EXPLANATORY NOTES

Public Authorities (Fraud, Error and Recovery) Act 2025

Chapter 28

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PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) ACT 2025

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Public Authorities (Fraud, Error and Recovery) Act 2025 which received Royal Assent on 2 December 2025 (c. 28).

- These Explanatory Notes have been prepared by the Department for Work and Pensions in order to assist the reader of the Public Authorities (Fraud, Error and Recovery) Act 2025. They do not form part of the Public Authorities (Fraud, Error and Recovery) Act 2025 and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act means in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

1 The Public Authorities (Fraud, Error and Recovery) Act 2025 ("the Act") is intended to safeguard public money and protect the economic well-being of the country by reducing public sector fraud, error and debt. The Act makes provisions to better identify, prevent and deter public sector fraud and error and enable the better recovery of money (debt) owed to the taxpayer where public money has been stolen or overpaid.

2 The Act introduces new powers to enable the Cabinet Office to investigate public sector fraud outside of tax and social security, using its expertise to act on behalf of other parts of government. The Act also introduces new powers to improve the Department for Work and Pensions' ("DWP") ability to address fraud and error in the social security system.

3 The Act includes safeguards, reporting mechanisms and oversight provisions to ensure the appropriate, proportionate and effective use of the powers. The Act also makes provision for the oversight of investigations conducted by both the Cabinet Office and DWP to ensure these are carried out in line with guidance and any relevant Codes of Practice.

4 The Act is estimated to deliver total benefits of £1.5 billion by 2029/30.

5 The Act is in three parts and contains six schedules:

• **Part**	• **Summary**
• **Part 1: Functions exercisable on behalf of Public Authorities**	• This Part of the Act includes provisions relating to the Cabinet Office, covering: • Investigatory powers (including an information gathering power and powers of entry, search and seizure) • Rights to recover (including a recoverable amount, a civil penalty and the Minister's relevant costs) • Powers to recover (including a recoverable amount, a civil penalty and the Minister's relevant costs) • Civil Penalties • General (including oversight)
• **Part 2: Social Security: Fraud, Error and Debt**	• This Part makes provision relating to the Social Security System, covering: • Powers to require information (including Eligibility Verification) • Powers of entry, search and seizure • Further provision relevant to investigatory powers • Overpayments: recovery and enforcement

	• Offences and penalties
• **Part 3: General**	• This Part covers: • Application and limitation • Power to make consequential provision • Financial provision • Extent • Commencement • Short title
• **Schedules**	• Schedule 1 – Fraud against public authorities: Police and Criminal Evidence Act 1984 powers etc • Schedule 2 – The Public Sector Fraud Authority • Schedule 3 – Eligibility verification etc • Schedule 4 – Social security fraud: search and seizure powers etc • Schedule 5 – Recovery from bank accounts etc • Schedule 6 – Disqualification from driving

Policy background

6 Fraud against the public sector is a significant and constantly evolving challenge, with public sector losses estimated to be at least £55 billion per year in 2023-24. The Labour Party's manifesto outlined it will not tolerate fraud or waste anywhere in public services and this administration is committed to ensuring that every pound of taxpayers' money is spent responsibly and effectively.

7 The public sector response to fraud and error has historically focused on the areas with the highest known losses – generally these have been in tax and social security. This remains a priority. However, this focus has meant that some government departments have limited powers and resources to act on fraud and error. As a result, outside of tax and social security, at least £3 billion is being lost to fraud and error per year.

8 DWP estimates show that the overall level of overpayments due to fraud and error in the social security system was almost £10 billion in 2024/25, of which over two-thirds was attributed to fraud. Whilst some fraud relates to serious and organised attacks on the welfare system, the majority (estimated to be up to 90%) is due to individual claimants. High levels of overpayments have created a significant stock of debt in the social security system, which stood at £10.6 billion in March 2025.

9 This Act is intended to support the delivery of the Labour Party's manifesto commitment to safeguard public money and protect the economic wellbeing of the country. To achieve this, the Government's strategy to reduce fraud and error is twofold. First, to prevent and deter fraud and error from happening at the outset. Second, where it cannot be prevented, to detect, identify and stop those committing fraud and recover the debt owed.

The Public Sector Fraud Authority (PSFA)

10 The PSFA, within the Cabinet Office, was launched in August 2022 to act as the UK government's Centre of Expertise for the management of fraud (and associated error) against the public sector. It is an integrated partnership between the Cabinet Office and His Majesty's Treasury ("HM Treasury") with a mandate to support ministerial departments and public bodies by seeking to provide services that will take cases of potential fraud against them, investigate and take action, including applying sanctions and recovering assets. The PSFA reports to the Minister for the Cabinet Office.

11 Part 1 of this Act provides powers for the Cabinet Office to tackle fraud against the public sector and introduces arrangements for the oversight of these powers to drive their effective use and ensure they are not misused. The provisions in this Part of the Act will result in more money being recovered, more robust action being taken against those who attack the system, and an increased deterrent to potential fraudsters. The Cabinet Office intends to use these powers to undertake cases arising from those departments and other public authorities which do not have a well-resourced fraud response or similar powers of their own. As such, the Minister for the Cabinet Office cannot act at the request of the Secretary of State with responsibility for social security, or for His Majesty's Revenue and Customs ("HMRC") with reference to the powers in Part 1 to investigate fraud or recover amounts. This is because the intent of these measures is to be able to take action outside the areas of government where most of the existing counter fraud resource is currently situated.

12 The Cabinet Office will implement a 'test and learn' approach when utilising these powers, piloting different approaches to find the best way to tackle public sector fraud. This means the measures in this Act are expected to deliver an estimated benefit of over £50m in recovered money from public sector fraud over 10 years, with the potential to scale up this in the future.

Cabinet Office: Investigatory powers

Information gathering and sharing powers

13 The PSFA Enforcement Unit in the Cabinet Office currently has no investigative powers provided for in statute, other than certain powers under the Proceeds of Crime Act 2002. It is therefore reliant on information being available from whoever referred the case i.e., another government department or public body.

14 To address this issue, the provisions in this Act will give authorised officers within the PSFA in the Cabinet Office information gathering and sharing and evidence collection powers. This includes a power to compel the production of information from information holders and issue a financial civil penalty for failure to comply with the request for information.

15 The Act makes provision to compel the production of information through an Authorised Officer issuing an 'information notice' to an individual. Amongst other things, the information notice will set out what information is required and the consequences of not complying with the information notice. Individuals will have at least ten working days starting the day after the notice is issued to respond to the request for information.

16 The Act also enables other public authorities to be able to share information with the PSFA, and for the PSFA to share information with any other person, where it is for the purpose of investigating, preventing or tackling fraud against public authorities, or for the purpose of taking enforcement action in connection with fraud against public authorities.

17 The powers provide for putting in place a robust appeals process, which includes an administrative review conducted by a higher grade official than the original investigator, outside of the original investigation section and management chain. If a financial penalty is issued for failure to comply with an information notice, there is the option to appeal the matter to the appropriate court, which would include the ability to challenge the lawfulness of the information notice, as well as the ability to challenge the financial penalty itself.

Communications data

18 The Act includes adding the Cabinet Office to Schedule 4 of the Investigatory Powers Act 2016[1] ("IPA") to give the Cabinet Office lawful authority to obtain communications data from telecommunications providers, which is an essential tool for investigations and routinely used as evidence. This will enable the Cabinet Office to seek authority from the Investigatory Powers Commissioner's Office to acquire communications data when it is an absolute necessity to detect and investigate evidence of public sector fraud.

Powers of entry, search and seizure

19 The Act contains provisions for powers of entry, search and seizure which will give authorised investigators powers to apply to a court for a search warrant or a production order. Where a warrant has been issued by a court, authorised investigators will have the power to enter premises, search for and seize evidence (such as documents and electronic devices) and retain, photograph and copy that evidence. Authorised investigators will always be accompanied by an officer with the powers of a constable when exercising a search warrant but enabling them to undertake time-intensive activities in this process, for example, making an application to a court for a search warrant, will reduce the burden placed on the police in relation to investigations of offences of fraud against public authorities undertaken by the PSFA.

20 The Act enables this by applying certain provisions of the Police and Criminal Evidence Act 1984[2] to investigations of offences of fraud against a public authority carried out by authorised investigators. The powers granted to such investigators will be the same as police officers', with some modifications, and will be used specifically for such investigations. The powers are the minimum necessary to secure evidence in investigations of fraud offences against public authorities conducted by the PSFA and bring the PSFA in line with other government departments, such as the Food Standards Agency, HMRC and the Gangmasters and Labour Abuse Authority, who already have search and seizure powers.

[1] https://www.legislation.gov.uk/ukpga/2016/25/contents

[2] https://www.legislation.gov.uk/ukpga/1984/60/contents

Cabinet Office: Rights to recover

21 The PSFA currently has limited civil powers to recover payments made by public authorities as a result of fraud or error. Whilst the Cabinet Office has been granted certain Proceeds of Crime Act 2002[3] ("POCA") powers, these can generally only be used to recover assets in a confiscation investigation following a criminal investigation. Although the Cabinet Office can apply to the courts to freeze funds in bank accounts, it needs approval from the Crown Prosecution Service to make a civil claim for the recovery of assets obtained through unlawful conduct under POCA.

22 To address this, the Act contains provisions for the Minister of the Cabinet Office to act on behalf of another public authority in relation to a recoverable amount (see below) by bringing or continuing proceedings in a court or tribunal for recovery and in exercising the recovery powers provided under this Act.

23 The Act sets out that a 'recoverable amount' is an amount of money that has been paid to a person as a result of fraud or error that: (a) the Minister has identified or confirmed during the course of an investigation into suspected fraud and the public authority is entitled to recover or (b) any amount that a public authority is entitled to recover in respect of fraud. A recoverable amount may also include any interest that may be claimed on that sum.

24 The Act also sets out that the Minister may only act under this Part on behalf of a public authority where the recoverable amount has been investigated or confirmed by the Minister or the public authority's claim to the recoverable amount relates to fraud. Before the Minister is able to bring a claim for a recoverable amount they must first give a recovery notice setting out the Minister's intention to make a claim. The Minister may then only exercise the recovery powers under Chapter 4 of Part 1 of the Act where the liable person agrees that the amount is recoverable or there has been a determination by a court or tribunal confirming that the Minister is entitled to recover the recoverable amount.

25 The Act also confers powers on the Minister to recover a penalty imposed under Chapter 5, including any late payment interest due in respect of it and any relevant costs. The Minister may only exercise the recovery powers under Chapter 4 in relation to civil penalties where the time for appealing the penalty has passed or where an appeal against the penalty has been abandoned or finally determined.

Cabinet Office: Methods of recovery

26 Where the Minister has a right to recover under Chapter 3, the Act contains provisions to recover the recoverable amount, a civil penalty (including any interest) or the relevant costs. These powers will enable the Minister to seek recovery from an individual's earnings via a Deduction from Earnings Order and directly from bank accounts via lump sum direct deduction orders for specified amounts or regular direct deduction orders for regular deductions, without having to make a separate application via the courts. These will be applied by the Minister after the right to recover the amount specified has been established under Chapter 4 and after ensuring there is sufficient capital for affordable deductions.

27 There are alternative routes to recover debts as part of a criminal investigation - the debt recovery powers in this Act are related to an amount that has been identified or confirmed during the course of an investigation into suspected fraud, or any other amount that a public authority is entitled to recover in respect of fraud or where a civil penalty has been imposed.

[3] https://www.legislation.gov.uk/ukpga/2002/29/contents

28 This will bring the Cabinet Office's powers (exercisable by the PSFA) to recover recoverable amounts, civil penalties and relevant costs in line with the powers held by DWP, HMRC, the Child Maintenance Service and some local authorities, with the aim of reducing the burden on civil and criminal justice systems.

Cabinet Office: Civil penalties

29 Criminal investigations leading to prosecution are often resource-heavy, time-intensive and can place burdens on the courts. As the scale of public fraud increases, investigative bodies, including the PSFA's Enforcement Unit in the Cabinet Office, require enforcement powers to act against and prevent fraudulent activity within the public sector.

30 Civil penalties offer an alternative to prosecution and help mitigate the burden on the criminal justice system by offering alternative routes for the public sector to manage fraud cases. The Act introduces a framework of civil penalties for fraud that the Minister can impose, including on behalf of other government departments, serving as an important deterrent against fraud in the public sector.

31 The Minister will have the power to impose penalties, provided that on the balance of probabilities that the person has carried out, or conspired to carry out fraud, in order to receive or help another person to receive a payment that is a recoverable amount, or the fraud has resulted in a loss to a public authority. The Minister will also have the power to impose penalties for non-compliance with certain requirements in the Act. These requirements include obligations to provide information concerning investigatory powers and requirements related to the recovery of recoverable amounts.

Cabinet Office: Oversight

32 The Act makes provision to appoint an independent person to carry out reviews of the exercise of the Minister's functions under this Part to help build trust in government and ensure the correct and proper use of powers. This is in addition to both management oversight and provisions to enable the Independent Office for Police Conduct ("IOPC") to carry out the handling of the most serious of complaints, and incidents, in relation to activities undertaken by a warrant. In addition to external existing oversight bodies, the Cabinet Office intends to create a new Independent Chair, to whom a new internal oversight team will report. In all cases, oversight will sit independently to those using powers in the Act and will be in addition to both management oversight and existing criminal powers oversight, with which the Cabinet Office will comply.

33 Schedule 2 contains provision for the Minister to establish a statutory body called the Public Sector Fraud Authority or for the transfer of the powers conferred to the Minister under Chapters 1 to 5 to a different public authority (such as a pre-established statutory body that is not within the scope of the Ministers of the Crown Act 1975) – the name of which can be changed by way of regulations. This Schedule makes provision for the Minister to enable the transfer of functions to an independent PSFA or a different body by way of regulations subject to the affirmative procedure.

Fraud, Error and Debt in the Social Security System

34 DWP's legislative framework requires modernisation to meet the challenges presented by the scale of fraud and error and to deliver the Government's strategy to reduce fraud, error and debt.

35 Part 2 of the Act makes provision for new powers for DWP to reduce fraud, error and debt in the social security system.

DWP: Powers to require information

36 This Act contains provisions that will give DWP the powers to request information in two contexts: first, for the purpose of investigating suspected fraud, and second, for the purpose of helping to identify incorrect payments of benefits.

Requiring information to investigate suspected fraud through 'Information Notices'

37 Currently, DWP can request information from a limited number of third parties during investigations into suspected benefit fraud. This can only be done by 'writing' or by 'visit' without clear powers to mandate an electronic response. This leaves the Department unable to compel information from a wide range of information holders and unable to compel information for investigations into fraud on wider payments made by DWP, such as grants. Furthermore, it often leaves the Department using outdated communication methods when conducting benefit fraud investigations. The nature of fraud has become more sophisticated, meaning that without reform DWP cannot properly keep pace with the changing nature of fraud and is not aligned with other government departments and public bodies in the way it gathers information to prove or disprove suspected fraud.

38 The provisions in this Act create a single approach for gathering information from all information holders, unless that information is exempt, and allow for requests and responses to be received digitally by default. The provisions also allow for these powers to be exercised in relation to any benefit or grant that is administered and investigated by DWP where fraud is suspected.

Requiring information to help verify eligibility for benefits

39 Benefit claimants have a responsibility to inform DWP of changes in their circumstances that may affect their eligibility for benefit or their level of entitlement. Where possible, DWP uses different sources of data to verify this information. For example, DWP uses income data from HMRC to verify information about employment and income that can affect benefit eligibility and entitlement. However, for some benefit eligibility criteria, such as rules around capital limits (savings) or time spent abroad, DWP is not able to independently verify that these criteria are being met. This means the Department is reliant on individuals self-reporting their circumstances accurately. This can result in overpayments for claimants that are recoverable if DWP later finds out these were not reported accurately. These overpayments also represent a loss to the taxpayer and add to the debt stock.

40 The National Audit Office's ("NAO") report, 'An overview of the impact of fraud and error on public funds for the new Parliament 2023-24'[4], made clear that there are advantages to using data to tackle fraud and error and that DWP should better harness and use data to detect fraud and reduce error.

41 To better harness data, the Act makes provision for DWP to require financial institutions to provide information to help verify a claimant's entitlements to certain benefits and help identify incorrect payments. This will be done through the issuing of "Eligibility Verification Notices" by DWP, which will set out the specific information required from financial institutions. To respond, financial institutions will return data about accounts they hold that meet the eligibility indicators outlined in the notices sent by DWP. The "eligibility indicators" in the notice are the criteria that can help DWP identify whether a specified benefit is/was being incorrectly paid in line with the rules for a benefit. For example, in Universal Credit, an individual cannot hold more than £16,000 in savings (capital) and remain eligible for

[4] https://www.nao.org.uk/overviews/the-impact-of-fraud-and-error-on-public-funds-2023-24/

Universal Credit, unless the capital is a result of a specified exception. DWP will then use the information received, along with other relevant information held on the claimant, to determine whether further inquiry is needed.

42 These powers can be used with specific benefits, which are: Universal Credit, Pension Credit, and Employment and Support Allowance. Where EVM has helped identify an incorrect payment, the information obtained may be used to assess whether other benefit payments which the claimant also receives are incorrect. Any changes to benefit payments that occur may also affect passported benefits, including, for example, "passported" Housing Benefit (that is, where a claimant's eligibility for Pension Credit waives the need for a Local Authority to carry out their own means-testing for Housing Benefit). The Act makes provision for further benefits to be added; this is with the exception of the State Pension, which is excluded from these powers given its near universality.

43 This will help DWP to identify more incorrect payments sooner, meaning more claimants are paid accurately, more errors are found and resolved, individual debt is minimised and potential fraud can be identified and investigated.

44 DWP can only ask financial institutions to provide information on accounts they hold, into which the specified benefit is paid (or accounts linked to the account into which benefit is paid). Data can only be shared and used for the purpose of helping to identify incorrect payments of benefits. Only limited information will be shared by financial institutions, and this will only be used by DWP to support further inquiry into a potential incorrect payment if needed.

45 The powers include important safeguards such as limitations on the purpose for which data can be collected and its use and provision for independent oversight. This will enable an independent person to be appointed by the Secretary of State, to carry out reviews, and report on DWP's use of the power in line with the legislation, code of practice and other relevant documents. This report must be published by the Secretary of State and laid in Parliament.

46 The powers will not give DWP direct access to any bank accounts, nor any transaction information such as information on how claimants spend their money. As is already the case, a human will always be involved in any further inquiries and any decision taken afterwards that might affect eligibility or benefit awards. Where EVM information leads DWP to consider using information gathering powers (under new section 109BZA introduced by this Act), suspend benefit payments, or amend an earlier decision about benefit entitlement, DWP must consider all information held which is relevant to that decision, including information that is not EVM information, before acting.

DWP: Powers of entry, search and seizure etc

47 The Act contains provisions to enable DWP investigators, once professionally trained to industry standards (including those set by the College of Policing), to apply to a court for warrants to enter premises, search for and seize items when investigating the most serious cases of economic and serious organised fraud against the Department.

48 At present, DWP leads on all aspects of fraud investigations until the Police undertake the entry, search the premises and seize any items that may support the investigation at DWP's request. As a result, DWP is reliant on the Police to secure entry to a premises and carry out the search and seizure activity in relation to DWP fraud investigations. Modernising these powers will align DWP with other government departments such as the Food Standards Agency, HMRC and the Gangmasters and Labour Abuse Authority, which have staff that are empowered to conduct search and seizures themselves. DWP will not take powers of arrest; DWP will continue to rely on the Police to carry out any arrests for suspected offences.

49 The Act also makes provisions to obtain evidence through a court production order and for the retention and disposal of seized evidence. Independent inspection and a complaints provision are also included in the Act.

DWP: Overpayments – recovery and enforcement

50 At present where a liable person does not repay their debt voluntarily, DWP can only compel recovery of debts from individuals in receipt of a DWP benefit or from individuals enrolled in Pay As You Earn ("PAYE") employment.

51 Where someone is no longer in receipt of a DWP benefit or in PAYE employment but has other income or capital, DWP is unable to recover the debt without court action if the liable person refuses to pay. This means that some individuals who can pay deliberately choose not to. This creates an inequity in the approach to DWP debt recovery and results in losses to the taxpayer. This measure will bring greater fairness to the recovery of DWP debt.

52 The Act makes provision for the recovery of these debts and provision for new enforcement powers that are broadly similar to those held by the Child Maintenance Service. These powers will improve fairness in DWP's ability to recover public money that has been overpaid from those who currently have the means to repay but choose not to and refuse to do so. The provisions in the Act include powers to recover such debt directly from a liable person's bank accounts via lump sum direct deduction orders for specified amounts and regular direct deduction orders for regular deductions without having to apply via the courts. These direct recoveries will only happen once affordability and vulnerability checks have been carried out, including through considering the liable person's bank statements. This will improve the efficiency of the process to recover overpayments and bring greater fairness to the recovery of DWP debt.

53 Where other attempts at recovery have not been successful, the provisions in the Act will also enable DWP to apply to the court for a suspended DWP disqualification order to disqualify the liable person from holding a driving licence. Where a suspended DWP disqualification order is made, the liable person can avoid the actual disqualification from holding a licence by making repayments ordered by the court. If they do not comply with the suspended order, DWP can then apply for an immediate DWP disqualification order. This enforcement mechanism will be used as a last resort, in the most serious cases, where the liable person repeatedly fails to repay their debt and recovery cannot be made by any other means, including by direct deductions from a liable person's bank account.

54 The Act also allows for these powers, and existing DWP debt recovery powers, to be applied to any payment, credit, or grant that is administered by DWP where DWP has determined there was an overpayment as a result of fraud and either the person has been convicted or has accepted a penalty in lieu of prosecution.

DWP: Administrative Penalties

55 An Administrative Penalty can be offered as an alternative to prosecution in cases of benefit fraud where there is clear evidence of criminality. It is intended to provide a proportionate and timely consequence for benefit fraud where the pursuit of prosecution in the courts may not be cost or time effective. If the Administrative Penalty is not accepted, DWP will pursue a prosecution through the courts. The Administrative Penalty is 50% of the overpayment value, up to a maximum of £5,000.

56 Currently, the Administrative Penalty is confined to use in cases of benefit fraud only. This means that those individuals who commit fraud through non-benefit payments, such as grants, cannot currently be offered an Administrative Penalty.

57 This Act makes provision to extend the Administrative Penalty to non-benefit payments so that anyone found to have committed fraud against the social security system can be subject to proportionate and timely consequence – bringing parity in approach with benefit fraud. For the Administrative Penalty to be offered in these cases, provisions are made in the Act so that fraudulent non-benefit payments can be investigated and recovered through the same framework as benefit payments.

58 For benefit claimants, the Act also makes provision to remove the Loss of Benefit ("LOB") from cases where the customer chooses to accept an Administrative Penalty. Currently, accepting an Administrative Penalty means that the benefit claimant also loses entitlement to benefit they continue to be eligible for that are disqualifying and sanctionable for four weeks. As a result, in lower value fraud cases, some claimants can find themselves facing a financial penalty and a loss of benefit sanction alongside repaying the overpayment. This may put them at risk of hardship. Furthermore, if deductions from benefit are the only way to recover the debt, the LOB has the effect of making the debt unrecoverable for the period benefit is suspended. Therefore, the LOB will be reserved for the most serious cases of fraud taken to prosecution, so the most serious consequences apply to the most severe crimes.

DWP: Inspection

59 As DWP take additional investigation powers, it is necessary that there is appropriate inspection of these functions and their investigations. The Act makes provision to appoint an independent person to inspect and report on DWP's use of its investigative powers. This independent person will be able to inspect all investigations powers under sections 109A – H of the Social Security Administration Act 1992[5], which includes the new powers to require information for the purposes of a fraud investigation and new powers of entry, search and seizure in this Act.

60 Separately, the Act also makes provisions to enable the Independent Office for Police Conduct ("IOPC") and the Police Investigations and Review Commissioner ("PIRC") to carry out investigations into the most serious of complaints against DWP in relation to activities when undertaken by a warrant.

61 This is additional oversight to that already included in the powers for requiring information to verify a person's eligibility for benefit.

Legal background

Part 1: Functions exercisable on behalf of Public Authorities

62 The Cabinet Office does not have any existing statutory powers to investigate suspected fraud and overpayments, seek recovery (except through certain Proceeds of Crime Act 2002 powers) or impose penalties.

63 Currently, for example, the PSFA can only request that a person provide them with information but there are no statutory powers to compel the provision of information. The PSFA also has no powers of entry, search or seizure and would be reliant on the civil courts to

[5] https://www.legislation.gov.uk/ukpga/1992/5/contents

secure repayments of debts. This Act gives the PSFA new powers, amongst others, to require information in relation to fraud, the ability to impose a penalty for fraudulent activities or for failure to comply with the requirements in the Act, the power to recover debt directly from a bank account or from earnings and the ability to establish the PSFA as a statutory body in due course.

Part 2: Social Security Fraud, Error and Debt

64 DWP's legislative framework in relation to fraud, debt and error is governed by several different pieces of legislation, several of which are amended by this Act. The principal pieces of legislation and a brief description of the main changes relevant to each are listed below to assist the reading of these Explanatory Notes and to place some of the details described in these Explanatory Notes in context.

Powers to require information

65 Benefit fraud is committed when an individual(s) deliberately claims benefits that they are not entitled to. They may do this by not alerting DWP to a change in circumstance or providing false information. When there is a suspicion of fraud, cross-checking the information that claimants provide against independent sources of information helps to prove or disprove that suspicion of benefit fraud. DWP currently has powers to obtain information from certain third parties listed in section 109B of the Social Security Administration Act 1992[6]. The third-party information holders are listed in section 109B(2) and section109B(2A) of the Act as well as in The Social Security (Persons Required to Provide Information) Regulations 2013[7] and include organisations such as employers and banks. This Act amends the Social Security Administration Act 1992 to widen the scope of information holders that can be compelled to provide information to DWP as part of a criminal investigation and allows information requests to be made digitally. Amendments are also made to allow DWP to obtain information in relation to every type of DWP-led criminal investigation, including all offences relating to benefits or grants for which DWP exercise functions and National Insurance Number related offences. The Social Security Fraud Act 2001[8] is amended to require DWP to prepare and publish a new Code of Practice.

66 Section 76 amends section 109B of the Social Security Administration Act 1992 and inserts new section 109BZA which makes provision for when an "authorised officer" may give a person an "information notice" requiring them to give specified information. Section 89 establishes a definition of a "DWP offence" so that these powers can potentially be used in relation to any suspected offence relating to a benefit or grant in relation to which the Secretary of State with responsibility for social security exercises functions. Section 90 introduces new section 109H which provides exemption for specific types of information.

Eligibility Verification Measure

67 This Act amends the Social Security Administration Act 1992[9] by inserting new section 121DB, 121DC, 121DD, and Schedule 3B into that Act. New section 121DB and new Schedule 3B make detailed provision regarding the power of the Secretary of State to require persons (financial institutions) to provide information to DWP for the purposes of helping to identify incorrect

[6] https://www.legislation.gov.uk/ukpga/1992/5/contents

[7] https://www.legislation.gov.uk/uksi/2013/1510/contents

[8] https://www.legislation.gov.uk/ukpga/2001/11/contents

[9] https://www.legislation.gov.uk/ukpga/1992/5/contents

payments of certain benefits by checking against specified eligibility indicators. New sections 121DC and 121DD make provision for an independent person to be appointed to review the exercise of the powers conferred under new Schedule 3B, and provide for DWP to share relevant information for the purposes of carrying out this review.

68 This Act also amends sections 330 and 331 of the Proceeds of Crime Act 2002[10] to introduce exemptions for offences relating to failure to disclose knowledge or suspicion of money laundering in the regulated sector, when such knowledge or suspicion only arises due to information that came to them in consequence of compliance with an Eligibility Verification Notice issued under the new Schedule 3B.

Powers of entry, search and seizure etc

69 Current DWP investigations relating to serious and organised fraud are reliant on the Police to exercise powers of entry, conduct searches and seize evidence. These powers exercised by the Police are mainly provided for under the Police and Criminal Evidence Act 1984[11] in England and Wales. In Scotland, Police Scotland conduct these matters under a mix of statute and common law. This Act grants DWP authorised investigators, investigating serious and organised fraud, specific powers under the Police and Criminal Evidence Act 1984 and the Criminal Justice and Police Act 2001[12] for matters relating to England and Wales.

70 This Act amends the Social Security Administration Act 1992[13] by inserting a new section 109D which specifies the applicable provisions of the 1984 Act and other relevant provisions. These are new powers conferred on DWP authorised investigators.

