EXPLANATORY MEMORANDUM TO

THE PUBLIC SECTOR FRAUD AND ERROR (RECOVERY) REGULATIONS 2026

2026 No. 668

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Satvir Kaur MP, Parliamentary Secretary at the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Etheridge, Deputy Director for Policy & Communications for the Public Sector Fraud Authority within the Cabinet Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jack Victor at the Cabinet Office can be contacted by email at the following address with any queries regarding the instrument: PSFA@cabinetoffice.gov.uk. Alternatively, the department can be contacted by telephone: 020 7276 1234.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Public Sector Fraud and Error (Recovery) Regulations 2026 establish key processes and timeframes for the Cabinet Office to carry out debt recovery using:

- Direct Deduction Orders (DDOs) - orders requiring a bank to make deductions from a liable person's accounts, either as a one-off payment (a lump sum DDO) or a recurring payment (a regular DDO), and then pay these to the Cabinet Office.
- Deduction from Earnings Orders (DEOs) - orders requiring an employer to make deductions from a liable person's salary and then pay these to the Cabinet Office.

4.2 These recovery powers were granted to the Cabinet Office as part of the Public Authorities (Fraud, Error and Recovery) Act 2025 (PAFER Act) to recover the proceeds of fraud, funds received in error identified during a fraud investigation, and unpaid civil penalties. They will be used by the Public Sector Fraud Authority (PSFA).

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 Fraud against the public sector is a significant and continuously evolving challenge. In 2023/24, the National Audit Office estimated that public sector losses to fraud and associated error were between £5bn-£30bn outside of tax and social security[1].

5.2 To help address this, the PAFER Act was introduced to safeguard public money by reducing public sector fraud, error and debt. It enables the PSFA as part of the Cabinet Office to carry out fraud investigations on behalf of other public bodies (excluding DWP and HMRC), levy civil penalties and undertake recovery action.

5.3 When undertaking recovery action, the PSFA will first issue a recovery notice which will outline what is owed with the evidence supporting its position to the civil standard. The liable person will be encouraged to voluntarily repay what they owe, and will be supported in setting up an affordable repayment plan. Where the liable person disagrees with the PSFA's findings, a final determination will be sought from a court or tribunal.

5.4 Where the liable person has the means to repay what they owe but is refusing to do so, the PAFER Act provides the Minister for the Cabinet Office (MCO) with certain recovery powers. These are the powers to make DDOs and DEOs. The Cabinet Office will also be able to apply for alternative recovery orders to the county court. The decision on which option to proceed with will be made on a case-by-case basis. The PAFER Act contains important safeguards for the use of these recovery powers.

5.5 DDOs and DEOs are already being used across government by the Child Maintenance Service, DWP and HMRC. They are effective tools to secure repayment of money owed to government.

5.6 The regulations support the PSFA's use of DDOs by:

- Outlining how notices, orders and information will be given by, and to, the PSFA.
- Setting out how affordable deductions should be made for individual and business accounts.
- Providing further clarification on the duties of banks, including timeframes for actioning orders and requests.
- Establishing the administrative fees that banks may charge the liable person for actioning an order.
- Clarifying how PSFA DDOs should be prioritised against other such orders requiring deductions from the same account, such as third party debt orders or garnishee orders.

5.7 The regulations support the PSFA's use of DEOs by:

- Determining what should constitute 'earnings' for the purpose of making deduction calculations.

[1] National Audit Office (2024) *An Overview of the impact of fraud and error on public funds for the new Parliament 2023-24*, p6: https://www.nao.org.uk/wp-content/uploads/2024/11/fraud-overview-2023-24.pdf

- Establishing maximum deduction rates based on earning brackets as a means to prevent hardship.
- Establishing the administrative fee that employers may charge the liable person for actioning an order.

What was the previous policy, how is this different?

5.8 The PAFER Act granted the Minister for the Cabinet Office the powers to undertake debt recovery using DDOs and DEOs. Although comparable powers are already in use across government, they are new for the Cabinet Office and the PSFA.

5.9 These regulations give important further practical effect to the objectives and policy intent underpinning the PAFER Act by supplementing and supporting the legislative framework established by it.

5.10 Previously, the PSFA only had limited powers to recover money following a criminal investigation using the Proceeds of Crime Act 2002. In civil cases, it was only able to request voluntary repayment or had to seek recovery orders through the courts. These regulations will enable the PSFA within the Cabinet Office to effectively undertake recovery activity following a civil investigation using DDOs and DEOs.

6. Legislative and Legal Context

How has the law changed?

6.1 The PAFER Act received Royal Assent on 2 December 2025, granting the Minister for the Cabinet Office powers to undertake debt recovery activity using DDOs and DEOs in the context of public sector fraud or error.

