PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL

Sixth Sitting

Tuesday 4 March 2025

(Afternoon)

CONTENTS

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not later than

Saturday 8 March 2025

The Committee consisted of the following Members:

Chairs: Mrs Emma Lewell-Buck, † Sir Desmond Swayne, Matt Western, Sir Jeremy Wright

† Baxter, Johanna *(Paisley and Renfrewshire South)* (Lab)
† Berry, Siân *(Brighton Pavilion)* (Green)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Darling, Steve *(Torbay)* (LD)
† Dewhirst, Charlie *(Bridlington and The Wolds)* (Con)
† Egan, Damien *(Bristol North East)* (Lab)
† German, Gill *(Clwyd North)* (Lab)
† Gould, Georgia *(Parliamentary Secretary, Cabinet Office)*
† Jameson, Sally *(Doncaster Central)* (Lab/Co-op)
† Jones, Gerald *(Merthyr Tydfil and Aberdare)* (Lab)
† McKee, Gordon *(Glasgow South)* (Lab)
Milne, John *(Horsham)* (LD)
† Payne, Michael *(Gedling)* (Lab)
† Smith, Rebecca *(South West Devon)* (Con)
† Welsh, Michelle *(Sherwood Forest)* (Lab)
† Western, Andrew *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Wood, Mike *(Kingswinford and South Staffordshire)* (Con)

Kevin Maddison, Simon Armitage, Dominic Stockbridge, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 4 March 2025

(Afternoon)

[Sir Desmond Swayne *in the Chair*]

Public Authorities (Fraud, Error and Recovery) Bill

Clause 28

Applications to vary

2 pm

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

The Chair: With this it will be convenient to discuss clauses 29 to 33 stand part.

The Parliamentary Secretary, Cabinet Office (Georgia Gould): It is a pleasure to serve under your chairship, Sir Desmond. I look forward to another constructive afternoon of discussion.

Clauses 28 to 33 set out clear processes for the variation, suspension and revocation of direct deduction orders. They mirror approaches already used across government for comparable powers and ensure alignment with standard debt recovery practices used by Government Departments such as the Department for Work and Pensions.

Clause 28 outlines that any holder of an account subject to a direct deduction order can apply to vary the direct deduction order during its lifetime. This key safeguard protects the liable person and joint account holders by giving them the opportunity to be notified of any changes in circumstances at any time since the initial order was made. That relates to some of the important conversations we had this morning about safeguards. If the application to vary the direct deduction order is in relation to a joint account, other joint account holders must be given an opportunity to make representations.

Clause 29 allows a direct deduction order to be varied on application by an account holder or at the proposal of our trained authorised officers. That will be achieved by providing a revised version of the order to the liable person and any other account holders, giving them an opportunity to make representations about the proposed variation. The varied order takes effect when it is given to the bank or, if later, in accordance with the terms of the order as varied. The order can also be varied so that it applies to another account held by the liable person, including an account with a different bank, if the variation is requested by the liable person and, if applicable, other account holders consent. The clause outlines the process for when a direct deduction order is varied to apply to an account administered by a different bank or to apply to a joint account.

Clause 30 provides the authority to revoke a direct deduction order. There are some circumstances in which an order can be revoked, but the two circumstances in which it must be are when the payable amount has been recovered or when the liable person has sadly died. The order must be revoked as soon as is reasonably practicable after becoming aware of such circumstances.

Clause 31 concerns further information notices that can be given to the bank to determine whether to revoke or vary a direct deduction order. If the further information notice concerns a joint account, each account holder other than the liable person must be made aware that the notice will be given and of its effect. That must be done before giving the notice to the bank. A further information notice requires the bank to provide statements of the account held by the liable person for the three months prior to the notice being given or a longer period as may be specified in the notice.

The information given may also be used for the purposes of exercising the core functions only as outlined in clause 1. That is a key safeguard in the Bill to limit the circumstances in which the information given can then be used. However, it is also essential in ensuring that decisions regarding variations or revocations of direct deduction orders are based on the most current and comprehensive financial information, thus safeguarding both the Government's recovery efforts and ensuring that the amount of deductions remains proportionate and fair.

Clause 32 defines the circumstances under which the operation of direct deduction orders is suspended. A regular direct deduction order may be suspended and restarted at any time.

Clause 33 sets out what happens in the unfortunate circumstance that a liable person dies during the period of a direct deduction order. Should such a circumstance arise, a bank will cease to be subject to a direct deduction order on becoming aware of the liable person's death. In all cases where a deduction order is altered or proposed to be so, the liable person, any joint account holders and the relevant bank will be notified. These clear communication requirements safeguard the interests of all account holders involved.

Collectively, the clauses outline clear and transparent processes so that the liable person, any joint account holders and the banks carrying out such orders understand how they can be varied, suspended or revoked. They enable necessary flexibility in the debt recovery process so that the orders reflect the changing circumstances and financial realities of those affected, thereby ensuring fair and appropriate payments.

It is important that we maintain integrity and fairness in our approach to debt recovery and allow for review and appeals. Establishing clear, responsive and fit-for-purpose processes supports that approach, ensuring that the debt recovery mechanism is future-proofed and that the debt recovery process remains responsive and fair. Having outlined the key provisions in clauses 28 to 33, I commend them to the Committee.

Mike Wood (Kingswinford and South Staffordshire) (Con): Clause 28 gives account holders the right to request a variation to a deduction order, perhaps in a change of circumstances, and clause 29 empowers the Minister to make such variations.

I have some questions for the Minister about the measures. Under what circumstances might she expect the Minister for the Cabinet Office to vary an order, and what criteria would be used to determine whether a variation is justified? Might that include financial hardship, changes in financial circumstances or new evidence regarding the debt? Would variations be considered if a person has multiple debts and can demonstrate that repaying at the original rate would cause undue hardship because of those other repayments? What is the status of any payable amount in relation to sums owed to other creditors? Where would, for example, the Public Sector Fraud Authority stand compared with other creditors who are owed either secured or unsecured debts?

Let me turn to the process and authority for variation decisions. How will those variations be processed? What timeframe is expected for a decision after a variation request is submitted? Given that the Minister will delegate these functions to the PSFA, what level of seniority within the PSFA will be required to approve variations? Will it be as for the issuing of other notices, or will a more senior level be required? To return to the question of codes of practice, will there be internal guidelines within the PSFA to ensure consistency and fairness in decision making and that similar applications are treated similarly?

Clause 30 states that a direct deduction order must be revoked when the full payable amount has been recovered or the liable person has died. What happens to the outstanding sum that would otherwise be payable after a death? Does it mean that if the liable person dies, the Government will either not seek to recover funds or must do so through mechanisms other than this legislation? In most cases of debt collection, there are provisions to recover debt from a deceased person's estate. Why does the clause not specify that, or is it provided for in other parts of the Bill? If the estate has sufficient funds, will the Government pursue repayment through probate or will they write off the debt entirely? Would there be any exceptions where the Government may still seek repayment?

Clause 31 allows the Minister to issue another information notice to a bank to obtain details necessary to decide whether to revoke or vary a deduction order. Powers under the clause closely resemble those used for the original information request, so many of the concerns we have raised about those requests obviously apply to this clause as well. What additional information might the Minister expect banks to provide the second time around, and if the original information notice was already comprehensive, what new details could justify issuing a further request? Does this suggest that banks may be asked to monitor accounts over a longer period than was indicated in the original information request? How often can the Minister request additional information? Is there a limit on how frequently banks and other financial institutions must comply, in order to prevent these measures from becoming overly burdensome and onerous?

Clause 32 allows the Minister to suspend and later restart deductions by notifying the bank. Will she clarify the circumstances under which she would expect deductions to be suspended? Might that include cases in which the liable person has appealed the deduction, for example, or in which the person's financial situation has changed? Perhaps they have lost their job or there is a change in family circumstances. Will the provision apply where the Government wish to reassess eligibility for deduction, or where the bank raises concerns about the impact of deductions on the account holder? Once more, the lack of a draft code of practice makes it difficult to scrutinise the provision effectively. What safeguards will be in place to ensure that deductions are not arbitrarily suspended or restarted? Will there be any independent oversight of these decisions? Restarting deductions, in particular, risks a negative impact and potential financial harm for the subject.

Clause 33 follows on from clause 30 and states that a bank must stop deductions once it becomes aware that the account holder has died. Again, we do not disagree with the mechanism in relation to these clauses, but how does the Minister expect banks to be informed of a person's death in a timely manner? Will that be through the usual process following a death, whereby an executer is perhaps conducting the deceased's financial affairs? Will there be any other mechanism to ensure that the deductions are not taken in the meantime, at what can obviously be an extremely busy time? Are banks expected to proactively check for death notifications, or will the Government notify them in the absence of a family notification? If deductions continue after death, what mechanisms exist for refunding the estate?

We have also raised wider concerns in relation to other parts of the Bill about ministerial power and the lack of independent, third-party oversight. These clauses, like many others, grant significant power to the Minister regarding deductions, variations and revocations, but they do not require oversight from an impartial third party outside the Cabinet Office or the PSFA. Will she address concerns about whether the Minister and the PSFA have the practical capacity to handle these decisions in a timely manner? What resources will be allocated to the PSFA to ensure that this can be done without unnecessary delay?

Decisions about deductions, variations and revocations are all made by the Minister or their delegate with no independent oversight. Might an independent appeals body provide fairer scrutiny? In the absence of such an independent appeals body, might there be the risk of judicial review in certain cases?

To fully understand how these provisions will work in practice, we will require further clarity from the Minister on many of those issues. What circumstances justify varying a deduction order and which criteria will guide these decisions? How and when might deductions be suspended or restarted and will there be oversight of these decisions? Is debt recovery pursued from estates after death? Are fraud and error debts written off, and if they are to be pursued, through what mechanism? What additional information might banks be asked to provide under clause 31? Does that place an unreasonable burden on them?

Given that the Minister has indicated that a code of practice will govern these processes, it is again deeply frustrating that that document has not been made available for scrutiny during the passage of the Bill through this House. We therefore ask that the Minister provides as much detail as possible on how the Government expect those provisions to be implemented in practice.

2.15 pm

Georgia Gould: I thank the hon. Gentleman for the range of questions, which give me the opportunity to clarify a number of points.

First, what happens if a liable person sadly passes away before paying the specified amount? The PSFA will still seek to recover the money owed to the state through the people acting on the estate's behalf, and it will be recovered using the normal processes. Although there are not specific measures in this Bill, the PSFA will be able to use other existing debt recovery measures.

As for the decisions being made, who will be making them and the capacity of the Minister, as I set out, the decisions will be made by authorised officers under the Carltona principle, and the review will be done by a more senior officer than the officer making the original decision. Critically, on any of these measures, it will be possible to appeal to the first-tier tribunal, so an independent appeal route is built into the system. We do not think that there needs to be a separate independent route, but it is important to come back to the fact that this entire system will be overseen in two ways. First, that will be done by a team outside the PSFA, working with an independent chair who will review the use of all of these powers. Secondly, as we have said, there is provision in the Bill for independent scrutiny, which we expect to be delivered by His Majesty's inspectorate of constabulary and fire and rescue services.

The ability to suspend and restart direct deduction orders gives flexibility to the authorised officers who lead the cases. Such circumstances might involve somebody being hospitalised and the orders needing to be stopped and restarted, or somebody agreeing to move to a voluntary repayment. Indeed, as the shadow Minister mentioned, they might bring forward information about their financial circumstances.

As for going back to ask for further information from the banks, somebody might set out information about their vulnerability, financial circumstances or living standards, and there might be a need to check that with the bank—"The circumstances have changed, so we need to get more information from the banks." So there is a provision to continue to gather that information.

We will go through the appeals process on later clauses. It is possible that payments might be suspended as part of that appeals process, but critically, in changing and varying the order, a person will be informed of that and they can appeal the variation—the amount and the existence of the order will have already been set through a court process.

