

2009 No. 245

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2009

Made - - - -

16th June 2009

Coming into force in accordance with article 1

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

The Scottish Ministers:

(1) have, in accordance with section 410(8) of the Act, revised the code of practice as to the exercise by proper persons of functions they have under Chapter 3 of Part 8 of the Act (investigations: Scotland) (“the revised code of practice”)(b);

(2) have, in accordance with section 410(2) of the 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

(3) have, in accordance with section 410(3) of the Act, laid the revised code of practice before the Scottish Parliament.

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

Citation, commencement, extent and revocation

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2009 and shall come into force on 18th June 2009 or, if this Order has not been made by 17th June 2009, on the day after the day on which it is made.

(2) This Order extends to Scotland only.

(3) The Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2003(c) is revoked.

(a) 2002 c.29.

(b) The code of practice was brought into operation on 24th February 2003 in accordance with SSI 2003/94.

(c) S.S.I. 2003/94.

Revised code of practice

2. The revised code of practice entitled “Code of Practice issued under section 410 of the Proceeds of Crime Act 2002” laid before the Scottish Parliament on 8th May 2009 shall come into operation on 18th June 2009 or, if this Order has not been made by 17th June 2009, on the day after the day on which it is made.

St Andrew’s House,
Edinburgh
16th June 2009

FERGUS EWING
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made in exercise of the powers conferred by section 410(4) 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 by section 412 of the Act). The revised code of practice replaces the code brought into operation on 24th February 2003 entitled “Code of Practice issued under section 410 of the Proceeds of Crime Act 2002” and this Order revokes the Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2003 that brought that code of practice into operation.

The investigatory powers set out in Chapter 3 of Part 8 of the Act comprise powers for making, serving and executing production orders, search warrants, customer information orders, account monitoring orders and disclosure orders. They are relevant to confiscation investigations, money laundering investigations and civil recovery investigations as defined in Chapter 1 of Part 8 of the Act.

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