Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 5

CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

CHAPTER 3

RECOVERY OF CASH IN SUMMARY PROCEEDINGS

Searches

289 Searches

(1) If **[**[F1]an officer of Revenue and Customs**]** or constable **[**[F2], an SFO officer**]** who **[**[F3], a constable or an accredited financial investigator**]** is lawfully on any premises **[**[F4] and**]** has reasonable grounds for suspecting that there is on the premises cash—

(a) which is recoverable property or is intended by any person for use in unlawful conduct, and

(b) the amount of which is not less than the minimum amount,

he may search for the cash there.

[[F5](1A) The powers specified in subsection (1D) are exercisable if—

(a) **[**[F6]an officer of Revenue and Customs**]**, a constable **[**[F7], an SFO officer**]** or an accredited financial investigator has reasonable grounds for suspecting that there is cash falling within subsection (1E) in a vehicle, and

(b) it appears to the officer **[**[F8]of Revenue and Customs**]**, constable **[**[F9], SFO officer**]** or investigator that the vehicle is under the control of a person (the suspect) who is in or in the vicinity of the vehicle.

(1B) The powers are exercisable only if the vehicle is—

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(a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or

(b) in any other place to which at that time people have ready access but which is not a dwelling.

(1C) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the **[**[F10]officer of Revenue and Customs**]**, constable **[**[F11], SFO officer**]**[[F12]of Revenue and Customs**]** or accredited financial investigator may exercise the powers under subsection (1D) only if the officer, constable **[**[F11], SFO officer**]** or investigator has reasonable grounds for believing—

(a) that the suspect does not reside in the dwelling, and

(b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(1D) The **[**[F10]officer of Revenue and Customs**]**, constable **[**[F13], SFO officer**]**[[F14]of Revenue and Customs**]** or accredited financial investigator may, so far as the officer, constable **[**[F13], SFO officer**]** or investigator thinks it necessary or expedient, require the suspect to—

(a) permit entry to the vehicle,

(b) permit a search of the vehicle.

(1E) Cash falls within this subsection if—

(a) it is recoverable property or is intended by any person for use in unlawful conduct, and

(b) the amount of it is not less than the minimum amount.**]**

(2) If **[**[F15]an officer of Revenue and Customs**]**[[F16], a constable **[**[F17], an SFO officer**]** or an accredited financial investigator**]** has reasonable grounds for suspecting that a person (the suspect) is carrying cash—

(a) which is recoverable property or is intended by any person for use in unlawful conduct, and

(b) the amount of which is not less than the minimum amount,

he may exercise the following powers.

(3) The officer **[**[F18], constable **[**[F19], SFO officer**]** or accredited financial investigator**]** may, so far as he thinks it necessary or expedient, require the suspect—

(a) to permit a search of any article he has with him,

(b) to permit a search of his person.

(4) An officer **[**[F20], constable **[**[F21], SFO officer**]** or accredited financial investigator**]**[[F22]may —

(a) in exercising powers by virtue of subsection (1D), detain the vehicle for so long as is necessary for their exercise,

(b) in exercising powers by virtue of subsection (3)(b), detain the suspect for so long as is necessary for their exercise.**]**

(5) The powers conferred by this section—

(a) are exercisable only so far as reasonably required for the purpose of finding cash,

(b) are exercisable by **[**[F23]a customs officer**]**[[F23]an officer of Revenue and Customs**]** only if he has reasonable grounds for suspecting that the unlawful

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conduct in question relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979 (c. 2)).

[F24](ba) . . . . . .

(c) are exercisable by an **[**[F25]SFO officer or**]** accredited financial investigator only in relation to **[**[F26]the following—

(i) premises in England, Wales or Northern Ireland (in the case of subsection (1)),

(ii) vehicles and suspects in England, Wales or Northern Ireland (in the case of subsections (1D) and (4)(a)),

(iii) suspects in England, Wales or Northern Ireland (in the case of subsections (2), (3) and (4)(b)).**]**

[F27](5A) . . . . . .

(6) Cash means—

(a) notes and coins in any currency,

(b) postal orders,

(c) cheques of any kind, including travellers' cheques,

(d) bankers' drafts,

(e) bearer bonds and bearer shares,

[[F28](f) gaming vouchers,

(g) fixed-value casino tokens,

(h) betting receipts**]**

found at any place in the United Kingdom.

(7) Cash also includes any kind of monetary instrument which is found at any place in the United Kingdom, if the instrument is specified by the Secretary of State by an order made after consultation with the Scottish Ministers **[**[F29]or, in relation to Northern Ireland, is specified by the Department of Justice by an order**]**.

