

Post Office (Horizon System) Offences Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business and Trade, are published separately as Bill 181—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Kemi Badenoch has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Post Office (Horizon System) Offences Bill are compatible with the Convention rights.

Post Office (Horizon System) Offences Bill

[AS INTRODUCED]

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[AS INTRODUCED]

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B I L L

TO

Provide 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; to make provision about the deletion of cautions given in England and Wales for such offences; and for connected purposes.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Quashing of convictions

1 Quashing of convictions for relevant offences

- (1) *Every conviction to which this Act applies is quashed on the coming into force of this Act.*
- (2) This Act applies to a conviction in England and Wales for a relevant offence where—
 - (a) the offence was prosecuted by the Post Office or the Crown Prosecution Service, and
 - (b) the conviction has not been considered by the Court of Appeal.
- (3) Section 2 contains the meaning of “relevant offence”. 10
- (4) Section 3 contains provision for determining when a conviction has been considered by the Court of Appeal.
- (5) Section 4 contains provision about—
 - (a) identifying quashed convictions, and
 - (b) notifying people that their convictions have been quashed. 15

2 Meaning of “relevant offence”

- (1) For the purposes of this Act, an offence alleged to have been committed by a person is a “relevant offence” if conditions A to E are met.
- (2) Condition A is that the offence was alleged to have been committed—
 - (a) on a date or dates falling within the period that begins with 23 September 1996 and ends with 31 December 2018, or 20

- (b) at any time during a period that falls wholly or partly within the period mentioned in paragraph (a).
- (3) Condition B is that the offence is one of the following—
- (a) false accounting;
 - (b) fraud; 5
 - (c) handling stolen goods;
 - (d) money laundering;
 - (e) theft;
 - (f) an ancillary offence relating to any of those offences (see subsection (7)). 10
- (4) Condition C is that, at the time of the alleged offence, the person—
- (a) was carrying on a post office business, or
 - (b) was working in a post office (whether under a contract of employment or otherwise) for the purposes of a post office business.
- (5) Condition D is that the person was alleged to have committed the offence in connection with carrying on, or working for the purposes of, the post office business. 15
- (6) Condition E is that, at the time of the alleged offence, the Horizon system was being used for the purposes of the post office business.
- (7) In this section— 20
- “ancillary offence” means—
- (a) an offence of attempting or conspiring to commit an offence specified in any of paragraphs (a) to (e) of subsection (3) (a “specified offence”),
 - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to a specified offence, 25
 - (c) an offence of inciting a person to commit a specified offence, or
 - (d) an offence of aiding, abetting, counselling or procuring the commission of a specified offence; 30
- “false accounting” means an offence of false accounting under section 17 of the Theft Act 1968;
- “fraud” means—
- (a) an offence of fraud under section 1(1) of the Fraud Act 2006,
 - (b) an offence under section 15 or 15A of the Theft Act 1968 (obtaining property, etc by deception), 35
 - (c) an offence under section 20(1) or (2) of that Act (suppression, etc of documents), or
 - (d) conspiracy to defraud;
- “handling stolen goods” means an offence of handling stolen goods under section 22 of the Theft Act 1968; 40
- “money laundering” means an offence under section 327(1), 328(1) or 329(1) of the Proceeds of Crime Act 2002 (concealing or acquiring, etc criminal property);

“theft” means an offence of theft under section 1(1) of the Theft Act 1968.

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

- (1) For the purposes of this Act, a conviction has been considered by the Court of Appeal only if one of the cases in subsections (2) to (4) applies.
- (2) The first case is where the Court of Appeal has dismissed an appeal against the conviction. 5
- (3) The second case is where the Court of Appeal has refused to give leave to appeal against the conviction.
- (4) The third case is where—
 - (a) a single judge of the Court of Appeal has refused to give leave to appeal against the conviction, and 10
 - (b) the Court of Appeal has not subsequently given leave to appeal against the conviction.
- (5) Nothing in this Act prevents a further appeal against a conviction that has been considered by the Court of Appeal. 15

4 Identification and notification of quashed convictions

- (1) The Secretary of State must take all reasonable steps to identify the convictions quashed by section 1(1).
- (2) *Where the Secretary of State identifies that a person’s conviction has been quashed by section 1(1), the Secretary of State must notify the convicting court of the details of the conviction.* 20
- (3) *As soon as is reasonably practicable after receiving notification under subsection (2), the convicting court must enter, instead of the record of conviction, a record that the conviction was quashed by this Act.*
- (4) *Where the Secretary of State identifies that a person’s conviction has been quashed by section 1(1), the Secretary of State—* 25
 - (a) *must take all reasonable steps to notify the person, or, if the person is no longer alive, the person’s personal representatives, that the conviction has been quashed, or*
 - (b) *if it is not reasonably practicable to give a notification under paragraph (a), must take all reasonable steps to—* 30
 - (i) *identify some other person whom the Secretary of State considers it is appropriate to notify, and*
 - (ii) *notify that person that the conviction has been quashed.*
- (5) For the purpose of identifying convictions quashed by section 1(1), the Secretary of State must, in particular, consider any representations made to the Secretary of State which claim that a person has been convicted in England and Wales of a relevant offence, whether or not made by that person. 35
- (6) In this section “the convicting court”, in relation to a person’s conviction, means the court by or before which the person was convicted. 40

