

POST OFFICE (HORIZON SYSTEM) OFFENCES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Post Office (Horizon System) Offences Bill as brought from the House of Commons on 30 April 2024 (HL Bill 73).

- These Explanatory Notes have been prepared by the Department for Business and Trade in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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These Explanatory Notes relate to the Post Office (Horizon System) Offences Bill as brought from the House of Commons on 30 April 2024 (HL Bill 73)

Overview of the Bill

1. The Post Office (Horizon System) Offences Bill will quash the convictions of sub-postmasters and others who worked, including on a voluntary basis, in post office branches (all referred to below as “postmasters”) who have suffered as a consequence of the Post Office Horizon IT scandal. It will quash, on a blanket basis, convictions for various theft, fraud and related offences during the period of the Horizon scandal in England and Wales.
2. The Bill contains 10 clauses.
 - Clause 1: Quashing of convictions for relevant offences
 - Clause 2: Meaning of “relevant offence”
 - Clause 3: Determining when a conviction has been considered by Court of Appeal
 - Clause 4: Identification and notification of quashed convictions
 - Clause 5: Deletion of cautions for relevant offences: England and Wales
 - Clause 6: Deletion of cautions for relevant offences: Northern Ireland
 - Clause 7: Consequential provision
 - Clause 8: Power of Secretary of State to make further consequential provision
 - Clause 9: Power of Department of Justice to make further consequential provision
 - Clause 10: Interpretation
 - Clause 11: Extent and commencement
 - Clause 12: Short title

Policy background

Context

3. From 1996, the Post Office piloted new Horizon software in some of its branches. This software was introduced across the network of branches in 2000. The software had faults which meant that some postmasters’ accounts showed false shortfalls. The Post Office obliged postmasters to “repay” these false shortfalls. Some postmasters and others were suspended (generally without pay) and/or dismissed. Others were prosecuted for dishonesty offences (by the Post Office itself or by the Crown Prosecution Service (CPS)); some were convicted and imprisoned. Some were made bankrupt (in some cases on the petition of the Post Office: there are allegations that this was done maliciously). Some lost their homes. Some suffered mental or physical health problems as a result of their treatment or of the financial consequences. Some were harried as thieves by their local communities. Some suffered breakdowns in relationships with their partners, children or other families and friends. Several died by suicide.
4. Following various failed attempts to expose the scandal, in 2016 a group of 555 people

(mostly postmasters (individuals or companies) but also some managers, post office staff and employees of postmasters) took the Post Office to the High Court in a case managed pursuant to a Group Litigation Order made in March 2017. This legal action culminated in two major judgments (on Common Issues¹ and Horizon Issues²) which were very critical of the Post Office's software, its contracts with postmasters and its general behaviour.

5. The Government subsequently announced the launch of a judicial inquiry into the scandal, which was upgraded to a statutory inquiry in June 2021. This is being chaired by Sir Wyn Williams. The Inquiry's scope is defined by the Terms of Reference³ set by the Secretary of State. Within that, the Inquiry has published a List of Issues⁴ on which it is focusing.
6. In April 2021 the Court of Appeal in England and Wales overturned⁵ the convictions of 39 postmasters whose cases had been referred by the Criminal Cases Review Commission (CCRC). Further convictions have since been overturned.
7. The scandal has had profound impacts on those affected by it. The Horizon Compensation Advisory Board has produced a paper⁶ describing some of these impacts. A number of the cases are over 20 years old, with some of the victims having passed away. Many others are in declining health or have lost faith in the system and do not wish to engage further with it. Currently, some cases are being reviewed on an individual basis by the Court of Appeal. This relies on postmasters choosing to lodge an appeal, which we know many will not want to do given their lack of trust in the system. It also relies on there being sufficient evidence that the conviction is unsafe and in many cases that evidence no longer exists. Continuing in this way therefore would not achieve the objective of ensuring all wrongful convictions are quashed.
8. On 10 January 2024, the Prime Minister announced that the Government would introduce new primary legislation to make sure that those convicted as a result of the Horizon scandal, widely described as the biggest miscarriage of justice in our history, have their convictions swiftly quashed and can be compensated. This Bill gives effect to that commitment.
9. Under the Overturned Convictions scheme anyone who was wrongfully convicted as a result of Horizon evidence is eligible to receive compensation of at least £600,000, but only once their conviction has been overturned. This means that many postmasters and others who were wrongfully convicted but have not appealed through the courts are unable to access the compensation that they deserve. The Bill will remove this barrier to access for those who are entitled to financial redress.

