

TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 –Investigation of Criminal Offences

Section 186 – Proceeds of crime

219. The Proceeds of Crime Act 2002 (“POCA”) makes provision for the recovery of assets acquired through criminal conduct in certain circumstances. The ability to recover those assets is subject to a range of conditions being met, and ultimately, a criminal court making an order for the recovery of those assets.
220. The purpose this section is to amend section 453 of POCA so that the Welsh Ministers may make an order to specify that certain powers provided by POCA may be exercised by an “accredited financial investigator” appointed by WRA during the course of a criminal investigation. An “accredited financial investigator” is a financial investigator accredited by the National Crime Agency in accordance with section 3 of POCA. The powers contained in POCA include the power to apply to a criminal court for restraint orders, confiscation orders, or cash seizure orders.
221. An order made by the Welsh Ministers under this section will not be able to alter the existing POCA regime, and the associated safeguards provided by POCA will apply to WRA’s exercise of the powers without modification. Subsections (2) and (3) also provide that WRA will be required to pay compensation to a person in certain circumstances where an interim order was obtained (for example, a restraint or cash seizure order), but a confiscation or forfeiture order was not ordered by the court.
222. An order made by the Welsh Ministers under this section is subject to the negative procedure.