. Again, I have the transcript. He said, 'We' – by 'we' I assume it must be the GSD – 'tried to persuade the Hon. Joe Bossano when he was Chief Minister to do something similar.' (*Interjection*) I have the transcript

here, Madam Speaker. He, we, they, when Joe Bossano was the Chief Minister, tried to persuade him. So, again, what is the argument?

1845

**Hon. R M Clinton:** Will the Minister give way?

**Hon. N Feetham:** Either they are in favour ... or are they against, Madam Speaker?

1850 The Hon. Leader of the Opposition has referred to spooking the market, but how can you spook the market when we are talking about liabilities that exist and should be reported as taxable, which is not being done? How on earth can you spook the market? It is something that I really do not understand.

1855 He then says, and I have taken a note here, 'You are providing disincentives to developers.' That is what the Hon. the Leader of the Opposition said. Well, disincentives to developers but it should have been taxable, but he is now saying, 'Actually, do not tax it because if you do tax it, it is a disincentive to developers.' Just full of contradictions.

1860 There is one thing which I think crowns all the contradictions that have been made in this debate over the last six months, which is this. And maybe they are listening to the wrong people, Madam Speaker; that seems to be the case. A property professional said, in expressing his opposition to this Bill, 'But the developments that have been done over the last few years ...' Some developments but not all, because I have had conversations with some developers who have told me in private, but they are not prepared to say it publicly, that they support the Bill. They have told me this. But one property professional has said some developments in recent years have depended on investors as a form of mezzanine finance. Anybody who understands what mezzanine finance is all about will tell you that mezzanine finance is lending. Therefore, if you are 1865 lending and you are providing finance to a business to do something, then that interest is taxable. So, how can you say that the investors that buy these properties and then sell them, and ought to be declaring tax and ought to be paying tax, really should not because it is a form of mezzanine finance? Mezzanine finance is fully taxable.

1870 Everything that I have heard today in this House is one contradiction after another, and it just reinforces the contradictions that have also been made by a handful of people, because I have not received more than a handful of emails from persons actually saying that they are opposed to the Bill. So, where is this huge swell of opposition to this Bill? I am sure that the hon. Members are not on Facebook, Madam Speaker, because they do not use social media, and that is why they 1875 seem to be so remote when it comes to public opinion, because they are not close to the people of Gibraltar, they are not close to the anxieties and concerns of the people. Had they been, they would have been able to verify that the large majority of people that have commented on this, and it is not just Action for Housing, support the Bill. It is only them that do not.

1880 **Madam Speaker:** I now put the question, which is that a Bill for an Act to amend the Income Tax Act 2010 be read a second time. Those in favour? (**Members:** Aye.) Those against? Carried.

**Clerk:** The Income Tax (Amendment No. 2) Act 2024.

### Adjournment

1885 **Chief Minister (Hon F.R Picardo):** Madam Speaker, as a result of other commitments, I would beg that the House should now adjourn until Wednesday at 11 a.m., when we will continue with Government Bills.

**Madam Speaker:** I now propose the question, which is that this House do now adjourn to Wednesday at 11 a.m.

1890 I now put the question, which is that this House do now adjourn to Wednesday at 11 a.m.  
Those in favour? (**Members:** Aye.) Those against? Passed.  
This House will now adjourn to Wednesday at 11 a.m.

*The House adjourned at 7.05 p.m.*