Outline of the Bill

10. Clause 1 provides that convictions for "relevant offences" will be quashed when the Act comes into force, provided that the convictions:

- were made in England, Wales, or Northern Ireland;

¹ Bates and Others v Post Office Limited, [2019] EWHC 606 (QB)

² Bates and Others v Post Office Limited, [2019] EWHC 3408 (QB)

³ <https://www.gov.uk/government/publications/post-office-horizon-it-inquiry-2020/terms-of-reference>

⁴ <https://www.postofficehorizoninquiry.org.uk/publications/completed-list-issues>

⁵ <https://www.judiciary.uk/judgments/hamilton-others-v-post-office-limited/>

⁶ See <https://assets.publishing.service.gov.uk/media/65a007583308d2000d1f8e7e/horizon-compensation-advisory-board-paper-on-behaviour-and-psychology.odt>

- were prosecuted by the Post Office, CPS, Police Service of Northern Ireland, the Director of Public Prosecutions for Northern Ireland or the Public Prosecution Service for Northern Ireland;
 - have not been considered by the Court of Appeal in England, Wales, or Northern Ireland; and
 - took place before the Act comes into force.
11. Clause 2 defines what is meant by “relevant offence”. It sets out five conditions that must be met for the conviction to be quashed by the Act:
- Condition A - the offence must have been committed between 23 September 1996 and 31 December 2018, covering the period of the Horizon scandal, including the Horizon pilot.
 - Condition B – the offence was false accounting, fraud, handling stolen goods, money laundering, theft, or an ancillary offence.
 - Condition C - at the time the offence occurred, the convicted person was carrying on a post office business or working for the purposes of such a business.
 - Condition D – the person was alleged to have committed the offence in connection with carrying on or working for the purposes of that post office business.
 - Condition E – at the time of the alleged offence, the Horizon system was being used for the purposes of that post office business.
12. Clause 3 provides for how to determine when a conviction has been considered by the Court of Appeal. It specifies that where permission to appeal has been refused in respect of a conviction or where an appeal has been dismissed, it will not be quashed. Nothing in the Bill prevents a further appeal against a conviction that has been considered by the Court of Appeal.
13. Clause 4 explains the process for identifying those convictions quashed by the Bill, amending the records of those convictions and notifying relevant individuals. The convicting court must update records of a relevant conviction to record that the conviction was quashed by this Act.
14. Clause 5 sets out a process for deletion of cautions for relevant offences in England and Wales from the official record, where the Secretary of State becomes aware of them. It also provides for notification of affected individuals.
15. Clause 6 sets out a process for deletion of cautions for relevant offences in Northern Ireland from the official record, where the Department of Justice becomes aware of them. It also provides for notification of affected individuals.
16. Clause 7 makes consequential provision.
17. Clause 8 provides a power to the Secretary of State to make further consequential provision.
18. Clause 9 provides a power to the Department of Justice to make further consequential provision for transferred Northern Ireland provision.
19. Clause 10 includes definitions and clarifications to support interpretation of the Bill.

20. Clause 11 provides that the Bill will come into force on Royal Assent. It also sets out the territorial extent of the Bill. The Bill extends to England Wales and Northern Ireland only.
21. Clause 12 establishes the Bill's short title.

