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Public Bill Committee

PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL

Tenth Sitting

Tuesday 11 March 2025

(Afternoon)

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Saturday 15 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 11 March 2025

(Afternoon)

[Sir Jeremy Wright *in the Chair*]

Public Authorities (Fraud, Error and Recovery) Bill

Clause 89

Recovery and enforcement mechanisms

2 pm

Siân Berry (Brighton Pavilion) (Green): I beg to move amendment 7, in clause 89, page 55, line 6, leave out from "unless" to the end of line 14 and insert—

"(a) the liable person agrees, or

(b) there has been a final determination by a court or tribunal that it is necessary and proportionate to exercise a power under Schedule 3ZA."

This amendment would mean that the Secretary of State can only exercise powers to recover amounts from a person where the person agrees or where a court or tribunal has determined that such recovery is necessary and appropriate.

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

Siân Berry: It is a pleasure to have you back in the Chair this afternoon, Sir Jeremy. The amendment covers direct deduction orders relating to social security payment debt of individuals who are no longer on benefits and not employed within the pay-as-you-earn system, as well as the use of powers to disqualify debtors from driving—a power I oppose, and we will debate that when we come to schedule 6.

The clause introduces the power for the Department for Work and Pensions to recover funds directly from a person's bank account without a court warrant. The Secretary of State may make a direct deduction order in respect of a recoverable amount, where the debtor is no longer on benefits and is not employed within the PAYE system. As I understand it, the powers apply to all benefits under sections 71 to 78 of the Social Security Administration Act 1992, including universal credit, and employment and support allowance. The powers apply to not only overpayments caused by deliberately fraudulent behaviour, but negligent oversight, incorrect statements and failure to disclose information. A DDO may be issued in relation to a joint account, if that is the only account that the debtor has.

The amendment would replace the conditions for such powers under proposed new section 80A(5) of the 1992 Act and would mean that the Secretary of State can only exercise powers to recover amounts from a person where the person agrees that the payment is due, or where a court or tribunal has determined that such recovery is necessary and appropriate. The language and wording almost exactly mirrors that in clause 12, on page 9 of the Bill, which provides that protection for debtors to public authorities. If the likes of potential covid fraudsters and corrupt company directors get the protection of a court or tribunal decision, it is difficult to understand why a benefit recipient should not get the same.

It is worth noting that we already have powers to address the scenario where a debtor is no longer on benefits and not in PAYE employment. In such cases, the DWP can recover overpayments through county court enforcement proceedings. I am aware that the DWP argues that the county court method of enforcement is slow and resource-intensive. However, that is not a good reason to jettison judicial oversight from a process that allows the Government to take money directly from individuals' bank accounts.

My amendment 7 seeks to address the concern that those powers hand an extraordinary amount of discretion to the Secretary of State, as there is no threshold to determine what constitutes hardship or what would be fair in all the circumstances. Furthermore, as far as I can see, no floor is defined for the amount of money that must be left in the debtor's bank account.

I understand that the DWP maintains that the power is like those used by His Majesty's Revenue and Customs and the Child Maintenance Service, but that is not comparing like with like. Child maintenance is money owed—already defined to be affordable—by one parent to ensure provision for their dependant who does not live with them. That differs from an individual claiming money from the social security system who has been overpaid, potentially through no fault or a simple mistake of their own, where restitution may be extremely difficult to manage fairly and affordably.

Furthermore, I understand that HMRC powers have safeguards: before the powers are exercised, debtors must receive a face-to-face visit from an HMRC agent; and HMRC must retain at least £5,000 across the debtor's accounts. By contrast, the Bill leaves those protections to the DWP's discretion, based on the debtor's representations and covertly obtained bank statements.

The amendment is also needed because the direct deduction powers as drafted would not be powers of last resort. For example, there is no requirement for the minimum number of times a liable person has failed to engage with the DWP before the powers can be exercised; there is no definition of whether someone has been given a reasonable opportunity to settle the debt; and there is no requirement for an in-person visit from the DWP. Such safeguards matter, because benefit recipients may not be engaging due to incapacity, illness, mental health problems or other genuine reasons. If those circumstances are ongoing, this will be an ineffective deterrent to force people to engage and repay their debts.

The amendment would mirror protections in part 1 of the Bill by limiting the availability of direct deduction order powers to cases where the debt is accepted, either by the debtor or by judicial determination. That would prevent the DWP from lowering the legal threshold at which funds can be removed directly from an individual's bank account. I hope that we will come back to this issue at a later stage, as I really do want some action on it.

The Parliamentary Under-Secretary of State for Work and Pensions (Andrew Western): It is a pleasure to serve under your chairship again, Sir Jeremy. Amendment 7 would introduce a new requirement for the direct recovery from account power, restricting its use to cases where the debtor agrees or where a court or tribunal determines that the exercise of the power is necessary and appropriate. I am not clear whether the amendment would do exactly what the hon. Member for Brighton Pavilion intends, which I believe is to place the restriction on all the new DWP recovery powers proposed in the Bill, but I will address the amendment as I think it was intended.

Although I share the view that there should be protections in place to ensure that the direct recovery power is used proportionately and appropriately, I do not agree that the amendment is necessary. In my view, the Bill already contains sufficient safeguards. The amendment would also introduce unnecessary burdens for courts and tribunals, create avoidable inefficiencies and, ultimately, reduce the amount of taxpayers' money that the power would bring back into the public purse.

The Department has long-standing powers under sections 71 and 71ZB of the Social Security Administration Act 1992 to recover public money wrongly paid in excess of entitlement. Those provisions include a strong framework, including rights of reconsideration and appeal against the overpayment decision. The DWP already has powers to recover such overpayments through deduction from benefits and PAYE wages under sections 71, 71ZC and 71ZD of the 1992 Act.

The power in the clause is aimed at recovering taxpayers' money owed by debtors who persistently evade repayment and refuse to engage with the DWP to agree affordable repayment terms, even though they have the means to do so. It is highly unlikely that those debtors, who, until this point in the debt recovery process, have ignored all reasonable requests by the DWP to work with it to agree repayment terms, would suddenly willingly agree to the DWP recovering the money they owe directly from their bank account. It is therefore highly likely that, under the amendment, the DWP would be required to seek a determination from the court or tribunal that a direct deduction order is necessary and appropriate.

The DWP can already seek lump sum recovery from a debtor's bank account through the courts by applying for a third-party debt order. The very rationale for introducing this power is to recover more than £500 million of public money over the next five years without using court time unnecessarily. The amendment would create entirely avoidable inefficiencies.

