

**PROCEEDS OF CRIME (AMENDMENT)  
(UNEXPLAINED WEALTH ORDERS) BILL 2025**

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**Explanatory Memorandum**

1. This Bill is promoted by [●] MHK on behalf of the Department of Home Affairs.
2. The resulting Act is not expected to have any financial or human resource implications. [Need to consider the payment of compensation under new section 179R.]
3. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.
4. *Clauses 1 and 2* contain, respectively, the short title of, and the commencement provisions for, the resulting Act.
5. *Clause 3* contains the amendments the resulting Act will make to the *Proceeds of Crime Act 2008* ("POCA"). These are considered below.

***Unexplained wealth orders***

6. New sections 179A to 179I are inserted into POCA. They make provision for the High Court to make an unexplained wealth order ("UWO"). A UWO is defined in section 179A(4) as an order requiring a person to set out the nature and extent of their interest in the property in question, and to explain how they obtained that property in cases where there are reasonable grounds for suspecting that person's known income does not explain ownership of that property or that the property was obtained through unlawful conduct. The new provisions allow the Attorney General to apply for a UWO requiring a person to explain the origin of assets that appear to be disproportionate to their income.
7. Applications for UWOs are to be made to the High Court by the Attorney General. The court may make an order, provided it is satisfied that each of the requirements for making the order is fulfilled (see section 179B). In particular, the court must be satisfied that the respondent is a politically exposed person ("PEP"), or there are reasonable grounds for suspecting that the respondent is, or has been, involved in serious crime (or a person connected with the respondent is, or has been so involved).
8. The definition of a PEP is given in section 179B(7), and means an individual who has been entrusted with prominent public functions by an international organisation or a State. It also includes family members and close associates of that person.
9. The subject of the order (the respondent) and the property in question, must be specified in the order. The form and manner in which the respondent is to provide

the explanation relating to the property must also be specified (section 179A(4) and (5)). The order must also specify the person to whom the explanation is to be given and give details of where the explanation is to be sent.

10. Section 179A(7) places an obligation on the respondent to explain the source of the specified assets within the time period that the court specifies.
11. Section 179B(1 to (10) set out the requirements for making a UWO. A key requirement is that the value of the property subject to an order is greater than £50,000 (subsection (2)). The High Court must be satisfied that there are reasonable grounds to suspect that the known sources of the respondent's lawful income are not sufficient to enable the respondent to obtain the property or that the property was obtained through unlawful conduct (subsection (3)). The court must further be satisfied that the respondent is a PEP or that there are reasonable grounds to suspect that the respondent or a person connected to them is (or has been) involved in committing a serious offence (subsection (4)). The expression "serious offence" has the same meaning as in section 79 of the *Police Powers and Procedures Act 1998*. It is not necessary to prove to the criminal standard that the respondent, or other persons, are involved in such offences. This suspicion need not be restricted to the respondent alone. An order may be made in respect of a person who is (or has been) involved in committing a serious offence as long as that person is associated with the respondent.
12. New section 179C applies if a respondent fails to provide information, documents or other material specified in a UWO. The respondent has a certain period of time specified by the court to respond to an order. If, following the expiry of the response period, a respondent fails to comply without reasonable excuse, the property concerned is to be treated as recoverable property. "Recoverable property" means property obtained through unlawful conduct. In this case, the Attorney General must consider what action he or she intends to take against the property. This may include recovering the property using the civil recovery powers provided by Part 1 of POCA. If proceedings are commenced, the respondent can provide evidence to rebut the presumption that their property is recoverable.
13. If, however, the respondent replies within the response period, section 179D provides that the Attorney General has 60 days to consider the evidence put forward. During this period, the Attorney General must decide whether to take no further action, or some other action such as applying for a further UWO, beginning a civil recovery investigation or applying for a recovery order under section 22 of POCA.
14. Sections 179DA and 179DB enable the High Court to extend the determination period in section 179D in certain circumstances, subject to a long stop of 186 days starting with the day of compliance.
15. By virtue of section 179E, a person commits an offence if, in purported compliance with a requirement under a UWO, the person makes a statement that the person knows to be false or misleading in a material way, or recklessly makes a statement that is false or misleading in a material way. A person guilty of an offence is liable

to conviction on information to custody for a term not exceeding two years and/or a fine; or on summary conviction, to custody for a term not exceeding six months and/or a fine not exceeding level 5 on the standard scale.