Legal background

22. Convictions within the scope of the Bill will be quashed directly by legislative means once the Bill comes into force.
23. This is an unprecedented and wholly exceptional legal solution to a miscarriage of justice of unparalleled scale and impact.
24. The approach to quashing convictions in the Bill does not set any constitutional precedent.
25. The criteria set out in the Bill for defining the category of convictions within its scope are intended to be unambiguous and capable of being applied without any element of judgment or discretion on the part of those whose job it is to notify those within scope that their convictions have been quashed. This is to ensure that the Executive is not empowered to interfere with judicial decisions.
26. Notification under clause 4 of the Bill of the convictions that have been quashed will provide legal certainty, resulting in the convicting court entering in its records the fact that the relevant convictions have been quashed by the Act.
27. By way of further legal background, the law in respect of criminal appeals is set out in the Magistrates' Court Act 1980 ("MCA 1980"), Criminal Appeal Act 1968 ("CAA 1968") and the Criminal Appeal Act 1995 ("CAA 1995").
28. Convictions in the criminal courts can be appealed by an appeal to a higher court by the individual, or reference by the Criminal Cases Review Commission ("CCRC"), whether on application by an individual, or of its own volition. The two are not mutually exclusive and, ordinarily, a matter will only be referred by the CCRC where an appeal by the individual has been unsuccessful.
29. Section 108 of the MCA 1980 provides that a person convicted by a magistrates' court may appeal to the Crown Court either against their sentence if they pleaded guilty or against their conviction or sentence if they did not plead guilty. The right of appeal against conviction following summary trial is automatic, meaning that there is no requirement to obtain leave to appeal. There is no right, automatic or otherwise, to appeal against a conviction following a guilty plea in the magistrates' court. However, a referral may be made by the CCRC regardless of plea.
30. An appeal against summary conviction lies to the Crown Court. Appeal against conviction can be on points of law or fact and appeal is by way of a full rehearing of the case in the Crown Court. If a decision of the magistrates' court is confirmed or varied by the Crown Court, or if the Crown Court substitutes its own decision, the decision of the Crown Court has "effect as if it had been made by the magistrates' court against whose decision the appeal is brought" (section 110 MCA 1980). Rule 34.8(3) of the Criminal Procedure Rules ("CrPR") requires the Crown Court officer to serve decision of an appeal on various persons including the magistrates' court officer and Rule 5.4 requires the court officer to record acquittals, convictions etc. The combined effect of these provisions is that once a person is acquitted on appeal in the Crown Court, the court records must be updated to reflect that fact.