The impact assessment goes through PSFA resourcing. As I have said, the savings are modest, and we have deliberately kept them modest because of the resourcing available to the team and the officers who are in place. There is resourcing to carry out 40 cases a year under the powers, and that is the expectation. These are new powers for the wider public sector. We hope that they will be effective, generate more income and recover fraud, and there is a strong evidence base for that as these powers are used elsewhere. If that is the case, it will then be possible to grow the operation of the team and increase the resourcing, but we are confident that the resourcing to deliver what is in the impact assessment and in the Bill already exists.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clauses 29 to 33 ordered to stand part of the Bill.

Clause 34

REVIEWS

Georgia Gould: I beg to move amendment 2, in clause 34, page 20, line 30, leave out from "review" to end of line 35.

This amendment leaves out provision that is not needed; clause 29(5), (6) and (8) makes the necessary provision.

The Chair: With this it will be convenient to discuss clause stand part.

Georgia Gould: The clause establishes the process to request an internal review of decisions made by authorised officers on direct deduction orders. The liable person or other account holders, in the case of a joint account, will have 28 days from being notified of an order, or a decision pertaining to a request to vary an order, to request a review. They cannot use the internal review to challenge the amount owed, as I just set out; that will already have been settled. Instead, this review can be used to challenge, for instance, whether a direct deduction order is the most appropriate form of repayment, or whether the deduction amount is fair and affordable.

Internal reviews are important as they provide a straightforward and affordable way for the liable person to present a challenge to direct deduction order decision making. The reviewing officer will be a trained authorised officer of a higher grade than the original decision maker. They may decide to uphold, vary or revoke the direct deduction order. That decision will be based on an assessment of the material held and any relevant new information provided by the liable person. If a liable person disagrees with their decision, there are further appeal rights, which we will come on to shortly.

Government amendment 2 seeks to remove a provision in clause 34(7)(b), which states that if a direct deduction order is varied, the varied order must be given to the bank and a copy provided to the liable person and other account holders. This provision is not needed because the requirements to give the varied order to the bank, the liable person and other account holders are already provided for in clause 29(5), (6) and (8). This amendment seeks to simplify the drafting and provide clarity, while not amending or removing any policy process or safeguards.

Mike Wood: Clause 34 provides the mechanism for account holders to request a review of a ministerial decision to make, vary or refuse to vary a direct deduction order. However, the scope of the review is limited, as the person cannot challenge the existence of the debt or the amount owed at that stage, unless the order incorrectly states the amount. Given that limited scope of review, what can be challenged? Given that the review cannot dispute the existence or amount of the debt, what exactly can be reviewed? In what types of cases would the Government expect a review to be successful? For example, could a review be granted on hardship grounds, or could a review be successful if the deductions cause

significant financial difficulties, such as impacting essential living costs? Could a review consider whether the deductions are fair in relation to other debts or financial obligations that the person has, such as child maintenance?

Clause 34 sets a strict 28-day deadline for a review request, and there does not appear to be an ability to extend that timeframe, even in exceptional circumstances. By contrast, in employment tribunals the standard time limit for lodging an appeal is three months, and the Employment Rights Bill currently before Parliament proposes extending it to six months. In other legal contexts, extensions are generally granted where the delay was due to exceptional circumstances, such as illness, bereavement or lack of access to legal advice. Might the Government consider allowing some flexibility in this timeframe to allow for such exceptional circumstances? If not, why has a stricter approach been taken here than in other legislation?

Clause 34 does not specify whether a joint account holder has the same right to review a deduction order as the primary liable person. Can a joint account holder initiate a review separately, and if so, on what grounds? If a joint account holder does not agree with deductions being taken from their shared account, what recourse do they have?

Government amendment 2 appears to be purely technical, removing duplicated provisions. However, can the Government confirm that the amendment does not limit or restrict the review process in any way?

To fully understand how the review process will work, further clarity is needed from the Minister on the types of issues that can be successfully challenged in a review; whether the 28-day limit can be extended in exceptional circumstances, and if not, why not; and the rights that joint account holders have to request a review. Can she also confirm that Government amendment 2 does not impact the substantive rights of individuals seeking a review? As with almost every other part of the Bill, it is concerning that the code of practice has not been made available, but perhaps the Minister can provide some additional detail and context, to fill some of the gaps.

Georgia Gould: I thank the shadow Minister for those questions. The circumstances in which someone might request a review include the ones that you set out. Primarily, it will be around affordability. There are clear provisions in the Bill on affordability and living expenses for individuals and their dependants. In terms of why the review by an internal officer can only focus on variation, it is important to remember that in these circumstances, a court will have determined the amount owed—there will already have been an independent process that has determined that. This is about the affordability of those payments. There might be other debts, and there are established processes to deal with that. If people are unhappy with the internal review, they can still appeal to the first-tier tribunal, which has wider powers to vary than the initial review. I think that answers your question.

In terms of the 28-day limit, it is important to remember that the money we are seeking to recover is from people who have been proved to have defrauded the state. It is really important that we get that money back, but I am happy to look at whether there is flexibility and to keep that under review. I think those were the main questions you asked.

The Chair: I did not ask any.

Georgia Gould: Sorry—I think those are the main questions the shadow Minister asked.

Amendment 2 agreed to.

Clause 34, as amended, ordered to stand part of the Bill.

Clause 35

Appeals

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

Georgia Gould: Clause 35 establishes the process to lodge an appeal of review decisions around direct deduction orders. Appeals will be heard at the first-tier tribunal. Appeals can be lodged only following an internal review by an authorised officer of a higher grade than the original decision maker. The liable person, or other account holders in the case of a joint account—the shadow Minister asked about that, and it is important to clarify that a joint account holder can also request a review and an appeal—will have 28 days from being notified of an internal review decision to lodge an appeal. They cannot use the appeal to challenge the amount owed; that will already have been settled by agreement or in court or tribunal proceedings.

During an appeal, the tribunal may instruct the bank to pause the effect of a direct deduction order. The tribunal judge may decide to uphold the appeal and vary or revoke the direct deduction order accordingly. They could also decide to throw out the appeal. We are developing strong, effective oversight of all our measures in the Bill. It is important that there is the opportunity for independent tribunal oversight of these powers. Tribunals provide accessible justice and will be able to provide additional review where necessary. Ultimately, this is about being fair to the taxpayer, ensuring that money lost to fraud and error is returned, but it is also about being fair to those who have received that money and ensuring that proper and due process is followed throughout.

2.30 pm

Mike Wood: The clause allows individuals to appeal to the first-tier tribunal if they disagree with the decision to make, vary or refuse to vary a direct deduction order. This right of appeal, however, is available only after the individual has completed the review process under clause 34. The appeal must be made within 28 days of the review outcome. I ask again, regarding the strict 28-day appeal deadline, why there is no provision for extension under any circumstances. In the previous grouping, I mentioned other tribunals where either longer periods of time to make the application are available or there is provision for extending the deadline in cases of genuine hardship or exceptional circumstances, or in most cases, both.

It comes back to the question why the stricter approach has been taken in this Bill, compared with other areas of law. Although I understand the need to recover money owed to the taxpayer as quickly as possible, we need to ensure that justice can be done without procedural requirements unfairly and unnecessarily impeding someone

[Mike Wood]

for what might only be a question of days, or possibly a week or two, in circumstances that few of us would wish to be in.

The first-tier tribunal is a respected independent body, so it is extremely welcome that appeals can be made there. The tribunal, however, only gets involved after the internal review by the PSFA or officials acting on behalf of the Minister. Is it the Minister's expectation that the internal review process will filter out most of the reviews and provide some resolution before they get to the tribunal? Having this two-stage process potentially extends the time for reviewing and appealing rather longer, and goes against what I think the Minister and the Bill intend. Is it intended to resolve most issues at the early stage to avoid referral to the first-tier tribunal, and if so, what confidence does the Minister have that the PSFA's internal review process will be sufficiently robust? Given that it is part of the initial decision-making process, fairness must not only be done, but be seen to be done, to avoid the need for recourse to the first-tier tribunal.

Does the Minister have an estimate of how many cases would be expected to be resolved in the PSFA review process, against how many might need to proceed to the tribunal? If the vast majority of cases are expected to be settled internally, that reduces the burden on the tribunal system, but what safeguards are in place to ensure fairness and prevent conflicts of interest? If a significant number of appeals do reach the tribunal, are the Government confident that the tribunal system has the capacity needed to handle them? Could the Minister provide clarity on why the 28-day appeal period is so rigid? Will the Government look at whether there is scope for it to be extended in exceptional circumstances? Will the internal review mechanism serve a meaningful function, or might the first-tier tribunal act as the better first-instance review? Was the decision based on legal, practical or resource considerations? What proportion of cases is expected to be resolved internally rather than requiring a tribunal appeal, and what steps are being taken to ensure that the tribunal system is adequately resourced for any additional caseload?

As with almost all elements of the Bill, some aspects will be clearer when there is finally a draft code of practice, but given that the Committee will not see it during our consideration of the Bill, will the Minister address those questions and provide some transparency and detail, to ensure that individuals subject to direct deduction orders are treated fairly and have genuine access to justice?

Steve Darling (Torbay) (LD): It is a pleasure to serve under your chairmanship this afternoon, Sir Desmond. The hon. Member for Kingswinford and South Staffordshire has ably laid out a number of concerns, and I look forward to hearing the Minister's response. I know from my time serving my community in Torbay that when people are in a tough place, very often an exceptional circumstance needs to be taken into account. I would welcome the Minister's reflections on how exceptional circumstances can be taken into account when the tribunal comes into play.

Georgia Gould: I thank the Committee for the range of questions and the opportunity to provide clarification. The decision on the set-up of the system was made on the basis of existing best practice in Government, particularly in His Majesty's Revenue and Customs, so there is precedent for its working. The intention of the PSFA is to recover debt as quickly as possible, but in a way that is proportionate and does not leave anyone in financial hardship. If an individual applies to vary the amount they are paying back, the internal review and the more senior officer will look to resolve that matter in a proportionate way, and to avoid things needing to go to a tribunal. However, it is important to have independent safeguards in place.

We expect cases to be resolved successfully by teams that are well trained, have all the information available to them and can take a case-by-case approach that is fair and proportionate, but in the event that an individual is unhappy with the outcome of the initial review, they can appeal to the tribunal. We expect the initial impact to be very small: our expectation is that we will be dealing with four DDOs, so even if they all go to tribunal, it is a small number, and this is an established process. We have deliberately chosen the first-tier tribunal because it is the most accessible and fastest part of the justice system.

We hope that these powers are successful and can be grown, and I think we will learn a lot from the first phase of working in this way. We think the powers will be particularly focused on high-value and severe cases of fraud, and the team will work to ensure that we prioritise those cases. This feels like a proportionate use of resources, and we have consulted the Ministry of Justice, which has agreed that the first-tier tribunal is the most appropriate forum to hear DDO appeals.

On the 28-day point, I said in my previous answer that we want to recover fraud as quickly as possible and are keen to not have undue delays, but the points about exceptional circumstances are well made. I appreciate the questions and I am happy to take them away and ensure that there is appropriate flexibility.

On the wider point about exceptional circumstances, the important thing about these powers is that they will be exercised by authorised officers, highly trained in investigation and debt recovery, who will have due regard to the best practice on debt within Government and the wider system and will take a case-by-case approach to individual circumstances and respond to exceptional circumstances. That is why we have multiple and independent points of review. Again, I have referred repeatedly to the independent oversight that will look at all those processes and report into Parliament.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 36

Meaning of "bank" etc

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

Georgia Gould: Clause 36 establishes a number of definitions for terms used in the direct deduction order section, including the meaning of "bank" as a person who is authorised to accept deposits or to issue electronic money. This definition is supported by reference to

appropriate legislation and regulation. The clause confirms that references to amounts in accounts must be in credit, thus ensuring that we do not push people into overdrafts. It also sets out how a person can hold an account by having their name to it, either solely, jointly or as a signatory. It is important that we have clear, agreed definitions for such terms, to aid the operationalisation of these powers and to prevent unwarranted challenges, such as whether a financial institution is in scope of the Bill.