The Bill already makes sufficient provision for a debtor to challenge a direct deduction order if they do not agree with it, first through the right to make representations concerning the terms of the order prior to any deductions being made and, following that, through a right of appeal to the tribunal. That is in addition to the debtor's existing mandatory reconsideration and appeal rights concerning the decision that there is a recoverable overpayment that must be repaid.

In addition to those safeguards, the Bill includes sufficient provisions to ensure that the power is used appropriately and proportionately. Specifically, it provides that it is a last-resort power that can be used only if recovery is not reasonably possible by deductions from benefit or PAYE earnings. The debtor can avoid the power entirely at any point by working with the DWP to agree affordable and sustainable repayment terms.

Separately, the disqualification from driving power can be exercised only at the discretion of the court. Again, that provision includes necessity and proportionality considerations by requiring disqualification to be suspended provided that the debtor makes the payments ordered by the court, and ensuring that an order cannot be made if the court considers that the debtor has an essential need for a licence.

Lastly, the amendment would be likely to reduce the expected deterrent impact of the direct deduction power. Although the DWP will take the appropriate action, in line with legislation, to address debtors who persistently evade repayment of taxpayers' money when they have the financial means to repay, the power is expected to encourage debtors to agree affordable and sustainable repayment with the DWP without the need to proceed with an order.

Making such an amendment would lessen the power's effectiveness, meaning that the DWP would have to take this action more frequently than envisaged and potentially subject debtors to court proceedings where the DWP would not have as the Bill is currently drafted. I hope—but I suspect possibly not—that I have reassured the hon. Member for Brighton Pavilion that the Bill contains sufficient provisions and safeguards.

Neil Coyle (Bermondsey and Old Southwark) (Lab): Is it fair to say, for the reasons that the Minister outlined on the removal of the deterrent, that this amendment would not only assist some who seek to commit fraud but cost the DWP in its internal legal responsibilities and duties, as well in what it has to contribute to the court process to pay for what the amendment would require, in the sum of tens of millions of pounds?

Andrew Western: I would not put a specific value on it, but my hon. Friend may well be right with the sort of figures that he suggests. Yes, there would be additional costs from the preparation in advance of court appearances, as well as the administrative costs of applying to the court itself. I think we would bear a significant burden, were we to agree to this amendment. Having outlined my reasons, I will resist amendment 7.

Clause 89 inserts proposed new section 80A into the Social Security Administration Act 1992, and it sets out which debts can be recovered by the new DWP recovery powers introduced in part 2 of the Bill. The new recovery powers are, firstly, the power to recover from bank accounts via direct deduction orders and, secondly, the power to disqualify a person from holding a driving licence.

The introduction of this clause ensures that the DWP can apply the new recovery powers to relevant social security debts. The clause is crucial to ensure that the new recovery powers in clauses 90 and 91 are used proportionately, appropriately and as intended by making them a power of last resort. By that, I mean that the DWP can use the new powers only after a debtor has been given all reasonable opportunities to repay the money owed, and only where recovery by existing powers is not reasonably possible.

[Andrew Western]

The DWP debt stock stands at over £9 billion. As set out in the impact assessment, there is approximately £1.7 billion of off-benefit debt where individuals are able to avoid repayment, as the DWP is currently unable to recover effectively and efficiently in these cases. The Department's current recovery powers are limited to deductions from benefits or PAYE earnings, meaning that those with other income streams and capital can choose not to repay their debt. The powers are vital to tackle those who repeatedly and persistently evade repayment, bringing £565 million of taxpayers' money back into the public purse over the next five years.

These powers are expected to have a deterrent effect and to encourage many debtors to agree to repay without the powers being used. Debtors will be notified of the powers and their potential to be used to recover the money owed, should the individual continue to evade repayment. Let me be clear: where someone keeps money to which they are not entitled and repeatedly refuses to repay, the DWP will recover that money through these new powers. I commend the clause to the Committee.

Rebecca Smith (South West Devon) (Con): It is a pleasure to serve under your chairmanship again, Sir Jeremy. Clause 89 sets out how money is to be recovered. It specifies that the Secretary of State cannot recoup the money from someone's bank account or disqualify them from driving until they have given the liable person a reasonable opportunity to settle their liability, notified the liable person that the Secretary of State may exercise the power to recover the amount, if the liability is not settled, and the Secretary of State must also have given the liable person a summary of how the power would be exercised.

We support the recovery of money that has been fraudulently claimed, and I believe it is pretty clear that we need to do it. However, when the money has been given out in error, particularly to vulnerable claimants, as has been mentioned this afternoon, will the Minister explain how those vulnerable claimants will be communicated with? How will the DWP ensure that funds can be managed in a way that is sustainable for the individual who has to make those repayments? I hope that would also reassure the hon. Member for Brighton Pavilion.

Green party amendment 7 would mean that the Secretary of State can exercise powers to recover amounts from a person only where the person agrees or where a court or tribunal has determined that such recovery is necessary and appropriate. We in the official Opposition question why the Secretary of State should be prevented from recovering amounts that have been fraudulently claimed, unless the person in question agrees. The amendment seems to us to entirely frustrate the purpose of clause 89, which may well be its intent.

2.15 pm

Siân Berry: Would the hon. Member care to comment on the fact that in clause 12, actual fraudsters are given the option to either have a court agree, or for them to agree to repay the amount?

Rebecca Smith: In terms of the Cabinet Office powers that we debated under part 1 of the Bill, I think we are not comparing apples and apples; we are comparing apples and pears. I am not the Government, so it is not my Bill, but ultimately we have heard the figures—indeed, I have shared the significant amount of fraud we are talking about—and if I were in the Minister's shoes, I would say that the number of cases is not comparable. I continue with my view that this is different from the first part of the Bill.

I would be interested to hear an explanation from the hon. Member for Brighton Pavilion about why she does not believe that money that has been fraudulently claimed from the DWP should be paid back. However, I have a question for the Minister off the back of amendment 7, which is similar to the question I asked him about clause 89. Regarding the concerns about the definition of hardship and vulnerability that the hon. Member for Brighton Pavilion mentioned, what might those levels be? I appreciate that that is potentially difficult to include in the Bill, but it would be interesting to know what is defined as a level of hardship that would have an impact on repayment, and how that would be determined.

Andrew Western: I will spend a moment setting out the process around the establishment of communications prior to deduction from a bank account and the affordability considerations that we undertake.

A person who is not paid under PAYE, or is in receipt of benefits, is identified and referred to the DWP's debt management team initially to recover the debt. The debt management team makes multiple attempts, by letter or phone, to contact the person over at least four weeks to agree a voluntary repayment plan. If no contact can be made at that point, the case is referred to the DWP debt enforcement team, who will make at least four further separate attempts at contact, by letter or phone. That will include, at a minimum, two written notifications setting out the debt amounts owed, how the DWP may enforce the recovery of the debt, and with signposting to debt support to ensure that support is offered to vulnerable people.

