

Post Office (Horizon System) Offences Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business and Trade, have been ordered to be published as HL Bill 73—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Offord of Garvel has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Post Office (Horizon System) Offences Bill are compatible with the Convention rights.

Post Office (Horizon System) Offences Bill

[AS BROUGHT FROM THE COMMONS]

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[AS BROUGHT FROM THE COMMONS]

A

B I L L

TO

Provide for the quashing of convictions in England and Wales and Northern Ireland for certain offences alleged to have been committed while the Horizon system was in use by the Post Office; to make provision about the deletion of cautions given in England and Wales or Northern Ireland for such offences; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Quashing of convictions***1 Quashing of convictions for relevant offences**

- (1) Every conviction to which this Act applies is quashed on the coming into force of this Act.
- (2) This Act applies to a conviction in England and Wales for a relevant offence where—
 - (a) the conviction took place before the coming into force of this Act,
 - (b) the offence was prosecuted by the Post Office or the Crown Prosecution Service, and
 - (c) the conviction has not been considered by the Court of Appeal in England and Wales. 10
- (3) This Act also applies to a conviction in Northern Ireland for a relevant offence where—
 - (a) the conviction took place before the coming into force of this Act,
 - (b) the offence was prosecuted by the Police Service of Northern Ireland, the Director of Public Prosecutions for Northern Ireland or the Public Prosecution Service for Northern Ireland, and 15
 - (c) the conviction has not been considered by the Court of Appeal in Northern Ireland.
- (4) Section 2 contains the meaning of “relevant offence”. 20

- (5) Section 3 contains provision for determining when a conviction has been considered by the Court of Appeal in England and Wales or in Northern Ireland.
- (6) Section 4 contains provision about—
- (a) identifying quashed convictions, and 5
 - (b) notifying people that their convictions have been quashed.

2 Meaning of “relevant offence”

- (1) For the purposes of this Act, an offence alleged to have been committed by a person is a “relevant offence” if conditions A to E are met.
- (2) Condition A is that the offence was alleged to have been committed— 10
- (a) on a date or dates falling within the period that begins with 23 September 1996 and ends with 31 December 2018, or
 - (b) at any time during a period that falls wholly or partly within the period mentioned in paragraph (a).
- (3) Condition B is that the offence is one of the following— 15
- (a) false accounting;
 - (b) fraud;
 - (c) handling stolen goods;
 - (d) money laundering;
 - (e) theft; 20
 - (f) an ancillary offence relating to any of those offences (see subsection (7)).
- (4) Condition C is that, at the time of the alleged offence, the person—
- (a) was carrying on a post office business, or
 - (b) was working in a post office (whether under a contract of employment 25 or otherwise) for the purposes of a post office business.
- (5) Condition D is that the person was alleged to have committed the offence in connection with carrying on, or working for the purposes of, the post office business.
- (6) Condition E is that, at the time of the alleged offence, the Horizon system 30 was being used for the purposes of the post office business.
- (7) In this section—
- “ancillary offence” means—
- (a) an offence of attempting or conspiring to commit an offence specified in any of paragraphs (a) to (e) of subsection (3) (a 35 “specified offence”),
 - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to a specified offence,
 - (c) an offence of inciting a person to commit a specified offence, 40 or

- (d) an offence of aiding, abetting, counselling or procuring the commission of a specified offence;
- “false accounting” means an offence of false accounting under section 17 of the Theft Act 1968 or section 17 of the Theft Act (Northern Ireland) 1969; 5
- “fraud” means –
- (a) an offence of fraud under section 1(1) of the Fraud Act 2006,
- (b) an offence under section 15 or 15A of the Theft Act 1968 or section 15 or 15A of the Theft Act (Northern Ireland) 1969 (obtaining property, etc by deception), 10
- (c) an offence under section 20(1) or (2) of the Theft Act 1968 or section 19(1) or (2) of the Theft Act (Northern Ireland) 1969 (suppression, etc of documents), or
- (d) conspiracy to defraud;
- “handling stolen goods” means an offence of handling stolen goods under section 22 of the Theft Act 1968 or section 21 of the Theft Act (Northern Ireland) 1969; 15
- “money laundering” means an offence under section 327(1), 328(1) or 329(1) of the Proceeds of Crime Act 2002 (concealing or acquiring, etc criminal property); 20
- “theft” means an offence of theft under section 1(1) of the Theft Act 1968 or section 1(1) of the Theft Act (Northern Ireland) 1969.