Mike Wood: As the Minister said, this clause establishes the definition of a bank, among other things, for the purposes of the Bill, ensuring that financial institutions responsible for holding and transferring funds fall within its remit. However, the definition is broad enough to include both traditional high street banks—institutions with long-established infrastructures for compliance and regulatory oversight—and electronic money service providers such as digital banking platforms PayPal and Revolut, which operate under electronic money regulations rather than conventional banking licences.

Clearly, the intention behind this broad definition is to ensure that all financial entities where individuals may hold funds are captured under the Bill's provisions, preventing fraudsters from circumventing recovery mechanisms by moving money into non-traditional accounts. However, we would like to hear the Minister's view on whether there are any practical differences in execution between financial institutions; a key concern is that direct deduction orders and information notices might not be executed uniformly across different types of financial institutions due to variations in their operational structures.

Whereas traditional banks have well-established compliance frameworks, making it relatively straightforward for them to implement direct deduction orders, electronic money service providers may operate differently, often without physical branches and storing funds in pooled accounts rather than individual ones. Whereas banks may have concerns around how the direct deduction orders interact with their existing legal obligations such as safeguarding funds for overdraft protection or outstanding debt, the practical questions that arise with electronic money service providers are around how direct deductions will be handled for digital wallets that do not hold fixed balances.

Will the money providers be required to prioritise Government deductions over pending transactions, or are there existing verification mechanisms? Are those set out in this legislation robust enough to prevent misidentification or errors? Ensuring clarity and consistency in how deductions are applied across both types of financial institution will be critical to prevent unintended gaps in enforcement.

2.45 pm

Although this clause focuses on financial institutions, it does not address the potential recovery of fraudulent funds converted into non-bank assets, such as tangible assets—fraudulently obtained money might be used to purchase cars, jewellery, luxury goods or various things that I am sure my children understand rather better than I do, but which would not be covered under direct deduction orders; investments and securities—funds might be transferred into stocks, bonds or cryptocurrency holdings, which are often held outside of traditional banking institutions; and property and real estate, which high-value fraud cases that may involve money being used to purchase, which would not be recoverable through bank deductions alone.

If we are to ensure uniform compliance across financial institutions, will the Government provide clear and detailed guidance to ensure uniform compliance across traditional banks and digital money providers? What mechanisms will be in place to monitor compliance and to address potential disputes between financial institutions and account holders? How will direct deduction orders interact with other legal claims on an individual's account, such as outstanding loan payments, overdrafts or direct debits for essentials? Will financial institutions be indemnified against liability if a deduction order results in financial hardship or other loss for an account holder?

Is there a strategy to identify and recover funds that have been moved into non-bank assets? My hon. Friend the Member for South West Devon spoke briefly about that in relation to a different clause this morning. The Child Maintenance Service has a strong history of recovering funds that have been switched into non-tangible assets; will there be co-operation with law enforcement and asset recovery agencies to ensure a holistic approach to fraud recovery? Should future amendments consider extending the scope of the recoverable assets beyond those held in bank accounts, to recognise where people may stash their ill-gotten gains?

This clause plays a crucial role in defining which financial entities are subject to direct deduction orders, helping to ensure that fraudulently obtained funds cannot be easily shielded within digital banking platforms or other non-conventional money services. However, the practical challenges remain in terms of execution, regulatory alignment and the exclusion of non-bank assets from recovery mechanisms. As the markets develop and people's habits and financial investments change, addressing those gaps will be essential to ensuring that fraud and recovery measures are both effective and fair, so will the Government look at how this legislation can be to some degree future-proofed by allowing for the definition of those assets and holdings to be amended?

Steve Darling: I am pleased that the hon. Member for Kingswinford and South Staffordshire has been reading my notes—I wish to speak about future-proofing, too. The current incumbent of the White House is a clear fan of cryptocurrency, so we are looking at that element of our financial world potentially growing very much faster and dominating the financial workplace. I would welcome the Minister's reflections on how that can be future-proofed against, because we could well see a sea change over the next 12 months in the level of cryptocurrency used in the world. It is a particular favourite of fraudsters, so being alive to that and making sure we are able to take account of that and to get the money back to our taxpayers would be really welcome.

Rebecca Smith (South West Devon) (Con): I could probably have intervened on my hon. Friend the Member for Kingswinford and South Staffordshire, but he was in full flow at the time and I did not want to put him off. I have a clarification question on the meaning of the bank. Is the Minister looking to ensure that things such as the National Savings and Investments bank, which is obviously a Government bank, are included? I believe it

[Rebecca Smith]

would fit the definition given, in that it accepts deposits, but I thought it would be worth putting on record that the breadth of this definition would cover institutions such as those and making sure that we get the Government's own house in order as well as ensuring that commercial banks work with the Government.

Georgia Gould: I thank the Committee for all those questions. Both the hon. Members for Kingswinford and South Staffordshire and for Torbay will be pleased to know that my notes are very similar: it is critical that we future-proof these powers as financial circumstances change and there is innovation in the sector. Clause 37 will go into some detail about the future ability to lay additional regulations, including regulations expanding the remit of direct deduction orders to cover cryptoassets. I hope that provides some reassurance.

More broadly, we discussed at the start of this process the range of information-gathering powers in an investigation. As part of that process, investigators will want to follow the money and get a wide picture of the assets that a person or organisation holds, the different accounts they might have and where their money is as part of an investigation. As the investigation moves to debt recovery, investigators will bear all that in mind. If they are not able to recover money through the direct deduction order process, there are other avenues available, although not within this Bill. As I said earlier, they could apply to the courts to seize wider assets; in a criminal case, they could use the Proceeds of Crime Act 2002, and I can give assurance that they will of course work with law enforcement where necessary.

If it is not possible to recover money through the banks, there is also the ability to put that deduction on earnings. There is a wide range of options available to investigators, but the critical thing is that these are circumstances where the Government have been defrauded, and the investigators will use every avenue to recover that money for the taxpayer.

On the question of where the direct deduction order sits in terms of priorities, it is a non-priority order, so secured priority debts would take precedence. Non-priority orders go by date order, and further guidance will be published on that point.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Clause 37

REGULATIONS

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

Georgia Gould: Clause 37 will future-proof the Bill, so it is critical to the discussion we have just had. It establishes regulation-making powers concerning particular elements of the direct deduction order powers. For instance, it will allow regulations to be made on how notices and orders are given, and how notices and information are to be received; how to make deduction calculations, and how to determine hardship in meeting essential living expenses; the duty of banks in carrying out deduction orders and the administration charges they can apply for doing so; the interaction between direct deduction orders under the Bill and similar orders under any other enactment; and expanding the remit of direct deduction orders to cover other types of financial products or services, such as cryptoassets.

The Bill sets out in detail the framework for how direct deduction orders will work. We wanted to set out this level of detail to add to the transparency of how this power will operate and to allow parliamentary colleagues the chance to scrutinise it properly. However, there are elements that are more appropriate to have as regulations. These are elements where we want a degree of flexibility to be able to update them to reflect wider societal, economic and technological changes, as hon. Members have just raised. For instance, why specify how orders should be shared by the Minister when we know that technology changes so quickly? Why should hardship and deduction calculations be static when there are bigger economic forces in play that impact all of us?

We are committed to avoiding undue hardship where possible, and flexibility here lets us introduce further mitigation where necessary. Why should we not go after cryptoassets, if we find that they are the preferred asset of fraudsters? We want to be able to pursue funds in the most effective way to return them to the public purse. Where necessary, we will consult, and we want to do so—indeed, this clause creates a requirement to do so in some instances. Finally, regulations will also be subject to either the affirmative or negative procedure so that Parliament is still able to scrutinise them appropriately.

Mike Wood: The clause grants the Minister extensive powers to introduce further regulations governing the operation of direct deduction orders. Specifically, the Minister will be able to regulate the manner in which notices and orders are issued by the Minister; the process by which banks and financial institutions provide information to the Minister; the methodology for calculating the amounts to be deducted from an account; the legal obligations of banks in relation to compliance with direct deduction orders; the costs that banks may recover, either under clause 24 or from the Minister, and the interaction of direct deduction orders with other similar financial recovery mechanisms.

These regulations are largely subject to the negative resolution procedure under this clause, which means that they will potentially become law without debate or a vote unless actively prayed against within Parliament. The use of the negative resolution procedure is clearly concerning given our lack of sight of the basics, such as a draft code of practice. The negative resolution procedure may be appropriate for minor technical amendments, but it really is not for measures that could directly impact on individuals' finances, financial institutions and the broader regulators framework, particularly when the House of Commons has been given so little information to consider the context of the framework legislation within which those regulations are being issued.

Under the Bill, Parliament is being asked to approve a framework without any clarity on its implementation, while being told to accept that further critical details will be determined by ministerial discretion, and that the code of practice will be published at some point during the Bill's progress through the House of Lords

and without proactive scrutiny from the House of Commons. Can the Minister explain why this approach has been taken? Can she look at where the use of the affirmative resolution procedure would be more appropriate in ensuring that there is active parliamentary consent for what might be powers quite fundamental to the purpose of the Bill and might have a significant impact on individuals, financial institutions and many businesses?

Charlie Dewhirst (Bridlington and The Wolds) (Con): Does my hon. Friend agree that although this does create the right to consult, it is not particularly clear what type of consultation will take place, what opportunities financial institutions will have to make representations, and whether such representations will carry any weight; so it leaves the Minister in a considerably powerful position, going forward?

3 pm

Mike Wood: My hon. Friend is of course absolutely right. We are told that many of these questions will be addressed at a later date, whether through regulation or through a non-statutory code of practice, but we are being asked to consider this Bill now, and scrutinise these clauses when that information is not available. Will the Minister reconsider, and look at where affirmative resolution procedure can be used instead, to ensure that the regulations receive proper and active parliamentary scrutiny, so that the new obligations are imposed only where they have the consent of Parliament? Given the potential financial consequences of direct deduction orders for individuals and businesses, it really is not sufficient for the Government to ask Parliament to trust that these measures will be applied fairly and proportionately after the fact unless we can have a far greater degree of detail now.

As my hon. Friend said, the clause does include a requirement for the Minister to consult with representatives of banks and financial institutions, representatives of those directly affected by these provisions, and any other appropriate persons when making regulations; we welcome that provision. However, consultation is of course only meaningful, as my hon. Friend said, if it is conducted transparently and robustly. So will the Minister commit to publishing responses to consultations under this clause, and how will the Government ensure that such responses are meaningfully reflected in the final regulations? What mechanisms will be in place to ensure that consultation is not merely a box-ticking exercise, but is a genuine dialogue with stakeholders, so that they feel rather more engaged than the representatives of UK Finance indicated that they felt when giving evidence last Tuesday?

Under subsection (3) the Minister is granted the power to extend clauses 17 to 36 to other types of financial service providers in the future. Of course that would, and is intended to, allow regulations to cover other types of financial services, such as cryptocurrencies, should they become regulated by the Government. It is right that the Government have chosen to use the affirmative resolution procedure for those measures, requiring parliamentary approval before such regulations take effect, and we completely agree that that level of scrutiny is appropriate. However, it raises a fundamental question of consistency.

If the Government recognise that extending these provisions to cryptocurrencies and new financial models requires a higher level of scrutiny, why do they not apply the same principle to the core framework for direct deduction orders? Why are only some of these significant regulation-making powers subject to affirmative oversight, while others are pushed through with minimal scrutiny and almost certainly no parliamentary debate? Parliament cannot be expected to sign a blank cheque when it comes to the application of these financial recovery mechanisms, particularly when key details remain unknown and are deferred to future regulations.

