

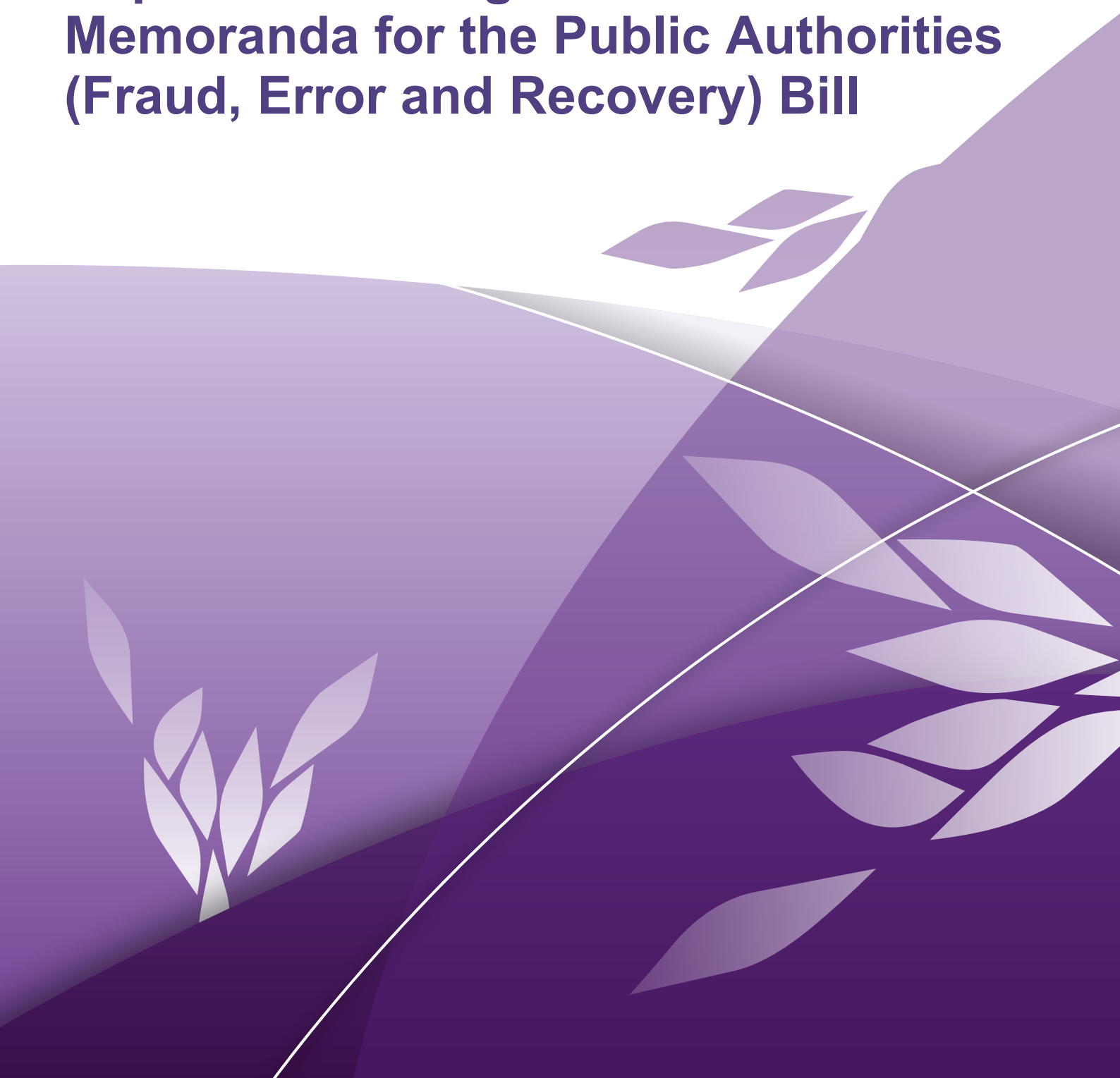


The Scottish Parliament
Pàrlamaid na h-Alba

Published 19 June 2025
SP Paper 833
5th Report, 2025 (Session 6)

Social Justice and Social Security Committee

Report on the Legislative Consent Memoranda for the Public Authorities (Fraud, Error and Recovery) Bill



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Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.



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Introduction

1. The Public Authorities (Fraud, Error and Recovery) Bill Legislative Consent Memorandum (LCM) was lodged by Shirely-Anne Somerville MSP, Cabinet Secretary for Social Justice, on 21 March 2025 and referred to the Social Justice and Social Security Committee.
2. The [Public Authorities \(Fraud, Error and Recovery\) Bill](#) was introduced by the UK Government in the House of Commons on 22 January 2025. It is currently at the Committee stage in the House of Lords.
3. The UK Government has set out that the Bill makes provisions to identify, prevent and deter fraud and error, and enable the recovery of debt, both in the public sector and in the benefits system. Clauses 72, 73, 74, 75, 77- 81, 83- 87, 89, 90, 92, 94, 95, 98 and schedules 3-5 within the Bill impact on devolved matters.
4. A [House of Commons Library briefing](#) and a [House of Lords Library briefing](#) are available providing background on the policy debates relating to this Bill.