If there is still no contact made, the person has repeatedly refused to engage and agree a voluntary plan. At that point, the DWP will check that the person has not made a new claim for benefit or entered PAYE employment, to check the person is suitable for this sort of recovery action. The person's bank can then be contacted by the DWP to provide three months of bank statements from their accounts to check the affordability for any deduction, and to help the DWP work out the right amount, and frequency, of any deduction. The deductions must be line with caps in legislation. For regular deductions, that must not exceed 40% of the amounts credited into an account over the period for which bank statements are obtained. This will ensure that no one is forced to repay more than they can afford, so no one is pushed into financial hardship due to the recovery of debt.

Once that affordability assessment is complete, the DWP must write to the person to outline the debt that is being recovered—in other words, what has been overpaid and what is owed—the amount and frequency of the deduction, and how the deduction will be made, which in this case is from their bank account. The letter must outline the opportunities for the person to make representations to the DWP about any circumstances that the Department should consider before making the deduction, and it must also outline their right for the

deduction decision to be reviewed. The person has a month to make representations or request a review. The letter must also outline appeal rights, including that if a person has made representations or asked for a review and the deduction order has been upheld, they may appeal the decision to the first-tier tribunal.

If there is no contact, one month after notifying the person of the proposed deduction the DWP will instruct the bank to deduct money, and repayments will be made directly to the DWP from the person's bank account until the debt is repaid. That shows that it is quite a rigorous process, with a number of attempts to make contact with the person and a number of safeguards in rights to object and rights to appeal. In addition, for particularly vulnerable people, we have the vulnerability framework; part of that process supports people through referrals to advice services. We work with the Money and Pensions Service in particular, and frequently refer people to its services frequently.

For specific vulnerabilities and in particular cases, there is discretion to consider waiving the debt. That is unusual, but it is clearly an important safeguard for extreme cases—for instance, where domestic violence or financial coercion is involved. That is applied very much on a case-by-case basis; it is not a power or a policy that we would expect to use regularly.

I hope I have given the Committee an indication of the support and process for vulnerable people, and the number of humps in the road, as it were, before we get to the point at which we make a deduction.

Siân Berry: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 89 ordered to stand part of the Bill.

Clause 90

RECOVERY FROM BANK ACCOUNTS ETC

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

Andrew Western: Clause 90 inserts proposed new section 80B into the Social Security Administration Act 1992, adding the direct deduction order power to recover public money owed to the DWP directly from a debtor's bank account. Direct deduction orders are vital to recovering funds owed by debtors who have the means to repay a debt but refuse to do so. This is essential to bolster the DWP's ability to recover more of the public money owed by those who persistently evade repayment, to minimise losses to the taxpayer and to redirect the funds recovered to essential public services.

The powers also make DWP debt recovery fairer. At present, the DWP can recover debt directly from people on benefits by making deductions from benefits; it can also recover debt directly from those on PAYE through a direct earning attachment, but for those who are neither on benefits nor on PAYE, the DWP has limited options for recovery if they refuse to pay. That cannot be fair. For those not on benefits or PAYE, where all attempts to agree an affordable and sustainable repayment plan have failed, the option available to the DWP is to seek a third-party debt order via the court. Such action is restricted to lump-sum recoveries and can lead to debtors facing challenges securing credit due to the court judgment. Introducing the new power will allow the DWP to return taxpayers' money to the public purse more effectively through affordable and regular deductions, without using court time.

There are important safeguards. First, the powers are to be used only as the last resort; multiple attempts at contact must be made, and those must be of different types—for example by letter and telephone. Secondly, all direct deduction orders will be subject to an affordability assessment based on the three months' bank statements obtained. Thirdly, before any recoveries are made, individuals must be notified of the proposed action; they will have the right to present information to the DWP about their circumstances and the proposed terms of the order, in response to which the DWP may vary or revoke the order. Fourthly, if an order is still upheld after a review or consideration of information presented, the individual has a right of appeal to the first-tier tribunal. These are important safeguards to ensure deductions do not cause undue hardship. In addition, the Department will always signpost to debt management advice. In the oral evidence session, we heard from the Money and Pensions Service about how well that partnership is operating.

Direct deduction orders are essential to increasing the amount of debt that the DWP can recover. They are balanced measures, with robust safeguards to protect those who are vulnerable or experiencing financial hardship. Having outlined the main provisions in clause 90, I commend it to the Committee.

Rebecca Smith: Clause 90 makes provision for recovery of social security debts directly from the liable person's bank account. That power is broadly similar to powers contained in the Child Support Act 1991 and the Finance (No. 2) Act 2015, which enable deductions to be made directly from the liable person's bank account without a court order. We support the inclusion of the power in the Bill, but further to our debates on part 1, I should be interested to know whether any other measures beyond bank account recovery and disqualification from driving were considered. Reference was made earlier to the ability to seize assets, particularly in relation to part 1 and the Public Sector Fraud Authority, but as that is not on the face of the Bill I would be grateful for further details about if and where that is allowed for within part 2.

John Milne (Horsham) (LD): It is a pleasure to serve under your chairmanship again, Sir Jeremy. I am again raising concerns about a serious power to make direct deductions from people's bank accounts.

Life does not always come in neat paragraphs; it is messy. I have had a number of letters from constituents in Horsham setting out the kind of errors that can happen. A lady called Marianne, who is a universal credit recipient, received a small inheritance, which she tried to report by phone and email, but that still resulted in her wrongly losing her UC for a period. Another constituent, Hannah, said:

"I have zero hours contract and work between 9-11 hours a week at just over minimum wage. At times I have had a back dated pay rise which pushed me over the allowance limit (I wasn't informed in advance this was happening). I'm also at the mercy of

[John Milne]

someone else submitting my hours, so if they aren't submitted on time they roll over to the next pay period causing me to exceed the allowance limit."

At no time did she ever come anywhere near the allowance limit in real earnings; nevertheless, she was caught up in the rules.

Does the Minister feel that we have sufficient safeguards to avoid that kind of inadvertent administrative error? Mistakes have happened in the past and will continue to happen, but this is a very strong power that could cause real distress.

Andrew Western: We have not considered the seizure of assets under this Bill; nor are we are looking at forcing the sale of a home. We want to ensure that the powers we take are proportionate. We are not seeking to cause further hardship, and clearly the loss of their home would likely move a person into that category. Those decisions would ultimately remain with the court were we to take particularly serious case through the courts.