71 This Act inserts a new section 109E into the Social Security Administration Act 1992 which confers a similar set of powers to section 109D on DWP authorised investigators in relation to Scotland. The details of these new powers in relation to Scotland are in Schedule 3ZD.

72 This Act inserts a new section 109F into the Social Security Administration Act 1992. This allows the new powers set out in section 109D, section 109E and Schedule 3ZD to be exercised in relation to Crown premises.

73 This Act inserts a new section 109G into the Social Security Administration Act 1992. This will allow DWP authorised investigators to apply to the appropriate court for an order permitting specific seized property to be disposed of.

74 This Act amends Part 2 of the Police Reform Act 2002[14] to allow the Independent Office for Police Conduct to handle serious incidents and complaints relating to the use of the section 109D powers by DWP authorised investigators. The Act inserts a new section 26H into the Police Reform Act 2002 which permits the Secretary of State to make regulations conferring functions on the Director General of the Independent Office for Police Conduct.

75 This Act permits the Police Investigations and Review Commissioner to enter into an arrangement with the Secretary of State to handle serious complaints relating to the use of the Schedule 3ZD powers by DWP authorised investigators in Scotland.

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[10] https://www.legislation.gov.uk/ukpga/2002/29/contents

[11] https://www.legislation.gov.uk/ukpga/1984/60/contents

[12] https://www.legislation.gov.uk/ukpga/2001/16/contents

[13] https://www.legislation.gov.uk/ukpga/1992/5/contents

[14] https://www.legislation.gov.uk/ukpga/2002/30/contents

Overpayments: recovery and enforcement

76 The Act amends the Social Security Administration Act 1992[15] to introduce two further methods of recovery, adding a section 80C and Schedule 3ZA into the Act, which will allow DWP to give direct deduction orders to Banks, requiring the Bank to make one-off or regular deductions from a liable person's bank account to pay some or all of the debt owed to DWP. It also requires that the Bank provides necessary information about the account to allow DWP to determine if a deduction is possible and ensure any deduction will be fair and not cause the liable person hardship in meeting essential living expenses. A bank must also provide DWP with the name and contact details it holds for any person acting on behalf of an account holder, as a deputy or under a Power of Attorney. The Act provides safeguards for joint account holders and allows any account holder to appeal the order to the First-tier Tribunal after either making representations to DWP before the order was made, or after seeking a review of the order. This power is broadly similar to the Child Maintenance Service's power, under sections 32A and 32F of the Child Support Act 1991[16] (as amended).

77 The Act also inserts new section 80D and Schedule 3ZB into the Social Security Administration Act 1992, which allows the Secretary of State to seek a court order which would require the liable person to make affordable payments, with a potential penalty of disqualification from driving for up to two years if they do not. This is similar to the Child Maintenance Service provisions under sections 39A and 40B of the Child Support Act 1991[17] (as amended), although disqualification must always be suspended in the first instance in DWP orders.

78 The Act inserts new section 80G, which makes clearer that where the law permits DWP to recover the cost of recovery action (such as court enforcement or deduction from benefits) from the liable person, it can recover this through any available power. The Act inserts new section 80F, which gives lay DWP officials rights to oversee civil debt recovery claims and appear in court on behalf of the Secretary of State.

Offences and penalties

79 Chapter 5 of the Act amends the Social Security Administration Act 1992[18] to extend the Administrative Penalty regime to non-benefit payments (an example of which might be a grant). There is also provision to amend the Social Security Fraud Act 2001[19] to remove the loss of benefit sanction where a person accepts an Administrative Penalty.

Territorial extent and application

80 Section 108 sets out the territorial extent of the Act, that is the jurisdictions which the Act forms part of the law of. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect. The territorial extent and application of the Act's measures are summarised below.

[15] https://www.legislation.gov.uk/ukpga/1992/5/contents

[16] https://www.legislation.gov.uk/ukpga/1991/48/contents

[17] https://www.legislation.gov.uk/ukpga/1991/48/contents

[18] https://www.legislation.gov.uk/ukpga/1992/5/contents

[19] https://www.legislation.gov.uk/ukpga/2001/11/contents

81 Part 1 (Functions exercisable on behalf of Public Authorities) extends to England and Wales only. For the extension and application of Part 2 (Social Security) to England, Wales and Scotland, see the table in Annex A. Part 2 does not apply to Northern Ireland as Social Security is wholly devolved (transferred) to Northern Ireland.

82 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Act

Part 1: Functions exercisable on behalf of Public Authorities

Chapter 1: Key Concepts

Section 1: Core functions of the Minister for the Cabinet Office

83 Subsection (1) specifies the Minister's core functions: investigating suspected fraud against public authorities, recovering the amounts mentioned in subsection (2), taking enforcement actions related to fraud against public authorities, and supporting public authorities to prevent and address fraud against them.

84 Subsection (2) defines the amounts recoverable under subsection (1) as being either an amount that has been investigated as being suspected fraud against a public authority or any other amount which a public authority is entitled to recover in respect of fraud, and any interest the public authority is entitled to recover. These are called "recoverable amounts".

Section 2: Interaction with other public authorities etc

85 This Section sets out specific conditions under which the functions conferred on the Minister and their authorised officers (by virtue of section 67) by this Part may be exercised, as well as detailing what remains unaffected by this Part.

86 Subsection (1) provides that the Minister of the Cabinet Office is to exercise the investigation, enforcement and recovery powers in Part 1 on behalf of another public authority only at the request of that public authority or if the Minister considers that it is necessary in the public interest to do so.

87 Subsection (2) states that the Minister may not act at the request of the Secretary of State with responsibility for social security or for HMRC. This is because the intent of these measures is to be able to take action outside the areas of government where most of the existing counter fraud resource is currently situated, for example DWP and HMRC are already well resourced to tackle social security and tax fraud in their respective areas.

88 Subsection (3) allows the Minister to charge a fee for exercising functions under the Act.

89 Subsection (4) states that "a public authority" includes the Minister of the Cabinet Office in cases of suspected fraud and recovery of money. This means that the powers in Part 1 can be used in cases of fraud arising in the Cabinet Office.

90 Subsection (5) provides that the enactment of this Part does not impact existing counter fraud investigation and enforcement functions of other public authorities. Specifically, it does not affect the entitlement of a public authority to recover an amount by means other than those provided for in this Part, nor does it replace or supersede the functions concerning fraud and the recovery of losses specific to a public authority other than the Minister.

Chapter 2: Investigatory Powers

Section 3: Information notices

91 This section outlines the power of the Minister to require a person, (which includes a body of persons corporate or unincorporate) to provide information deemed necessary for investigating suspected fraud against public authorities.

92 Subsection (1) grants the Minister the power to demand specified information from a person if it is necessary and proportionate for investigating potential fraud and if there are reasonable grounds to suspect fraud has been committed against a public authority.

93 Subsection (2) explains that this power is exercised through the issuing of an "information notice".

94 Subsection (3) requires the information notice to identify the person suspected of committing fraud.

95 Subsection (4) details the requirements of the information notice, including the format, timeline for compliance, location for submission and the consequences of non-compliance.

96 Subsection (5) mandates that the compliance period must be a minimum of 10 working days after the notice is issued.

97 Subsection (6) extends the Minister's power to include taking copies of information, requiring the individual to provide information in a specified form, imposing duties on the individual to retain information they already hold for longer than they would normally be required to and explaining any failure to supply specified information.

98 Subsection (7) restricts the information notice from demanding "excluded material" or "journalistic material", as defined under the Police and Criminal Evidence Act 1984[20].

99 Subsection (8) clarifies that "specified" means as detailed in the notice or falling within a described category therein.

Section 4: Reviews

100 This section provides a mechanism to request a review of a decision to issue an information notice.

101 Subsection (1) allows the person receiving the information notice under section 3 to apply for a review by the Minister.

102 Subsection (2) sets a seven-day time limit for making such an application, starting from the day after the notice is given.

103 Subsection (3) mandates that where such an application has been made, the decision to give the notice must be reviewed by the Minister.

[20] https://www.legislation.gov.uk/ukpga/1984/60/contents

104 Subsection (4) allows the reviewing officer to either revoke, uphold or vary the notice.

105 Subsection (5) requires the Minister to notify the applicant of the review outcome and provide a varied notice if applicable.

106 Subsection (6) specifies that the time period for complying with the information notice will start again in the event that the notice is upheld or varied on a review.

Section 5: Information Sharing

107 This section outlines the conditions under which information held by a public authority can be disclosed to the Minister and how information held by the Minister can be shared.

108 Subsection (1) permits a public authority to disclose information to the Minister relevant to the exercise of the Minister's core functions.

109 Subsection (2) restricts the use of this disclosed information by the Minister strictly for the purpose of exercising those core functions.

110 Under subsection (3), the Minister may disclose the information to another party if it is for the purpose of exercising the core functions.

111 Subsection (4) imposes conditions on any third-party recipient of the information, stipulating that said information must only be used for its intended purpose and cannot be further disclosed without the Minister's consent.

Section 6: Amendment of the Investigatory Powers Act 2016

112 This section amends Schedule 4 of the Investigatory Powers Act 2016[21], which lists relevant public authorities. The amendment empowers the PSFA Enforcement Unit to be able to apply to the Investigatory Powers Commissioner's Office for authorisation to obtain communications data from telecommunication providers.

Section 7: Police and Criminal Evidence Act 1984 etc powers

113 This section applies certain provisions of the Police and Criminal Evidence Act 1984 ("PACE") to investigations of offences of fraud against a public authority. Investigations must be carried out by authorised investigators in the exercise of the Minister's function of investigating suspected fraud against public authorities. These investigators may use the PACE powers which are applied by this section in the same way as police officers can use these PACE powers in relation to investigations of offences, subject to the modifications detailed in Schedule 1.

114 Subsection (1) provides that the listed provisions of PACE apply to investigations of fraud against public authorities by authorised investigators. The specific sections of PACE that are applicable to authorised investigators are summarised in the table below.

115 Subsection (2) sets out the particular provisions of PACE which apply in relation to investigations of offences of fraud against a public authority and which can be used by authorised investigators. These are: to seek authorisation from a court (a warrant) to enter and search premises; to execute the warrant; to apply to a court to obtain access to certain excluded material or special procedure material; to seize evidence, including computerised information; and provisions for access, copying and the retention of materials. The provisions include the safeguards for the use of these powers already in PACE and several sections of PACE which are necessary to ensure the above provisions can be applied correctly.

[21] https://www.legislation.gov.uk/ukpga/2016/25/contents

116 Subsection (3) defines an authorised investigator as an individual authorised by the Minister to execute the powers granted in this section.

117 Subsection (4) sets out that authorised investigators must be employed within the Civil Service in the Minister's Department. Authorised investigators must also be at the grade of at least Higher Executive Officer, or a grade equivalent to Higher Executive Officer.

118 The following table summarises the PACE measures which are listed in Section 7:

Provision	**What it means**
PACE – Section 8 – subsections (1) to (5) (Power of justice of the peace to authorise entry and search of premises)	This section makes provision for an authorised investigator to apply to a court for a warrant that will allow for lawful entry into a premises, with or without the permission of anyone who may be present there. On entering the premises, if the warrant permits, it allows for the lawful search of the premises and for the seizure and retention of material which is likely to be of substantial value to the investigation of an indictable offence of fraud against a public authority. An *indictable offence* is a serious crime that can or must be tried in a Crown Court.
PACE – Section 9 – subsection (1) and Schedule 1 (Special provision as to access)	Section 9(1) allows an authorised investigator to apply, under Schedule 1 of PACE, to a judge for a search warrant or production order to access excluded or special procedure material. Any application must demonstrate to a judge that the access conditions specified in paragraph 2 of Schedule 1 of PACE (as modified by Schedule 1 of the Act) have been met. For more information on these conditions see: PACE 1984-Schedule 1.
PACE – Section 15 (search warrants - safeguards)	This section outlines the information that an authorised investigator must provide to the court when applying for a warrant under section 8. It also specifies the required level of information that must be included on the warrant.
PACE - Section 16 (execution of warrants)	This section details the practical elements of the execution of warrants. A warrant may authorise other persons to accompany the authorised investigator when executing the warrant. Such persons will have the same search and seizure powers as the authorised investigator. This is provided those powers are used under the supervision, and in the company, of an authorised investigator.
PACE - Section 19 (general power of seizure)	This section allows an authorised investigator to lawfully seize anything on the premises if: • they have reasonable grounds to believe it was obtained in consequence of the commission of an offence of fraud against a public authority and seizing the material is necessary to prevent it being concealed, lost, damaged, altered or destroyed; or • they have reasonable grounds to believe it is evidence in relation to an offence of fraud against a public authority and seizing it is necessary to prevent it being concealed, altered or destroyed.

PACE – Section 20 (extension of powers of seizure to computerised information)	This section allows for an authorised investigator who is lawfully on a premises to use an applicable power to seize information stored in any electronic form and accessible from the premises to be produced in a removable format. The 'applicable power to seize' includes those conferred by section 8 of PACE (search warrants) and paragraph 13 of Schedule 1 of PACE (seizure during a Schedule 1 search), with the extension of electronic seizure conferred by section 20 of PACE.
PACE – Section 21 (access and copying)	This section describes the circumstances under which an authorised investigator is required to: • provide a record of, • allow access to, • provide copies of, seized material to people who can show they were the occupiers of the premises from where an authorised investigator seized the material, or, that they had custody and control of the material immediately before it was seized. It also describes the circumstances under which an authorised investigator is not required to grant such access or provide a copy of seized material.
PACE – Section 22 (retention)	This section outlines the conditions which apply to seized material and its retention.
PACE – Sections 10 to 14, 23 and 118 (interpretation provisions)	These sections define the terms "items subject to legal privilege", "excluded material", "personal records", "journalistic material", "special procedure material", "premises" and further general terms contained in PACE.

Section 8: Disposal of property

119 It may not be possible or appropriate to return property that has come into the possession of the PSFA through the exercise of its functions under Part 1 of the Act. This may be because the owner cannot be identified or because there is no surviving owner. In some cases, it may not be appropriate to return property as it contains illicit content or could be used in the commission of an offence if it was returned. The PSFA requires a lawful way to either dispose of these kinds of property, or make changes to the property to remove illicit content, before it is returned to its owner. This will usually apply to property which has been obtained in the process of collecting evidence, but may also be property obtained by other means, including voluntary surrender by a person.

120 Subsection (1) allows a magistrates' court to order the delivery of relevant property to the person appearing to the court to be the owner or to make other appropriate orders if the owner cannot be identified, such as giving the Minister permission to make arrangements for its destruction, subject to safeguards.

121 Subsection (2) permits the court, when ordering the return of property to a person deemed by the court to be the owner under subsection(1)(a), to also include provision for the Minister to make necessary changes to the seized property. This will be used to avoid or reduce any risk of the property being used in the commission of a future offence.

122 Subsection (3) provides that an order for the destruction or disposal of the relevant property cannot provide for this before the end of the period of six months from the date of the order.

123 Subsection (4) clarifies that a first order made under subsection (1)(b) does not forbid further applications for orders regarding the same property.

124 Where an order is made following a further application, subsection (5) provides that the order may not provide for the destruction or disposal of the property before the end of the period of six months from the date of the first order or any other provision relating to the timing of the destruction or disposal of the property.

125 Subsection (6) defines "relevant property" as tangible property, meaning physical property, not digital property, which has come into the possession of the Minister in the course of fulfilling one of the functions under Part 1.

Section 9: Incidents etc

126 This section provides for the Independent Office for Police Conduct to review serious complaints that could arise from the PSFA's use of the PACE[22] powers. Specifically, it amends the Police Reform Act 2002[23] to extend the IOPC Director General's functions to include oversight of public sector fraud investigators in respect of this Act. These amendments include allowing the Minister to make regulations conferring functions on the Director General in relation to these investigators.

127 Additionally, it permits the sharing of information between the Director General, the relevant Minister and those who act on their behalf, and the Parliamentary Commissioner for Administration to facilitate collaborative investigations, while ensuring that the sharing of such information complies with existing data protection and investigatory powers legislation. This section also contains definitions relevant to these new provisions, such as "public sector fraud investigators".

Chapter 3: Rights to recover

Section 10: Acting for another public authority

128 This Section outlines the powers granted to the Minister to act on behalf of a public authority in recovering the 'recoverable amount' as defined in Section 1(3).

129 Subsection (1) authorises the Minister to take actions, such as initiating or continuing legal proceedings in respect of a 'claimed amount' and exercising the specific powers in Chapter 4. For these purposes, a 'claimed amount' is a recoverable amount as set out under section 1(3) of this Act.

130 Subsection (2) requires that any amounts recovered by the Minister are remitted back to the appropriate public authority. Where it is not clear who the funds should be returned to or the recoverable account does not belong to any one authority, the funds shall be placed in the consolidated fund. This subsection also provides that the Minister can come to an agreement with the relevant public authority that the Minister may retain some or all of the recovered amount.

Section 11: Recovery Notices

131 This Section outlines the procedure for issuing a recovery notice before bringing a claim for a recoverable amount on behalf of a public authority.

[22] https://www.legislation.gov.uk/ukpga/1984/60/contents

[23] https://www.legislation.gov.uk/ukpga/2002/30/contents

132 Subsection (1) requires that the Minister issues a "recovery notice" to the person responsible for the recoverable amount before initiating a claim. This person is referred to as the "liable person" and this might include an individual or a business.

133 Subsection (2) details the requirements of a recovery notice. It must state the intention to bring a claim on behalf of the public authority, the amount regarded as the 'claimed amount' i.e. the recoverable amount, the reasons for these decisions, and invite the liable person to settle the amount and set out how this can be done by agreement. It also outlines further actions if the loss isn't settled and identifies a period after which a claim may proceed.

134 Subsection (3) mandates that the period stipulated in the recovery notice, after which the Minister can initiate a claim if not settled, must be a minimum of 28 days from the notice delivery.

135 Subsection (4) sets out that issuing a recovery notice counts as initiating an action for recovering the loss concerning any relevant time limits. For these purposes, the recovery notice will have the effect of issuing a 'letter before action' under the standard civil court processes.

Section 12: Restriction on availability of powers: claimed amounts

136 This section limits the exercise of powers under Chapter 4 by the Minister regarding the recovery of a claimed amount from the liable person. The Minister may only exercise these powers when the liable person agrees (i.e., agrees that the claimed amount is recoverable) or when a court or tribunal has made a final determination that a public authority, on whose behalf the Minister is acting, is entitled to the claimed amount in question. This provision is intended to prevent arbitrary recovery efforts and to ensure that such actions are legally justified or mutually agreed upon.

Section 13: Penalties etc

137 This section grants the Minister the authority to recover other amounts using the powers outlined in Chapter 4, concerning penalties stipulated in Chapter 5 and associated relevant costs.

138 Subsection (1) specifies that the Minister can recover penalties and relevant costs through the powers outlined.

139 Subsection (2) clarifies the terminology used within this Part: the term "amount due in respect of a penalty under Chapter 5" includes penalty-related late payment interest (as further detailed in section 62), while "relevant costs" include court-awarded costs in claims for recoverable amounts and costs reasonably incurred by the Minister in enforcing recovery powers in Chapter 4.

Section 14: Restriction on availability of powers: penalties

140 This section outlines the conditions under which the Minister can exercise the powers in Chapter 4 to recover an amount due concerning a penalty. The Minister may only do so if either the time frame provided in section 61(2)(a) for appealing the penalty has passed without an appeal being brought or if any appeal has been abandoned or reached a final determination (see section 74(4). In the case of reaching a final determination, this determination must be in favour of the Minister.

Chapter 4: Methods of Recovery

Section 15: Payable amounts

141 This section defines "payable amount" as either a "recoverable amount", (as defined in section 1(3)), or an amount specified in section 13(1) (i.e., a civil penalty or relevant costs). This definition serves to establish the scope of what can be considered recoverable under the provisions outlined in the Act.

Section 16: Recovery Orders

142 This section outlines the Minister's authority to seek a recovery order from the county court concerning a recoverable amount.

143 Subsection (1) allows the Minister to apply for such an order.

144 Subsection (2) clarifies that a recovery order serves to make the recoverable amount treated as equivalent to payments enforceable under section 85 of the County Courts Act 1984[24], Execution of judgments or orders for payment of money, or to be considered as if they were ordered by the court. This ensures that recoverable amounts are enforceable through established legal channels, providing a clear route for enforcement and collection.

Section 17: Direct deduction orders

145 Subsection (1) authorises the Minister to make a direct deduction order if a liable person owes an amount and holds a bank account.

146 Subsection (2) mandates that the order be communicated to the bank holding the account.

147 Subsections (3) to (5) define types of orders: regular—requiring regular deductions, and lump sum—requiring a specified amount to be deducted, and subsection (6) allows both to be issued for the same account.

148 Subsection (7) requires copies of the order to be sent to the liable person and co-holders in the case of joint accounts.

149 Subsection (8) references sections 19 to 21, detailing preparatory steps before making the order. For example, the requirement to obtain information from banks, assessing the beneficial interest of monies held in a joint account (where applicable) and further considerations before making an order.

Section 18: Accounts which may be subject to a direct deduction order

150 This section clarifies which accounts may be subject to an order.

151 Subsection (1) permits the Minister to make an order on an account which is held by the liable person and contains an amount which the Minister considers the liable person has a beneficial interest. The question of 'beneficial interest' is more important in the context of 'joint accounts' where it may be less obvious where the beneficial interest in any amount lies.

152 Subsection (2) allows orders on joint accounts only if the liable person does not hold a sole account that could cover the recoverable amount within a reasonable period of time.

153 Subsection (3) makes an exception to subsection (2) if all joint account holders are liable for the recoverable amount.

[24] https://www.legislation.gov.uk/ukpga/1984/28/contents

Section 19: Requirement for banks to provide information

154 Section 19, subsection (1) mandates that before issuing an order, the Minister must obtain and consider bank statements of the liable person's account covering a period of at least three months. The purpose of doing so is to ensure that the liable person holds an account in which a direct deduction order can be made; to determine what deductions should be made; and to determine whether the deduction would cause the liable person hardship in meeting essential living expenses.

155 Subsection (2) specifies that the Minister must issue an e "account information notice" to the bank to obtain these statements covering a period of three months before the notice is given, or such longer period as may be specified in the notice.

156 Subsection (3) specifies details to include in this notice, such as the name of the liable person and the identifying details of the account (for example, account number and sort code).

157 Subsections (4) states that the Minister may only issue an account information notice for the purpose of determining whether to issue a direct deduction order in respect of the account.

158 Subsection (5) outlines that the Minister may also issue a general information notice to a bank for the purpose of determining whether to issue a direct deduction order. The general information notice requires the bank to provide information on all of the bank accounts held by the liable person, including the type of account (for example, a savings account), the identifying information for them (for example, account number and sort code) and the correspondence address of the liable person. For individual accounts, the bank must also provide a balance. For joint accounts, the bank must provide the name(s) and correspondence address(es) of each account holder.

159 Subsection (6) allows more than one account information notice, or general information notice, to be given in relation to the same recoverable amount. It also allows for the Minister to give more than one account information notice in respect of the same account.

160 Subsection (7) sets out that, in both the account information notice and general information notice, the notice must set out how and when the bank is to comply with the notice; and explain that the bank may be subject to a penalty under section 54 if it fails to do so without reasonable excuse.

161 Subsection (8) stipulates banks must comply with a notice given under this section.

162 Subsection (9) prohibits banks from notifying account holders upon receiving such notice. This is to avoid forewarning the liable person that a deduction order may be imposed and therefore to prevent them from being able to move the money out of the account.

163 Subsection (10) places a limit on the prohibition of banks notifying account holders that they have received information notices for their accounts. The prohibition period is limited to three months from the day that such a notice is given to the bank, or earlier if the bank is given a "pre-deduction notice" under section 21(1).

164 Subsection (11) restricts use of the information obtained under this section for the purposes of exercising the Minister's core functions only (i.e., in the investigation of suspected fraud).

165 The later regulation making power under section 38will enable the Minister to set out in further detail the duties of banks in complying with a request for information, including the length of time in which the bank must respond to a request etc. This is to allow ongoing engagement with banks to incorporate ongoing feedback as powers under this section are operationalised.

Section 20: Joint Accounts

166 This section focuses on joint accounts, requiring the Minister to assess the liable person's beneficial interest to any amount of money held in the account.

167 Subsection (2) presumes equal share unless other evidence exists as per subsection (3).

168 Subsection (4) mandates that when the Minister is making an assessment as to the liable person's beneficial interest, the Minister must have regard to the bank statements obtained for the account in section 19, and any response (i.e., representations from the liable person or joint account holder) to a notice under section 21. For the purposes of the bank statements obtained, the Minister must have regard to the most recent bank statements obtained, i.e., in the case where multiple bank statements may have been obtained in respect of the account.

Section 21: Further requirements before making a direct deduction order

169 This section details the further prerequisites and considerations that must be taken into account before such an order is made.

170 Subsection (1) requires that the Minister issues a notice (the 'pre-deduction notice') to the bank, the liable person and any joint account holders. The notice must identify the account to be subject to the proposed order; state the amount that is recoverable; set out the terms of the proposed order; and if the account is a joint account, set out the Minister's duty to make an assessment as to the liable person's beneficial interest to any money in the account and the presumption that applies under section 20.

171 Subsection (2) states that the notice must also invite the liable person, and if relevant the joint account holder, to make representations about the terms of the proposed order. In the case of joint accounts, representations can also be made about the liable person's beneficial interest in any amounts held in the account. For the purposes of making representations, the liable person will also be able to provide evidence in support.

172 Subsection (3) sets out the means by which, and the period within which, the representations must be made. For these purposes, subsection (4) details that the period given must be at least 28 days after the day on which the pre-deduction notice is given.

173 Subsection (5) sets out that the Minister must consider any representations made. In light of these representations, the Minister must then make the assessment as to the beneficial interest of monies held in a joint account (if applicable), and in all cases, decide whether and in what terms to make the final direct deduction order in respect of the account.

174 Subsection (6) sets out that the pre-deduction notice may be given to the bank before the notice is given to the liable person (and joint account holder, if relevant). The purpose of doing this is to ensure that the restriction on the account can be put in place before the liable person becomes aware of the terms of the proposed order. The reason for doing so is again to avoid forewarning the liable person and giving them an opportunity to remove the monies from the account.

175 Subsection (7) states that where the pre-deduction notice has been given to the bank in advance under subsection (6), then the notice must be given to the liable person (and joint account holder) as soon as reasonably practicable afterwards.

176 Subsection (8) sets out what happens in the event the Minister decides not to proceed with making a final direct deduction order. In this case, the Minister must, as soon as reasonably practicable, notify the liable person (and any joint account holder) and the bank from which the proposed order was going to be made. This is to ensure that where the Minister does decide not to proceed, any restrictions on the account can be promptly removed.

177 The later regulation making power under section 38 will enable the Minister to set out in further detail the duties of banks in complying with the direct deduction order, including the length of time in which the bank must respond to a request etc. This is to allow continuing engagement with banks to incorporate ongoing feedback as the direct deduction order powers are operationalised.

Section 22: Amount of deductions

178 This section prescribes the conditions under which the Minister may make a direct deduction order.

179 Subsection (1) makes it clear that a direct deduction order may only be made where it is fair to do so and, in the case where a liable person is an individual, will not result in hardship in meeting essential living expenses for the liable person, any joint account holder, or any dependent party (whether financially dependent or otherwise). In order to be satisfied as to whether to make the order, the Minister must have regard to the information received by virtue of sections 19 and 21.

180 The provisions of subsection (3) set out that under a regular direct deduction order, the amount deducted from an account during any period of 28 days cannot exceed 40% of the relevant amount where the Minister is satisfied on a balance of probabilities there has been fraud under subsection (4). Where this is not the case (for example, where the person received the recoverable amount through error), only 20% of the relevant amount may be deducted.

181 Subsection (5) defines the 'relevant amount' as being the amount the Minister reasonably expects to be credited to the account in, or in respect of a typical month during the period for which the order will have effect. In doing so, the Minister must have regard to all statements given in relation to the account under sections 19(2) and 31(1). The relevant section will be dependent on whether the amount is being calculated in respect of the initial direct deduction order or if an ongoing order is proposed to be varied or revoked.

182 Subsection (6) states that the Minister must ensure that the total amount to be deducted and paid to the Minister does not exceed the payable amount to which the order relates. This is to ensure the correct amount of deductions are made at all times.