6.2 The legal effect of this Statutory Instrument is to establish the key processes, timeframes, and safeguards required for the PSFA to commence and effectively use the DDO and DEO powers, including:

- Outlining how notices, orders, and information will be given.
- Setting out how affordable deductions should be made.
- Clarifying the duties of banks and employers.
- Establishing the maximum administrative fees that may be deduced and order prioritisation.

6.3 Prior to the introduction of the PAFER Act the PSFA within the Cabinet Office had limited powers to seek recovery of debts that had occurred elsewhere in government. This Statutory Instrument is required to deliver the detailed, necessary operational and administrative framework to enable the PSFA within Cabinet Office to effectively undertake civil recovery activity using the new DDO and DEO powers as set out under the PAFER Act.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes. The PAFER Act granted the Minister for the Cabinet Office the powers to seek recovery of debts via DDOs and DEOs, and the PAFER Act sets out that regulations may be made in order to make further provision about the use of these powers.

7. Consultation

Summary of consultation outcome and methodology

7.1 The PAFER Act included a statutory obligation to conduct a targeted, non-public consultation on four specific areas to be regulated on for DDOs:

- How notices and orders are to be given by the Minister.
- How notices and information are to be given to the Minister.
- The duties of banks in relation to direct deduction orders, including before a direct deduction order is made.
- Administrative costs which a bank may recover.

7.2 A targeted consultation was held from 2 March to 17 April 2026 with representatives of the finance and debt advice sectors as these regulations directly impact their operational responsibilities and interactions with the PSFA. This was run in conjunction with DWP. Respondents were invited to submit a written response to questions on the underlying policy intent via an online form or email.

7.3 The consultation received eight responses, of which five were from the debt advice sector and three were from the finance sector. Respondents ranged from individual organisations to large representative bodies responding on behalf of their members.

7.4 Respondents were broadly supportive of the policy intent for each regulatory area consulted on. Whilst the majority of the points raised will be addressed in guidance, there have been a number of resulting changes made to the regulations:

- Further clarification as to how the liable person can make representations or request a review or variation of an order.
- Minor amendments to some of the timeframes that financial institutions have to respond to PSFA requests and orders.
- Confirmation of how a financial institution should transfer deductions to the PSFA.
- Clarification that the administrative charge that a bank may charge must not exceed what is reasonable and is genuinely reflective of the bank's costs up to the capped amount.

8. Applicable Guidance

8.1 Guidance on the PSFA's use of DDOs and DEOs will be made publicly available on GOV.UK in September 2026. The guidance will be routinely shared with those subject to, or required to carry out, such orders.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because, under the UK Government's Better Regulation Framework[2], a regulatory Impact Assessment is only required to be prepared for all Regulatory Provisions where impacts are greater than ± £10m Equivalent Annual Net Direct Cost to Business (EANDCB). The Cabinet

[2] Department for Business and Trade (2023) *Better Regulation Framework Guidance*: https://assets.publishing.service.gov.uk/media/67587ba55a2e4d4b993bfa83/better-regulation-framework-guidance-2023.pdf

Office has assessed and self-certified the monetised regulatory impact of this measure to be below the +/- £10m EANDCB.

9.2 An impact assessment for the PAFER Act was published when it was introduced as a Bill to Parliament[3]. It remains an accurate summary of the impacts that apply to this instrument.

Impact on businesses, charities and voluntary bodies

9.3 The impact on business is minimal. Where a business owes money as a result of fraud, error or an unpaid civil penalty, it is important that they repay what is owed. Where they are required to carry out a DDO or DEO, they are able to charge a fee to the liable person to cover the administrative cost.

9.4 The impact on charities or voluntary bodies is expected to be minimal and result from the provision of debt management advice to those subject to recovery orders under the PAFER Act. There will be publicly available guidance to support this.

9.5 The legislation does impact small or micro businesses. Where a small or micro business owes money as a result of fraud, error or an unpaid civil penalty, it is important that they repay what is owed. Where they are required to carry out a DEO, they are able to charge a fee to the liable person to cover the administrative cost.

9.6 The impact on the public sector is positive as these measures will help to reduce fraud against the public sector and support the expected recovery of £53.7m over ten years as outlined in the impact assessment. There will be a minor impact limited to initial and ongoing training and familiarisation to PSFA Enforcement Unit officials, concerning the use of the powers given to them under the PAFER Act and this instrument.

10. Monitoring and Review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through the course of normal departmental business. In addition, the PAFER Act establishes the role of the Independent Reviewer[4] who will conduct reviews on the use and effectiveness of the PAFER Act recovery powers.

10.2 A statutory review clause is included in the instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

[3] Department for Work and Pensions (2025) *Public Authorities (Fraud, Error and Recovery) Bill Impact Assessment*: https://publications.parliament.uk/pa/bills/cbill/59-01/0167/ImpactAssessment.pdf

[4] s65, The Public Authorities (Fraud, Error and Recovery) Act 2025

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").