The hon. Member for Horsham raised some examples from his casework of people in receipt of universal credit who found they were inadvertently in receipt of overpayments. If they are still in receipt of universal credit—I think they are, going by what the hon. Gentleman said—they would be out of scope for the debt recovery powers that we are considering, so this provision would not apply in those specific examples.

If someone tells us of a change of circumstances, we always seek to action that as swiftly as possible. In cases such as the second example that the hon. Gentleman cited, where the mistake was the employer's, there is not a tremendous amount that the Department can do. I have sympathy with his constituent, but it does not sound like that case would fall under the umbrella of departmental error. I assure him, however, that as both his constituents were still in receipt of benefits, they would not face a deduction from their bank accounts. That does not mean that an overpayment would not be recovered through other means, but recovery would be out of scope of this power. The treatment of overpayments from universal credit as recoverable was determined by Parliament a long time ago—I believe in 2012.

Question put and agreed to.

Clause 90 accordingly ordered to stand part of the Bill..

Schedule 5

Recovery from bank accounts etc

2.30 pm

Siân Berry: I beg to move amendment 8, to schedule 5, page 98, line 10, leave out from beginning to end of line 24 on page 99.

This amendment would remove the requirement for banks to provide information to the Secretary of State for the purposes of making a direct deduction order.

My amendment 8 is related to our debate about direct deduction orders and safeguards for people with social security debts. The amendment would remove the requirement for banks to routinely provide information to the Secretary of State for the purposes of making a direct deduction order. It is important to note that before the Secretary of State can make a direct deduction order, they must submit an account information notice to the bank with which the debtor has an account requesting copies of the debtor's bank statements covering a period of at least three months prior to the notice being issued.

I understand that the disclosure's intended purpose is for the Secretary of State to consider whether the debtor can afford to have the funds deducted, but the schedule states that the bank must not inform the debtor or joint account holders if it receives an AIN. I am concerned that powers to request granular information from banks about their customers, without the customers' knowledge, to decide whether an individual can afford to pay back an overpayment are intrusive and potentially authoritarian. Bank statements can reveal sensitive and private information about an individual's movements, associations, political opinions, religious beliefs, sex life, sexual orientation and trade union membership. Since an AIN can also apply to joint accounts, individuals who are not themselves benefit recipients can have their private financial information disclosed to the DWP in a similar way.

The powers will affect individuals who have been overpaid because of mistakes and oversights. The Secretary of State should not be able to covertly demand a person's financial records without suspicion that the person has committed any criminal offence. I sincerely hope that the Minister will consider amendment 8. It would remove the powers that require banks to hand over bank statements and account information, and thus it would prevent direct deduction orders being issued on the basis of covert financial surveillance. As with amendment 7, I hope we will come back to the issues raised by amendment 8 at a later stage, and that we will see some changes in this area.

Andrew Western: I will resist amendment 8. It is challenging to receive an amendment such as this after a conversation about what we are doing to protect vulnerable people. Having stressed the need to do that and to ensure that debts can be repaid in a way that is affordable, it would be wrong of me to agree an amendment that would entirely remove our ability to ascertain that.

The amendment seeks to remove the requirement for banks to provide information to the Department in response to an account information notice and a general information notice for the purpose of making a direct deduction order. That removes a critical safeguard on direct deduction orders.

Siân Berry: Will the Minister consider the covert aspect of the requirement? The information is not given voluntarily by the person concerned. That is the authoritarian surveillance aspect and that is what concerns me the most; it is not merely that the Secretary of State is seeking useful information.

Andrew Western: The challenge is that, by that time, we will have made repeated and sustained attempts to contact the person to ask them to engage with us to agree an affordable repayment plan, to assess their

ability to agree that plan and to encourage them to pay back what has already been established as a recoverable debt. The requirement is part of a power of last resort. I am not convinced that we would be able to secure engagement from such a person, as the power applies in relation to someone we have repeatedly tried to contact. Without it, I fail to see how we could both have a conversation with someone whom we have not previously been able to contact and assure ourselves that we would not be putting somebody in a particularly challenging financial position.

Neil Coyle: Is it fair to say that the impact of this amendment, if made, would be to require the DWP to ask people that they suspect of committing fraud for their permission to investigate whether they are committing fraud? Is it not likely that the number of potential fraudsters willing to give that information would be the roundest of round numbers?

Andrew Western: Not quite. We would not be contacting banks to establish whether fraud had been committed under the amendment. We would already have established that a debt is owed, so that investigation would already have been completed. The debt, whether it was the result of fraud or error, has been established. However, I agree with my hon. Friend on the number of people who, having previously not engaged with us at all, will concur on the need to check bank statements to assess affordability. That may well be the roundest of round numbers.

Under the Bill, before any direct deduction order is actioned, the DWP must issue an account information notice to a bank to obtain bank statements. The AIN must contain the name of the debtor and identify the targeted account. This is a necessary and important safeguard so that the DWP can gather sufficient financial information to make informed decisions on fair and affordable debt recovery. Obtaining this information is also vital to the effectiveness of the direct deduction power, as the Bill is clear that a deduction cannot be made until this information has been acquired. Without the information from bank statements, the DWP will not understand a debtor's financial circumstances and will not be able to establish an affordable deduction rate and commence recovery.

I remind the hon. Member for Brighton Pavilion that the reason the information is not known is the sustained lack of engagement by the debtor in efforts to agree a voluntary and affordable repayment plan, and that the power is aimed at recovering taxpayers' money from debtors who persistently evade repayment and refuse to engage with the DWP. The information gathered will make it clear whether they have the means to do so. Finally, I remind the Committee that these powers will be used as a last resort, and that by working with the DWP to agree affordable and sustainable repayment terms, debtors can avoid the application of the powers altogether.

Siân Berry: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Rebecca Smith: I beg to move amendment 48, in schedule 5, page 101, line 17, leave out from "exceed" to the end of line 18 and insert—

"(a) in a case to which sub-paragraph (3A) applies, the amounts credited to the account in the relevant period, or

(b) in any other case, 20% of the amounts credited to the account in the relevant period.

(3A) This subsection applies in a case where the Minister is satisfied, on the balance of probabilities, that the payable amount to which the regular direct deduction order related is recoverable from the liable person because the liable person committed fraud."

The Chair: With this it will be convenient to discuss amendment 22, in schedule 5, page 110, line 29, at end insert

"to which paragraph 6(3A) does not apply".

Rebecca Smith: As hon. Members can see, amendment 48 would change the percentage of collections made, to bring them in line with what we have debated previously, so taking it down from 40% to 20%. It is fairly self-explanatory, but we felt that this decrease would make sense and tidy things up a bit. We are interested to know whether the Minister is in agreement.

