

2015 No. 612

PROCEEDS OF CRIME, ENGLAND AND WALES

The Proceeds of Crime Act 2002 (Investigative Powers of Prosecutors: Code of Practice) (England and Wales) Order 2015

Made - - - - *9th March 2015*

Coming into force - - *1st June 2015*

This Order is made in exercise of the powers conferred by sections 377A(5) and (9) and 459(2) of the Proceeds of Crime Act 2002(a) (“the Act”).

The Attorney General has:

(1) in accordance with section 377A(9) of the Act, revised the code of practice in relation to England and Wales in connection with the exercise by—

- (a) the Director of Public Prosecutions and the Director of the Serious Fraud Office of functions they have under Chapter 2 of Part 8 of the Act; and
- (b) any other person, who is the relevant authority by virtue of section 357(9)(b) of the Act in relation to a confiscation investigation, of functions the person has under Chapter 2 of Part 8 of the Act in relation to England and Wales as the relevant authority (“the revised code of practice”);

(2) in accordance with section 377A(3) of the Act, published a draft of the revised code of practice, considered any representations made to him about the draft and amended the draft accordingly; and

(3) in accordance with section 377A(4) of the Act, laid a draft of the revised code of practice before Parliament.

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

Accordingly, the Attorney General makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Investigative Powers of Prosecutors: Code of Practice) (England and Wales) Order 2015 and comes into force on 1st June 2015.

(2) This Order extends to England and Wales only.

(a) 2002 c. 29, section 377A is inserted by paragraph 115 of Schedule 8 to the Serious Crime Act 2007 (c. 27) and amended by S.I. 2014/834.

(b) Subsection (9) of section 357 was inserted by paragraph 108(7) of Schedule 8 to the Serious Crime Act 2007.

(c) Subsection (6)(aa) of section 459 was inserted by paragraph 119(4) of Schedule 8 to the Serious Crime Act 2007.

Revised code of practice

2. Subject to article 3, the revised code of practice entitled “Code of Practice Issued Under Section 377A of the Proceeds of Crime Act 2002 (England and Wales)” laid in draft before Parliament on 21st January 2015 comes into operation on 1st June 2015.

Exercise of powers at time of coming into operation

3. The revised code of practice referred to in article 2 applies to the exercise on and after 1st June 2015 of any function by—

- (a) the Director of Public Prosecutions and the Director of the Serious Fraud Office of functions under Chapter 2 of Part 8 of the Act; and
- (b) any other person, who is the relevant authority by virtue of section 357(9) of the Act in relation to a confiscation investigation, of functions the person has under Chapter 2 of Part 8 of the Act in relation to England and Wales as the relevant authority,

notwithstanding that the exercise of the function may have begun before that date.

9th March 2015

Jeremy Wright
Attorney General

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 1st June 2015 in relation to England and Wales the revised code of practice made pursuant to section 377A of the Proceeds of Crime Act 2002 (“the Act”) in connection with the exercise by—

- the Director of Public Prosecutions and the Director of the Serious Fraud Office of functions under Chapter 2 of Part 8 of the Act (“the relevant Directors”); and
- any other person, who is the relevant authority by virtue of section 357(9) of the Act in relation to a confiscation investigation, of functions the person has under Chapter 2 of Part 8 of the Act in relation to England and Wales as the relevant authority (“a specified person”).

Chapter 2 of Part 8 relates to England and Wales and Northern Ireland, however the revised code of practice does not apply in relation to Northern Ireland. In Northern Ireland, the previous version of the code continues to apply.

Part 8 of the Act concerns the investigations permitted under the Act, of which there are five kinds (confiscation investigations, civil recovery investigations, detained cash investigations, money laundering investigations and exploitation proceeds investigations: see section 341 of the Act).

The relevant Directors have various functions under Chapter 2, connected with their roles as:

- appropriate officers who can carry out civil recovery investigations,
- prosecutors who can apply to court for disclosure orders under section 357 of the Act in relation to civil recovery investigations and certain confiscation investigations, and
- persons who may request assistance under section 375A of the Act if they think that there is relevant evidence pertaining to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation, in a country or territory outside the United Kingdom.

Under section 357(9) of the Act, the Secretary of State can by order specify a person as a prosecutor. A specified person is a relevant authority under section 357 of the Act and is able to apply to court for a disclosure order under that section in relation to a confiscation investigation.

Article 3 of the Order provides that the revised code of practice applies to the exercise of functions on and after 1st June 2015, even if the exercise of a function began before that date.

An impact assessment has not been produced for this instrument as it has no direct impact on business, the public sector, charities or voluntary bodies.

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£4.25

UK2015030932 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/612>

ISBN 978-0-11-113275-3



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