

**2009 No. 246**

**PROCEEDS OF CRIME**

**The Proceeds of Crime Act 2002 (Cash Searches: Constables in Scotland: Code of Practice) 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 293(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 293(5) of the Act, revised the code of practice in connection with the exercise by constables in relation to Scotland of the powers conferred by section 289 of the Act (searches) (“the revised code of practice”)(b);

(2) have, in accordance with section 293(2) of the Act, published a draft of the revised code of practice, considered representations made to them about the draft and modified the draft in the light of the representations; and

(3) have, in accordance with section 293(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 (Cash Searches: Constables in Scotland: Code of Practice) 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 (Cash Searches: Constables in Scotland: Code of Practice) Order 2002(c) is revoked.

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(a) 2002 c.29.

(b) The Code of Practice was brought into operation on 30th December 2002 in accordance with SSI 2002/569.

(c) S.S.I. 2002/569.

**Revised code of practice**

2. The revised code of practice entitled “Code of Practice for Constables in Scotland issued under section 293 of the Proceeds of Crime Act 2002” laid in draft 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 this Order 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 293(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 293(1) of the Act for cash searches conducted by constables in relation to Scotland under section 289 of the Act. The revised code of practice replaces the code brought into force on 30th December 2002 entitled “Code of Practice for Constables in Scotland under the Proceeds of Crime Act 2002” and this Order revokes the Proceeds of Crime Act 2002 (Cash Searches: Constables in Scotland: Code of Practice) Order 2002 that brought that code of practice into operation.

Section 289 allows constables to search for cash, which is recoverable property or is intended by any person for use in unlawful conduct. Section 289 only confers a search power where certain conditions are met. There are limits on the extent to which the powers under section 289 are exercisable.

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