183 Section 38 allows the Minister to make further provision in regulations relating to how the amount of deductions is calculated and in further considering the question of causing a liable person hardship. This is intended to bring the provisions in line with the increase or decrease in inflation and when what constitutes 'essential living expenses' changes in the future.

Section 23: Content and effect of direct deduction orders

184 This section specifies the contents and effect of both regular and lump sum direct deduction orders and the requirements for banks' compliance.

185 Both regular direct deduction orders and lump sum direct deduction orders must specify the amounts to be deducted and when these amounts are to be deducted. Subsection (2) also sets out that a regular direct deduction order may specify different amounts to be deducted at different times.

186 A direct deduction order may not require an amount to be deducted from an account before the end of the period of 28 days beginning with the day after which the Minister complies with section 17(7), this is to allow the liable person the requisite time in order to request a review under section 34. Subsection (5) states that the bank must comply with the order.

187 In accordance with subsection (6) an order cannot require a deduction is made on a non-working day i.e., Saturday, Sunday or a bank holiday. Where an order is made requiring payment on a non-working day, the obligation to make the deduction and the payment applies in relation to the next working day after that.

Section 24: Bank's administrative costs

188 This section allows banks to recover reasonable administrative costs associated with implementing the orders, in accordance with potential further regulations (see section 38). This allows the bank to deduct their costs to which they are entitled immediately prior to making the direct deduction order.

189 In considering the deductions made under the final direct deduction order, under subsection (3) the Minister must take into account any deductions to be made by the bank for their administrative costs.

190 The later section 38 contains power for the Minister to make further provision through regulations as to the administrative charges that can be imposed by the banks. This power will be used to introduce a cap on the charges, which can be imposed under this section, that can be adjusted in line with inflation and to ensure that the charges remain at all times reasonable.

Section 25: Insufficient funds

191 This section set outs the circumstances where there are insufficient funds in an account in order to apply a direct deduction order.

192 Under subsection (1), where the amount in an account is lower than the amount specified in, or calculated in accordance with, a lump sum direct deduction order, then no deduction is to be made, and the bank must notify the Minister as soon as possible.

193 Under subsection (2), where an amount is lower in the case of a regular direct deduction order, the order is to be read as requiring the deduction to be made on the same day the following week. If on that day the amount is still lower, then no deduction is to be made, and the bank must notify the Minister as soon as possible.

194 Subsection (3) sets out that where references are made to an amount to be deducted in accordance with a direct deduction order, this includes any amount to be deducted in respect of the bank's administrative costs under section 24.

Section 26: Restrictions on accounts: banks

195 This section introduces restrictions on accounts to maintain the balance required for deduction orders, with provisions to prevent closure or transactions that would reduce the balance below specified amounts.

196 Subsection (1) specifies that, upon receiving a pre-deduction notice relating to a proposed lump sum direct deduction order or a final lump sum direct deduction order under section 17, the bank must ensure that either the amount in the account does not fall below the specified amount, or to take the action set out in subsection (2).

197 Subsection (2) allows the bank to transfer the anticipated value of a lump sum direct deduction order to a "hold account", to ensure that the amount is protected.

198 Subsection (3) states that, when a bank does transfer funds to a hold account, the direct deduction order payments should be taken from that account.

199 Subsection (4) requires that the bank does not cause any disadvantage to the liable person, or any other account holders, when they transfer money to a hold account rather than secure it within the liable person's main account.

200 Subsection (5) sets out that the requirements for a bank to keep an account open and to maintain a particular balance as outlined in subsection (1) do not apply when the decision is made not to make, or to revoke, a direct deduction order, or after the specified amount (outlined in subsection (6) as pertaining to the amount in the pre-deduction notice) required in a direct deduction order has been paid to the Minister.

Section 27: Restrictions on accounts: account holders

201 This section imposes restrictions on account holders to prevent them from doing anything which may frustrate the effect of the pre-deduction notice or the direct deduction order.

202 Subsection (2) specifies that under the pre-deduction notice these restrictions cease to apply when a decision is made not to make the order, or once a final direct deduction order has been imposed. In the case of the final direct deduction order the restriction will cease when that order is revoked.

203 Subsection (3) clarifies that the reference to frustrating the effect of the pre-deduction notice under subsection (1), this means frustrating the effect of the proposed direct deduction order.

Section 28: Applications to vary

204 This section defines the ability for the liable person (or joint account holder) to apply to the Minister to vary the direct deduction order during its lifetime. This is to allow the liable person (or a joint account holder) to notify the Minister of any changes in circumstance since the initial order was made.

205 Under subsection (2) in the case of a joint account, where an application is made, the Minister must give an opportunity for the other joint account holders to make representations.

206 Subsection (3) stipulates that the Minister must notify the applicant, and where appropriate any joint account holders, of the Minister's decision on the application.

Section 29: Variation

207 This section concerns the variation of direct deduction orders. Subsection (1) allows the Minister to issue a revised order (whether on an application by an account holder or otherwise).

208 Subsection (2) states that the provisions under this section apply in relation to any variation of a direct deduction order, including one that results from a review under section 34.

209 Subsection (3) specifies that the Minister must give the liable person (and joint account holders, if relevant) the opportunity to make representations on the terms of the proposed variation.

210 Subsection (4) allows the Minister to comply with the above subsection (3) at the same time as complying with section 28(2). This will allow the Minister to take and consider representations for both the application to vary an order at the same time as any representations to vary the order.

211 Subsection (5) stipulates that the variation to a direct deduction order will take effect when the Minister gives the varied order to the bank or, if later, in accordance with the terms of the order as varied.

212 Subsection (6) requires the distribution of this revised order to the necessary parties.

213 Subsection (7) allows the Minister to vary a direct deduction order to apply it to another account held by the liable person if the request is made to do so by them, or if the other account is a joint account, the other joint account holder's consent.

214 Subsection (8) details what happens when a direct deduction order is varied to apply to an account administered by a different bank or to apply to a joint account.

215 Subsection (9) sets out that the steps under sections 19 to 21 do not need to be carried out again when considering to vary an order.

Section 30: Revocation

216 This section provides for the revocation of direct deduction orders. Subsection (1) gives the Minister the authority to revoke these orders.

217 Subsection (2) obliges revocation upon the recovery of debts or the death of the liable person. Subsection (3) stipulates that notification of revocation is required to be given to the bank and the other account holders involved, where relevant.

Section 31: Further information notices

218 This section sets out further information notices. Subsection (1) describes the Minister's ability to request information from a bank to assess whether changes to an order are required. Subsection (2) applies certain provisions from section 19. Subsection (3) sets out that before giving a further information notice to a bank requiring statements to be given in respect of a joint account, the Minister must notify each account holder other than the liable person that (1) the notice will be given, and (2) of the effect of that notice. Subsection (4) allows these notices to be issued before or after the Minister provides the liable person and any joint account holder the opportunity to make representations on the proposed variation.

Section 32: Suspension of direct deduction orders

219 This section defines the circumstances under which the operation of direct deduction orders is suspended. Subsection (1) outlines that the Minister can at any time suspend and restart the operation of a regular direct deduction order by notifying the bank. Subsection (2) outlines the requirement for giving notification to account holders of any suspension or restart.

220 Subsection (3) sets out that where an order is suspended for a continuous period of 2 years the regular direct deduction order will be treated as having been revoked and cannot be restarted. Subsection (4) further clarifies that where an order is treated as having been revoked by virtue of subsection (3), then the Minister must give notice to that effect to the bank, the liable person and where relevant any joint account holder.

221 Subsection (5) makes it clear that where an order has been revoked by virtue of being suspended for a continuous period of 2 years, it does not prevent the Minister from making a further regular direct deduction order in respect of the same liable person and account. In this event the Minister will be required to start the process again from sections 19 to 21.

Section 33: Cessation on death of a liable person

222 This section sets out what happens when a liable person dies during the period of a direct deduction order. It sets out that once the bank becomes aware of the liable person's death, the requirements of the order cease to have effect.

Section 34: Reviews

223 This section introduces a process for review of deduction orders by an authorised officer of a higher grade than the original decision maker upon application by relevant parties. A review may be requested when the direct deduction order is made, when the order is varied or when the Minister decides not to vary a deduction order in response to an application under section 28.

224 Under subsection (3), the period for requesting a review is 28 days, beginning with the day after which the varied order or notice is given, or where the liable person has been notified of the decision to not vary the order.

225 Subsection (4) prevents an application made for a review being brought on any grounds relating to the existence of a payable amount (unless that amount is stated incorrectly in the order).

226 Subsection (5) sets out that once a review is requested, the Minister must review the decision in question.

227 Subsection (6) details that following a review, the decision can be upheld, varied or revoked, with notifications of outcomes as appropriate under subsection (7).

228 Subsection (8) refers to Section 29 for provisions about varying a direct deduction order. This is relevant as the Minister will need to allow for the liable person or any joint account holder to make representations in accordance with Section 29(2).

Section 35: Appeals

229 This section outlines the right of appeal against the decision to make a direct deduction order, the variation of a direct deduction order, or a refusal to vary a direct deduction order after an application under section 28.

230 Subsection (2) prohibits a relevant person from bringing an appeal unless they have first applied for a review under section 34 and been notified of the outcome of the review. However, this does not apply where an order is varied on review).

231 Subsection (4) sets out that the time for bringing an appeal shall be 28 days beginning with the day after which the Minister notifies the liable person of the outcome of the review, or such longer period (if any) as the Tribunal considers reasonable in all the circumstances.

232 Under subsection (5), the specified grounds must not relate to the existence or amount of a payable amount, unless the payable amount has been incorrectly stated on the order, as the recoverable amount would either have been agreed by the liable person following the recovery notice or determined in a court of tribunal.

233 Under subsection (6) the First-tier Tribunal shall have the power to suspend the requirement on a bank to comply with an order for some or all of the time until the appeal has been finally determined.

234 Subsection (7) details that following an appeal, the First-tier Tribunal may amend, revoke, or dismiss the appeal. Subsection (8) sets out that a "relevant person" has the same meaning provided under section 34(2).

Section 36: Meaning of "bank" etc

235 This section defines key terms within the legislation, such as definitions for "bank" and the relevant enactments that apply when concerning the definition of banks. It provides scope to capture standard high street banks, as well as electronic money service providers such as PayPal, Revolut, etc.

Section 37: Deputies

236 This section sets out the position where a deputy, either by virtue of a power of attorney, or a court appointed deputy acts on behalf of an account holder. Subsection (2) in particular sets out the key sections of Chapter 4 which apply to the deputy as they would to the account holder ensuring that the powers work effectively where a deputy is or has been appointed.

237 Subsection (3) sets out that section 29(7(a) and (b) (in relation to varying a direct deduction order so that the order applies to a different account held by the liable person) applies in relation to the deputy instead of the account holder.

238 Subsection (4) ensures that where a bank is given an account or general information notice under section 19, a (pre-deduction) notice under section 21, a further information notice under section 31, or a direct deduction order (under section 17) and a deputy acts on behalf of an account holder then the bank must provide the Minister with the name and correspondence address that it holds for the deputy (unless the bank has already supplied that information).

Section 38: Regulations

239 This section sets out that the Minister is able to make further provision about direct deduction orders.

240 Subsection (2) sets out that these regulations may include: (a) how notices and orders are to be given by the Minister (b) how notices and information is to be given to the Minister (c) the calculation of amounts to be deducted (d) the duties of banks in relation to direct deduction orders (e) the costs in which a bank may recover under section 24 or from the Minister and (f) the interaction between similar orders. These regulations are subject to the negative procedure under subsection (9).

241 For the purposes of (a), (b), (d) and (e) there is a requirement under subsection (5) to consult with those who represent the interest of banks before introducing regulations.

242 Subsection (3) allows the Minister to make regulations to apply sections 17 to 36 to other types of person who provide financial products or services in the future. The purpose of this power is so that the powers can be applied to new forms of banking in the future, such as if cryptocurrencies were to become regulated by the government. This power is subject to the affirmative procedure under subsection (8) along with a duty to consult banks before introducing regulations under subsection (6).

Section 39: Deduction from earnings orders

243 This section sets out the provisions, process and requirements associated with deduction from earnings orders. These orders serve as a mechanism for recovering amounts from liable individuals who are employed.

244 Subsection (1) states that the Minister has the authority to initiate a deduction from earnings order when a recoverable amount is due from an employed liable person.

245 Subsection (2) specifies that a deduction from earnings order compels an employer to deduct specified amounts from the liable person's earnings and remit those amounts to the Minister.

246 Subsections (3) and (4) are self-explanatory.

Section 40: Content and effect of deduction from earnings orders

247 This section defines the content and effect of deduction from earnings orders.

248 Subsection (1) sets forth the information that must be included, such as deduction amounts, calculation methods, payment schedules and penalties for non-compliance.

249 Subsection (2) is self-explanatory.

250 Subsection (3) prohibits deductions before 22 days after the order being provided to the employer.

251 Subsection (4) obligates employers to comply with the order.

Section 41: Requirements before making a deduction from earnings order

252 This section details the prerequisites before making a deduction from earnings order, including notifying the liable person and inviting representations about the proposed order.

253 Subsection (1) details that before making an order, the liable person must be given an opportunity to make representations. Subsection (2) sets out that the notice must include the terms of the proposed order, a statement of the amount that is recoverable and the means by, and period within which, representations may be made. This period must be at least 28 days beginning with the day after the day on which the notice is given.

254 Subsection (4) outlines that the Minister must consider any representations made and may change the terms of the proposed order as a result.

255 Subsection (5) states that the Minister must also provide a copy of the notice to the liable person's employer.

256 Subsection (6) requires the Minister to then notify the liable person and their employer if they decide not to make the order.

Section 42: Amount of deductions

257 Subsection (1) states that an order may only be made if the Minister is satisfied that it won't cause the liable person or their dependents to suffer hardship in meeting ordinary living expenses. The order must also be fair. Subsection (2) is self-explanatory.

258 Subsection (3) and (4) limit deductions to 40% of net earnings to recover amounts relating to fraud, and 20% for all other circumstances.

259 Subsection (5) ensures deductions do not exceed the recoverable amount. Subsections (6) to (8) set out provision for the making of regulations for calculating deductions and addressing hardship. This is subject to the negative procedure. This will allow for the way deductions are calculated to be updated in line with inflation, and to further ensure that 'essential living expenses' are reflective of what constitutes essential living expenses at the relevant present time.

260 Subsection (9) defines "net earnings" as earnings after the following have been deducted: income tax, primary Class 1 national insurance contributions and any pension scheme payments.

Section 43: The employer's administrative costs

261 This section sets out provisions related to deductions from earnings orders, particularly concerning the employer's role and related costs.

262 Subsection (1) allows for such an order to instruct the employer to deduct an amount, either specified or calculated as per the order, from an employee's earnings. This deduction is intended to cover costs reasonably incurred by the employer in fulfilling the order.

263 Subsection (2) mandates that in adhering to the requirements of Section 42(1) and (3) concerning a deduction from earnings order, the Minister must consider the deductions made by the employer under subsection (1).

264 Subsection (3) authorises the Minister to establish regulations regarding the costs described in subsection (1). This power will be used to introduce a cap on the charges, which can be imposed under this section, that can, for example, be adjusted in line with inflation and to ensure that the charges remain at all times reasonable.

265 Subsection (4) states that any regulations created under this section will be subject to the negative procedure, meaning they will automatically become law without debate unless there is an objection.

Section 44: Suspension of deduction from earnings orders

266 This section sets out the circumstances under which the operation of direct deduction orders is suspended. Subsection (1) has the effect that the Minister may at any time suspend and restart the operation of a deduction from earnings order by notifying the employer. Subsection (2) sets out the requirement for giving notification to the liable person of any suspension or restart.

267 Subsection (3) sets out that where an order is suspended for a continuous period of 2 years the deduction from earnings order will be treated as having been revoked and cannot be restarted. Subsection (4) further clarifies that where an order is treated as having been revoked by virtue of subsection (3), then the Minister must give notice to that effect to the employer and the liable person.

268 Subsection (5) makes it clear that where an order has been revoked by virtue of being suspended for a continuous period of 2 years, it does not prevent the Minister from making a further deduction from earnings order in respect of the same liable person. In this event the Minister will be required to start the process again from section 41.

Section 45: Duty to notify the Minister of change of circumstances

269 This section outlines the processes for communicating changes related to when the liable person leaves or starts new employment. Subsection (1) mandates that a liable person informs the Minister of employment changes within 7 days, including providing information on their expected earnings from the new employment (under subsection (2)).

270 Under subsection (3), new employers aware of such an order, must also notify the Minister within 10 days of the beginning of the liable person's employment that they have become the liable person’s employer and to provide a statement of their expected earnings. This subsection only applies if the person who becomes the liable person's employer knows that a deduction from earnings order is in force in respect of the liable person.

271 Subsection (4) and (5) further sets out what happens when the employee ceases to be employed by the employer subject to the order. This stipulates that the employer must notify the Minister within the period of 10 days beginning with the day on which the liable person leaves employment.

Section 46: Applications to vary

272 This section details the ability for the liable person to apply to the Minister to vary the deduction from earnings order during its lifetime. This is to allow the liable person to notify the Minister of any changes in circumstance since the initial order was made.

273 Under subsection (2) the Minister must notify the liable person of the Minister’s decision.

Section 47: Variation

274 This Section sets out the processes for varying changes related to deduction from earnings orders.

275 Subsection (2) sets out that should an order be varied; the liable person must be given an opportunity to make representations regarding the proposed changes. If an order is revised, then the liable person and their employer must be notified.

Section 48: Revocation

276 This Section enables the Minister to revoke an order, and under subsection (2), must do so if the recoverable amount has been recovered. Under subsection, (3) where the order has been revoked, a notice must be given to the employer and liable person.

Section 49: Reviews

277 This section defines the processes for a liable person to request a review of a deduction from earnings order.

278 Subsections (1) and (2) allow a review to be requested where the Minister makes the deduction from earnings order, varies an order or decides not to make an order to vary upon an application under section 46. Subsection (3) allows a liable person to apply for a review of the order or notice within 28 days of receiving it.

279 Pursuant to subsection (4), a review cannot be based on the existence or amount of a payable amount, (unless the amount is said to be incorrectly stated in the order).

280 Under subsection (5), the review must be conducted by the Minister.

281 Under subsection (6), the Minister may uphold, vary or revoke the order, and under subsection (7), the Minister is required to notify the liable person and their employer of the review's outcome.

Section 50: Appeals

282 This section sets out the process for appealing changes related to deduction from earnings orders.

283 Subsection (1) provides for an appeal to the First-tier Tribunal against the deduction from earnings order, the variation of the order, or a refusal to vary an order after an application under section 46.

284 Under subsection (2) the liable person cannot bring an appeal unless they have applied for a review and been notified of its outcome. Subsection (3) clarifies that subsection (2) does not apply where a deduction from earning order is varied upon a review under section 49. Pursuant to subsection (4) an appeal must be lodged within 28 days beginning with the day after the day on which the liable person is notified of the outcome of the review, or such longer period the Tribunal considers reasonable in all the circumstances. Subsection (5) sets out that the liable person is restricted from challenging the existence or amount of a payable amount (unless it has been incorrectly stated on the order).

285 Subsection (6) sets out that the First-tier Tribunal shall have the power to suspend the requirement on a bank to comply with an order for some or all of the time until the appeal has been finally determined.

286 Subsection (7) provides that the Tribunal may vary or revoke the order or dismiss the appeal.

Chapter 5: Civil Penalties

Section 51: Penalty relating to fraud

287 This Section grants the Minister the power to impose penalties on a person. The Minister must be satisfied that, on the balance of probabilities, the person has carried out, or conspired to carry out, fraud to either gain a recoverable amount, or assist another person in doing so, or with the result that a public authority is entitled to claim any other recoverable amount. The decision to impose a penalty must be made by an authorised officer.

Section 52: Application to members etc of bodies

288 This section outlines the circumstances under which penalties may be imposed on an individual within a body, where that body is liable to receive a penalty.

289 Subsection (1) provides that subsection (2) is applicable when a body is liable to receive a penalty under Section 50 by reason of anything which the Minister finds, on the balance of probabilities, was consented to or connived by a relevant individual in relation to the body, or an individual purporting to act as a relevant individual.

290 Subsection (2) allows the Minister to impose a penalty on the individual, as well as the body, when the conditions in subsection (1) are met.

291 Subsection (3) provides the definition for "relevant individual," detailing the roles and positions within various types of organisational structures—such as corporations, partnerships, and unincorporated associations—whose occupants may be subject to penalties if they exercise management functions.

Section 53: Amount of penalty relating to fraud

292 This section sets the maximum amount of a penalty that can be applied for fraud. Subsection (1) specifies that any penalty levied under Section 51 (a) cannot exceed 100% of the recoverable amount,to which it relates.

293 Subsection (2) relates to instances where a penalty is applicable under section 51 (a) but the conduct has not led to a person receiving a recoverable amount. In such instances, the penalty may not exceed 100% of the amount which the Minister considers the payment would have been had it been received.

294 Subsection (3) addresses penalties under section 51(b), stating that the penalty must not exceed the greater of 100% of the loss incurred by the public authority or, if higher, 100% of the benefit obtained by the individual as a result of the fraud in question.

Section 54: Penalty for failing to comply with requirements

295 This section allows the Minister to impose a penalty for a failure to comply with a requirement imposed by or under Chapters 2 or 4, concerning investigatory powers and recovery, respectively. The decision to impose such a penalty must be made by an authorised officer. A failure to comply with a requirement imposed by or under Chapter 2 may include: non compliance with an information notice, using information shared by the Minister for purposes other than the purpose for which it was disclosed (without the consent of the Minister) or disclosing information received from the Minister to another person without the consent of the Minister.

296 In relation to Chapter 4, a penalty may be imposed for a failure to comply with a requirement, which may include: a bank failing to comply with an information notice request, a bank failing to comply with the terms of a direct deduction order, a liable person doing something to frustrate the effect of a direct deduction order or an employer failing to comply with a deduction from earnings order.

Section 55: Application to members etc of bodies

297 This section extends the imposition of penalties to relevant individuals within bodies that, without reasonable excuse, fail to comply with the requirements outlined in section 53. If a body is non-compliant and a relevant individual failed to prevent this non-compliance without reasonable excuse, both the body and individual may be penalised. The term "relevant individual" is defined in section 52.

Section 56: Amount of penalty for failing to comply with requirements

298 This section specifies the amount of penalty that may be imposed for failing to comply with requirements imposed by or under Chapter 2 or Chapter 4. Subsection (1) specifies that the penalty for non-compliance with a requirement to provide information must be calculated based on a daily rate of £300.

299 Subsection (2) specifies that for non-compliance with any other requirement imposed by or under Chapter 2 or Chapter 4, the penalty must be a fixed amount of £300.

300 Subsection (3) specifies that the daily rate in subsection (1) will be applied for each day the failure continues, commencing on the day after the deadline for compliance passes.

301 Subsections (4) and (5) give the Minister power to amend the penalty amounts in this Section by regulations to reflect monetary value changes, with such regulations subject to the negative procedure.

Section 57: Procedural Rights

302 This section, along with sections 58 and 59, outlines the steps required before the Minister may impose a penalty.

303 Subsection (2) requires that a notice of intent must be given to any person facing a penalty, inviting them to make representations.

304 Subsection (3) specifies the information that must be included in the notice of intent.

305 Subsection (4) mandates a minimum period of 28 days during which representations may be made.

306 Subsection (5) obliges the Minister to consider any representations made and decide accordingly about any impact on the proposed penalty.

307 Subsection (6) mandates that if a decision is made that a penalty will not be imposed, a notice to that effect must be given.

Section 58: Penalty Decision Notices

308 Subsection (1) provides that a penalty decision notice must be issued where The Minister has decided that a penalty should be imposed.

309 Subsection (2) specifies the mandatory content of a penalty decision notice, including that recipients have 28 days to request a review of the decision to issue the penalty decision notice.

310 Subsection (3) ensures that, if a review is requested within the 28 days, a penalty may not be imposed until after the review has been carried out.

311 Subsection (4) states that if no review is requested, the penalty may be imposed after the stipulated 28-day period.

Section 59: Reviews and Decisions

312 Subsection (1) is self-explanatory.

313 Subsection (2) specifies the three possible outcomes of a review.

314 Subsection (3) requires that, if the decision to uphold the penalty is made, the Minister must issue a notice to that effect, noting the right to appeal under section 61.

315 Subsection (4) requires that, if a decision to cancel a penalty decision notice is made, the Minister must issue a notice to that effect.

Section 60: Penalty Notices

316 Subsection (1) confirms that penalties are imposed via the issue of a penalty notice requiring a person to pay a specified amount to the Minister on or before a specified day.

317 Subsection (2) prohibits issuing a person with more than one penalty for the same fraud or failure to comply.

318 Subsection (3) provides that where a person has received a penalty notice under section 53, and the penalty is based on a daily rate, each day the information is not provided is considered a separate omission.

319 Subsection (4) clarifies that 'specified' in subsection (1) means specified within the penalty notice.

Section 61: Appeals

320 Subsection (1) grants the right to appeal to an appropriate court (defined in subsection (9)).

321 Subsection (2) specifies the timeframe for filing an appeal.

322 Subsection (3) provides that the appropriate court may vary, uphold, or revoke a penalty.

323 Subsections (4) and (5) clarify the appropriate court's role where court proceedings, other than an appeal against a penalty notice, have reached a final determination on the question of whether the person to whom the notice was given carried out or conspired to carry out the fraud to which the penalty notice relates. For the purposes of the appeal against a penalty notice, that final determination is determinative as to whether fraud was committed.

324 Subsections (6), (7) and (8) give the Minister power to make further provisions about appeals against penalty notices by way of regulations, subject to the negative procedure. This power does not allow the Minister to repeal the right of appeal.

Section 62: Interest

325 This section outlines the circumstances in which interest may be payable on monetary penalties.

326 Subsection (1) states that late payment interest is applied daily from the interest start day until payment is made.

327 Subsection (2) defines the interest start day as the day after the due date specified in the penalty notice.

328 Subsection (3) determines the interest rate as 2.5 percentage points above the Bank of England's rate applicable to the day.

329 Subsection (4) confirms that the Bank of England's rate is as determined by the most recent meeting of the Bank's Monetary Policy Committee prior to the day.

330 Subsection (5) clarifies that interest does not accrue on the late payment interest itself, i.e., there is no compound interest.

Section 63: Code of Practice

331 This section mandates the issuance of a code of practice for penalty administration.

332 Subsection (1) mandates that the Minister must issue a code of practice regarding how penalties will be administered, including how decisions will be made to issue penalties and how amounts will be determined.

333 Subsection (2) mandates that the code of practice must include provision regarding penalty discounts due to cooperative conduct by the person on whom the penalty is imposed.

334 Subsection (3) allows the Minister to revise or reissue the code.

335 Subsection (4) mandates that the Minister must lay the code, or any revised or reissued code, before Parliament.

Section 64: Penalties and criminal proceedings or convictions

336 This section outlines the relationship between penalties and criminal proceedings, ensuring a person is not penalised twice for the same act or omission.

337 Subsection (1) prohibits issuing a penalty notice if a person has been found guilty of an offence related to the same act or omission.

338 Subsection (2) prevents a person from being found guilty of an offence if a penalty has already been paid in response to a penalty notice given in relation to the same act or omission.

Chapter 6: General

Section 65: Independent review

339 This section mandates the appointment of an independent person to review the exercise of the powers conveyed in Part 1 of this legislation.

340 Subsection (1) requires the Minister to appoint an independent person for conducting such reviews. An independent person can refer to an individual, office or body. In respect of this section the intention is to, in addition to reviews by other statutory bodies as applicable, create a new Independent Reviewer, to whom a new internal oversight team will report.

341 Subsection (2) specifies that following each review, a report must be prepared and submitted to the Minister, while subsection (3) obligates the Minister to publish the report and lay a copy before Parliament.

342 Subsection (4) defines the nature of the reviews. The reviews should consider whether the exercise of the powers is in keeping with the legislation, codes of practice and relevant guidance, as well as being effective in pursuit of meeting the core functions of the Act: investigating suspected fraud against public authorities recovering relevant amounts in respect of a public authority's losses and taking enforcement action in connection with fraud against public authorities.

343 Subsection (5) mandates the independent person to include in their report any recommendations they feel appropriate from said review.