[[F30](7A) For the purposes of subsection (6)—

(a) "gaming voucher" means a voucher in physical form issued by a gaming machine that represents a right to be paid the amount stated on it;

(b) "fixed-value casino token" means a casino token that represents a right to be paid the amount stated on it;

(c) "betting receipt" means a receipt in physical form that represents a right to be paid an amount in respect of a bet placed with a person holding a betting licence.

(7B) In subsection (7A)—

"bet"—

(a) in relation to England and Wales and Scotland, has the same meaning as in section 9(1) of the Gambling Act 2005;

(b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)) (see Article 2 of that Order);

"betting licence"—

(a) in relation to England and Wales and Scotland, means a general betting operating licence issued under Part 5 of the Gambling Act 2005;

(b) in relation to Northern Ireland, means a bookmaker's licence as defined in Article 2 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

"gaming machine"—

(a) in relation to England and Wales and Scotland, has the same meaning as in the Gambling Act 2005 (see section 235 of that Act);

(b) in relation to Northern Ireland, has the same meaning as in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (see Article 2 of that Order).

(7C) In the application of subsection (7A) to Northern Ireland references to a right to be paid an amount are to be read as references to the right that would exist but for Article 170 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (gaming and wagering contracts void).**]**

(8) This section does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979 (c. 2)).

Textual Amendments

F1 Words in s. 289(1) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 2(2)**

F2 Words in s. 289(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(2)**; S.I. 2018/78, reg. 3(aa)

F3 Words in s. 289(1) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 2(2)(a)**; S.I. 2008/755, art. 17(1)(f)

F4 Word in s. 289(1) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 2(2)(b)**; S.I. 2008/755, art. 17(1)(f)

F5 S. 289(1A)-(1E) inserted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 63(2)**, 116(1); S.I. 2015/983, art. 2(2)(b); S.I. 2016/147, art. 3(d)

F6 Words in s. 289(1A)(a) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 2(2)**

F7 Words in s. 289(1A)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(3)(a)**; S.I. 2018/78, reg. 3(aa)

F8 Words in s. 289(1A)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(3)(b)(i)**; S.I. 2018/78, reg. 3(aa)

F9 Words in s. 289(1A)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(3)(b)(ii)**; S.I. 2018/78, reg. 3(aa)

F10 Words in s. 289(1C)(1D) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 2(3)**

F11 Words in s. 289(1C) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(4)(a)**; S.I. 2018/78, reg. 3(aa)

F12 Words in s. 289(1C) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(4)(b)**; S.I. 2018/78, reg. 3(aa)

F13 Words in s. 289(1D) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(5)(a)**; S.I. 2018/78, reg. 3(aa)

F14 Words in s. 289(1D) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(5)(b)**; S.I. 2018/78, reg. 3(aa)

F15 Words in s. 289(2) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 2(2)**

F16 Words in s. 289(2) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 2(3)**; S.I. 2008/755, art. 17(1)(f)

F17 Words in s. 289(2) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(6)**; S.I. 2018/78, reg. 3(aa)

F18 Words in s. 289(3) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 2(4)**; S.I. 2008/755, art. 17(1)(f)

F19 Words in s. 289(3) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(7)**; S.I. 2018/78, reg. 3(aa)

F20 Words in s. 289(4) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 2(4)**; S.I. 2008/755, art. 17(1)(f)

F21 Words in s. 289(4) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(8)**; S.I. 2018/78, reg. 3(aa)

F22 Words in s. 289(4) substituted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 63(3)**, 116(1); S.I. 2015/983, art. 2(2)(b); S.I. 2016/147, art. 3(d)

F23 Words in s. 289(5)(b) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 31**; S.I. 2018/78, reg. 5(1)(e)

F24 S. 289(5)(ba) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(a)**, 58(4)(6)

F25 Words in s. 289(5)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 11(9)**; S.I. 2018/78, reg. 3(aa)

F26 Words in s. 289(5)(c) substituted (1.6.2015 for E.W.S. for specified purposes, 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 63(4)**, 116(1); S.I. 2015/983, art. 2(2)(b); S.I. 2016/147, art. 3(d)

F27 S. 289(5A) omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(a)**, 58(4)(6)

F28 S. 289(6)(f)-(h) inserted (27.4.2017 for specified purposes) by Criminal Finances Act 2017 (c. 22), **ss. 14(1)**, 58(1)(6)

F29 Words in s. 289(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 57** (with arts. 28-31)

F30 S. 289(7A)-(7C) inserted (27.4.2017 for specified purposes) by Criminal Finances Act 2017 (c. 22), **ss. 14(2)**, 58(1)(6)

Modifications etc. (not altering text)

C1 Pt. 5 Ch. 3 applied by 2007 c. 30, s. 24(1) (as substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 21(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f))

290 Prior approval

(1) The powers conferred by section 289 may be exercised only with the appropriate approval unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

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(2) The appropriate approval means the approval of a judicial officer or (if that is not practicable in any case) the approval of a senior officer.

