

**MEMORANDUM ISSUED UNDER STANDING ORDER 42A**  
**THE POST OFFICE (HORIZON SYSTEM) OFFENCES ACT**

**Background**

1. This memorandum has been laid before the Assembly by the Minister of Justice in accordance with Standing Order 42A (4)(b). The Post Office (Horizon System) Offences Bill was introduced to the House of Commons on 13 March 2024, and received Royal Assent on 24 May 2024. The latest version of this legislation can be found at:

<https://bills.parliament.uk/publications/55777/documents/4931>

**Summary of the Bill and its policy objectives**

2. From the mid-1990s, hundreds of sub-postmasters and sub-postmistresses were wrongly convicted after shortfalls of money appeared in their branches, due to faults with Horizon software.
3. On 10 January 2024, during Prime Minister's Questions, the Prime Minister announced plans to introduce new primary legislation to make sure those convicted because of the Post Office Horizon scandal could be "swiftly exonerated and compensated". The then Parliamentary Under-Secretary of State for Business and Trade, Kevin Hollinrake MP, subsequently made a statement to the House setting out the Government's intentions, acknowledging it was unusual for Parliament to encroach on matters relating to judicial decisions.
4. On 22 February 2024, Minister Hollinrake made a written ministerial statement which confirmed that, "UK parliamentary legislation will proceed on an England and Wales basis" because "victims in those jurisdictions are best served by local decisions tailored to the judicial systems in Scotland and Northern Ireland".
5. The Bill had its first reading in the House of Commons on 13 March 2024. The Bill as introduced provided for the quashing of convictions in England and Wales for certain offences alleged to have been committed while the Horizon system was in use by the Post Office. The Bill also included provisions related to the deletion of cautions given in England and Wales for such offences.

6. Following further representations from the First Minister, deputy First Minister and myself, on 22 April 2024 the UK Government announced its intention to extend the territorial extent of the Bill to include Northern Ireland and tabled amendments to give effect to this decision. The amendments were debated during the Committee Stage of the Bill in the House of Commons on 29 April 2024, and accepted by the House.
7. The Act has quashed all convictions in scope, excluding convictions already considered by the Court of Appeal. That scope is defined by a set of clear and objective conditions which are set out in the Act, each of which will need to have been met, to identify the convictions which have been quashed. The conditions are:
  - Condition A – the offence must have been committed between 23 September 1996 and 31 December 2018, covering the period of the Horizon scandal, including the Horizon pilot.
  - Condition B – the offence was false accounting, fraud, handling stolen goods, money laundering, theft, or an ancillary offence.
  - Condition C – at the time the offence occurred, the convicted person was carrying on a post office business or working for the purposes of such a business.
  - Condition D – the person was alleged to have committed the offence in connection with carrying on or working for the purposes of that post office business.
  - Condition E – at the time of the alleged offence, the Horizon system was being used for the purposes of that post office business.

### **Provisions which deal with a Devolution Matter**

8. Section 1 provides that convictions in England, Wales and Northern Ireland for “relevant offences”, and which have not been considered by the Court of Appeal, are to be quashed on the day on which the legislation comes into force. In Northern Ireland, this relates to prosecutions taken forward by the Director of Public Prosecutions in Northern Ireland, and the Police Service of Northern Ireland (prior to the establishment of the Public Prosecution Service in 2005, low level prosecutions were taken forward by the Police Service of Northern Ireland).

9. Section 2 gives the meaning of “relevant offence” with reference to conditions A -E set out in the subsections (and summarised at paragraph 8 above). All of the conditions must be satisfied for an alleged offence to be included within the scope of the Bill. The following offences from the Theft Act (Northern Ireland) 1969 are included within the definition of a “relevant offence”:
- False accounting;
  - Fraud;
  - Handling stolen goods; and
  - Theft.
10. Section 3 provides for how a conviction is determined as having been “considered by the Court of Appeal” for the purposes of section 1. It specifies that where permission to appeal has been refused or an appeal has been dismissed the conviction will not be quashed. This does not prevent a further appeal against a conviction that has been considered by the Court of Appeal. The Court of Appeal in Northern Ireland is included within the scope of this section.
11. Section 4 sets out the process for identifying convictions that have been quashed by the provisions in section 1, the amendment of criminal records and the notification of affected individuals. In Northern Ireland, the duty to identify and notify individuals of quashed convictions for relevant offences has been placed on the Department of Justice.
12. Section 6 sets out the process for the deletion of cautions for relevant offences in Northern Ireland. This section places a requirement on the Department of Justice, if it becomes aware or is made aware of a caution for a relevant offence, to direct the Chief Constable of the Police Service of Northern Ireland (the Chief Constable) to delete details of the caution from the Northern Ireland criminal records database and the UK criminal records database. This section also includes a requirement for the Chief Constable to act upon this direction.
13. Section 7 makes consequential amendments to related legislation in England and Wales. No consequential amendments have been made in respect of Northern Ireland.
14. Section 9 provides the Department of Justice with a regulation-making power to make a provision that is consequential to the provisions within the Act and is related to a

devolved matter. If the regulations make provision in respect of primary legislation, they would be subject to affirmative resolution, and any other regulations would be subject to negative resolution.