Until the House has had the opportunity to scrutinise the code of practice, and to assess how these provisions will be applied, it is wholly inappropriate to proceed on the basis of the negative procedure that would apply under much of the clause. We urge the Minister to reconsider, and to ensure that Parliament is given the opportunity to properly scrutinise, and approve, these critical regulations.

Finally, would the Minister commit to strengthening the scrutiny provisions in the clause, rather than expecting Parliament to rubber-stamp measures that remain currently unseen and largely undefined?

Siân Berry (Brighton Pavilion) (Green): It is a pleasure to serve under you, Sir Desmond. I have two quick questions for the Minister. I associate myself with the comments about ongoing scrutiny and consultation. I am pleased that the most consequential of these potential new regulations will be subject to the affirmative procedure, but it seems like a lot to not go through a huge amount of scrutiny beforehand.

I want to ask about why subsection (2)(c), which relates to whether somebody might suffer hardship, is excluded from the consultation required under clause 37(5). Subsection (2)(f) is also excluded, which is about whether there might be cumulative hardship as a consequence of things done under this law or other laws. The people affected by that, and those who represent people who might face hardship, ought to be consulted on that as well. Is it because the definitions of hardship are scrutinised and well established elsewhere, and we will draw on those definitions when making the regulations, or do we need additional information in this clause or assurances from Ministers that this will happen? Finally, I want to ask about the meaning of the word "Schedule" in subsection (2)(f).

Georgia Gould: I thank Members for their questions. I will start with the points that have been made about future-proofing and how important it is for the Bill to both learn from its application and stay up to date with all emerging technologies and ways of working. We cannot future-proof a Bill without providing a degree of flexibility, and that is what this clause offers. Rightly, there is a lot of detail on the face of the Bill about how these powers will be exercised, and these regulations allow some of that detail to be varied according to best practice, but they are not Henry VIII powers.

Mike Wood: I agree with what the Minister says about future-proofing. The affirmative procedure does apply to the measures in subsection (3), which are effectively about future-proofing. Our concern is those

[Mike Wood]

under subsection (2), which are about how the powers are to be exercised from day one. Those regulations are not subject to the affirmative resolution procedure but are fundamental to how the legislation will be implemented. I ask her to reconsider the fact that this does not affect future-proofing but is about ensuring that Parliament can consider the legislation properly and debate and vote on what could be integral regulations affecting a lot of people.

Georgia Gould: How the Bill is exercised in terms of the deduction calculations and the notices is future-proofing the Bill and ensuring that it meets its stated objectives of preventing hardship and so on, which sit on the face of the Bill. This is about how we do that, not the aims that exist. The regulations will come before Parliament in a proportionate way, as is the normal practice. Even under the negative procedure, parliamentarians will still be able to come back on any of these points.

It is a statutory duty of consultation, which ensures that the results of the consultation will be taken seriously and published. I hope that that gives some reassurance.

On the question about subsection (2)(c), the hardship considerations are for PSFA and not for the banks. That is why they are excluded, but we will take them very seriously, and I have talked at length about the way they will be embedded in every part of this process. The word "Schedule" can be changed to "clause" in a Government amendment, as that is what it means. I am grateful to the hon. Member for Brighton Pavilion for pointing that out.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Clause 38

DEDUCTION FROM EARNINGS ORDERS

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

The Chair: With this it will be convenient to discuss clauses 39 and 40 stand part.

Georgia Gould: Clauses 38, 39 and 40 establish the power to administer deduction from earnings orders. A deduction from earnings order is a mechanism by which financial amounts owed can be recovered from liable persons who are in pay-as-you-earn employment. This proposed debt recovery measure is similar to existing powers already held by the Department for Work and Pensions, the Child Maintenance Service and some local authorities. Clause 38 sets out the provisions, process and requirements associated with deduction from earnings orders. The decision to make a deduction from earnings orders will be made by a trained authorised officer.

The clause includes a regulation-making power, which states that the Government can make further provision through regulations concerning the meaning of "earnings" for the purposes of the orders. This may include any appropriate provisions in determining what constitutes earnings now and in the future—for example, share options that are payable through the PAYE system in the context of corporate fraud. This is necessary to ensure that we have flexibility in the future to adjust the meaning of "earnings" to be in line with social and economic changes. It makes it harder for people to deliberately alter their earnings arrangement to try and unfairly frustrate paying back what they owe. We are sending a clear message that money owed to the Government as a result of fraud or error must be repaid so that it can be used for public benefit.

Clause 39 stipulates what information a deduction from earnings order must contain in order to provide clarity to both employers and liable persons on their obligations. The information that must be included in a deduction from earnings order is the amount of the deductions, how the amounts are to be deducted, when the amount should be paid and the penalties for not complying with the deduction from earnings order. A deduction from earnings order must be given to the liable person's employer, who must comply with it. A copy of that order must also be given to the liable person. Where a liable person's employer fails to comply with a copy of that order, they are liable to pay a fixed penalty of £300. Deductions under a deduction from earnings order cannot commence before 22 days after the order is given to an employer. We will already have been engaging with the liable person on securing repayment of what they owe. This provides them with additional notice that an amount will be deducted from their earnings.

Clause 40 outlines further requirements that must be taken before a deduction from earnings order is made. The liable person must be given a notice inviting them to make representations on the proposed order. A copy of the notice must be given to the liable person's employer. The notice must include the terms and amount recoverable and must allow 28 days for representations. That ensures fairness in the debt recovery process as the liable person has time to prepare any response. All representations made must be considered by an authorised officer before they decide to make a final deduction from earnings order in respect of the liable person or make any changes to the proposed orders that are considered appropriate. If the decision is made not to make a deduction from earnings order, we must notify the liable person and their employer.

Deduction from earnings orders have been found to be an efficient and effective way to recover money owed to the Government so that it can be used to fund vital public services. It is pertinent to have this power as it affords an opportunity to recover public money lost through fraud and error, which can be immediately put back into delivering our public services that are so vital for the country. Together, the clauses play an essential role in the operation of a deduction from earnings order and align with the core principle of seeking the effective recovery of public funds, balanced by the independent oversight provisions in part 1 of the Bill. They ensure informed decisions are made and communicated, aligning with our principles of transparency and ensuring the use of the powers is safeguarded. Having outlined the main provisions in clauses 38, 39 and 40, I beg to move that they stand part of the Bill.

Mike Wood: The clause grants the Minister the power to issue a deduction from earnings order in cases where an individual is employed and has an amount that is recoverable under the Bill. The effect of such an order

would be to require the person's employer to deduct payments directly from their salary and to ensure that those deductions are paid directly to the Minister in accordance with the terms of the order. The order itself will be provided both to the liable person and their employer and will set out the amount to be deducted, the timing and duration of those deductions and penalties for non-compliance, which would be enforceable under the powers provided in chapter 5.

3.15 pm

The power to issue those direct deductions from earnings is a significant intervention in an individual's financial circumstances, so it is critical that the decision-making process is fair, consistent and proportionate. That raises serious questions about the seniority, training and discretion of those in the Public Sector Fraud Authority who will be responsible for making those decisions. How will PSFA staff be trained to assess an individual's ability to pay? What safeguards will be in place to ensure that the deductions do not push individuals into financial hardship? How will PSFA staff be equipped to distinguish between wilful non-compliance and genuine financial difficulty? Without clear answers, there is a risk that this power could be exercised in a rigid and punitive manner rather than a way that takes into account an individual's circumstances.

Before making a deduction from earnings order, the Minister is required to provide the liable person with at least 28 days' notice of the order's terms, to give the person the opportunity to make representations, and to consider those representations before finalising the order or embedding its terms. Although we welcome the inclusion of a notice period and the right to respond, we do again have concerns about whether 28 days is sufficient and about why it is not possible to extend that period to allow individuals more time to challenge an order in complex cases, where there are exceptional circumstances or where the individual might have particular needs that need to be addressed that mean that they will struggle to respond within that timeframe because of health, disability, or other personal circumstances. What will be the criteria for varying or overturning an order based on representations made and might representations made out of time be considered when there are good extenuating reasons?

Although we recognise and support the Government's desire to ensure that recoverable amounts are paid, the provisions have to be implemented fairly and with due regard to individual circumstances. We seek assurances that PSFA staff will be given full and proper training and discretion to make reasonable judgments about affordability and compliance, that they will be of a senior enough grade and that the notice and representation period will be reconsidered to ensure that individuals have a fair opportunity to respond.

There must be robust safeguards to prevent financial hardship and to ensure that deductions are made proportionately given all of the circumstances. Would the Minister be prepared to reconsider elements of the clause, particularly on the 28-day period, to provide stronger safeguards and greater transparency in how the orders will be implemented to allow for the fact that the subjects of these orders may have very different abilities, capabilities and capacities to respond to the notices?

Georgia Gould: As the hon. Member set out, these are significant powers and it is essential that safeguards are in place. I assure him that the Public Sector Fraud Authority is committed to safeguards around vulnerability assessments, which will have to happen before any decision is made; maximum deduction amounts, as we have discussed; opportunities for representation, reviews and appeals, with a requirement to consider all representations; and the ability to notify a change of circumstances. The PSFA might decide not to make a deduction from earnings order if it becomes apparent that the deduction might cause a person significant hardship in meeting their ordinary living expenses.

As with the other powers we have discussed, if the individual does not agree with paying back the money voluntarily and refuses, the PSFA authorised officer will have to apply to court or tribunal to recover it. So there is an independent process in place to ensure that the ability to recover the debt and all the different processes that I have run through are safeguarded, and that circumstances of vulnerability and hardship are taken into account in the initial decision making. It is made explicit in the Bill, as it will be in the training for authorised officers, that the intention is to ensure that nobody is left in hardship by repayment of debt. That will be the intention of both the voluntary agreement and these powers if a court application is made in the event of a disagreement.

There are similar routes of appeal. There is the ability to have a decision reviewed by an authorised officer of a higher grade and to go to a first-tier tribunal if an individual wants to challenge it, so there are significant safeguards in place for the operation of these powers. It will give the hon. Member for Kingswinford and South Staffordshire some reassurance to know that they have been built from existing powers and good practice already in operation in government.

Question put and agreed to.

Clause 38 accordingly ordered to stand part of the Bill.

Clauses 39 and 40 ordered to stand part of the Bill.

The Chair: I call the Opposition spokesman, Mike Smith —sorry, Mike Wood—to move amendment 20.

Clause 41

AMOUNT OF DEDUCTIONS

Mike Wood: I struggle with my own name at this point in the afternoon, Sir Desmond. I beg to move amendment 20, in clause 41, page 25, line 16, leave out "40% of".

The Chair: With this it will be convenient to discuss clause stand part.

Mike Wood: We have tabled amendment 20 to remove the cap on the maximum deduction in cases of fraud. I should say from the outset that we would not expect deduction orders of above 40% to be used in most circumstances. For most circumstances, 40% is an appropriate maximum level for deduction orders to be set.

[Mike Wood]

However, we question whether having the legislative cap removes some flexibility. There might be particular circumstances where a lump sum deduction order would otherwise be imposed but there was not sufficient credit to be able to recover that money if a very high-income individual or organisation were involved without discoverable accounts from which a lump sum order might be made. In those circumstances, it might be appropriate for the Minister to seek an earnings deduction order of above 40%, if they are satisfied that the behaviour has been fraudulent and has caused loss to the taxpayer.

As we said this morning, our reasoning is simple. If an individual has committed fraud, then they ought to return the money as quickly as that can reasonably be done without causing extreme hardship and adversity. We have various concerns about the decision making within PSFA, but the capacity and ability of officers to make the decisions on affordability apply whether it is a 20% deduction order or a 99% deduction order—we need to resolve the decision-making process in any event. This is a probing amendment asking the Government to look at whether 40% will be appropriate in all circumstances and, if not, whether this can be managed through other means.