16. By virtue of section 179F, a person making a statement in response to an order is protected from having that statement used in evidence against them in criminal proceedings. The exceptions to this protection are listed in subsections (2) and (3).
17. New section 179G makes provision regarding the copying and retention of documents obtained under a UWO. Subsection (3) allows the Attorney General to copy any document supplied under the requirements of an order and they may be retained for as long as necessary in connection with an investigation of a kind mentioned in section 159 of POCA to which the property is connected.
18. Section 179H provides a broad definition of how an individual may “hold” property for the purposes of sections 179A and 179B. The definition is specifically broad enough to address circumstances where property is held in trust or owned in a complex corporate structure or arrangement.
19. Section 179H(5) clarifies that a UWO can be served in cases where property is registered in the name of an overseas company. This makes it explicit that the UWO provisions do extend to such cases. This does not cast doubt on the scope of other powers within POCA, such as section 132 and 197, which are already used in relevant situations where property is held and registered in such circumstances.
20. Section 179I provides further details as to the procedure for making an application for a UWO, which may be made to the High Court without notice, for example, to prevent the property from being dissipated. The Attorney General and the respondent may apply to vary or discharge the order by virtue of subsection (4). Rules of court may make further provisions about the procedure to be followed.
21. Section 179IA requires the Attorney General to prepare a report every 12 months in relation to UWO applications and to lay a copy of the report before Tynwald.

#### *Interim freezing orders*

22. New sections 179J to 179R are inserted into POCA. They allow for the freezing of property identified in a UWO, thereby preventing the property being dissipated while it is subject to the order. An application for an interim freezing order may be made to the High Court as a subsidiary part of the UWO proceedings, but it should be made at the same time as the application for the UWO. An interim freezing order may only be made if the court has made a UWO in respect of the property in question (section 179J(1)). It cannot be made in advance of a UWO and it is not an alternative to freezing orders made under other provisions.
23. New section 179K allows the High Court to vary or discharge an interim freezing order at any time and requires such an order to be discharged in certain specified cases.

24. Section 179L provides that an interim freezing order may be subject to exclusions so as to make provision for reasonable legal expenses, living expenses, or to carry on a trade, business, profession or occupation.
25. Section 179M further enables the High Court to stay any other actions or legal processes that are ongoing whilst the interim freezing order is in place.
26. Sections 179N, 179O and 179P cover the appointment and powers of a receiver. Section 179Q is to ensure that where an interim freezing order affecting land is applied for, its effect may be reinforced by taking action at the Land Registry to prevent the disposal of the land in question.
27. New section 179R provides a compensation scheme in relation to the interim freezing order. Compensation may be awarded by the High Court if the applicant has suffered loss and there was serious default on the part of the Attorney General. Applications must be made within three months of the discharge of the interim freezing order.

#### *External assistance*

28. New sections 179S and 179T provide for the enforcement of a UWO overseas.
29. Where a UWO has been made in relation to overseas property, section 179S allows the Attorney General to send a request for assistance in relation to the property to the government of the relevant overseas authority.
30. Section 179T provides for when an interim freezing order is in effect and a receiver has been appointed. The receiver may send a request for assistance to the Attorney General with a view to it being forwarded to the overseas authority. The Attorney General must forward the request for assistance.

#### *Costs of Proceedings*

31. New section 179U is inserted into POCA to provide for the High Court to limit the Attorney General's liability by protecting the Attorney General from any costs which could be awarded against the Attorney General in UWO proceedings, unless the Attorney General has acted dishonestly, unreasonably, or improperly. The relevant proceedings are listed in subsection (1).



## PROCEEDS OF CRIME (AMENDMENT) (UNEXPLAINED WEALTH ORDERS) BILL 2025

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Consultation draft





## PROCEEDS OF CRIME (AMENDMENT) (UNEXPLAINED WEALTH ORDERS) BILL 2025

A **BILL** to amend the Proceeds of Crime Act 2008 to make provision about unexplained wealth orders.

**BE IT ENACTED** by the King's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### 1 Short title

The short title of this Act is the Proceeds of Crime (Amendment) (Unexplained Wealth Orders) Act 2025.

### 2 Commencement

(1) This Act, apart from section 1 and this section, comes into operation on such day or days as the Department of Home Affairs may by order appoint.

Tynwald procedure – laying only.

(2) An order under subsection (1) may make such supplemental, incidental, consequential and transitional provisions as the Department of Home Affairs considers to be necessary or expedient.

### 3 Proceeds of Crime 2008 amended

(1) Part 4 of the *Proceeds of Crime Act 2008* is amended as follows.

(2) In Chapter 2, after section 179 insert —

«Unexplained wealth orders

#### 179A Unexplained wealth orders

P2002/29/362A

(1) The High Court may, on an application made by the Attorney General, make an unexplained wealth order in respect of any

- property if the court is satisfied that each of the requirements for the making of the order is fulfilled.
- (2) An application for an order must —
- (a) specify or describe the property in respect of which the order is sought; and
  - (b) specify the person whom the Attorney General thinks holds the property (“the respondent”) (and the person specified may include a person outside the Island).
- (3) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person outside the Island).
- (4) An unexplained wealth order is an order requiring the respondent or any responsible officer specified in the order (a “specified responsible officer”) to provide a statement —
- (a) setting out the nature and extent of the respondent’s interest in the property in respect of which the order is made;
  - (b) explaining how the respondent obtained the property (including, in particular, how any costs incurred in obtaining it were met);
  - (c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order; and
  - (d) setting out such other information in connection with the property as may be so specified.
- (5) The order must specify —
- (a) the form and manner in which the statement is to be given;
  - (b) the person to whom it is to be given; and
  - (c) the place at which it is to be given or, if it is to be given in writing, the address to which it is to be sent.
- (6) The order may, in connection with requiring the respondent or any specified responsible officer to provide the statement mentioned in subsection (4), also require them to produce documents of a kind specified or described in the order.
- (7) The respondent or any specified responsible officer must comply with the requirements imposed by an unexplained wealth order within whatever period the court may specify (and different periods may be specified in relation to different requirements).
- (8) For the purposes of this Chapter, each of the following is a “responsible officer” of the respondent (in a case where the respondent is not an individual) —



