

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

DRAFT STATUTORY INSTRUMENTS

2008 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Investigations in England, Wales and Northern Ireland: Code of Practice) Order 2008

Made - - - - 2008
Coming into force - - 1st April 2008

This Order is made in exercise of the powers conferred on the Secretary of State by sections 377(4) and (8) and 459(2)(b) of the Proceeds of Crime Act 2002 (“the Act”)(1).

The Secretary of State:

(1) has, in accordance with section 377(8) of the Act, revised the code of practice in connection with the exercise of functions under Chapter 2 of Part 8 of the Act (Investigations – England and Wales and Northern Ireland) (“the revised code of practice”)(2);

(2) has, in accordance with section 377(2) of the Act, published a draft of the revised code of practice and considered any representations made to her about the draft; and

(3) has, in accordance with section 377(3) of the Act, laid the revised code of practice before Parliament.

A draft of this instrument has been approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order—

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Investigations in England, Wales and Northern Ireland: Code of Practice) Order 2008 and shall come into force on 1st April 2008.

Revised code of practice

2. Subject to article 3, the revised code of practice entitled “Code of Practice issued under section 377 of the Proceeds of Crime Act 2002” laid before Parliament on 18th February 2008 shall come into operation on 1st April 2008.

(1) 2002 c. 29. Section 377 is amended by paragraph 114 of Schedule 8 to the Serious Crime Act 2007 (c. 27).

(2) The code of practice was previously brought into operation on 23rd February 2003 in accordance with S.I. 2003/334.

Exercise of functions at time of coming into operation

3. The revised code of practice referred to in article 2 shall apply to the exercise of any function under Chapter 2 of Part 8 of the Proceeds of Crime Act 2002 by a person who must comply with the revised code of practice under section 377(5) of that Act⁽³⁾ after midnight on 31st March 2008, notwithstanding that the person may have started to exercise the function before that time.

Home Office
2008

Parliamentary Under Secretary of State

(3) The persons who must comply with the revised code of practice are the Director General of the Serious Organised Crime Agency, other members of the staff of the Serious Organised Crime Agency, accredited financial investigators, constables and officers of Revenue and Customs, see section 377(1) of the Proceeds of Crime Act 2002 as amended by paragraph 114 of Schedule 8 to the Serious Crime Act 2007.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 1st April 2008 the revised code of practice made pursuant to section 377 of the Proceeds of Crime Act 2002 (“the Act”) as to the exercise of functions under Chapter 2 of Part 8 of that Act. The revised code of practice must be complied with by the Director General of the Serious Organised Crime Agency, other members of the staff of the Serious Organised Crime Agency, accredited financial investigators, constables and officers of Revenue and Customs in the exercise of any of their functions under Chapter 2.

Chapter 2 of Part 8 of the Act provides for various orders and warrants to be issued for the purpose of confiscation investigations, money laundering investigations, civil recovery investigations and detained cash investigations.

Article 3 of the Order makes provision in relation to persons who begin exercising functions under Chapter 2 of Part 8 of the Act before the revised code of practice comes into operation and continue to do so after it has come into operation.