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

2015 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Cash Searches: Code of Practice) (England and Wales and Scotland) Order 2015

Made - - - -	*2015*
Coming into force - -	*1st June 2015*

This Order is made in exercise of the powers conferred by sections 292(4) and (5) and 459(2) of the Proceeds of Crime Act 2002(**a**) ("the Act").

The Secretary of State has:

(1) in accordance with section 292(5) of the Act, revised the code of practice in relation to England and Wales and Scotland in connection with the exercise by—

(a) an officer of Revenue and Customs,

(b) in relation to England and Wales, an accredited financial investigator, or

(c) in relation to England and Wales, a constable(**b**),

of the powers conferred by virtue of section 289 of the Act(**c**) ("the revised code of practice")(**d**);

(2) in accordance with section 292(2) of the Act, published a draft of the revised code of practice, considered any representations made about the draft by the Scottish Ministers, the Department of Justice or any other person and, as she thought appropriate, modified the draft accordingly; and

(3) in accordance with section 292(3) of the Act, 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.

(**a**) 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.

(**b**) Section 24 of the UK Borders Act 2007 (c. 30) applies Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 to an immigration officer as it applies in relation to a constable subject to modifications made by that section; section 292 is modified by section 24(d).

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

(**d**) The code of practice was previously brought into operation on 30th December 2002 in accordance with S.I. 2002/3115, and was revised by S.I. 2008/947.

Accordingly, the Secretary of State makes the following Order:

Citation, commencement and extent

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

(2) This Order does not extend to Northern Ireland.

Revised Code of Practice

2. Subject to article 3, the revised code of practice entitled "Code of Practice issued under the Proceeds of Crime Act 2002 Recovery of Cash: Search Powers (England and Wales and Scotland)" laid in draft before Parliament on 17th December 2014 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 of any power conferred by virtue of section 289 of the Proceeds of Crime Act 2002 by—

(a) an officer of Revenue and Customs,

(b) in relation to England and Wales, a constable, or

(c) in relation to England and Wales, an accredited financial investigator,

after midnight on 31st May 2015 notwithstanding that the exercise of the power may have begun before that time.

Name
Home Office
Parliamentary Under Secretary of State
Date

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 and Scotland the revised code of practice made pursuant to section 292 of the Proceeds of Crime Act 2002 ("the 2002 Act") in connection with the exercise by officers of Revenue and Customs and, in relation to England and Wales only, constables and accredited financial investigators, of the powers conferred by virtue of section 289 of the 2002 Act. The revised code of practice does not apply in relation to Northern Ireland, where the previous version of the code continues to apply.

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 of the 2002 Act) 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 and Scotland.

Article 3 of the Order makes provision in relation to persons who begin exercising any power conferred by virtue of section 289 of the 2002 Act before the revised code of practice comes into operation and continue to do so after it has come into operation.

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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