

SL(5)190 – The Welsh Revenue Authority (Powers to Investigate Criminal Offences) Regulations 2018

Background and Purpose

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.

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

Affirmative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

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. [Standing Order 21.3(ii)]

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument in that respect.

Government Response

A Government response is now required (see below).

Committee consideration

The Committee considered the instrument at its meeting on 5 March and reports to the Assembly in line with the merits point identified.

However, during its consideration the Committee agreed to include another point for reporting relating to an anomaly between the regulations and the Explanatory Memorandum.

The Explanatory Memorandum states that the WRA must comply with statutory codes of practice, but our understanding is that they need only have regard to the code, and then only a duty to have regard to relevant bits of the code (**see section 67(9) of the Police and Criminal Evidence Act 1984**). There is an important difference between having to comply with something and having to have regard to it. The



Welsh Government should clarify the position and if necessary, ensure that all relevant documents related to the regulations are corrected.