344 Subsection (6) defines the terms in this section.

Section 66: Independent review: further provision

345 This Section provides for both the effective implementation of section 65 in subsections (1) to (4), through noting the process to define timing of the reviews and enable the sharing of information. In particular, subsection (3) sets out that the Minister must disclose information to the independent person, where the information is reasonably required for the purposes of the reviews being carried out under section 65. For example, sensitive personal data or information relating to national security might be withheld. In addition, subsection (4) and (5) enable the relevant Minister to expand the functions of the independent person should it become appropriate to do so in future in order to conduct the reviews under section 65.

Section 67: Authorised officers

346 Whilst the functions are conferred on the Minister, they will be exercised by officers specifically authorised by the Minister. These officers are termed "authorised officers".

347 Subsection (1) sets out the decisions to use the powers in this Act that authorised officers may take, by reference to the sections of this Act in which the powers are contained.

348 Subsections (2) and (3) supply further general conditions for reviews stipulated in sections relating to specific powers, principally that reviews must be conducted by an authorised officer at least one grade senior to the officer involved in initial decision.

349 Subsection (4) sets out that authorised officers must be employed within the Civil Service in the Minister's Department, which is the Cabinet Office.

Section 68: Guidance on exercise of investigatory functions

350 This section requires the Minister to publish guidance explaining how the investigatory function —investigating suspected fraud against public authorities, as set out in section 1(1)(a)—will be exercised. This requirement ensures that the exercise of this function is transparent and subject to public scrutiny.

351 Subsection (1) places a duty on the Minister to publish this guidance.

352 Subsection (2) mandates that the guidance must cover specific areas. These areas are: the process for appointing "authorised investigators" (who exercise Police and Criminal Evidence Act 1984 powers under section 7) and "authorised officers" (who make key enforcement decisions under section 67); the training requirements that individuals must complete before being appointed as authorised investigators and authorised officers; the governance arrangements that dictate how these authorised investigators and authorised officers exercise their functions for the purpose of the function in section 1(1)(a); how the Minister will work and cooperate with an independent reviewer appointed under section 65, which provides external oversight of the investigatory function.

353 Subsections (3) and (4) permit the Minister to revise or replace the guidance as necessary (e.g., in response to operational experience or new regulations), but requires that any revised or replacement guidance must be published.

354 Subsection (5) requires the Minister to lay a copy of the guidance, including any revised or replacement guidance, before Parliament.

Section 69: Reports on exercise of functions

355 This section ensures the exercise of certain investigatory and enforcement powers conferred under Part 1 of the Act. It requires the Minister to publish and lay before Parliament a report following the end of each financial year detailing how many times the powers set out in subsection (3) have been used.

356 Subsection (1) places a duty on the Minister to prepare a report as soon as reasonably practicable after the end of each financial year. The report must state the number of times the specific powers listed in subsection (3) were exercised during that year.

357 Subsection (2) requires the Minister to publish each report and lay a copy of it before Parliament.

358 Subsection (3) lists the specific powers subject to this reporting requirement. These are the investigatory and enforcement powers available to authorised investigators and authorised officers under the Act.

359 Subsection (4) defines "financial year" for the purpose of the report. The first financial year begins on the day Part 1 of the Act comes fully into force and ends on the following 31 March. Subsequent financial years begin on 1 April.

360 Subsection (5) provides a prejudice test, requiring the Minister to exclude any matter from the report that is deemed likely to prejudice a criminal investigation, other investigation (such as a civil investigation) or criminal or civil proceedings. This acts as a safeguard to protect active cases.

361 Subsection (6) provides a corresponding duty: if the Minister excludes a matter from a report under subsection (5), but subsequently determines in a later financial year that the prejudice test no longer applies, the Minister must include that matter in the report for the subsequent financial year. This ensures that transparency is maintained once the risk to proceedings has passed.

Section 70: Records on exercise of functions

362 This section establishes a duty on authorised investigators and authorised officers to keep a written record of the exercise of certain specific powers under the Act. This internal record-keeping requirement underpins the reporting requirement set out in section 69 and ensures a clear trail of accountability for the use of these powers.

363 Subsection (1) places the duty on the individual authorised investigator or authorised officer to keep a written record each time they exercise one of the powers listed in subsection (3).

364 Subsection (2) specifies the mandatory content of each written record, which must state the name of the officer or investigator, the specific power exercised, the date of the exercise, and the reason the power was exercised.

365 Subsection (3) lists the specific powers that require mandatory record-keeping. This list contains the investigatory and enforcement powers available to authorised investigators and authorised officers under Part 1 of the Act.

Section 71: Disclosure of information etc: interaction with external constraints

366 This section outlines the boundaries and interactions for the disclosure or obtaining of information under this Part, ensuring compliance with existing legal constraints.

367 Subsection (1) identifies the relevant provisions.

368 Subsection (2) explicitly states that any disclosures under this Part must not contravene specific parts of the Investigatory Powers Act 2016[25].

[25] https://www.legislation.gov.uk/ukpga/2016/25/contents

369 Subsection (3) allows for the disclosure as stipulated, without breaching confidentiality or other legal restrictions.

370 Subsection (4 ensures claims to legal professional privilege are maintained unless agreed otherwise by the person entitled to make that claim.

371 Subsection (5) stipulates that subsection (4) does not apply in relation to the provisions of the Police and Criminal Evidence Act 1984[26], as applied by section 7.

Section 72: Crown etc application

372 This section makes provision on the application of Part 1 to the Crown. Subject to the exceptions set out subsequently in the section, subsection (1) provides that Part 1 binds the Crown.

373 Subsection (2) provides a definition of "Crown Premises".

374 Subsection (3) provides that Sections 16 to 37 do not bind the Crown, and Chapter 5 does not bind the Crown.

375 Subsection (4) provides that the powers of entry in Part 1 cannot be exercised on Crown premises if the Minister certifies that it is not appropriate in the interests of national security.

376 Subsection (5) provides that no power of entry may be exercised on private estates belonging to His Majesty (using the definition provided in subsection (6)), or on premises occupied by Parliament.

Section 73: The Public Sector Fraud Authority

377 This section states that Schedule 2 makes provision for the Public Sector Fraud Authority to be set up (meaning as a statutory body separate from the Cabinet Office) or for the transfer of functions conferred by or under Part 1 of the Act to the PSFA or to another public authority (such as a pre-existing statutory body that does not fall within the scope of the Ministers of the Crown Act 1975). The Schedule provides for the transfer of functions from the Minister for the Cabinet Office to the PSFA or another public authority via regulations subject to the affirmative procedure.

Section 74: Interpretation

378 This section provides definitions for terms within this Part, such as "authorised officer" and "core functions". Fraud is defined as including the offences in sections 1, 6, 7 and 11 of the Fraud Act 2006[27] (Fraud, Possession etc. of articles for use in frauds, Making or supplying articles for use in frauds, and Obtaining services dishonestly) and the common law offence of conspiracy to defraud.

Section 75: Regulations

379 This section makes provision in relation to the making of regulations under this Part. Regulations are to be made by statutory instrument and may include consequential, supplementary, incidental, transitional or saving provisions.

[26] https://www.legislation.gov.uk/ukpga/1984/60/contents

[27] https://www.legislation.gov.uk/ukpga/2006/35/contents

Part 2: Social Security: Fraud, Error and Debt

Chapter 1: Powers to require information

Section 76: Information Notices

380 Section 76 amends the Social Security Administration Act 1992 to introduce new section 109BZA 'Power to require information about suspected fraud etc' which widens the scope of information holders that can be compelled to provide information to DWP as part of a criminal investigation. This includes anyone that may hold pertinent information unless that information is exempt. Exemptions are set out in new section 109H of the 1992 Act '109H Disclosure of information etc: interaction with external constraints', inserted by section 90.

381 This section should be considered alongside section 89, which introduces the definition of 'DWP Offence' in order to allow DWP to investigate all offences related to any benefit or grant in relation to which the Secretary for State with responsibility for social security exercises functions.

New Section 109BZA: Power to require information about suspected fraud etc

382 New section 109BZA subsection (1) (a) and (b) allows for DWP officers who have been authorised by the Secretary of State ("authorised officers") to compel information from any person who holds relevant information when they have reasonable grounds to suspect an identifiable individual has committed, is committing, or intends to commit, a DWP offence (as defined in section 121DA of the 1992 Act) and consider it necessary and proportionate to do so for one or both of the purposes specified in section 109A(2)(c) or (d).

383 Subsection (2) specifies that authorised officers may only compel information about the person who is suspected of committing or intending to commit a DWP offence (as per subsection (1)(a)), or a member of that person's family. 'Family' is defined by reference to Part 7 of the Social Security Contributions and Benefits Act 1992[28].

384 Subsection (3) stipulates that authorised officers may only compel information from a person if they have reasonable grounds to suspect that the person holds or is able to access such information.

385 Subsection (4) requires authorised officers to set out specific information in the information notice. This includes:

- the identity, by name or description, of the person to whom the information request relates, i.e. the suspect or suspect's family member;
- the manner in which an information request must be complied with, for instance electronically;
- where the information must be sent to;
- the timeframe in which the request must be complied with; and
- the consequences of not complying with an information notice (for instance, this will include reference to the offence set out under section 111 of the 1992 Act for the delaying, obstructing, or failing to furnish information required by an authorised officer).

[28] https://www.legislation.gov.uk/ukpga/1992/4/contents

386 Subsection (5) allows the authorised officer to (a) take copies and extracts of the information they have received from information providers, (b) require the person to provide the information in a specified format, and (c) if an information provider is not able to comply with an information request issued by an authorised officer, require the information holder to provide an explanation for why.

387 Subsection (6) specifies that an authorised officer may not use these powers to request information which has been identified as communications data.

388 Subsection (7) provides definitions for "information" and "specified".

389 Subsection (8) explains that powers in this section do not limit powers under new Schedule 3B to the Act (the eligibility verification measure).

390 Section 76(3) amends cross references in section 109A (authorisations for investigators) of the 1992 Act.

391 Section 76(4) amends section 109B of the Social Security Administration Act 1992 by omitting provisions that are no longer required following the insertion of new section 109BZA.

392 Section 76(5) makes amendments to section 109BA of the Social Security Administration Act 1992. This now provides that the Secretary of State's power to enter into electronic arrangements with information providers can only be used to obtain information that could otherwise be required under new section 109BZA.

393 Section 76(6) amends cross-references in section 109C of the Social Security Administration Act 1992 relating to an authorised officer's powers of entry to gather information.

394 Section 76(7) removes references to parliamentary controls and orders relating to section 109B(2A) which has been omitted in light of new section 109BZA.

Section 77: Consequential amendments to the Social Security Fraud Act 2001

395 Section 77 amends Sections 3 and 4 of the Social Security Fraud Act 2001[29]. Amendments to Section 3 (Code of practice about use of information powers), updates the requirement to produce a Code of Practice relating to the new powers in section 109BZA. A draft version of the Code must be consulted on and the final version laid in both Houses of Parliament. The changes to Section 4 (Arrangements for payments in respect of information), enable the Secretary of State to make arrangements for payments to any person who has provided DWP with information in accordance with the powers set out in sections 109BZA or 109BA, where the Secretary of State considers this appropriate. This is to reflect that DWP will be able to compel anyone to provide information, subject to exemptions for certain types of information. Detail on who may be paid will be set out in the Code of Practice.

Section 78: Eligibility verification

396 Subsection (1) sets out that this section amends the Social Security Administration Act 1992[30], making provision for the Secretary of State to issue an Eligibility Verification Notice.

397 Subsections (2) and (4) introduce new section 121DB and Schedule 3B into the Social Security Administration Act 1992.

[29] https://www.legislation.gov.uk/ukpga/2001/11/contents

[30] https://www.legislation.gov.uk/ukpga/1992/5/contents

398 Subsection (3) makes amendments to the Social Security Administration Act 1992 consequential to the introduction of new section 121DB and Schedule 3B to that Act.

399 Section 121DB and Schedule 3B create a new legal framework for the Eligibility Verification Measure. These provisions establish a power for the Secretary of State to obtain information to assist in identifying incorrect payments of certain benefits.

400 Regulations under paragraph 2(1)(b), Part 1 and paragraph 19(2), Part 6 of Schedule 3B are subject to the affirmative procedure, whilst regulations under paragraph 12, Part 2 of Schedule 3B are subject to the negative procedure.

401 Subsection (5) provides that Part 2 of Schedule 3 to this Act amends the Proceeds of Crime Act 2002[31].

Section 79: Eligibility verification: independent review

402 Section 79 amends the Social Security Administration Act 1992[32] and inserts new sections 121DC and 121DD. New section 121DC establishes a requirement for independent oversight of the new eligibility verification powers to help ensure accountability, compliance, and effectiveness. New section 121DD makes further provision in relation to this role and provides for information to be shared for the purposes of the independent person's review.

403 New section 121DC: Independent review.

404 Subsection (1) mandates that an independent person must be appointed to carry out reviews of the Secretary of State's powers under the Eligibility Verification Measure.

405 Subsection (2) provides that after each review has been undertaken, the independent person must (a) prepare and (b) submit a report on their findings to the Secretary of State.

406 Subsection (3) provides that, on receipt of the report, the Secretary of State must (a) publish it and (b) lay a copy before Parliament.

407 Subsection (4) provides that the first review must relate to the period of 12 months beginning with the day Section 78 of the Act comes into force, and subsection (5) provides that subsequent reviews must cover each following 12-month period. This is to provide a clear timeframe for independent oversight.

408 Subsection (6) provides that each review must consider the extent to which (a) powers have been exercised by the Secretary of State as per the legislation and the Code of Practice during the period covered by the review, (b) actions taken by financial institutions have complied with Eligibility Verification Notices during the period of the review and (c) the activities undertaken as part of the Eligibility Verification Measure power have been effective in assisting in identifying incorrect payments of relevant benefits during the period covered by the review. The independent reviewer considers whether the Eligibility Verification Measure is exercised in a responsible and effective manner, in accordance with the legal framework. The requirement to publish findings and present them to Parliament supports transparency and facilitates scrutiny by both the public and Parliament.

409 Subsection (7) enables regulations to give relevant functions to a person so that the person may conduct the independent review, ensuring compliance with subsections (1) to (6). The power will be subject to the negative procedure.

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[31] https://www.legislation.gov.uk/ukpga/2002/29/contents

[32] https://www.legislation.gov.uk/ukpga/1992/5/contents

410 New section 121DD: Independent review: further provision.

411 Subsection (1) of new section 121DD provides that the Secretary of State must disclose information to the independent reviewer (or a person acting on the reviewer's behalf), where that information is reasonably required for the purpose of carrying out their review.

412 Subsection (2) provides that restrictions arising from Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016[33], will still apply to this duty to share information with the reviewer.

413 Subsection (3) provides that disclosures of information under this section do not breach (a) any obligations of confidence owed by the Secretary of State, or (b) any other restrictions on the disclosure of information.

Chapter 2: Powers of entry, search and seizure etc

Section 80: Entry, search and seizure in England and Wales

414 DWP investigates Economic, Serious and Organised Crime ("ESOC") across England, Wales and Scotland. The ESOC team is the arm of Counter Fraud, Compliance and Debt that deals with complex and sophisticated attacks on DWP's benefits and grant payments – usually by organised crime groups. However, it does not have the authority to apply for or execute warrants, production orders, search premises, seize items, or dispose of seized items.

415 The provisions set out in section 80 allow DWP authorised investigators to apply for and execute a court warrant with or without police involvement in England or Wales. Section 81 sets out equivalent powers for DWP in Scotland.

416 Subsection (2) of this Section inserts a new section 109D into the Social Security Administration Act 1992[34]. New section 109D enables specified powers available to the police to apply to specific DWP investigators when authorised by the Secretary of State (authorised investigators).

417 Subsection (2) of new section 109D places a geographical limit on DWP's authority to enter premises within England and Wales only. The inclusion of the words 'and items' is intended to cover such matters as the production of information, as the powers apply to the seizure of items.

418 Subsections (3) and (4) specify which powers from the Police and Criminal Evidence Act 1984[35] ("PACE") will apply to DWP authorised investigators when conducting criminal investigations in England and Wales, with some adaptations. For example, 'authorised investigator' is to be applied instead of reading 'constable'. The full detail of each adaptation is contained within new Schedule 3ZC which is inserted into the Social Security Administration Act 1992 by section 80(3).

419 Subsections (5 – 9) permit the use of reasonable force by a constable against property and people, whilst limiting the use of reasonable force by DWP authorised investigators to property only. They also ensure that persons acting under the supervision of a DWP authorised investigator can only use reasonable force against property.

420 Subsection (10) provides that the new powers may only be exercised by an individual who has received authorisation from the Secretary of State.

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[33] https://www.legislation.gov.uk/ukpga/2016/25/contents

[34] https://www.legislation.gov.uk/ukpga/1992/5/contents

[35] https://www.legislation.gov.uk/ukpga/1984/60/contents

421 Subsection (11) of new section 109D establishes that authorised investigators must be government officials with a grade of at least a Higher Executive Officer ("HEO"). Both criteria must be fulfilled to operate as a DWP authorised investigator.

422 When planning a search with a warrant, DWP will always consider the proportionality and necessity of the action and ensure the action taken is lawful.

423 The sections of PACE that are relevant and applicable to DWP are the parts related to the searching and entering of premises, as well as the seizing of evidence relevant to the investigation.

424 The existing provisions in PACE will apply to authorised investigators and places an obligation when applying for a search warrant to set out in the application matters such as:

- The grounds for making the application.
- The power under which the warrant will be issued.
- Whether the application is for a warrant authorising entry and search more than once.
- The articles to be sought.
- Details of the person who controls the premises and any other occupants, including any children or vulnerable adults.
- Why it is believed that the material sought will be found on those premises.

425 The specific sections of the PACE powers applicable to DWP that will be amended by the provisions are explained below:

Provision	What it means
PACE – Section 8 (1) to (5) (power of justice of the peace to authorise entry and search of premises) Subject to the adaptations that are made by Schedule 3ZC to this section to apply to DWP	This section allows a DWP authorised investigator to apply to a court for a warrant that will allow for lawful entry into a premises with or without the permission of anyone who may be present there. On entering the premises, it allows for lawful search and for items of sufficient value to the investigation of an indictable offence to be taken away. An *indictable offence* is a serious crime that can or must be tried in a Crown court.
PACE – Section 9 (1) (special provisions as to access) and Schedule 1 (special procedure) Subject to the adaptations that are made by Schedule 4 to this section to apply to DWP	This section allows an authorised investigator from DWP to apply to a judge for a Production Order to access excluded or special procedure material under Schedule 1 of PACE. A search warrant may also be granted under Schedule 1 of PACE to access the premises to search for excluded material or special procedure material for the purposes of a criminal investigation. Any application must demonstrate to a judge that the access conditions specified in paragraph 2 of Schedule 1 as amended by sub-paragraph 3(5) of Schedule 3ZC have been met.

	For more information on these conditions see: PACE 1984 Schedule 1.
PACE – Section 15 (search warrants - safeguards)	This section outlines the information that a DWP authorised investigator must provide to the court when applying for a warrant under section 8. It also specifies the required level of information that must be included on the warrant.
PACE – Section 16 (execution of warrants)	This section details the practical elements of the execution of warrants. If the authorised warrant allows, other authorised person(s) can join DWP authorised investigator(s) and will have the same search and seizure powers as the investigator(s). This is provided those powers are used under the supervision, and in the company of, a DWP authorised investigator.

PACE – Section 19 (general power of seizure)	This section allows a DWP authorised investigator to lawfully seize anything found on a premises if:
	
	• They have reasonable grounds to believe it was gained from carrying out an offence.
	
	• It is evidence in relation to an offence.
	
	• Seizing it is necessary to prevent it being:
	  ○ concealed
	  ○ lost
	  ○ damaged
	  ○ altered
	  ○ destroyed

PACE – Section 20 (extension of powers of seizure to computerised information)	This section allows for a DWP authorised investigator who is lawfully on a premises to use an applicable power to seize information stored in any electronic form and require any accessible electronic information to be provided in a removable format. The 'applicable power to seize' includes those conferred by section 8 of PACE (search warrants) and paragraph 13 of Schedule 1 of PACE (seizure during a Schedule 1 search), with the extension of electronic seizure conferred by section 20 of PACE.
PACE – Section 21 (access and copying)	This section describes the circumstances under which a DWP authorised investigator is required to: • provide a record of, • allow access to, • and provide copies of seized material to people who can show they were the occupiers of the premises from where a DWP authorised investigator seized the material, or, that they had custody and control of the material immediately before it was seized.

PACE – Section 22 (1) to (4) and (7) (retention)	This section outlines the conditions which apply to seized material that is kept by DWP.
PACE – Sections 10 to 14, 23 and 118 (interpretation provisions)	These sections permit the substitution of equivalent DWP terminologies, expressions, and grade classifications to apply when reading and interpreting PACE.

426 The equivalent terms for DWP are as follows:

Police	DWP
Constable	Authorised investigator
Rank	Grade – HEO

Section 81: Entry, search and seizure in Scotland

427 DWP investigates Economic, Serious and Organised Crime in England, Wales and Scotland. However, it does not have the authority to conduct, apply for, or execute warrants, production orders, search premises, seize items, or dispose of seized items. This section enables DWP to obtain a warrant in Scotland to enter premises, for the purposes of obtaining evidence that is considered necessary for the Secretary of State's investigative functions.

428 The subsections set out in section 81 allow DWP to seek a court warrant, enabling DWP authorised investigators to carry out these actions with or without police involvement in Scotland.

429 Subsections (1) and (2) of this section insert a new section 109E into the Social Security Administration Act 1992[36]. The effect of new section 109E enables powers similar to those under PACE[37] (enabled by Section 80) to also apply to specific DWP authorised investigators in Scotland, with some modifications to ensure the powers operate appropriately for the jurisdiction of Scotland. This will enable a DWP authorised investigator to apply for and execute a warrant, or production order, and search premises and seize items when that action is authorised by a Sheriff.

430 Subsection (3) of section 81 inserts a new Schedule 3ZD into the Social Security Administration Act 1992. This Schedule outlines the procedures for exercising the powers and the conditions required for applying for a warrant for entry, search, and seizure in Scotland.

431 Schedule 3ZD specifies the limitations of the powers in relation to how a warrant must be executed, the handling of seized items, and information to be provided to the person from whom items are taken. The Schedule outlines the process for returning a warrant to the court and provides an explanation for the term "authorised investigator".

Section 82: Entry, search and seizure: Crown application

432 This section sets out how the powers should be interpreted and the restrictions that apply for premises linked to the Crown. It achieves this by adding in a new section, 109F Entry, search and seizure: Crown application, into the Social Security Administration Act 1992[38].

433 Subsection (1) provides that new sections 109D, 109E, and new Schedule 3ZD apply to Crown premises in the same way as they do to other premises, unless it is stated otherwise.

[36] https://www.legislation.gov.uk/ukpga/1992/5/contents

[37] https://www.legislation.gov.uk/ukpga/1984/60/contents

[38] https://www.legislation.gov.uk/ukpga/1992/5/contents

434 Subsection (2) that limitations may apply for national security reasons.

435 Subsection (3) prevents power of entry under subsection (1) for a) land owned by His Majesty's private estates, b) premises used by either House of Parliament.

436 Subsection (4) defines the terms which are essential for interpreting the legislation.

Section 83: Offence of delay, obstruction etc

437 It is an existing offence under section 111 of the Social Security Administration Act 1992[39] to intentionally delay or obstruct an authorised officer. A conviction for a failure to comply may result in a fine up to £1,000.

438 Subsection (a) of section 83 allows that the obstruction of an authorised investigator be treated in the same way as obstructing an authorised officer. This will have the effect that obstructing an authorised investigator will be an offence under section 111 of the Social Security Administration Act 1992 and, on conviction, may result in a fine of up to £1,000.

439 Subsection (b) defines the terms which are essential for interpreting the legislation.

Section 84: Disposal of property

440 Where DWP executed a warrant that enabled an authorised investigator to seize items from a premises as part of a DWP investigation, generally DWP will be able to return items to the owner if they are no longer needed for an ongoing investigation.

441 In some cases, it may not be appropriate to return an item. This may be because the person from whom the item was taken was not the actual owner, or the owner may not be able to be traced. In some cases, there may be a risk that a seized item could be used for a criminal purpose if it were returned. For these reasons DWP requires a lawful way of disposing of these kinds of seized items.

442 Section 84 inserts a new section 109G into the Social Security Administration Act 1992[40], setting out the permitted actions available to DWP when certain criteria are met.

443 Subsection (1) of new section 109G of the Social Security Administration Act 1992 allows an interested person, such as an authorised investigator or any other concerned individual such as the lawful owner or the person from whom the property was taken, to apply to a magistrates' court for disposal of items seized under Section 109D and section 109E powers when required. This includes requesting permission to return the property to its owner, retain it, or destroy it.

444 Subsection (2) allows the court to determine if, where necessary, seized items can be modified.

445 Subsection (3) stipulates that where approval has been given by the magistrate for the item to be destroyed, it cannot be destroyed until six months have passed from when the magistrate approved the application.

446 Subsection (4) allows someone with an interest in the item to request the court to alter an approved action in relation to the item.

447 Subsection (5) sets out that where an order has already been given to approve the destruction of an item, whilst a further application can be made to the court about the item, those applications can only be made regarding the timing of property destruction.

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[39] https://www.legislation.gov.uk/ukpga/1992/5/contents

[40] https://www.legislation.gov.uk/ukpga/1992/5/contents

448 Subsection (6) clarifies the definition of "relevant property" as items lawfully seized by DWP with a warrant arising from an investigation of a DWP Offence. It also specifies that an application to a magistrate can be made by the Secretary of State or anyone with an interest in the item, such as the lawful owner or the person from whom it was taken. It ensures that references to the court's role in this process are applicable to where the action is taken, be that in England, Wales or Scotland.

Section 85: Amendments to the Criminal Justice and Police Act 2001

449 When DWP is conducting a lawful search of premises under the powers granted by new sections 109D and 109E of the Social Security Administration Act 1992[41], there may be instances where the authorised investigator cannot ascertain whether an item or material contains information relevant to that search. This situation may arise when dealing with large volumes of material, such as unlabelled or poorly stored paper documents or files, or electronic devices.

450 In instances where the authorised investigator cannot distinguish between material that should be seized and material that should not, the material may for very practical reasons need to be taken for examination elsewhere, as it might be difficult to determine or separate it out on the premises.

451 The sections in this section enable DWP to deal with situations of this type should they arise in Scotland, by making amendments to the Criminal Justice and Police Act 2001[42]. Amendments to the Act are not required in respect of England and Wales, as the powers in the Act apply automatically to powers of seizure exercised under PACE.

452 Subsection (2) of section 85 amends section 57 of that Act, Retention of seized items. It also clarifies what cannot be retained, which is dependent on which powers were used to lawfully obtain the material.

453 Subsection (3) amends section 63 of that Act, Copies, to ensure that the treatment of seized items applies in the same way to copies as it does to originals, and that items may not be seized where taking a copy or a record of it would be sufficient, or where a person present on the premises can assist in helping to determine an item's relevance whilst on the premises.

454 Subsection (4) amends that Act to allow section 50, Additional powers of seizure from premises, to apply to seizures conducted in accordance with Schedule 3ZD. Section 50 of that Act sets out the conditions that must be met where it is permissible to remove material from a premises which may, for very practical reasons, need to be taken for examination elsewhere, rather than having to identify its relevance on the premises at the time of a search. This is sometimes colloquially described as 'seize then sift' rather than 'sifting and then seizing'.

Section 86: Incidents etc in England and Wales

455 When DWP exercises the new powers in section 109D of the Social Security Administration Act 1992[43], an independent complaints route will be available. DWP will handle less serious complaints using existing processes, including complaints made to them about matters unrelated to the exercise of these new powers.

[41] https://www.legislation.gov.uk/ukpga/1992/5/contents

[42] https://www.legislation.gov.uk/ukpga/2001/16/contents

[43] https://www.legislation.gov.uk/ukpga/1992/5/contents

456 The Independent Office for Police Conduct which oversees complaints, professional conduct matters, and serious incidents involving the Police and similar bodies in England and Wales, will handle serious complaints relating to the use of the section 109D powers by DWP in relation to DWP offences.

457 This section achieves that position by amending the Police Reform Act 2002[44] by inserting a new section 26H regarding DWP investigators.

458 Subsection (1) of new section 26H allows the Secretary of State to make regulations concerning how the function will operate. This power will be subject to the negative procedure.

459 Subsection (2) allows for those regulations to set out specific detail on arrangements to make them applicable to DWP and for any matters relating to payment to be set out in regulations.

460 Subsection (3) allows for investigations to be undertaken jointly or separately by the appropriate person.

461 Subsection (4) permits the lawful provision of information to the complaint body as part of an investigation.

462 Subsection (5) permits the complaint body to provide information to the other relevant complaint body as part of their role.