31. A person convicted of an offence on indictment in the Crown Court may appeal to the Court of Appeal against their conviction either with the leave of the Court of Appeal or where the judge of the court of trial grants a certificate that the case is fit for appeal within 28 days from the date of the conviction (section 1 of the CAA 1968). The process is therefore a two stage one: first, leave must be obtained, then the appeal is heard and either allowed or dismissed. Leave to appeal may be granted by a single judge in the same manner as by the Court of Appeal and subject to the same provisions, as provided for by section 31 of the CAA 1968.
32. The grounds for allowing an appeal are set out in section 2 of the CAA 1968. Section 2(1) provides that the Court of Appeal “shall allow an appeal against conviction if they think that the conviction is unsafe” and “shall dismiss such an appeal in any other case”. Per section 2(2), if an appeal is allowed, the Court of Appeal must quash the conviction. Section 2 also provides that an order by the Court of Appeal quashing a conviction shall, in all cases except where the Court of Appeal also orders retrial, be a direction to the court of trial to enter a judgment and verdict of acquittal in place of the record of conviction. As noted above, Rule 5.4 of the CrPR places duties on court officers to ensure this happens.
33. The powers of the CCRC are provided for by section 8 of the CAA 1995. Under section 11(1) CAA 1995, the CCRC may “at any time” refer a summary conviction to the Crown Court. In contrast to the right of the individual to appeal, the CCRC is not prevented from referring a conviction following a guilty plea. Section 11(2) provides that a reference under section 11(1) “shall be treated for all purposes as an appeal by the person under section 108(1) [of the MCA 1980] against the conviction”, regardless of whether the conviction followed plea or trial. Provision for referral by the CCRC of convictions in the Crown Court is made by section 9. The CCRC may “at any time” refer the conviction to the Court of Appeal. By virtue of section 9(2), a reference is treated “for all purposes” as an appeal under section 1 of the CAA 1968.
34. The conditions for the making of a reference by the CCRC are set out at section 13. The Commission must consider that there is a “real possibility that the conviction would not be upheld” if the reference were to be made (section 13(1)(a)). Ordinarily, a reference may only be made when an appeal against the conviction has been determined, or leave to appeal has been refused (section 13(1)(c)), and where there is an argument available that has not previously been raised in relevant proceedings (section 13(1)(b)(i)). However, section 13(2) provides an exception ensuring that neither of those requirements prevents the making of a reference “if it appears to the Commission that there are exceptional circumstances which justify making [the reference]”. Section 14(1) provides that the CCRC may make a reference either upon application by the individual to whom it relates, or on its own volition. Section 14(2) sets out the matters to which the Commission shall have regard in considering whether to make a reference of a conviction. Essentially it must consider any representations made to it, whether by the person concerned or otherwise, and “any other matters which appear to the Commission to be relevant.”
35. Legislative provisions in respect of criminal records are set out in Part V of the Police Act 1997. The process relies on information about “convictions” (see s.112(3) of the Police Act 1997 which refers to the definition in s.1(4) of the Rehabilitation of Offenders Act 1974) The processes needed to remove criminal records when a conviction is overturned are carried out between the courts and the police.
36. The Bill also makes separate provision as regards cautions, which are not judicial in character and so do not raise the same issues noted in paragraph 20 above.
37. The Bill also includes power for the Secretary of State to make by statutory instrument such consequential provision as may be needed. The affirmative procedure is to be used for any such instrument that amends primary legislation.

Territorial extent and application

38. Clause 9 sets out the territorial extent of the Bill, that is the jurisdictions in which the Bill forms part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. All provisions of the Bill (including the consequential provision) are to extend to England, Wales and Northern Ireland only. Clause 5 has no application in relation to Northern Ireland, and clauses 6 and 9 have no application in England and Wales. Otherwise, all provisions of the Bill apply in both jurisdictions.
39. Although postal services are a “reserved” policy, justice and criminal records are devolved matters in Scotland and Northern Ireland. The decision to extend the Bill to Northern Ireland was taken at Commons Committee on 29 April 2024, following Government amendments. This decision was taken in recognition of the unique challenges faced by the Northern Ireland Executive in bringing forward its own legislation to quash convictions at the same pace as the Bill and to reflect the high degree of cross-community support in Northern Ireland for extension.
40. The UK Government believes that the Scottish Government is best placed to legislate to overturn convictions undertaken in its jurisdiction.
41. The scandal did not affect any postmasters in the UK’s Crown Dependencies or Overseas Territories and hence no provision is required for those jurisdictions.
42. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Clause 1: Quashing of convictions for relevant offences

43. Clause 1 provides that convictions for “relevant offences” will be quashed on the day on which the legislation comes into force.
44. Subsection 1(2) provides that such convictions in England and Wales will be quashed, if they were prosecuted by the Post Office or CPS, have not been considered by the Court of Appeal in England and Wales and took place before the legislation comes into force.
45. Subsection 1(3) provides that such convictions in Northern Ireland will be quashed, if they were prosecuted by the Police Service of Northern Ireland, the Director of Public Prosecutions for Northern Ireland or the Public Prosecution Service for Northern Ireland, have not been considered by the Court of Appeal in Northern Ireland and took place before the Act comes into force.
46. The clause also sets out where in the Bill certain terms are defined and explained.