- (a) any director of the respondent, including any person occupying the position of a director, by whatever name called;
- (b) any member of a body of the respondent equivalent to a board of directors;
- (c) any other manager, secretary or similar officer of the respondent;
- (d) where the respondent is a partnership, a partner or a member of the partnership;
- (e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.

### **179B Requirements for making of unexplained wealth order**

P2002/29/362B

- (1) These are the requirements for the making of an unexplained wealth order in respect of any property.
- (2) The High Court must be satisfied that there is reasonable cause to believe that —
  - (a) the respondent holds the property; and
  - (b) the value of the property is greater than £50,000.
- (3) The High Court must be satisfied that there are reasonable grounds for suspecting —
  - (a) that the known sources of the respondent's lawfully obtained income would have been insufficient for the purposes of enabling the respondent to obtain the property; or
  - (b) that the property has been obtained through unlawful conduct (within the meaning given by section 3).
- (4) The High Court must be satisfied that —
  - (a) the respondent is a politically exposed person; or
  - (b) there are reasonable grounds for suspecting that —
    - (i) the respondent is, or has been, involved in committing a serious offence (whether in the Island or elsewhere); or
    - (ii) a person connected with the respondent is, or has been, so involved.
- (5) It does not matter for the purposes of subsection (2)(a) —
  - (a) whether or not there are other persons who also hold the property;

- (b) whether the property was obtained by the respondent before or after the coming into force of this section.
- (6) For the purposes of subsection (3) —
- (a) regard is to be had to any mortgage, charge or other kind of security that it is reasonable to assume was or may have been available to the respondent for the purposes of obtaining the property;
  - (b) it is to be assumed that the respondent obtained the property for a price equivalent to its market value;
  - (c) income is “lawfully obtained” if it is obtained lawfully under the laws of the country from where the income arises;
  - (d) “known” sources of the respondent’s income are the sources of income (whether arising from employment, assets or otherwise) that are reasonably ascertainable from available information at the time of the making of the application for the order;
  - (e) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining the property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.
- (7) In subsection (4)(a), “politically exposed person” means any of the following —
- (a) a natural person who is or has been entrusted with prominent public functions (“P”), including —
    - (i) a head of state, head of government, minister or deputy or assistant minister;
    - (ii) a senior government official;
    - (iii) a member of parliament;
    - (iv) a senior politician;
    - (v) an important political party official;
    - (vi) a senior judicial official;
    - (vii) a member of a court of auditors or the board of a central bank;
    - (viii) an ambassador, *chargé d’affaires* or other high-ranking officer in a diplomatic service;
    - (ix) a high-ranking officer in an armed force;
    - (x) a senior member of an administrative, management or supervisory body of a state-owned enterprise; or

- (xi) a senior member of management of, or a member of, the governing body of an international entity or organisation;
- (b) any of the following family members of P, including —
  - (i) a spouse;
  - (ii) a partner considered by national law as equivalent to a spouse;
  - (iii) a child;
  - (iv) a spouse or partner of a child;
  - (v) a brother or sister (including a half-brother or half-sister);
  - (vi) a spouse or partner of a brother or sister;
  - (vii) a parent;
  - (viii) a parent-in-law;
  - (ix) a grandparent; or
  - (x) a grandchild;
- (c) any natural person known to be a close associate of P, including —
  - (i) a joint beneficial owner of a legal person or legal arrangement, or any other close business relationship, with P;
  - (ii) the sole beneficial owner of a legal person or legal arrangement known to have been set up for the benefit of P;
  - (iii) a beneficiary of a legal arrangement of which P is a beneficial owner or beneficiary; or
  - (iv) a person in a position to conduct substantial financial transactions on behalf of P.

(8) For the purposes of subsection (7) —

“beneficial owner” means a natural person who ultimately owns or controls the legal person or legal arrangement and includes —

- (a) in the case of a legal person other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) 25% or more of the shares or voting rights in the legal person;
- (b) in the case of any legal person, a natural person who otherwise exercises ultimate effective control or significant influence over the management of the legal person;

- (c) in the case of a legal arrangement, the trustee or other person who exercises ultimate effective control or significant influence over the legal arrangement; and
- (d) in the case of a foundation, a natural person who otherwise exercises ultimate effective control or significant influence over the foundation;

“beneficiary” includes any ultimate owner or controller of a beneficiary;

“business relationship” means an arrangement between two or more persons where —

- (a) at least one of those persons is acting in the course of a business; and
- (b) the purpose of the arrangement is to facilitate the carrying on of business between those persons on a frequent, habitual or regular basis;

“legal arrangement” includes —

- (a) an express trust; or
- (b) any other arrangement that has a similar legal effect (including a *fiducie*, *treuhand* or *fideicomiso*),

and includes a person acting for, or on behalf of, a legal arrangement referred to in paragraph (a) or (b) such as a trustee; and

“legal person” includes any body corporate or unincorporate capable of establishing a business relationship with a relevant person or of owning property.

