

LEGISLATIVE CONSENT MEMORANDUM

CRIMINAL FINANCES BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Criminal Finances Bill (the “Bill”) was introduced in the House of Commons on 13 October 2016. The Bill can be found at: [Criminal Finances Bill 2016-17 — UK Parliament](#)

Policy Objective(s)

3. 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.
4. 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.

Summary of the Bill

5. The Bill is sponsored by the Home Office.
6. The Bill makes provision for the following:
 - Part 1 deals with the proceeds of crime, money laundering, civil recovery, enforcement powers and related offences and creates a range of new powers for law enforcement agencies to request information and seize, monies stored in bank accounts and mobile stores of value.
 - Part 2 will ensure that relevant money laundering and asset recovery powers will be extended to apply to investigations under the Terrorism Act 2000 (TACT), as well as the Proceeds of Crime Act 2002 (POCA).
 - Part 3 will create two new corporate offences of failure to prevent UK and foreign facilitation of tax evasion.

- Part 4 includes minor and consequential amendments to POCA and other enactments.

Provisions in the Bill for which consent is required

7. The consent of the National Assembly for Wales is sought for the following provisions:

Clause 37 – Failure to prevent facilitation of UK tax evasion offences

8. This clause 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.
9. There will be two elements to the new offence, both of which will need to be present for a relevant body to be found guilty:
 - Firstly, a taxpayer must have committed a “UK tax evasion offence”; and
 - Secondly, a person associated with the relevant body (such as an agent or employee) must have committed a UK tax evasion facilitation offence.
10. However, the relevant body will not commit an offence if it can show it had reasonable “prevention procedures” in place to prevent the facilitation offence from taking place.
11. On conviction, a relevant body is liable to a fine.
12. Consent is required for these provisions because they fall within the legislative competence of the National Assembly for Wales in so far as they relate to the subject of devolved taxes under paragraph 16A of Part 1, Schedule 7 to the Government of Wales Act 2006.

Reasons for making these provisions for Wales in the Criminal Finances Bill

13. The Welsh Government is supportive of the creation of the new offence - Failure to prevent facilitation of UK tax evasion offences - as a further step in tackling tax evasion.
14. 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.
15. There are now multiple inter-related tax jurisdictions across the UK. Taxes at each of the jurisdictions are similar at present; however, the policies and

priorities for each jurisdiction do and will continue to vary. Nevertheless, it is imperative that tax evasion is tackled consistently on the widest possible platform.

Financial implications

16. There are no financial implications for the Welsh Government if the National Assembly for Wales consents to the provisions applying to Wales.

Conclusion

17. It is the view of the Welsh Government that it is appropriate to deal with the provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. It is important that this is taken forward on a UK wide basis to demonstrate a coherent approach to tackling tax evasion.

Mark Drakeford AM
Cabinet Secretary for Finance and Local Government
November 2016