The Chair: Does the hon. Member wish to speak to amendment 22?

Rebecca Smith: Amendment 22 is self-explanatory and I assume it is not something the Minister will be interested in, but we thought it was worth seeing what conversation could be had around it. Ultimately, it is as it is written and we are interested to hear the Minister's response.

Andrew Western: Amendments 48 and 22 seek to limit the amount that can be deducted via a direct deduction order in any month to 20% of the amount credited to the account in the relevant period in non-fraud cases, and to set no limit in cases where the Department considers it more likely than not that the debt is the result of fraud.

The hon. Member for South West Devon will know I have sympathy with the idea of quickly collecting debts that arise due to fraud, but the measures in the Bill already allow the Department to collect higher amounts through a lump sum deduction order, rather than through a regular deduction order. This important flexibility in the application of these powers will allow us to seek a higher level of deductions. A lump sum deduction order can also be followed with a regular deduction order, if deemed appropriate.

The Bill currently states that, where recovery is made under a regular deduction order, the deduction must not exceed 40% of the amount credited into the account during the relevant period. Forty per cent is the maximum and is in line with other maximum rates for the DWP's existing recovery powers, such as the direct earnings attachment power and the Child Maintenance Service's deduction from earnings order power.

Mike Wood (Kingswinford and South Staffordshire) (Con): Perhaps the Minister can correct me if I have misunderstood, as the drafting obviously relates to the

[Mike Wood]

parallel provisions we debated in clause 22. My understanding is that, as currently drafted, if the Minister or the Public Sector Fraud Authority is satisfied that a loss is the result of fraud, they can impose a lump sum deduction up to 100% of the credited amount in an account. However, if they were to use a regular deduction order, each sum can be only 40%. Is there any reason, in principle or for welfare, why it is okay to take 100% of someone's account on day one but not okay to take 50% today and 50% the following month?

Andrew Western: Put simply, my understanding is that if an individual debtor has sufficient money in their account to pay 100% on day one without financial hardship, we will apply that power. Where that is not possible—for example, if a person's debt exceeds their means to repay it in one go—we will look at a regular deduction order. It is on that basis that we came to the 40% figure, which is based on the income going into an account each month.

We have set the cap to ensure that ongoing living costs can still be met on a month-by-month basis. It may not be that the figure used is 40%. We are simply seeking to give ourselves flexibility up to that amount. We are not saying that we will never recover more than that. If someone has £10 million in a bank account and owes the Department £1 million, it is reasonable to assume it will not cause them undue hardship to recover all of it in one go through a lump sum deduction.

The two powers are complementary but separate—one deals with ongoing recovery from a person who does not have sufficient means for recovery in one go, and the other deals with people who have savings or means significant enough to do just that. I hope that answers the question. I am happy to take another intervention if not.

The Bill currently states that when a recovery is made under a regular deduction order, deductions must not exceed 40% of the amount credited into the account during the relevant period—month by month is the obvious example. Forty per cent is the maximum and is in line with other maximum rates for the DWP's existing recovery powers. The Department intends to set lower rates for regular deductions in non-fraud cases, allowing those rates to remain in line with existing recovery powers. Paragraph 24 of proposed new schedule 3ZA to the Social Security Administration Act 1992 therefore makes provision for regulations to be brought forward to set a maximum percentage deduction that is less than 40% in these cases.

Mike Wood: It sounds as though the Minister is speaking to amendment 22, which would restrict his power to set a lower amount to non-fraud cases. If we agree that lower limits should apply only in cases that do not involve fraud, can we just accept the amendment?

2.45 pm

Andrew Western: My argument is that the amendment is not required. The intention is to align deduction rates with other recovery methods used by the Department, and therefore the maximum rate of deduction is expected to be limited to a maximum of 20% in non-fraud cases.

I stress that these are maximum regular deduction rates; the actual deduction rate will depend on the level of income and other affordability considerations, based on the Department's experience when applying deduction caps using existing recovery guidance outlined in the benefit overpayment guide, which can be found on gov.uk. In non-fraud cases, the amount regularly deducted will likely range between 3% and 20%. Similarly, not all fraud debt will be recovered at 40%. Regular deductions in fraud cases will range between 5% and 40%, depending on the debtor's circumstances.

How the new debt measures operate will be clearly set out in the forthcoming statutory code of practice. These powers will enable the Department to apply the most appropriate debt recovery method to ensure efficient recoveries are made. Having outlined why I feel amendments 48 and 22 are unnecessary, I will therefore resist them.

Rebecca Smith: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Andrew Western: I beg to move amendment 6, in schedule 5, page 107, line 2, leave out from "review" to end of line 7.

This amendment leaves out provision that is not needed; paragraph 13(5), (6) and (8) of new Schedule 3ZA of the Social Security Administration Act 1992 (as inserted by Schedule 5 of the Bill) makes the necessary provision.

The Chair: With this it will be convenient to discuss schedule 5.

Andrew Western: This amendment seeks to remove unnecessary repetition in the Bill, specifically removing part of paragraph 18 of proposed new schedule 3ZA to the Social Security Administration Act. This concerns the provision for the Secretary of State to notify the bank, the liable person and any other account holders, where appropriate, of the outcome of a review where a direct deduction order has been varied by the DWP.

This amendment does not change or remove that provision, as the DWP has a key obligation to ensure that all affected parties are notified of any changes to a direct deduction order following a review. This amendment simply removes a provision that is not needed; paragraphs 13(5), (6) and (8) of proposed new schedule 3ZA already makes the necessary provision. This amendment will simplify the Bill and prevent unintended confusion and duplication.

Schedule 5 introduces proposed new schedule 3ZA, which contains the substantive provisions of the new direct deduction orders, introduced in clause 90. The ability to recover directly from bank accounts is vital to recover public money owed to the DWP by those who have the means to repay but refuse to do so. As I outlined in my speech on clause 90, these powers will bring greater fairness to DWP debt recovery. At present, the DWP can recover debt directly from people on benefits only by making deductions from their benefits, and from those on PAYE through a direct earnings attachment.

For those who are on neither benefits nor PAYE, the DWP has limited options for recovery. Currently, there are an estimated 885,000 debtors off benefit who are not in repayment, with an estimated £1.74 billion not in

recovery from this group. This schedule outlines powers to make lump sum and regular direct deductions from bank accounts through the use of a direct deduction order, as outlined in paragraph 1 of proposed new schedule 3ZA. Paragraph 3 outlines the information notices that the DWP can give to a bank, how the bank must comply, the information it must provide and how this information can be used.