I move on to the broader content of clause 41. The clause sets out the proportion of a person's net earnings that may be deducted to recover amounts lost due to fraud or error. The Bill specifies that in cases of fraud, the Public Sector Fraud Authority may deduct up to 40% of a person's net earnings for the affected period. In cases of error, the PSFA may deduct up to 20% of net earnings. It is that first figure that we seek to change with our amendment.

We have concerns about the balance of probabilities standard that clause 41 relies on, which means that the PSFA must determine on this relatively low civil standard of proof whether the loss was due to fraud or error. That issue arises at various points in the Bill. It is a material distinction, as it significantly affects the deduction imposed on individuals. Although we certainly support the Government's seeking to recover 40% where individuals or organisations have the means to pay such an order, we would encourage the Government to consider whether, in very exceptional circumstances, that figure ought to be increased.

As Dr Kassem highlighted in evidence to the Committee, in regard to assessing fraud,

> "Do we have criteria that tell staff in the public sector how to differentiate between fraud and error? Is that agreed upon criteria to ensure that errors are not happening? Are they trained and do they have the proper skills to enable them to investigate without accusing, for example, innocent people and impacting adversely vulnerable individuals?"—[*Official Report, Public Authorities (Fraud, Error and Recovery) Public Bill Committee,* 25 February 2025; c. 6, Q2.]

That critical question goes across clause 41. I ask the Minister: how will PSFA staff be trained to make that distinction that Dr Kassem said was so difficult to reach? What agreed-upon criteria will they use to make those determinations? Will independent oversight be in place to prevent wrongful allegations of fraudulent behaviour?

The potential for subjectivity and inconsistency in these judgments could have serious consequences for those affected. We return to the issue of the code of practice, which will appear at some point before Royal Assent. The Minister is asking the House to legislate for sweeping powers without setting out the practical framework in which they will operate. It would be helpful if we could have further detail on whether elements of the code of practice might be published in draft form at an earlier stage, to allow Parliament to consider them as the Bill progresses, or at least detail as to how the Minister foresees the code of practice addressing the distinction between fraud and error.

3.30 pm

Subsection (1) states that the Minister may issue a deduction from earnings order only if they are satisfied that the terms will not cause the liable person, or those dependent on them,

> "to suffer hardship in meeting ordinary living expenses, and…are otherwise fair in all the circumstances."

These provisions appear to provide appropriate safeguards, but without detail they are of course vague and open to interpretation. We need to understand the criteria that will be used to judge whether someone is actually suffering hardship or is at risk of doing so. What assessment will be made of an individual's financial situation before deductions are imposed? How is

> "otherwise fair in all the circumstances"

to be defined and applied? This wording leaves significant discretion to those administering the system, yet without clear guidelines at this point that discretion risks being inconsistent, arbitrary or even unfairly applied. Of course, depending on what those guidelines look like, it is impossible for us or anybody else to judge whether the bar is being set at an appropriate point.

While we support efforts to recover fraudulently obtained money, there are questions around clause 41, particularly on those details that might be expected to fall within a code of practice in future, on how hardship and fairness will be judged in practice, and on what safeguards there are, beyond those vague words, to prevent wrongful categorisation of fraud versus error. We seek clear, firm answers from the Minister before the Committee can be expected to approve these powers. Without such assurances, there is a risk of severe financial harm, inconsistent decision making, and a lack of proper accountability. Is the Minister prepared to provide the necessary clarity to both the Committee and the wider House, and will she commit to publish details of those greater safeguards before the House of Commons concludes its consideration of the Bill?

Georgia Gould: The shadow Minister in his previous comments raised a number of concerns about there being too much flexibility in the Bill, but amendment 20 seems to contradict some of those points. I have been very clear as we have gone through the Bill that we want to draw on existing powers and protocol in Government to ensure that we are taking on practice that we know has worked elsewhere. The 40% cap is in place in other circumstances, so we think that it is fair and proportionate, and it aligns with other practice.

We have already discussed this issue, as part of the debate on amendment 19, but we strongly sympathise with the desire to recover money quickly from fraudsters.

The total deductions in an affected period must, as with a regular direct deduction order, not exceed either 40% or 20% of a liable person's net earnings—40% is the maximum for frauds, and 20% the maximum for error. These direct earnings orders apply only to individuals, not companies, as the shadow Minister indicated. These powers are not new; we are making them available to the PSFA, rather than creating brand-new powers, which provides assurance of their effectiveness and proportionate use. The total deduction maximum of 40% is in line with the DWP's existing direct earnings attachment powers and the Child Maintenance Service's deduction from earnings orders powers.

This appropriate and necessary flexibility in approach is provided for in the Bill under the direct deduction powers in two ways. First, the previously discussed lump sum direct deduction orders are not capped. If funds are available and the proposed deduction does not cause hardship, we can seek a higher level of deduction. Secondly, a lump sum direct deduction order can be issued and then a regular direct deduction order can be established. That is a better route than allowing for a high level of deductions; it builds on established practice and remains proportionate yet impactful. Crucially, it limits the disincentive to earn that an uncapped deduction from earnings order would create, consequently resulting in ineffective and inefficient recovery of public funds. I hope that I have provided reassurance: authorised officers can apply the appropriate debt recovery method to ensure efficient recoveries.

Clause 41 provides the conditions under which a deduction from earnings order may be made. We have ensured that the amount of debt we collect is fair. A key consideration throughout the creation of the debt measures was to robustly prevent hardship, learning from best practice across Government. We have also ensured that there is proportionality in the way we approach fraud-related debt versus debt accrued due to error. The definitions are set out in the Fraud Act 2006. The challenge was to balance these needs with the necessity to send a strong deterrent message to those who have the means to pay their fraud and error-related debt to Government but refuse to do so. That is why we have established maximum limits based on whether debt was accrued due to fraud or error. Clause 41 caters for this by ensuring that the terms of the order will not cause the liable person—or person living with, or financially dependent on, the liable person—hardship in meeting ordinary living expenses. The terms of the order are also required to be otherwise fair in all circumstances.

The hon. Member for Kingswinford and South Staffordshire raised a number of questions on the training of authorised officers. One very positive step of the setting up of the Public Sector Fraud Authority under the previous Government has been the professionalisation of those who work in fraud across Government. PSFA authorised officers will be trained to professional standards and will use clear best practice standards. We will set out further details in regulations and public guidance, but what is critical and I hope offers some reassurance is that this provision will follow the Government debt management function standards, which are publicly available and which I will share with the Committee after this sitting.

Mike Wood: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn

Clause 41 ordered to stand part of the Bill.

Clause 42

THE EMPLOYER'S ADMINISTRATIVE COSTS

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

Georgia Gould: Clause 42 enables an employer to deduct administrative costs that they reasonably incurred when complying with a deduction from earnings order from the liable person's earnings. A deduction from earnings order will either specify an amount, or the amount will be calculated in accordance with the order. Regulations can be made regarding the employer's administrative costs. This regulation-making power will be used to introduce a cap on the charges that can be imposed under this clause, which can be adjusted in line with inflation and to ensure that the charges remain reasonable at all times.

This is in line with the approach taken by the Department for Work and Pensions. The regulations relating to direct earnings attachment powers state that employers may take up to a maximum of £1 per pay period for administrative costs. To safeguard against this causing unintended hardship, we must take account of deducting the employer's administrative costs for the liable person when complying with the hardship considerations and the limitations on the amount to be deducted outlined in clause 41. This will ensure that the deduction from earnings order and deduction of the employer's administrative costs does not cause the liable person—or those living with a liable person or financially dependent on them—hardship in meeting ordinary living expenses, and that the deductions are otherwise fair in all circumstances.

The clause is essential to ensure that employers are adequately compensated for the administrative efforts required to comply with the orders, thereby facilitating the efficient operation of debt recovery processes while protecting liable persons from undue financial strain through compliance with hardship safeguards. I commend it to the Committee.

Mike Wood: Clause 42 provides that when an employer receives a deduction from earnings order, they may also deduct an amount from the liable person's earnings to cover reasonable administrative costs incurred in complying with the order. As with the mirror provision for banks, we need greater clarity on what will be considered reasonable administrative costs for employers, and what the Minister would expect to appear in the regulations. Specifically, can the Minister provide a definition or specific example of the costs that employers may claim? Have the Government conduced an assessment of the potential financial impact of this provision on employers, on the total funds ultimately recovered by the Treasury and on the subject of the deduction order?

Will there be a cap on the amount employers can deduct, to prevent excessive costs? The Minister referred to a framework. I do not know whether she meant to suggest that there might be a percentage cap and whether that is how she intends this to operate. If employers are able to deduct costs, there is a risk that a significant

[Mike Wood]

portion of recovered funds, or employees' earnings, could end up being absorbed by employers' administrative expenses, rather than being returned to the public purse or finding their way into the employee's pay packet.

Clause 42 gives the Minister the power to make regulations regarding those costs. Given the lack of detail at the moment as to what would be contained in those regulations, can the Minister at least outline what specific types of regulations the Government expect to introduce under that power? Presumably, she will commit to consulting the normal range of stakeholders—employers, employee groups and other stakeholders—before setting those regulations. Will the regulations include a maximum allowable deduction—either a fixed sum or a proportion of the value of the order—to prevent disproportionate employer charges?

We are content for clause 42 to stand part of the Bill, as the principle of allowing employers to recover genuine and proportionate costs is reasonable, given the responsibilities being placed on them. However, we need the Government to provide an adequate explanation as to how this provision will operate in practice. We urge the Minister to provide clear assurances that the measure will prevent excessive deductions, while allowing employers to make sure that they are not out of pocket as a result of administering a deduction from earnings order. If the Minister can outline the specific safeguards to ensure that the employer cost deductions remain fair, transparent and proportionate, we are happy for the clause to remain in the Bill.

3.45 pm

Georgia Gould: As the hon. Member set out, the clause authorises regulations to be made regarding employers' administrative costs. That will be used to introduce a cap on the charges that can be imposed under the clause. That cap can be adjusted in line with inflation and to ensure that the charges remain reasonable at all times. That is in line with the approach taken by the DWP, which outlined the amount that an employer could charge for its administrative costs under regulation 20(9) in part 6 of the Social Security (Overpayments and Recovery) Regulations 2013. The amount specified in that regulation is £1, and we expect to mirror existing regulations, but this measure gives us the power to keep the amount under review in line with inflation.

An impact assessment has been published, and we expect the impact on businesses to be minimal. There is existing practice on this that works well.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Clause 43

SUSPENSION OF DEDUCTION FROM EARNINGS ORDERS

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

The Chair: With this it will be convenient to discuss clauses 45 to 49 stand part.

Georgia Gould: Clause 43 and clauses 45 to 49 set out clear processes for the variation, suspension and revocation of deduction from earnings orders and establish the review and appeal rights. There have been many questions about those rights, which form a critical part of the Bill.

Clause 43 defines the circumstances under which the operation of deduction from earnings may be suspended. An order may be suspended and restarted at any time. For that to happen, notification must be provided to the employer to which the order was originally given. We must then notify the liable person if the requirement to make deductions and payments is suspended or restarted. The clause is necessary in order to provide flexibility, by allowing us to suspend and restart orders as needed. That ensures responsiveness to changes in circumstances, while maintaining clear communication with employers and liable persons, and a fair and transparent debt recovery process.

Clause 45 outlines that a liable person can apply to vary a deduction from earnings order. The applicant must be notified of the decision on the application. The clause is essential to the Bill, as it is a key safeguard that protects the liable person, giving them the opportunity to notify us, for example, of any changes in circumstances that would impact what they can repay. That ensures that the debt recovery mechanism is fit for purpose and for use, by allowing the order to remain appropriate and in line with the circumstances of those affected.