463 Subsection (6) allows the Secretary of State to make regulations concerning information and its disclosure in relation to complaint matters.

464 Subsections (7) and (8) detail how matters relating to disclosure of information interact with other existing provisions, which relate to the protection and disclosure of information. This ensures where information has been provided, it is provided lawfully, and that the action of providing that information is not considered to be an offence and no confidences have been broken.

465 Subsection (9) clarifies the definitions in the section around certain Acts and terminology used when describing a DWP investigator and the meaning of a complaint function.

Section 87: Incidents etc in Scotland

466 This section provides for an independent complaints route where DWP exercises the new powers in new section 109E and Schedule 3ZD of the Social Security Administration Act 1992[45]. Less serious complaints or incidents will be handled using existing DWP processes, including where complaints are made about matters unrelated to the exercise of these new powers.

467 The Police Investigations and Review Commissioner ("PIRC") independently investigates incidents and complaints involving policing bodies in Scotland. This body will be responsible for handling and investigating serious incidents relating to the use of the section 109E powers by DWP in relation to DWP offences.

468 Subsections (1) and (2) amend the existing legislation to enable the scope of PIRC to also include DWP authorised investigators and sets out how the legislation should be interpreted.

469 Subsection (3) enables the PIRC to investigate and report on certain serious incidents involving DWP investigators, as requested by the Secretary of State. It also clarifies definitions relating to specific Acts and terms linked to a DWP investigator and the meaning of a serious incident in relation to DWP matters.

[44] https://www.legislation.gov.uk/ukpga/2002/30/contents

[45] https://www.legislation.gov.uk/ukpga/1992/5/contents

470 Subsection (4) enables the appropriate prosecutor to direct the PIRC to investigate crimes and deaths which may be connected to a person exercising the functions of a DWP authorised investigator.

Chapter 3: Further provision relevant to investigatory powers

Section 88: Devolved Benefits

471 Section 88 inserts new section 121DZA into the Social Security Administration Act 1992[46].

472 New section 121DZA enables the Secretary of State (and individuals authorised by the Secretary of State for the purposes of Part 6) to exercise the powers under Part 6 of the Social Security Administration Act 1992 (which relate to enforcement) in relation only to reserved benefits and devolved benefits where those devolved benefits are administered by the Secretary of State on behalf of Scottish Ministers under agency arrangements.

Section 89: DWP Offence

473 Section 89 provides the definition of a DWP offence, which includes a benefit offence, or any other offence relating to a benefit or grant in relation to which the Secretary of State with responsibility for social security exercises functions. It also includes offences relating to the use of a national insurance number.

Section 90: Disclosure of information etc: interaction with external constraints

474 Section 90 inserts a new section 109H, Disclosure of information etc: interaction with external constraints, into the Social Security Administration Act 1992[47].

475 Subsection (1) of new section 109H provides that the restrictions and constraints in section 109H apply to provisions for the disclosure or obtaining of information under Part 6 of the Social Security Administration Act 1992, enforcement by or on behalf of the Secretary of State.

476 Subsection (2) provides that DWP cannot require or authorise any disclosure of information in contravention of the Investigatory Powers Act 2016[48], specifically Parts 1 to 7, and Chapter 1 of Part 9. These sections provide a framework to govern the use of investigatory powers by law enforcement and other agencies, and this Part of the Social Security Administration Act 1992[49] does not override this.

477 Subsection (3) sets out that a person required to provide information to DWP will not be considered to have breached any obligations of confidence or other legal restrictions related to the disclosure of information by doing so.

478 Subsections (4) and (5) exempt information from being disclosed under this Part if it is subject to legal professional privilege.

479 Subsection (6) exempts information from being required from a person that may lead to self-incrimination of that person or that person's spouse or civil partner.

480 Subsection (7) prevents personal data from being sought under this Part about recipients of certain free of charge services. In particular, these are services pertaining to social security, housing (including the provision of accommodation itself), and debt. In practice, this means

[46] https://www.legislation.gov.uk/ukpga/1992/5/contents

[47] https://www.legislation.gov.uk/ukpga/1992/5/contents

[48] https://www.legislation.gov.uk/ukpga/2016/25/contents

[49] https://www.legislation.gov.uk/ukpga/1992/5/contents

that DWP will not be able to seek information under this Part about recipients of services which provide free advice, advocacy, or crisis support. This is intended to ensure that individuals are not deterred from seeking support from such services, for example, domestic abuse services.

481 Subsection (8) prevents information notices from requesting information that could amount to (a) journalistic material, or (b) excluded material as defined in Police and Criminal Evidence Act 1984[50] (see sections 11 to 13 of that Act).

482 Subsection (9) provides that subsections (5) to (9) of the exemptions do not apply in relation to (a) the provisions of the Police and Criminal Evidence Act 1984 as applied by section 109D, and (b) Schedule 3ZD. This is because there is existing legislation and common law that governs the powers of search and seizure.

483 Subsection (10) sets out the definition of "personal data".

Section 91: Giving notices etc

484 This section inserts into section 121DA (interpretation of Part relating to enforcement) the provision for DWP to retain the ability to issue an information notice and receive relevant documents by post.

Section 92: Independent review

485 This section provides for DWP investigation activity to be inspected and evaluated by an independent person or body. It does this by adding a new section into the Social Security Administration Act 1992[51]: 109I Independent review.

486 Subsection (1) of new section 109I provides that the Secretary of State must appoint someone to inspect DWP criminal investigations.

487 Subsections (2)(a) and (b) provide that following an inspection, a report must be written and provided to the Secretary of State, detailing the outcome of the inspection.

488 Subsections (3)(a) and (b) require that the Secretary of State must then publish that report and lay it in Parliament.

489 Subsections (4)(a) and (b) require that the review considers whether DWP authorised investigators are carrying out their functions in compliance with Codes of Practice, relevant guidance and legislation.

490 Subsection (5) sets out that the report of the inspection must include recommendations based on information gathered during the inspection.

491 Subsection (6) explains the key definitions used in the Section.

New section 109J: Independent review: further provision

492 Subsection (1) of new section 109J allows for timeframes for the inspections to be set out.

493 Subsection (2) requires that the independent person must be consulted prior to being directed by the Secretary of State.

494 Subsection (3) allows information to be disclosed to the independent person where necessary.

[50] https://www.legislation.gov.uk/ukpga/1984/60/contents

[51] https://www.legislation.gov.uk/ukpga/1992/5/contents

495 Subsection (4) enables regulations to set out the specific details and powers relating to the inspection function. The power will be subject to the negative procedure.

496 Subsection (5) allows for different independent persons to be appointed for a particular territorial area.

Chapter 4: Overpayments: recovery and enforcement

Section 93: Enforcement of non-benefit payments

497 Section 93 sets out provisions concerning enforcement of non-benefit payments that are inserted in the Social Security Administration Act 1992[52].

498 Section 93 inserts three new sections into the Social Security Administration Act 1992 after section 71ZH. Those are:

New section 71ZI: Overpayment of non-benefit payments: overview and recovery

499 New section 71ZI of the Social Security Administration Act 1992[53] sets out the general provisions regarding the recovery of non-benefit payments which have been overpaid.

500 Subsection (1) sets out the circumstances in which an overpayment of a non-benefit payment will arise, which is where a payment has been made in consequence of a misrepresentation or failure to disclose a material fact.

501 Subsection (2) provides a power to recover the overpayment as if it were recoverable under section 71 of the Social Security Administration Act 1992, if the person who has been overpaid is convicted of any related offence or if they agree to pay a penalty under section 115A of the Social Security Administration Act 1992.

502 Subsection (3) is self-explanatory.

503 Subsection (4) provides that this power does not affect other recovery powers for non-benefit payments.

504 Subsection (5) sets out the meaning of the term "non-benefit payment" which is set out in section 121DA(5) of the Social Security Administration Act 1992.

New section 71ZJ: Overpayment of non-benefit payments: overpayment decision and notice

505 New section 71ZJ of the Social Security Administration Act 1992[54] relates to the recovery of overpayments and sets out what the Secretary of State must do before an overpayment can be recovered. This includes providing an overpayment notice, the detail that must be included in that notice and that the liable person must have had the opportunity to challenge the overpayment.

506 Subsection (1) provides that before the Secretary of State exercises their power to recover an overpayment of a non-benefit payment, an overpayment notice must be given to the liable person, and they must be given the opportunity to challenge the notice.

[52] https://www.legislation.gov.uk/ukpga/1992/5/contents

[53] https://www.legislation.gov.uk/ukpga/1992/5/contents

[54] https://www.legislation.gov.uk/ukpga/1992/5/contents

507 Subsection (2) provides that the Secretary of State can only issue an overpayment notice if the liable person has been convicted of an offence set out in this legislation or if it appears possible to institute proceedings against a person for an offence.

508 Subsection (3) sets out the requirements that must be met when issuing a valid overpayment notice: the notice must state the overpayment amount, provide the Secretary of State's reasons as to why that overpayment has occurred, state what the notice means for the person receiving it (for example, that they will need to repay the overpayment and any penalties that may apply) and set out the liable person's right to a review of the overpayment decision, and a subsequent appeal.

509 Subsection (4) provides that the Secretary of State has a power to invite a liable person to agree a penalty under section 115A of the Social Security Administration Act 1992. This enables an Administrative Penalty, which is an existing mechanism, to be offered as an alternative to prosecution in cases of non-benefit overpayments following an investigation that has met a criminal burden of proof.

510 Subsection (5) provides the elements that must be met in order for the condition set out in subsection (1) to be met.

New section 71ZK: Overpayment of non-benefit payments: reviews and appeals

511 New section 71ZK of the Social Security Administration Act 1992[55] relates to the ability to seek a review and also to appeal any decision to issue a notice or to recover an overpayment of a non-benefit payment, under new section 71ZJ.

512 Subsection (1) provides that a liable person may apply to the Secretary of State for a review of the notice and the grounds on which that review may be asked for: that there has been no overpayment, or the value of the overpayment is wrong.

513 Subsection (2) provides that the request for a review in subsection (1) must be made within one month.

514 Subsection (3) provides that the Secretary of State has the power to uphold, vary or revoke the notice.

515 Subsection (4) sets out that the Secretary of State must notify the liable person who has appealed of the outcome of the review.

516 Subsection (5) outlines that there is a right of appeal to the First-tier Tribunal against the notice, unless it has been revoked on review.

517 Subsection (6) provides that a liable person must bring an appeal to the First-tier Tribunal under subsection (5) within one month of receiving the notice, or any longer period the Tribunal considers appropriate.

518 Subsection (7) provides that the First-tier Tribunal has the power to uphold, vary or revoke the notice.

[55] https://www.legislation.gov.uk/ukpga/1992/5/contents

Section 94: Recovery and enforcement mechanisms

519 Section 94 (2) inserts new section 80A, Further methods of recovery, into the Social Security Administration Act 1992[56].

520 New section 80A, Further methods of recovery, subsection (1) applies this section to the new recovery powers, recovery from a bank account and disqualification from driving.

521 New section 80A subsection (2) sets out the debts recovered using the further methods of recovery.

522 New section 80A subsection (4) makes clear that 'liable person', when mentioned within debt provisions in the Act, is in reference to the individual who owes the debt.

523 New section 80A sub-paragraph subsection (5) is self-explanatory.

524 Section 94(2) also inserts new section 80B, Restrictions relating to further methods. New section 80B provides that the new recovery methods set out in new section 80C (and new Schedule 3ZA) and new section 80D (and new Schedule 3ZB) can only be applied when the Secretary of State has given the liable person a reasonable opportunity to settle the debt, and has notified the liable person of the nature and possible use of the powers. It also provides that the new recovery methods can only be exercised where it is not reasonably possible to recover them through other designated methods of recovery, as well as requiring direct deductions orders or immediate DWP disqualification from driving orders which are in force to be suspended or revoked if the liable person becomes entitled to and is in receipt of a DWP benefit.

525 Subsection (3) of section 94 amends section 111 of the Social Security Administration Act 1992, Delay, obstruction etc. of inspector, to exclude obligations to provide information and documents under new Schedule 3ZA (recovery from accounts) or new Schedule 3B (eligibility verification) from the offence under that section.

526 Subsection (4) amends section 191 of the Social Security Administration Act 1992, Interpretation—general, to add additional definitions, for use across the Act, relevant to new Schedule 3ZA and new Schedule 3ZB.

Section 95: Recovery from bank accounts etc

527 Section 91 subsection (2) inserts new section 80C, Recovery from bank accounts etc, into the Social Security Administration Act 1992[57].

528 New section 80C makes provision for recovery of social security debt directly from the liable persons bank account and inserts new Schedule 3ZA into the Social Security Administration Act 1992, which sets out detailed provisions concerning direct deduction orders.

529 This power is broadly similar to powers contained within the Child Support Act 1991[58] and the Finance Act (No.2) 2015[59], which provide for similar powers to deduct directly from the liable person's bank account(s) without a court order. Recovery directly from bank accounts includes safeguards similar to existing Third Party Debt Orders in the county court in England and Wales.

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[56] https://www.legislation.gov.uk/ukpga/1992/5/contents

[57] https://www.legislation.gov.uk/ukpga/1992/5/contents

[58] https://www.legislation.gov.uk/ukpga/1991/48/contents

[59] https://www.legislation.gov.uk/ukpga/2015/11/contents

530 Regulations under paragraphs 25(3) of new Schedule 3ZA (inserted by this section and found in Schedule 6) will be subject to the affirmative procedure. The negative procedure will apply for all other regulations under paragraph 25.

Section 96: Disqualification from driving

531 Section 96 inserts new section 80D, Disqualification from driving, into the Social Security Administration Act 1992[60].

532 New section 80D makes provision for a liable person to be disqualified from driving in certain circumstances. Any disqualification from driving will always be suspended in the first instance, subject to the liable person complying with what the court has assessed and ordered to be affordable and reasonable repayments. Where disqualification does occur, it is temporary, and the liable person may apply to the court to have the disqualification lifted if the court is satisfied some payment is being made and revoking the immediate disqualification from driving order would increase the likelihood of the full amount being recovered. This power will only be applied as a last resort where recoveries cannot be made by other appropriate methods, and is intended to encourage individuals to repay their debt before reaching the point where the application of the power is considered. The power is similar to that under section 40B of the Child Support Act 1991[61], Disqualification from driving: further provision, already used by the Child Maintenance Service.

533 The regulation-making power, at paragraph 7(4) of new Schedule 3ZB (inserted by this section and found at Schedule 6 of this Act) will be subject to the negative procedure.

534 Subsections (4)-(7) amend the Road Traffic Offenders Act 1988[62] to ensure the following existing legislative provisions apply in relation to an immediate DWP disqualification order made under Schedule 3ZB: per subsection 5, amending section 27, Production of licence, to require the liable person to produce their driving licence when they have been ordered to do so by the court; per subsection (6), providing that a licence is revoked automatically by law when a person is disqualified, except if the period is under 56 days in duration; and per subsection (7), provision that a person can apply to have a licence reinstated after the period of disqualification has ended.

535 Subsection (8) amends Section 164 of the Road Traffic Act 1988[63] to apply a provision that allows constables to seize a driving licence where a court has required it to be produced by an immediate DWP disqualification order made under Schedule 3ZB.

Section 97: Code of practice

536 This section inserts new section 80E into the Social Security Administration Act 1992[64]. New section 80E establishes a Code of Practice for the new direct deduction order and disqualification from driving powers. This Code will provide guidance on how the powers will be used in practice.

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[60] https://www.legislation.gov.uk/ukpga/1992/5/contents

[61] https://www.legislation.gov.uk/ukpga/1991/48/contents

[62] https://www.legislation.gov.uk/ukpga/1988/53/contents

[63] https://www.legislation.gov.uk/ukpga/1988/52/contents

[64] https://www.legislation.gov.uk/ukpga/1992/5/contents

537 New section 80E requires the Secretary of State to issue a Code of Practice. It sets out information the Code of Practice must include and requires the Secretary of State to undertake public consultation before it is published for the first time. The Secretary of State may, from time-to-time, revise and re-issue this Code of Practice, and each iteration must be laid before Parliament.

538 The Code of Practice must include provision regarding how the Secretary of State will exercise the new recovery methods under new Schedule 3ZA (Recovery from Bank Accounts Etc) and new Schedule 3ZB (Disqualification from Driving) of the Social Security Administration Act 1992[65].

539 The primary function of this Code of Practice will be to provide an operational framework for the application of these powers.

Section 98: Rights of audience

540 This section inserting a new section 80F, Rights of audience, into the Social Security Administration Act 1992[66].

541 New section 80F grants rights of audience and rights to conduct litigation in the magistrates' court, county court, and Crown Court in England and Wales for or in connection with debt recovery proceedings to designated officers of the Secretary of State. This will allow DWP officials to be able to pursue the enforcement of debts via the court without the need to instruct solicitors or barristers, thereby ensuring cost efficiency in the recovery of public funds.

Section 99: Recovery of costs

542 This section inserts new section 80G, Recovery of costs, into the Social Security Administration Act 1992[67]. New section 80G states that any costs incurred by the Secretary of State (or Scottish Ministers) in recovering an amount under sections 71 to 80 or new Schedules 3ZA or 3ZB of the Social Security Administration Act 1992 (where applicable) may be recovered as though they were part of the debt, using the same methods of recovery.

543 This means costs incurred by the Secretary of State in taking recovery actions through court or deduction from accounts can be recovered through any method of recovery, including via deduction from benefit, Direct Earnings Attachment, deduction directly from bank accounts, and suspended and/or immediate DWP disqualification from driving orders. This ensures the reasonable costs incurred by the Secretary of State (for example, court fees) are met by the liable person, even where other recovery actions are taken later.

Section 100: Recovery: further provision

544 This section inserts new section 80H, Recovery: further provision, into the Social Security Administration Act 1992[68]. New section 80H subsections (1) to (3) set out that the recovery powers have to be interpreted to be consistent with existing legislation and any obligation of confidence or restriction related to the obtaining or disclosure of information.

545 Subsection (4) sets out that the 'giving' of notices can include sending via post (and other methods).

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[65] https://www.legislation.gov.uk/ukpga/1992/5/contents

[66] https://www.legislation.gov.uk/ukpga/1992/5/contents

[67] https://www.legislation.gov.uk/ukpga/1992/5/contents

[68] https://www.legislation.gov.uk/ukpga/1992/5/contents

Chapter 5: Offences, penalties etc:

Section 101: Offences: non-benefit payments

546 Subsection (2) amends section 111A of the Social Security Administration Act 1992[69], Dishonest representation for obtaining benefit etc. It is an offence under section 111A to make a dishonest representation (or to produce false information or documents) to obtain a benefit. The amendment expands the offence to include a non-benefit payment. It inserts a new subsection (1H), which amends section 111A so that the offences set out in subsections (1A) to (1G), should be read to include a reference to a person being entitled to, having a right to receive or qualifying for a non-benefit payment.

547 Subsection (3) amends Section 112 of the Social Security Administration Act 1992, False representations for obtaining benefit etc. This section sets out that it is an offence to make false representation (or to produce false information or documents) to obtain a benefit. Subsection (3) expands the offences to include a non-benefit payment by amending the summary offence in section 112 of the Social Security Administration Act 1992, to mirror the amendments made to Section 111A.

548 Subsection (4) provides that the Secretary of State may prescribe in regulations what constitutes a non-benefit payment. Regulations made under subsection (4) will be subject to the negative procedure.

Section 102: Penalty as alternative to prosecution: extension to non-benefit payments

549 This section amends Section 115A of the Social Security Administration Act 1992[70], penalty as alternative to prosecution. Section 102 expands the definition of the types of overpayments that section 115A applies to include a non-benefit payment.

550 Section 102 (2) inserts new subsections 115A (1B) and (1C) into the Social Security Administration Act 1992.

551 New subsection (1B) expands section 115A of the Social Security Administration Act 1992, Penalty as alternative to prosecution, so that it applies to an overpayment where a person has been given a notice under new section 71ZJ (overpayment notice in relation to non-benefit payment).

552 New subsection (1C) describes the situation where the condition in new subsection (1B) will be met – when the time for a review or appeal has passed, or if relevant any appeal of the review has been concluded.

553 Section 102 (3) to (5) make consequential amendments to section 115A of the Social Security Administration Act 1992to ensure that the new provisions relating to non-benefit payments apply where the sums are recoverable under new section 71ZI.

554 Section 102 (6) inserts a new subsection (8A). New subsection (8A) relates to new subsection (1B) and provides that overpayment has the meaning set out in new section 71ZI(1).

555 Section 102 (7) amends section 115B of the Social Security Administration Act 1992, Penalty as alternative to prosecution: colluding employers etc, to include an offence for an overpayment of a non-benefit payment to ensure that provision applies where the sums are recoverable under new section 71ZI.

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[69] https://www.legislation.gov.uk/ukpga/1992/5/contents

[70] https://www.legislation.gov.uk/ukpga/1992/5/contents

Section 103: Amendments to the Social Security Fraud Act 2001: loss of benefits following penalty

556 The Social Security Fraud Act 2001[71] introduced powers to reduce or withdraw specified benefits where an offender has been convicted twice of benefit offences within a three-year period. This was amended by the Welfare Reform Act 2009[72], to apply this for a first conviction and at a lesser scale where an Administrative Penalty has been accepted. This Section amends the Social Security Fraud Act 2001 to remove the loss of benefit provisions where an Administrative Penalty has been accepted as an alternative to prosecution.

557 Subsection (1) sets out that this section amends the Social Security Fraud Act 2001.

558 Subsection (2) amends section 6B, Loss of benefit in case of conviction, penalty or caution for benefit offence, so that the definition of "appropriate penalty provision" no longer refers to section 115A of the Social Security Administration Act 1992[73], Penalty as alternative to prosecution, and updates references to Northern Ireland legislation.

559 Subsection (3) amends section 6C so that the definition of "appropriate authority" no longer refers to the Social Security Act 1998.

Section 104: Powers of Scottish Ministers

560 Section 104 makes clear that the updated powers in sections 76 and 77 for fraud investigations are available to Scottish Ministers in relation to devolved benefits. It also confirms that provisions in sections 99 and 100 relating to cost recovery and data protection apply to Scottish Ministers' existing debt recovery powers. It does this by treating these sections, as far as relevant, as pre-commencement enactments for the purposes of the Scotland Act 1998 and Scotland Act 2016.

Part 3: General

Section 105: Application and limitation

561 This section sets out the scope and limitations of the functions conferred by the Act.

562 Subsection (1)(a) provides that any function related to investigations or enforcement can be applied to actions taken or not taken before the Act comes into force.

563 Subsection (1)(b) provides that functions related to the recovery of money can be used to recover funds that a public authority was entitled to before the Act was enacted.

564 Subsection (2) provides that the provisions in subsection (1)(a) do not apply to amendments made by sections 97 (Offences: non-benefits payments) and 98 (Penalty as alternative to prosecution: extension to non-benefit payments).

565 Subsections (3) and (4) extend the limitation period for a relevant public authority for actions related to coronavirus-related fraud. It specifies the time limit for bringing such actions will be twelve years from the date the fraud is discovered or could have been discovered with reasonable diligence. Subsection (5) defines what constitutes a "relevant public authority".

[71] https://www.legislation.gov.uk/ukpga/2001/11/contents

[72] https://www.legislation.gov.uk/ukpga/2009/24/contents

[73] https://www.legislation.gov.uk/ukpga/1992/5/contents

566 Subsection (6) provides the definition of "coronavirus" as per section 1(1) of the Coronavirus Act 2020[74], Meaning of "coronavirus" and related terminology.

567 Subsection (7) amends section 38 subsection (11) of the Limitation Act 1980[75], Interpretation. Subsection (7)(c) includes references to Part 1 of the Public Authorities (Fraud, Error and Recovery) Act 2025. Subsection (7)(a) amends the existing reference to Part 3 of the Social Security Administration Act 1992[76], Overpayments and adjustments of Benefit, to ensure this includes provisions inserted or amended by Part 2 of the Public Authorities (Fraud, Error and Recovery) Act 2025.

568 Subsection (8) amends paragraph 2 sub-paragraph (fb) of Schedule 1 of the Prescription and Limitation (Scotland) Act 1973[77], Obligations Affected by Prescriptive Periods of Five Years under section 6, to ensure the existing reference to Part 3 of the Social Security Administration Act 1992 includes provisions inserted or amended by Part 2 of the Public Authorities (Fraud, Error and Recovery) Act 2025.

Section 106: Power to make consequential provision

569 Section 106 gives the Secretary of State a regulation-making power to make amendments to other legislation which are consequential to provisions in this Part of the Act. Any regulations proposed under this power would be made by statutory instrument.

Section 107: Financial provision

570 This section authorises expenditure arising from the Act. Further information can be found under the "Parliamentary approval for financial costs or for charges imposed" section of the Explanatory Notes.

Section 108: Extent

571 Detailed analysis of the extent of the Act can be found at Annex A. Otherwise, section 108 is self-explanatory.

Section 109: Commencement

572 This section sets out the manner in which provisions in the Act will be commenced.

573 Subsection (1) provides that, except as provided by subsection (2), the Secretary of State and the Minister for the Cabinet Office may make regulations setting out the days such provisions come into force.

574 Subsection (2) provides that certain provisions, including Part 3 and any other provision enabling the exercise of powers to make regulations, will come into force on the day the Act is passed.

575 Subsection (3) provides that different parts of the Act can start on different dates.

576 Subsection (4) enables the Secretary of State or the Minister for the Cabinet Office to make transitional or saving provisions in connection with the commencement of any provision of the Act.

577 Subsections (5) and (6) are self-explanatory.

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[74] https://www.legislation.gov.uk/ukpga/2020/7/contents

[75] https://www.legislation.gov.uk/ukpga/1980/58

[76] https://www.legislation.gov.uk/ukpga/1992/5/contents

[77] https://www.legislation.gov.uk/ukpga/1973/52

Section 110: Short title

578 Section 101 is self-explanatory.

Schedules

Schedule 1: Fraud against public authorities: Police and Criminal Evidence Act 1984 powers

579 This Schedule sets out how the Police and Criminal Evidence Act 1984[78] is modified for the purpose of enabling the powers set out in section 7 of this Act to be used by authorised investigators who are authorised by the Minister.

580 Paragraph 2(1) establishes that every reference to a constable is to include an authorised investigator.

581 Paragraph 2(2) stipulates that references to an offence is to be read as an offence of fraud against a public authority, except for where the term is referenced in section 21(8)(b) of PACE (access and copying).

582 Paragraph 2(3) specifies that references to a criminal investigation is to be read as being a reference to a criminal investigation in connection with an offence of fraud against a public authority.

583 Paragraph 3(1) modifies section 15 of PACE (search warrants—safeguards), substituting "articles or persons" with "material" because authorised investigators will not be conducting searches of persons.

584 Paragraph 3(2) amends section 16 of PACE (execution of warrants), to provide that a reference to a police officer of at least the rank of Inspector is substituted to read an authorised investigator of at least the grade of Senior Executive Officer ("SEO"). It makes provision for Higher Executive Officers to fulfil the role of an SEO/Inspector where they are authorised to do so by an authorised investigator who is a Grade 7 or above.

585 Paragraph 3(3) modifies section 21 of PACE (access and copying), so that the reference to the police in subsection (3)(b) is to be read as a reference to an authorised investigator.

586 Paragraph 3(4)(b) inserts subsection (2A) into section 22 of PACE and sets out conditions under which subsection (2B) will apply. It provides that, for subsection (2B) to apply, an authorised investigator must have seized an item under sections 19 or 20 of PACE and consider that it may be evidence that is relevant to an investigation of an offence in relation to which another person has functions.

587 Paragraph 3(4)(b) also inserts subsection (2B) into section 22 of PACE and specifies that the authorised investigator may transfer the item to that person and that the recipient may accept and retain the item if the recipient believes it may be relevant to an investigation of an offence and that any legislative provisions that apply to anything seized by the recipient will apply to the transferred item as if it was originally seized by them.

588 Paragraph 3(4)(b) also inserts subsection (2C) into section 22 of PACE and clarifies that "enactment" includes an enactment contained in subordinate legislation as defined in the Interpretation Act 1978[79].

[78] https://www.legislation.gov.uk/ukpga/1984/60/contents

[79] https://www.legislation.gov.uk/ukpga/1978/30/contents

589 Paragraph 3(4)(c) clarifies that subsection (5) of section 22 of PACE does not affect the power of a court to make an order regarding the disposal of relevant property under section 8 of PACE.

