

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### BANK OF ENGLAND AND FINANCIAL SERVICES BILL [*LORDS*]

*Fourth Sitting*

*Thursday 11 February 2016*

*(Afternoon)*

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SCHEDULE 4 agreed to.

CLAUSES 21 to 25 agreed to.

Adjourned till Tuesday 23 February at twenty-five minutes past  
Nine o'clock.

Written evidence reported to the House.

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED

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**Monday 15 February 2016**

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY  
FACILITATE THE PROMPT PUBLICATION OF  
THE BOUND VOLUMES OF PROCEEDINGS  
IN GENERAL COMMITTEES

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**The Committee consisted of the following Members:***Chairs:* MR GRAHAM BRADY, † PHIL WILSON† Baldwin, Harriett (*Economic Secretary to the Treasury*)† Burgon, Richard (*Leeds East*) (Lab)† Caulfield, Maria (*Lewes*) (Con)† Cooper, Julie (*Burnley*) (Lab)† Donelan, Michelle (*Chippenham*) (Con)† Fysh, Marcus (*Yeovil*) (Con)† Hall, Luke (*Thornbury and Yate*) (Con)† Kerevan, George (*East Lothian*) (SNP)† McMahon, Jim (*Oldham West and Royton*) (Lab)† McGinn, Conor (*St Helens North*) (Lab)† Mak, Mr Alan (*Havant*) (Con)Mann, John (*Bassetlaw*) (Lab)† Marris, Rob (*Wolverhampton South West*) (Lab)† Mullin, Roger (*Kirkcaldy and Cowdenbeath*) (SNP)† Newton, Sarah (*Truro and Falmouth*) (Con)† Skidmore, Chris (*Kingswood*) (Con)† Tolhurst, Kelly (*Rochester and Strood*) (Con)† Wood, Mike (*Dudley South*) (Con)Matthew Hamlyn, Fergus Reid, *Committee Clerks*† **attended the Committee**

## Public Bill Committee

Thursday 11 February 2016

(Afternoon)

[PHIL WILSON *in the Chair*]

### Bank of England and Financial Services Bill [Lords]

#### Schedule 4

##### EXTENSION OF RELEVANT AUTHORISED PERSONS REGIME TO ALL AUTHORISED PERSONS

*Amendment proposed (this day):* 33, in schedule 4, page 58, line 2, leave out paragraph 18.—(Rob Marris.)

2 pm

*Question again proposed,* That the amendment be made.

**The Chair:** I remind the Committee that with this we are discussing the following:

That the schedule be the Fourth schedule to the Bill.  
Clauses 21 to 23 stand part.

Amendment 34, in clause 24, page 19, leave out lines 29 to 34.

Amendment 31, in clause 24, page 19, line 34, at end insert “and insert new subsections (6), (7) and (8)—

“(6) Where the authorised person mentioned in subsection (5) is a relevant authorised person, as defined under section 71A of the Financial Services and Markets Act 2000, subsection (5)(d) does not apply and subsections (7) and (8) do apply.

(7) If the FCA satisfies itself that a person (P), who is a senior manager in relation to a relevant authorised person, is guilty of misconduct by virtue of subsection (5)(a)-(c), then P shall be guilty of misconduct, subject only to subsection (8).

(8) But P is not guilty of misconduct by virtue of subsections (5)(a)-(c) and (7) if P satisfies the FCA that P had taken such steps as a person in P’s position could reasonably be expected to take to avoid the contravention occurring (or continuing).”

Amendment 35, in clause 24, page 20, leave out lines 1 to 6.

Amendment 32, in clause 24, page 20, line 6, at end insert “and insert new subsections (6), (7) and (8)—

“(6) Where the PRA-authorised person mentioned in subsection (5) is a relevant authorised person, as defined under section 71A of the Financial Services and Markets Act 2000, subsection (5)(d) does not apply and subsections (7) and (8) do apply.

(7) If the PRA satisfies itself that a person (P) who is a senior manager in relation to a relevant PRA-authorised person is guilty of misconduct by virtue of subsection (5)(a)-(c), then P shall be guilty of misconduct, subject only to subsection (8).

(8) But P is not guilty of misconduct by virtue of subsections (5)(a)-(c) and (7) if P satisfies the PRA that P had taken such steps as a person in P’s position could reasonably be expected to take to avoid the contravention occurring (or continuing).”

Clause 24 stand part.

