

Gambling Duty Bill 2012
Substitute clause 33 approved

34. The Minister for the Treasury to move:

*That, in accordance with Tynwald Standing Order 10.5, for clause 33 of the Gambling Duty Bill substitute – ‘33. Civil penalties
If a person contravenes any requirement imposed by or under regulations made under section 18 or section 21, unless those regulations provide otherwise, the contravention attracts a penalty under section 9 of the Finance Act 1994 (of Parliament) (civil penalties), as that section applies to the Island from time to time.’*

The President: Item 34, Minister for the Treasury.

The Minister for the Treasury (Mr Teare): Thank you, Madam President.

The purpose of this motion is to permit the replacement of clause 33 of the Gambling Duty Bill 2012. Firstly, however, I must apologise to this Hon. Court on behalf of Treasury for having to move this motion, but it is felt that it is preferable to amend the clause in this way, rather than to send the Bill for Royal Assent and seek to amend it later.

The Bill completed its passage through the branches in April. However, subsequent to this, but before the Bill was sent to the Ministry of Justice, it was discovered that clause 33 of the Bill was flawed. Clause 33 is concerned with the imposition of civil penalties for breaches of certain requirements under the Bill. The original wording of the clause is considered to be too wide, so that it appears to embrace any statutory provision and not just provisions relating to gambling duty in the Bill. It is also considered that reference to specific schedules of Finance Acts that have been applied to the Island are unnecessary.

Such schedules provide for civil penalties for the contravention of specific requirements such as failure to render a duty return or payment by the due date and appeals against those penalties. However, the schedules in question actually contain their own freestanding penalty and appeal provisions.

The new wording of clause 33 ensures that only breaches of certain requirements imposed by or under regulations made under the Bill attract the civil penalties provided for by section 9 of the Finance Act 1994. The penalties imposed by that section 9 are the same as are available to deal with a wide range of irregularities under Customs, Excise and VAT law. All the penalties referred to are subject to a review by an officer independent of the original decision and to appeal to the VAT and Duties Tribunal, which is wholly separate from either the Treasury or HM Customs and Revenue.

Once again, may I take this opportunity to apologise to this Hon. Court for the error. I can inform the Court that I have spoken to the drafter at the Attorney General’s Chambers who is responsible for the Bill regarding the matter, who has apologised to me and I know would wish that an apology be passed on to the Court. Whilst it is unfortunate that this one slipped through the system of checking and re-checking of drafts, mistakes unfortunately occur and it is important, when they do so, they are detected and corrected. In this case, the problem was spotted by the drafter late in the day, but nevertheless before the end of the process, with the opportunity to correct the error, to ensure that the Bill, free of defects, becomes law.

Madam President, I beg to move the motion standing in my name.

The President: Hon. Member, Mr Lowey.

Mr Lowey: I beg to second, Madam, and reserve my remarks.

The President: The motion before the Court is set out at Item 34. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I think it is the first time in my experience in Tynwald that that Standing Order has ever been used in that way.