Draft Order laid before Parliament under section 459(6)(a) of the Proceeds of Crime Act 2002 (c. 29), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

PROCEEDS OF CRIME, ENGLAND AND WALES

The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order 2018

Made - - - -	*****
Coming into force - -	*31st January 2018*

The Secretary of State makes this Order in exercise of the powers conferred by section 47S(4) and (5) of the Proceeds of Crime Act 2002(**a**) ("the Act").

The Secretary of State has—

(a) under section 47S(5) of the Act, revised the code of practice made under section 47S(1) of the Act(**b**);

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

(c) in accordance with section 47S(2A) of the Act, consulted with the Attorney General about the draft 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 47S(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(**c**), a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

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) Order 2018 and comes into force on 31st January 2018.

(**a**) 2002 c. 29. Section 47S was inserted by section 55(1) and (2) of the Policing and Crime Act 2009 (c. 26). Section 47S(2A) was inserted by paragraphs 1 and 6 of Schedule 1 to the Criminal Finances Act 2017 (c. 22).

(**b**) The revised code of practice brought into operation by this Order replaces the code of practice brought into operation in relation to England and Wales on 1st March 2016 by S.I. 2016/207.

(**c**) Amended by paragraph 95 of Schedule 7 to the Policing and Crime Act 2009.

Revised code of practice

2. The code of practice entitled "Code of Practice issued under section 47S of the Proceeds of Crime Act 2002 Search, Seizure and Detention of Property (England and Wales)" laid in draft before Parliament on 23rd October 2017 comes into operation on 31st January 2018.

Revocation

3. The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (England and Wales) (No. 2) Order 2016(**a**) is revoked.

Name
Minister of State
Home Office

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 31st January 2018 a revised code of practice made under section 47S of the Proceeds of Crime Act 2002 (c.29) ("the 2002 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 2002 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 2002 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 2002 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.

This Order revokes a previous Order made under section 47S of the 2002 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 provides guidance on the use of powers under POCA by bodies in the public sector, and incorporates existing best practice, but does not require any greater use of those powers which could result in an additional impact.

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(**a**) S.I. 2016/207.

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