(9) For the purposes of subsection (4)(b) —

- (a) “serious offence” has the same meaning as in section 79 of the *Police Powers and Procedures Act 1998*; and
- (b) section 119C of the *Income Tax Act 1970* (connected persons) applies in determining whether a person is connected with another.

(10) Where the property in respect of which the order is sought comprises more than one item of property, the reference in subsection (2)(b) to the value of the property is to the total value of those items.

### **179C Effect of order: cases of non-compliance**

P2002/29/362C

- (1) This section applies in a case where the respondent and the specified responsible officer (if any), between them, fail, without reasonable excuse, to comply with the requirements imposed by an

unexplained wealth order in respect of any property before the end of the response period.

- (2) The property is to be presumed to be recoverable property for the purposes of any proceedings taken in respect of the property under Part 1, unless the contrary is shown.
- (3) The presumption in subsection (2) applies in relation to property —
  - (a) only so far as relating to the respondent's interest in the property; and
  - (b) only if the value of that interest is greater than the sum specified in section 179B(2)(b).

It is for the court hearing the proceedings under Part 1 in relation to which reliance is placed on the presumption to determine the matters in this subsection.

- (4) The "response period" is whatever period the court specifies under section 179A(6) as the period within which the requirements imposed by the order are to be complied with (or the period ending the latest, if more than one is specified in respect of different requirements).
- (5) For the purposes of subsection (1) —
  - (a) a respondent or a specified responsible officer who purports to comply with the requirements imposed by an unexplained wealth order is not to be taken to have failed to comply with the order (see instead section 179D);
  - (b) where an unexplained wealth order imposes more than one requirement, the respondent and the specified responsible officer (if any) are to be taken to have failed to comply with the requirements imposed by the order unless each of the requirements is complied with or is purported to be complied with.

- (6) Subsections (7) and (8) apply in determining the respondent's interest for the purposes of subsection (3) in a case where the respondent to the unexplained wealth order —
  - (a) is connected with another person who is, or has been, involved in serious crime (see subsection (4)(b)(ii) of section 179B); or
  - (b) is a politically exposed person of a kind mentioned in paragraph (b) or (c) of subsection (7) of that section (family member, known close associates etc. of individual entrusted with prominent public functions).

- (7) In a case within subsection (6)(a), the respondent's interest is to be taken to include any interest in the property of the person involved in serious crime with whom the respondent is connected.

- (8) In a case within subsection (6)(b), the respondent's interest is to be taken to include any interest in the property of the person mentioned in subsection (7)(a) of section 179B.
- (9) Where an unexplained wealth order is made in respect of property comprising more than one item of property, the reference in subsection (3)(b) to the value of the respondent's interest in the property is to the total value of the respondent's interest in those items.

### **179D Effect of order: cases of compliance or purported compliance**

P2002/29/362D

- (1) This section applies in a case where, before the end of the response period (as defined by section 179C(4)), the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the requirements imposed by an unexplained wealth order in respect of any property in relation to which the order is made.
- (2) If an interim freezing order has effect in relation to the property (see section 179J), the Attorney General must determine what enforcement or investigatory proceedings, if any, it considers ought to be taken in relation to the property.
- (3) A determination under subsection (2) must be made within the period of 60 days starting with the day of compliance, or that period as it may be extended by virtue of section 179DA or 179DB (the "determination period").
- (4) If the determination under subsection (2) is that no further enforcement or investigatory proceedings ought to be taken in relation to the property, the Attorney General must notify the High Court of that fact as soon as reasonably practicable (and in any event before the end of the determination period).
- (5) If there is no interim freezing order in effect in relation to the property, the Attorney General may (at any time) determine what, if any, enforcement or investigatory proceedings it considers ought to be taken in relation to the property.
- (6) A determination under this section to take no further enforcement or investigatory proceedings in relation to any property does not prevent such proceedings being taken subsequently (whether as a result of new information or otherwise) in relation to the property.
- (7) For the purposes of this section —
  - (a) references to the day of compliance are to the day on which the requirements imposed by the order are complied with (or, if the requirements are complied with over more than one day, the last of those days); and

(b) where an order requires the sending of information in writing to, or the production of documents at, an address specified in the order, compliance with the order (so far as relating to that requirement) occurs when the written information is received, or the documents are produced, at that address,

and in paragraphs (a) and (b) references to compliance include purported compliance.

(8) In this section “enforcement or investigatory proceedings” means any proceedings in relation to property taken under—

- (a) Part 1 (civil recovery of the proceeds of unlawful conduct);
- (b) Part 2 (confiscation and restraint); or
- (c) this Chapter.

