

Finance Committee

The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018

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

Background and Purpose

1. This Order provides that references to accredited financial investigators in the Proceeds of Crime Act 2002 ('POCA') are to be read as references to accredited financial investigators who are members of staff of the Welsh Revenue Authority (WRA).
2. Accredited financial investigators may apply for restraint orders under Part 2 of POCA and may seize property to which any such order applies. Accredited financial investigators may also search for, seize, detail and apply for the forfeiture of cash. Before exercising powers of search they must obtain prior approval from either a justice of the peace or a senior officer (unless in the circumstances it is impracticable to do so).
3. Accredited financial investigators may also apply for orders and warrants in relation to confiscation, money laundering and detained cash investigations. The purpose of such orders and warrants can include e.g. requiring a person to produce certain material, permitting the search and seizure of material from premises and requiring a financial institution to provide customer information. Only an accredited financial investigator who is (depending on the nature of the order or warrant) either an appropriate person, appropriate officer or senior appropriate officer can apply for and/or exercise the powers provided by such orders and warrants.

Procedure

4. Negative.

Merits Scrutiny

5. One point is identified for reporting in respect of this instrument.



6. This Order gives substantial powers to the WRA. An explanation has been given that does not appear unreasonable. Nevertheless, attention is drawn to the Order 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. [Standing Order 21.3(ii)]

Policy objectives

Statement of policy intent

7. 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.
8. The regulation tabled is **in accordance** with related policies in the statement.
9. It noted that Section 184(4) of the Tax Collection and Management Bill (**Section 186(4) of the Act**) "will insert a new order-making power into [the **Proceeds of Crime Act 2002**] POCA so that the Welsh Ministers are able to specify those staff of WRA able to exercise certain functions under POCA, which will enable WRA to recover the proceeds of criminal conduct relating to devolved taxes."

Finance Committee Stage 1 scrutiny

10. **No comments** were made.

Consultation responses

Assembly consultation

11. **No comments** were made.

Welsh Government consultation

12. 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

13. **Chapter 3 of the Proceeds of Crime Act 2002** and the **Proceeds of Crime (Scotland) Act 1995**, there is no reference to an accredited financial investigator. Instead, the equivalent powers as proposed by Welsh Government are conferred on the



procurator fiscal for a confiscation or money laundering investigation and Scottish Ministers for a civil recovery or detained cash investigation.

UK Regulations

14. The Welsh Government regulations are consistent with legislation in the Proceeds of Crime Act 2002. The powers proposed by Welsh Government are equivalent to those conferred on HMRC by the Secretary of State.

Government Response

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

Committee View

16. The Committee noted the Order.