Interaction with devolved competence

5. The Bill contains provisions that apply to Scotland and the UK Government has requested legislative consent in LCM-S6-55 in relation to the Public Authorities (Fraud, Error and Recovery) Bill.
6. The [Legislative Consent Memorandum](#) (LCM) provides a description of the Bill and its devolved aspects. In brief, Part 2 of the Bill would extend powers of the Department of Work and Pensions (DWP) on fraud and error. The LCM states that clauses 72, 73, 74, 75, 77- 81, 83- 87, 89, 90, 92, 94, 95, 98 and schedules 3-5 within the Bill impact on devolved matters.
7. The measures would only apply to devolved benefits delivered by the DWP under agency agreement.
 - Clauses 72 -75 and Schedule 3 give the DWP new and extended powers to gather information including by expanding the range of third parties the DWP can compel to provide information in support of criminal investigations. It also would allow DWP further powers to verify eligibility for certain benefits – including requesting large scale dataset from banks. As drafted these powers do not apply to devolved benefits, although there is a regulation making power that would enable a government to extend these powers to additional benefits in future.
 - Clauses 76-83 and 98 and Schedule 4: gives the DWP power to obtain a warrant from a Sheriff and enter premises/seize items where they consider it necessary to investigate an offence.
 - Clauses 84-87 contain further provision on investigative powers, including provision for independent review of the exercise of functions.
 - Clauses 98-95 and Schedule 5 give the DWP new powers to enforce recovery of overpayments, when other methods have failed. These include recovering directly from an individual's bank account and banning from driving for up to two years.
8. **The Scottish Government recommends that the Scottish Parliament consents to the Bill, with the exception at this time of the provisions in relation to overpayment recovery.**

Delegated Powers and Law Reform Committee consideration

9. The Delegated Powers and Law Reform (DPLR) Committee considered the LCM at its meeting on 3 June. The Committee agreed to write to the Scottish Government. The letter can be accessed [here](#).
10. The DPLR Committee requested the following clarification from the Scottish Government on the provisions to allow the Secretary of State, by regulations, to add certain other types of benefit to the list of relevant benefits within the eligibility verification measure or to remove a type of benefit:
 - Whether it anticipates that this power will be used to add any devolved benefits to the types of benefit that are subject to the eligibility verification measure, and what discussions it has had with the UK Government in this regard.
 - If the intention is that devolved benefits will be added, for confirmation that, in recommending that the Scottish Parliament gives its consent to this provision, the Scottish Government is recommending that the Scottish Parliament can be content to agree to relevant devolved benefits being added in this way.
 - Whether the Scottish Government considers it appropriate that the provision does not give the Scottish Government or the Scottish Parliament a role in deciding whether the provisions of the Act should be extended to particular devolved benefits, whether it has raised this point with the UK Government, and what discussions, if any, it has had with the UK Government in this regard. The Cabinet Secretary for Social Justice replied on 10 June 2025.
11. The Cabinet Secretary for Social Justice replied on 10 June 2025. The letter can be accessed [here](#) . The Cabinet Secretary responded that Scottish Ministers have been clear that devolved benefits should not be added to the scope of the Eligibility Verification Measures. The Cabinet Secretary indicated that the UK Government have confirmed that there is no intention on their part to do so and have provided written assurance that devolved benefits will not fall within the scope of this power either now or in the future.

Scrutiny by the Committee

12. On 12 June 2025, the Committee took oral evidence on the LCM from Shirley-Anne Somerville, Cabinet Secretary for Social Justice, Scottish Government ("the Cabinet Secretary").
13. The Cabinet Secretary set out the content of the LCM and the reasons the Scottish Government is content with consent being given for the UK Parliament to legislate for Scotland in the relevant policy areas.
14. One Member of the Committee asked the Cabinet Secretary about the agency agreements for Severe Disablement Allowance and Employment Injury Assistance. In response, the Cabinet Secretary advised that there is no requirement to devolve Severe Disablement Allowance and noted that a separate consultation process is being undertaken in relation to Employment Injury Assistance.
15. Other Members sought clarification on whether the transfer of cases for devolved benefits would be completed before the provisions of the Bill come into force. The Cabinet Secretary provided reassurance that all necessary arrangements would be in place prior to the Bill receiving Royal Assent, which is expected by the end of the year.
16. Following a debate, Committee Members indicated they were content that the Parliament should give its consent to the LCM.
17. Any further LCMs to be lodged in relation to the Public Authorities (Fraud, Error and Recovery) Bill as it makes its way through the UK Parliament, will be considered by the Committee at a later date for a decision on whether to recommend consent.

Conclusions

18. **The Social Justice and Social Security Committee recommends to the Parliament that consent be given for the relevant provisions covered by LCM-S6-55.**

