

# Finance Committee

## Criminal Finances Bill – Legislative Consent Memorandum

December 2016



## Introduction

On 17 November 2016, the Finance Committee considered a legislative consent memorandum ('the memorandum') that relates to provisions in the UK Criminal Finances Bill.

The UK Government's Criminal Finance's Bill ('the Bill') is currently being considered by the UK Parliament.

Sections of this Bill seek to legislate in areas of competence devolved to the National Assembly for Wales. Under Standing Order 29.2 a member of the government must lay a memorandum in relation to any UK Government Bill that is a relevant Bill.

The memorandum was laid before the Assembly by the Cabinet Secretary for Finance and Local Government ('the Cabinet Secretary') on 1 November 2016.

The consent of the Assembly is sought for clause 37 of the Bill – failure to prevent facilitation of UK tax evasion offences.

In line with Standing Order 29.4, the Business Committee remitted this memorandum to the Finance Committee for consideration. In doing so, the Business Committee agreed that the Finance Committee should report on the memorandum by 8 December 2016.

The memorandum will be considered by the Assembly in Plenary on 13 December 2016.

## Policy intent

The memorandum outlines the policy objective of the Bill:

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The UK Government's stated policy objectives are to give law enforcement agencies, and partners, the capabilities and powers to recover the proceeds of crime, tackle money laundering and corruption, and counter terrorist financing.

The measures in the Bill aim to: improve cooperation between public and private sectors; enhance the UK law enforcement response; improve the capability to recover the proceeds of crime, including international corruption; and combat the financing of terrorism.

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Clause 37 of the Bill will make it a criminal offence for a “relevant body” (a body corporate or partnership) to “fail to prevent the facilitation of a UK tax evasion offence” (such as cheating the public revenue, or fraudulently evading tax).

This proposed offence is relevant to Wales because the definition of a “UK tax evasion offence” will extend to include offences of devolved tax evasion.

In so far as it relates to devolved taxes, clause 37 relates to the subject of devolved taxes under paragraph 16A of in Part 1 of Schedule 7 to the Government of Wales Act 2006.

## Evidence from the Cabinet Secretary for Finance and Local Government

The Welsh Government states in the memorandum that it is supportive of the creation of the new offence and that making these provisions for Wales in the Bill will ensure that the UK as a whole can take a consistent approach to tackling tax evasion.

The Committee questioned the Cabinet Secretary on the provisions in the Bill on 3 November 2016. The Cabinet Secretary explained the Welsh Government’s position was that the National Assembly should be asked to give its consent to the provisions being legislated for in this Bill, but that it made sense to allow the legislation to proceed as proposed:

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“we have informed the Home Office that we will be bringing an LCM to the floor of the Assembly, although on the substantive issue, I think we conclude that it does make sense to allow the legislation to proceed as proposed, but that’s an argument that will have to be made on the floor of the Assembly to see if others agree.”<sup>1</sup>

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## Conclusion

Whilst the Committee would wish to see the Welsh Government legislating in areas which the Assembly has competence, particularly considering the current tax legislation before the Assembly, it has considered the position outlined by the Cabinet Secretary and is persuaded by the evidence that tackling tax evasion on a UK wide basis is appropriate. As such, the Committee recommends the Assembly consent to the provisions detailed within the Memorandum as required by SO 29.6.

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<sup>1</sup> Finance Committee [RoP 3 November 2016, paragraph 492](#)