**The Economic Secretary to the Treasury (Harriett Baldwin):** Mr Wilson, it is good of you to come along this afternoon to hear the conclusion of my speech. I reassure the Committee that, having had lunch, I have been able to recollect a couple of other small points that I wanted to mention to the hon. Member for Wolverhampton South West. Earlier, he raised the question of the powers in clause 21, and I said that the Delegated Powers and Regulatory Reform Committee expressed no concerns about those powers. In fact, I can go further and reassure him that the Committee actually thought that the original provision tabled by the Government, which provided for use of the negative resolution procedure, was not ideal, and it recommended the affirmative resolution procedure—that is in the Bill today. The amendment was made after discussion with the Delegated Powers and Regulatory Reform Committee, which I hope reassures him. The Committee was not concerned about the powers.

Before lunch, we were talking about how important it is that this country has a strong and effective regulatory framework. With these clauses we are talking about the importance of conduct and the signals that we, as regulators and parliamentarians, send out about the importance of conduct and responsibility. We have achieved that with the introduction of the senior managers and certification regime across the financial services industry, together with the duty of responsibility. Opposition Members should bear in mind the wise words of Lord Turnbull in the other place, He was a member of the Parliamentary Commission on Banking Standards, and he said of the burden of proof in the original proposal:

“I signed up to its proposal, but I believe that the proposal now in the Bill is superior. Many philosophers have said, ‘Second thoughts are often best’... This is a time to follow that dictum. In this case, second thoughts are best. I hope that the House will reach the same conclusion as I have put forward and not support the amendment.”—[*Official Report, House of Lords*, 15 December 2015; Vol. 767, c. 2028.]

I agree with those wise words, and I therefore commend these clauses and request that they stand part of the Bill.

**Rob Marris (Wolverhampton South West) (Lab):** It is a pleasure to be here with you, Mr Wilson.

I have listened to the Minister’s patient explanation, which has not convinced me. I therefore seek a Division on amendment 33. I appreciate that, to state the obvious, were the amendment for some strange reason not to pass, my other amendments would not proceed because they are consequential upon it—it is up to the SNP to decide on the other amendments.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 7, Noes 10.

#### Division No. 3]

##### AYES

Burton, Richard	McGinn, Conor
Cooper, Julie	Marris, Rob
Kerevan, George	Mullin, Roger
McMahon, Jim	

##### NOES

Baldwin, Harriett	Fysh, Marcus
Caulfield, Maria	Hall, Luke
Donelan, Michelle	Mak, Mr Alan

Newton, Sarah  
Skidmore, Chris

Tolhurst, Kelly  
Wood, Mike

*Question accordingly negatived.*

*Schedule 4 agreed to.*

*Clauses 21 to 24 ordered to stand part of the Bill.*

### Clause 25

DECISIONS CAUSING A FINANCIAL INSTITUTION TO FAIL:  
MEANING OF INSOLVENCY

*Question proposed, That the clause stand part of the Bill.*

**Harriett Baldwin:** The clause makes some technical corrections to the criminal offence in section 36 of the Financial Services (Banking Reform) Act 2013. The offence is intended to punish, and therefore deter, reckless misconduct that causes a bank to fail. It does not form part of the senior managers and certification regime, although it was included in the same legislation and was also recommended by the Parliamentary Commission on Banking Standards.

For the avoidance of any doubt, I want first to make it clear that the Government are not proposing to extend the offence to the rest of the financial services industry, which would not be appropriate. The offence was designed to deter reckless decision making that

causes systemically important financial institutions to fail. The collapse of such institutions could do serious harm to financial stability or impose huge costs on the financial services compensation scheme to protect depositors. The offence was therefore limited to UK banks, building societies, Prudential Regulation Authority-regulated investment firms and large investment banks that happen not to be deposit takers. The offence will not apply to credit unions, and it would clearly make no sense to apply it to the firms that the Government now propose to bring into the senior managers and certification regime.

The clause simply fills some gaps in the coverage of the offence. It makes it clear that the offence could be committed if a building society or an investment bank were to fail by being put into the special insolvency and administration regimes created for them in secondary legislation made under the Banking Act 2009. That was always the intention behind the 2013 Act, and we are taking the opportunity now to make the position clear.

*Question put and agreed to.*

*Clause 25 accordingly ordered to stand part of the Bill.*

*Ordered, That further consideration be now adjourned.*  
*—(Sarah Newton.)*

2.8 pm

*Adjourned till Tuesday 23 February at twenty-five minutes past Nine o'clock.*

**Written evidence reported to the House**

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