

WELSH STATUTORY INSTRUMENTS

**2018 No. 196 (W. 45)**

**PROCEEDS OF CRIME, WALES**

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

<i>Made</i>	- - - -	<i>20 February 2018</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>21 February 2018</i>
<i>Coming into force</i>	- -	<i>1 April 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 <sup>M1</sup>.

**Marginal Citations**

**M1** 2002 c. 29. Section 453(1A) was inserted by section 186(4) of the Tax Collection and Management (Wales) Act 2016 (anaw 6).

**Title and commencement** **E+W**

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

(2) This Order comes into force on 1 April 2018.

**Interpretation** **E+W**

2. In this Order—

“the Act” (“*y Ddeddf*”) means the Proceeds of Crime Act 2002;

“WRA” (“*ACC*”) means the Welsh Revenue Authority.

**Reference to an accredited financial investigator** **E+W**

3. A reference to an accredited financial investigator in a provision of the Act specified in Part 1 of the Schedule is a reference to an accredited financial investigator who is a member of staff of WRA.

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**Status:** Point in time view as at 20/07/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018. (See end of Document for details)

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**E+W**

4. A reference to an accredited financial investigator in a provision of the Act specified in Part 2 of the Schedule is a reference to an accredited financial investigator who is a member of staff of WRA and is at or above grade 7 or equivalent.

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

SCHEDULE **E+W**

Articles 3 and 4

Reference to an accredited financial investigator

**PART 1** **E+W**

1. Section 42(2)(c) (application for restraint order under Part 2 – subject to authorisation under section 68(3)(c)).

2. Sections 47A(1)(c)<sup>M2</sup> (sections 47B to 47S: meaning of “appropriate officer”) and 47M(3)(c) (further detention by magistrates' court).

**Marginal Citations**

**M2** Sections 47A to 47S were inserted by the [Policing and Crime Act 2009 \(c. 26\)](#), [section 55\(1\)](#) and (2).

3. Chapter 3 of Part 5 (other than the second reference in section 290(4)(c)<sup>M3</sup><sup>F1</sup> and the reference in section 297A(6)(c)).

**Textual Amendments**

**F1** Words in Sch. para. 3 inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), [2\(2\)\(a\)](#)

**Marginal Citations**

**M3** Section 290(4)(c) was inserted by the [Serious Crime Act 2007 \(c. 27\)](#), [section 79](#) and Schedule 11, paragraphs 1 and 3(1) and (2).

<sup>F2</sup>**3A.** Section 303C(9)(d) (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).

**Textual Amendments**

**F2** [Sch. paras. 3A, 3B](#) inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), [2\(2\)\(b\)](#)

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

**Textual Amendments**

**F2** [Sch. paras. 3A, 3B](#) inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), [2\(2\)\(b\)](#)

4. Section 352(5)(c)<sup>M4</sup><sup>F3</sup>, (ca) and (cb)] (appropriate person for the purposes of search and seizure warrants under Chapter 2 of Part 8).

**Status:** Point in time view as at 20/07/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018. (See end of Document for details)

#### Textual Amendments

**F3** Words in Sch. para. 4 inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(2)(e)**

#### Marginal Citations

**M4** Section 352(5)(c) was inserted by the Serious Crime Act 2007, section 77 and Schedule 10, paragraphs 1 and 7(1) and (3). It was amended by section 80(1)(b) of that Act.

5. Section 353(10)(c) <sup>M5</sup>[<sup>F4</sup>, (ca) and (cb)] (appropriate person for securing immediate entry to premises where production order not available).

#### Textual Amendments

**F4** Words in Sch. para. 5 inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(2)(d)**

#### Marginal Citations

**M5** Section 353(10)(c) was inserted by the Serious Crime Act 2007, section 77 and Schedule 10, paragraphs 1 and 8(1) and (3). It was amended by section 80(3)(b) of that Act.