**179DA Extension of period for making determination where interim freezing order has been made**

P2002/29/362DA

(1) The High Court may, on an application made by the Attorney General, extend the determination period if satisfied that —

- (a) the Attorney General is working diligently and expeditiously towards making a determination under section 179D(2);
- (b) further time is needed for the Attorney General to make that determination; and
- (c) it is reasonable in all the circumstances for the period to be extended.

(2) The application must be made before the determination period would otherwise end.

(3) An extension of the determination period must end no later than the end of the period of 63 days beginning with the day after that on which the period would otherwise end.

(4) Where the determination period is extended under subsection (1), it may be further extended by the High Court (and subsections (2) and (3) apply in relation to any further extension as they apply in relation to the first one).

(5) But the determination period as extended must not in total exceed the period of 186 days starting with the day of compliance (within the meaning given by section 179D(7) (b)).

**179DB Extension of period pending determination of proceedings etc.**

P2002/29/362DB

- (1) Subsection (2) applies where —
  - (a) an application is made to the High Court under section 179DA for the extension (or further extension) of the determination period; and
  - (b) the period would (apart from that subsection) end before the court determines the application or it is otherwise disposed of.
- (2) The determination period is extended from the time when it would otherwise end until —
  - (a) the Court determines the application or it is otherwise disposed of; or
  - (b) if earlier, the end of the period of 31 days beginning with the day after that on which the period would otherwise have ended.
- (3) Subsection (4) applies where —
  - (a) proceedings on an appeal in respect of a decision on an application under section 179DA have been brought; and
  - (b) the determination period would (apart from that subsection) end before the proceedings are finally determined or otherwise disposed of.
- (4) The determination period is extended from the time when it would otherwise end until —
  - (a) the proceedings are finally determined or otherwise disposed of; or
  - (b) if earlier, the end of the period mentioned in subsection (2)(b).
- (5) Subsection (6) applies where —
  - (a) an application is made to the Court under section 179DA for an extension of the determination period;
  - (b) the Court refuses to grant the application; and
  - (c) the period would (apart from that subsection) end before the end of the 5 day period.
- (6) The determination period is extended from the time when it would otherwise end until —
  - (a) the end of the 5 day period; or
  - (b) if proceedings on an appeal against the decision are brought before the end of the 5 day period, the time when those proceedings are brought.



- (7) The “5 day period” is the period of 5 working days beginning with the day on which the Court refuses to grant the application; and for these purposes “working day” means a day other than —
- (a) a Saturday or a Sunday;
  - (b) Christmas Day or Good Friday; or
  - (c) a day which is a bank holiday under the *Bank Holidays Act 1989*.
- (8) The restriction on the overall extension of the determination period mentioned in section 179DA(5) applies to an extension of the period in accordance with any provision of this section as it applies to an extension under an order of the Court.

### 179E Offence

P2002/29/362E

- (1) A person commits an offence if, in purported compliance with a requirement imposed by an unexplained wealth order, the person —
- (a) makes a statement that the person knows to be false or misleading in a material particular; or
  - (b) recklessly makes a statement that is false or misleading in a material particular.
- (2) A person guilty of an offence under this section is liable —
- (a) on conviction on information, to custody for a term not exceeding 2 years, or to a fine, or to both;
  - (b) on summary conviction, to custody for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

### 179F Statements

P2002/29/362F

- (1) A statement made by a person in response to a requirement imposed by an unexplained wealth order may not be used in evidence against that person in criminal proceedings.
- (2) Subsection (1) does not apply —
- (a) in the case of proceedings under Part 2;
  - (b) on a prosecution for an offence under section 179E;
  - (c) on a prosecution for an offence under section 5 of the *Perjury Act 1952* (false statements); or
  - (d) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).

- (3) A statement may not be used by virtue of subsection (2)(d) against a person unless —
- (a) evidence relating to it is adduced; or
  - (b) a question relating to it is asked,
- by the person or on the person's behalf in proceedings arising out of the prosecution.

### **179G Disclosure of information, copying of documents, etc.**

P2002/29/362G

- (1) An unexplained wealth order has effect in spite of any restriction on the disclosure of information (however imposed).
- (2) But subsections (1) to (5) of section 178 (rights in connection with privileged information, questions and material) apply in relation to requirements imposed by an unexplained wealth order as they apply in relation to requirements imposed under a disclosure order.
- (3) The Attorney General may take copies of any documents produced by the respondent or any specified responsible officer in connection with complying with the requirements imposed by an unexplained wealth order.
- (4) Documents so produced may also be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with an investigation of a kind mentioned in section 159 in relation to the property in respect of which the unexplained wealth order is made.
- (5) But if the Attorney General has reasonable grounds to believe that the documents —
  - (a) may need to be produced for the purposes of any legal proceedings; and
  - (b) might otherwise be unavailable for those purposes,
 they may be retained until the proceedings are concluded.