Clause 46 allows for a deduction from earnings order to be varied on application by the liable person or otherwise. That will be achieved by giving a revised version of the order to the employer and giving a copy of the revised version to the liable person. Where we propose to vary a deduction from earnings order, we must give the liable person an opportunity to make representations about the proposed variation.

Clause 46 safeguards the use of the powers. By allowing the deduction from earnings order to be varied, with an opportunity for representations to be made, the clause enables flexibility in the debt recovery process. That ensures that repayments remain fair and appropriate, while ensuring transparent communication with the employer and liable persons.

Clause 47 provides the authority to revoke a deduction from earnings order. The order must be revoked if the payable amount has been recovered. If the direct deduction order is revoked, notice must be given to the employer and the liable person. The clause is necessary to ensure that deduction from earnings orders are promptly revoked once the payable amount has been recovered, preventing overpayments and ensuring transparency with employers and liable persons.

Clause 48 establishes the process to request an internal review of decisions made by our trained authorised officers around deduction from earnings orders. The liable person will have 28 days from being notified of an order, or of a decision pertaining to a request to vary an order, to request a review. They cannot use the internal review to challenge the amount owed, as that will already have been settled—that is similar to previous clauses. Instead, the review can be used, for instance, to challenge whether a deduction from earnings order is the most appropriate form of repayment or whether the deduction amount is fair and affordable.

The reviewing officer will be of a higher grade than the original decision maker. They may decide to uphold, vary or revoke the deduction from earnings order. The decision will be based on an assessment of the material held and any relevant new information provided by the liable person. Internal reviews provide a straightforward and affordable way for the liable person to present a challenge to deduction from earnings order decision making.

Clause 49 establishes the process for lodging an appeal of a review decision around deduction of earnings orders. Appeals will be heard at the first-tier tribunal. Appeals can be lodged only following an internal review. The liable person will have 28 days from being notified of the internal review decision to lodge an appeal. They cannot use the appeal to challenge the amount owed; that will already have been settled. The tribunal judge may decide to uphold the appeal and vary or revoke the deduction from earnings order accordingly. They could also decide to throw out the appeal.

We are developing strong and effective oversight of all measures in the Bill. It is important that there is the opportunity for independent tribunal oversight of these powers to ensure that fair, due and proper process is followed. Together, these clauses set out clear and transparent processes concerning deduction from earnings orders. That is important so that the liable person knows their rights, employers know their obligations, and the Government can fairly and collectively recover what is owed.

Having outlined the key provisions in clauses 43 and 45 to 49, I commend them to the Committee.

Mike Wood: Clause 43, as the Minister said, grants Ministers the ability to suspend and restart deductions under a deduction from earnings order at any time by notifying the employer. As with the equivalent measures relating to direct deduction orders, we are looking for further details on the circumstances in which the Government anticipate that this power is likely to be used and whether the PSFA will be required to regularly review the liable person's financial situation to assess whether deductions remain fair and sustainable. Is there a systematic review process planned or in place under this legislation to ensure that deductions do not cause financial hardship, or does the legislation rely on the subject of the deduction order appealing against it if those charges become excessive?

Clause 45, which relates to applications to vary a deduction from earnings order, allows the liable person to apply to the Minister to vary an order and requires the Minister to notify the individual of their decision. How soon after an order is issued is it envisaged that an individual would be able to apply for a variation? A balance obviously needs to be struck between allowing for variations to reflect genuine changes in the circumstances and preventing people from seeking to frustrate or hold up the system. It would therefore be helpful to have a better understanding of the specific circumstances that are to be considered as valid grounds for varying an order, and whether the Government have any level of expectation as to what percentage of applications will be successful, based on either precedent from other schemes or the operation of the PSFA in its current form. If an application is refused, is there an appeals process beyond clause 49, which provides for the tribunal appeal, or is that envisaged as the final decision-making body?

On clause 46 and the process for varying deduction orders, subsection (2) states that before a variation is made, the liable person must be given an opportunity to make representations regarding the proposed changes. If an order is revised, both the liable person and their employer must be notified. Will the Minister outline how a liable person will be able to make representations? Will it be purely in writing, online or via a hearing? Within what timeframe is the liable person permitted to submit that response?

Clause 47 grants the Minister the power to revoke a deduction from earnings order, and requires revocation once the full payable amount has been recovered. Beyond recovery of the full amount, in what other circumstances may a deduction from earnings order be revoked?

On clause 48 and applications for a review of the Minister's decision, a liable person can ask for a review. On the timeframe, we discussed extenuating circumstances in relation to other clauses, and the Minister indicated that she was willing to go back and consider whether some flexibility over time periods might be appropriate to allow for exceptional circumstances. Is she able to confirm that that also applies to clause 48?

On the grounds for review, the Bill states that applications cannot be based on the "existence or amount" of a payable sum—as the Minister indicated, that will have already been set by an independent body, or will at least be reviewable by an independent body. What grounds for review does she see as being considered valid under clause 48?

Skipping ahead to the first-tier tribunal in clause 49, we agree with that provision because, again, it provides an independent avenue for appeal and ensures due process. On the timeframe for lodging that appeal, would it be appropriate to allow appeals that would otherwise be out of time where particular circumstances apply that explain why an application could not be made within the usual 28 days?

Although we broadly support the mechanisms set out in clauses 43 to 49, there are key areas where we will be looking for more clarity and detail either today or as the Bill progresses, particularly around the key issues of fairness, proportionality, the application of deduction from earnings orders, and clear, accessible processes for reviews and appeals. Will the Government commit to publishing detailed guidance as early as possible on the processes governing variations, revocations and appeals, and also consider amending the Bill to ensure greater clarity around the very rigid time periods?

Georgia Gould: Let me take those questions in turn. The process of review is similar to the one we previously discussed: the decision will first be reviewed within the PSFA by an authorised officer of a higher grade, and then go to a first-tier tribunal. It will be up to the first-tier tribunal whether it takes late applications, and then there will be the ability to go to an upper tribunal.

In terms of the information about a change in an individual circumstance, it would be up to the individual to inform the PSFA. It will not be doing its own monitoring of any change in circumstances. The authorised officers will give the individual clear guidance on how to contact the PSFA about the change of circumstances.

[Georgia Gould]

As for why a deduction from earnings order might be suspended and restarted, that would potentially be due to a change in the liable person's employment or financial circumstances, or as part of administrative adjustments. Suspension allows for appropriate reassessment, ensuring that deductions remain fair and aligned with the individual's current situation. For instance, if a liable person changes jobs, the suspension enables the updating of payment arrangements with the new employer. Additionally, it may be necessary to suspend deductions temporarily in the case of financial hardship to prevent undue burden to the liable person. The flexibility to suspend and restart ensures that the debt recovery process is effective and equitable.

4 pm

A deduction from earnings order might also be varied, for example, if somebody had a child and they were not able to meet the requirements of their normal living circumstances, or if they suddenly lost their job. We would look at a whole range of exceptional circumstances and encourage anyone to come forward with any such circumstances to the authorised officer. We would ask them to provide evidence, but, as we have discussed, the officers would be highly trained and would look at best practice in debt recovery across government.

On the point about our timescales, again, I am very happy to continue to look at that, as I have said.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

DUTY TO NOTIFY THE MINISTER OF CHANGE OF CIRCUMSTANCES

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

Georgia Gould: Clause 44 outlines the duty of a liable person to inform the Government of any changes to their employment while they are under a deduction from earnings order. It also establishes the responsibility of the employer to let us know if the liable person leaves their employment. If the liable person takes up new employment elsewhere and informs their new employer of their deduction from earnings order, the new employer must also inform us. There is precedent for this approach in child maintenance service legislation—in section 32 of the Child Support Act 1991—with its similar deduction from earnings attachment powers.

Failure to comply with these obligations could result in an authorised officer issuing a non-compliance penalty under chapter 5. There will be review and appeals rights to penalties, as well as a published code of practice. The purpose of deduction from earnings orders, and indeed all our recovery activity, is to effectively and efficiently recover debt so that vital funds can be used for the collective good.

We will also support people changing jobs, if that is what they want to do. However, we will not support them if they are doing so to try to frustrate repaying what they owe. It will be a very simple process to let us know of changes in employment, and someone employing a person on a deduction from earnings order will already be regularly engaging with us on the repayment, so this will add minimal impact to the employer. So there is minimal impact on the liable person and minimal impact on the employer, but maximal impact in ensuring the straightforward collection of moneys owed. I commend clause 44 to the Committee.

Mike Wood: Clause 44 introduces new obligations for liable persons and their employers in relation to deduction from earnings orders. The clause requires that, if a liable person leaves employment, they must notify the Public Sector Fraud Authority, and, if they start new employment, they must notify the Minister, including a statement of their expected earnings in any new roles. Employers are also subject to strict notification requirements. If an employer hires a liable person who is subject to a deduction from earnings order, and is aware of that, they must notify the Minister within 10 days of hiring the individual and provide a statement of the liable person's expected earnings.

How will the Government ensure that those new requirements do not create unnecessary administrative burdens for employers? To what extent do they fit into obligations that employers, and particularly new employers, already have? Will there be a simplified digital system for submitting notifications? Can that be done alongside other notifying processes that employers must already follow? To what extent have the Government engaged with businesses, particularly small and medium-sized enterprises, to assess the impact of the new obligations?

On the notification process, how exactly are liable persons and employers expected to submit these notifications? Will it be an online portal or physical documentation? Will there be a standardised form or system to streamline that process?

Can the Minister also confirm what penalties or consequences will apply if either a liable person or an employer fails to comply with these notification duties? Will there be a grace period or flexibility for employers who unintentionally fail to meet the 10-day notification requirement? As with other clauses in the Bill, it would have been helpful to see the draft code of practice before assessing how this clause will operate in practice. It would be helpful if the Government published detailed guidance during the passage of the Bill on how they intend to regulate the responsibilities of both employers and individuals.

Clause 44 imposes important compliance obligations, so it is critical that these do not unfairly burden employers or create practical difficulties for individuals subject to deduction orders. Will the Minister provide as much detail as possible, as early as possible, on the notification process before the clause comes into effect?

Georgia Gould: I reassure the shadow Minister that there has been consultation with business representatives, and there will be further consultation as we move forward. This is a very simple action. In the event that an employee is already subject to a DEO, the employer will already be in contact with the authorised officer, so it is just a process of informing them of a change in circumstances. An employer would be very unlucky to have more than one individual who was subject to this

kind of order and who had defrauded the state. We do not expect this to be a big burden on businesses; it is a small number of people.

As I have set out, this provision will be used in the last instance. We want to engage people to pay back the money that they owe collaboratively and voluntarily, and there are real disincentives to getting to this place for employees, but they are there as a safeguard. We do not expect there to be large numbers, and we think that it is a very simple thing for employers to do—indeed, it is very simple for the employee to do. There is a tight timeframe, but if the individual is paying back money that has been shown to be defrauded from the state, and they change jobs, they should be able to inform the PSFA very quickly of the money that they owe.

Mike Wood: Where the individual has not notified anyone of their new employment, does the Minister expect a new employer to have any way of finding out that a new employee is subject to one of these orders? Obviously, there is the question of whether employers are aware. Particularly for small employers, I am not sure that they would necessarily understand the significance of an oblique reference to one of these deduction orders. People are obviously familiar with child maintenance deductions but less so with one of these cases. How can that be addressed?

Georgia Gould: A new employer can inform the PSFA only if they are aware that this is in place. That will be clear in published guidance. If they do not know, they obviously cannot inform us, and they will not be penalised; I want to reassure the shadow Minister on that point. There will be a £300 fixed penalty for failure to comply with the requirement—that is only a genuine failure to comply—and we will provide more information on the penalties as we move forward.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill.

