

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

2016 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2016

Made - - - - *****
Coming into force - - *1st March 2016*

The Secretary of State makes this Order in exercise of the powers conferred by sections 292(4) and (5) of the Proceeds of Crime Act 2002(1) (“the Act”).

The Secretary of State—

- (a) in accordance with section 292(5) of the Act, has revised the code of practice made under section 292(1) of the Act in connection with the exercise of the powers conferred by virtue of section 289 of the Act(2) (“the revised code of practice”)(3);
- (b) in accordance with section 292(2) of the Act, has published a draft of the revised code of practice, considered any representations made about the draft by the Scottish Ministers, the Department of Justice and any other person and, as she thought appropriate, modified the draft accordingly; and
- (c) in accordance with section 292(3) of the Act, has laid a draft of the revised code of practice before Parliament.

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

Citation and commencement

- 1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2016.
- (2) This Order comes into force on 1st March 2016.

(1) 2002 c. 29. Section 292 is amended by paragraph 5 of Schedule 11 to the Serious Crime Act 2007 (c. 27), paragraph 5 of Schedule 48 to the Finance Act 2013 (c. 29) and S.I. 2010/976.

(2) Section 289 is amended by paragraph 2 of Schedule 48 to the Finance Act 2013 (c. 29), paragraph 2 of Schedule 11 to the Serious Crime Act 2007 (c. 27), section 63 of the Policing and Crime Act 2009 (c. 26) and S.I. 2010/976.

(3) The revised code of practice brought into operation by this Order replaces the code of practice brought into operation on 30th December 2002 by S.I. 2002/3115 and the revised codes of practice brought into operation on 6th April 2008 by S.I. 2008/947 and on 1st June 2015 by S.I. 2015/705.

Revised Code of Practice

2. The revised code of practice entitled “Code of Practice issued under section 292 of the Proceeds of Crime Act 2002 Recovery of Cash: Search Powers” laid in draft before Parliament on 16th December 2015 comes into operation on 1st March 2016.

Revocations

3. The following instruments are revoked—
- (a) the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2002⁽⁴⁾;
 - (b) the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2008⁽⁵⁾;
 - (c) the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) (England and Wales and Scotland) Order 2015⁽⁶⁾.

Date

Name
Minister of State
Home Office

⁽⁴⁾ S.I. 2002/3115.
⁽⁵⁾ S.I. 2008/947.
⁽⁶⁾ S.I. 2015/705.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 1st March 2016 a revised code of practice made under section 292 of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) in connection with the exercise of the powers conferred by virtue of section 289 of the 2002 Act.

Section 289 of the 2002 Act permits officers of Revenue and Customs, constables and accredited financial investigators to search persons, vehicles and premises for cash which is derived from, or intended for use in, unlawful conduct.

By virtue of section 24 of the UK Borders Act 2007, Chapter 3 of Part 5 of the 2002 Act (which includes both sections 289 and 292) applies to an immigration officer as it applies in relation to a constable subject to modifications made by that section. Immigration officers may exercise the powers in England and Wales, Scotland and Northern Ireland.

This Order revokes previous Orders made under section 292 of the Act.

An impact assessment has not been produced for this instrument as it has no direct impact on business, charities or voluntary bodies. The codes of practice provide guidance on the use of powers under POCA by bodies in the public sector, and incorporate existing best practice, but they do not require any greater use of those powers which could result in an additional impact.