6. Section 378(1)(b) (appropriate officers for the purposes of confiscation investigations under Part 8).

7. Section 378(3A)(ab) <sup>M6</sup> (appropriate officers for the purposes of detained cash investigations under Part 8).

#### Marginal Citations

**M6** Section 378(3A) was inserted by the Serious Crime Act 2007, section 77 and Schedule 10, paragraphs 1 and 13. Paragraph (ab) was inserted by section 80(7) of that Act.

[<sup>F5</sup>**7A.** Section 378(3C)(c) (appropriate officers for the purposes of detained property investigations under Part 8).

#### Textual Amendments

**F5** Sch. paras. 7A, 7B inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(2)(e)**

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

#### Textual Amendments

**F5** Sch. paras. 7A, 7B inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(2)(e)**

8. Section 378(4)(a) (appropriate officers for the purposes of money laundering investigations under Part 8).

## PART 2 **E+W**

9. Section 47G(3)(c) (appropriate approval).
10. Section 68(3)(c) (authorisation for applications and appeals under Part 2).
11. Section 290(4)(c) (prior approval by a senior officer for search of cash under Chapter 3 of Part 5).
- [<sup>F6</sup>11A. Section 297A(6)(c) (senior officer for the purpose of giving a forfeiture notice).

### Textual Amendments

- F6** Sch. paras. 11A-11D inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(3)(a)**

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

### Textual Amendments

- F6** Sch. paras. 11A-11D inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(3)(a)**

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

### Textual Amendments

- F6** Sch. paras. 11A-11D inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(3)(a)**

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

### Textual Amendments

- F6** Sch. paras. 11A-11D inserted (20.7.2018) by [The Proceeds of Crime Act 2002 \(References to Welsh Revenue Authority Financial Investigators\) \(Amendment\) Order 2018 \(S.I. 2018/767\)](#), arts. 1(2), **2(3)(a)**

12. Section 378(2)(d) (senior appropriate officers for the purposes of confiscation investigations).
13. Section 378(3AA)(b) <sup>M7</sup> (senior appropriate officers for the purposes of detained cash investigations).

### Marginal Citations

- M7** Section 378(3AA)(b) was inserted by the [Crime and Courts Act 2013 \(c. 22\)](#), [section 49\(b\)](#) and Schedule 19, Part 2, paragraphs 24 and 27(1) and (2).

- [<sup>F7</sup>13A. Section 378(3D)(c) (senior appropriate officers for the purposes of detained property investigations under Part 8).

**Status:** Point in time view as at 20/07/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018. (See end of Document for details)

**Textual Amendments**

**F7** Sch. paras. 13A, 13B inserted (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(3)(b)**

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

**Textual Amendments**

**F7** Sch. paras. 13A, 13B inserted (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(3)(b)**

**14.** Section 378(6)(c) (senior appropriate officers for the purposes of money laundering investigations).

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides that references to accredited financial investigators in the Proceeds of Crime Act 2002 (“the Act”) are to be read as references to accredited financial investigators who are members of staff of the Welsh Revenue Authority.

The Schedule to this Order sets out the powers that can be exercised by an accredited financial investigator under the Act.

Accredited financial investigators may apply for restraint orders under Part 2 of the Act and may seize property to which any such restraint order applies. Accredited financial investigators may also search for, seize, detain and apply for the forfeiture of cash under Chapter 3 of Part 5 of the Act. Before exercising powers of search they must (unless in the circumstances it is impracticable to do so) obtain prior approval from either a justice of the peace or a senior officer who must also be an accredited financial investigator. Accredited financial investigators may also apply for orders and warrants in relation to confiscation, money laundering and detained cash investigations under Part 8 of the Act for the purpose of, amongst other things, requiring a specified person to produce certain material; permitting the search of and seizure of material from specified premises and requiring a financial institution to provide customer information relating to a specified person. 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 under such orders and warrants.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

**Status:**

Point in time view as at 20/07/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018.