To determine whether to make a direct deduction order, the DWP can give a bank an account information notice or a general information notice. An account information notice must be given to a bank, prior to any direct deduction order, to obtain bank statements. It must contain the name of the debtor and identify the targeted account. It is a necessary and important safeguard so that the DWP can gather sufficient financial information to make informed decisions on fair and affordable debt recoveries. A general information notice can be issued at any time for the purpose of determining whether to make a direct deduction order. It requires the bank to provide information on all the bank accounts held by the debtor, including any joint or unincorporated business accounts.

A bank must comply with an information notice, and may be liable to a penalty for failure to comply without a reasonable excuse. The information provided by the bank is necessary and proportionate to ensure that the DWP considers a debtor's financial situation before making a direct deduction order. As set out in paragraph 4, the schedule also requires the DWP to presume that any moneys in a joint account belong equally to the debtor and the other account holder, unless there is evidence to the contrary. That ensures that only the portion of funds reasonably attributable to the debtor can be recovered from joint accounts, protecting the rights of other account holders.

Before seeking to recover debt, the DWP must give the debtor notice. The notice must identify the account to be subject to the proposed order, state the terms of the order and identify the recoverable amount to which the order relates. It must also invite the debtor to make representations. It must set the time for representations to be made, which must be at least one month. The Secretary of State must consider those representations and uphold, vary or revoke the order. Only after any representations have been considered can the direct deduction order be made. If no representations are received, the order can be made but the account holders are given a further month to request a review.

To ensure that funds necessary for debt recovery are not deliberately concealed or withdrawn, a bank may be required to take steps, in response to the notice, to ensure that the amount proposed to be deducted is not removed while the account holders are given time to make representations or request a review. That is vital to ensure that funds necessary for debt recovery are available in the debtor's bank account so that the direct deduction order cannot be evaded.

If an order is made, it must be given to the bank and account holders. If the account holder is still dissatisfied, having made representations or sought a review, they can appeal to the first-tier tribunal, as I outlined previously. That allows disputes between the DWP and the debtor to be worked through quickly, while providing fair opportunities for the use of the power to be challenged.

When making a direct deduction, a DWP official will assess the bank information and determine the most appropriate deduction. As set out in paragraph 6, the schedule limits regular direct deductions to no more than 40% of the funds entering the account over the period in which the bank statements have been supplied. Regulations can lower, but not raise, the maximum percentage in some or all cases. That safeguards against excessive deductions and brings the powers in line with existing DWP recovery method legislation.

There is no legislative cap on lump sum deductions, as we expect to use them only where someone has large available savings. However, the DWP must be satisfied that neither lump sum nor regular deductions will cause the debtor, the other account holder or their dependants hardship in meeting essential living expenses. The Secretary of State may also vary direct deduction orders in the light of a change of circumstances—for example, if the debtor has a change of income or makes a new benefit claim.

In addition, paragraph 8 includes provision for a bank to deduct from the debtor's account the administrative costs it has reasonably incurred by complying with a direct deduction order. That provision is essential to ensure that banks are compensated for the administrative efforts required to comply with the orders, thereby facilitating the efficient operation of debt recovery processes while protecting account holders from undue financial strain.

The schedule also contains provisions to ensure flexibility in direct deduction orders. Paragraphs 12, 13 and 16 allow the Secretary of State to vary, suspend or resume a regular direct deduction order. That provides the Secretary of State with the necessary flexibility to take appropriate action in relation to an order where a debtor's circumstances change. Paragraph 9 requires that no deduction be made where the amount in the account is lower than the amount to be deducted. It is an important further safeguard to ensure that no one is pushed into hardship by a direct deduction order. Paragraph 17 makes provision to revoke a direct deduction order upon notification that the debtor has died.

Overall, the measure represents a significant part of the Bill, enabling the recovery of public money owed from those who persistently refuse to repay effectively, proportionately and fairly. Through this measure, the DWP estimates that it will realise benefits of £565 million in recovered debts over the forecast period.

Rebecca Smith: Schedule 5 makes provision regarding direct deduction orders from bank accounts. These can be regular or lump sum. The Secretary of State may make a direct deduction order in respect of a joint account only if the liable person does not hold a sole account in respect of which a direct deduction order may be made that would likely result in the recovery of the recoverable amount within a reasonable time. I would be grateful if the Minister explained what criteria will be used to decide whether a person has such an account. This came up last Thursday in relation to the main bank account of a claimant and the fact that the DWP will not be able to ascertain what other bank and savings accounts may be held. Is the same true here? Is this relevant only if the joint account is the account into which the benefits are paid? For the record, I am referring to column 238 of *Hansard* on 6 March.

[Rebecca Smith]

The schedule will give the Secretary of State a power to request bank statements that is not time limited. It will also give the Secretary of State the power to request from banks details about the accounts that a person holds with that bank. The Secretary of State can set out how and when the bank must comply with the notice, and explain that the bank may be liable for a penalty under it if it fails to do so without a reasonable excuse. Can the Minister reassure the Committee about his planned engagement with banks—indeed, has he already had such engagement? Do banks think that this is a manageable requirement, and what will the costs of administering it be? Should that engagement with banks be due to happen, what might be done to reflect their views?

We have discussed that there is quite an onerous expectation on banks. The Parliamentary Secretary, Cabinet Office, the hon. Member for Queen's Park and Maida Vale, made a comment, in terms of the Cabinet Office powers, that it was almost the banks' civic duty to make sure that they do this. I am intrigued to know whether they agree with that. It would be interesting to know what engagement Ministers have had, and what they will do about it. Lastly, how long will banks have to comply with notices, and what level of penalty will be levied on them if they do not comply? I think those are fair questions.

John Milne: The hon. Member raises the issue of the burden on banks; there is also the potential burden on the claimant. Banks sometimes have very large administrative charges, well in excess of the actual costs of whatever it is they do. Can the Minister give any assurance that there is some upper safety limit on excessive charging by banks? For instance, will a bank be able to charge for its corporate cost centre—a contribution towards its head office or functions—as can be the case with other charges? Basically, I seek clarity on the balance of how the charges will be administered.

Rebecca Smith: That relates to what I was going to say on amendment 43, had we got to it. I entirely appreciate what the hon. Member says about dealing with the vulnerable and protecting them from undue expectations, but is it not right that, if someone's bank account goes overdrawn, they pay those charges regardless of their financial situation? Are we potentially seeking to give claimants more rights than they would ordinarily have with their own bank account simply because it is the DWP that is trying to recoup the money, rather than their bank?

John Milne: I am simply concerned that there should be some control of, or protection against, excessive charging. In the past, institutions have inflicted disproportionate charges that bear no relation to the actual cost of servicing whatever action had to be remedied. I am therefore seeking confirmation from the Minister that there is some protection in that direction as well with regard to the costs on the banks, as we said earlier.