Clauses 45 to 49 ordered to stand part of the Bill.

Clause 50

PENALTY RELATING TO FRAUD

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

The Chair: With this it will be convenient to consider clauses 51 to 55, 59, 61 and 63 stand part.

Georgia Gould: This is a large grouping of clauses that cover the heart of this part's new civil penalties, so the Committee will understand if I cover these issues in some depth.

Clause 50 grants essential civil powers to give the PSFA a range of options with which to tackle fraud cases. These powers may be used against individuals in England and Wales. Having access to both criminal and civil powers will allow the PSFA to be more flexible and take on a broader range of cases. This access also removes unnecessary pressure from our already overburdened courts, as criminal cases are often complex and time-consuming. That means that the PSFA can deal with more cases and in a more cost-effective and efficient manner.

Penalties are a key part of the deterrent message that this Government wish to send by delivering the Bill: that fraud will not be tolerated. It is not enough to simply recover money lost to fraud and error. A clear message must be sent that fraudulent actions have consequences. That is why the Bill allows penalties of up to 100% of the fraud loss. That power reflects the broad range of fraud the unit will encounter.

There is a well-established precedent of the effectiveness of civil penalties across Government—for example, in HMRC, the Treasury and the Environment Agency. The introduction of a robust civil penalties regime shows that there are meaningful consequences for breaking the law, even when prosecution is not appropriate or achievable.

Aligning with other Departments—for example, HMRC and Treasury—the PSFA will issue civil penalties to the civil burden of proof. The PSFA will not offer offenders a choice between a civil penalty and a criminal prosecution. Criminal prosecution and civil penalties will be two distinct options for dealing with fraud cases. An authorised officer must prove an offence to the civil standard of proof—that on the balance of probabilities, evidence shows it is more likely than not that fraud occurred. The test will be informed by the professional experience, expertise, judgment and objectivity of an investigator and will be tested against legal expertise. Final determinations will be cleared by senior experienced investigators within the PSFA. This strong power is justified by the type of fraudsters we are pursuing.

The PSFA can also pursue the recovery of incorrect payments as a result of genuine error via its debt recovery powers. However, we will not be penalising individuals and businesses who make genuine errors. We are targeting those who deliberately seek to defraud the public purse. The unit will also not be issuing penalties for payment resulting from official error.

This key power is underpinned by robust oversight and layers of protection for individuals and businesses. We will be talking shortly about the safeguards that have been put in place to ensure there are sufficient opportunities for individuals and businesses to make representations, request internal reviews of decisions and appeal to the relevant courts. Every opportunity has been given to ensure that no one will be penalised in error or unfairly.

I turn to clause 51. We know that there is a broad range of fraud attacks against the Government, from one-off cases by individuals to complex and organised attacks from supposedly legitimate businesses. It is therefore essential that the PSFA has the necessary powers to issue a civil penalty not only to any individual who commits fraud, but to any business that does so. There is precedent for this power being successfully used across Government, for example in HMRC and the Home Office, which penalise businesses in relation to tax matters and for employing illegal workers. Having the power to impose a penalty on an individual on behalf of a business, in addition to on the business itself, is essential to ensure that businesses and employees may be held accountable for their actions.

4.15 pm

Clause 52 sets maximum penalty levels that are designed to send a clear message to fraudsters that their actions have significant consequences. It is not enough simply to recuperate the money lost to fraud; fraudsters must feel the consequences of their actions. The most effective way to ensure that they do so is through financial penalties. That is why the power to penalise a benefit gained in addition to a loss caused to a public authority, including any attempted benefit or loss to a public authority, is so important.

These are not unprecedented penalty rates. There are many examples across Government, including His Majesty's Treasury and the Environment Agency, of significant penalty rates being successfully used not only to deter and punish fraudsters, but to drive behavioural change. Although the legislation permits a maximum penalty amount, we will take a variable approach to ensure that the penalty is appropriate in each case. As set out in clause 62, that approach will be further detailed in a code of practice, which we will consult on and publish ahead of the first use of the powers.

I turn to clause 53. Fraudsters are resourceful, and often attempt to frustrate and delay investigations simply by not complying with requests for information that would otherwise help investigators to build an accurate picture of a case. We have therefore designed a power to tackle and discourage non-compliance with the Bill's wider powers. Those who do not comply with requirements imposed by our investigatory powers and powers to recover moneys owed will be penalised.

That power serves as an important incentive not only to encourage compliance with wider powers in the Bill—for example, on information gathering and debt recovery—but to ensure that cases may be pursued and closed as effectively and efficiently as possible, which will deter fraudsters from attempting to prolong or frustrate cases. Such powers have a precedent in HMRC and DWP, which apply penalties to individuals who are not themselves party to committing fraud, but are third parties who are subject to requests for information sharing. I will come to the specific rates for those penalties when I speak to clause 55.

Turning to clause 54, we know that there is a broad range of fraud attacks against the Government, from one-off cases by individuals to complex and organised attacks from supposedly legitimate businesses. It is therefore essential that the PSFA has the power to issue a civil penalty, not only to any individual who does not comply with requirements of the Bill, but to any businesses that do not comply. This clause incentivises individuals in businesses to act to ensure compliance with wider measures in the Bill by both their business as a whole and by individuals acting on behalf of the business. It does so by allowing penalties to be imposed on relevant individuals, as we discussed in clause 51, as well as on the business itself.

I turn to clause 55. Fraudsters are resourceful and often attempt to frustrate and delay investigations simply by not complying with requests for information. For that reason, we have designed a power that tackles and discourages non-compliance. This power serves as important incentive not only to encourage compliance with wider powers in the Bill, but to ensure that cases may be pursued and closed as effectively and efficiently as possible. It deters fraudsters from attempting to prolong or frustrate cases. There is an existing precedent for such powers in HMRC and DWP.

Non-compliance penalty levels are designed to strike a balance between encouraging compliance, to ensure cases are promptly resolved, and preventing unnecessary financial burdens. The clause specifies that the penalty for non-compliance with a requirement to provide information must be calculated based on a daily rate of £300. The daily rate will be applied for each day that the failure continues, commencing on the day after the deadline for compliance passes. The clause also specifies that for non-compliance with any other requirement imposed by or under chapter 2 or chapter 4—for example, closing a bank account to prevent the recovery of incorrect payments—the penalty must be a fixed amount of £300.

Non-compliance levels have been determined by assessing current best practice used across Government, namely in HMRC and DWP. It is not possible to determine the "perfect" penalty rate; the PSFA will face a wide range of fraud, perpetrated by actors ranging from individuals to organised crime gangs, and it must therefore have appropriately sized penalties that provide sufficient deterrence. The PSFA has sought to ensure that rates balance the need to provide a strong incentive for fraudsters to pay penalties on time and not to frustrate investigations, while ensuring there is no disproportionate impact on the vulnerable, including those facing financial hardship or smaller businesses.

People will have the ability to make representation to the PSFA on any grounds following the receipt of a non-compliance penalty. During that process, they will be able to set out any impact on themselves or their business. After that step, they will have a further opportunity to request an internal review of the penalty and appeal to the appropriate court. The Bill also provides the power by regulation to amend the non-compliance rates to reflect changes in the value of money over time.

Clause 59 is the mechanism through which penalties under clauses 50 and 53 are imposed. The ability to impose penalties is essential to the PSFA. It sends a clear message that fraud against the public sector, and failing to comply with investigations into fraud against the public sector, is not acceptable. The clause 59 penalty notice is the final step, and is taken after a transparent investigation has concluded that there has been public sector fraud or a failure to comply with requirements. Sufficient time has been given for representations to be made and reviews to be requested and determined.

Recourse to appeal the award of the penalty notice to the appropriate court follows under clause 60 and triggers the timeline by which a person must pay before the PSFA may use its debt recovery powers. Although a person will be required to pay a penalty of a specified amount to the Minister

"on or before a specified day",

it is the PSFA's intent to give an appropriate timeframe in which to do so—normally 28 days, unless there are exceptional circumstances. As clause 62 outlines, the code of practice will set out details on the administration of penalties, including the making of decisions, how penalties are calculated and how discounts may be applied.

I now turn to clause 61. It is not enough to have the power to issue penalties to send a clear message to fraudsters that their actions have consequences; fraudsters must have a clear incentive to pay back money that they have stolen. That is why the PSFA will be applying interest on penalties, to ensure a significant deterrence impact for potential fraudsters and to ensure that those who commit fraud are encouraged to return money owed as quickly as possible. There is well-established precedent for the effectiveness both of civil penalties and of applying interest on those penalties to drive behavioural change. For example, HMRC applies interest to late payments of pay-as-you-earn assessments. A robust civil penalties regime that includes interest being applied shows that there are meaningful consequences for breaking the law, even when prosecution is not appropriate or achievable.

Clause 63 outlines the relationship between penalties and criminal proceedings, ensuring a person is not penalised twice, in both a civil and a criminal manner, for the same act. That is an essential safeguard in the Bill. The clause supports the fundamental principle of natural justice, preventing the injustice of double jeopardy—an individual being penalised twice for the same wrongdoing—and thereby upholding confidence in legal and administrative proceedings.

Mike Wood: As the Minister said, this is a large group of clauses, so I will try to get through them as quickly as I can. However, given that the provisions grant the PSFA the power to impose penalties on individuals and organisations—powers more often associated with a court or a tribunal—it is important that that we are confident that it is going to do so in a fair, proportionate and effective manner and with due regard to the aims of this legislation.

Clause 50 grants the Minister the power to impose penalties where, on the balance of probabilities, they are convinced that a person has committed fraud to obtain an incorrect payment for themselves or another, or has committed fraud resulting in a loss to a public authority. The decision to impose a penalty must be made by an authorised officer.

The clause states that the fraud must result in a loss to a public authority, but, in evidence to the Committee last week, Dr Kassem raised concerns that fraud is not always financially motivated. She said that

"the definition of fraud can be a bit limiting in the current Bill, because, first, it assumes that fraud is happening for financial reasons when that is not necessarily the case. There are non-financial motives…A disgruntled employee can be as dangerous as someone with a financial motive." —[*Official Report, Public Authorities (Fraud, Error and Recovery) Public Bill Committee,* 25 February 2025; c. 6, Q3.]

Will the Government look again at how this Bill might be amended so that it can better tackle fraud carried out for personal gain, even if that gain is non-financial, where it causes the public sector organisation to suffer loss?

Clause 51 allows penalties to be imposed on individuals within an organisation. Dr Kassem also said,

"when you talk about fraud, you are talking about fraud committed against the public sector by individuals as well as organisations. The procedures cannot be the same in each case". —[*Official Report, Public Authorities (Fraud, Error and Recovery) Public Bill Committee,* 25 February 2025; c. 5, Q2.]

Can the Minister explain how the Bill differentiates between fraud by individuals and fraud by organisations, or are the approaches broadly similar under the Bill?

Clause 52 states that a penalty may not exceed 100% of the loss to the public authority or the benefit gained by the individual or organisation. Can the Minister clarify how the Government decided upon that as a maximum penalty? Is there an equivalent figure in other legislation that has been used as a comparator? The Bill allows banks and employers to claim administrative costs when handling fraud-related deductions, as we debated earlier today, so have the Government assessed how administrative costs are likely to compare with penalty amounts?

Turning to clause 53 and penalties for non-compliance, the clause allows the Minister to impose a penalty on a person or body that fails to comply with the requirements in chapters 2 and 4. Can the Minister clarify who the authorised officer referred to within the clause is? If they are to decide upon penalties to be imposed, what level of seniority will they have? Will there be any independent oversight of those decisions?

Clause 54 sets out liability of individuals for organisational failures and extends penalties to individuals within an organisation that fails to comply with investigatory or recovery requirements. How will failure to prevent non-compliance be assessed? How will due diligence measures be taken into account? Will there be an element of a safe harbour principle, where people can demonstrate that they had sought the best advice or otherwise taken reasonable measures, but that in spite of those the fraud had not been prevented?

