

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

2021 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2021

Made - - - - ******
Coming into force - - *28th June 2021*

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

The Secretary of State—

- (a) under 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);
- (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 modified the draft, as thought appropriate, in the light of such representations;
- (c) in accordance with section 292(2A) of the Act, has consulted with the Attorney General about the draft of the revised code of practice in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office; and
- (d) 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.

(1) [2002 c. 29](#). Section 292 was 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 \(c. 29\)](#), paragraph 14 of Schedule 1 to the Criminal Finances Act [2017 \(c. 22\)](#), and [S.I. 2010/976](#).

(2) Section 289 was amended by paragraph 2 of Schedule 11 to the Serious Crime Act 2007, section 63 of the Policing and Crime Act [2009 \(c. 26\)](#), paragraph 2 of Schedule 48 to the Finance Act 2013, sections 14 and 18(1) and (4)(a) of, and paragraph 11 of Schedule 1 and paragraph 31 of Schedule 5 to, the Criminal Finance Act 2017, and [S.I. 2010/976](#).

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2021 and comes into force on 28th June 2021.

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 22nd March 2021 comes into operation on 28th June 2021.

Revocation

3. The Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2018(3) is revoked.

Date

Name
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 28th June 2021 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. Revisions to the code of practice are necessitated by the commencement in Northern Ireland of amendments made to the 2002 Act by the Criminal Finances Act 2017 (c. 22).

Section 289 of the 2002 Act permits officers of Revenue and Customs, constables, SFO officers 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 (c. 30), 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 thereby exercise the powers in section 289 of the 2002 Act in England and Wales, Scotland and Northern Ireland.

The revised code of practice brought into operation by this Order relates to the exercise of the powers conferred by virtue of section 289 of the 2002 Act, and by virtue of section 24 of the UK Borders Act 2007, respectively, by: officers of Revenue and Customs in England and Wales, Scotland and Northern Ireland; constables in England and Wales; SFO officers in England and Wales and Northern Ireland; accredited financial investigators in England and Wales; and immigration officers in England and Wales, Scotland and Northern Ireland. Separate codes of practice are made by the Scottish Ministers in connection with the exercise of powers conferred by virtue of section 289 on constables in Scotland, and by the Department of Justice of Northern Ireland in connection with the exercise of powers conferred by virtue of section 289 on constables and accredited financial investigators in Northern Ireland.

The revised code of practice brought into operation by this Order replaces the code of practice that was brought into operation by the Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) Order 2018 (S.I. 2018/83). This Order revokes S.I. 2018/83.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.