(3) A judicial officer means—

(a) in relation to England and Wales and Northern Ireland, a justice of the peace,

(b) in relation to Scotland, the sheriff.

(4) A senior officer means—

(a) in relation to the exercise of the power by **[**[F31]an officer of Revenue and Customs, such an officer**]** of a rank designated by the Commissioners of Customs and Excise as equivalent to that of a senior police officer,

[[F32](aa) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office,**]**

[[F33](ab) in relation to the exercise of a power by a National Crime Agency officer, the Director General of the National Crime Agency or any other National Crime Agency officer authorised by the Director General (whether generally or specifically) for this purpose,**]**

(b) in relation to the exercise of the power by a constable, a senior police officer.

[[F34](ba) in relation to the exercise of a power by an accredited financial investigator who is—

(i) a member of the civilian staff of a police force in England and Wales (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011,

(ii) a member of staff of the City of London police force, or

(iii) a member of staff of the Police Service of Northern Ireland,

a senior police officer,**]**

[[F35](c) in relation to the exercise of the power by an accredited financial investigator **[**[F36]who does not fall within any of the preceding paragraphs**]**, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State **[**[F37]or the Welsh Ministers**]** under section 453.**]**

(5) A senior police officer means a police officer of at least the rank of inspector.

(6) If the powers are exercised without the approval of a judicial officer in a case where—

(a) no cash is seized by virtue of section 294, or

(b) any cash so seized is not detained for more than 48 hours **[**[F38](calculated in accordance with section 295(1B))**]**,

the **[**[F39]officer of Revenue and Customs**]****[**[F40], constable **[**[F41], SFO officer**]** or accredited financial investigator**]** who exercised the powers must give a written report to the appointed person.

[[F42](6A) But the duty in subsection (6) does not apply if, during the course of exercising the powers conferred by section 289, the relevant officer seizes property by virtue of section 303J and the property so seized is detained for more than 48 hours (calculated in accordance with section 303K(5)).**]**

(7) The report must give particulars of the circumstances which led him to believe that—

(a) the powers were exercisable, and

(b) it was not practicable to obtain the approval of a judicial officer.

(8) In this section and section 291, the appointed person means—

(a) in relation to England and Wales [F43]..., a person appointed by the Secretary of State,

(b) in relation to Scotland, a person appointed by the Scottish Ministers.

[[F44](c) in relation to Northern Ireland, a person appointed by the Department of Justice.**]**

(9) The appointed person must not be a person employed under or for the purposes of a government department or of the Scottish Administration; and the terms and conditions of his appointment, including any remuneration or expenses to be paid to him, are to be determined by the person appointing him.

Textual Amendments

F31 Words in s. 290(4)(a) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 3(a)**

F32 S. 290(4)(aa) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 12(2)**; S.I. 2018/78, reg. 3(aa)

F33 S. 290(4)(ab) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 34(6)**, 58(1)(6); S.I. 2018/78, reg. 3(s)

F34 S. 290(4)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 31(4)**, 58(1)(6); S.I. 2018/78, reg. 3(n)

F35 S. 290(4)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 3(2)**; S.I. 2008/755, art. 17(1)(f)

F36 Words in s. 290(4)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 32(2)**; S.I. 2018/78, reg. 5(3)(a)(i)

F37 Words in s. 290(4)(c) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(d)**

F38 Words in s. 290(6) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 100(3)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(c)

F39 Words in s. 290(6) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 3(b)**

F40 Words in s. 290(6) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 3(3)**; S.I. 2008/755, art. 17(1)(f)

F41 Words in s. 290(6) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 12(3)**; S.I. 2018/78, reg. 3(aa)

F42 S. 290(6A) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 32(3)**; S.I. 2018/78, reg. 5(3)(a)(i)

F43 Words in s. 290(8)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 58(a)** (with arts. 28-31)

F44 S. 290(8)(c) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 58(b)** (with arts. 28-31)

Modifications etc. (not altering text)

C2 Pt. 5 Ch. 3 modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 3**

C3 S. 290(4)(c) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 4, **Sch. para. 11**

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291 Report on exercise of powers

(1) As soon as possible after the end of each financial year, the appointed person must prepare a report for that year.

"Financial year" means—

(a) the period beginning with the day on which this section comes into force and ending with the next 31 March (which is the first financial year), and

(b) each subsequent period of twelve months beginning with 1 April.

(2) The report must give his opinion as to the circumstances and manner in which the powers conferred by section 289 are being exercised in cases where the **[**[F45]officer of Revenue and Customs**][**[F46], constable **[**[F47], SFO officer**]** or accredited financial investigator**]** who exercised them is required to give a report under section 290(6).

