



# Economic Crime (Transparency and Enforcement) Act 2022

## 2022 CHAPTER 10

### PART 2

#### UNEXPLAINED WEALTH ORDERS

#### **50 Power to extend period for which interim freezing order has effect: Scotland**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 396D (effect of order: cases of compliance or purported compliance)—
  - (a) in subsection (4), at the end insert “, or that period as it may be extended by virtue of section 396DA or 396DB (the “determination period”)”;
  - (b) in subsection (5), for “60 day period mentioned in subsection (3)” substitute “determination period”.
- (3) After that section insert—

#### **“396DA Extension of period for making determination where interim freezing order has been made**

- (1) The Court of Session may, on an application made by the Scottish Ministers or the Lord Advocate, extend the determination period if satisfied that—
  - (a) the applicant is working diligently and expeditiously towards making a determination under section 396D(2)(b) or (3) (as the case may be),
  - (b) further time is needed to make that determination, and
  - (c) it is reasonable in all the circumstances for the period to be extended.
- (2) The application must be made before the determination period would otherwise end.

- (3) An extension of the determination period must end no later than the end of the period of 63 days beginning with the day after that on which the period would otherwise end.
- (4) Where the period is extended under subsection (1), it may be further extended by the Court of Session (and subsections (2) and (3) apply in relation to any further extension as they apply in relation to the first one).
- (5) But the determination period as extended must not exceed the period of 186 days starting with the day of compliance (within the meaning given by section 396D(8)(b)).

### **396DB Extension of period pending determination of proceedings etc**

- (1) Subsection (2) applies where—
  - (a) an application is made to the Court of Session under section 396DA for the extension (or further extension) of the determination period, and
  - (b) the period would (apart from that subsection) end before the Court determines the application or it is otherwise disposed of.
- (2) The determination period is extended from the time when it would otherwise end until—
  - (a) the Court determines the application or it is otherwise disposed of, or
  - (b) if earlier, the end of the period of 31 days beginning with the day after that on which the period would otherwise have ended.
- (3) Subsection (4) applies where—
  - (a) proceedings on an appeal in respect of a decision on an application under section 396DA have been brought, and
  - (b) the determination period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The determination period is extended from the time when it would otherwise end until—
  - (a) the proceedings are finally determined or otherwise disposed of, or
  - (b) if earlier, the end of the period mentioned in subsection (2)(b).
- (5) Subsection (6) applies where—
  - (a) an application is made to the Court under section 396DA for an extension of the determination period,
  - (b) the Court refuses to grant the application, and
  - (c) the period would (apart from that subsection) end before the end of the 5 day period.
- (6) The determination period is extended from the time when it would otherwise end until—
  - (a) the end of the 5 day period, or
  - (b) if proceedings on an appeal against the decision are brought before the end of the 5 day period, the time when those proceedings are brought.

- (7) The “5 day period” is the period of 5 working days beginning with the day on which the Court refuses to grant the application; and for these purposes “working day” means a day other than—
  - (a) a Saturday or a Sunday, or
  - (b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.
- (8) The restriction on the overall extension of the determination period mentioned in section 396DA(5) applies to an extension of the period in accordance with any provision of this section as it applies to an extension under an order of the Court.”
- (4) In section 396K(6)(a) (variation and recall of interim freezing order), for “60 day period mentioned in section 396D(4)” substitute “determination period (see section 396D(4))”.