3 Determining when a conviction has been considered by Court of Appeal

- (1) For the purposes of this Act, a conviction has been considered by the Court of Appeal only if one of the cases in subsections (2) to (4) applies. 25
- (2) The first case is where the Court of Appeal has dismissed an appeal against the conviction.
- (3) The second case is where the Court of Appeal has refused to give leave to appeal against the conviction.
- (4) The third case is where – 30
- (a) a single judge of the Court of Appeal has refused to give leave to appeal against the conviction, and
- (b) the Court of Appeal has not subsequently given leave to appeal against the conviction.
- (5) Nothing in this Act prevents a further appeal against a conviction that has been considered by the Court of Appeal. 35
- (6) In this section “the Court of Appeal” means –
- (a) in the case of a conviction in England and Wales, the Court of Appeal in England and Wales;
- (b) in the case of a conviction in Northern Ireland, the Court of Appeal in Northern Ireland. 40

4 Identification and notification of quashed convictions

- (1) The appropriate authority must take all reasonable steps to identify the convictions quashed by section 1(1).
- (2) In this section “the appropriate authority” means—
 - (a) in the case of convictions in England and Wales, the Secretary of State; 5
 - (b) in the case of convictions in Northern Ireland, the Department of Justice in Northern Ireland.
- (3) Where the appropriate authority identifies that a person’s conviction has been quashed by section 1(1), the authority must notify the convicting court of the details of the conviction. 10
- (4) As soon as is reasonably practicable after receiving notification under subsection (3), the convicting court must enter, instead of the record of conviction, a record that the conviction was quashed by this Act.
- (5) Where the appropriate authority identifies that a person’s conviction has been quashed by section 1(1), the authority— 15
 - (a) must take all reasonable steps to notify the person, or, if the person is no longer alive, the person’s personal representatives, that the conviction has been quashed, or
 - (b) if it is not reasonably practicable to give a notification under paragraph (a), must take all reasonable steps to— 20
 - (i) identify some other person whom the authority considers it is appropriate to notify, and
 - (ii) notify that person that the conviction has been quashed.
- (6) For the purpose of identifying convictions quashed by section 1(1), the appropriate authority must, in particular, consider any representations made to the authority which claim that a person has been convicted of a relevant offence, whether or not made by that person. 25
- (7) In this section “the convicting court”, in relation to a person’s conviction, means the court by or before which the person was convicted.

Deletion of cautions 30

5 Deletion of cautions for relevant offences: England and Wales

- (1) If it appears to the Secretary of State that a person has before the coming into force of this Act been cautioned in England and Wales for a relevant offence, the Secretary of State must direct the appropriate chief officer of police to delete details, contained in the UK criminal records database, of the caution. 35
- (2) As soon as is reasonably practicable after receiving a direction under subsection (1), the appropriate chief officer of police must delete the details of the caution.
- (3) Where the Secretary of State gives a direction under subsection (1) in relation to a person’s caution, the Secretary of State— 40

- (a) must take all reasonable steps to notify the person, or, if the person is no longer alive, the person’s personal representatives, that the direction has been given, or
 - (b) if it is not reasonably practicable to give a notification under paragraph (a), must take all reasonable steps to—
 - (i) identify some other person whom the Secretary of State considers it is appropriate to notify, and
 - (ii) notify that person that the direction has been given.
- (4) For the purposes of this section, the Secretary of State must, in particular, consider any representations made to the Secretary of State which claim that a person has been cautioned in England and Wales for a relevant offence, whether or not made by that person.
- (5) In this section—
- “appropriate chief officer of police”, in relation to a caution, means any chief officer of police of a police force in England and Wales who is a data controller in relation to the details of the caution;
 - “the UK criminal records database” means the names database held by the Secretary of State for the use of constables.

6 Deletion of cautions for relevant offences: Northern Ireland

- (1) If it appears to the Department of Justice in Northern Ireland (“the Department”) that a person has before the coming into force of this Act been cautioned in Northern Ireland for a relevant offence, the Department must direct the Chief Constable to delete details, contained in relevant criminal records, of the caution.
- (2) As soon as is reasonably practicable after receiving a direction under subsection (1), the Chief Constable must delete the details of the caution.
- (3) Where the Department gives a direction under subsection (1) in relation to a person’s caution, the Department—
- (a) must take all reasonable steps to notify the person, or, if the person is no longer alive, the person’s personal representatives, that the direction has been given, or
 - (b) if it is not reasonably practicable to give a notification under paragraph (a), must take all reasonable steps to—
 - (i) identify some other person whom the Department considers it is appropriate to notify, and
 - (ii) notify that person that the direction has been given.
- (4) For the purposes of this section, the Department must, in particular, consider any representations made to it which claim that a person has been cautioned in Northern Ireland for a relevant offence, whether or not made by that person.
- (5) In this section—
- “the Chief Constable” means the Chief Constable of the Police Service of Northern Ireland;

“the Northern Ireland criminal records database” means the names database maintained by the Department for the purpose of recording convictions and cautions;

“relevant criminal records” means –

- (a) the Northern Ireland criminal records database, and
- (b) the UK criminal records database;

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“the UK criminal records database” means the names database held by the Secretary of State for the use of constables.