On clause 55, regarding fixed and daily penalties, the clause sets penalties for failing to provide the information at a daily rate of £300 for continued failure to provide information, or a fixed penalty of £300 for other failures to comply. Can the Minister explain why £300 has been chosen as the penalty amount? Is there any significance to the sum? Clearly, £300 is a significant amount of money for most individuals, apart from the extremely wealthy, but it may not be as significant a sum for many organisations, particularly if we look at serious organised fraud. To what extent does the Minister believe that £300 will prove to be a deterrent or effective penalty?

Neil Coyle (Bermondsey and Old Southwark) (Lab): I share some concern about the £300 being on the face of the Bill. It is unusual to have the figure stipulated there. Would the Opposition prefer the figure to be stipulated in the code of practice, the guidance or the statutory instruments that go with the legislation, so it can be more easily adjusted over time?

4.30 pm

Mike Wood: I am very pleased to have this visibility of an important element of the Bill. That is one of the reasons why it stands out among so many of the references to codes of practice and other regulations yet to be decided. I do not think that the Government will struggle to amend the figure as appropriate, as time goes by, to allow for the changing value of money, but I would like to hear from the Minister whether she feels that there is a risk that the amount of £300 is too low to deter large organisations from ignoring such requests.

[Mike Wood]

On clause 59, which confirms that the penalties will be imposed by formal notices, I would like to know about the mechanisms that will be in place for individuals and organisations to challenge the penalty notices specifically, as distinct from challenging the other notices under the Bill. Clause 61 sets the interest on late penalty payments at 2.5 percentage points above the Bank of England base rate. I understand that that is the same as the HMRC interest charge for late payments. Has any economic analysis been conducted to determine whether that level of interest serves as an effective deterrent, based on HMRC's own experience?

Clause 63 states that a penalty cannot be imposed if the person has already been convicted of an offence for the same act. Likewise, if a person has already paid a penalty, they cannot later be prosecuted for the same offence. I thank the Minister for confirming that there will not be a choice on whether to pay a penalty rather than being prosecuted, but I am interested to hear what measures will be put in place for guidance on the decision-making process within the PSFA to ensure that the appropriate channel is used in each case, and that a loophole is not created whereby some individuals or organisations get away with what might be a relatively modest penalty payment, while others are subject to criminal prosecution for similar transgressions.

I think I have covered all the clauses. I would be very grateful if in particular the Minister could offer some clarification on the question of why the Bill appears to be limited solely to financial fraud, and on that differentiation between individual organisations.

Siân Berry: I have more serious questions about this part of the Bill than I have had about any other. I question the additional penalty notices: what goals do they have and will they be achieved? I can see that Ministers seek to go beyond simply recovering lost funding, when it comes to issues of error or fraud that results from personal misunderstandings and so on, and that they want to be able to act more quickly and efficiently on slightly more organised defrauding of public bodies. However, I do not see how the Bill helps with the biggest fish, who are taking huge amounts of public money, potentially through fraudulently obtaining contracts, fraudulently setting out work that they did not do, or fraudulently stating the quality of the work they will do or the materials they will use.

At the end of chapter 5, the Bill states that if a person has received a fixed penalty, they cannot now be prosecuted. I wonder whether these fixed penalties will be just the cost of doing business for the biggest, most commercial fraudsters, while being potentially disproportionate towards people who may be taking smaller amounts away from the DWP in particular.

We received written evidence from the charity Turn2us, whose representatives are worried about the way that the Bill as a whole does not seem to create a clear enough distinction between fraud and error. Turn2us highlights that it might act as a deterrent to people who are more vulnerable, or older, or who would worry excessively about falling foul of these regulations and being accused, on the balance of probabilities, of doing fraud if they make a mistake. There is already stigma attached to claiming things from the Government, which may deter people.

On Second Reading, and to some extent during the Committee evidence sessions, we discussed examples of people sharing tips and potentially their own personal experience online, in a way that encourages other people to make misrepresentations towards the Government. These penalty notices are not as well drawn as the measures already considered by the Committee in terms of their potential harms. They are fixed penalties, and the Minister is setting the amounts to try to strike a balance between the poorest people and the highest-level, most organised criminals.

I foresee in my future casework people coming to me whose lives started to spin out of control when they were given this kind of penalty notice on top of having to pay back money they had received. The repayment amounts will have been calculated according to what they could afford, but these fixed penalties have fixed deadlines and interest attached. Somebody could make a mistake in the process of dealing with the authorities and be subject to the additional £300; then, if they do not pay that, there are further penalties attached.

I worry that this chapter is not very well put together in terms of safeguards on how it might affect people. I might get reassurances in this debate about what the Bill is intended for; of course, if somebody is out there giving intentionally fraudulent bad advice, all the people who they give advice to will not be brought into a mass fixed penalty issued as a result of the investigation. We will avoid that. However, there has already been creeping use of repayments by the DWP in relation to recovering money from people when official error has been made. As stated in the written evidence that we received from the Public Law Project, assurances were made that the DWP does not

"have to recover money from people where official error has been made, and we do not intend, in many cases, to recover money where official error has been made."—[*Official Report, Welfare Reform Public Bill Committee,* 19 May 2011; c. 1019.]

That was said to a previous Bill Committee when this process was introduced in legislation, but it is now more or less default practice for the DWP to recover money when official errors have been made. We all, as MPs, have many examples in our casework of people who have got into terrible trouble due to unexpected claims for overpayments made as a result of official error.

I have serious concerns about these clauses. I would like to hear more from Ministers about who they are really aimed at, and about whether they will be effective against the big players, or just create potential harm for people who are the smaller fry involved in these kinds of operations.

Rebecca Smith: I have a few requests for clarification about this group of clauses. The point that my hon. Friend the Member for Kingswinford and South Staffordshire made about clause 63 and wanting to avoid double jeopardy makes complete sense, but it raises a question—forgive me if this is covered somewhere else, perhaps in other legislation. As I listened to the Minister and other hon. Members, it struck me that this part of the Bill is about civil penalties, and we looked earlier at criminal penalties, but where are the criminal penalties for organisations? We have talked about the differential, but in our earlier conversations it felt like we were talking more about specific individuals who might have committed fraud. I may have missed that in the Bill or elsewhere, but I wanted to ask that question, particularly following the points about double jeopardy.

I also seek clarification on clause 51, particularly in respect of the need to deal with potential internal civil service fraud. It jumps out that the definition of "relevant individuals" covers businesses, membership organisations and so on, so I want to double-check where the civil service will be incorporated. I assume it could be an unincorporated association under subsection (3)(e), but I am not sure about that.

I want to highlight something that came up in our pre-meet with the Ministers. A 2023 National Audit Office report highlighted the difficulties with whistleblowing, particularly in respect of senior colleagues. That is a problem in the private sector too, but we are here to look at public authorities. What safeguards have been put in place to ensure that more junior civil servants are able to raise concerns about more senior members of staff, particularly in the light of research highlighting that that is particularly tricky? Does that need a bit more work as the Bill makes progress?

Siân Berry: I forgot to make a point earlier about the common practice with penalty notices of offering a person the ability to pay less if they pay sooner, but if they exercise their right to appeal, they lose that discount. That is how penalty notices are often presented. The Minister assured us that people will be able to state in appeals that they are subject to hardship, but that practice effectively negates the point of appealing. Could Ministers introduce a prohibition on offering that kind of fake discount on penalty notices for early payment, so that everybody can exercise their right to a review based on hardship?

Georgia Gould: I thank hon. Members for the range of questions and comments. Before I go into the detail of their points, it will be helpful to take a step back and talk about why were are introducing these powers for the Public Sector Fraud Authority in this way.

At the moment, the powers do not exist for serious cases of fraud that sit outside tax and welfare, and the powers we are discussing as part of the PSFA element actively exclude tax and welfare, which are dealt with elsewhere. There is a real gap: there are currently no civil powers to investigate very serious cases of fraud against Government, often led by organisations, in relation to procurement and grants. As we heard in oral evidence, the extreme pressure on the police means that such cases are often not a priority.

To get a case investigated by the PSFA team, in almost all cases a different public sector organisation would have to refer into the team, so a threshold would be met at that point. The team looks at the cases in front of it and decides which to pursue after considering things like the value and the harm to the wider public sector. We are talking about really serious instances of fraud. The majority will involve organisations, not individuals, but there are instances where individuals, both within organisations and separately, will have committed serious fraud and will be covered by the legislation.

4.45 pm

It is right that the powers here are stronger than in other parts of the Bill. The ability to impose penalties of up to 100% of the fraud committed is a significant power, but it represents the significance of the fraud. We are not talking about £300 for compliance: this is the penalty for committing fraud. I think that is a significant deterrent and a significant new power that will prevent wider fraud against the public sector and allow us to recover money owed to the public sector. I hope that gives some context as to why the powers are particularly strong.

On the points about what is considered fraud, the Fraud Act 2006 covers actions that cause a loss or gain a benefit in kind. If an individual was motivated by something other than financial aims but still committed a fraud, it would be covered by this legislation. But if they committed some kind of other act of retribution that did not have any loss associated with it, it would not be, because this is about fraud and error. Those circumstances might be covered by other provisions, such as data protection regulations and laws. I assure Members that this is about the intent to cause loss, not the reason behind that intent, so that is what will be covered by the powers.

On how we determined the penalty notices, I talked at some length about looking at best practice across HMRC and DWP to try to find the right amount. The critical thing is that it is £300 a day, not £300 in total. Although that may not be a deterrent for one day, after a couple of weeks it might become a stronger deterrent. There is evidence elsewhere that a deterrent is important, but we also want to be reasonable. I think it strikes the right balance. That penalty is for the failure to provide information and similar matters, rather than a penalty for the fraud itself.

In terms of safeguards around the use of the penalties, if there is any question about the debt owed, and the person does not accept the debt owed, they would have to go to a court to establish the debt—not for the penalty but just for the debt, although the penalty would follow. If they were unhappy with the penalty levied, they could appeal to a court. So sufficient safeguards are in place.

There is quite a large variation in penalties of up to 100% of the fraud committed, and Members asked who would make the decisions. One of the authorised officers would make the recommendation, but that would need to be overseen by senior leadership, given the extent of discretion in the decision.

On interest, we looked at best practice within HMRC on the use of interest rates and the charging of interest as a form of recompense for the use of money that is owed, to ensure fairness by preventing those who do not pay on time from gaining financial advantage over those who do. We have talked about the importance of deterrence for people going through a formal process; to answer the question, the point is that if someone went through a court process rather than agreeing to pay back the debt with an authorised officer, there would be further costs associated with that. Interest is one cost, but there are other associated fees. We believe that is a deterrent to people trying to frustrate the process by making it take far longer than it should.

On the decision in respect of civil penalties and criminal prosecution, as I have set out, civil penalties will be used as a route distinct from and alternative to criminal prosecution when an authorised officer determines that a civil standard of proof has been met. When assessing evidence to determine whether the civil standard is met, the PSFA will consider a number of factors,

including the strength and persuasiveness of the evidence; whether all the elements of the offence are present; the credibility of witnesses; and whether the evidence is legally permissible and relevant to the issues.

The hon. Member for South West Devon asked about individuals and organisations. When we were talking specifically about individuals, that was in respect of direct earnings, so that provision would apply only to individuals, whereas these provisions will apply both to individuals and to organisations.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Clauses 51 to 55 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Gerald Jones.)*

4.51 pm

Adjourned till Thursday 6 March at half-past Eleven o'clock.

Written evidence reported to the House

PAB06 Child Poverty Action Group

PAB07 Citizens Advice across Warwickshire

PAB08 Citizens Advice

PAB09 Money Advice Trust