

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

2019 No.

PROCEEDS OF CRIME

**The Proceeds of Crime Act 2002 (Investigations:
Code of Practice) (Scotland) Order 2019**

Made - - - - 2019
Coming into force - - 28th November 2019

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 410(4) of the Proceeds of Crime Act 2002⁽¹⁾ and all other powers enabling them to do so:

The Scottish Ministers have—

- (a) in accordance with section 410(8) of that Act, revised the code of practice as to the exercise by proper persons of functions they have under Chapter 3 of Part 8 of that Act⁽²⁾,
- (b) in accordance with section 410(2) of that Act prepared and published a draft of the revised code of practice, considered representations made to them about the draft and amended the draft accordingly, and
- (c) in accordance with section 410(3) of that Act, laid the revised code of practice before the Scottish Parliament.

In accordance with section 459(6)(b) of that Act⁽³⁾, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019 and comes into force on 28 November 2019.

(1) [2002 c.29](#).

(2) The code of practice “Code of Practice issued under Section 410 of the Proceeds of Crime Act 2002” was brought into operation on 24 February 2003 in accordance with [S.S.I. 2003/94](#). It was subsequently replaced by a revised code of practice “Investigative Orders Under the Proceeds of Crime Act 2002: Code of Practice Issued Under Section 410 of the Proceeds of Crime Act”, which was brought into operation on 18 June 2009 by [S.S.I. 2009/245](#).

(3) Section 459(6)(b) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)). It has also been relevantly amended by paragraph 87(5) of schedule 5 of the Criminal Finances Act 2017.

Revised code of practice

2. The revised code of practice entitled “Code of Practice on the Exercise by Proper Persons of Functions Conferred by Chapter 3 of Part 8 of the Proceeds of Crime Act 2002” laid before the Scottish Parliament on 19 September 2019 comes into operation on 28 November 2019.

Revocation

3. The Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2009(4) is revoked.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made in exercise of the powers conferred by section 410 of the Proceeds of Crime Act 2002 (“the Act”).

The Order brings into operation a revised version of the code of practice which is required by section 410(1) of the Act for the exercise of investigatory powers under Chapter 3 of Part 8 of the Act by proper persons,(as defined in section 412).

The revised code of practice replaces the code of practice entitled “Investigative Orders Under the Proceeds of Crime Act 2002: Code of Practice Issued Under Section 410 of the Proceeds of Crime Act” which was brought into operation on 18 June 2009 (“the 2009 code”).

Article 3 of the Order revokes The Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2009 ([S.S.I. 2009/245](#)), which brought the 2009 code into operation.

Chapter 3 of Part 8 of the Act gives powers to a proper person to execute certain investigative orders in order to recover materials and information sought in connection with various investigations as set out in section 341 of the Act. The investigative orders are:

- Production orders (section 380),
- Orders to grant entry (section 382),
- Search warrants (section 387),
- Customer information orders (section 397), and
- Account monitoring orders (section 404).