*Deletion of cautions***5 Deletion of cautions for relevant offences**

- (1) *If it appears to the Secretary of State that a person has been cautioned in England and Wales for a relevant offence, the Secretary of State must direct the appropriate chief officer of police to delete details, contained in the criminal records database, of the caution.* 5
- (2) *As soon as is reasonably practicable after receiving a direction under subsection (1), the appropriate chief officer of police must delete the details of the caution.*
- (3) *Where the Secretary of State gives a direction under subsection (1) in relation to a person’s caution, the Secretary of State –* 10
- (a) *must take all reasonable steps to notify the person, or, if the person is no longer alive, the person’s personal representatives, that the direction has been given, or*
- (b) *if it is not reasonably practicable to give a notification under paragraph (a), must take all reasonable steps to –* 15
- (i) *identify some other person whom the Secretary of State considers it is appropriate to notify, and*
- (ii) *notify that person that the direction has been given.*
- (4) *For the purposes of this section, the Secretary of State must, in particular, consider any representations made to the Secretary of State which claim that a person has been cautioned in England and Wales for a relevant offence, whether or not made by that person.* 20
- (5) *In this section –*
- “appropriate chief officer of police”, in relation to a caution, means any chief officer of police of a police force in England and Wales who is a data controller in relation to the details of the caution;* 25
- “the criminal records database” means the names database held by the Secretary of State for the use of constables.*

*Supplementary and final provision***6 Consequential provision** 30

- (1) *Except as otherwise provided by section 4 or this section, a person whose conviction is quashed by section 1(1) is to be treated as if, on the coming into force of this Act, the conviction had been quashed by a court on an appeal.*
- (2) *Subsection (1) does not apply for the purposes of paragraph 6(9) of Schedule 3 to the Crime and Disorder Act 1998 (which provides for the setting aside of convictions of summary offences where the Court of Appeal allows an appeal against a conviction of a related indictable offence).* 35
- (3) *In section 133 of the Criminal Justice Act 1988 (compensation for miscarriages of justice), the reference in subsection (5) to a conviction having been quashed*

on an appeal out of time includes a reference to a conviction having been quashed by section 1(1).

7 Power to make further consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act. 5
- (2) The power to make regulations under this section may, in particular, be exercised by amending or modifying any provision made by or under an Act of Parliament passed before, or in the same session of Parliament as, this Act.
- (3) Regulations under this section—
 - (a) are to be made by statutory instrument; 10
 - (b) may make different provision for different purposes;
 - (c) may contain supplementary, incidental, consequential, transitional or saving provision.
- (4) A statutory instrument that contains (with or without other provision) regulations under this section that amend any provision of an Act of Parliament may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 20

8 Interpretation

- (1) In this Act—
 - “caution” means—
 - (a) a conditional caution given under section 22 of the Criminal Justice Act 2003, 25
 - (b) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998, or
 - (c) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, the person has admitted, 30and “cautioned” is to be read accordingly;
 - “conviction” means—
 - (a) a conviction by or before a court, or
 - (b) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that a person has committed an offence or done the act or made the omission charged, 35and “convicted” is to be read accordingly;
 - “the Horizon system” means any version of the computer system known as Horizon (and sometimes referred to as Legacy Horizon, Horizon Online or HNG-X) used by the Post Office, other than the version referred to as HNG-A; 40

“postal services” has the same meaning as in the Postal Services Act 2011 (see section 27 of that Act);

“the Post Office” means any of the following—

- (a) the Post Office;
- (b) Post Office Limited or Post Office Counters Limited (registered number 02154540); 5
- (c) Royal Mail Group Limited, Consignia Public Limited Company or Royal Mail Group Plc (registered number 04138203);

“post office” means any premises or vehicle in England and Wales from which postal services are provided (whether alone or with other services) directly to the public; 10

“post office business” means the business of providing postal services (whether alone or with other services) from a post office;

“quashed conviction” means a conviction quashed by section 1(1);

“relevant offence” has the meaning given by section 2. 15

(2) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this Act to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally—

- (a) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000; 20
- (b) section 82 of the Sentencing Code.

(3) Nothing in this Act affects any power of a court to quash a conviction to which this Act does not apply.

9 Extent and commencement

(1) This Act extends to England and Wales only. 25

(2) This Act comes into force on the day on which it is passed.

10 Short title

This Act may be cited as the Post Office (Horizon System) Offences Act 2024.

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Provide 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; to make provision about the deletion of cautions given in England and Wales for such offences; and for connected purposes.

*Presented by Secretary Kemi Badenoch
supported by the Prime Minister,
the Chancellor of the Exchequer,
Secretary James Cleverly, Secretary Grant Shapps,
Secretary Michelle Donelan,
Secretary Claire Coutinho, Secretary Lucy Frazer
and Laura Trott.*

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