Clause 2: Meaning of “relevant offence”

47. Clause 2 gives the meaning of “relevant offence” with reference to several conditions set out in the subclauses. All of the conditions must be satisfied for an alleged offence to be quashed by this Bill.
48. Subsection 2(2) sets out Condition A which is that the offence was alleged to have been committed between specified dates. The first date – 23 September 1996 – is the date on which the Horizon pilot system began to be rolled out to post office branches. The final date – 31 December 2018 – marks the point at which the rollout of the current version of the Horizon

System (HNG-A) was concluded. The HNG-A system was found in the Government Litigation Order High Court case to be “relatively robust”. The Department is not aware of any cases prosecuted by the relevant prosecutors involving the HNG-A system and therefore has concluded that there is no reasonable case to extend the period beyond the conclusion of the use of the previous versions of Horizon. This range of dates therefore encompasses the whole timeframe of the Horizon scandal.

49. Subsection 2(3) sets out Condition B which is that the offence is one of a list of specific offences. These are offences of dishonesty which were prosecuted in Horizon-related cases, and include ancillary offences, which are defined in subsection 2(7).
50. Subsection 2(4) sets out Condition C which details the relationship between the convicted individual and the Post Office.
51. Subsection 2(5) sets out Condition D which is that the acts constituting the offence were carried out in connection with or working for the purposes of post office business. This provision therefore excludes unrelated offences which individuals working in post offices might have coincidentally committed during the relevant time period, such as theft from an unrelated shop. The relationship conditions outlined in Conditions C and D are drafted to encompass the range of working and other relationships which convicted individuals had with the Post Office. They extend to family members or others who did not have a direct employment or contractual relationship with the Post Office but were nevertheless carrying on a post office business or working in a post office branch for the purposes of a post office business.
52. Subsection 2(6) sets out Condition E which requires that at the time of the offence the Horizon system (as defined in Clause 8) was in use in the post office at which the convicted individual was working or carrying on post office business at the time.
53. Subsection 2(7) gives definitions of terms in this section. It defines the offences listed in subsection 2(3), including reference to the relevant statutes for each offence. It also provides that “ancillary offence” includes the inchoate versions of those offences.

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

54. Clause 3 provides for when a conviction is to be determined as having been “considered by the Court of Appeal” for the purposes of Clause 1, by reference to three specified cases set out in subsections 3(2) to 3(4). Where one of the three specified cases applies, that conviction is not affected by this legislation, thus preserving the role and independence of the courts. Where cases are in progress but none of the three cases applies, then the conviction will be quashed by the provisions of Clause 1. Therefore, for example convictions in respect of which applications have been made for permission to appeal but have not yet been determined and appeals are in progress but have not been determined will be quashed by the provisions of Clause 1.
55. Applications and appeals that have been abandoned will also all be quashed by the provisions of Clause 1. This is not prevented by Rule 36.13(4)(c) of the Criminal Procedure Rules which provides that the Registrar must treat an abandoned appeal as if it had been refused or dismissed. The rule is only about the administrative treatment of an abandoned appeal. It does not render the application or appeal to have in fact been refused or dismissed for the purposes of Clause 3.
56. Subsection 3(2) provides for case 1, which applies to convictions where the Court of Appeal has heard an appeal against the conviction and has dismissed the appeal.
57. Subsection 3(3) provides for case 2, which applies where the Court of Appeal has refused to

give leave to appeal against the conviction.

58. Subsection 3(4) provides for case 3 where an appeal has been considered and refused by a single judge of the Court of Appeal, and the Court of Appeal has not subsequently given leave to appeal against the conviction.
59. Subsection 3(5) further protects the role of the courts by making clear that nothing in this Bill prevents a further appeal against a conviction that has already been considered by the Court of Appeal.
60. Subsection 3(6) defines what is meant by the Court of Appeal in England, Wales and Northern Ireland.

