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, ENGLAND AND WALES

The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (England and Wales) Order 2015

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

This Order is made in exercise of the powers conferred by sections 47S(4) of the Proceeds of Crime Act 2002(**a**) ("the Act").

The Secretary of State:

(1) is required, in accordance with section 47S(1) of the Act, to make a code of practice in connection with—

(a) the carrying out by appropriate officers of the functions conferred by virtue of sections 47C to 47H of the Act(**b**),

(b) the carrying out by senior officers of their functions under section 47G of the Act, and

(c) the detention of property under or by virtue of sections 41A(**c**), 44A(**d**) and 47J to 47P(**e**) of the Act ("the code of practice");

(2) has, in accordance with section 47S(2) of the Act, published a draft of the code of practice and considered any representations made about the draft and, as she thought appropriate, modified the draft accordingly; and

(3) has, in accordance with section 47S(3) of the Act, laid a draft of the 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.

Accordingly, the Secretary of State makes the following Order:

(**a**) 2002 c. 29. Section 47S is inserted by section 55 of the Policing and Crime Act 2009 (c. 26).
(**b**) Sections 47C to 47H are inserted by section 55 of the Policing and Crime Act 2009; section 47C is amended by paragraph 16 of Schedule 21 to the Crime and Courts Act 2013 (c. 22) and section 47G is amended by paragraph 17 of Schedule 21 to that Act.
(**c**) Section 41A is inserted by section 52 of the Policing and Crime Act 2009, and is amended by paragraph 112 of Schedule 8, and paragraph 15 of Schedule 21, to the Crime and Courts Act 2013.
(**d**) Section 44A is inserted by section 52 of the Policing and Crime Act 2009.
(**e**) Sections 47J to 47P are inserted by section 55 of the Policing and Crime Act 2009; section 47M is amended by paragraph 18 of Schedule 21 to the Crime and Courts Act 2013.

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (England and Wales) Order 2015 and comes into force on 1st June 2015.

Code of Practice

2. The code of practice entitled "Code of Practice issued under the Proceeds of Crime Act 2002 Search, Seizure and Detention of Property (England and Wales)" laid in draft before Parliament on 17th December 2014 comes into operation on 1st June 2015.

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 the code of practice made pursuant to section 47S of the Proceeds of Crime Act 2002 ("the Act") in connection with the carrying out by appropriate officers in England and Wales of the functions conferred by virtue of sections 47C to 47H of the Act, the carrying out by senior officers of their functions under section 47G of the Act and the detention of property under or by virtue of sections 41A, 44A and 47J to 47P of the Act.

These provisions are in Part 2 of the Act, which is concerned with the confiscation of the proceeds of crime. That Part permits the making of a confiscation order under section 6 of the Act after a defendant is convicted. A confiscation order can be made ancillary to conviction and sentence to deprive a criminal of the benefit of their criminal conduct. Part 2 also contains powers to search, seize and detain property before conviction.

Appropriate officers who may carry out the functions in sections 47C to 47H and 47J to 47P are specified in section 47A(1) of the Act, and are an officer of Revenue and Customs, an immigration officer, a constable or an accredited financial investigator.

The power in section 47C is for an appropriate officer to seize certain property if it may otherwise be made unavailable for satisfying any confiscation order made under section 6 of the Act, or the value of the property may otherwise be diminished.

Sections 47D to 47F contain search powers, which allow an appropriate officer to conduct searches of premises, people and vehicles for property which the officer has reasonable grounds for suspecting may be found and which may be seized under section 47C.

The functions under sections 47C to 47F may only be carried out with the appropriate approval under section 47G, unless in the circumstances it is not practicable to obtain it. Appropriate approval under section 47G is approval of a justice of the peace or (if that is not practicable) of a senior officer, and section 47G specifies who is a senior officer. Section 47H requires that an appropriate officer must give a written report to a person appointed by the Secretary of State in any case where either the officer seizes property under section 47C without the approval of a justice of the peace and any of the property seized is not detained for more than 48 hours, or where the search powers under sections 47D to 47F are exercised without the approval of a justice of the peace but no property is seized.

Sections 41A, 44A and 47J to 47P concern the detention of property which has been seized by an appropriate officer. Appropriate officer has a wider definition in relation to sections 41A and 44A than section 47A: see section 41A(3) of the Act. It includes additionally a National Crime Agency

officer, and a member of staff of the relevant director (within the meaning of section 352(5A), being, in relation to England and Wales, the Director of Public Prosecutions or the Director of the Serious Fraud Office).

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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