

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. ****

**PROCEEDS OF CRIME, ENGLAND AND WALES
PROCEEDS OF CRIME, NORTHERN IRELAND**

The Proceeds of Crime Act 2002
(Investigations: 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 377(4) and (8) of the Proceeds of Crime Act 2002(1) (“the Act”).

The Secretary of State has—

- (a) under section 377(8) of the Act, revised the code of practice prepared under section 377(1) of the Act(2) in connection with the exercise of functions under Chapter 2 of Part 8 of the Act by—
 - (i) the Director General of the National Crime Agency;
 - (ii) other National Crime Agency officers;
 - (iii) officers of Revenue and Customs;
 - (iv) immigration officers;
 - (v) Financial Conduct Authority officers, and
 - (vi) in relation to England and Wales, accredited financial investigators and constables;
- (b) in accordance with section 377(2) of the Act, published a draft of the revised code of practice, considered any representations made about the draft and amended the draft accordingly;
- (c) in accordance with section 377(2A) of the Act, consulted the Treasury about the draft in its application to functions that Financial Conduct Authority officers have under Chapter 2 of Part 8 of the Act, and

(1) 2002 c. 29. Section 377 was amended by paragraphs 103 and 114(1) and (2) of Part 4 of Schedule 8 to the Serious Crime Act 2007 (c. 27), and by paragraphs 108 and 143 of Part 2 of Schedule 8, and paragraphs 14 and 37(1), (2) and (3) of Part 1 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22), and by paragraphs 1 and 17 of Schedule 48 to the Finance Act 2013 (c. 29), and by paragraphs 17 and 58(1), (2), (3) and (4) of Schedule 5 to the Criminal Finances Act 2017 (c. 22), and by S.I. 2010/976.

(2) 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 and Northern Ireland on 1st March 2016 by S.I. 2016/209.

(d) in accordance with section 377(3) of the Act, laid 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.

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Investigations: Code of Practice) Order 2018 and comes into force on 31st January 2018.

Revised code of practice

2. The revised code of practice entitled “Code of Practice issued under section 377 of the Proceeds of Crime Act 2002 Investigations” laid in draft before Parliament on 23rd October 2017 comes into operation on 31st January 2018.

Revocation

3. The Proceeds of Crime Act 2002 (Investigations: Code of Practice) (England and Wales and Northern Ireland) Order 2016(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 31st January 2018 a revised code of practice prepared by the Secretary of State under section 377 of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) in relation to England and Wales and Northern Ireland. The revised code of practice relates to the exercise of functions under Chapter 2 of Part 8 of the 2002 Act by—

- (a) the Director General of the National Crime Agency,
- (b) other National Crime Agency officers,
- (c) officers of Revenue and Customs,
- (d) immigration officers
- (e) Financial Conduct Authority officers, and
- (f) in relation to England and Wales, accredited financial investigators and constables.

The functions in Chapter 2 of Part 8 of the 2002 Act concern the conduct by appropriate officers (defined in section 378 of the 2002 Act) of certain types of investigations which are authorised by the Act, concerned with the recovery of the proceeds of criminal conduct.

This Order revokes a previous Order made under section 377 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 code 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.