

Finance Committee

The Welsh Revenue Authority (Powers to Investigate Criminal Offences) Regulations 2018

This Statutory Instrument is being considered by the Finance Committee under Standing Order 27.8A.

Background and Purpose

1. These Regulations provide for various provisions of the Police and Criminal Evidence Act 1984 and the Criminal Justice and Police Act 2001 to be applied to the investigation of offences conducted by the Welsh Revenue Authority (“WRA”). They include obtaining entry to premises under specified circumstances and seizing relevant items.
2. Explanations of the individual powers are given in the Explanatory Note and Explanatory Memorandum. The Cabinet Secretary made a written statement on 21 February 2018 that referred to the consultation on the powers and the decisions that were taken.

Procedure

3. Affirmative

Merits Scrutiny

4. These Regulations give substantial powers to the WRA. An explanation has been given that does not appear unreasonable. Nevertheless, attention is drawn to the Regulations on the basis that they are of legal or political importance or give rise to issues of public policy that are likely to be of interest to the Assembly.

Policy objectives

Statement of policy intent

5. To support the Committee’s scrutiny of the Tax Collection and Management (Wales) Bill, the Welsh Government provided information on the **policy intent** for the delegated powers within the Bill.
6. The regulation tabled is **in accordance** with related policies in the statement.



7. It noted that Section 183 of the Tax Collection and Management Bill (**Section 185 of the Act**) “amends the Police and Criminal Evidence Act 1984 (“PACE”) to provide the Welsh Ministers with the power to make regulations to apply certain provisions of PACE to the investigation of criminal offences conducted by the Welsh Revenue Authority (WRA).”
8. Section 183(2) (**Section 185(2) of the Act**) provides the Welsh Ministers with a power to make regulations to apply the provisions in Part 2 of the Criminal Justice and Police Act 2001 (“the CJP”) to investigations undertaken by WRA, which give investigators certain powers to seize and retain material found during the course of a search.

Finance Committee Stage 1 scrutiny

9. In its evidence, **Revenue Scotland said** in relation to the powers of investigation and enforcement their starting point was to look at the “powers that HMRC have”. They commented that in deciding whether to adopt them or not, they considered whether they were necessary, appropriate and proportionate in relation to the first two devolved taxes.
10. Most respondents were content that the powers in the Bill replicate that of HMRC. The Law Society noted:

“the Bill seeks to replicate existing powers across England and Wales. So, we have no strong feeling in terms of additional powers and also there will be a bedding-in period, both in relation to these two new taxes, which will be following on very quickly now from this legislation, and also looking ahead.”

11. The Institute of Chartered Accountants in England and Wales (ICAEW) **agreed the powers** appear to replicate what is used currently. However, they did note “the WRA would be a new body and that the Welsh Government may want to review the performance of the WRA “if there are shortfalls in investigatory powers”.

Consultation responses

Assembly consultation,

12. **No comments** were made.

Welsh Government consultation



13. The majority of respondents suggested that, whilst it was important for the WRA to have the powers proposed, they should stay as close to the HMRC powers as possible. The recurring reason for this view was to avoid confusion.

Scottish Regulations

14. **No equivalent regulations** as Revenue Scotland does not have the same powers proposed in the regulations table by the Welsh Government for WRA.

UK Regulations

15. Regulations tabled by the Welsh Government **are consistent** with UK legislation.

16. The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (as amended) applies provisions of the Police and Criminal Evidence Act to Revenue and Customs with Schedule 1 outlining these provisions.

17. Section 67 of the Criminal Justice and Police Act 2001 applies Part 2 (powers of seizure) to Revenue and Customs officers.

Government Response

18. The Welsh Government notes the report and recognises that this SI does contain matters likely to be of interest to the Assembly.

Committee View

19. The Committee noted the Regulations.