### **179H Holding of property: trusts and company arrangements etc.**

P2002/29/362H

- (1) This section applies for the purposes of sections 179A and 179B.
- (2) The cases in which a person (P) is to be taken to “hold” property include those where —
  - (a) P has effective control over the property;
  - (b) P is the trustee of a settlement in which the property is comprised;

- (c) P is a beneficiary (whether actual or potential) in relation to such a settlement.
- (3) A person is to be taken to have “effective control” over property if, from all the circumstances, it is reasonable to conclude that the person –
  - (a) exercises;
  - (b) is able to exercise; or
  - (c) is entitled to acquire,direct or indirect control over the property.
- (4) Where a person holds property by virtue of subsection (2) references to the person obtaining the property are to be read accordingly.
- (5) References to a person who holds or obtains property include any body corporate, whether incorporated or formed under the law of the Island or in a country or territory outside the Island.
- (6) For further provision about how to construe references to the holding of property, see section 197.

### **179I Supplementary**

P2002/29/362I

- (1) An application for an unexplained wealth order may be made without notice.
- (2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to unexplained wealth orders.
- (3) Where no rules of court have been made the High Court may adopt such practice and procedure as it thinks fit.
- (4) An application to the High Court to discharge or vary an unexplained wealth order may be made by –
  - (a) the Attorney General; or
  - (b) the respondent or any specified responsible officer.
- (5) The High Court –
  - (a) may discharge the order;
  - (b) may vary the order.

### **179IA Annual reports**

P2002/29/362IA

- (1) The Attorney General must prepare and publish a report in respect of each relevant period setting out –

- (a) the number of unexplained wealth orders made by the High Court during that period; and
  - (b) the number of applications made to that Court by the Attorney General for such an order during that period.
- (2) Each of the following is a “relevant period” —
- (a) the period of 12 months beginning with the day on which section 179A of the *Proceeds of Crime (Amendment) (Unexplained Wealth Orders) Act 2023* comes into operation;
  - (b) each subsequent period of 12 months.
- (3) A report under this section must be prepared and published within the period of 4 months beginning with the end of the relevant period to which the report relates.
- (4) The Attorney General must lay a copy of each report prepared under this section before Tynwald.

*Unexplained wealth orders: interim freezing of property*

**179J Application for interim freezing order**

P2002/29/362J

- (1) This section applies where the High Court makes an unexplained wealth order in respect of any property.
- (2) The court may make an interim freezing order in respect of the property if the court considers it necessary to do so for the purposes of avoiding the risk of any recovery order that might subsequently be obtained being frustrated.
- (3) An interim freezing order is an order that prohibits the respondent to the unexplained wealth order, and any other person with an interest in the property, from in any way dealing with the property (subject to any exclusions under section 179L).
- (4) An interim freezing order —
  - (a) may be made only on the application of the Attorney General;
  - (b) must be made in the same proceedings as those in which the unexplained wealth order is made; and
  - (c) may be combined in one document with the unexplained wealth order.
- (5) If an application for an unexplained wealth order in respect of any property is made without notice, an application for an interim freezing order in respect of the property must also be made without notice.

### 179K Variation and discharge of interim freezing order

P2002/29/362K

- (1) The High Court may at any time vary or discharge an interim freezing order.
- (2) The High Court must discharge an interim freezing order, so far as it has effect in relation to any property, in each of the following three cases.
- (3) The first case is where —
  - (a) the applicable 72 hour period has ended; and
  - (b) a relevant application has not been made before the end of that period in relation to the property concerned.
- (4) The second case is where —
  - (a) a relevant application has been made before the end of the applicable 72 hour period in relation to the property concerned; and
  - (b) proceedings on the application (including any on appeal) have been determined or otherwise disposed of.
- (5) The third case is where the court has received a notification in relation to the property concerned under section 179D(4) (notification from Attorney General of no further proceedings).
- (6) The “applicable 72 hour period” is to be read as follows —
  - (a) in a case where the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order before the end of the response period, it is the period of 72 hours beginning with the day after the day with which the determination period (see section 179D(3)) ends;
  - (b) in any other case, it is the period of 48 hours beginning with the day after the day with which the response period ends.
- (7) In calculating a period of 48 hours for the purposes of subsection (6), no account is to be taken of —
  - (a) any Saturday or Sunday;
  - (b) Christmas Day;
  - (c) Good Friday; or
  - (d) any day that is a bank holiday under the *Bank Holidays Act 1989*.
- (8) Section 179D(7) applies for the purposes of subsection (6) in determining whether a person complies, or purports to comply, with the requirements imposed by an unexplained wealth order and when such compliance, or purported compliance, takes place.

(9) Before exercising power under this section to vary or discharge an interim freezing order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(10) Subsection (9) does not apply where the court is acting as required by subsection (2).

(11) In this section —

“relevant application” means an application for —

- (a) a restraint order under section 97;
- (b) a property freezing order; or
- (c) an interim receiving order;

“response period” has the meaning given by section 179C(4).