3 pm

Andrew Western: On the question raised by both the Opposition spokesperson and, substantively, the hon. Member for Horsham on the amounts that banks will levy in administrative charges on customers who are subject to a deduction order, paragraph 8 of schedule 5 makes provision for banks to deduct sums from an individual's account for the purpose of meeting reasonable costs. Paragraph 23 makes provision for the Secretary of State to make regulations to set and maintain a cap on the charges that the banks may deduct. That is in line with the approach taken by the Child Maintenance Service, which sets maximum rates that the debtor can be charged for lump-sum or regular deductions.

To give an indication of the maximum amounts, that is £55 for a lump-sum deduction and £10 that the bank may charge for each regular deduction. It is worth stating, for the benefit of Members, that banks do not necessarily charge that amount; it can be significantly lower, but that is the most that someone can expect to pay.

On banks more generally, the exact costs to banks of this are still being worked through, for obvious reasons, but they have the ability to claim back administrative costs, as we have just discussed. On engagement, I have met UK Finance and a number of banks on a number of occasions. I think that the overarching theme of those conversations is that they would not want anything too onerous placed on them, but that they welcome the thrust of what we are trying to achieve and want to be helpful in working with us to achieve that. Speaking of costs to banks is probably a natural point for me to mention the penalty that can be placed on banks for not complying, which is £500.

On the question of multiple accounts and the determination of which accounts to look into and so on, we would make multiple orders if we wanted to look at more than one bank account. We would send information notices to each of those. We can use those notices to see other accounts that are held and relevant. Were someone to have a number of accounts, they would not be able to evade this provision, as was the case perhaps when we were discussing the eligibility verification measure.

I think I have probably answered everything that I had noted. Please let me know if there is anything else. I was about to repeat myself—

The Chair: No need for that.

Amendment 6 agreed to.

Schedule 5, as amended, agreed to.

Clause 91

DISQUALIFICATION FROM DRIVING

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

The Chair: With this it will be convenient to consider schedule 6.

Andrew Western: The clause inserts proposed new section 80C into the Social Security Administration Act 1992 to enact the disqualification-from-driving power.

The introduction of the clause will allow the DWP to apply to the court to disqualify temporarily a person from driving, if they persistently and deliberately fail to repay their debt. The power is vital to boost the DWP's ability to recover public money.

In accordance with clause 89, the power will be used as a last resort in the most serious cases, where the outstanding debt is at least £1,000 and where the debtor has persistently and deliberately evaded repaying their debt, such as by moving their capital out of reach of a direct deduction order, introduced under schedule 5, despite having the financial means to repay.

Schedule 6 inserts proposed new schedule 3ZB into the 1992 Act and it contains the substantive provision of the disqualification-from-driving power introduced under clause 91. The schedule sets out when the power may be used and how it will operate, including rules on the operation of suspended and immediate disqualification orders, variation and revocation of orders, as well as the grounds on which an order may be appealed. Appeals may be made to the appropriate appellate court on points of law, including the terms of an order or the court's decision to make, not make, vary or revoke an order.

Only when all attempts at recovery, including the new direct deduction power, have failed will the Department for Work and Pensions be able to apply to the court for a suspended DWP disqualification order. If the court agrees that the debtor had the means but did not repay without a reasonable excuse, it will order the debtor to make what it assesses to be affordable repayments. The debtor can avoid being disqualified by making those repayments; it is only if the debtor does not comply with the court's repayment terms that the DWP can apply for an immediate DWP disqualification order. It is at that point—again, only if the court agrees—that the debtor can be disqualified from holding a licence for up to two years.

Before either a suspended or immediate order can be made, the debtor will have opportunity to be heard by the court. We recognise that stopping someone from driving is a serious step, so my Department has built in several safeguards to give debtors every opportunity to avoid that. For example, missing a single instalment will not result in an immediate disqualification order. Even when someone is disqualified, they can get back the right to drive when they start making the repayments and the court considers that repayments are likely to continue.

However, persistent evaders who have the means to pay their debts will no longer be able to evade paying; it is against them that we would utilise this power. It is important to note that the court cannot make either a suspended or immediate order if it considers that the debtor has an essential need for their licence, such as if they need to drive as part of their job or to care for a dependant. That important safeguard in schedule 6 ensures a balance between taking robust action against those who deliberately evade recovery and preventing undue hardship.

The powers are key to recovering funds from those who deliberately evade repayment of public money owed to the DWP. Having outlined the main provisions in clause 91 and schedule 6, I urge the Committee to support them.

Rebecca Smith: Clause 91 makes provision for a liable person to be disqualified from driving. Any disqualification from driving will always be suspended in the first instance, subject to the liable person complying with what the court has assessed to be affordable and reasonable payments. When disqualification does occur, it is temporary and the liable person can have the disqualification lifted by satisfying the court that they are now making and will continue to make repayments.

We support the clause in general, but I have a few questions for the Minister about the practicalities, which are worth debating. First, however, will he clarify whether the clause is for cases of fraud, error or both? From what he said, it feels as if it is for both, and it is worth getting that on the record. What safeguards will the Department put in place to ensure that someone is not disqualified unnecessarily? Again, it sounds as if there is a long process before getting to that point. Is there a right of appeal or can the process be stopped before the disqualification takes place?

A few additional questions came to mind as I listened to the Minister just now. What role are the DVLA and the police expected to play in the wider disqualification? Who is responsible for the enforcement of that disqualification? I certainly know of a neighbour of mine who was disqualified for two years but continued driving; it was frustrating when I knew what he had done. Who would be responsible for that enforcement? In that instance, I knew that I could ultimately go to the police, but the scenario could be different in this case.

Likewise, will the decisions to disqualify from driving be publicised as they are when someone is disqualified for speeding or drink-driving? Again, that is part of the punishment; it also enables other people to know when somebody is in breach and promotes enforcement. It is also worth querying what measures might be put in place when somebody cannot be disqualified. The Minister said that some people would not be disqualified because of their jobs or family situations. What would be the deterrent for those people?

Furthermore, what if the person were not a driver or in possession of a driving licence? Obviously, recovery will be attempted from bank accounts, but if losing a driving licence is the final stop point it will be in the interests of fraudsters to divest themselves of theirs. We need to make sure that whatever it is that we are trying to achieve in the Bill, there are no shortcuts or opportunities for people to evade the repayment that the Department seeks.