15. Section 10 sets out provisions on interpretation of several terms in the Bill, and section 11 sets out provisions for commencement and territorial extent.

### **Reasons for making the provisions**

16. The provisions are required to quash convictions and delete cautions without placing any obligation on affected sub-postmasters to apply to the Court of Appeal. Sub-postmasters and sub-postmistresses have been waiting for justice for years, some for decades, and many postmasters do not want to engage further with the justice system. The judiciary and the courts have dealt swiftly with the cases before them, but the passage of time, lack of evidence and lack of trust in the wider criminal justice system means that existing mechanisms will not provide the swift and complete righting of this miscarriage of justice.
17. Government action, via primary legislation, is therefore necessary to provide a swift and certain resolution and to avoid any more delays to financial redress, via a blanket quashing of convictions that meet the criteria.

### **Reasons for utilizing the Bill rather than an act of the Assembly**

18. It would not have been possible to achieve equivalent legislation via an Assembly Bill within the same timescale as this Westminster Bill. Any delay in legislating to overturn these convictions would delay access to justice and financial redress for sub-postmasters in Northern Ireland, and lead to differential treatment.

### **Reasons for not seeking a Legislative Consent Motion**

19. On 13 May 2024, following Executive and Justice Committee approval to do so, I tabled a draft Legislative Consent Motion for consideration by the Assembly, and it was my intention to seek the Assembly's consent to legislate by a way of plenary debate on the motion on Tuesday 11 June.
20. However, following the UK Government's announcement that it intends to hold a general election on 22 May 2024, the remaining stages of the Bill were fast-tracked and

completed by Friday 24 May as part of the ‘wash-up process’. The Bill received Royal Assent on the same day and became an Act of Parliament.

21. Therefore, the Bill has completed its legislative passage in Parliament and the Assembly’s opportunity to influence the legislation has now passed. In these unexpected circumstances, I am no longer tabling a motion seeking legislative consent in this matter.

### **Engagement to date with the Justice Committee**

22. The Department provided written briefing to the Justice Committee on 24 April 2024, and an oral evidence session with officials was held on the afternoon of Thursday 9 May. At the conclusion of the evidence session, the Justice Committee agreed that it was content for a Legislative Consent Memorandum to be laid before the Assembly by mid-May 2024.
23. On 23 May 2024, the Justice Committee agreed its report on the Legislative Consent Motion on the Post Office (Horizon System) Offences Bill, which has been published on the Assembly’s website<sup>1</sup>. Therein, the Committee agreed to support me in seeking the Assembly’s endorsement of the Legislative Consent Motion. I am grateful to the Committee for its swift consideration of this important matter.

### **Engagement to date with the Executive**

24. At its meeting on 9 May 2024, the Executive agreed to the extension of the provisions to Northern Ireland and approved the tabling of a Legislative Consent Motion.

### **Consultation**

25. There has been no public consultation on the Bill. However, on 18 April 2024 I met with the National Federation of Sub-Postmasters (a not-for-profit trade association which represents post office operators responsible for approximately 8,500 post office branches across the UK) to discuss the potential solutions to address the Horizon scandal in Northern Ireland. My officials have provided updates to the Federation following the inclusion of Northern Ireland within the territorial extent of the Bill.

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<sup>1</sup> <https://www.niassembly.gov.uk/assembly-business/committees/2022-2027/justice/reports/report-on-the-legislative-consent-motion-on-the-post-office-horizon-system-offences-bill/>

26. Furthermore, there has been regular engagement between my departmental officials and our justice partners, to develop the amendments for Northern Ireland and to prepare for implementation.

### **Human Rights and Equality**

27. The Department for Business and Trade (DBT) published an Equalities statement on 20 March 2024<sup>2</sup>. The statement summarises DBT's consideration of the impact of the Bill's provisions on the basis of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation. The statement did not identify any adverse impacts on these groups.
28. The Department of Justice is currently completing an equality screening on the extension of provisions within the Bill to Northern Ireland and will publish this screening in due course.
29. The UK Government does not consider that the Bill raises any significant issues in relation to the European Convention on Human Rights. Accordingly, the Secretary of State for Business and Trade has made a statement to this effect under section 19(1)(a) of the Human Rights Act 1998.

### **Financial Implications**

30. The administrative costs associated with the implementation of the Bill will fall to the Department of Justice. These are not anticipated to be significant and will be met from the Department of Justice's existing budget allocations.
31. The UK Government has published an impact assessment for the Bill, which estimates the costs and benefits to business<sup>3</sup>.

### **Summary of Regulatory Impact**

32. There is no expected impact on business and the voluntary sector.

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<sup>2</sup> <https://www.gov.uk/government/publications/post-office-horizon-system-offences-bill-supporting-documents/equalities-statement-post-office-horizon-system-offences-bill#:~:text=Data%20supplied%20by%20the%20Post,is%20therefore%20not%20directly%20discriminatory.>

<sup>3</sup> <https://publications.parliament.uk/pa/bills/cbill/58-04/0181/ImpactAssessment.pdf>

**Conclusion**

33. Considering the unexpected accelerated passage of the Bill through Parliament, I am unable to table a motion seeking legislative consent in this matter.

**Minister of Justice**

**30 May 2024**