### 179L Exclusions

P2002/29/362L

(1) The power to vary an interim freezing order includes (amongst other things) power to make exclusions as follows —

- (a) power to exclude property from the order; and
- (b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.

(2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may (amongst other things) make provision for the purpose of enabling any person —

- (a) to meet the person’s reasonable living expenses; or
- (b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Chapter, it must ensure that the exclusion —

- (a) is limited to reasonable legal expenses that the person has reasonably incurred or reasonably incurs;
- (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion; and
- (c) is made subject to the same conditions as would be the required conditions (see section 39) if the order had been

made under section 6 (in addition to any conditions under subsection (4)).

- (6) The court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Chapter —
- (a) must have regard to the desirability of the person being represented in any proceedings under this Chapter in which the person is a participant; and
  - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made, be funded under the *Legal Aid Act 1986*.
- (7) If excluded property is not specified in the order it must be described in the order in general terms.

### **179M Restrictions on proceedings and remedies**

P2002/29/362M

- (1) While an interim freezing order has effect —
- (a) the High Court may stay any action, execution or other legal process in respect of the property to which the order applies; and
  - (b) no distress may be levied against the property to which the order applies except with the leave of the High Court and subject to any terms the court may impose.
- (2) If a court (whether the High Court or any other court) in which proceedings are pending in respect of any property is satisfied that an interim freezing order has been applied for or made in respect of the property, it may —
- (a) stay the proceedings; or
  - (b) allow them to continue on any terms it thinks fit.
- (3) If an interim freezing order applies to a tenancy of any premises, a right of forfeiture in relation to the premises is exercisable —
- (a) only with the leave of the High Court; and
  - (b) subject to any terms that the court may impose.
- (4) The reference in subsection (3) to a “right of forfeiture” in relation to premises is to the right of a landlord or other person to whom rent is payable to exercise a right of forfeiture by peaceable re-entry to the premises in respect of any failure by the tenant to comply with a term or condition of the tenancy.
- (5) Before exercising a power conferred by this section, the court must (as well as giving the parties to any proceedings concerned an

opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

### **179N Receivers in connection with interim freezing orders**

P2002/29/362N

- (1) This section applies where the High Court makes an interim freezing order on an application by the Attorney General.
- (2) The court may, on an application by the Attorney General, by order appoint a receiver in respect of any property to which the interim freezing order applies.
- (3) An application under subsection (2) may be made at the same time as the application for the interim freezing order or at any time afterwards.
- (4) The application may be made without notice if the circumstances of the case are such that notice of the application would prejudice the right of the Attorney General to obtain a recovery order in respect of any property.
- (5) In its application the Attorney General must nominate a suitably qualified person for appointment as a receiver.
- (6) The person nominated may be a member of staff of the Attorney General's Chambers.
- (7) The Attorney General may apply a sum received by it under section 35(2) in making payment of the remuneration and expenses of a receiver appointed under this section.
- (8) Subsection (7) does not apply in relation to the remuneration of the receiver if that person is a member of staff of the Attorney General's Chambers (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the Attorney General).

### **179O Powers of receivers appointed under section 179N**

P2002/29/362O

- (1) If the High Court appoints a receiver under section 179N on an application by the Attorney General, the court may act under this section on the application of the Attorney General.
- (2) The court may by order authorise or require the receiver —
  - (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 1 (management powers) in relation to any property in respect of which the receiver is appointed;
  - (b) to take any other steps the court thinks appropriate in connection with the management of any such property



(including securing the detention, custody or preservation of the property in order to manage it).

(3) The court may by order require any person in respect of whose property the receiver is appointed –

- (a) to bring the property to a place in the Island specified by the receiver or to place it in the custody of the receiver (if in either case the person is able to do so);
- (b) to do anything the person is reasonably required to do by the receiver for the preservation of the property.

(4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in that person's possession or control to a place in the Island specified by the receiver or to place them in the custody of the receiver.

(5) Any prohibition on dealing with property imposed by an interim freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.

(6) Subsection (7) applies in a case where –

- (a) the receiver deals with property that is not property in respect of which the receiver was appointed under section 179N; but
- (b) at the time of dealing with the property the receiver believed on reasonable grounds that he or she was entitled to do so by virtue of the appointment.

(7) The receiver is not liable to any person in respect of any loss or damage resulting from the receiver's dealing with the property.

(8) But subsection (7) does not apply to the extent that the loss or damage is caused by the receiver's negligence.

### **179P Supervision of section 179N receiver and variations**

P2002/29/362P

(1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 179N –

- (a) the receiver;
- (b) a party to the proceedings for the appointment of the receiver or the interim freezing order concerned;
- (c) a person affected by an action taken by the receiver;
- (d) a person who may be affected by an action proposed to be taken by the receiver.