590 Paragraph 3(4)(d) modifies section 22(6) of PACE so that it does not apply to authorised investigators. Section 22(6) provides that section 22 applies to anything retained by the police under section 28H(5) of the Immigration Act 1971. This is not relevant to authorised investigators and therefore paragraph 3(4)(d) omits section 22(6).

591 Paragraph 3(5) modifies Schedule 1 of PACE (special procedure) so that authorised investigators can only seek access to both special procedure material and excluded material under the first set of access conditions listed in Schedule 1 to PACE.

Schedule 2: The Public Sector Fraud Authority

592 Part 1 of this Schedule sets out provision for the establishment, constitution and operational framework of a new statutory body called the Public Sector Fraud Authority (the independent PSFA) or for the transfer of all or any of the powers conferred to the Minister under Chapters 1 to 5 to another public authority, such as a pre-established statutory body that does not fall within the scope of the Ministers of the Crown Act 1975 ('MOCA 1975'). The establishment of the PSFA as a statutory body, or for the transfer of functions outside of MOCA 1975 will be achieved by way of regulations subject to the affirmative procedure. The policy intention is not to immediately create PSFA as a standalone statutory body, but at a later date once a review of the effectiveness of these powers has been undertaken, or sooner via a transfer of certain functions initially conferred to the Minister under Chapters 1 to 5 of Part 1 of this Act to an already established statutory body (outside of MOCA 1975). Paragraph 2 sets out provision for the transfer of functions initially conferred on authorised officers (and by virtue of subparagraph (4) this includes authorised investigators). Paragraph 3 of the Schedule allows any associated modifications to be made to Part 1 of this Act to ensure any transfer is made effectively.

593 Part 2 of Schedule 2, Constitution etc, makes provision on the constitution etc of the independent PSFA. Paragraph 6 provides for a chair, a number of other non-executive members, a chief executive and a number of other executive members. Paragraphs 7 to 11 make provision on the appointment of members and deal with the terms of membership, including conditions for tenure, resignation, and removal.

594 Paragraph 12 addresses financial matters concerning the remuneration and compensation of the chair and non-executive members.

595 Paragraphs 12 and 13 make provision in relation to staffing, including specifying the independent PSFA's power to appoint staff and to determine their pay, contingent upon Ministerial approval.

596 Paragraph 14 deals with the discharge by the independent PSFA of its functions and paragraph 15 provides for it to determine its own procedures. Paragraph 16 requires the preparation and submission of annual reports to the Minister, who is then required to lay them before Parliament. Paragraph 17 sets out provisions for an independent PSFA's seal and evidence, and paragraph 18 sets out supplementary powers for the purposes of, or in connection with the exercise of its functions. It also sets out that the PSFA may not (1) borrow money or (2) accept gifts of money, land or other property.

597 Paragraph 19 permits the Minister to create appropriate transfer schemes for assets and liabilities to enable the independent PSFA to exercise its functions.

598 Paragraphs 20 to 24 amend existing enactments to reflect the establishment of the independent PSFA.

599 Part 3 of Schedule 2, Power to change name, Paragraph 25(1) contains a power for the Minister to amend the name of the Public Sector Fraud Authority in section 73 and this Schedule. However, pursuant to paragraph 25(2) regulations may not be made after regulations are made under paragraph 1(1)(a) of this Schedule. Regulations made under paragraph 25(1) are subject to the negative procedure.

Schedule 3: Eligibility verification etc

Part 1: Eligibility Verification

600 Schedule 3 makes amendments to the Social Security Administration Act 1992[80], inserting new Schedule 3B. This establishes a power to require information by way of an Eligibility Verification Notice to support the Secretary of State in verifying eligibility for relevant benefits. The relevant benefits are defined in paragraph 19 sub-paragraph (1) as Universal Credit, Employment and Support Allowance, and Pension Credit.

New Schedule 3B Part 1: Power to require information

601 Paragraph 1 sub-paragraph (1) provides the Secretary of State with the power to issue an Eligibility Verification Notice to a person, namely a bank or other financial institution, to help assist DWP in identifying whether benefit payments are being made correctly. The Notice can be sent to the persons described in paragraph 2 of new Schedule 3B and requires them to undertake the steps set out in sub-paragraphs (3) and (4) of paragraph 1. The provision requires these persons (for example, banks) to identify individuals in receipt of relevant DWP payments and provide the Secretary of State with information to help the Secretary of State verify a claimant's eligibility.

602 Once accounts have been identified as receiving a relevant DWP benefit payment, the bank or other financial institution must search their records for all accounts held by that individual. These accounts will be assessed against the "eligibility indicators" set out in the Eligibility Verification Notice given to the bank. The eligibility indicators are specific criteria set by the Secretary of State, which will be used to help identify whether a specified relevant benefit may have been, or may be, incorrectly paid. Further details on how this measure will be applied will be set out in the accompanying Code of Practice, which will be published in due course.

603 Paragraph 1 sub-paragraph (2) provides that the Secretary of State may only issue an Eligibility Verification Notice where the Secretary of State considers that it is necessary and proportionate to do so.

604 Paragraph 1 sub-paragraph (3) provides the first step that a person in receipt of an Eligibility Verification Notice must take. The step focuses on identifying financial accounts that are in receipt of a relevant DWP benefit and meet the specific criteria linked to the receipt of that benefit.

605 The provision in paragraph 1 sub-paragraph (3)(a) is self-explanatory.

606 Paragraph 1 sub-paragraph (3)(b)(i) narrows the scope to accounts into which a specified relevant benefit has been paid, or accounts linked to such benefit payment-receiving accounts. Linked accounts are defined at paragraph 1 sub-paragraph (8) as any account(s) held by the individual(s) who receive the benefit payment. This ensures that the data shared under the measure relate to benefit-receiving accounts and other accounts held by the same individual.

[80] https://www.legislation.gov.uk/ukpga/1992/5/contents

607 Paragraph 1 sub-paragraph (3)(b)(ii) introduces the concept of eligibility indicators, which are criteria specified by the Secretary of State that will be used to help identify whether the specified relevant benefit may have been, or may be, incorrectly paid. The eligibility indicators may be met by the account which receives the benefit payment, by an account which is linked to it, or a combination of both. Further detail on eligibility indicators is set out in paragraph 3.

608 Paragraph 1 sub-paragraph (4) provides the second step that a person in receipt of an Eligibility Verification Notice must take. It requires the person to provide information to the Secretary of State about the accounts identified in step one, in paragraph 1 sub-paragraph (3). It outlines the specific data points that must be disclosed. These are details of relevant accounts (for example, sort code and account number); details about account holders (for example, their names and dates of birth) to enable identification of the benefit recipient; and details as to how the accounts meet the eligibility indicators specified within the Eligibility Verification Notice (for example, this may be whether the total capital held across accounts is greater than allowed by benefit eligibility rules).

609 Paragraph 1 sub-paragraph (5) restricts both the Secretary of State's power to request information under paragraph 1 sub-paragraph (1) and the information that can be given in response to an Eligibility Verification Notice. Specifically, it prohibits requiring or providing information that amounts to transaction information or special category data. Transaction information and special category data are defined in paragraph 22. Special category data includes data related to an individual's health, ethnic origin or political opinion. This restriction safeguards individuals' right to privacy by ensuring that only essential and limited information for verifying eligibility for benefit payments is requested from financial institutions, and no unnecessary intrusion into personal financial details or other sensitive information occurs. Further details on how this measure will be applied may be found in the accompanying Code of Practice.

610 Paragraph 1 sub-paragraph (6) provides that the prohibition on the sharing of special category data specifically does not prevent the sharing of data that establishes the fact that someone is in receipt of a relevant benefit (i.e., the benefit specified in the Eligibility Verification Notice). This provision makes clear that data could be shared to establish that an individual is in receipt of, for example, Employment and Support Allowance, even if this fact could amount to data related to health (which is a special category). It does not permit any sharing of special category data beyond the fact of establishing receipt of such a benefit.

611 Paragraph 1 sub-paragraph (7) provides that only accounts held within the United Kingdom are in scope for the measure. This prevents financial institutions from being obliged to search their records for accounts which are held abroad.

612 Paragraph 1 sub-paragraph (8) defines linked accounts in relation to accounts into which a specified relevant benefit is paid as other accounts held by the same person (for example, a savings account). This does not include accounts held by others who are not the account holder of the benefit-receiving account, unless they are held jointly with the benefit recipient. This means that any joint account would be included in the definition of a linked account, but not any additional accounts held by the other joint account holder. However, where relevant DWP payments are paid into a joint account, all other accounts held by both account holders would be considered linked accounts.

613 Paragraph 1 sub-paragraph (9) defines "incorrect payments" of a relevant benefit in new Schedule 3B as any payment amount that differs from what the benefit recipient is eligible to receive and clarifies that this includes both past and future payments.

614 Paragraph 2 defines the type of person to whom the Secretary of State may issue an Eligibility Verification Notice, referred to in paragraph 1 sub-paragraph (1), which includes banks and certain other financial institutions.

615 Paragraph 2 sub-paragraph (1) defines the type of person either as a person to whom paragraph 2 sub-paragraph (2) applies or as a person described in regulations. This provides a delegated power to add to the definition through secondary legislation in the future, if necessary.

616 Paragraph 2 sub-paragraph (2) specifies that Eligibility Verification Notices can be issued to persons lawfully authorised to accept deposits or issue electronic money, and who provide accounts into which a relevant benefit may be paid. This ensures that Notices are sent only to financial institutions holding necessary information for helping to verify eligibility for relevant benefit payments.

617 The provisions from paragraph 2 sub-paragraphs (3) and (4) provide the scope of the delegated power to add to the definition of the type of person to whom the Secretary of State may issue an Eligibility Verification Notice. Sub-paragraph (3) limits the delegated power to describing only types of person who provide accounts into which a relevant benefit can be paid. This includes accounts which operate using crypto assets or similar, as further defined in sub-paragraph (4).

618 The provisions from paragraph 2 sub-paragraphs (5) to (7) provide cross-references to existing legislation and regulations to clarify interpretation of sub-paragraphs (2)(a)(i) and (2)(a)(ii).

619 Paragraph 3 sub-paragraph (1) establishes the nature of eligibility indicators, which are the criteria specified in an Eligibility Verification Notice. It requires that these indicators demonstrate that the specified relevant benefit may have been, or may be, incorrectly paid. For example, in the case of Universal Credit, an eligibility indicator could be set such as to require a person to provide the Secretary of State with information about benefit-receiving accounts (and any linked accounts) which have a total capital balance over the threshold of £16,000, which in the majority of cases is the maximum permitted under Universal Credit eligibility rules.

620 Paragraph 3 sub-paragraph (2) provides that eligibility indicators may be met by the data gathered from the benefit-receiving account on its own or by taking into account any number of linked accounts.

> Example: Eligibility Indicators
>
> If an account in receipt of Universal Credit payments had a balance of £10,000 and a linked savings account also had £10,000, then the bank or other financial institution which provides the accounts would be required to provide information to the Secretary of State, if an Eligibility Verification Notice requested information about Universal Credit-receiving accounts (and any linked accounts) which have more than £16,000 in capital. This is because the total capital balance of the accounts is above £16,000, as specified in the Eligibility Verification Notice.

621 Paragraph 3 sub-paragraph (3) expressly prohibits eligibility indicators from including personal data. This means that DWP will not share any personal data with financial institutions. This provision expressly prohibits DWP from issuing an Eligibility Verification Notice which is targeted at specific individuals and balances the need for finding incorrect payments with respect for individuals' financial privacy. Further details on how this measure will be applied may be found in the accompanying Code of Practice.

622 Paragraph 4 stipulates information that must be specified within an Eligibility Verification Notice.

623 Paragraph 4 sub-paragraph (1) provides that an Eligibility Verification Notice must specify the period by which the recipient must comply in order to avoid being liable for a penalty under Part 2 of Schedule 3B.

624 Paragraph 4 sub-paragraph (2) provides that the time period by which a recipient of an Eligibility Verification Notice must respond must be at least 14 days, starting on the day on which the Notice is given. An Eligibility Verification Notice could specify a longer period, but this is the minimum period that can be specified.

625 Paragraph 4 sub-paragraph (3) mandates that an Eligibility Verification Notice must contain certain details. This includes the recipient's rights to seek an internal review of the Notice and to appeal against the Notice. The Notice must also contain details about penalties that may be issued if the Notice is not fully complied with.

626 Paragraph 4 sub-paragraph (4) permits an Eligibility Verification Notice to include ongoing compliance requirements. It provides that an Eligibility Verification Notice may require a person to identify accounts and provide information at specified intervals for a period not exceeding one year from the date of the Notice. For example, the Secretary of State may issue a bank with an Eligibility Verification Notice which requires the bank to provide information on the first day of every month about accounts which meet the criteria set out in the Notice, for a period of one year from the date of the Notice.

627 Paragraph 4 sub-paragraph (5) provides that for each specified interval, the period within which the person must provide information for each interval must also be specified. For example, if the Eligibility Verification Notice requires the bank to provide information on the first day of every month, it must also specify, for example, that the recipient must reply by the fifteenth day of the month.

628 Under paragraph 4 sub-paragraph (6), the specified period within each interval must not be less than 14 days.

629 Paragraph 4 sub-paragraph (7) prohibits Eligibility Verification Notices from requiring the recipient to return information that is considered historic, with the exception of the information set out in sub-paragraph (9). Historic information is defined in sub-paragraph (8) as any information relating to a time greater than one year prior to the day the Notice was given.

630 The exception in sub-paragraph (9) provides that an Eligibility Verification Notice may request the date on which an account which meets an eligibility indicator first began to meet that indicator, which may be at a time greater than one year prior to the date of the Notice being given. If, for example, a Universal Credit receiving account has held over £16,000 for some time, and an Eligibility Verification Notice is sent to a bank to require it to provide information about accounts which, cumulatively or on their own, hold over £16,000, then the bank may be required to provide the Secretary of State with the date on which the account first had a balance of over £16,000, even if that date was earlier than one year prior to the day the Notice was given.

631 Paragraph 4 sub-paragraphs (10) and (11) are self-explanatory.

632 Paragraph 5 defines how information provided to the Secretary of State in response to an Eligibility Verification Notice (referred to as "EVM information") can be lawfully used. Paragraph 5 sub-paragraph (1) provides that EVM information may only be used for assisting in identifying incorrect payments of any benefits (as defined in paragraph 22) and in relation

to criminal proceedings related to such payments (such as for benefit-related fraud offences) and civil proceedings related to such payments (such as recovering overpayments or imposing penalties). EVM information may not be used for any other purpose.

> Example: using EVM information to assist in identifying claimant eligibility
>
> If EVM information helps to identify that a claimant has received an incorrect payment of one of the specified benefits, then the Secretary of State may use the information obtained to assess whether other benefit payments which the claimant also receives are incorrect. Any changes to benefit payments that occur may also affect "passported" benefits, including "passported" Housing Benefit (that is, where a claimant's eligibility for Pension Credit waives the need for a Local Authority to carry out their own means-testing for Housing Benefit). This ensures that EVM information is limited to safeguarding benefit integrity and cannot be misused, with further details on these objectives provided in the accompanying Code of Practice.

633 Paragraph 5 sub-paragraph (2) details that paragraph 5 sub-paragraph (3) applies when an Authorised Officer is considering whether to give an information notice under section 109BZA of the 1992 Act where EVM information has been provided which is relevant to that consideration. Paragraph 5 sub-paragraph (3) requires an Authorised Officer to have regard to all relevant information that the DWP holds which is relevant to the decision of whether to issue the information notice before doing so, including information that is not EVM information.

634 Paragraph 5 sub-paragraph (4) details that paragraph 5 sub-paragraph (5) applies when the Secretary of State is considering suspension of benefit payments following receipt of relevant EVM information. Paragraph 5 sub-paragraph (5) provides that the Secretary of State must have regard to all information relevant to the question of whether to suspend the payments, including information that is not EVM information, before making that decision.

635 Paragraph 5 sub-paragraph (6) states that paragraph 5 sub-paragraph (7) applies where the Secretary of State is considering whether an earlier decision taken under sections 8, 9 or 10 of the Social Security Act 1998, should be revised or superseded and the Secretary of State is in receipt of EVM information relevant to the question of whether to revise or supersede an earlier decision. Paragraph 5 sub-paragraph (7) provides that the Secretary of State must have regard to all information that is relevant to the question of whether to revise or supersede an earlier benefit entitlement decision, including information that is not EVM information, before doing so.

636 Paragraph 6 sub-paragraph (1) prohibits the Secretary of State from requiring or authorising the disclosure of information by a Notice recipient, in contravention of the Investigatory Powers Act 2016[81], specifically Parts 1 to 7, and Chapter 1 of Part 9. These sections provide a framework to govern the use of investigatory powers by law enforcement and other agencies, and this Schedule ensures that Eligibility Verification Notices cannot override this.

637 Paragraph 6 sub-paragraph (2)(a) provides that complying with an Eligibility Verification Notice does not breach any obligations of confidence owed by the bank or other financial institution which discloses the information. This prevents a bank or other financial institution that provides account details in compliance with an Eligibility Verification Notice from being in breach of any confidentiality agreements with account holders.

[81] https://www.legislation.gov.uk/ukpga/2016/25/contents

638 Paragraph 6 sub-paragraph (2)(b) establishes that compliance with an Eligibility Verification Notice does not breach any other restrictions on disclosing information, regardless of how those restrictions are imposed (for example, by contract or other legal obligations).

New Schedule 3B Part 2: Penalties

639 Paragraph 7 sub-paragraph (1) provides the circumstances in which the Secretary of State may issue a bank or other financial institution with a fixed penalty. The Secretary of State must consider that (a) a person has failed to comply with an Eligibility Verification Notice by the date or within the time specified and (b) that person has no reasonable excuse as to why they have not complied.

640 Paragraph 7 sub-paragraph (2) sets out that no fixed penalty notice can be issued without (a) the recipient of the Notice having had the opportunity to explain their case and (b) before any requested internal review has been carried out by DWP and a conclusion has been reached.

641 The provisions contained in paragraph 7 sub-paragraph (3) to paragraph 7 sub-paragraph (8) are self-explanatory.

642 Paragraph 8 sub-paragraph (1) empowers the Secretary of State to impose a daily rate penalty in circumstances where a person has been given a fixed penalty for failing to comply with an Eligibility Verification Notice and the Secretary of State considers that the person continues to fail to comply with the Notice without having a reasonable excuse. For example, if Bank A was issued with a fixed penalty notice for non-compliance with an Eligibility Verification Notice, and continues to fail to comply with the requirements of the Notice, the Secretary of State has the power to issue a daily penalty notice to Bank A which requires it to pay a daily penalty no greater than £40 per day, in addition to the fixed penalty initially given.

643 The provisions contained in paragraph 8 sub-paragraph (2) to paragraph 8 sub-paragraph (7) are otherwise self-explanatory.

644 Paragraph 9 sub-paragraph (1) provides for an increased daily rate penalty to be applied if (a) a daily rate is imposed on a person under paragraph 8, (b) the failure to which the penalty relates continues for more than 30 days from the date on which the daily rate penalty first became payable, and (c) the person has been notified that an increased daily penalty may become payable.

> Example: process of an increased daily rate penalty being applied
>
> On 1 January, Bank A was issued a fixed penalty notice for failing to comply with the requirements of an Eligibility Verification Notice. Bank A did not apply for a review and, on 1 February, was issued with a daily rate penalty as a result of its continued non-compliance with the Eligibility Verification Notice. Bank A was informed at that time that if it continues to fail to comply with the requirements of the Notice, then an application may be made by the Secretary of State to increase the daily rate penalty. The daily rate penalty became payable from 1 February. On 3 March (30 days after the daily rate penalty became payable) the Secretary of State applies to the Tribunal to increase the daily penalty rate because the non-compliance continues. The Tribunal then considers a number of factors including those outlined in sub-paragraph (4) and determines that an increased daily rate penalty is payable at the rate of £1,000 per day from any day that the Tribunal determines. The Secretary of State then informs Bank A of the Tribunal's decision, and the new increased daily rate penalty is payable from the day determined by the Tribunal.

645 The provisions contained in paragraph 9 sub-paragraph (2) to paragraph 9 sub-paragraph (6) are otherwise self-explanatory.

646 Paragraph 10 sub-paragraph (1) empowers the Secretary of State to impose a penalty on a person if the Secretary of State considers (a) that the person has provided inaccurate information in response to an Eligibility Verification Notice and (b) condition A, B or C (below) is met.

- Condition A is that the inaccuracy was deliberate or due to a failure by the person to take reasonable care without reasonable excuse (under sub-paragraph (2)).
- Condition B is that the person knew of the inaccuracy at the time of giving the information but did not inform the Secretary of State at that time and has no reasonable excuse for failing to do so (under sub-paragraph (3)).
- Condition C is that the person discovered the inaccuracy at a later point, and failed to take reasonable steps to report the inaccuracy to the Secretary of State, and has no reasonable excuse for failing to do so (under sub-paragraph (4)).

647 Paragraph 10 sub-paragraph (5) provides for the Secretary of State to issue a penalty if a person, without reasonable excuse, provides information which they are prohibited from sharing under Schedule 3B, namely transaction information or special category data as outlined in paragraph 1 sub-paragraph (5) and defined in paragraph 22. If, for example, a bank provides information in response to an Eligibility Verification Notice which includes the value of an individual transaction or the details of what was purchased or from whom, then the bank may be liable for a penalty under this paragraph. This provides a safeguard against the sharing of transaction information and special category data.

648 The provisions contained within paragraph 10 sub-paragraph (6) to paragraph 10 sub-paragraph (10) are otherwise self-explanatory.

649 Paragraph 11 sub-paragraph (1) sets out the process for recovering penalties in England and Wales via (a) the county court if the penalty is payable under an order of that court or (b) the High Court, if the penalty was payable under an order of that court.

650 Paragraph 11 sub-paragraph (2) sets out that, in Scotland, a penalty will be enforced by the Sheriff court of any sheriffdom in Scotland.

651 Paragraph 12 provides that future regulations may change the limit that can be applied to fixed rate, daily rate, increased daily rate and information penalties to reflect future changes in the value of money.

New Schedule 3B Part 3: Reviews

652 Paragraph 13 provides the procedures to be followed should a person in receipt of an Eligibility Verification Notice wish to apply to the Secretary of State for an internal review of the decision to give the Notice. The review process provides a quicker and more cost-effective alternative to the appeals process under paragraph 14. Further details about the review process can be found in the Code of Practice. The provisions contained in paragraph 13 sub-paragraph (1) to paragraph 13 sub-paragraph (5) are otherwise self-explanatory.

New Schedule 3B Part 4: Appeals

653 Paragraph 14 sub-paragraph (1) establishes that a person in receipt of an Eligibility Verification Notice can appeal to the Tribunal against the Notice on specific grounds: (a) they are not liable to receive an Eligibility Verification Notice (i.e., they are not a bank or other financial institution as defined in paragraph 2), (b) the Notice is not correct (i.e., it requests information outside of the remit of this Schedule), or (c) complying with the Notice would be unduly onerous for the bank or other financial institution. The appeals process forms part of the safeguarding measures for the Eligibility Verification Measure: if the bank or other financial institution considers that there is cause to appeal against the Notice or the requirements it sets out, there is an established route for the bank or other financial institution to follow.

654 Paragraph 14 sub-paragraph (2) provides for the timeframe for appeals. Subparagraph (2)(a) provides that appeals must usually be made either within 14 days of the day on which the Notice was given or, where a review has been requested, within 14 days of the day on which the bank or other financial institution was notified of the outcome of the review. Subparagraph (2)(b) allows the Tribunal to extend this period if it considers it reasonable in all the circumstances. Further details about the process for appealing against an EVN can be found in the Code of Practice.

655 Paragraph 14 sub-paragraph (3) establishes that, in determining an appeal, the Tribunal may dismiss the appeal or amend or revoke the Eligibility Verification Notice. Amending the Notice could involve, for instance, altering the period in which the information is required or the frequency with which the information is required.

656 Paragraph 14 sub-paragraph (4) is self-explanatory.

657 The provisions contained in paragraphs 15 and 16 are self-explanatory.

New Schedule 3B Part 5: Code of Practice

658 Paragraph 17 sub-paragraph (1) establishes the requirement for a Code of Practice. It details how the Secretary of State must issue a Code of Practice about Eligibility Verification Notices before the first Notice is issued to provide further information about the way in which the measure will be used and offers guidance to financial institutions about matters including the points in paragraph 17 sub-paragraph (2).

659 Paragraph 17 sub-paragraph (2) provides what must be included in the Code of Practice. The Code of Practice must provide further information about when an Eligibility Verification Notice may be issued, how information gathered under the measure will be processed and stored, the process of complying with an Eligibility Verification Notice, the penalties regime for cases of non-compliance, and the internal review process that will be followed if a bank or other financial institution wishes to request that the Secretary of State review the decision to issue them with an Eligibility Verification Notice.

660 Paragraph 17 sub-paragraphs (3) and (4) are self-explanatory.

661 Paragraph 17 sub-paragraph (5) permits the Secretary of State to carry out the actions under sub-paragraph 3 (i.e., consult on the Code of Practice) before the legislation comes into force.

662 Paragraph 18 sub-paragraph (1) enables the Secretary of State to revise and re-issue the Code of Practice. Under paragraph 18 sub-paragraph (2), the requirements of paragraph 17 sub-paragraphs (3) and (4) apply when the Secretary of State reissues the Code of Practice. However, those requirements do not apply if the only changes involved are updates to references to legislation or documents which have become out of date or other changes which the Secretary of State deems minor (sub-paragraphs (3)(a) and (3)(b)).

New Schedule 3B Part 6: General provision and interpretation

663 Paragraph 19 sub-paragraph (1) defines the term "relevant benefit" for the purposes of this Schedule. It sets out the benefits that are currently included under this measure and therefore where its initial focus will be. These are: (a) Universal Credit; (b) Employment and Support Allowance; and (c) State Pension Credit. For the rates of overpayment of DWP benefits, see Appendix 1 of the annually published Fraud and Error National Statistics.

664 Paragraph 19 sub-paragraph (2) allows for regulations to be enacted in the future to add or remove types of benefits from the list which defines "relevant benefits". The purpose of this paragraph is to ensure that the scope of "relevant benefits" can evolve as the social security system or relevant policies change, or where there is a justified need to bring further benefits into scope due to increased levels of incorrect payments in certain benefits.

665 Paragraph 19 sub-paragraph (3) provides that the regulations referenced under paragraph 19 sub-paragraph (2) may only add a type of benefit to the list of relevant benefits if that benefit is administered by, or on behalf of, the Secretary of State. This provision ensures that only benefits directly managed or overseen by the Secretary of State can be included within the scope of this legislation, maintaining consistency in administration and accountability.

666 Paragraph 20 sub-paragraph (1) defines how "relevant account" is to be interpreted throughout this Schedule. "Relevant accounts" are personal accounts operating as current accounts, savings accounts, or investment accounts including such accounts that operate by reference to electronic money. Sub-paragraph 2(c) provides a cross-reference for the definition of "electronic money".

667 Paragraph 20 sub-paragraph (2)(a) provides the definition of "personal account" as it is used in this Schedule. The definition specifies that a "personal account" is an account held by one or more individuals, and explicitly excludes accounts provided for purposes related to trade, business, or profession, such as business accounts.

668 Paragraph 20 Sub-paragraph 2(b) provides further detail on these definitions regarding current accounts. It clarifies that a current account refers to any account in which individuals can deposit and withdraw money, and which is designed to enable the account holder to execute transactions with third parties. This definition expressly excludes certain types of accounts, to ensure that only relevant accounts are brought into scope of the measure. Accounts such as credit card accounts or current account mortgages, which are not relevant, are excluded from the definition.

669 Paragraph 20 sub-paragraph (2)(c) is self-explanatory.

670 Paragraph 20 sub-paragraph (3) defines a person holding an account by referring to those holding (a) joint accounts, and (b) any other account held in the person's name. This clarifies the definition of an account "holder" for the purposes of this Schedule. Joint accounts recognise accounts held jointly by multiple persons, ensuring all parties involved are considered account holders. This provision covers any account associated with a person's name in any way. These definitions also clarify that an account is only linked to the benefit-receiving account for the purposes of this power if it is held in one of these ways by the same person.

671 Paragraph 20 sub-paragraph (4) provides that sub-paragraphs (5) to (8) make provision related to where an Eligibility Verification Notice is given to a body corporate.