Clause 4: Identification and notification of quashed convictions

61. Clause 4 provides for aspects of the administrative process for identifying which convictions have been quashed by the provisions in Clause 1. It also provides that relevant individuals will be notified following the quashing of their convictions. Subsection 4(1) places a duty upon the appropriate authority to take all reasonable steps to identify the convictions to which Clause 1 applies and which are therefore quashed by the provisions in Clause 1. Such steps may include, but are not limited to, reviewing case data from the Police National Computer, court records, records held by Post Office Limited such as employment records, and CPS data. These steps will identify many of those cases that meet the conditions set out in Clause 2.
62. Subsection 4(2) sets out the meaning of “the appropriate authority” in this Clause. For convictions in England and Wales this refers to the Secretary of State and for those in Northern Ireland this refers to the Department of Justice in Northern Ireland.
63. Subsection 4(3) places a duty on the appropriate authority to notify the convicting court of the details of the identified convictions, in order to enable courts to update their records.
64. Subsection 4(4) places a duty on the convicting court to update its record of the conviction by removing the record of conviction and substituting a record that the conviction was quashed by this Act. This is similar to the process currently followed by the court of trial following the quashing of a conviction by the Court of Appeal and will enable other records (such as those held on the Police National Computer) to be updated.
65. Subsection 4(5) places a further duty on the appropriate authority to notify the relevant persons that their conviction has been quashed. If the person is no longer alive, then reasonable steps should be taken to notify their personal representatives. If it is not possible to notify either the convicted person or, where necessary, their personal representative, then the appropriate authority must take reasonable steps to identify another person whom they consider appropriate to notify, and notify that person. This may be the case, for example, where the relevant person does not wish to be contacted but it is appropriate to contact a relative or friend on his or her behalf.
66. Subsection 4(6) places a duty on the appropriate authority to consider representations made by the person to whom the conviction relates, or another person on their behalf, that a person whom the appropriate authority has not yet identified under 4(1) has a conviction for a relevant offence which has been quashed. This will ensure that where an individual’s conviction is not identified by the appropriate authority under 4(1), but the individual believes that their conviction meets the conditions set out in Clause 2, the appropriate authority is obliged to consider representations made on behalf of that individual that their conviction so meets the conditions, and should therefore be considered as one to which Clause 1 applies. If the appropriate authority, further to considering these representations,

identifies that conviction as one to which Clause 1 applies, the duties in subsections 4(3), 4(4) and 4(5) apply to that conviction.

67. Subsection 4(7) defines what is meant by a ‘convicting court’.

Clause 5: Deletion of cautions for relevant offences: England and Wales

68. This clause sets out the process for deleting records of cautions for relevant offences in England and Wales. Cautions are not ordered by a court and are not “quashed” in the same way as convictions or recorded in the same way. Where the Secretary of State becomes aware of cautions for relevant offences issued before the Act came into force, this clause places on him a duty to notify the police in order to ensure that records showing the caution are amended administratively. Subsection 5(2) provides that the police must delete the details of the caution as soon as reasonably practicable after receiving that notification.

69. Subsections 5(3)(a), 5(3)(b) and 5(4) make similar provision to 4(4)(a), 4(4)(b) and 4(5) in relation to notification of relevant persons and information about cautions provided by persons other than the individual cautioned for the relevant offence.

70. Subsection 5(5) sets out definitions for terms used in this Clause.

Clause 6: Deletion of cautions for relevant offences: Northern Ireland

71. This clause sets out the process for deleting records of cautions for relevant offences in Northern Ireland. It mirrors the approach to cautions in England and Wales, set out in Clause 5.

72. Where the Department of Justice in Northern Ireland becomes aware of cautions for relevant offences issued before the Act came into force, this clause places on that Department a duty to notify the police to enable records showing those cautions to be deleted. Subsection 6(2) provides that the police must delete the details of the caution as soon as reasonably practicable after receiving that notification.

73. Subsections 6(3)(a), 6(3)(b) and 6(4) make similar provision to 4(4)(a), 4(4)(b) and 4(5) in relation to notification of relevant persons and information about cautions provided by persons other than the individual cautioned for the relevant offence.

74. Subsection 6(5) sets out definitions for terms used in this Clause.

Clause 7: Consequential provision

75. Subsection 7(1) provides that a person whose conviction is quashed by this Act of Parliament is to be treated, save for as provided for by Clause 4 and this section, as if, on the day on which the Act comes into force, the conviction had been quashed by a court on an appeal.

