

Written Ministerial Statement

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Department of Justice

ECONOMIC CRIME (TRANSPARENCY AND ENFORCEMENT) BILL

Published on Monday 14 March 2022.

Mrs Long (The Minister of Justice): In June 2020, I informed Assembly colleagues of my commitment to ensure that law enforcement agencies in Northern Ireland would have effective legal powers to deal with the threat posed by crime, including serious organised crime.

Along with the Home Secretary we commenced the relevant provisions of the Criminal Finances Act 2017 for Northern Ireland, including new unexplained wealth orders (UWO), account freezing and forfeiture provisions and listed assets forfeiture provisions. It is essential that law enforcement partners in Northern Ireland continue to have the same powers as their counterparts in the rest of the UK, in terms of powers to recover the proceeds of crime and to tackle money laundering, corruption and terrorist financing.

In response to Russia's invasion of Ukraine, the UK Government has introduced emergency legislation 'The Economic Crime (Transparency and Enforcement) Bill', intended to counter illicit financial activity from Russia, enforce sanctions and help in the wider fight against corruption and serious crime.

I am making this written statement to advise members of the NI Assembly that the Bill includes changes to strengthen the UWO powers which will enable law enforcement agencies to take more effective actions against kleptocrats and criminals, compelling them to prove the origins of their funds in the UK. I met with Damian Hinds MP to discuss the issues that relate to UWOs. I was asked to confirm if I agreed with the devolution analysis in respect of the UWO provisions and indicate if I would be content, in principle, to begin the legislative consent process in the Northern Ireland Assembly. My ministerial colleagues in the Department for the Economy and Department of Finance are dealing with the provisions related to their respective remits.

I have informed Ministerial colleagues and the Justice Committee of my support in principle for the UWO provisions through correspondence. I am pleased to note that Ministerial colleagues have to date not raised any objections to those provisions. The Justice Committee is also supportive in principle. I also sought advice from the Attorney General for NI in terms of if and how legislative consent might be achieved in the absence of the Executive.

While I would always advocate for discussion and debate on any issue that requires an LCM, and this would be my preferred option in this case as in any other, the current context and urgent timescales are not conducive to securing Assembly agreement to an LCM. In the absence of a functioning Executive to consider and agree the request for the LCM, I have laid a memorandum explaining why a legislative consent motion is not sought for the UWO provisions. Given the need for swift action, I wrote to the Security Minister, Damian Hinds MP, setting out this position, namely that in the absence of the Executive and given that the timescales are so restricted, I am not able to obtain prior agreement for an LCM but am supportive in principle of the proposed changes insofar as the provisions relate to strengthening the UWO regime.

A summary of the provisions is detailed below.

Unexplained Wealth Orders

Changes to the UWO powers cover the Northern Ireland Assembly's devolved competence on justice, policing and criminal investigation. The Criminal Finances Act 2017 inserted sections into the

Proceeds of Crime Act 2002, which make provision for the High Court to make a UWO in England, Wales and Northern Ireland. The Economic Crime (Transparency and Enforcement) Bill amends these powers in the following ways:

Imposition of unexplained wealth order on officers etc of property holder

This provision will increase the scope of the existing powers to enable a UWO to be served on persons who are reasonably expected to have some form of control over the asset subject to the UWO. This includes directors or officers of legal entities with day-to-day control over properties, including having access to records of property ownership, transactions, and property management costs.

Alternative test to the income requirement

This measure will ensure that property owned via complex ownership structures is within scope of the UWO regime. Under the existing law there must be grounds for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient to obtain the property. This provision enables a UWO to cover property where the funds used by any person to obtain it were unlawfully obtained.

Power to extend period for which interim freezing order has effect

This provision increases the statutory time period for the review of material provided in response to a UWO from 60 days to a total of 186 days for the whole process. Any freezing orders in place over the relevant property will remain in place for the extended period of time.

Limits on costs orders in relation to unexplained wealth orders

This provision will reform the costs rules to limit law enforcement liability following an adverse court ruling.

I trust colleagues agree that there is a compelling case to support, in principle, the extension of the proposed changes to the UWO provisions to Northern Ireland. It is essential that we ensure there are no gaps in the local legislative framework that could be exploited by criminals.