(3) In the report, he may make any recommendations he considers appropriate.

(4) He must send a copy of his report to the Secretary of State or, as the case may be, the Scottish Ministers **[**[F48]or the Department of Justice**]**, who must arrange for it to be published.

(5) The Secretary of State must lay a copy of any report he receives under this section before Parliament; and the Scottish Ministers must lay a copy of any report they receive under this section before the Scottish Parliament **[**[F49]; and the Department of Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly**]**.

[[F50](6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (5) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.**]**

Textual Amendments

F45 Words in s. 291(2) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 4**

F46 Words in s. 291(2) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 4**; S.I. 2008/755, art. 17(1)(f)

F47 Words in s. 291(2) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 13**; S.I. 2018/78, reg. 3(aa)

F48 Words in s. 291(4) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 59(2)** (with arts. 28-31)

F49 Words in s. 291(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 59(3)** (with arts. 28-31)

F50 S. 291(6) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 59(4)** (with arts. 28-31)

292 Code of practice

(1) The Secretary of State must make a code of practice in connection with the exercise by **[**[F51]officers of Revenue and Customs**][**[F52], SFO officers**]** and (in relation to England and Wales [F53]...) constables **[**[F54]and accredited financial investigators**]** of the powers conferred by virtue of section 289.

(2) Where he proposes to issue a code of practice he must—

(a) publish a draft,

(b) consider any representations made to him about the draft by the Scottish Ministers **[**[F55], the Department of Justice**]** or any other person,

(c) if he thinks it appropriate, modify the draft in the light of any such representations.

[[F56](2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.**]**

(3) He must lay a draft of the code before Parliament.

(4) When he has laid a draft of the code before Parliament he may bring it into operation by order.

(5) He may revise the whole or any part of the code issued by him and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.

(6) A failure by **[**[F57]an officer of Revenue and Customs**][**[F58]an SFO officer,**][**[F59], a constable or an accredited financial investigator**]** to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

Textual Amendments

F51 Words in s. 292(1) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 5(a)**

F52 Words in s. 292(1) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 14(2)**; S.I. 2017/991, reg. 2(l)

F53 Words in s. 292(1) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 60(2)** (with arts. 28-31)

F54 Words in s. 292(1) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 5(2)**; S.I. 2008/755, art. 17(1)(f)

F55 Words in s. 292(2)(b) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 60(3)** (with arts. 28-31)

F56 S. 292(2A) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 14(3)**; S.I. 2017/991, reg. 2(l)

F57 Words in s. 292(6) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 5(b)**

F58 Words in s. 292(6) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 14(4)**; S.I. 2017/991, reg. 2(l)

F59 Words in s. 292(6) substituted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 5(3)**; S.I. 2008/755, art. 17(1)(f)

Modifications etc. (not altering text)

C4 Pt. 5 Ch. 3 applied (1.4.2010) by UK Borders Act 2007 (c. 30), **ss. 24(1)**, 59(2); S.I. 2010/606, art. 2

C5 S. 292 modified (1.4.2010) by UK Borders Act 2007 (c. 30), **ss. 24(2)(d)**, 59(2); S.I. 2010/606, art. 2 (as amended (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **16(2)** (with arts. 24-28))

293 Code of practice (Scotland)

(1) The Scottish Ministers must make a code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by virtue of section 289.

(2) Where they propose to issue a code of practice they must—
- (a) publish a draft,
- (b) consider any representations made to them about the draft,
- (c) if they think it appropriate, modify the draft in the light of any such representations.

(3) They must lay a draft of the code before the Scottish Parliament.

(4) When they have laid a draft of the code before the Scottish Parliament they may bring it into operation by order.

(5) They may revise the whole or any part of the code issued by them and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.

(6) A failure by a constable to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

Modifications etc. (not altering text)

C6 S. 293 excluded (1.4.2010) by UK Borders Act 2007 (c. 30), **ss. 24(2)(e)**, 59(2); S.I. 2010/606, art. 2 (as amended (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **16(3)** (with arts. 24-28))

[F60 293A Code of practice (Northern Ireland)

(1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by virtue of section 289.

(2) Where the Department of Justice proposes to issue a code of practice it must—
- (a) publish a draft,
- (b) consider any representations made to the Department of Justice about the draft,
- (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.

(3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.

Status: *Point in time view as at 01/04/2018.*
Changes to legislation: *Proceeds of Crime Act 2002, Cross Heading: Searches is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(6) The Department of Justice may revise the whole or any part of the code issued by it and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.

(7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.**]**

Textual Amendments

F60 S. 293A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 61** (with arts. 28-31)

Status:
Point in time view as at 01/04/2018.

Changes to legislation:
Proceeds of Crime Act 2002, Cross Heading: Searches is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.