672 Paragraph 20 sub-paragraph (5) provides that when a Notice is given to a body corporate, in complying with the first step of identifying relevant accounts which the body corporate provides (in paragraph 1(2)(a)), relevant accounts include other accounts in the same group as the body corporate if the conditions under sub-paragraph (6) are met. Those conditions are that the corporate body is able to identify relevant accounts provided by the other person, (i.e., accounts into which a specified relevant benefit has been paid (or linked accounts) and which meet eligibility indicators) and obtain the required information about the identified accounts.

673 Sub-paragraph (7) provides the circumstances in which two persons are to be considered as being in the same group for the purposes of sub-paragraph (5). This is namely when one is a subsidiary of the other, or when both are subsidiaries of the same body corporate. This definition provides a clear framework for identifying entities within the same group, ensuring consistent application of the measure. Under sub-paragraph (8), the term "subsidiary", as used in sub-paragraph (7), is defined by reference to the relevant section of the Companies Act 2006[82].

674 Paragraph 21 is self-explanatory.

675 Paragraph 22 defines various key terms used within the Schedule including "benefit", "eligibility indicators", "Eligibility Verification Notice", "personal data", "special category data" and "transaction information". "Benefit" means any relevant social security benefit as defined in Section 121DA (7) of the Social Security Administration Act 1992[83] (other than State Pension, which is excluded from the definition of benefit), as well as payments and arrangements under Section 2(2)(d) of the Employment and Training Act 1973[84]. State Pension is expressly excluded from the list of benefits in scope).

676 Paragraph 23 confirms that nothing in this Schedule limits or interferes with the powers conferred on the Secretary of State by sections 109B and 109BZA of the Social Security Administration Act 1992 (Powers to require information), other than as described in paragraph 5. This power is distinct from the investigatory powers conferred on authorised officers elsewhere in the Act.

Schedule 3, Part 2: Proceeds of Crime Act 2002

677 Paragraph 2 sub-paragraph (1) of Part 2 of Schedule 3 provides for the Proceeds of Crime Act 2002[85] to be amended as per paragraph 2 sub-paragraph (2) and paragraph 2 sub-paragraph (3).

678 Paragraph 2 sub-paragraph (2) and paragraph 2 sub-paragraph (3) amend Section 330 and Section 331 respectively of the Proceeds of Crime Act 2002, which establishes offences relating to the failure to disclose knowledge or suspicion of money laundering in the regulated sector. The amendments introduce exemptions for individuals who obtain information solely as a result of complying with an Eligibility Verification Notice issued under new Schedule 3B of the Social Security Administration Act 1992[86].

[82] https://www.legislation.gov.uk/ukpga/2006/46/contents

[83] https://www.legislation.gov.uk/ukpga/1992/5/contents

[84] https://www.legislation.gov.uk/ukpga/1973/50

[85] https://www.legislation.gov.uk/ukpga/2002/29/contents

[86] https://www.legislation.gov.uk/ukpga/1992/5/contents

679 Individuals who receive an Eligibility Verification Notice and consequently obtain information that would otherwise trigger disclosure obligations under Section 330 or 331 of the Proceeds of Crime Act 2002 are not criminally liable if: the information or other matter came to them solely as a result of complying with the Eligibility Verification Notice, and, if not for the information obtained as a result of that Eligibility Verification Notice the person would not know or suspect or have reasonable grounds for knowing or suspecting money laundering. This provides a safeguard for individuals who are required to comply with Eligibility Verification Notices, preventing unintended criminal liability under the Proceeds of Crime Act 2002 for disclosures triggered solely by compliance with Eligibility Verification Notices. However, the amendments do not exempt individuals from their ongoing duty to report any other knowledge or suspicions of money laundering that arise independently of the information obtained as a result of an Eligibility Verification Notice.

Schedule 4: Social security fraud: search and seizure powers etc

New Schedule 3ZC: Entry, Search and Seizure etc: England and Wales

680 Schedule 4 inserts new Schedule 3ZC Entry, Search and Seizure etc: England and Wales, into the Social Security Administration Act 1992[87]. This Schedule outlines how the specific sections and terminology as expressed within the Police and Criminal Evidence Act 1984[88] are to be interpreted for the context of investigations by DWP authorised investigators.

681 Paragraph 2 sub-paragraph (1) of new schedule 3ZC allows for references to 'constables' in the relevant sections of PACE to apply to authorised investigators in the context of investigations of DWP offences.

682 Paragraph 2 sub-paragraph (2) sets out that references to 'offences' in the relevant sections of PACE are to be read as DWP offences, except for references in Section 19(3)(a) and 21(8)(b) so that DWP authorised investigators can seize evidence for 'any other offence' as well as DWP offences, in line with the practice of other enforcement bodies applying PACE powers.

683 Paragraph 2 sub-paragraph (3) sets out that any reference to a criminal investigation in the relevant sections of PACE also applies to an investigation of a DWP offence by an authorised investigator.

684 Paragraph 3 sub-paragraphs (1)(a) and (b) relate to section 15 of PACE, which place an obligation on the person applying for a search warrant to set out in detail the grounds for making that application. This sub-paragraph restricts DWP's searches to premises and items on those premises. DWP cannot conduct a search of a person(s).

685 Paragraph 3 sub-paragraphs (2)(a) and (b) set out that where an "all premises warrant" has been authorised by the courts, entry into any premises which has not been specified in the warrant must be authorised in writing by an officer of at least a Senior Executive Officer grade.

686 Paragraph 3 sub-paragraph (2)(c) provides that applications are restricted to permit a DWP authorised investigator to search for material(s) and not person(s).

687 Paragraph 3 sub-paragraph (3) relates to Section 21 of PACE, Access and copying, which sets out that for materials seized by a DWP authorised investigator which need to be retained for the purpose of investigating a DWP offence, the same provisions and procedures to grant a person access to that material apply as if they were seized and retained by the police.

[87] https://www.legislation.gov.uk/ukpga/1992/5/contents

[88] https://www.legislation.gov.uk/ukpga/1984/60/contents

688 Paragraph 3 sub-paragraph (4)(a) amends section 22(1) of PACE, Retention, so that any material seized or taken by a DWP authorised investigator may be retained for as long as necessary. This ensures the provision applies in the same manner as if the materials were seized or taken by the police. Paragraph 3 sub-paragraph (4)(b) provides the legal gateway for an authorised investigator to transfer an item seized in the exercise of PACE powers in England and Wales to another person with functions relevant to the investigation of the offence for which the item was seized. The other person can then accept and retain the item, subject to applicable legal provisions. This includes laws and regulations that have been passed by a legislative body that has the authority to create subordinate legislation, including those from the Scottish Parliament.

689 Paragraph 3 sub-paragraph (4)(d) makes section 28H(5) of the Immigration Act 1971[89] (Searching persons in police custody) inapplicable for DWP purposes.

690 Paragraph 3 sub-paragraph (5) amends Schedule 1, Special procedure, of PACE. Under section 9 and Schedule 1 of PACE, a constable can apply to a judge for access to special procedure or excluded material through a production order or a search warrant. The terms 'items subject to legal privilege', 'excluded material', and 'special procedure material' are defined in sections 10, 11, and 14 of PACE. This section enables DWP to be able to apply to a judge for permission to access specific items within this category. This is achieved through the modifications made in subparagraphs 5(a), (b), and (c), which collectively restrict a DWP authorised investigator's ability to access such material, without first applying to a Judge for permission for a warrant or a production order. This applies to material including personal records and business records. The effect of subparagraph 5(b) is there is no ability for DWP to apply to a Judge for access to human tissue etc or journalistic material.

691 Paragraph (5) PACE Schedule 1 lists two sets of access conditions, one or other of which must be fulfilled by the police to allow the court to order access. This provision means that DWP authorised investigators can only apply for access based on the first set of access conditions.

New Schedule 3ZD: Entry, Search and Seizure etc: Scotland

692 Schedule 4 also adds new Schedule 3ZD Entry, Search and Seizure etc: Scotland, into the Social Security Administration Act 1992[90], outlining the search and seizure powers for DWP authorised investigators when investigating DWP offences in Scotland. This replicates DWP's investigatory search and seizure powers in England and Wales, accounting for the different jurisdiction and court processes in Scotland.

New Schedule 3ZD Part 1: Normal Material

693 Part 1 of new Schedule 3ZD relates to powers to be exercised for normal material and Part 2 relates to special procedure material. Part 1 describes the procedure a DWP authorised investigator must follow in Scotland when applying for a warrant, along with the specific conditions that must be fulfilled for this warrant to be applicable. It enables the DWP authorised investigator to request permission to enter premises and sets out the different parameters under which a search may be conducted.

694 Paragraph 1 sub-paragraph (1) allows the Sheriff to grant a 'specific premises' warrant.

695 Paragraph 1 sub-paragraph (2) defines a specific premises warrant.

[89] https://www.legislation.gov.uk/ukpga/1971/77/contents

[90] https://www.legislation.gov.uk/ukpga/1992/5/contents

696 Paragraph 1 sub-paragraph (3) provides that the DWP authorised investigator must demonstrate to the Sheriff that the conditions in paragraphs (a-e) can be met.

697 Paragraph 1 sub-paragraph (4) provides that the power to issue a warrant under the terms permitted within this Act does not prevent any other search warrant power operating.

698 Paragraph 2 sub-paragraph (1)(a) – (f) detail the permitted actions that a Sheriff can authorise a DWP authorised investigator to carry out by warrant.

699 Paragraph 2 sub-paragraph (2) sets out the conditions for a warrant to be met in respect of a DWP offence. Sub-paragraph 3 allows for the seizure of evidence for other offences, not just DWP offences, so long as conditions (a) and (b) are met.

700 Paragraph 2 sub-paragraph (4) limits items or material being removed from a premises, unless taking a copy or recording of it would be insufficient.

701 Paragraph 2 sub-paragraph (5) prevents items being seized or removed from a premises where it meets the set criteria (the authorised investigator believes it to be subject to legal privilege, excluded material, or special procedure material).

702 Paragraph 2 sub-paragraph (6) provides that a warrant may set out specific conditions or restrictions on its execution.

703 Paragraph 3 sub-paragraphs (1) – (3) provide that when carrying out a warrant, any DWP authorised investigator can execute the warrant, and bring any additional personnel and equipment needed. Those assisting have the same power as the DWP authorised investigator but must act only in their company and under their supervision.

704 Paragraph 3 sub-paragraphs (4)(a) and (b) allow the Sheriff to limit the time of day a warrant can be carried out and requires additional justification where the warrant is requested for anti-social hours. It also sets out the timeframe for which a warrant is valid.

705 Paragraph 3 sub-paragraph (5) provides that each time premises is entered, specific information as set out in paragraphs (a) to (c) must be provided, detailing the requirements for entry. Procedures for exiting the premises are also set out.

706 Paragraph 3 sub-paragraphs (6) - (10) permit the use of reasonable force by a constable against property and people, whilst limiting the use of reasonable force by DWP authorised investigators to property only. They also ensure that persons acting under the supervision of a DWP authorised investigator can only use reasonable force against property.

707 Paragraph 3 sub-paragraph (11) ensures reasonable force cannot be used to require information from a person on the premises. Paragraph 4 sub-paragraphs (1) and (2)(a) and (b) require a receipt to be issued upon seizure or copies provided.

708 Paragraph 4 sub-paragraph (3) provides for the things seized to be retained for as long as necessary for the purposes of investigating any DWP offence.

709 Paragraph 4 sub-paragraphs (4)(a) and (b) provide that authorised investigators may examine the thing or record any information.

710 Paragraph 4 sub-paragraph (5) specifies the circumstances when sub-paragraph (6) applies.

711 Paragraph 4 sub-paragraph (6) sets out that the owner of items seized must be granted access and the circumstances where that can be refused. If criteria are met, supervised access to the seized thing or item is permitted.

712 Paragraph 4 sub-paragraph (7) - (9) of new Schedule 3ZD allows an authorised investigator to transfer the thing seized in the exercise of entry, search and seizure powers in Scotland to another person with functions relevant to the offence for which the item was seized, i.e., from DWP to the Police. The other person can then accept and retain the item, subject to applicable legal provisions. This includes laws and regulations that have been passed by a legislative body that has the authority to create subordinate legislation, including those from the Scottish Parliament.

713 Paragraph 5 sub-paragraph (1) outlines the requirement for a warrant to be returned to court with a summary of what action was taken when the powers were exercised.

714 Paragraph 5 sub-paragraph (2) requires a warrant to be returned to court if not executed as soon as reasonably possible.

715 Paragraph 5 sub-paragraph (3) sets out that a warrant should be retained for a period of 12 months.

716 Paragraph 6 sub-paragraph (1) and (2) establish that authorised investigators must be government officials with a grade of at least a Higher Executive Officer. Both criteria must be fulfilled to operate as a DWP authorised investigator.

New Schedule 3ZD Part 2: Special Procedure

717 Part 2 of new Schedule 3ZD relates to powers to access special procedure material.

718 Paragraph 7 sub-paragraphs (1) and (2) provides the Sheriff with the authority to grant a production order, which will require items requested by an authorised investigator to be given to them.

719 Paragraph 7 sub-paragraph (3) provides that the compliance period for a production order is ten working days, or longer, if specified in the order.

720 Paragraph 7 sub-paragraph (4) provides that for a production order to be granted, all conditions must be met: it must pertain to an indictable offence and material involved must be crucial to an investigation. Material must be personal or confidential and likely to be relevant evidence. Access may be granted if no other practical method to secure that material is available and where it can be demonstrated that accessing said information serves the public interest.

721 Paragraph 7 sub-paragraph (5) provides that information stored electronically or in cloud storage must be provided in a visible, legible, and portable form.

722 Paragraph 7 sub-paragraph (6) states that paragraph 4 relating to seizure of items applies to material provided in accordance with a production order.

723 Paragraph 8 sub-paragraph (1) provides that a Sheriff may grant a 'specific premises warrant' where the conditions in paragraphs (a) and (b) are met.

724 Paragraph 8 sub-paragraphs (2) and (3) set out the conditions to be met for a warrant to be granted. Sub-paragraph (2) provides that a warrant may be issued when there are reasonable grounds to believe that the material is located within the premises specified or described in the application. Sub-paragraph (3) sets out further conditions to be met in paragraphs (a) to (f).

725 Paragraph 8 sub-paragraph (4) states that the provisions of Part 1 (warrants for entry, search, and seizure for normal material) that apply to specific premises warrant also apply here.

New Schedule 3ZD Part 3: General

726 Paragraph 9 of new Schedule 3ZD allows court rules to be made, enabling the specific details of how proceedings under this schedule are handled to be outlined in court rules. This allows for flexibility and adaptation to specific cases or circumstances as may be required. The court rules must not contradict or undermine the provisions outlined in Section 305 of the Criminal Procedure (Scotland) Act 1995[91], Acts of Adjournal.

727 Paragraphs 10 to 15 define key terms for Warrants and Production Orders in Scotland, including special procedure material, excluded material, personal records, journalistic material, confidential professional material, and items subject to legal privilege.

728 Paragraph 16 provides definitions of the terms which are essential for interpreting the legislation.

Schedule 5: Recovery from bank accounts etc

New Schedule 3ZA: Recovery of amounts from bank accounts etc

729 Schedule 5 makes amendments to the Social Security Administration Act 1992, inserting new Schedule 3ZA. This sets out the statutory requirements that must be met to apply the power to recover directly from a bank account, and places banks and other financial institutions under obligations to provide designated information or make from a liable person's account. References to the 'liable person' in these notes and new Schedule 3ZA relate to the debtor.

New Schedule 3ZA Part 1: Deductions from accounts

730 Paragraph 1 sub-paragraph (1) and sub-paragraph (2) provide for the Secretary of State to make a direct deduction order to recover monies owed directly from the liable person's bank account.

731 Paragraph 1 sub-paragraph (3) makes provision for two types of direct deduction orders: regular direct deduction orders and lump sum direct deduction orders.

732 Paragraph 1 sub-paragraph (4) provides for regular direct deduction orders to require banks to make regular, fixed deductions from a liable person's account and pay them to the Secretary of State in order to repay the debt owed. This will allow the Secretary of State to recover debt over an extended period of time through instalments, which is not possible under third party debt orders made by the county court in England and Wales which only allow recovery via lump sums. This is to allow affordable and sustainable repayment plans to be enforced, whilst protecting individuals from undue hardship.

733 Paragraph 1 sub-paragraph (5) provides for lump sum direct deduction orders, which require banks to make a one-off deduction from a person's account and pay this to the Secretary of State in order to pay the debt owed.

734 Paragraph 1 sub-paragraph (6) provides that the Secretary of State may request more than one deduction order type in relation to the same debt and account. This enables, amongst other things, further recovery where a single lump sum direct deduction order would not recover the full amount of a debt at once, and a regular direct deduction order is required to recover the remaining sum.

[91] https://www.legislation.gov.uk/ukpga/1995/46/contents

735 Paragraph 1 sub-paragraph (7) requires the Secretary of State to give a copy of the direct deduction order to the liable person from whose account recovery will be made. Where the order is in respect of a joint account, this includes the other account holder(s). Requirements of what must be included in the direct deduction order are set out later in the Schedule.

736 Paragraph 1 sub-paragraph (8) is self-explanatory.

737 Paragraph 2 sub-paragraph (1) provides for those accounts which may be the subject of a direct deduction order. Subsection (a) provides that the account must be held by the liable person and subsection (b) that this must contain an amount in which the Secretary of State reasonably believes the liable person has a beneficial interest. This provides that funds can only be considered for deduction if it is reasonable for the Secretary of State to conclude that the monies belong to the liable person.

738 Paragraph 2 sub-paragraphs (2) and (3) provide that the Secretary of State may make a direct deduction order from a joint account, provided that the liable person does not have a sole account from which the debt may be recovered in a reasonable amount of time, unless the debt being recovered is jointly owed by all account holders (this will apply, for example, where there are two joint account holders and both are jointly liable for the debt). This has the effect that recovery is only attempted from joint accounts where necessary.

739 Paragraph 3 sub-paragraph (1) requires that the Secretary of State obtains and considers at least three months of bank account statements prior to pursuing a direct deduction order. This is for the purpose of considering the affordability of recovery.

740 Paragraph 3 sub-paragraphs (2) and (3) make provision for account information notices, which will be issued to the bank to request at least three months of most recent bank statements. A longer period of statements may be requested where the Secretary of State deems this appropriate, such as where a regular income pattern cannot be reasonably established from three months' alone. This paragraph also sets out what information must be included in the notice in order for the bank to identify the correct account.

741 Paragraph 3 sub-paragraph (4) restricts the Secretary of State's ability to request bank statements only for the consideration of a direct deduction order, to ensure that any request for information is justified and proportionate.

742 Paragraph 3 sub-paragraph (5) makes provision for a general information notice, which for the purposes of deciding whether to issue a direct deduction order requires a bank to identify each account held by the liable person with that bank and provide more detailed information on the accounts held, including (if the account is a sole account) the account balance. For joint accounts, the bank must also provide the Secretary of State with the other joint account holders name(s) and correspondence address(es). These will be used where, for example, further information is needed to identify accounts which may be suitable for a direct deduction order. Correspondence addresses obtained will be used to notify the liable person and if applicable, the joint account holder(s) of the proposed direct deduction orders.

743 Paragraph 3 sub-paragraph (6) is self-explanatory.

744 Paragraph 3 sub-paragraph (7) and sub-paragraph (8) requires a bank to comply with a notice, and that the notice must set out any steps the bank must take to comply with it. Sub-paragraph (7) subsection (b) also requires the Secretary of State to inform the bank they may be liable to a penalty (under paragraph 20) if it fails to comply.

745 Paragraph 3 sub-paragraph (9) sets out that on receipt of either an account information notice or a general information notice, the bank must not notify the liable person or any other account holder that it has received or responded to either notice. This is to prevent an account holder taking action to frustrate the operation of an intended direct deduction order while this is being considered.

746 Paragraph 3 sub-paragraph (10) allows the bank to notify the relevant account holder(s) of a given notice three months after the notice was given, or earlier if the Secretary of State has given a pre-deduction notice to the bank under paragraph 5, sub-paragraph (1).

747 Paragraph 3 sub-paragraph (11) requires that the Secretary of State may only use the information provided in response to a notice under this paragraph for the purposes connected to the recovery of debts under the operation of the specific powers as set out in this Part of the Act.

748 Paragraph 4 sub-paragraph (1) requires, when dealing with a joint account where at least one account holder is not liable to pay the debt, the Secretary of State to make an assessment about the beneficial interest of the funds in the account before issuing a direct deduction order. This is in order to prevent recovery being made from funds not belonging to the liable person.

749 Paragraph 4 sub-paragraph (2) sets out that, unless there is information to the contrary (in which case paragraph 4, sub-paragraphs (3) and (4) apply), the Secretary of State must assume funds in the account are shared equally between all account holders.

750 Paragraph 4 sub-paragraph (3) and sub-paragraph (4) require that where bank statements and responses to the Secretary of State's requests for representation indicate the presumption that funds in a joint account belonging equally to the liable person is wrong, this must be taken into account. This prevents DWP from knowingly deducting more than the amount in an account which reasonably appears to belong to the liable person.

751 Paragraph 5 sub-paragraphs (1) to (4) require that, before giving a bank a direct deduction order, the Secretary of State is required to notify the applicable bank and the account holder(s) information about the proposed direct deduction order including the amount to be recovered, the terms of the proposed order and the account against which an order would be in respect of. The list of certain information that must be included in the notice is under sub-paragraph (1), paragraphs (a-e). This notice must also include information about the representation process, where the liable person and any joint account holder can make representations regarding the terms of the proposed order including providing further information or evidence as to the beneficial ownership of funds. The notice will clearly set out how representations can be made and the period in which they need to be made. This period must be at least one month after the date of the notice.

752 Paragraph 5 sub-paragraph (5) requires the Secretary of State to consider any representations made within the time period specified within the notice, by the liable person and/or joint account holder(s) and make any appropriate changes either to the terms of the order and/or to the amount in a joint account to which the liable person is deemed to be beneficially entitled. This acts as a safeguard to allow those who would be affected by the direct deduction order to make the Secretary of State aware of their circumstances in order to allow the Secretary of State to consider these and the effect they have on the intended direct deduction order.

753 Paragraph 5 sub-paragraph (6) states that a pre-deduction notice may be given to the bank prior to it being given to the liable person and/or joint account holder(s), and sub-paragraph (7) provides that where the notice is given to the bank, the notice must then be given to the

liable person and/or joint account holder(s) as soon as reasonably practical. This allows for the bank to take steps to hold the funds required to meet the amount set out in the notice, if this is required by the direct deduction order.

754 Paragraph 5 sub-paragraph (8) requires that, if a decision is made not to make a direct deduction order, the liable person, any joint account holder and the bank must be notified.

755 Paragraph 6 sub-paragraphs (1) and (2) set out a direct deduction order can only be made where it would not cause financial hardship to the liable person, any other account holder, or as defined in sub-paragraph (2) those living with or financially dependent on the liable person or account holder(s).

756 Paragraph 6 sub-paragraphs (3) and (4) stipulate that under a regular direct deduction order, the maximum deduction amount possible will be determined by the amount reasonably expected to be paid into the account each month, having considered the amount(s) previously credited to the account in each of the months the Secretary of State has obtained bank statements for. The deduction must not be more than 40% of this figure. This is to safeguard individuals from deductions that could increase the risk of hardship. This provision is subject to any regulations made under paragraph 25(2)(d), which may from time-to-time lower the maximum rate of deduction below 40% in some or all cases.

757 Paragraph 6 sub-paragraph (5) requires the Secretary of State to ensure that the amount(s) deducted from an account must not be greater than the debt owed. This is to protect the liable person from over-recovery of that deduction.

758 Paragraph 7 sub-paragraph (1) sets out the requirements as to the content of regular direct deduction orders and what they must specify. Paragraphs (a)-(c) require that this must include the amounts to be deducted by the order when these amounts are to be deducted and paid to the Secretary of State, as well as information on penalties for banks (see paragraph 20).

759 Paragraph 7 sub-paragraph (2) makes provision for the Secretary of State to require different amounts to be deducted at different times in a regular direct deduction order over time. This empowers the Secretary of State to recover debts efficiently and proportionately.

760 Paragraph 7 sub-paragraph (3) paragraph (a) requires a lump sum direct deduction order to set out the amount to be deducted, and paragraph (b) requires the order to set out when the amount should be deducted and paid to the Secretary of State. Subsection (c) requires the notice to also include information on penalties for banks (see paragraph 20).

761 Paragraph 7 sub-paragraph (4) sets out that there must be a period of at least one month between the date the order is given and the date when any deduction is made under the order.

762 Paragraph 7 sub-paragraph (5) requires that banks must comply with deduction orders requested by the Secretary of State.

763 Paragraph 8 sub-paragraphs (1) to (3) set out the option for banks to deduct fees up to an amount to be set in regulations prior to making a final direct deduction. This provides the opportunity for banks to recover operational costs reasonably incurred by applying a direct deduction order and before they pay the funds to the Secretary of State. The Secretary of State is required to take such costs into account when determining the amount to be deducted, and costs recoverable by the bank may be limited by regulations made under paragraph 25.

764 Paragraph 9 sub-paragraph (1) sets out that if the amount in the account is lower than the amount to be deducted for a lump sum direct deduction order, the bank should not take a deduction and should instead notify the Secretary of State of this as soon as possible.

765 Paragraph 9 sub-paragraph (2) sets out that if the amount in the account is lower than the amount to be deducted for a regular direct deduction order, the bank should attempt the deduction on the same day the following week, and if on the second attempt the amount is still lower, not to take the deduction in question and instead notify the Secretary of State of this as soon as possible.

766 Paragraph 9 sub-paragraph (3) provides that references in paragraph 9 to the amount to be deducted under a direct deduction order include any amount to be deducted to cover a bank's costs, as permitted under paragraph 8(1).

767 Paragraph 10 sub-paragraphs (1) and (2) set out that if the direct deduction falls on a non-working day, to take the deduction on the next working day.

768 Paragraph 11 sub-paragraph (1) requires that when the pre-deduction notice of a lump sum direct deduction order, or a lump sum direct deduction order itself, is issued to a bank, the bank must ensure that no transactions take place that would result in the sum in the account falling below the amount to be deducted.

769 Paragraph 11 sub-paragraphs (2) and (3) provide for the creation of hold accounts in order for banks to transfer funds to be recovered (or proposed to be recovered) by lump sum direct deduction orders. The specified monies to be deducted may be transferred to hold accounts, in order to protect those funds from being transferred elsewhere by the liable person to evade repayment, and these funds may subsequently be transferred from the hold account to DWP upon the bank later being given a direct deduction order.

770 Paragraph 11 sub-paragraph (4) requires that if the bank takes the action of holding the funds in a different account, it must ensure the person is not left worse off for having had the money moved into a separate account than if it had been held in their own account. For example, if the account the money was held in was an interest-bearing account and the funds were returned, the interest for that period (at a rate at least as high as the originating account) should still be paid, as if the funds were in the originating account for that period.

771 Paragraph 11 sub-paragraph (5) has the effect that the requirements under sub-paragraph (1) are no longer applicable should the bank be notified that DWP will no longer proceed with the proposed order or that all the deductions under the direct deduction order have been made.

772 Paragraph 11 sub-paragraph (6) is self-explanatory.

773 Paragraph 12 sub-paragraphs (1) to (3) provide the right for a liable person or joint account holder subject to a direct deduction order to apply to the Secretary of State to request that the order is varied. This paragraph also sets out that the Secretary of State must allow all account holders the opportunity to make representations and must notify them all of the outcome of such an application.

774 Paragraph 13 sub-paragraphs (1) and (2) set out that the Secretary of State may vary an existing direct deduction order and that the steps set out in this paragraph apply to any variation, including when an order is varied upon review.

775 Paragraph 13 sub-paragraph (3) sets out that (except where sub-paragraph 7 applies) where the Secretary of State proposes to vary a direct deduction order, the liable person and all other account holders (where the account in question is a joint account) must be notified so they have the opportunity to make representations about the proposed variation.

776 Paragraph 13 sub-paragraph (4) sets out that the requirement to allow representations under sub-paragraph (3) can happen at the same time as any representations are sought under paragraph 12 (2) (applications to vary).

777 Paragraph 13 sub-paragraph (5) and (6) set out that the varied direct deduction order takes effect as soon as the order is given to the bank or in line with the order if that provides for it to take effect on a later date. The Secretary of State must also give a copy to the liable person and/or the joint account holder(s).

778 Paragraph 13 sub-paragraph (7) provides for a varied direct deduction order to be applied to a different bank account where this is requested by the liable person and, where that different account is a joint account, each account holder consents.

