POLICY NOTE

THE PROCEEDS OF CRIME ACT 2002 (DISCLOSURE OF INFORMATION TO AND BY LORD ADVOCATE AND SCOTTISH MINISTERS) AMENDMENT ORDER 2015

SSI 2015/DRAFT

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 439(6) and 441(9) of the Proceeds of Crime Act 2002 ("POCA"). The instrument is subject to the affirmative procedure.

Policy Objectives

POCA confers functions on the Lord Advocate, in relation to the confiscation of the proceeds of crime under Part 3, and on the Scottish Ministers, in relation to the civil recovery of the proceeds of unlawful conduct under Part 5. The Crown Office and Procurator Fiscal Service (COPFS) and the Civil Recovery Unit (CRU) carry out these functions on behalf of the Lord Advocate and the Scottish Ministers, respectively.

This Order is designed to facilitate the exchange of information between Revenue Scotland and the POCA authorities in cases involving devolved tax evasion, and therefore common law fraud and associated criminality. It would therefore have no application in relation to the generality of tax cases which involve no element of criminality. The disclosure 'gateways' created by this Order complement the gateway in section 15(3)(e) of the Revenue Scotland and Tax Powers Act 2014 ("RSTPA 2014"; disclosures made by Revenue Scotland for the purposes of a criminal investigation or criminal proceedings or for the purposes of the prevention or detection of crime).

Consultation

A public consultation opened on 6 October 2014 on proposals for subordinate legislation under or associated with RSTPA 2014 with a closing date of 9 January 2015. The consultation paper is available at:

http://www.scotland.gov.uk/Publications/2014/10/4714.

The responses received were entirely supportive of the approach taken. A full list of those consulted and the responses of those who agreed to the release of this information, an analysis of the responses received and the Scottish Government's response will be published on the Scottish Government's website in due course.

Impact Assessments

An equality impact assessment has been completed on the RSTPA 2014 and is available at http://www.scotland.gov.uk/Publications/2014/10/4242. The instrument is consequential in nature and no further impact assessments are required.

Financial Effects

There are no financial effects associated with this SSI.

Scottish Government
Fiscal Responsibility Division
February 2015