- (2) Before it gives directions under subsection (1) the court must give an opportunity to be heard to —
- (a) the receiver;
  - (b) the parties to the proceedings for the appointment of the receiver and for the interim freezing order concerned;
  - (c) a person who may be interested in the application under subsection (1).
- (3) The court may at any time vary or discharge —
- (a) the appointment of a receiver under section 179N;
  - (b) an order under section 179O; or
  - (c) directions under this section.
- (4) Before exercising a power under subsection (3) the court must give an opportunity to be heard to —
- (a) the receiver;
  - (b) the parties to the proceedings for the appointment of the receiver, for the order under section 179O or (as the case may be) for the directions under this section;
  - (c) the parties to the proceedings for the interim freezing order concerned;
  - (d) any person who may be affected by the court's decision.

### **179Q Registration**

P2002/29/362Q

Sections 15 (property freezing orders and interim receiving orders: registered land) apply in relation to interim freezing orders as they apply in relation to property freezing orders under section 6.

### **179R Compensation**

P2002/29/362R

- (1) Where an interim freezing order in respect of any property is discharged, the person to whom the property belongs may make an application to the High Court for the payment of compensation.
- (2) The application must be made within the period of three months beginning with the discharge of the interim freezing order.
- (3) The court may order compensation to be paid to the applicant only if satisfied that —
- (a) the applicant has suffered loss as a result of the making of the interim freezing order;
  - (b) there has been a serious default on the part of the Attorney General that applied for the order; and

- (c) the order would not have been made had the default not occurred.
- (4) Where the court orders the payment of compensation —
  - (a) the compensation is payable by the Attorney General; and
  - (b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.

*Unexplained wealth orders: enforcement abroad*

**179S Enforcement abroad: the Attorney General**

P2002/29/362S

- (1) This section applies if —
  - (a) the High Court makes an unexplained wealth order in respect of any property;
  - (b) it appears to the Attorney General that the risk mentioned in section 179J(2) applies in relation to the property; and
  - (c) the Attorney General believes that the property is in a country outside the Island (the receiving country).
- (2) The Attorney General may send a request for assistance in relation to the property to the government of the receiving country.
- (3) A request for assistance under this section is a request to the government of the receiving country —
  - (a) to secure that any person is prohibited from dealing with the property;
  - (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

**179T Enforcement abroad: receiver**

P2002/29/362T

- (1) This section applies if —
  - (a) an interim freezing order has effect in relation to property; and
  - (b) the receiver appointed under section 179N in respect of the property believes that it is in a country outside the Island (the receiving country).
- (2) The receiver may send a request for assistance in relation to the property to the Attorney General with a view to it being forwarded under this section.

- (3) The Attorney General must forward the request for assistance to the government of the receiving country.
- (4) A request for assistance under this section is a request to the government of the receiving country —
  - (a) to secure that any person is prohibited from dealing with the property;
  - (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

*Unexplained wealth orders: costs of proceedings*

**179U Costs orders**

P2002/29/362U

- (1) This section applies in the following cases —
  - (a) the Attorney General has made an application for an unexplained wealth order under section 179A;
  - (b) the Attorney General has made an application for the determination period to be extended under section 179DA;
  - (c) an application has been made to discharge or vary an unexplained wealth order;
  - (d) the Attorney General has made an application for an interim freezing order under section 179J;
  - (e) an application has been made to discharge or vary an interim freezing order;
  - (f) an application has been made in the circumstances referred to in section 179M to —
    - (i) stay an action, execution or other legal process;
    - (ii) grant leave to levy distress against the property to which the order applies;
    - (iii) stay proceedings in respect of property or allow them to continue; or
    - (iv) grant leave to exercise a right of forfeiture in relation to a tenancy;
  - (g) the Attorney General has made an application for an order for the appointment of a receiver under section 179N;
  - (h) the Attorney General has made an application for an order under section 179O (powers of receiver);
  - (i) an application has been made for directions to a receiver under section 179P;
  - (j) an application has been made to discharge or vary —

- (i) the appointment of a receiver under section 179N;
    - (ii) an order under section 179O; or
    - (iii) directions under section 179P;
  - (k) an application has been made for compensation under section 179R;
  - (l) the High Court has of its own motion exercised a power to do anything an application mentioned in paragraphs (a) to (k) may be made for;
  - (m) an application has been made for permission to appeal in relation to anything mentioned in paragraphs (a) to (l).
- (2) The court may not make an order that any costs of proceedings relating to a case to which this section applies (including appeal proceedings) are payable by the Attorney General to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless —
  - (a) the Attorney General acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate; or
  - (b) the Attorney General acted dishonestly or improperly in the course of the proceedings.».
- (3) In Chapter 3, for the cross-heading substitute «Supplementary and Interpretation».
- (4) In Chapter 3, after the amended cross-section insert —
  - «**195A Power to vary monetary amounts**
  - P2002/29/412A
  - In order to take account of changes in the value of money, the Department of Home Affairs may by regulations substitute another sum for the sum for the time being specified in section 179B(2)(b) (minimum value of property for purposes of making unexplained wealth order).».
- (5) In Chapter 3, in section 199 (other interpretative provisions for Part 4) —
  - (a) in subsection (2), at the appropriate places in the list insert —
    - «“interim freezing order”: section 179J(3)»;
    - «“unexplained wealth order”: section 179J(3)».