
WELSH STATUTORY INSTRUMENTS

2018 No. 767 (W. 154)

PROCEEDS OF CRIME, WALES

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

<i>Made</i>	- - - -	<i>24 June 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>28 June 2018</i>
<i>Coming into force</i>	- -	<i>20 July 2018</i>

The Welsh Ministers make this Order in exercise of the powers conferred on them by section 453(1A) and (2) of the Proceeds of Crime Act 2002⁽¹⁾.

Title, commencement and interpretation

1.—(1) The title of this Order is the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018.

(2) This Order comes into force on 20 July 2018.

(3) In this Order “WRA” (“ACC”) means the Welsh Revenue Authority.

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

2.—(1) The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018⁽²⁾ is amended as follows.

(2) In Part 1 (reference to an accredited financial investigator who is a member of staff of WRA) of the Schedule—

(a) in paragraph 3, after “290(4)(c)” insert “and the reference in section 297A(6)(c)⁽³⁾”;

(b) after paragraph 3 insert—

(1) [2002 c. 29](#). Section 453(1A) was inserted by section 186(4) of the Tax Collection and Management (Wales) Act [2016 \(anaw 6\)](#).
(2) [S.I. 2018/196 \(W. 45\)](#).
(3) Section 297A was inserted by section 65(1) of the Policing and Crime Act [2009 \(c. 26\)](#). It was amended by paragraph 14 of Schedule 21 to the Crime and Courts Act [2013 \(c. 22\)](#) and section 34(7) of, and paragraph 19 of Schedule 1 to the Criminal Finances Act [2017 \(c. 22\)](#) (“the 2017 Act”).

“**3A.** Section 303C(9)(d)(4) (relevant officer for the purposes of Chapter 3A), section 303L(5)(d) (specified persons - further detention of seized property) and section 303O(2)(d) (specified persons - forfeiture of property).

3B. Section 303Z1(6)(5) (enforcement officer for the purposes of Chapter 3B) and section 303Z14(3)(d) (specified persons for the purposes of account forfeiture applications).”;

- (c) in paragraph 4, after “352(5)(c)” insert “, (ca) and (cb)(6)”;
- (d) in paragraph 5, after “353(10)(c)” insert “, (ca) and (cb)(7)”;
- (e) after paragraph 7 insert—

“**7A.** Section 378(3C)(c)(8) (appropriate officers for the purposes of detained property investigations under Part 8).

7B. Section 378(3E)(c) (appropriate officers for the purposes of frozen funds investigations under Part 8).”

(3) In Part 2 (reference to an accredited financial investigator who is a member of staff of WRA and is at or above grade 7 or equivalent) of the Schedule—

- (a) after paragraph 11 insert—

“**11A.** Section 297A(6)(c) (senior officer for the purpose of giving a forfeiture notice).

11B. Section 303E(4)(f)(9) (senior officer for the purposes of prior approval for searches).

11C. Section 303Z2(4)(e)(10) (senior officer for the purposes of Chapter 3B).

11D. Section 336D(7)(h)(11) (senior officer for the purposes of section 336A (power of court to extend the moratorium period)).”; and

- (b) after paragraph 13 insert—

“**13A.** Section 378(3D)(c) (senior appropriate officers for the purposes of detained property investigations under Part 8).

13B. Section 378(3F)(c) (senior appropriate officers for the purposes of frozen funds investigations under Part 8).”

Mark Drakeford
Cabinet Secretary for Finance, one of the Welsh
Ministers

24 June 2018

(4) Sections 303C, 303L and 303O were inserted by section 15 of the 2017 Act.
 (5) Sections 303Z1 and 303Z14 were inserted by section 16 of the 2017 Act.
 (6) Section 352(5)(ca) and (cb) were inserted by paragraph 47 of Schedule 5 to the 2017 Act.
 (7) Section 353(10)(ca) and (cb) were inserted by paragraph 48 of Schedule 5 to the 2017 Act.
 (8) Section 378(3C) to (3F) was inserted by paragraph 59 of Schedule 5 to the 2017 Act.
 (9) Section 303E was inserted by section 15 of the 2017 Act.
 (10) Section 303Z2 was inserted by section 16 of the 2017 Act.
 (11) Section 336D was inserted by section 10(4) of the 2017 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196 (W. 45)) (“the Principal Order”).

The amendments made by this Order are required as a result of amendments to the Proceeds of Crime Act 2002 (c. 29) (“POCA”) made by the Criminal Finances Act 2017 (c. 22) (“CFA”).

The CFA introduces powers into POCA to seize, detain and forfeit certain listed items of property, and to freeze and forfeit money in bank and building society accounts (“the new forfeiture powers”). These powers are supported by the creation of two new categories of investigation in Part 8 of POCA (the detained property investigation and frozen funds investigations) (“the new investigations”). This Order inserts provisions into the Principal Order to enable Welsh Revenue Authority accredited financial investigators (“AFIs”) to have access to the new forfeiture powers and the new investigations, and to specify which AFIs are “senior officers” for the purposes of those provisions. In addition, this Order makes provision in respect of the access to search powers in sections 352 and 353 of POCA. The scope of the provision in the Principal Order is extended to include the new investigations.

The CFA inserts provisions into Part 7 of POCA which allow AFIs who are senior officers to make an application to the magistrates’ court for an order under section 336A of POCA to extend the moratorium period. This is a period of 31 days which arises when suspicions of money laundering have been disclosed, and during which law enforcement cannot be assumed to consent to a particular transaction proceeding. This Order also inserts provision into the Principal Order to specify which AFIs are senior officers for the purposes of an order under section 336A of POCA.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.