

Draft Order laid before the Scottish Parliament under section 459(6)(b) of the Proceeds of Crime Act 2002 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Searches under Part 5: Constables in Scotland: Code of Practice) Order 2018

Made - - - - 2018
Coming into force - - 16th April 2018

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 293(4) and 303H(4) of the Proceeds of Crime Act 2002(1) (“the Act”) and all other powers enabling them to do so.

The Scottish Ministers have—

- (a) in accordance with sections 293(5) and 303H(1) of the Act, respectively revised the code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by virtue of section 289 of the Act (searches for cash)(2) and made a code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by section 303C of the Act (searches for listed assets)(3) (“the combined code of practice”);
- (b) in accordance with sections 293(2) and 303H(2) of the Act, published a draft of the combined code of practice, considered representations made to them about the draft and modified the draft in the light of the representations; and
- (c) in accordance with sections 293(3) and 303H(3) of the Act, laid a draft of the combined code of practice before the Scottish Parliament.

In accordance with section 459(6)(b) of the Act(4), a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

(1) [2002 c.29](#). Section 303H was inserted by section 15 of the Criminal Finances Act [2017 \(c. 22\)](#) (“the 2017 Act”).

(2) Section 289 was relevantly amended by section 63(2) and (3) of the Policing and Crime Act [2009 \(c.26\)](#) and section 14 of the 2017 Act. The original code of practice, entitled “Code of Practice for Constables in Scotland under the Proceeds of Crime Act 2002”, was brought into operation on 30th December 2002 by [S.S.I. 2002/569](#). It was subsequently replaced by a revised code of practice, entitled “Code of Practice for Constables in Scotland issued under section 293 of the Proceeds of Crime Act 2002”, which was brought into operation on 18th June 2009 by [S.S.I. 2009/246](#). This was replaced by a further revised code of practice of the same title, which was brought into operation on 1st June 2015 by [S.S.I. 2015/220](#).

(3) Section 303C was inserted by section 15 of the 2017 Act.

(4) Section 459(6)(b) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#), and was amended by paragraph 87(5) of schedule 5 of the 2017 Act.