76. Subsection 7(2) provides that subsection (1) does not apply to convictions quashed by this Act of Parliament for the purposes of paragraph 7(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). This means that, unlike when a conviction for an indictable offence is quashed by the Court of Appeal and convictions for any related summary offences are set aside, where a conviction on indictment is quashed by this Act of Parliament, no related summary convictions will be quashed unless they are also convictions to which Clause 1 applies.

77. Subsection 7(3) provides that convictions quashed by this Act of Parliament are to be treated as “convictions quashed on an appeal out of time” for the purposes of section 133 of the Criminal Justice Act 1988 which deals with eligibility for compensation for miscarriages of justice. This is to ensure that a person whose conviction is quashed by this Act of Parliament

is not excluded from the compensation for miscarriages of justice scheme where the criteria for that scheme are met. Although compensation under section 133 of the Criminal Justice Act 1988 will remain available in principle, it is expected that it is unlikely that many individuals who have their convictions quashed under the Bill will seek to access this compensation due to the requirement to demonstrate that the threshold for compensation under section 133 has been met and the fact that any losses are very likely to be covered by the Overturned Convictions scheme.

Clause 8: Power of Secretary of State to make further consequential provision

78. Clause 8 allows for amendment or modification of any provision of primary or secondary legislation that is not transferred Northern Ireland provision. This may be required in order to ensure that the consequences of the quashing of a conviction can be applied to these convictions quashed by Act of Parliament in the same way as they do to convictions quashed by a court on appeal.
79. Subsection 8(1) confers a power on the Secretary of State to make consequential provision for the purposes of the Bill. Subsection 8(2) details how this power may be exercised by amending or otherwise modifying any provision made under primary legislation passed before or in the same session as this Bill.
80. Subsection 8(3) specifies that this power does not apply to any provision which is transferred Northern Ireland provision.
81. Subsections 8(4) to 8(6) provide for the ways in which regulations are to be made. Subsection 8(7) defines primary legislation for the purposes of this section.

Clause 9: Power of Department of Justice to make further consequential provision

82. Clause 9 allows for amendment or modification of any provision of primary or secondary legislation that is transferred Northern Ireland provision. As with Clause 8, this may be required to ensure that the consequences of the quashing of a conviction can be applied to these convictions quashed by Act of Parliament in the same way as they do to convictions quashed by a court on appeal.
83. Subsection 9(1) confers a power on the Department of Justice in Northern Ireland to make consequential provision for the purposes of the Bill. Subsection 9(2) defines “transferred Northern Ireland provision” for the purposes of the Clause.
84. Subsection 9(3) details how this power may be exercised by amending or otherwise modifying any provision made under an Act of Parliament passed before or in the same session as this Bill.
85. Subsections 9(5) to 9(7) provide for the ways in which regulations are to be made. Subsection 9(6) defines primary legislation for the purposes of this section.

Clause 10: Interpretation

86. This clause sets out provisions of interpretation of several terms in the Bill.
87. Subsection (1) defines “caution” to include youth cautions, conditional cautions, and other forms of caution.
88. It also defines “conviction” as both a conviction before a court and findings in criminal proceedings that a person has committed an offence or done the act or omission charged. This can include findings in cases linked with a finding of insanity,
89. The subsection defines the Horizon system as versions of the Horizon software excluding HNG-A (the version currently in use). This definition includes the “Pathway” system, which

was a pilot of Horizon.

90. The subsection also defines “postal services”, “post office”, and “post office business”. These are terms used in the conditions in section 2 of the Act to determine whether a conviction is for a relevant offence.
91. “The Post Office” is also defined with reference to the several different companies and organisations in relation to whose business individuals were convicted of offences as part of the Horizon scandal.
92. Subsection (2) outlines which provisions do not apply for the purposes of this Act.
93. Subsection (3) provides that nothing in this Bill is to be taken as affecting the powers of any court to quash on appeal any conviction, to which this Bill does not apply.