779 Paragraph 13 sub-paragraph (8) sets out that if the varied order applies to an account held by a different bank to the original order, the Secretary of State must also notify both the bank which administers the account to which the order will be applied, and the bank where the original order was held. If either account is a joint account, the Secretary of State must notify each account holder of the change.

780 Paragraph 13 sub-paragraph (9) sets out that when varying an order, the steps set out in paragraphs 3 to 5 of the Schedule are not required to be actioned. This means that, amongst other things, the Secretary of State is not required to obtain bank statements in relation to a decision to vary a direct deduction order.

781 Paragraph 14 sub-paragraph (1) provides for the ability for the Secretary of State to revoke direct deduction orders, and sub-paragraphs (2) - (3) requires the Secretary of State to do so where either the full recoverable amount has been recovered or if the liable person has died. Where an order is revoked the Secretary of State must then give notice of the revocation to the bank, the liable person (if they are still alive) and any joint account holders.

782 Paragraph 15 sub-paragraph (1) provides for further information notices to be given to a bank, requiring the bank to provide three or more months' of bank statements and provide other information regarding the account(s) held by the liable person at that bank, in order to support the Secretary of State in deciding whether to vary or revoke an existing direct order.

783 Paragraph 15 sub-paragraphs (2)-(4) then set out the provisions relating to a further information notice. This includes information which must be included in the notice, that more than once notice can be given, the purposes for which the Secretary of State may use any information provided in response to such a notice and a requirement to also give notice to any joint account holders before a further information notice requiring bank statements for a joint account is issued.

784 Paragraph 16 sub-paragraphs (1) and (2) provide for the suspension and subsequent restarting of regular direct deduction orders should DWP wish to pause recovery via deduction for a period of time. The Secretary of State must notify the bank, the liable person and any joint account holders of any suspension or subsequent re-starting of an order. This enables flexibility in recovery where there is reason to temporarily pause deductions.

785 Paragraph 16 sub-paragraphs (3) and (4) provide that a regular direct deduction may not be re-started if it is suspended for a continuous period of two years and requires the Secretary of State to notify the bank and the relevant account holder(s) that the direct deduction order has been revoked.

786 Paragraph 16 sub-paragraph (5) is self-explanatory.

787 Paragraph 17 provides that upon the bank becoming aware of the death of the liable person, any direct deduction order will cease to be in effect.

788 Paragraph 18 sub-paragraphs (1)-(3) set out that an application to review a decision can be made when the Secretary of State either makes a direct deduction order or after the outcome of a variation application. Only the liable person or the joint account holder (if applicable) can apply for a review of such a decision. An application for review must be made within one month, calculated from the date of the notified decision.

789 Paragraph 18 sub-paragraph (4) sets out that a request for review cannot be made on grounds regarding the debt itself, unless the amount of the debt is incorrectly stated in a notice or order given under this Schedule.

790 Paragraph 18 sub-paragraphs (5) and (6) set out the actions the Secretary of State can take upon review.

791 Paragraph 18 sub-paragraph (7) is self-explanatory.

792 Paragraph 19 sub-paragraphs (1) and (2) set out when the liable person or a joint account holder (a 'relevant person') can appeal a direct deduction order (or a decision to vary or not vary the order) to the First-tier Tribunal. The relevant person must have either made representations when given the opportunity, or have requested a review within the relevant time, and they must have received the outcome before they can appeal.

793 Paragraph 19 sub-paragraph (3) is self-explanatory.

794 Paragraph 19 sub-paragraph (4) requires that any appeal must be lodged within one month of the appellant receiving a copy of the direct deduction order or within one month following receipt of a varied order or notice of the outcome of a review (if applicable), or a longer period as the Tribunal considers appropriate in the circumstances.

795 Paragraph 19 sub-paragraph (5) sets out that an appeal cannot be made on grounds regarding the debt itself, unless the amount of the debt is incorrectly stated in the notice or order given under this Schedule. Sub-paragraph (6) also sets out that the Tribunal may suspend the order until the appeal is withdrawn, abandoned or finally determined.

796 Paragraph 19 sub-paragraph (7) states that the Tribunal may either vary the direct deduction order, revoke it, or dismiss the appeal.

797 Paragraph 19 sub-paragraph (8) is self-explanatory.

New Schedule 3ZA Part 2: Penalties

798 Paragraph 20 sub-paragraph (1) provides for the Secretary of State to issue a penalty of £500 to a bank if it has not complied with their statutory obligations under this Schedule and has no reasonable justification for this. This penalty will ensure compliance with the statutory obligations placed upon banks by this legislation. Regulations made under Paragraph 25(2)(a)-(b) and (f) may make further provision for how a bank must comply, and the Code of Practice will include provision on when the Secretary of State will consider a giving a penalty.

799 Paragraph 20 sub-paragraph (2) requires any bank which may be given a penalty must first be afforded an opportunity to make representations to DWP as to whether it failed to comply with an obligation, and if so whether such failure was reasonably justified. This allows for mediation between banks and DWP where there is reasonable excuse for a bank to be unable to meet its statutory obligations and serves to avoid formal appeals against penalties where possible. Paragraph 20 sub-paragraph (3) specifies that the Secretary of State imposes a

penalty by giving the bank a penalty notice. Sub-paragraph (4) requires that any penalty notice issued must state the amount of the penalty, the period within which it must be paid and the right of appeal against the penalty.

800 Paragraph 20 sub-paragraph (5) provides for the Secretary of State to vary or cancel the penalty by giving notice of this decision to the bank. This allows for the Secretary of State to take appropriate action if, for example, following any representations made by the bank the Secretary of State is satisfied the bank had a reasonable excuse for failing to comply with its obligations under this Schedule.

801 Paragraph 21, sub-paragraphs (1) and sub-paragraph (2) provide for the recovery of any such penalties through civil court enforcement.

802 Paragraph 22, sub-paragraph (1) and sub-paragraph (2) provide for appeals against a penalty notice to be brought in the First-tier Tribunal within one month from the date on which the penalty notice was given or any longer period the Tribunal considers appropriate in the circumstances.

803 Paragraph 22 sub-paragraph (3) and sub-paragraph (4) allow the Tribunal to either confirm or quash the decision to impose the penalty, and states that the penalty is not payable until any such appeal has been determined or withdrawn.

804 Paragraph 23 sub-paragraph (1) sets out that Paragraph 23 applies in any case where a person is acting on behalf of a liable person or joint account holder in respect of their financial or property affairs, either under a court appointment (such as a deputyship in England and Wales) or a recognised power of attorney (such as a Lasting Power of Attorney).

805 Paragraph 23 sub-paragraph (2) allows the same provisions that apply to the account holder to apply also to the person acting on their behalf (under court appointment or power of attorney).

806 Paragraph 23 sub-paragraph (3) is self-explanatory.

807 Paragraph 23 sub-paragraph (4) sets out that when a bank receives an account information notice, general information notice, direct deduction order or a further information notice, it must provide the Secretary of State with the name and correspondence address of any person the bank knows is acting on behalf of any liable person or joint account holder (under court appointment or power of attorney) who is subject to the notice or order.

New Schedule 3ZA Part 3: General

808 Paragraph 24 sub-paragraphs (1) to (4) provide interpretative definitions key to understanding the legislation, such as a definition of "bank" and details of the relevant enactments that apply for the purpose of defining some of the terminology used within the definition of bank. The drafting has the scope to capture standard high street banks, as well as electronic money service providers.

809 Paragraph 24 sub-paragraphs (5) and (6) are self-explanatory.

810 Paragraph 25 sub-paragraph (1) sets out that further provision can be made about direct deduction orders via regulations.

811 Paragraph 25 sub-paragraph (2) sets out that these regulations may make provision, about matters including, among other things: (a) how notices and orders under this Schedule are to be given by the Secretary of State; (b) how notices and information under this Schedule are to be given to the Secretary of State; (c) the calculation of amounts to be deducted; (d) setting a

reduced maximum deduction rate of less than 40% in some or all cases; (e) adjusting the amount of the penalty charged to banks for non-compliance with their duties under this Schedule to reflect any change in the value of money; (f) the duties of banks in relation to direct deduction orders; (g) the costs which a bank may recover; and (h) the interaction between direct deduction orders and similar orders provided for under other legislation. Regulations made under sub-paragraph (2) will be subject to the negative procedure.

812 Paragraph 25 sub-paragraph (3) allows for regulations to apply this Schedule in the future to other persons who provide different types of financial products and services but are not currently in scope of this Schedule, for example, cryptocurrency. Regulations made under sub-paragraph (3) will be subject to the affirmative procedure.

813 Paragraph 25 sub-paragraph (4) is self-explanatory.

814 Paragraph 25 sub-paragraph (5) sets out there is a requirement for the Secretary of State to consult with the banking sector before introducing regulations under paragraph 25(2)(a), (b), (f) or (g). This is to ensure any such regulations are reasonable and that due consideration has been given to the impact on banks.

815 Paragraph 25 sub-paragraph (6) sets out that before making regulations to include within the scope of the Schedule any persons who may provide different types of financial products or services in the future the Secretary of State must consult with those who appear to represent the interests of those persons and any other appropriate persons.

816 Paragraph 25 sub-paragraph (7) explains the meaning of "relevant regulations" within paragraph 25.

Schedule 6: Disqualification from driving

817 Schedule 6 inserts Schedule 3ZB in the Social Security Administration Act 1992[92]. New schedule 3ZB makes provision for the suspended DWP disqualification order and the immediate DWP disqualification order. This Schedule empowers the Secretary of State to apply to a court to make a suspended DWP disqualification order, in which the court orders the liable person to make payments to DWP specified by the court. If that is unsuccessful, the Schedule empowers the Secretary of State to apply for an immediate DWP disqualification order to disqualify the liable person from driving for up to two years. These powers can be used where the liable person has failed to repay their debt without reasonable excuse and the debt cannot reasonably be recovered through other means.

New Schedule 3ZB: Disqualification from Driving

818 Paragraph 1 sub-paragraphs (1) and (2) set out where this Schedule applies and that the suspended DWP disqualification order can only be applied to recover debts of at least £1,000.

819 Paragraph 1 sub-paragraph (3) sets out what is required to be included in the suspended DWP disqualification order. The order is required to include the terms of repayment and state that if the liable person does not adhere to the order's terms, they may be subject to an immediate DWP disqualification order (this is where their driving licence is disqualified, and they will be unable to drive).

820 Paragraph 1 sub-paragraph (4) requires that the court must make a suspended order if the court is satisfied that the liable person hasn't paid the amount owing and does not have a reasonable excuse for not doing so. Account must be taken at this point of sub-paragraph (6).

[92] https://www.legislation.gov.uk/ukpga/1992/5/contents

821 Paragraph 1 sub-paragraph (5) sets out that the terms of repayment must also include terms of payment for any costs awarded by the court to the Secretary of State that have been incurred by taking this action.

822 Paragraph 1 sub-paragraph (6) states that the court may not make such an order where the liable person needs their driving licence to earn a living and/or has another essential need for their licence. This protects individuals from action that would put them at risk of hardship or have an impact on other duties or obligations that a judge (or summary Sheriff in Scotland) deems essential.

823 Paragraph 1 sub-paragraph (7) provides for further suspended DWP disqualification orders to be made against the same liable person/debt even if the amount owing has fallen to less than the £1,000 threshold required to first apply for this order. This prevents individuals from avoiding repayment of some of their debt by paying it off only to below this level.

824 Paragraph 1 sub-paragraph (8) sets out that a suspended DWP disqualification order ceases to have effect if it is revoked under paragraph (4) or if the whole recoverable debt (including costs) has been recovered from the liable person.

825 Paragraph 1 sub-paragraph (9) sets out the right for the Secretary of State and the liable person to be heard by the court before determining the application of any suspended DWP disqualification order.

826 Paragraph 1 subparagraph (10) is self-explanatory.

827 Paragraph 2 sub-paragraph (1) sets out that if the liable person fails to comply with the suspended DWP disqualification order, then the Secretary of State may apply to the court for an immediate DWP disqualification order.

828 Paragraph 2 sub-paragraph (2)(a) requires that an immediate DWP disqualification order to set out the terms of repayment with which the liable person must comply. Sub-paragraph (2)(b) sets out that the order disqualifies the liable person from driving for the period of time the court considers it likely it will take for the debt owing to be repaid in full.

829 Paragraph 2 sub-paragraph (3) sets out that if the court is satisfied that on the balance of probabilities the liable person has failed to comply with the terms of repayment in the suspended DWP disqualification order without reasonable excuse the court must make an order to immediately disqualify the liable person from driving. Here, 'on the balance of probabilities' means the court considers it is more likely than not.

830 Paragraph 2 sub-paragraph (4) sets out that the disqualification period may not be longer than 2 years from when the order is made.

831 Paragraph 2 sub-paragraph (5) states that the court may not make such an order where the liable person needs their driving licence to earn a living and/or has another essential need for their licence. This protects individuals from action that would put them at risk of hardship or have an impact on other duties or obligations that a judge deems essential.

832 Paragraph 2 sub-paragraph (6) sets out that if the liable person misses a single instalment that this does not constitute as a failure to comply with the suspended DWP disqualification order, for the purposes of granting an immediate DWP disqualification order, unless the missed payment is the last payment due to be made under the terms of repayment.

833 Paragraph 2 sub-paragraph (7) sets out that the Secretary of State is able to apply for more than one immediate DWP disqualification order in relation to the same suspended DWP disqualification order. This might include, for example, if the liable person fails to comply with the repayment terms of the suspended order, including where an immediate DWP disqualification order has been revoked.

834 Paragraph 2 sub-paragraph (8) sets out the right for the Secretary of State and the liable person to be heard by the court before determining the application of any immediate DWP disqualification order.

835 Paragraph 3 provides that the court must be satisfied that the terms of repayment set out in the orders must be reasonable based on the liable person's circumstances.

836 Paragraph 4 sub-paragraphs (1) to (3) enables the court to consider applications from either the liable person or the Secretary of State to vary or revoke the order; in doing so, the court must invite the other party to make representations regarding the request before making their decision. Sub-paragraph (2) sets out that this action can only be taken when the court considers that doing so will make it more likely to result in the debt being repaid.

837 Paragraph 4 sub-paragraph (4) sets out that the court may vary or revoke a suspended or immediate DWP disqualification order on an application from the liable person if the order was made with the liable person being heard and the court considers that the liable person had good reason for not making the representations and taking advantage of the opportunity to be heard.

838 Paragraph 4 sub-paragraph (5) sets out that any application to vary or revoke a suspended or immediate DWP disqualification order must be made within 21 days of the liable person being given notice of the order being made.

839 Paragraph 4 sub-paragraph (6) sets out the right for the Secretary of State and the liable person to be heard by the court before determining whether an order should be varied or revoked.

840 Paragraph 4 sub paragraph (7) sets out that when the debt has been fully recovered, the court must be notified by the Secretary of State. The court must then revoke an immediate DWP disqualification order which is in effect in relation to the liable person. This can be done without a hearing.

841 Paragraph 4 sub-paragraphs (8) and (9) are self-explanatory.

842 Paragraph 5 sets out that where a court makes an immediate DWP disqualification order, it may order the liable person to give the court their physical driving licence documents which will then be transferred to the Secretary of State for Transport.

843 Paragraph 6 sub-paragraphs (1) to (4) provide for appeal rights against any order made by the court to disqualify a person from driving. In line with similar requirements for appealing a court order, this appeal must be made within 21 days (starting on the day after the order being issued by the court) and will be heard in the relevant court, which may then make whatever order is deemed appropriate.

844 Paragraph 7 sub-paragraph (1) and sub-paragraph (2) requires the court to notify the Secretary of State if they make a suspended or immediate order, as well as if they decide to vary or change the order or allows an appeal against an order. The notification must contain all relevant information that the Secretary of State requires.

845 Paragraph 7 sub-paragraph (3) allows the court to extend the period in which an application or appeal can be made, where the court is satisfied there is good reason to do so.

846 Paragraph 7 sub-paragraph (4) sets out that the Secretary of State may make regulations in relation to applications to the court for disqualification from driving orders. Sub-paragraph (4)(a) allows regulations making provision to assisting the court's determination of relevant factors to assess matters in paragraphs 1(6) and 2(5), regarding whether there is an essential need for a driving licence, and in paragraph 3 regarding the terms of repayment. Sub-paragraph (4)(b) allows supplementary provision to be made in relation to the procedure

for making applications or appeals in (or from) the magistrates' court in England and Wales under new Schedule 3ZB. Regulations made under paragraph 7 sub-paragraph (4) will be subject to the negative procedure.

847 Paragraph 7 sub-paragraph (5) is self-explanatory.

848 Paragraph 8 provides for a public authority that holds information regarding a person's driving licence (such as the Driver and Vehicle Licensing Agency) may share this with the Secretary of State upon request for the purposes of pursuing a suspended or immediate DWP disqualification order. This allows the Secretary of State to effectively apply the power by ensuring a person possesses a licence before seeking to disqualify them from driving on application to the court. This will also allow the Secretary of State to ensure the liable person is not already disqualified from driving for any other reason.

849 Paragraph 9 sub-paragraphs (1) to (2) sets out Northern Ireland licences and that section 109(1) if the Road Traffic Act 1988[93] has effect as well as Part 3.

Commencement

850 Section 109 sets out the manner in which provisions in the Act will be commenced.

851 Subsection (2) details which provisions of this Act come into force on Royal Assent. In respect of all other provisions, subsection (1) allows the Secretary of State and the Minister for the Cabinet Office to make regulations setting out the dates such provisions come into force.

Financial implications of the Act

852 Analytical notes providing the rationale, purpose and expected impact of all interventions made, including the financial implications, can be found within the published Impact Assessment[94].

Parliamentary approval for financial costs or for charges imposed

853 A money resolution is required where an Act gives rise to, or confers powers that could give rise to, new charges on the public revenue or a potential increase in an existing charge (broadly speaking, new public expenditure). This Act requires a money resolution primarily because it confers new functions on the Minister for the Cabinet Office and the Department for Work and Pensions, and contains provision that would result in the establishment of the Public Sector Fraud Authority as a statutory body, but also because other government departments and public authorities may incur expenditure as a result of the Act where functions conferred by the Act are exercised on their behalf.

854 Generally, a ways and means resolution is required where an Act gives rise to, or confers power that could give rise to, new charges on the people (broadly speaking, new taxation or similar charges). This Act does not give rise to such charges and does not require a ways and means resolution.

[93] https://www.legislation.gov.uk/ukpga/1988/52/contents

[94] https://publications.parliament.uk/pa/bills/cbill/59-01/0167/ImpactAssessment.pdf

Duty under section 13C of the European Union (Withdrawal) Act 2018

855 The Secretary of State for Work and Pensions is of the view that the Act, as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018[95] has been made.

[95] https://www.legislation.gov.uk/ukpga/2018/16/contents

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
Part 1 [Functions Exercisable on behalf of Public Authorities]	**Extends to E & W and applies to England?**	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Section 1	Yes	Yes	No	N/A
Section 2	Yes	Yes	No	N/A
Section 3	Yes	Yes	No	No
Section 4	Yes	Yes	No	No
Section 5	Yes	Yes	No	No
Section 6	Yes	Yes	No	No
Section 7	Yes	Yes	No	No
Section 8	Yes	Yes	No	No
Section 9	Yes	Yes	No	No
Section 10	Yes	Yes	No	No
Section 11	Yes	Yes	No	No
Section 12	Yes	Yes	No	No
Section 13	Yes	Yes	No	No
Section 14	Yes	Yes	No	No
Section 15	Yes	Yes	No	No
Section 16	Yes	Yes	No	No
Section 17	Yes	Yes	No	No
Section 18	Yes	Yes	No	No
Section 19	Yes	Yes	No	No
Section 20	Yes	Yes	No	No
Section 21	Yes	Yes	No	No
Section 22	Yes	Yes	No	No
Section 23	Yes	Yes	No	No
Section 24	Yes	Yes	No	No
Section 25	Yes	Yes	No	No
Section 26	Yes	Yes	No	No
Section 27	Yes	Yes	No	No
Section 28	Yes	Yes	No	No
Section 29	Yes	Yes	No	No
Section 30	Yes	Yes	No	No

Section 31	Yes	Yes	No	No
Section 32	Yes	Yes	No	No
Section 33	Yes	Yes	No	No
Section 34	Yes	Yes	No	No
Section 35	Yes	Yes	No	No
Section 36	Yes	Yes	No	No
Section 37	Yes	Yes	No	No
Section 38	Yes	Yes	No	No
Section 39	Yes	Yes	No	No
Section 40	Yes	Yes	No	No
Section 41	Yes	Yes	No	No
Section 42	Yes	Yes	No	No
Section 43	Yes	Yes	No	No
Section 44	Yes	Yes	No	No
Section 45	Yes	Yes	No	No
Section 46	Yes	Yes	No	No
Section 47	Yes	Yes	No	No
Section 48	Yes	Yes	No	No
Section 49	Yes	Yes	No	No
Section 50	Yes	Yes	No	No
Section 51	Yes	Yes	No	No
Section 52	Yes	Yes	No	No
Section 53	Yes	Yes	No	No
Section 54	Yes	Yes	No	No
Section 55	Yes	Yes	No	No
Section 56	Yes	Yes	No	No
Section 57	Yes	Yes	No	No
Section 58	Yes	Yes	No	No
Section 59	Yes	Yes	No	No
Section 60	Yes	Yes	No	No
Section 61	Yes	Yes	No	No
Section 62	Yes	Yes	No	No
Section 63	Yes	Yes	No	No
Section 64	Yes	Yes	No	No
Section 65	Yes	Yes	No	No
Section 66	Yes	Yes	No	No
Section 67	Yes	Yes	No	No
Section 68	Yes	Yes	No	No

Section 69	Yes	Yes	No	No
Section 70	Yes	Yes	No	No
Section 71	Yes	Yes	No	No
Section 72	Yes	Yes	No	No
Section 73	Yes	Yes	No	No
Section 74	Yes	Yes	No	No
Section 75	Yes	Yes	No	No
Schedule 1	Yes	Yes	No	No
Schedule 2	Yes	Yes	No	No
Provision	**England**	**Wales**	**Scotland**	**Northern Ireland**
Part 2 [Social security]	**Extends to E & W and applies to England?**	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Section 76	Yes	Yes	Yes	No
Section 77	Yes	Yes	Yes	No
Section 78	Yes	Yes	Yes	No
Section 79	Yes	Yes	Yes	No
Section 80	Yes	Yes	No	No
Section 81	No	No	Yes	No
Section 82	Yes	Yes	Yes	No
Section 83	Yes	Yes	Yes	No
Section 84	Yes	Yes	Yes	No
Section 85	No	No	Yes	No
Section 86	Yes	Yes	No	No
Section 87	No	No	Yes	No
Section 88	Yes	Yes	Yes	No
Section 89	Yes	Yes	Yes	No
Section 90	Yes	Yes	Yes	No
Section 91	Yes	Yes	Yes	No
Section 92	Yes	Yes	Yes	No
Section 93	Yes	Yes	Yes	No
Section 94	Yes	Yes	Yes	No
Section 95	Yes	Yes	Yes	No
Section 96	Yes	Yes	Yes	No
Section 97	Yes	Yes	Yes	No
Section 98	Yes	Yes	No	No
Section 99	Yes	Yes	Yes	No
Section 100	Yes	Yes	Yes	No
Section 101	Yes	Yes	Yes	No

Section 102	Yes	Yes	Yes	No
Section 103	Yes	Yes	Yes	No
Section 104	Yes	Yes	Yes	No
Schedule 3	Yes	Yes	Yes	No
Schedule 4	Yes	Yes	Yes	No
Schedule 5	Yes	Yes	Yes	No
Schedule 6	Yes	Yes	Yes	No
Provision	**England**	**Wales**	**Scotland**	**Northern Ireland**
Part 3 [General]	**Extends to E & W and applies to England?**	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Section 105	Yes	Yes	Yes	No
Section 106	Yes	Yes	Yes	No
Section 107	Yes	Yes	Yes	No
Section 108	Yes	Yes	Yes	No
Section 109	Yes	Yes	Yes	No
Section 110	Yes	Yes	Yes	No

Subject matter and legislative competence of devolved legislatures

856 Part 1 of this Act provides powers for the Cabinet Office to tackle fraud against the public sector, to recover monies (debts) overpaid and introduces arrangements for the oversight of these powers to drive their effective use and ensure they are not misused. The territorial extent for measures in Part 1 will be England and Wales only, to align with policing powers and the Fraud Act 2006[96].

857 Part 1 of the Act relates to the functions of the PSFA and focuses on powers concerning fraud against public authorities and the subsequent recovery of associated debts. Specific provisions in this Part extend to Wales and therefore engage devolved legislative competencies. The table above provides an analysis of sections in Part 1, detailing their territorial extent and application across the United Kingdom.

858 Part 2 of the Act introduces new powers to improve the DWP's ability to address fraud and error in the social security system and to recover associated debt. Part 2 also includes oversight provisions. For the extent and application of Part 2 to England, Wales, and Scotland, see the table in Annex A above.

859 Social Security is reserved to the UK Parliament for England and Wales.

860 Social Security is partially devolved to the Scottish Parliament. Currently, DWP delivers certain devolved benefits under Agency Agreements on behalf of Scottish Ministers. DWP delivers these devolved benefits in the same way as it delivers reserved benefits in England and Wales. Some of the provisions in Part 2 will apply to these devolved benefits that are being delivered by the DWP under Agency Agreements. The benefits delivered under these

[96] https://www.legislation.gov.uk/ukpga/2006/35/contents

agreements include Personal Independence Payment, Carer's Allowance, Disability Living Allowance, Attendance Allowance, the Severe Disablement Allowance and the Industrial Injuries Scheme. DWP also carries out debt recovery functions for Scottish Ministers under Agency Agreements.

861 Where these Agency Agreements remain in place for devolved benefits in Scotland, DWP will be able to exercise the following powers in respect of these benefits: the information gathering powers set out in Chapter 1, Section 76; the powers of entry, search and seizure in Chapter 2 under Section 81 and other relevant places including Schedule 4 where Schedule 3ZD is inserted. Section 88 of this Act provides for these powers to be used by DWP only in relation to reserved benefits and devolved benefits where those devolved benefits are administered by the Secretary of State on behalf of Scottish Ministers under agency arrangements.

862 The measures under Chapter 1, Section 78 (Eligibility Verification) are only applied to a specified set of reserved benefits (Universal Credit, Employment Support Allowance and Pension Credit). As such they will not apply to any devolved benefits delivered under Agency Agreement without further regulations first being brought forward.

863 Social Security in Northern Ireland is transferred to the Northern Ireland Assembly. While this is the case, parity has long been a guiding principle between the UK Government and Northern Ireland Executive on matters of social security.

Annex B – Hansard references

Stage	Date	Hansard Reference
House of Commons		
Introduction	22 January 2025	
Second Reading	3 February 2025	Vol. 761 Col. 583
Public Bill Committee	25 February 2025	First Sitting Second Sitting
	27 February 2025	Third Sitting Fourth Sitting
	4 March 2025	Fifth Sitting Sixth Sitting
	6 March 2025	Seventh Sitting Eighth Sitting
	11 March 2025	Ninth Sitting Tenth Sitting
	13 March 2025	Eleventh Sitting
	18 March 2025	Twelfth Sitting
Report and Third Reading	29 April 2025	Vol. 766 Col. 226 Vol. 766 Col. 294
House of Lords		
Introduction	30 April 2025	Vol. 845
Seconding Reading	15 May 2025	Vol. 845 Col. 2342
Grand Committee	4 June 2025	Vol. 846 Col. 70GC
	9 June 2025	Vol. 846 Col. 146GC
	11 June 2025	Vol. 846 Col. 196GC
	16 June 2025	Vol. 846 Col. 326GC
	18 June 2025	Vol. 846 Col. 432GC
	25 June 2025	Vol. 847 Col. 2GC
Report	15 October 2025	Vol. 849 Col. 285 (Day 1 Part 1 & 2)

	21 October 2025	Vol. 849 Col. 645 (Day 2 Part 1) Vol. 849 Col. 728 (Day 2 Part 2)
Third Reading	23 October 2025	Vol. 849 Col. 952
House of Commons		
Consideration of Lords Amendments	5 November 2025	Vol. 774 Col. 1006
House of Lords		
Consideration of Commons Amendments	11 November 2025	Vol. 850 Col. 211
Royal Assent	2 December 2025	Commons: Vol. 776 Col. 819
		Lords: Vol 850

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