John Milne: I am uncomfortable with this proposal, because it seems unfair that one group of people should be liable to a punishment and not another. If someone cannot drive or they do not have a car, this punishment means nothing to them, whereas another group who do drive are affected—and some of them very deeply, depending on their lifestyle, such as living in the country or other necessary means. I am fundamentally uncomfortable with what seems to be a punishment that falls on only one group of people, when it should be levied equally.

Siân Berry: As we have been discussing, schedule 6 and clause 91 make provision that, where all other methods of debt recovery have failed, including the

[Siân Berry]

direct deduction order measures we have been discussing, the DWP may apply to a court to have the debtor disqualified from driving. Like the hon. Member for Horsham, I have real concerns about these new powers. I cannot see how this specific novel civil penalty of removing a driving licence is at all appropriate to the particular group of people we are discussing, nor do I see the equivalence to the people being enforced upon by HMRC and the Child Maintenance Service, which have similar powers.

Legitimate benefit claimants who are overpaid through error, make a mistake or for any other reason owe money to the DWP are, almost by definition, in need of help. They might often make mistakes or fail to disclose information through an oversight, and their failure to engage with the DWP to date might be due to genuine incapacity and health issues. I am therefore very concerned that there are ineffective safeguards in the court process for these powers.

Although the DWP must apply to the court for the disqualification order, the court does not have discretion to refuse unless the debtor needs a driving licence to earn a living or has another essential need for one. It is unclear the extent to which this will protect vulnerable benefit claimants who have not engaged with the DWP due to incapacity, illness or mental ill health, or for whom driving is not essential for their work, but may be essential for their wellbeing or family life. I am not sure that the proposed legislation is clear enough about what will be deemed essential or what will be reasonable for the court to object to.

I also have concerns, as outlined a moment ago, that these powers cannot be exercised unless the people concerned have tried every other method, from benefit deductions or deductions from earnings to the direct deductions from bank accounts—the measure we have just discussed, which is extraordinarily intrusive on people's financial information and privacy. Given that these powers would only be used where it appears that those other powers cannot be, is it not true that they are basically only for when a debtor cannot physically pay back what they owe? In effect, this measure of removing the driving licence is a punishment. It is a poverty penalty for those who do not have the means, despite all the intrusion that Ministers have gone through to establish that, to return what they have been overpaid.

I cannot support this power. It is incredibly punitive. I do not think it will create the conditions in which debtors are encouraged to engage with the DWP, but it could create dire consequences for individuals who are already struggling and least able to afford repayments.

Andrew Western: I will attempt to answer those questions, and hon. Members are free to intervene if I have missed anything. The Opposition spokesperson, the hon. Member for South West Devon, asked whether this would be a power that is implemented in response to just fraud, or fraud and error. Because it is in response to a failure to repay a debt, it could be utilised for either. The criteria for its use is not how the overpayment came about, but whether the person has engaged to pay it back.

The safeguard around whether somebody is disqualified unnecessarily is all the various measures that we have attempted previously, plus the determination of the court. Responsibility for enforcement would lie with the Courts and Tribunals Service and the DVLA. However, if somebody was driving without a licence, that would clearly also be a legal issue. On the question whether we would advertise that somebody had had their licence suspended, we would not, because no crime has been committed; the suspension is just as a result of somebody failing to repay a debt. That is distinct from somebody who has had their licence removed because they have broken the law through drink-driving or some such crime.

3.15 pm

On the deterrents for non-drivers, to respond to the hon. Member for Horsham, this is just one of a suite of powers available to us. We could also look at options such as charging orders, were this power not available to us, but we have seen from the Child Maintenance Service that this is a really strong lever to bring people to the table. It is a power of last resort, and a power that, in practice, is used very sparingly; it is more of a deterrent, when people are refusing to engage with us or to repay money that is owed.

John Milne: In the light of the Minister's confirmation that this power does refer both to error and fraud, I am all the more concerned. Removing a driving licence can mean the removal of a means of income. It is almost like the old-fashioned debtors' prison: someone is in debt, so they are put in prison, and then they cannot get out of their debt. It is a Catch-22 situation.

I understand that the power has been used regarding the Child Maintenance Service. I have a case in Horsham where a constituent feels that he is being unreasonably demanded of; he is in trouble because he will potentially lose his job because of just such an order. Therefore, this power could be applied inaccurately or incorrectly—it is inevitable that in a large organisation there will be mistakes—so I am concerned that the power seems both very extreme and, as I said before, not generally applied. It should be generally applied in order to be legitimate.

Andrew Western: On the point about a debtors' prison, if somebody requires their vehicle for work, that is a criterion that a judge can consider in terms of whether a licence should be disqualified. It is also worth remembering that, in all cases, the initial move would be to suspend the suspension of the driving licence to give somebody the time to engage with us and start to pay. While, as I say, this is baked in as a last resort, we have put a number of break points in this process for people to engage. Indeed, even after we have suspended the licence, if somebody starts making repayments, they can have their licence reinstated. However, we have explicitly stated that caring responsibilities and the need for a car for employment purposes are criteria that would mean that we would not look to pursue that suspension.

Turning to the comments from the hon. Member for Brighton Pavilion, I understand where she is coming from. She is consistent in her view of an erosion of civil liberties coming about as a result of many aspects of this Bill. However, I must say to her that the idea that we have exhausted everything, including deductions from benefits, fundamentally misses the point about the cohort of people who would be in scope for this power.

Benefit claimants and people who are paid through PAYE would not be in scope of the driving licence power; it would be people who are no longer on benefits. Indeed, if they were on benefits, we would be able to deduct from those benefits directly, without needing recourse to such actions.

I therefore take a fundamentally different view from the hon. Lady on whether this amounts to a poverty penalty. Clearly, the poorest people would not be impacted by this power; it is for people who we know have the means to pay. Usually, we know they have the money, but they have moved it out of our reach, so we have ascertained their ability to pay, but it is not possible to lay our hands on those funds. This power—like wider mechanisms for people who do not drive, such as charging orders—is the initial lever to bring people to the table.

As I said in response to the hon. Member for Horsham, before we suspend a licence, we will ask people to engage with us. After agreeing the right to suspend that licence, we will give somebody a further opportunity to engage with us and to begin making regular repayments. After the licence has ultimately been suspended, there will again be the opportunity to commence regular payments and have the licence reinstated. All that is a power of last resort.

I will give the Child Maintenance Service statistics for context. The CMS utilised this power on seven occasions last year; six of those were suspensions of suspension and only one was an actual suspension of a driving licence. That tells us that this power is important as much as a deterrent as in practice. It is for that reason that it forms a part of this Bill.

Question put and agreed to.

Clause 91 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

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

3.21 pm

Adjourned till Thursday 13 March at half-past Eleven o'clock.