Clause 11: Extent and commencement

94. This clause sets out provisions for commencement and territorial extent. Subsection 11(1) provides that the Bill extends to England, Wales and Northern Ireland only. Subsection 11(2) provides that the Bill will come into force on the day it is passed. This ensures that convictions are quashed at the earliest possible moment.

Clause 11: Short title

95. This clause establishes the Bill’s short title.

Commencement

96. The Act will commence on Royal Assent.

Financial implications of the Bill

97. The Government has produced an impact assessment for the Bill, which estimates the costs and benefits to stakeholders. Full details of the financial implications of the Bill are set out in the Impact Assessment⁷.

Parliamentary approval for financial costs or for charges imposed

98. A money resolution was needed in respect of the Bill. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure. There is potential government expenditure in respect of (a) the repayment of fines paid by individuals whose convictions will be quashed by the Bill, and (b) the costs of identifying the cases to which the Bill applies, notifying those concerned and updating records. The House of Commons agreed on 20 March that such expenditure is to be paid out of money provided by Parliament.
99. No ways and means resolution was required in the House of Commons as the Bill does not authorise any new taxation or similar charges.

⁷ <https://www.gov.uk/government/publications/post-office-horizon-system-offences-bill-supporting-documents>

Compatibility with the European Convention on Human Rights

100. The Government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights. Accordingly, the Minister of State in the Department of Business and Trade, Lord Offord of Garvel, has made a statement under section 19(1)(a) of the Human Rights Act 1998 has been made to this effect. The Government has produced a European Convention on Human Rights memorandum which provides details of the Bill's compliance.

No statement under the Environment Act 2021

101. Lord Offord of Garvel CVO, Minister of State in the Department of Business and Trade is of the view that the Bill as published does not contain provisions which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

No statement under the European Union (Withdrawal) Act 2018

102. Lord Offord of Garvel CVO, Minister of State in the Department of Business and Trade, is of the view that the Bill as published does not contain provision which, if enacted, would have an effect on trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement has been made under section 13C(2) of the European Union Withdrawal Act 2018.

Related documents

103. The following documents are relevant to the Bill and can be read at the stated locations:

- Common Issues Judgment, December 2019⁸
- Horizon Issues Judgment, December 2019⁹
- Terms of Reference for the Williams Inquiry set by the Secretary of State, September 2023¹⁰

⁸ <https://www.judiciary.uk/wp-content/uploads/2019/03/bates-v-post-office-judgment-no3-15-mar-19.pdf>

⁹ <https://www.judiciary.uk/wp-content/uploads/2019/12/bates-v-post-office-judgment.pdf>

¹⁰ <https://www.gov.uk/government/publications/post-office-horizon-it-inquiry-2020/terms-of-reference>

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	No	No	Yes	Yes
Clause 2	Yes	Yes	No	No	No	Yes	Yes
Clause 3	Yes	Yes	No	No	No	Yes	Yes
Clause 4	Yes	Yes	No	No	No	Yes	Yes
Clause 5	Yes	Yes	No	No	No	No	No
Clause 6	No	Yes	No	No	No	Yes	Yes
Clause 7	Yes	Yes	No	No	No	Yes	Yes
Clause 8	Yes	Yes	No	No	No	Yes	No
Clause 9	No	Yes	No	No	No	Yes	Yes
Clause 10	Yes	Yes	No	No	No	Yes	Yes
Clause 11	Yes	Yes	No	No	No	Yes	Yes
Clause 12	Yes	Yes	No	No	No	Yes	Yes

104. Clause 5, although it technically extends to Northern Ireland, is of no application there.

105. Clauses 6 and 9, although they technically extend to England and Wales, are of no application there.

POST OFFICE (HORIZON SYSTEM) OFFENCES BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Post Office (Horizon System) Offences Bill as brought from the House of Commons on 30 April 2024 (HL Bill 73).

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