Supplementary and final provision

- 7 Consequential provision** 10
- (1) Except as otherwise provided by section 4 or this section, a person whose conviction is quashed by section 1(1) is to be treated as if, on the coming into force of this Act, the conviction had been quashed by a court on an appeal.
 - (2) Subsection (1) does not apply for the purposes of paragraph 6(9) of Schedule 3 to the Crime and Disorder Act 1998 (which provides for the setting aside of convictions of summary offences where the Court of Appeal allows an appeal against a conviction of a related indictable offence). 15
 - (3) In section 133 of the Criminal Justice Act 1988 (compensation for miscarriages of justice), the reference in subsection (5) to a conviction having been quashed on an appeal out of time includes a reference to a conviction having been quashed by section 1(1). 20
- 8 Power of Secretary of State to make further consequential provision**
- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
 - (2) The power to make regulations under this section may, in particular, be exercised by amending or modifying any provision made by or under primary legislation passed or made before, or in the same session of Parliament as, this Act. 25
 - (3) But regulations under this section may not make any provision which is transferred Northern Ireland provision for the purposes of section 9. 30
 - (4) Regulations under this section –
 - (a) are to be made by statutory instrument;
 - (b) may make different provision for different purposes;
 - (c) may contain supplementary, incidental, consequential, transitional or saving provision. 35
 - (5) A statutory instrument that contains (with or without other provision) regulations under this section that amend any provision of primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “primary legislation” means—
- (a) an Act of Parliament, or
 - (b) Northern Ireland legislation.

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9 Power of Department of Justice to make further consequential provision

- (1) The Department of Justice in Northern Ireland may by regulations make provision that—
- (a) is consequential on any provision made by this Act, and
 - (b) is transferred Northern Ireland provision.
- (2) For the purposes of this section “transferred Northern Ireland provision” means provision that—
- (a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - (b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (3) The power to make regulations under this section may, in particular, be exercised by amending or modifying any provision made by or under primary legislation passed or made before, or in the same session of Parliament as, this Act.
- (4) Regulations under this section—
- (a) may make different provision for different purposes;
 - (b) may contain supplementary, incidental, consequential, transitional or saving provision.
- (5) The power to make regulations under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (6) Regulations under this section that amend any provision of primary legislation may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (7) Any other regulations under this section are subject to negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (8) In this section “primary legislation” has the same meaning as in section 8.

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10 Interpretation

- (1) In this Act—
- “caution” means—
- (a) in the case of England and Wales—

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- (i) a conditional caution given under section 22 of the Criminal Justice Act 2003,
- (ii) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998, or
- (iii) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, the person has admitted; 5
- (b) in the case of Northern Ireland, any caution (including a restorative caution) given to a person in Northern Ireland in respect of an offence which, at the time the caution is given, the person has admitted; 10
- and “cautioned” is to be read accordingly;
- “conviction” means –
- (a) a conviction by or before a court, or
- (b) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that a person has committed an offence or done the act or made the omission charged, 15
- and “convicted” is to be read accordingly;
- “the Horizon system” means any version of the computer system known as Horizon (and sometimes referred to as Legacy Horizon, Horizon Online or HNG-X) used by the Post Office, other than the version referred to as HNG-A; 20
- “postal services” has the same meaning as in the Postal Services Act 2011 (see section 27 of that Act);
- “the Post Office” means any of the following – 25
- (a) the Post Office;
- (b) Post Office Limited or Post Office Counters Limited (registered number 02154540);
- (c) Royal Mail Group Limited, Consignia Public Limited Company or Royal Mail Group Plc (registered number 04138203); 30
- “post office” means any premises or vehicle in England and Wales or Northern Ireland from which postal services are provided (whether alone or with other services) directly to the public;
- “post office business” means the business of providing postal services (whether alone or with other services) from a post office; 35
- “quashed conviction” means a conviction quashed by section 1(1);
- “relevant offence” has the meaning given by section 2.
- (2) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this Act to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally – 40
- (a) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (b) section 82 of the Sentencing Code;
- (c) Article 6 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)). 45

- (3) Nothing in this Act affects any power of a court to quash a conviction to which this Act does not apply.

11 Extent and commencement

- (1) This Act extends to England and Wales and Northern Ireland.
- (2) This Act comes into force on the day on which it is passed.

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12 Short title

This Act may be cited as the Post Office (Horizon System) Offences Act 2024.

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Provide for the quashing of convictions in England and Wales and Northern Ireland for certain offences alleged to have been committed while the Horizon system was in use by the Post Office; to make provision about the deletion of cautions given in England and Wales or Northern Ireland for such offences; and for connected purposes.

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